

BILL ANALYSIS

Senate Research Center
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H.B. 291
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Transportation
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The repeal of the driver's responsibility program has caused confusion regarding the state's occupational driver's license program. There is a need to overhaul and update state law governing the issuance of occupational driver's licenses to provide increased clarity and uniformity to processes and procedures for citizens and judges. H.B. 291 seeks to do so.

H.B. 291 amends current law relating to occupational driver's licenses and to the renewal of driver's licenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 521.001(a)(3), Transportation Code, to redefine "driver's license."

SECTION 2. Amends Subchapter L, Chapter 521, Transportation Code, as follows:

SUBCHAPTER L. OCCUPATIONAL DRIVER'S LICENSE

Sec. 521.241. DEFINITIONS. Redefines "essential need" and defines "offense relating to the operating of a motor vehicle while intoxicated."

Sec. 521.242. New heading: ELIGIBILITY. (a) Provides that a person is eligible to apply for an occupational driver's license if:

(1) the person's license has been suspended, revoked, or canceled for a cause other than:

(A) a physical or mental disability or impairment; or

(B) a determination by the Department of Public Safety of the State of Texas (DPS) under Section 521.294 (Department's Determination for License Revocation) that the person is incapable of safely operating a motor vehicle;

(2) the person does not hold a driver's license and is ineligible to obtain a driver's license because of a suspension order, including an order due to a conviction or an order under Chapter 524 (Administrative Suspension of Driver's License for Failure to Pass Test for Intoxication) or 724 (Implied Consent); or

(3) the person is ineligible to obtain a driver's license because the person holds a driver's license issued by another state or country that was suspended, revoked, or canceled for a cause other than a physical or mental disability or impairment.

Deletes existing text authorizing 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 certain sections to 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 in which the person resides or in which the offense occurred for which the license was suspended. Makes nonsubstantive changes.

(b) Provides that an occupational driver's license does not authorize a person to operate a commercial motor vehicle to which Chapter 522 (Commercial Driver's Licenses) applies.

Sec. 521.2421. PETITION. (a) Authorizes a person, except as provided by Subsections (b) and (c), to apply for an occupational driver's license by filing a verified petition with the clerk of a justice, county, or district court with jurisdiction that includes the county in which:

(1) the person resides; or

(2) the incident occurred for which the license was suspended, revoked, or canceled.

(b) Authorizes a person, if the person's license has been automatically suspended, revoked, or canceled due to a conviction of an offense as provided by Subchapter O (Automatic Suspension) or P (Suspension for Certain Drug Offenses), to apply for an occupational driver's license by filing a verified petition only with the clerk of the court in which the person was convicted. Deletes existing text authorizing a person to apply for an occupational license by filing a verified petition only with the clerk of the court in which the person was convicted if the person's license has been automatically suspended or canceled under Chapter 521 (Driver's Licenses and Certificates) for a conviction of an offense under the laws of this state and if the person has not been issued, in the 10 years preceding the date of the filing of the petition, more than one occupational license after a conviction under the laws of this state.

(c) Authorizes the person, if a person's license is suspended, revoked, or canceled due to a court order submitted to DPS by a district, county, or justice court, to apply for an occupational driver's license by filing a verified petition with a court described by Subsection (a) or the court that issued the order.

(d) Requires that a petition filed under this section:

(1) set forth in detail the petitioner's, rather than the person's, essential need, including a description of the hours and location of essential travel;

(2) describe the reason for the petitioner's license suspension, revocation, or cancellation;

(3) provide evidence of the petitioner's financial responsibility in accordance with Chapter 601 (Motor Vehicle Safety Responsibility Act); and

(4) include a certified abstract of the petitioner's complete driving record.

Deletes existing text requiring that a petition filed under Subsection (b) state that the petitioner was convicted in that court for an offense under the laws of this state. Deletes existing text requiring the clerk of the court to file the petition as in any other matter.

(f) Requires a court, if the court lacks jurisdiction over a petition filed under this section, to dismiss the application. Authorizes the court to hold a hearing to determine if the court has jurisdiction over the petition. Authorizes the petitioner, if the petition is dismissed, to submit a written request for the petition to be reinstated within 14 days of the dismissal, stating the reason the court has jurisdiction over the petition.

Sec. 521.2422. COURT COSTS. (a) Requires a petitioner to pay the filing fee the court charges for filing a civil action or file a statement of inability to afford payment of court costs under the Texas Rules of Civil Procedure. Requires the court, if a petition is dismissed under Section 521.2421(f), to refund any filing fee paid by the petitioner under this subsection.

