

BILL ANALYSIS

Senate Research Center

H.B. 2246
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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. 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.

H.B. 2246 amends current law relating to the restriction of certain intoxication offenders to the operation of a motor vehicle with an ignition interlock device in lieu of a license suspension.

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 13, Article 42.12, Code of Criminal Procedure, by adding Subsection (o), as follows:

(o) Authorizes a defendant whose license is suspended for an offense under Sections 49.04-49.08 (Driving While Intoxicated), (Reopening An Inquest), (Time and Place of Inquest; Removal of Property and Body From Place of Death), (Hindering an Inquest), (Notification of Investigating Official), (Intoxication Manslaughter), Penal Code, notwithstanding any other provision of this section, to 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) (relating to certain requirements for a person convicted of certain offenses and placed under community supervision) 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 (Restricted License), Transportation Code.

SECTION 2. Amends Section 49.09(h), Penal Code, to change a reference to Section 13(i), Article 41.12, Code of Criminal Procedure, to Section 13 (DWI Community Supervision), Article 42.12, Code of Criminal Procedure.

SECTION 3. Amends Section 521.242(a), Transportation Code, as follows:

(a) Authorizes 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, rather than under Section 49.04, Penal Code, to 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) and (2) Makes no change to these subdivisions.

SECTION 4. Amends Section 521.243(a), Transportation Code, to change a reference to Sections 49.04, 49.07, or 49.08, Penal Code, to Sections 49.04-49.08, Penal Code.

SECTION 5. Amends Section 521.244, Transportation Code, by adding Subsection (e), as follows:

(e) Entitles 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, 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 (Motor Vehicle Safety Responsibility Act); and

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

SECTION 6. Amends Sections 521.246(a), (b), (d), and (f), Transportation Code, as follows:

(a) Requires the judge, if the person's license has been suspended after a conviction of an offense under Sections 49.04-49.08, Penal Code, to restrict the person to the operation of a motor vehicle equipped with an ignition interlock device. Deletes existing text requiring the judge, if the person's license has been suspended after a conviction under Section 49.04, 49.07, or 49.08, Penal Code, before signing an order, to determine from the criminal history record information maintained by the Department of Public Safety of the State of Texas (DPS) whether the person has any previous conviction under those laws.

Deletes existing text from Subdivision (b) authorizing the judge as part of the order to 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. Deletes existing text from Subdivision (b) requiring the judge, as part of the order, to restrict the person to the operation of a motor vehicle equipped with an ignition interlock device if the judge determines that the person has two or more convictions under any combination of Section 49.04, 49.07, or 49.08, Penal Code, or 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.

(d) Requires the court to order the ignition interlock device to remain installed for the duration of the period of suspension, rather than requires the court to order the ignition interlock device remain installed at least half of the period of supervision.

(f) 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 section if:

(1) the previous conviction was a final conviction for an offense under Sections 49.04-49.08, Penal Code, rather than 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, rather than 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 7. Amends Section 521.2465, Transportation Code, as follows:

Sec. 521.2465. RESTRICTED LICENSE. (a) Requires DPS, on application by the person and payment of a fee of \$10, to issue a special restricted license that conspicuously indicates that the person is authorized to operate only a motor vehicle equipped with an ignition interlock device. Makes a nonsubstantive change.

(b) Requires DPS, on receipt of a copy of a court order removing the restriction or at the end of the period of suspension, as applicable, to issue the person a driver's license without the restriction.

SECTION 8. Amends Section 521.248, Transportation Code, by adding Subsection (d) to prohibit 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 Subsection (a)(1) (requiring that an order granting an occupational license to specify the hours of the day and days of the week during which the person may operate a motor vehicle), (2) (requiring that an order granting an occupation license specify the reasons for which the person may operate a motor vehicle), or (3) (requiring that an order granting an occupation license specify areas or routes of travel permitted) or (b) (prohibiting a person from operating 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 period determined by the court that does not exceed 12 hours in any 24-hour period).

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

(c) Prohibits the order, 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, Penal Code, rather than under Section 49.04, 49.07, or 49.08, Penal Code, during the five years preceding the date of the person's arrest, from taking effect before the 181st day after the effective date of the suspension.

(d) Prohibits an order granting the person an occupational license, 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, rather than under 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, from taking effect before the first anniversary of the effective date of the suspension.

(d-1) Authorizes the court, notwithstanding Subsections (b) (prohibits the order, if the person's driver's license has been suspended as a result of an alcohol-related or drug-related enforcement contact during the five years preceding the date of the person's arrest, from taking effect before the 91st day after the effective date of the suspension), (c), and (d), to 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. Requires the court, 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, to revoke the occupational license under Section 521.252 (License Revocation) and reinstate the suspension of the person's driver's license. Prohibits a person granted an occupational license under this subsection from being ordered to submit to the supervision of the local community supervision and corrections department under Section 521.2462 (Supervision of Person Issued Occupational Driver's License), unless the order is entered by a court of record.

SECTION 10. Provides that 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. Effective date: September 1, 2015.