

By: Dutton

H.B. No. 2922

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the suspension of the driver's license of a person
3 arrested for an offense involving the operation of a motor vehicle
4 while intoxicated or under the influence of alcohol.

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

6 SECTION 1. Chapter 524, Transportation Code, is repealed.

7 SECTION 2. Article 55.06, Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 55.06. LICENSE SUSPENSIONS AND REVOCATIONS. Records
10 relating to the suspension or revocation of a driver's license,
11 permit, or privilege to operate a motor vehicle may not be expunged
12 under this chapter except as provided in Section 724.048 [~~524.015~~],
13 Transportation Code[, ~~or Section 724.048 of that code~~].

14 SECTION 3. Section 54.042(h), Family Code, is amended to
15 read as follows:

16 (h) If a child is adjudicated for conduct that violates
17 Section 49.04, 49.07, or 49.08, Penal Code, and if any conduct on
18 which that adjudication is based is a ground for a driver's license
19 suspension under Chapter [~~524 or~~] 724, Transportation Code, each of
20 the suspensions shall be imposed. The court imposing a driver's
21 license suspension under this section shall credit a period of
22 suspension imposed under Chapter [~~524 or~~] 724, Transportation Code,
23 toward the period of suspension required under this section, except
24 that if the child was previously adjudicated for conduct that

1 violates Section 49.04, 49.07, or 49.08, Penal Code, credit may not
2 be given.

3 SECTION 4. Section 75.014(e), Government Code, is amended
4 to read as follows:

5 (e) The County Courts at Law No. 6 and No. 7 of El Paso
6 County, Texas, are designated as criminal misdemeanor courts.
7 Courts designated as criminal misdemeanor courts shall give
8 preference to and have primary responsibility for:

9 (1) criminal misdemeanor cases;

10 (2) appeals or petitions under Section 501.052,
11 521.242, or 521.302 [~~or 524.041~~], Transportation Code;

12 (3) misdemeanor bail bond and personal bond forfeiture
13 cases; and

14 (4) appeals de novo from the municipal and justice
15 courts.

16 SECTION 5. Section 123.009, Government Code, is amended to
17 read as follows:

18 Sec. 123.009. OCCUPATIONAL DRIVER'S LICENSE.
19 Notwithstanding Section 521.242, Transportation Code, if a
20 participant's driver's license has been suspended as a result of an
21 alcohol-related or drug-related enforcement contact, as defined by
22 Section 724.035 [~~524.001~~], Transportation Code, or as a result of a
23 conviction under Section 49.04, 49.07, or 49.08, Penal Code, the
24 judge or magistrate administering a drug court program under this
25 chapter may order that an occupational license be issued to the
26 participant. An order issued under this section is subject to
27 Sections 521.248-521.252, Transportation Code, except that any

1 reference to a petition under Section 521.242 of that code does not
2 apply.

3 SECTION 6. Sections 521.245(a) and (e), Transportation
4 Code, are amended to read as follows:

5 (a) If the petitioner's license has been suspended under
6 Chapter [~~524 or~~] 724, the court shall require the petitioner to
7 attend a program approved by the court that is designed to provide
8 counseling and rehabilitation services to persons for alcohol
9 dependence. This requirement shall be stated in the order granting
10 the occupational license.

11 (e) On receipt of the copy under Subsection (d), the
12 department shall suspend the person's occupational license for[+]

13 [~~(1) 60 days, if the original driver's license~~
14 ~~suspension was under Chapter 524, or~~

15 [~~(2)] 120 days[, if the original driver's license~~
16 ~~suspension was under Chapter 724].~~

17 SECTION 7. Section 521.2461, Transportation Code, is
18 amended to read as follows:

19 Sec. 521.2461. TESTING FOR ALCOHOL OR CONTROLLED
20 SUBSTANCES. The court granting an occupational license under this
21 subchapter may require as a condition of the license that the person
22 submit to periodic testing for alcohol or controlled substances, to
23 be conducted by an entity specified by the court, if the person's
24 license has been suspended under Chapter [~~524 or~~] 724 or as a result
25 of the person's conviction of an offense involving the operation of
26 a motor vehicle while intoxicated.

27 SECTION 8. Sections 521.251(a) and (e), Transportation

1 Code, are amended to read as follows:

2 (a) If a person's license is suspended under Chapter [~~524~~
3 ~~or~~] 724 and the person has not had a prior suspension arising from
4 an alcohol-related or drug-related enforcement contact in the five
5 years preceding the date of the person's arrest, an order under this
6 subchapter granting the person an occupational license takes effect
7 immediately. However, the court shall order the person to comply
8 with the counseling and rehabilitation program required under
9 Section 521.245.

10 (e) For the purposes of this section, "alcohol-related or
11 drug-related enforcement contact" has the meaning assigned by
12 Section 724.035 [~~524.001~~].

