By: Perez of El Paso H.B. No. 746

A BILL TO BE ENTITLED

AN ACT

relating to increasing the criminal penalties for certain intoxication offenses.

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

SECTION 1. Section 12.44, Penal Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), a [~~A~~] court may punish a defendant who is convicted of a state jail felony by imposing the confinement permissible as punishment for a Class A misdemeanor if, after considering the gravity and circumstances of the felony committed and the history, character, and rehabilitative needs of the defendant, the court finds that such punishment would best serve the ends of justice.

(c) A court may not punish under Subsection (a) of this section a defendant convicted of an offense under Chapter 49 and punished under Section 49.09(a).

SECTION 2. Section 49.09, Penal Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsections (a-1) and [~~Subsection~~] (b), an offense under Section 49.04, 49.05, 49.06, or 49.065 is a state jail felony [~~Class A misdemeanor, with a minimum term of confinement of 30 days,~~] if it is shown on the trial of the

offense that the person has previously been convicted one time of an offense relating to the operating of a motor vehicle while intoxicated, an offense of operating an aircraft while intoxicated, an offense of operating a watercraft while intoxicated, or an offense of operating or assembling an amusement ride while intoxicated.

(a-1) An offense under Section 49.04 or 49.045 is a felony of the third degree if it is shown on the trial of the offense that:

(1) at the time of the offense the person was operating the motor vehicle in a school crossing zone during the time the reduced speed limit applies to the zone; and

(2) the person has previously been convicted one time of an offense relating to the operating of a motor vehicle while intoxicated, an offense of operating an aircraft while intoxicated, an offense of operating a watercraft while intoxicated, or an offense of operating or assembling an amusement ride while intoxicated.

SECTION 3. Section 49.09(c), Penal Code, is amended by adding Subdivision (5) to read as follows:

(5) "School crossing zone" has the meaning assigned by Section 541.302, Transportation Code.

SECTION 4. Article 42A.401(a), Code of Criminal Procedure, is amended to read as follows:

(a) A judge granting community supervision to a defendant convicted of an offense under Chapter 49, Penal Code, shall require as a condition of community supervision that the defendant submit to:

(1) not less than 72 hours of continuous confinement in county jail if the defendant was punished under Section 49.09(a), Penal Code;

(2) not less than five days of confinement in county jail if the defendant was punished under Section 49.09(a), Penal Code, and was subject to Section 49.09(h), Penal Code;

(3) not less than 10 days of confinement in county jail if the defendant was punished under Section 49.09(a-1) or (b) [~~49.09(b)~~], Penal Code;

(4) not less than 30 days of confinement in county jail if the defendant was convicted of an offense under Section 49.07, Penal Code; or

(5) a term of confinement of not less than 120 days if the defendant was convicted of an offense under Section 49.08, Penal Code.

SECTION 5. Articles 42A.407(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) A jury that recommends community supervision for a defendant convicted of an offense under Sections 49.04-49.08, Penal Code, may recommend that any driver's license issued to the defendant under Chapter 521, Transportation Code, not be suspended. This subsection does not apply to a defendant punished under Section 49.09(a), (a-1), or (b), Penal Code, and subject to Section 49.09(h), Penal Code.

(b) Notwithstanding Sections 521.344(d)-(i), Transportation Code, if under Article 42A.404 the judge requires a defendant punished under Section 49.09, Penal Code, to successfully

complete an educational program as a condition of community supervision, or waives the required completion of the program, and the defendant has previously been required to successfully complete such an educational program, or the required completion of the program had been waived, the judge shall order the suspension of the defendant's driver's license for a period determined by the judge according to the following schedule:

(1) not less than 90 days or more than one year, if the defendant is convicted under Sections 49.04-49.08, Penal Code;

(2) not less than 180 days or more than two years, if the defendant is punished under Section 49.09(a), (a-1), or (b), Penal Code; or

(3) not less than one year or more than two years, if the defendant is convicted of a second or subsequent offense under Sections 49.04-49.08, Penal Code, committed within five years of the date on which the most recent preceding offense was committed.

SECTION 6. Article 42A.408(c), Code of Criminal Procedure, is amended to read as follows:

(c) The court shall require as a condition of community supervision that a defendant described by Subsection (b) have an ignition interlock device installed on the motor vehicle owned by the defendant or on the vehicle most regularly driven by the defendant and that the defendant not operate any motor vehicle unless the vehicle is equipped with that device if:

(1) it is shown on the trial of the offense that an analysis of a specimen of the defendant's blood, breath, or urine showed an alcohol concentration level of 0.15 or more at the time

the analysis was performed;

(2) the defendant is placed on community supervision after conviction of an offense under Sections 49.04-49.061, Penal Code, for which the defendant is punished under Section 49.09(a), (a-1), or (b), Penal Code; or

(3) the court determines under Subsection (d) that the defendant has one or more previous convictions under Sections 49.04-49.08, Penal Code.

SECTION 7. Sections 521.344(a) and (d), Transportation Code, are amended to read as follows:

(a) Except as provided by Sections 521.342(b) and 521.345, and by Subsections (d)-(i), if a person is convicted of an offense under Section 49.04, 49.045, or 49.07, Penal Code, the license suspension:

(1) begins on a date set by the court that is not earlier than the date of the conviction or later than the 30th day after the date of the conviction, as determined by the court; and

(2) continues for a period set by the court according to the following schedule:

(A) not less than 90 days or more than one year, if the person is punished under Section 49.04, 49.045, or 49.07, Penal Code, except that if the person's license is suspended for a second or subsequent offense under Section 49.07 committed within five years of the date on which the most recent preceding offense was committed, the suspension continues for a period of one year;

(B) not less than 180 days or more than two years, if the person is punished under Section 49.09(a), (a-1), or (b),

Penal Code; or

(C) not less than one year or more than two years, if the person is punished under Section 49.09(a), (a-1), or (b), Penal Code, and is subject to Section 49.09(h) of that code.

(d) Except as provided by Subsection (e) and Section 521.342(b), during a period of probation the department may not revoke the person's license if the person is required under Article 42A.403 or 42A.404, Code of Criminal Procedure, to successfully complete an educational program designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person was punished under Section 49.09(a), (a-1), or (b), Penal Code, and was subject to Section 49.09(h) of that code. The department may not revoke the license of a person:

(1) for whom the jury has recommended that the license not be revoked under Article 42A.407(a), Code of Criminal Procedure; or

(2) who is placed under community supervision under Chapter 42A, Code of Criminal Procedure, and is required as a condition of community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Article 42A.408 of that chapter, unless the person was punished under Section 49.09(a), (a-1), or (b), Penal Code, and was subject to Section 49.09(g) of that code.

SECTION 8. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the

former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 9. This Act takes effect September 1, 2027.