

## **BILL ANALYSIS**

C.S.H.B. 2246  
By: Villalba  
Homeland Security & Public Safety  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties report certain research findings suggesting that a large percentage of individuals with licenses that have been suspended due to proceedings associated with certain intoxication offenses continue to drive with suspended licenses. These parties contend that an ignition interlock device is a more effective measure in these circumstances than license suspension alone and allows such individuals to continue working, attend school or treatment, and remain active in their communities. C.S.H.B. 2246 seeks to protect the public from these types of offenses while giving individuals involved in those proceedings the opportunity to continue to support themselves and their families.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change 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. 2246 amends the Code of Criminal Procedure to authorize a defendant whose driver's license is suspended for offense of driving while intoxicated, driving while intoxicated with a child passenger, flying while intoxicated, boating while intoxicated, assembling or operating an amusement ride while intoxicated, intoxication assault, or intoxication manslaughter to operate a motor vehicle during the period of suspension if the defendant obtains and uses an ignition interlock device for the entire period of the suspension and applies for and receives an occupational driver's license with an ignition interlock designation.

C.S.H.B. 2246 amends the Transportation Code to entitle a person convicted of such an intoxication offense 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 the Texas Motor Vehicle Safety Responsibility Act and proof that the person has had an ignition interlock device installed on each motor vehicle owned or operated by the person.

C.S.H.B. 2246 includes a person whose license has been suspended as a result of being convicted of an offense of driving while intoxicated with a child passenger, flying while intoxicated, boating while intoxicated, assembling or operating an amusement ride while intoxicated, intoxication assault, or intoxication manslaughter among the persons ineligible to apply for an occupational license through a verified petition. The bill requires the clerk of the court 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 following a conviction for an offense of driving while intoxicated with a child passenger, flying while intoxicated, boating while intoxicated, or assembling or operating an amusement ride while intoxicated.

C.S.H.B. 2246 revises the statutory provision setting out the ignition interlock device requirements to require a judge to restrict a person to the operation of a motor vehicle equipped with an ignition interlock device if the person's license has been suspended after a conviction for the offense of driving while intoxicated, driving while intoxicated with a child passenger, flying while intoxicated, boating while intoxicated, assembling or operating an amusement ride while intoxicated, intoxication assault, or intoxication manslaughter.

C.S.H.B. 2246 changes from at least half of the period of supervision to the full duration of the period of suspension the period during which the court is required to order the ignition interlock device to remain installed. The bill prohibits a previous conviction of an offense of driving while intoxicated with a child passenger, flying while intoxicated, boating while intoxicated, or assembling or operating an amusement ride while intoxicated from being used for purposes of restricting a person to the operation of a motor vehicle equipped with an interlock ignition device, if the previous conviction was a final conviction for such an offense committed more than 10 years before the instant offense for which the person was convicted and if the person has not been convicted of such an offense committed within 10 years before the date on which the instant offense for which the person was convicted.

C.S.H.B. 2246 adds as a specification for a special restricted license authorizing a person to operate only a motor vehicle equipped with an ignition interlock device that the license conspicuously indicate that the person is so authorized. The bill adds the end of the period of suspension as an alternative point at which the Department of Public Safety is required to issue the person a driver's license without the restriction.

C.S.H.B. 2246 prohibits a person who is restricted to the operation of a motor vehicle equipped with an ignition interlock device from being subject to any time of travel, reason for travel, or location of travel restrictions described by statutory provisions relating to requirements specified in an order granting an occupational license. The bill authorizes the court to issue an occupational license to a person if the person submits proof that the person has an ignition interlock device installed on each motor vehicle owned or operated by the person. The bill requires the court to revoke a person's occupational license and reinstate the suspension of the person's driver's license if the person fails to maintain an installed ignition interlock device on each motor vehicle owned or operated by the person.

C.S.H.B. 2246 amends the Penal Code to establish that, to the extent of any conflict, its provisions relating to the requirement that a court enter an order requiring certain defendants to have an ignition interlock device installed on each motor vehicle owned or operated by the defendant and requiring the defendant to not operate any motor vehicle that is not equipped with that device for a specified period prevail over Code of Criminal Procedure provisions generally governing driving while intoxicated community supervision.