13 SECTION 9. Sections 522.081(b) and (c), Transportation
14 Code, are amended to read as follows:

15 (b) Except as provided by this subsection, this subsection
16 applies to a violation committed while operating any type of motor
17 vehicle, including a commercial motor vehicle. A person who holds
18 a commercial driver's license or commercial learner's permit is
19 disqualified from driving a commercial motor vehicle for one year:

20 (1) if convicted of three violations of a law that
21 regulates the operation of a motor vehicle at a railroad grade
22 crossing that occur within a three-year period;

23 (2) on first conviction of:

24 (A) driving a motor vehicle under the influence
25 of alcohol or a controlled substance, including a violation of
26 Section 49.04, 49.045, or 49.07, Penal Code;

27 (B) leaving the scene of an accident involving a

1 motor vehicle driven by the person;

2 (C) using a motor vehicle in the commission of a
3 felony, other than a felony described by Subsection (d)(2);

4 (D) causing the death of another person through
5 the negligent or criminal operation of a motor vehicle; or

6 (E) driving a commercial motor vehicle while the
7 person's commercial driver's license or commercial learner's permit
8 is revoked, suspended, or canceled, or while the person is
9 disqualified from driving a commercial motor vehicle, for an action
10 or conduct that occurred while operating a commercial motor
11 vehicle;

12 (3) for refusing to submit to a test under Chapter 724
13 to determine the person's alcohol concentration or the presence in
14 the person's body of a controlled substance or drug while operating
15 a motor vehicle in a public place; or

16 (4) if an analysis of the person's blood, breath, or
17 urine under this chapter or Chapter [522, 524, or] 724 determines
18 that the person:

19 (A) had an alcohol concentration of 0.04 or more,
20 or that a controlled substance or drug was present in the person's
21 body, while operating a commercial motor vehicle in a public place;
22 or

23 (B) had an alcohol concentration of 0.08 or more
24 while operating a motor vehicle, other than a commercial motor
25 vehicle, in a public place.

26 (c) A person who holds a commercial driver's license is
27 disqualified from operating a commercial motor vehicle for three

1 years if:

2 (1) the person:

3 (A) is convicted of an offense listed in
4 Subsection (b)(2) and the vehicle being operated by the person was
5 transporting a hazardous material required to be placarded; or

6 (B) refuses to submit to a test under Chapter 724
7 to determine the person's alcohol concentration or the presence in
8 the person's body of a controlled substance or drug while operating
9 a motor vehicle in a public place and the vehicle being operated by
10 the person was transporting a hazardous material required to be
11 placarded; or

12 (2) an analysis of the person's blood, breath, or urine
13 under this chapter or Chapter [~~522, 524, or~~] 724 determines that
14 while transporting a hazardous material required to be placarded
15 the person:

16 (A) while operating a commercial motor vehicle in
17 a public place had an alcohol concentration of 0.04 or more, or a
18 controlled substance or drug present in the person's body; or

19 (B) while operating a motor vehicle, other than a
20 commercial motor vehicle, in a public place had an alcohol
21 concentration of 0.08 or more.

22 SECTION 10. Section 522.092, Transportation Code, is
23 amended to read as follows:

24 Sec. 522.092. SUSPENSION, REVOCATION, CANCELLATION, OR
25 DENIAL OF DRIVER'S LICENSE UNDER OTHER LAWS. A person subject to
26 disqualification under this chapter may also have the person's
27 driver's license suspended, revoked, canceled, or denied under one

1 or more of the following, if the conduct that is a ground for
2 disqualification is also a ground for the suspension, revocation,
3 cancellation, or denial of a driver's license suspension under:

- 4 (1) Chapter 521;
- 5 (2) [~~Chapter 524,~~
- 6 [~~3~~] Chapter 601; or
- 7 (3) [~~4~~] Chapter 724.

8 SECTION 11. Sections 522.105(b) and (d), Transportation
9 Code, are amended to read as follows:

10 (b) Except as provided by Subsection (c), the procedure for
11 notice and disqualification under this section is that specified by
12 Subchapters C and D, Chapter 724 [~~, or Chapter 524~~].

13 (d) An appeal of a disqualification under this section is
14 subject to Sections 724.101-724.104 [~~524.041-524.044~~].

15 SECTION 12. Section 724.035, Transportation Code, is
16 amended by amending Subsection (b) and adding Subsection (d) to
17 read as follows:

18 (b) The period of suspension or denial is two years if the
19 person's driving record shows one or more alcohol-related or
20 drug-related enforcement contacts [~~, as defined by Section~~
21 ~~524.001(3),~~] during the 10 years preceding the date of the person's
22 arrest.

23 (d) In this chapter, "alcohol-related or drug-related
24 enforcement contact" means a driver's license suspension,
25 disqualification, or prohibition order under the laws of this state
26 or another state resulting from:

- 27 (1) a conviction of an offense prohibiting the

1 operation of a motor vehicle while:

2 (A) intoxicated;

3 (B) under the influence of alcohol; or

4 (C) under the influence of a controlled
5 substance;

6 (2) a refusal to submit to the taking of a breath or
7 blood specimen following an arrest for an offense prohibiting the
8 operation of a motor vehicle while:

9 (A) intoxicated;

10 (B) under the influence of alcohol; or

11 (C) under the influence of a controlled
12 substance; or

13 (3) an analysis of a breath or blood specimen showing
14 an alcohol concentration of a level specified by Section 49.01,
15 Penal Code, following an arrest for an offense prohibiting the
16 operation of a motor vehicle while intoxicated.