(b) Authorizes the court, if a petitioner files a statement of inability to afford payment of court costs, to hold a hearing to determine the person's ability to afford the payment of the filing fee. Authorizes the hearing to be held at the time the statement of inability to afford payment of court costs is filed or at the time of the hearing to determine the petitioner's essential need. Prohibits the court, if the court determines the petitioner is able to afford the payment of the filing fee, from granting an occupational driver's license to the petitioner until the petitioner pays the fee.

Sec. 521.2423. FORMS. Requires a court to make the forms required for petitioning for an occupational driver's license and for the statement of inability to afford payment of court costs available at no cost.

Sec. 521.2424. COMMERCIAL MOTOR VEHICLES. Prohibits a court from granting an occupational driver's license for the operation of a commercial motor vehicle to which Chapter 522 applies. Provides that this section does not prevent a person who has been issued a commercial driver's license from obtaining an occupational driver's license for the operation of a noncommercial motor vehicle.

Sec. 521.243. NOTICE TO STATE; PRESENTATION OF EVIDENCE. (a) Requires the clerk of the court, unless the petition is dismissed under Section 521.2421(f), to 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, revoked, or canceled following a conviction for certain offenses.

(b) Authorizes the court to notify the attorney representing the state of any other hearing on a petition for an occupational driver's license.

(c) Authorizes a person who receives notice, rather than a copy of a petition, under Subsection (a) or (b) to attend the hearing and to present evidence at the hearing for or against granting the petition.

Sec. 521.244. New heading: DETERMINATION OF ESSENTIAL NEED; HEARING AND ORDER. (a) Requires the judge to hold a hearing on the petition if the petitioner's license was suspended, revoked, or canceled following a conviction for:

(1) an offense under Section 19.05 (Criminally Negligent Homicide) or certain other sections; or

(2) an offense to which Section 521.342 (Person Under 21 Years of Age) applies.

(a-1) Authorizes a judge, if the petitioner's license was suspended, revoked, or canceled for a reason other than a reason described by Subsection (a), to hold a hearing on the petition or to make a determination of essential need based on the petition, rather than requires the judge who hears the petition to sign an order finding whether an essential need exists.

Deletes existing text of Subsection (b) requiring a judge, in determining whether an essential need exists, to consider the petitioner's driving record and any evidence presented by a person under Section 521.243(b).

Deletes existing text of Subsection (c) requiring the judge, if the judge finds that there is an essential need to also, as part of the order, determine the actual need of the petitioner to operate a motor vehicle and to require the petitioner to provide evidence of financial responsibility in accordance with Chapter 601.

(e) Requires the judge, subject to Subsection (f), if the judge determines the person is eligible for an occupational driver's license and has an essential need, to enter an order granting the petition. Requires the judge, if the judge determines the person is ineligible for an occupational driver's license or does not have an essential need, to enter an order denying the petition.

(f) Authorizes the judge to enter an order denying the petition based on evidence presented at a hearing by the attorney representing the state. Authorizes the judge to also enter an order denying the petition if the petitioner:

(1) is unable to present evidence of financial responsibility under Chapter 601;

(2) has been convicted more than once in the 10 years preceding the date of the petition of an offense to which certain sections apply; or

(3) is subject to a revocation order under Section 521.252 (License Revocation) or 521.253 (Criminal Penalty).

Deletes existing text entitling a person convicted of an offense under certain sections who is restricted to the operation of a motor vehicle equipped with an ignition interlock device to receive an occupational license without a finding that an essential need exists for that person, provided that the person shows evidence of financial responsibility under Chapter 601 and proof the person has had an ignition interlock device installed on each motor vehicle owned or operated by the person.

(g) Prohibits an order granting or denying an application for an occupational driver's license from being appealed.

Sec. 521.245. New heading: **REQUIRED ALCOHOL DEPENDENCE COUNSELING.**

(a) Requires the court, if the petitioner's license has been suspended under Chapter 524 or 724, or as the result of a conviction for an offense relating to the operating of a motor vehicle while intoxicated, to require the petitioner to attend a program approved by the court that is designed to provide counseling and rehabilitation services to persons for alcohol dependence. Authorizes the court to waive the requirement on a showing of good cause. Deletes existing text requiring that this requirement be stated in the order granting the occupational license.

(b)-(c) Makes no changes to these subsections.

(d) Authorizes the court, on finding that the person is not attending the program as required, to:

(1) revoke the order granting the occupational driver's license, as provided by Section 521.252; or

(2) if the person is not currently restricted to the operation of a motor vehicle with an ignition interlock device installed, modify the order to include that restriction, as provided by Section 521.246. Deletes existing

text requiring the court to send a certified copy of the order revoking the license to DPS.