#### **EFFECTIVE DATE**

September 1, 2015.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2246 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 521.001(a)(3), Transportation Code, is amended to read as follows:

(3) "Driver's license" means an authorization issued by the department for the operation of a motor vehicle. The term includes:

- (A) a temporary license or instruction permit; and
- (B) an occupational or ignition interlock license.

SECTION 2. Section 521.202, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding Subsection (a) or (b), if a person is otherwise eligible, the department may issue an ignition interlock license to a person during the period of suspension.

SECTION 3. The heading to Subchapter L, Chapter 521, Transportation Code, is amended to read as follows:

SUBCHAPTER L. OCCUPATIONAL AND IGNITION INTERLOCK LICENSES  
~~[LICENSE]~~

SECTION 4. Section 521.241(2), Transportation Code, is amended to read as follows:

(2) "Ignition interlock device" means a functioning device approved by the department under Section 521.247 that uses a deep-lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator of the vehicle.

SECTION 5. The heading to Section 521.242, Transportation Code, is amended to read as follows:

Sec. 521.242. PETITION FOR OCCUPATIONAL LICENSE.

SECTION 6. Subchapter L, Chapter 521, Transportation Code, is amended by adding Section 521.2421 to read as follows:

Sec. 521.2421. APPLICATION FOR IGNITION INTERLOCK LICENSE. A

HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

No equivalent provision. *But see SECTIONS 1 and 3 below.*

person whose license has been suspended or revoked for a conviction under Section 49.04, Penal Code, or has been suspended under Chapter 524 or 724 may apply to the department:

(1) for issuance of an ignition interlock license; or

(2) to extend the effective period of an ignition interlock license issued for:

(A) a suspension under Chapter 524 or 724; or

(B) a conviction arising from the offense under Section 49.04, Penal Code.

No equivalent provision. *But see SECTION 6 above.*

SECTION 1. Section 13, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (o) to read as follows:

(o) Notwithstanding any other provision of this section, a defendant whose license is suspended for an offense under Sections 49.04-49.08, Penal Code, may operate a motor vehicle during the period of suspension if the defendant:

(1) obtains and uses an ignition interlock device as provided by Subsection (i) for the entire period of the suspension; and

(2) applies for and receives an occupational driver's license with an ignition interlock designation under Section 521.2465, Transportation Code.

No equivalent provision.

SECTION 2. Section 49.09(h), Penal Code, is amended to read as follows:

(h) This subsection applies only to a person convicted of a second or subsequent offense relating to the operating of a motor vehicle while intoxicated committed within five years of the date on which the most recent preceding offense was committed. The court shall enter an order that requires the defendant to have a device installed, on each motor vehicle owned or operated by the defendant, that uses a deep-lung breath analysis mechanism to make impractical the operation of the motor vehicle if ethyl alcohol is detected in the breath of the operator, and that requires that before the first anniversary of the ending date of the period of license suspension under Section 521.344, Transportation Code, the defendant not operate any motor vehicle

that is not equipped with that device. The court shall require the defendant to obtain the device at the defendant's own cost on or before that ending date, require the defendant to provide evidence to the court on or before that ending date that the device has been installed on each appropriate vehicle, and order the device to remain installed on each vehicle until the first anniversary of that ending date. If the court determines the offender is unable to pay for the device, the court may impose a reasonable payment schedule not to extend beyond the first anniversary of the date of installation. The Department of Public Safety shall approve devices for use under this subsection. Section 521.247, Transportation Code, applies to the approval of a device under this subsection and the consequences of that approval. Failure to comply with an order entered under this subsection is punishable by contempt. For the purpose of enforcing this subsection, the court that enters an order under this subsection retains jurisdiction over the defendant until the date on which the device is no longer required to remain installed. To the extent of a conflict between this subsection and Section 13 [~~13(i)~~], Article 42.12, Code of Criminal Procedure, this subsection controls.

No equivalent provision. *But see SECTION 6 above.*

SECTION 3. Section 521.242(a), Transportation Code, is amended to read as follows:

(a) 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 Sections 49.04-49.08 [~~Section 49.04~~], Penal Code, may 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 or county in which:

- (1) the person resides; or
- (2) the offense occurred for which the license was suspended.

