

**SUBJECT:** Suspension of driver's license for 10 years for fifth DWI

**COMMITTEE:** Criminal Jurisprudence — committee substitute recommended

**VOTE:** 5 ayes — Gallego, Aliseda, Burkett, Carter, Zedler  
0 nays  
4 absent — Hartnett, Christian, Y. Davis, Rodriguez

**WITNESSES:** For — Bill Lewis, Mothers Against Drunk Drivers; (*Registered, but did not testify:* Richard Alpert, Tarrant County District Attorney; Lon Craft, Texas Municipal Police Association; Katrina Daniels, Bexar County District Attorney Susan D. Reed; Bill Elkin, Houston Police Retired Officers Association; Craig Pardue, Dallas County; James Sylvester, Travis County Sheriff's Office; Jessica Sloman, Houston Police Department; Gary Tittle, Dallas Police Department)  
  
Against — None  
  
On — (*Registered, but did not testify:* Rebecca Davio, Texas Department of Public Safety; Shannon Edmonds, Texas District and County Attorneys Association)

**BACKGROUND:** Penal Code, secs. 49.04, 49.045, 49.07, and 49.08, criminalize driving while intoxicated, driving while intoxicated with a child passenger, intoxication assault, and intoxication manslaughter, respectively.  
  
Transportation Code, ch. 521 specifies the different types of driver's licenses. Sec. 521.202 says that a person cannot operate a vehicle during a suspension period, including one for an intoxication offense. Sec. 521.344 provides direction on when a suspension for an intoxication offense begins and how long it must continue.  
  
The Department of Public Safety (DPS) can issue occupational licenses under certain prescribed circumstances to persons with suspended licenses. Sec. 521.248 requires the occupational license to specify the hours and days that the person may operate the vehicle, the route allowed, and the reasons permitted. The person may not operate a motor

vehicle for more than four hours in any 24-hour period, except that on a showing of necessity, the court may allow the person to drive for any court-determined period that does not exceed 12 hours in any 24-hour period.

Code of Criminal Procedure, art. 42.12, secs. 13(k), (j) and (g) address conditions required for community supervision. Under 13(k), the judge must suspend a defendant's driving license during community supervision for 90 days to two years depending on the circumstances. Under 13(j), the judge must require a repeat intoxication defendant on community supervision to attend and successfully complete an educational program for repeat offenders. The judge is allowed to waive the educational program requirement for good cause. Under 13(g), if a jury recommends community supervision for a person convicted of an intoxication offense, it also may recommend that the defendant's driving license not be suspended. The jury may not make that recommendation for a repeat intoxication offender.

**DIGEST:**

CSHB 3477 would add subsection (i) to Penal Code, sec. 49.09 to require a court to order DPS to suspend for 10 years the driver's license or permit of a person who was convicted for the fifth time of driving while intoxicated, driving while intoxicated with a child passenger, intoxication assault, or intoxication manslaughter. If the person did not have a driver's license or permit, the judge would be required to order DPS to deny the issuance of a license or permit to the person for 10 years from the date of the order. The bill would make changes to the Transportation Code to require the license suspension of anyone convicted under Penal Code, sec. 49.09(i) to last 10 years.

CSHB 3477 also would amend Transportation Code, sec. 521.248 to prohibit an occupational license holder whose license had been suspended under Penal Code, sec. 49.09(i) from driving for more than four hours in a 24-hour period, unless the court found good necessity to extend this to nine hours in a 24-hour period.

The bill also would allow a judge, in determining whether good cause warranted the waiver of the educational program requirement for repeat offenders on community supervision, to consider whether the defendant lacked a valid driver's license. The bill would prohibit a jury from recommending that the driver's license of a defendant convicted under Penal Code, sec. 49.09(i) not be suspended.

The bill would take effect September 1, 2011, and would apply only to offenses committed on or after that date.

**SUPPORTERS  
SAY:**

CSHB 3477 would stop drunk drivers who committed their fifth offense from being on our streets at night. At some point, enough is enough. A person with four previous convictions has undergone treatment multiple times and has likely been to jail, and nothing has stopped that person from drinking and driving. The bill would allow repeat offenders to get an occupational license, but would allow them only a nine-hour period in which they could drive, rather than the 12-hour period they can drive now if the court deems it necessary. Changing to the nine-hour period would stop the person from driving at night, which is when these offenders are most likely to become intoxicated.

The need for a 10-year suspension was highlighted by the arrest of a Houston man for drunk driving. When arrested, he had been convicted of DWI at least 10 times since 1983. He was driving with a valid driver's license because it had been suspended for only the maximum two years allowed by law for the previous arrest. With his record, it was clear to everyone that his license suspension should have been longer, but the law did not allow it. CSHB 3477 would fix that.

**OPPONENTS  
SAY:**

The suspension required under CSHB 3477 would be too long. Without the possibility of getting a driver's license back before 10 years, there would be little incentive for a person to complete treatment and rehabilitation. The bill should focus on providing more structured treatment for these repeat offenders.