

BILL ANALYSIS

Senate Research Center

S.B. 1061
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Criminal Justice
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Drinking and driving is a serious problem and current state laws do not provide law enforcement and prosecutors necessary tools to prosecute offenders. The current rate of refusal to submit to a breath test, around 40 to 45 percent, significantly inhibits prosecutions of DWI offenders because the blood-alcohol content of an offender is one of the most valuable pieces of evidence in those cases. Current law suspends a person's license for 180 days for the first refusal to submit to a breath test and for two years for a second refusal. Yet a study has shown that approximately 80 percent of drivers with suspended driver's licenses will drive despite the suspension, and, because they do not possess a valid license, they are also uninsured.

As proposed, S.B. 1061 authorizes DPS to either order a person's license to be suspended for 180 days or limit a person to the operation of a vehicle with an ignition interlock device for 180 days on the person's first refusal to submit to a breath specimen test. It requires DPS to limit a person to the operation of a vehicle with an ignition interlock device for one year upon a second refusal by that person.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Public Safety in SECTION 16 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 724.001, Transportation Code, by adding Subdivision (8-a), to define "ignition interlock device."

SECTION 2. Amends Section 724.002, Transportation Code, to provide that the provisions of this chapter (Implied Consent) that apply to the restriction, in addition to the suspension, of a person's license for refusal to submit to the taking of a breath specimen for the purpose of determining the person's intoxication level (specimen) apply only to a person arrested for offenses set forth in this subsection.

SECTION 3. Amends Section 724.015, Transportation Code, to require an officer to inform a person, before the taking of the person's specimen, that the person's license may be suspended, rather than will be suspended, for the refusal to comply with such taking, and to inform the person that such refusal may restrict the person to the operation of a motor vehicle equipped with an ignition interlock device (device) for 180 days, regardless of whether the person is prosecuted as a result of the arrest leading to the request for the person's specimen. Makes conforming changes.

SECTION 4. Amends the heading of Section 724.032, Transportation Code, to read as follows:

Sec. 724.032. OFFICER'S DUTIES FOR LICENSE RESTRICTION, SUSPENSION,
OR DENIAL; WRITTEN REFUSAL REPORT.

SECTION 5. Amends Sections 724.032(a), (c), and (d), Transportation Code, to make conforming changes.

SECTION 6. Amends Section 724.033, Transportation Code, as follows:

Sec. 724.033. New heading: ISSUANCE BY DEPARTMENT OF NOTICE OF LICENSE RESTRICTION, SUSPENSION, OR DENIAL. Makes conforming and nonsubstantive changes.

SECTION 7. Amends Section 724.034, Transportation Code, as follows:

Sec. 724.034. New heading: CONTENTS OF NOTICE OF LICENSE RESTRICTION, SUSPENSION, OR DENIAL. Makes conforming and nonsubstantive changes.

SECTION 8. Amends Section 724.035, Transportation Code, as follows:

Sec. 724.035. New heading: SUSPENSION OR DENIAL OF LICENSE; RESTRICTION TO USE OF IGNITION INTERLOCK DEVICE. (a) Requires the Department of Public Safety (DPS), upon the refusal of a person to provide a specimen, to either restrict the person to the operation of a motor vehicle equipped with a device for 180 days or take other restrictive actions previously set forth in this subsection. Makes conforming changes.

(b) Requires the person to be restricted to the operation of a motor vehicle equipped with a device for one year if the person's driving record shows one or more drug-related or alcohol-related enforcement contacts during the 10 years preceding the date of the person's arrest. Deletes a provision that the period of license suspension or denial is two years for such a record.

(c) Makes conforming changes.

SECTION 9. Amends the heading of Section 724.041, Transportation Code, to read as follows:

Sec. 724.041. HEARING ON RESTRICTION, SUSPENSION, OR DENIAL.

SECTION 10. Amends Sections 724.041(a), (b), and (c), Transportation Code, to make conforming changes.

SECTION 11. Amends Section 724.023, Transportation Code, to make conforming changes.

SECTION 12. Amends Section 724.044, Transportation Code, to make a conforming change.

SECTION 13. Amends Section 724.046, Transportation Code, as follows:

Sec. 724.046. New heading: REMOVAL OF LICENSE RESTRICTION, REINSTATEMENT OF LICENSE, OR ISSUANCE OF NEW LICENSE. Makes conforming changes.

SECTION 14. Amends Section 724.047, Transportation Code, to make a conforming change.

SECTION 15. Amends Section 724.048, Transportation Code, to make conforming changes.

SECTION 16. (a) Makes application of this Act prospective.

(b) Requires DPS to adopt rules to administer the imposition of the use of a device under the provisions of this Act.

SECTION 17. Effective date: September 1, 2007.