SECTION 7. Section 521.243, Transportation Code, is amended to read as follows:

SECTION 4. Section 521.243(a), Transportation Code, is amended to read as follows:

Sec. 521.243. NOTICE TO STATE;  
PRESENTATION OF EVIDENCE FOR  
OCCUPATIONAL LICENSE.

(a) The clerk of the court shall send by certified mail to the attorney representing the state a copy of the petition for an occupational license and notice of the hearing if the petitioner's license was suspended following a conviction for:

(1) an offense under Section 19.05, ~~49.04, 49.07, or 49.08~~, Penal Code; or

(2) an offense to which Section 521.342 applies.

(b) A person who receives a copy of a petition for an occupational license under Subsection (a) may attend the hearing and may present evidence at the hearing against granting the petition.

SECTION 8. The heading to Section 521.244, Transportation Code, is amended to read as follows:

Sec. 521.244. HEARING; ORDER;  
DETERMINATION OF ESSENTIAL NEED  
FOR OCCUPATIONAL LICENSE.

SECTION 9. Section 521.244, Transportation Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) The judge who hears the petition for an occupational license shall sign an order finding whether an essential need exists.

(e) This section does not apply to an application to the department for an ignition interlock license under Section 521.2421.

No equivalent provision.

(a) The clerk of the court shall 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 following a conviction for:

(1) an offense under Section 19.05 or Sections 49.04-49.08, ~~[49.04, 49.07, or 49.08,]~~ Penal Code; or

(2) an offense to which Section 521.342 applies.

No equivalent provision.

No equivalent provision.

SECTION 5. Section 521.244, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) A person convicted of an offense under Sections 49.04-49.08, Penal Code, who is restricted to the operation of a motor vehicle equipped with an ignition interlock device is entitled to receive an occupational license without a finding that an essential need exists for that person, provided that the person shows:  
(1) evidence of financial responsibility

under Chapter 601; and  
(2) proof the person has had an ignition interlock device installed on each motor vehicle owned or operated by the person.

SECTION 10. The heading to Section 521.245, Transportation Code, is amended to read as follows:

Sec. 521.245. REQUIRED COUNSELING FOR IGNITION INTERLOCK LICENSE.

No equivalent provision.

SECTION 11. Sections 521.245(a), (c), (d), and (f), Transportation Code, are amended to read as follows:

(a) If a person's [~~the petitioner's~~] license has been suspended under Chapter 524 or 724, as a condition of issuance of an ignition interlock license the department [~~court~~] shall require the person [~~petitioner~~] to enroll and attend a program approved by the department [~~court~~] that is designed to provide counseling and rehabilitation services to persons for alcohol dependence. Proof of enrollment must be included with the application for an ignition interlock [~~This requirement shall be stated in the order granting the occupational~~] license under Section 521.2421.

(c) The department [~~court~~] may require the program [~~person~~] to report periodically to the department [~~court~~] to verify that the person is attending the required program.

(d) On receiving notice [~~finding~~] that the person is not attending the program as required, the department [~~court~~] may suspend [~~revoke~~] the ignition interlock [~~order granting the occupational~~] license until the person provides proof that the person is attending the required program. [~~The court shall send a certified copy of the order revoking the license to the department.~~]

(f) A suspension under Subsection (d) [~~(e)~~]:

(1) takes effect on the date on which the department sends notice of:

(A) the person's nonattendance at the required program; and

(B) suspension of the person's ignition interlock [~~court signs the order revoking the occupational~~] license; [~~and~~]

(2) extends the term [~~is cumulative~~] of the original suspension and the person's eligibility for an ignition interlock license during that suspension; and

(3) will be rescinded only on receipt of notice

No equivalent provision.

from the program of the person's compliance with program attendance requirements.

SECTION 12. Section 521.246, Transportation Code, is amended to read as follows:

Sec. 521.246. IGNITION INTERLOCK DEVICE REQUIREMENT ON REINSTATEMENT.

(a) On receipt of notice of ~~[If the person's license has been suspended after]~~ a conviction under Section 49.04, 49.07, or 49.08, Penal Code, the department ~~[judge, before signing an order,]~~ shall determine from the criminal history record information maintained by the department whether the person has any previous conviction under those laws.