17 SECTION 13. Section 724.041(g), Transportation Code, is
18 amended to read as follows:

19 (g) An administrative hearing under this section is
20 governed by this subchapter [~~Sections 524.032(b) and (c),~~
21 ~~524.035(e), 524.037(a), and 524.040~~].

22 SECTION 14. Section 724.047, Transportation Code, is
23 amended to read as follows:

24 Sec. 724.047. APPEAL. Subchapter F [~~Chapter 524~~] governs an
25 appeal from an action of the department, following an
26 administrative hearing under this subchapter [~~chapter~~], in
27 suspending or denying the issuance of a license.

1 SECTION 15. Chapter 724, Transportation Code, is amended by
2 adding Subchapter F to read as follows:

3 SUBCHAPTER F. APPEAL

4 Sec. 724.101. APPEAL FROM ADMINISTRATIVE HEARING. (a) A
5 person whose driver's license suspension is sustained may appeal
6 the decision by filing a petition not later than the 30th day after
7 the date the administrative law judge's decision is final. The
8 administrative law judge's final decision is immediately
9 appealable without the requirement of a motion for rehearing.

10 (b) A petition under Subsection (a) must be filed in a
11 county court at law in the county in which the person was arrested
12 or, if there is not a county court at law in the county, in the
13 county court. If the county judge is not a licensed attorney, the
14 county judge shall transfer the case to a district court for the
15 county on the motion of either party or of the judge.

16 (c) A person who files an appeal under this section shall
17 send a copy of the petition by certified mail to the department and
18 to the State Office of Administrative Hearings at each agency's
19 headquarters in Austin. The copy must be certified by the clerk of
20 the court in which the petition is filed.

21 (d) The department's right to appeal is limited to issues of
22 law.

23 (e) A district or county attorney may represent the
24 department in an appeal.

25 Sec. 724.102. STAY OF SUSPENSION ON APPEAL. (a) A
26 suspension of a driver's license under Subchapter C is stayed on the
27 filing of an appeal petition only if:

1 (1) the person's driver's license has not been
2 suspended as a result of an alcohol-related or drug-related
3 enforcement contact during the five years preceding the date of the
4 person's arrest; and

5 (2) the person has not been convicted during the 10
6 years preceding the date of the person's arrest of an offense under:

7 (A) Article 67011-1, Revised Statutes, as that
8 law existed before September 1, 1994;

9 (B) Section 19.05(a)(2), Penal Code, as that law
10 existed before September 1, 1994;

11 (C) Section 49.04, 49.045, or 49.06, Penal Code;

12 (D) Section 49.07 or 49.08, Penal Code, if the
13 offense involved the operation of a motor vehicle or watercraft; or

14 (E) Section 106.041, Alcoholic Beverage Code.

15 (b) A stay under this section is effective for not more than
16 90 days after the date the appeal petition is filed. On the
17 expiration of the stay, the department shall impose the suspension.
18 The department or court may not grant an extension of the stay or an
19 additional stay.

20 Sec. 724.103. REVIEW; ADDITIONAL EVIDENCE. (a) Review on
21 appeal is on the record certified by the State Office of
22 Administrative Hearings with no additional testimony.

23 (b) On appeal, a party may apply to the court to present
24 additional evidence. If the court is satisfied that the additional
25 evidence is material and that there were good reasons for the
26 failure to present it in the proceeding before the administrative
27 law judge, the court may order that the additional evidence be taken

1 before an administrative law judge on conditions determined by the
2 court.

3 (c) There is no right to a jury trial in an appeal under this
4 section.

5 (d) An administrative law judge may change a finding or
6 decision as to whether the person had an alcohol concentration of a
7 level specified in Section 49.01, Penal Code, or whether a minor had
8 any detectable amount of alcohol in the minor's system because of
9 the additional evidence and shall file the additional evidence and
10 any changes, new findings, or decisions with the reviewing court.

11 (e) A remand under this section does not stay the suspension
12 of a driver's license.

13 Sec. 724.104. TRANSCRIPT OF ADMINISTRATIVE HEARING. (a)
14 To obtain a transcript of an administrative hearing, the party who
15 appeals the administrative law judge's decision must apply to the
16 State Office of Administrative Hearings.

17 (b) On payment of a fee not to exceed the actual cost of
18 preparing the transcript, the State Office of Administrative
19 Hearings shall promptly furnish both parties with a transcript of
20 the administrative hearing.

21 SECTION 16. The change in law made by this Act applies only
22 to a person arrested for an offense committed on or after the
23 effective date of this Act. A person arrested for an offense
24 committed before the effective date of this Act is covered by the
25 law in effect when the offense was committed, and the former law is
26 continued in effect for that purpose. For purposes of this section,
27 an offense was committed before the effective date of this Act if

1 any element of the offense occurred before that date.

2 SECTION 17. This Act takes effect September 1, 2023.