

BILL ANALYSIS

Senate Research Center
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S.B. 90
By: Nelson
Criminal Justice
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DIGEST AND PURPOSE

Currently, under the TEA 21 Restoration Act, each state must have a repeat offender law for driving under the influence or driving while intoxicated, as prescribed by federal law, in effect and being enforced by certain deadlines or have certain federal-aid-highway funds transferred to the state's highway safety and other safety-related programs. Texas law does not fully meet the requirements set by the TEA 21 Restoration Act. As proposed, S.B. 90 sets forth additional regulations pertaining to the operation of a motor vehicle while intoxicated.

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 Chapter 502, Transportation Code, by adding Subchapter I, as follows:

SUBCHAPTER I. SUSPENSION OF REGISTRATION OF REPEAT DWI OFFENDERS

Sec. 502.451. SUSPENSION OF REGISTRATION. (a) Defines "offense relating to the operating of a motor vehicle while intoxicated."

(b) Requires the Department of Public Safety (DPS) to suspend all vehicle registrations of a person who is 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 offense was committed, and whose driver's license is suspended or revoked under Subchapter O (Automatic Suspension), Chapter 521.

(c) Provides that a suspension of a vehicle registration under this section begins on the date that the suspension or revocation of the person's driver's license under Subchapter O, Chapter 521, takes effect and continues until the date on which the period of driver's license suspension terminates or the revoked license is reinstated.

Sec. 502.452. PROHIBITION AGAINST RENEWAL OR OTHER REGISTRATION. Prohibits, before the expiration of the period of registration suspension, a person whose vehicle registration is suspended under Section 502.451 from renewing the suspended vehicle registration or registering another vehicle in the person's name.

Sec. 502.453. OPERATION OF MOTOR VEHICLE IN VIOLATION OF SUSPENSION; OFFENSE. (a) Provides that a person commits an offense if the person, during a period that a suspension of the person's vehicle registration is in effect under this subchapter, operates the vehicle on a highway or knowingly permits the vehicle to be operated on a highway.

(b) Provides that it is an affirmative defense to prosecution under this section that the person had not received notice under Section 502.454 of a suspension order concerning the person's vehicle registration.

(c) Provides that an offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$500 and confinement in county jail for a term of not less than 72 hours or more than six months.

Sec. 502.454. NOTICE OF SUSPENSION OF VEHICLE REGISTRATION. (a) Requires the DPS to give written notice of a vehicle registration suspension under this subchapter.

(b) Requires the notice to be by personal delivery to the person or by deposit in the United States mail addressed to the person at the last address supplied to the Texas Department of Transportation or DPS by the person.

(c) Provides that notice by mail is presumed to be received on the 10th day after the date the notice is mailed. Authorizes proof of the notice to be made by the certificate of a DPS employee stating certain requirements.

(d) Requires a certificate under Subsection (c) (2) to specify the name of the person to whom the notice was given and the time, place, and manner of the delivery of the notice.

Sec. 502.455. RETURN OF VEHICLE REGISTRATION AND LICENSE PLATES TO DEPARTMENT OF PUBLIC SAFETY. (a) Requires a person notified of a vehicle registration under Section 502.454 to send to DPS the person's vehicle registration receipts and the license plates for the person's vehicles.

(b) Requires the registration receipts and the license plates to be sent not later than the 10th day after the date the person receives written notice from DPS.

Sec. 502.456. FAILURE TO RETURN VEHICLE REGISTRATION AND LICENSE PLATES; OFFENSE. (a) Provides that a person commits an offense if the person fails or refuses to timely send to DPS the person's vehicle registration receipts and license plates as required by Section 502.455.

(b) Provides that an offense under this section is a misdemeanor punishable by certain penalties.

(c) Requires DPS to direct an employee of DPS to obtain and send to DPS the vehicle registration receipts and license plates of a person who fails to return the person's registration receipts and license plates in accordance with Section 502.455.

(d) Authorizes the director of DPS or a person designated by the director to file a complaint against a person for an offense under Subsection (a).

Sec. 502.457. TRANSFER OF VEHICLE REGISTRATION PROHIBITED. (a) Prohibits an owner whose vehicle registration has been suspended under this subchapter from transferring the registration unless the transfer is authorized under Subsection (b) or registering in another name the motor vehicle to which the registration applies.

(b) Authorizes DPS to transfer a vehicle registration if the director of DPS determines that the transfer is proposed in good faith and not to defeat the purposes of this subchapter.

(c) Provides that this section does not affect the rights of a conditional vendor or lessor of, or person with a security interest in, a motor vehicle owned by a person who is subject to this section if the vendor, lessor, or secured party is not the registered owner of the vehicle.

Sec. 502.458. REINSTATEMENT FEE. (a) Prohibits a vehicle registration that has been suspended under this subchapter to be reinstated and a new registration receipt or license plates to be issued to the person until the person pays DPS a fee of \$50.

(b) Provides that the fee imposed by this section is in addition to other fees imposed by law.

(c) Provides that a person is required to pay only one fee under this section, without regard to the number of vehicle registrations and license plates to be reinstated for or issued to the person in connection with the payment.

SECTION 2. Amends Section 521.251, Transportation Code, by redesignating Subsection (d) as Subsection (e) and adding a new Subsection (d), to provide that, 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 Section 49.04 (Driving While Intoxicated), 49.07 (Intoxication Assault), or 49.08 (Intoxication Manslaughter), Penal Code, committed within five years of the date on which the most recent preceding offense was committed, an order granting the person an occupation license is prohibited from taking effect before the first anniversary of the effective date of the suspension.

SECTION 3. Amends section heading to and Subsections (a), (b) and (d), Section 521.344, Transportation Code, as follows:

Sec. 521.344. New heading. SUSPENSION FOR OFFENSES INVOLVING INTOXICATION. (a) Deletes language regarding introduction of alcohol into the body. (b) Provides that not less than one year, rather than 180 days, or more than two years, if the person is punished under Section 49.09, Penal Code. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Section 9(h), Article 42.12, Code of Criminal Procedure, by making a conforming change.

SECTION 5. Amends Sections 13(g) and (k), Article 42.12, Code of Criminal Procedure, make this section inapplicable to a person punished under Section 49.09, Penal Code. Makes a conforming change.

SECTION 6. Amends Section 16, Article 42.12, Code of Criminal Procedure by amending Subsection b and adding Subsection (b-1), to prohibit, except as provided by Subsection (b-1), the amount of community service work ordered by the judge from exceeding certain requirements. Prohibits the amount of community service work ordered by the judge from being fewer than certain eight-hour days.

SECTION 7. Effective date: September 1, 2001.
Makes application of this Act prospective.