(b) The department shall note on the person's driving record that on reinstatement, the person's driving privileges are restricted

~~[As part of the order the judge may restrict the person]~~ to the operation of a motor vehicle equipped with an ignition interlock device for the designated period ~~[if the judge determines that the person's license has been suspended following a conviction under Section 49.04, 49.07, or 49.08, Penal Code. As part of the order, the judge shall restrict the person to the operation of a motor vehicle equipped with an ignition interlock device if the judge determines that:~~

~~[(1) the person has two or more convictions under any combination of Section 49.04, 49.07, or 49.08, Penal Code; or~~

~~[(2) the person's license has been suspended after a conviction under Section 49.04, Penal Code, for which the person has been punished under Section 49.09, Penal Code].~~

(c) The person shall obtain the ignition interlock device at the person's own expense unless the court finds that to do so is not in the best interest of justice and enters that finding in the record. If the court determines that the person is unable to pay for the device, the court may impose a reasonable payment

SECTION 6. Sections 521.246(a), (b), (d), and (f), Transportation Code, are amended to read as follows:

(a) If the person's license has been suspended after a conviction of an offense under Sections 49.04-49.08 ~~[Section 49.04, 49.07, or 49.08]~~, Penal Code, the judge~~[, before signing an order,]~~ shall ~~[determine from the criminal history record information maintained by the department whether the person has any previous conviction under those laws.~~

~~[(b)~~

~~As part of the order the judge may]~~ restrict the person to the operation of a motor vehicle equipped with an ignition interlock device ~~[if the judge determines that the person's license has been suspended following a conviction under Section 49.04, 49.07, or 49.08, Penal Code. As part of the order, the judge shall restrict the person to the operation of a motor vehicle equipped with an ignition interlock device if the judge determines that:~~

~~[(1) the person has two or more convictions under any combination of Section 49.04, 49.07, or 49.08, Penal Code; or~~

~~[(2) the person's license has been suspended after a conviction under Section 49.04, Penal Code, for which the person has been punished under Section 49.09, Penal Code].~~

schedule for a term not to exceed twice the period of the court's order.

(d) The department ~~[court]~~ shall reduce the duration of any postreinstatement ignition interlock requirement under Subsection (b) by an amount of time equal to the period for which an ignition interlock license was required as a condition of a preconviction or postconviction license suspension or revocation arising from the offense for which the person was convicted ~~[order the ignition interlock device to remain installed for at least half of the period of supervision]~~.

(e) A person to whom this section applies may operate a motor vehicle without the installation of an approved ignition interlock device if:

(1) the person is required to operate a motor vehicle in the course and scope of the person's employment;

(2) the vehicle is:

(A) owned, leased, or rented by the person's employer; and

(B) driven at the direction of the person's employer during working hours as a requirement of employment;

(3) the employer is not owned or controlled by the person whose driving privilege is restricted;

(4) the employer is notified of the driving privilege restriction; and

(5) proof of that notification is with the vehicle.

(f) A previous conviction may not be used for purposes of determining the length of the period ~~[restricting]~~ a person is restricted to the operation of a motor vehicle equipped with an interlock ignition device under this section if:

(1) the previous conviction was a final conviction under Section 49.04, 49.07, or 49.08, Penal Code, and was for an offense committed more than 10 years before the instant offense for which the person was convicted; and

(2) the person has not been convicted of an offense under Section 49.04, 49.07, or 49.08 of that code committed within 10 years before the date of ~~[on which]~~ the instant offense for which the person was convicted.

(d) The court shall

order the ignition interlock device to remain installed for the duration of the period of suspension ~~[at least half of the period of supervision]~~.

(f) A previous conviction may not be used for purposes of restricting a person to the operation of a motor vehicle equipped with an interlock ignition device under this section if:

(1) the previous conviction was a final conviction for an offense under Sections 49.04-49.08 ~~[Section 49.04, 49.07, or 49.08]~~, Penal Code, and was for an offense committed more than 10 years before the instant offense for which the person was convicted; and

(2) the person has not been convicted of an offense under Sections 49.04-49.08 ~~[Section 49.04, 49.07, or 49.08]~~ of that code committed within 10 years before the date on which the instant offense for which the person was convicted.