Deletes existing text of Subsection (e) requiring DPS, on receipt of the copy under Subsection (d), to suspend the person's occupational license for 60 days, if the original driver's license suspension was under Chapter 524 or for 120 days, if the original driver's license suspension was under Chapter 724.

Deletes existing text of Subsection (f) providing that a suspension under Subsection (e) takes effect on the date on which the court signs the order revoking the occupational license and is cumulative of the original suspension.

Deletes existing text of Subsection (g) providing that a person is not eligible for an occupational license during a period of suspension under Subsection (e).

Sec. 521.246. IGNITION INTERLOCK DEVICE REQUIREMENT. (a) Requires the judge, subject to Subsection (b-1), to restrict the person to the operation of a motor vehicle equipped with an ignition interlock device if:

(1) the person is currently under an order restricting the person to the operation of a motor vehicle equipped with an ignition interlock device, including an order imposed as a condition of bond; or

(2) the person's license has been suspended, revoked, or canceled after a conviction for an offense under certain sections.

Deletes existing text requiring the judge, if the person's license has been suspended after a conviction of an offense under certain sections, to restrict the person to the operation of a motor vehicle equipped with an ignition interlock device.

(b) Authorizes the judge, on a finding of good cause, to restrict the person to the operation of a motor vehicle equipped with an ignition interlock device in a case not described by Subsection (a).

(b-1) Authorizes the court to waive the ignition interlock device requirement under Subsection (a) if the court finds the requirement is not necessary for the safety of the community and the waiver is in the best interest of justice.

(c) Makes no changes to this subsection.

(d) Requires the court to order the ignition interlock device to remain installed for the duration of the period of suspension, unless the court finds good cause for the removal of the device and the device is not necessary for the safety of the community.

(e) Makes no changes to this subsection.

(f) Deletes existing text of Subsection (f) prohibiting a previous conviction from being used for purposes of restricting a person to the operation of a motor vehicle equipped with an interlock ignition device under this section if the previous conviction was a final conviction for an offense under certain sections and was for an offense committed more than 10 years before the instant offense for which the person was convicted, and the person has not been convicted of an offense under certain sections of that code committed within 10 years before the date on which the instant offense for which the person was convicted.

Sec. 521.2461. TESTING FOR ALCOHOL OR CONTROLLED SUBSTANCES. (a) Makes conforming and nonsubstantive changes to this section.

Sec. 521.2462. SUPERVISION OF PERSON ISSUED OCCUPATIONAL DRIVER'S LICENSE. (a) Makes conforming and nonsubstantive changes.

(a-1)-(a-3) Makes no changes to these subsections.

(b)-(c) Makes conforming changes to these subsections.

Sec. 521.2465. RESTRICTED LICENSE. (a)-(b) Makes no changes to these subsections.

Sec. 521.247. APPROVAL OF IGNITION INTERLOCK DEVICES BY DEPARTMENT. (a)-(d) Makes no changes to these subsections.

Sec. 521.2475. IGNITION INTERLOCK DEVICE EVALUATION. (a)-(b) Makes no changes to these subsections.

Sec. 521.2476. MINIMUM STANDARDS FOR VENDORS OF IGNITION INTERLOCK DEVICES. (a)-(d) Makes no changes to these subsections.

Deletes existing text of Subsection (e) defining "offense relating to the operating of a motor vehicle while intoxicated."

Sec. 521.248. New heading: ORDER GRANTING LICENSE. (a) Requires that an order granting an occupational driver's license specify certain information, including that the person is prohibited from operating a commercial motor vehicle; that the person is required to attend alcohol dependence counseling, if applicable; and that the person is required to submit to supervision to ensure compliance with conditions of the order, if applicable. Makes nonsubstantive changes.

(b) Makes no changes to this subsection.

(c) Makes conforming changes to this subsection.

(d) Makes no change to this subsection.

(e) Authorizes an order granting an occupational driver's license to require the person to keep a travel log showing the date, time, and location of travel. Authorizes the court to require the person to show the travel log to demonstrate compliance with the conditions of the order.

(f) Requires the court to give a copy of the order to the person and inform the person that they are required to comply with any requirements of DPS for the issuance of an occupational driver's license.

(g) Authorizes an order issued under this section to be modified at any time by the court without a hearing or payment of a filing fee. Provides that the issuance date of the order is not changed by a modification. Requires the court, if the order is modified, to deliver a certified copy to the person and to DPS.

Sec. 521.249. New heading: NOTICE TO DEPARTMENT; ISSUANCE OF OCCUPATIONAL DRIVER'S LICENSE.

