

BILL ANALYSIS

Senate Research Center
88R19972 JRR-F

H.B. 4528
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Criminal Justice
5/13/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

State law currently requires peace officers to confiscate a driver's license from an individual upon arrest of the person for failure to pass an intoxication test or for refusal to take one. However, the Department of Public Safety of the State of Texas (DPS) reports that it can suspend a driver's license electronically and no longer has a need to collect the physical card. Since a driver's license is integral in many people's ability to obtain services or exercise other rights aside from driving, officers should not confiscate a person's driver's license if DPS can suspend the license electronically.

H.B. 4528 seeks to modernize state law by removing the requirement for a peace officer to take an individual's driver's license upon refusal to take an intoxication test or upon failing such a test as a means of suspending the license.

H.B. 4528 amends current law relating to the requirement that a peace officer take possession of a person's driver's license following the person's failure to pass or refusal to consent to a test for intoxication.

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 Sections 524.001(b), (c), and (e), Transportation Code, as follows:

(b) Requires a peace officer to:

(1) makes nonsubstantive changes to this subdivision; and

(2) send to the Department of Public Safety of the State of Texas (DPS) not later than the fifth business day after the date of the arrest:

(A) makes nonsubstantive changes to this paragraph; and

(B) redesignates text of existing Paragraph (D) as Paragraph (B).

Deletes existing text requiring a peace officer to take possession of a driver's license issued by this state and held by the person arrested and to issue a temporary driving permit to the person unless DPS records show or the officer otherwise determines that the person does not hold a driver's license to operate a motor vehicle in this state. Deletes existing text requiring a peace officer to send to DPS, not later than the fifth business day after the date of the arrest, any driver's license taken by the officer under this subsection and a copy of any temporary driving permit issued under this subsection. Makes nonsubstantive changes.

(c) Makes conforming changes to this subdivision.

(e) Deletes existing text requiring DPS to develop forms for temporary driving permits to be used by all state and local law enforcement agencies.

SECTION 2. Amends Section 524.032(d), Transportation Code, as follows:

(d) Deletes existing text requiring DPS to notify the person of the effect of the request on the suspension of the person's license before the expiration of any temporary driving permit issued to the person, if the person is otherwise eligible, in a manner that will permit the person to establish to a peace officer that the person's driver's license is not suspended, if a person's driver's license was taken by a peace officer under Section 524.011(b) (relating to requiring a peace officer to serve notice of driver's license suspension, take possession of any driver's license, and issue temporary driving permits to the persons arrested for an offense).

SECTION 3. Amends Section 524.035(c), Transportation Code, as follows:

(c) Deletes existing text requiring DPS to return the person's driver's license to the person, if the license was taken by a peace officer under Section 524.011(b), if the administrative law judge does not find in the affirmative on each issue in Subsection (a) (relating to providing the issues that are required to be proved at a hearing by a preponderance of the evidence). Makes nonsubstantive changes.

SECTION 4. Amends Sections 724.032(a), (c), and (d), Transportation Code, as follows:

(a) Deletes existing text requiring a peace officer to take possession of any license issued by this state and held by the person arrested and to issue a temporary driving permit to the person unless DPS records show or the officer otherwise determines that the person does not hold a license to operate a motor vehicle in this state, if a person refuses to submit to the taking of a specimen, whether expressly or because of an intentional failure of the person to give the specimen. Makes nonsubstantive changes.

(c) Deletes existing text requiring the officer to forward to DPS not later than the fifth business day after the date of the arrest any license taken by the officer under Subsection (a) and a copy of any temporary driving permit issued under Subsection (a).

(d) Deletes existing text requiring DPS to develop forms for the notice of temporary driving permits to be used by all state and local law enforcement agencies.

SECTION 5. Amends Section 724.041(c), Transportation Code, as follows:

(c) Deletes existing text requiring DPS to notify the person of the effect of the request on the suspension of the person's license before the expiration of any temporary driving permit issued to the person, if the person is otherwise eligible, in a manner that will permit the person to establish to a peace officer that the person's license is not suspended, if the person's license was taken by a peace officer under Section 724.032(a).

SECTION 6. Amends Section 724.043(b), Transportation Code, as follows:

(b) Deletes existing text requiring DPS to return the person's license to the person, if the license was taken by a peace officer under Section 724.032(a), if the administrative law judge does not find in the affirmative on each issue under Section 724.042 (Issues at Hearing).

SECTION 7. Amends Section 2.005(b), Family Code, to delete existing text requiring that the proof be established by a temporary driving permit, among other documents.

SECTION 8. Repealer: Sections 524.011(f) (relating to providing that a temporary driving permit issued under this section expires on the 41st day after the date of issuance) and 524.037(c) (relating to requiring DPS to notify the person of the effect of the continuance on the suspension

of the person's license before the expiration of any temporary driving permit issued to the person if the person's driver's license was taken by a peace officer), Transportation Code.

Repealer: Section 724.032(e) (relating to providing that a temporary driving permit issued under this section expires on the 41st day after the date of issuance.), Transportation Code.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: September 1, 2023.