SECTION 13. Section 521.2461, Transportation Code, is amended to read as follows:

Sec. 521.2461. TESTING FOR ALCOHOL OR CONTROLLED SUBSTANCES FOR PERSON ISSUED IGNITION INTERLOCK LICENSE. The court may require a person who is issued an ignition interlock ~~[granting an occupational]~~ license under this subchapter to ~~[may require as a condition of the license that the person]~~ submit to periodic testing for alcohol or controlled substances, to be conducted by an entity specified by the court, if the person's license has been suspended ~~[under Chapter 524 or 724 or]~~ as a result of the person's conviction of an offense involving the operation of a motor vehicle while intoxicated.

No equivalent provision.

SECTION 14. The heading to Section 521.2462, Transportation Code, is amended to read as follows:

Sec. 521.2462. SUPERVISION OF PERSON ISSUED IGNITION INTERLOCK ~~[OCCUPATIONAL DRIVER'S]~~ LICENSE.

No equivalent provision.

SECTION 15. Section 521.2462(a), Transportation Code, is amended to read as follows:

(a) The court may require a person who is issued an ignition interlock ~~[granting an occupational]~~ license under this subchapter ~~[may order the person receiving the license]~~ to:

(1) submit to supervision by the local community supervision and corrections department to verify compliance with the conditions established by the court ~~[specified by the order granting the license, including the conditions specified in accordance with Section 521.248]~~; and

(2) pay a monthly administrative fee under Section 76.015, Government Code.

No equivalent provision.

SECTION 16. Section 521.2465, Transportation Code, is amended to read as follows:

Sec. 521.2465. ISSUANCE OF IGNITION INTERLOCK ~~[RESTRICTED]~~ LICENSE.

SECTION 7. Section 521.2465, Transportation Code, is amended to read as follows:

Sec. 521.2465. RESTRICTED LICENSE.

~~(a) The [On receipt of notice that a person has been restricted to the use of a motor vehicle equipped with an ignition interlock device, the department shall notify that person that the person's driver's license expires on the 30th day after the date of the notice. On application by the person and payment of a fee of \$10, the] department shall issue an ignition interlock [a special restricted] license that authorizes the person to operate only a motor vehicle equipped with an ignition interlock device if the person:~~

~~(1) submits an application for an ignition interlock license;~~

~~(2) except as provided by Subsection (b), pays a nonrefundable application fee of \$100;~~

~~(3) provides evidence of financial responsibility as required by Chapter 601;~~

~~(4) provides proof to the satisfaction of the department that an ignition interlock device has been installed on each motor vehicle owned or operated by the person; and~~

~~(5) is otherwise eligible for the license.~~

~~(b) If the person already has an ignition interlock license issued for a suspension under Chapter 524 or 724, the department may extend the existing ignition interlock license if the person pays a fee of \$10. Subsection (a)(2) does not apply to a license extended under this subsection.~~

~~(c) The department may not issue an ignition interlock license for the operation of a commercial motor vehicle to which Chapter 522 applies.~~

~~(d) An ignition interlock license issued under this section may contain only the restrictions or endorsements that were on the person's driving record at the time of the arrest for the incident for which the license was suspended, except that:~~

~~(1) in the interest of public safety, the department may, with good cause, impose additional restrictions or require additional endorsements on the ignition interlock license; and~~

~~(2) a license issued under this section must state on its face that the person may operate only vehicles equipped with an ignition interlock device.~~

~~[On receipt of a copy of a court order removing the restriction, the department shall issue the person a driver's license without the restriction.]~~

(a) On receipt of notice that a person has been restricted to the use of a motor vehicle equipped with an ignition interlock device, the department shall notify that person that the person's driver's license expires on the 30th day after the date of the notice. On application by the person and payment of a fee of \$10, the department shall issue a special restricted license that conspicuously indicates that ~~[authorizes]~~ the person is authorized to operate only a motor vehicle equipped with an ignition interlock device.

(b) On receipt of a copy of a court order removing the restriction or at the end of the period of suspension, as applicable, the department shall issue the person a driver's

license without the restriction.

SECTION 17. The heading to Section 521.248, Transportation Code, is amended to read as follows:

Sec. 521.248. ORDER REQUIREMENTS FOR ISSUANCE OF OCCUPATIONAL LICENSE.

SECTION 18. The heading to Section 521.250, Transportation Code, is amended to read as follows:

Sec. 521.250. COURT ORDER FOR OCCUPATIONAL LICENSE IN OPERATOR'S POSSESSION.

