

BILL ANALYSIS

Senate Research Center

H.B. 51
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Criminal Justice
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, persons convicted of certain intoxication offenses and placed on community supervision may be required to have an ignition interlock device installed on their vehicles. The device makes it impossible for the vehicle to be operated if ethyl alcohol is detected in the breath of the operator. If the person has been previously convicted of an intoxication offense, the person is required to have the device installed. H.B. 51 requires an interlock device to be installed if the person had a blood alcohol concentration level of 0.15 or more at the time the analysis was performed.

In addition, Section 49.09 (Enhanced Offenses and Penalties), Penal Code, deals with enhanced penalties for certain intoxication offenses, for persons who have previously been convicted of an intoxication offense. Under current law, the offense may not be enhanced if the prior conviction was more than 10 years ago and the defendant has not been convicted of a subsequent intoxication offense. H.B. 51 repeals this ten-year provision.

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 Section 49.09(d), Penal Code, as follows:

(d) Provides that for the purposes of this section, a conviction for an offense under Article 67011-1, Revised Statutes, as that law existed before September 1, 1994, Article 67011-2, Revised Statutes, as that law existed before January 1, 1984, Section 19.05(a)(2), as that law existed before September 1, 1994, or Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08 is a final conviction, whether the sentence for the conviction is imposed or probated.

SECTION 2. Amends Section 13(i), Article 42,12, Code of Criminal Procedure, as follows:

(i) Requires the court to require as a condition of community supervision that the defendant have the device installed on the appropriate vehicle and that the defendant not operate any motor vehicle unless the vehicle is equipped with that device if it is shown on the trial of the offense that an analysis of a specimen of the person's blood, breath, or urine showed an alcohol concentration level of 0.15 or more at the time the analysis was performed. Prohibits a previous conviction from being used for purposes of restricting a person to the operation of a motor vehicle equipped with an interlock ignition device under this subsection if the previous conviction meets specific requirements. Makes a conforming change.

SECTION 3. Repealer: Sections 49.09(e) (relating to the prohibitions of a conviction for the purposes of enhancement) and (f) (relating to authorizing a conviction for the purposes of enhancement), Penal Code.

SECTION 4. Makes application of Chapter 49, Penal Code, prospective.

SECTION 5. Effective date: September 1, 2005.