(a) Makes no changes to this subsection.

(a-1) Provides that it is an affirmative defense to prosecution under Sections 521.025 (License to Be Carried and Exhibited on Demand; Criminal Penalty) and 521.457 (Driving While License Invalid) that the person has applied for and complied with DPS's requirements for the issuance of an occupational driver's license on or before the 10th day after the issuance of the court order but has not been issued the license.

(b) Makes a conforming change to this subsection.

Sec. 521.250. COURT ORDER IN OPERATOR'S POSSESSION. Makes a conforming change to this section.

Deletes existing text of Section 521.251 (Effective Date of Occupational License).

Sec. 521.252. LICENSE REVOCATION. (a) Makes conforming and nonsubstantive changes to this subsection.

(b) Requires the court that signed an order granting an occupational driver's license to issue an order revoking the license if the person is restricted to the operation of a motor vehicle equipped with an ignition interlock device and operates a vehicle that is not equipped with an ignition interlock device, unless authorized to operate the vehicle under Section 521.246(e) (relating to authorizing a person to whom Section 521.246 applies to operate a motor vehicle without the installation of an approved ignition interlock device if certain criteria are met).

(c) Creates this subsection from existing text. Requires the court to send a certified copy of the order to the person and to DPS.

Sec. 521.253. New heading: CRIMINAL OFFENSE; PENALTY. (a) Makes a conforming change to this subsection.

(b) Makes no changes to this subsection.

(c) Requires the convicting court, on conviction of an offense under this section, to:

(1) issue an order revoking the occupational driver's license; and

(2) deliver the revocation order to the person, the court that issued the order granting the occupational driver's license, and DPS.

Deletes existing text providing that the occupational license and the order granting that license, on conviction of an offense under this section, are revoked.

SECTION 3. Amends Section 521.320(e), Transportation Code, to make a conforming change.

SECTION 4. Amends Section 521.342(c), Transportation Code, to make conforming changes.

SECTION 5. Amends Section 521.350(c), Transportation Code, to make conforming changes.

SECTION 6. Amends Section 521.377(b), Transportation Code, to make conforming changes.

SECTION 7. Amends Section 521.421(d), Transportation Code, to make a conforming change.

SECTION 8. Amends Section 601.332, Transportation Code, by adding Subsection (c), as follows:

(c) Provides that a person whose license is suspended under Subsection (a) (relating to requiring DPS, except as provided by certain statutes, on receipt of a certified copy of a judgment under Section 601.331 (Report of Unsatisfied Judgment or Conviction, Plea, or Forfeiture of Bail; Nonresident), to suspend the judgment debtor's driver's license and vehicle registrations or nonresident's operating privilege) is eligible for an occupational driver's license under Subchapter L, Chapter 521.

SECTION 9. Amends Section 706.005(a), Transportation Code, as follows:

(a) Requires a political subdivision to immediately notify DPS that there is no cause to continue to deny renewal of a person's driver's license based on the person's previous failure to appear or failure to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court in a matter involving a certain offense, on payment of a reimbursement fee, or on a finding by the court that the person is indigent and not required to pay a reimbursement fee, as provided by Section 706.006 (Payment of Reimbursement Fee) and certain other criteria being met, including other suitable arrangement to satisfy, rather than to pay, the fine and cost within the court's discretion.

SECTION 10. Amends Section 54.042(e), Family Code, to make a conforming change.

SECTION 11. Amends Section 75.014(e), Government Code, to require courts designated as criminal misdemeanor courts to give preference to and have primary responsibility for certain cases, appeals, and petitions, including appeals or petitions under certain statutes, including Section 521.2421, rather than Section 521.242.

SECTION 12. Amends Section 123.009, Government Code, as follows:

Sec. 123.009. OCCUPATIONAL DRIVER'S LICENSE. Authorizes the judge or magistrate administering a drug court program under Chapter 123 (Drug Court Programs), notwithstanding Section 521.2421, rather than Section 521.242, Transportation Code, if a participant's driver's license has been suspended as a result of certain enforcement contacts or convictions, to order that an occupational driver's license be issued to the participant. Provides that an order issued under this section is subject to Sections 521.248, 521.249, 521.250, 521.252, and 521.253, rather than Sections 521.248-521.252, Transportation Code, except that any reference to a petition under Section 521.2421, rather than Section 521.242, of that code does not apply.

SECTION 13. Repealer: Section 524.022(d) (relating to providing that a minor whose driver's license is suspended under this chapter is not eligible for an occupational license under Subchapter L, Chapter 521, for certain periods), Transportation Code.

SECTION 14. Effective date: September 1, 2023.