No equivalent provision.

SECTION 8. Section 521.248, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) A person who is restricted to the operation of a motor vehicle equipped with an ignition interlock device may not be subject to any time of travel, reason for travel, or location of travel restrictions described by Subsection (a)(1), (2), or (3) or (b).

No equivalent provision.

SECTION 9. Section 521.251, Transportation Code, is amended by amending Subsections (c) and (d) and adding Subsection (d-1) to read as follows:

(c) If the person's driver's license has been suspended as a result of a conviction of an offense under Sections 49.04-49.08 [~~Section 49.04, 49.07, or 49.08~~], Penal Code, during the five years preceding the date of the person's arrest, the order may not take effect before the 181st day after the effective date of the suspension.

(d) Notwithstanding any other provision in this section, if the person's driver's license has been suspended as a result of a second or subsequent conviction under Sections 49.04-49.08 [~~Section 49.04, 49.07, or 49.08~~], Penal Code, committed within five years of the date on which the most recent preceding offense was committed, an order granting the person an occupational license may not take effect before the first anniversary of the effective date of the suspension.

(d-1) Notwithstanding Subsections (b), (c), and (d), the court may issue an occupational license to a person if the person submits proof the person has an ignition interlock device installed on each

motor vehicle owned or operated by the person. If a person issued an occupational license under this subsection fails to maintain an installed ignition interlock device on each motor vehicle owned or operated by the person, the court shall revoke the occupational license under Section 521.252 and reinstate the suspension of the person's driver's license.

No equivalent provision.

SECTION 19. Sections 521.253(a) and (c), Transportation Code, are amended to read as follows:

(a) A person who is issued ~~holds~~ an occupational or ignition interlock license commits an offense if the person:

(1) operates a motor vehicle in violation of a restriction imposed on the license; or

(2) fails to have in the person's possession:

(A) for an occupational license granted by a court, a certified copy of the court order as required under Section 521.250; or

(B) for an ignition interlock license issued by the department, the ignition interlock license.

(c) On conviction of an offense under this section:

(1) for an occupational license, the occupational license and the order granting that license are revoked; or

(2) for an ignition interlock license, the department, in its sole discretion, may either revoke the ignition interlock license or extend the suspension period and the ignition interlock license for a period equal to the duration of the original suspension.

SECTION 20. Sections 521.342(b) and (c), Transportation Code, are amended to read as follows:

(b) The department shall suspend for one year the license of a person who is under 21 years of age and is convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, regardless of whether the person is required to attend an educational program under Section 13(h), Article 42.12, Code of Criminal Procedure, that is designed to rehabilitate persons who have operated motor vehicles while intoxicated ~~[, unless the person is placed under community supervision under that article and is required as a condition of the community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Section 13(i) of~~

No equivalent provision.

~~that article].~~ To be accepted into the program, the person must first submit an application to the department for and be issued an ignition interlock license under Subchapter L. If the person is required to attend the ~~[such a]~~ program and does not complete the program before the end of the person's suspension, the department shall suspend the person's ignition interlock license and ~~[or]~~ continue the suspension, as appropriate, until the department receives proof that the person has successfully completed the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

(c) A person whose license is suspended under Subsection (a) remains eligible to receive an ignition interlock ~~[occupational]~~ license under Subchapter L. Suspension under Subsection (a) is not a suspension for physical or mental disability or impairment for purposes of eligibility to apply for an ignition interlock ~~[occupational]~~ license under Subchapter L.

SECTION 21. Sections 521.344(a), (b), (c), (d), (e), (f), (g), and (h), 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 15th ~~[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

No equivalent provision.

years, if the person is punished under Section 49.09(a) 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) or (b), Penal Code, and is subject to Section 49.09(h) of that code.

(b) Except as provided by Section 521.342(b), if a person is convicted of an offense under Section 49.08, 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 15th ~~[30th]~~ day after the date of the conviction, as determined by the court; and

(2) continues for a period set by the court of not less than 180 days or more than two years, except that if the person's license is suspended for a second or subsequent offense under Section 49.08, Penal Code, committed within 10 years of the date on which the most recent preceding offense was committed, the suspension continues for a period set by the court of not less than one year or more than two years.

(c) The court shall credit toward the period of suspension a suspension imposed on the person for refusal to give a specimen under Chapter 724 if the refusal followed an arrest for the same offense for which the court is suspending the person's license under this chapter for each day the person holds an ignition interlock license during the period of suspension. ~~[The court may not extend the credit to a person:~~

~~[(1) who has been previously convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or~~

~~[(2) whose period of suspension is governed by Section 521.342(b).]~~

(d) Except as provided by Subsection (e) and Section 521.342(b), during a period of probation the department shall ~~[may not]~~ revoke the person's license if the person is required under Section 13(h) or (j), Article 42.12, 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) 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 Section 13(g), Article 42.12, Code of Criminal Procedure; or~~

~~[(2) who is placed under community supervision under that article 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 Section 13(i) of that article, unless the person was punished under Section 49.09(a) or (b), Penal Code, and was subject to Section 49.09(g) of that code].~~ To be accepted into the program, the person must first submit an application to the department for and be issued an ignition interlock license under Subchapter L. If the person is required to attend the program and does not complete the program before the end of the person's suspension, the department shall suspend the person's ignition interlock license and continue the suspension, as appropriate, until the department receives proof that the person has successfully completed the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

(e) After the date has passed, according to department records, for successful completion of the educational program designed to rehabilitate persons who operated motor vehicles while intoxicated, if a person has not successfully completed the program, the director, at the director's sole discretion, shall either revoke the ignition interlock license or extend the suspension period and the ignition interlock license until the person successfully completes the program ~~[of a person who does not successfully complete the program]~~ or, if the person is a resident without a license to operate a motor vehicle in this state, shall issue an order prohibiting the person from obtaining a license.

(f) After the date has passed, according to department records, for successful completion of an educational program for repeat offenders as required by Section 13, Article 42.12, Code of Criminal Procedure, if a person has not successfully completed the program, the director, at the director's sole discretion, shall either suspend the ignition interlock license or extend the suspension

period and the ignition interlock license until the person successfully completes the program [~~of a person who does not successfully complete the program~~] or, if the person is a resident without a license, shall issue an order prohibiting the person from obtaining a license.

(g) A revocation, suspension, extension, or prohibition [~~order~~] under Subsection (e) or (f) remains in effect until the department receives notice of successful completion of the educational program. The director shall promptly send notice of a revocation, extension, or prohibition [~~order~~] issued under Subsection (e) or (f) by first class mail to the person at the person's most recent address as shown in the records of the department. The notice must include the date of the revocation, extension, or prohibition [~~order~~], the reason for the revocation, extension, or prohibition, and a statement that the person has the right to request in writing that a hearing be held on the revocation, extension, or prohibition. Notice is considered received on the fifth day after the date the notice is mailed. A revocation, extension, or prohibition under Subsection (e) or (f) takes effect on the 30th day after the date the notice is mailed. The person may request a hearing not later than the 20th day after the date the notice is mailed. If the department receives a request under this subsection, the department shall set the hearing for the earliest practical time and the revocation, extension, or prohibition does not take effect until resolution of the hearing.

(h) The hearing shall be held in a municipal or justice court in the county of the person's residence in the manner provided for a suspension hearing under Subchapter N. The issues to be determined at the hearing are whether the person has successfully completed a required educational program and whether the period for completion of the program has passed. If the presiding officer determines that the educational program has not been completed and the period for completion has passed, the officer shall confirm the revocation, extension, or prohibition and shall notify the department of that fact. The director may not revoke, extend, or prohibit the license if the officer finds that the program has been completed, that, before the hearing, the court that originally imposed the requirement to attend an educational program has granted an

extension that has not expired, or that the period for completion has not passed. If the person or the person's agent fails to appear at the hearing, the department shall revoke the person's license until the department receives notice of successful completion of the educational program.

SECTION 22. Section 521.421(d), Transportation Code, is amended to read as follows:

No equivalent provision.

(d) The fee for issuance or renewal of an occupational or ignition interlock license is \$25 [~~\$10~~].

SECTION 23. Section 524.011(f), Transportation Code, is amended to read as follows:

No equivalent provision.

(f) A temporary driving permit issued under this section expires on the 15th [~~41st~~] day after the date of issuance. If the person was driving a commercial motor vehicle, as defined by Section 522.003, a temporary driving permit that authorizes the person to drive a commercial motor vehicle is not effective until 24 hours after the time of arrest.

SECTION 24. Section 524.014, Transportation Code, is amended to read as follows:

No equivalent provision.

Sec. 524.014. NOTICE OF SUSPENSION. A notice of suspension under Section 524.013 must state:

- (1) the reason and statutory grounds for the suspension;
- (2) the effective date of the suspension;
- (3) the right of the person to a hearing;
- (4) how to request a hearing; [~~and~~]
- (5) the period in which the person must request a hearing; and
- (6) that if the person applies to the department for issuance of an ignition interlock license under Subchapter L, Chapter 521, the person waives the right to a hearing under Section 724.041.

SECTION 25. Section 524.021(a), Transportation Code, is amended to read as follows:

No equivalent provision.

(a) A driver's license suspension under this

chapter takes effect on the 15th [~~40th~~] day after the date the person:

- (1) receives a notice of suspension under Section 524.011; or
- (2) is presumed to have received notice of suspension under Section 524.013.

SECTION 26. Section 524.031, Transportation Code, is amended to read as follows:

Sec. 524.031. HEARING REQUEST. (a) If, not later than the 15th day after the date on which the person receives notice of suspension under Section 524.011 or is presumed to have received notice under Section 524.013, the department receives at its headquarters in Austin, in writing, including a facsimile transmission, or by another manner prescribed by the department, a request that a hearing be held, a hearing shall be held as provided by this subchapter.

(b) If the person applies for an ignition interlock license under Subchapter L, Chapter 521, during the first 15 days following the date of the notice of suspension, the person waives the right to a hearing under this section.

No equivalent provision.

SECTION 27. Section 724.001, Transportation Code, is amended by adding Subdivision (13) to read as follows:

(13) "Ignition interlock license" means an ignition interlock license issued by the department under Subchapter L, Chapter 521.

No equivalent provision.

SECTION 28. Section 724.032(e), Transportation Code, is amended to read as follows:

(e) A temporary driving permit issued under this section expires on the 15th [~~41st~~] day after the date of issuance. If the person was driving a commercial motor vehicle, as defined by Section 522.003, a temporary driving permit that authorizes the person to drive a commercial motor vehicle is not effective until 24 hours after the time of arrest.

No equivalent provision.

SECTION 29. Section 724.034, Transportation Code, is amended to read as follows:

No equivalent provision.

Sec. 724.034. CONTENTS OF NOTICE OF SUSPENSION OR DENIAL OF LICENSE. A notice of suspension or denial of a license must state:

- (1) the reason and statutory grounds for the action;
- (2) the effective date of the suspension or denial;
- (3) the right of the person to a hearing;
- (4) how to request a hearing; ~~and~~
- (5) the period in which a request for a hearing must be received by the department; and
- (6) that if the person applies for and is issued an ignition interlock license during the period described by Subdivision (5), the person waives the right to a hearing under Section 724.041.

SECTION 30. Section 724.035(c), Transportation Code, is amended to read as follows:

- (c) A suspension or denial takes effect on the 15th ~~40th~~ day after the date on which the person:
- (1) receives notice of suspension or denial under Section 724.032(a); or
  - (2) is considered to have received notice of suspension or denial under Section 724.033.

No equivalent provision.

SECTION 31. Section 724.044, Transportation Code, is amended to read as follows:

Sec. 724.044. WAIVER OF RIGHT TO HEARING. A person waives the right to a hearing under this subchapter and the department's suspension or denial is final and may not be appealed if the person:

- (1) fails to request a hearing under Section 724.041; ~~or~~
- (2) requests a hearing and fails to appear, without good cause; or
- (3) during the period specified by Section 724.034(5), applies for issuance of an ignition interlock license.

No equivalent provision.

SECTION 32. The following provisions of the Transportation Code are repealed:

- (1) Sections 521.245(e) and (g); and
- (2) Section 521.251.

No equivalent provision.

SECTION 33. The change in law made by this Act applies 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 when 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 34. This Act takes effect September 1, 2015.

SECTION 10. The change in law made by this Act applies only to a person whose driver's license is suspended on or after the effective date of this Act, regardless of whether the underlying incident giving rise to the suspension occurred before, on, or after that date.

SECTION 11. Same as introduced version.