

1-1 By: Villalba, et al. (Senate Sponsor - Huffman) H.B. No. 2246
 1-2 (In the Senate - Received from the House May 6, 2015;
 1-3 May 15, 2015, read first time and referred to Committee on State
 1-4 Affairs; May 22, 2015, reported favorably by the following vote:
 1-5 Yeas 8, Nays 0; May 22, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the restriction of certain intoxication offenders to
 1-20 the operation of a motor vehicle with an ignition interlock device
 1-21 in lieu of a license suspension.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 13, Article 42.12, Code of Criminal
 1-24 Procedure, is amended by adding Subsection (o) to read as follows:

1-25 (o) Notwithstanding any other provision of this section, a
 1-26 defendant whose license is suspended for an offense under Sections
 1-27 49.04-49.08, Penal Code, may operate a motor vehicle during the
 1-28 period of suspension if the defendant:

1-29 (1) obtains and uses an ignition interlock device as
 1-30 provided by Subsection (i) for the entire period of the suspension;
 1-31 and

1-32 (2) applies for and receives an occupational driver's
 1-33 license with an ignition interlock designation under Section
 1-34 521.2465, Transportation Code.

1-35 SECTION 2. Section 49.09(h), Penal Code, is amended to read
 1-36 as follows:

1-37 (h) This subsection applies only to a person convicted of a
 1-38 second or subsequent offense relating to the operating of a motor
 1-39 vehicle while intoxicated committed within five years of the date
 1-40 on which the most recent preceding offense was committed. The court
 1-41 shall enter an order that requires the defendant to have a device
 1-42 installed, on each motor vehicle owned or operated by the
 1-43 defendant, that uses a deep-lung breath analysis mechanism to make
 1-44 impractical the operation of the motor vehicle if ethyl alcohol is
 1-45 detected in the breath of the operator, and that requires that
 1-46 before the first anniversary of the ending date of the period of
 1-47 license suspension under Section 521.344, Transportation Code, the
 1-48 defendant not operate any motor vehicle that is not equipped with
 1-49 that device. The court shall require the defendant to obtain the
 1-50 device at the defendant's own cost on or before that ending date,
 1-51 require the defendant to provide evidence to the court on or before
 1-52 that ending date that the device has been installed on each
 1-53 appropriate vehicle, and order the device to remain installed on
 1-54 each vehicle until the first anniversary of that ending date. If
 1-55 the court determines the offender is unable to pay for the device,
 1-56 the court may impose a reasonable payment schedule not to extend
 1-57 beyond the first anniversary of the date of installation. The
 1-58 Department of Public Safety shall approve devices for use under
 1-59 this subsection. Section 521.247, Transportation Code, applies to
 1-60 the approval of a device under this subsection and the consequences
 1-61 of that approval. Failure to comply with an order entered under

2-1 this subsection is punishable by contempt. For the purpose of
 2-2 enforcing this subsection, the court that enters an order under
 2-3 this subsection retains jurisdiction over the defendant until the
 2-4 date on which the device is no longer required to remain installed.
 2-5 To the extent of a conflict between this subsection and Section 13
 2-6 [~~13(i)~~], Article 42.12, Code of Criminal Procedure, this subsection
 2-7 controls.

2-8 SECTION 3. Section 521.242(a), Transportation Code, is
 2-9 amended to read as follows:

2-10 (a) A person whose license has been suspended for a cause
 2-11 other than a physical or mental disability or impairment or a
 2-12 conviction of an offense under Sections 49.04-49.08 [~~Section~~
 2-13 ~~49.04~~], Penal Code, may apply for an occupational license by filing
 2-14 a verified petition with the clerk of a justice, county, or district
 2-15 court with jurisdiction that includes the precinct or county in
 2-16 which:

- 2-17 (1) the person resides; or
- 2-18 (2) the offense occurred for which the license was
 2-19 suspended.

2-20 SECTION 4. Section 521.243(a), Transportation Code, is
 2-21 amended to read as follows:

2-22 (a) The clerk of the court shall send by certified mail to
 2-23 the attorney representing the state a copy of the petition and
 2-24 notice of the hearing if the petitioner's license was suspended
 2-25 following a conviction for:

- 2-26 (1) an offense under Section 19.05 or Sections
 2-27 49.04-49.08, [~~49.04, 49.07, or 49.08,~~] Penal Code; or
- 2-28 (2) an offense to which Section 521.342 applies.

2-29 SECTION 5. Section 521.244, Transportation Code, is amended
 2-30 by adding Subsection (e) to read as follows:

2-31 (e) A person convicted of an offense under Sections
 2-32 49.04-49.08, Penal Code, who is restricted to the operation of a
 2-33 motor vehicle equipped with an ignition interlock device is
 2-34 entitled to receive an occupational license without a finding that
 2-35 an essential need exists for that person, provided that the person
 2-36 shows:

- 2-37 (1) evidence of financial responsibility under
 2-38 Chapter 601; and
- 2-39 (2) proof the person has had an ignition interlock
 2-40 device installed on each motor vehicle owned or operated by the
 2-41 person.

2-42 SECTION 6. Sections 521.246(a), (b), (d), and (f),
 2-43 Transportation Code, are amended to read as follows:

2-44 (a) If the person's license has been suspended after a
 2-45 conviction of an offense under Sections 49.04-49.08 [~~Section 49.04,~~
 2-46 ~~49.07, or 49.08~~], Penal Code, the judge [~~, before signing an order,~~]
 2-47 shall [~~determine from the criminal history record information~~
 2-48 ~~maintained by the department whether the person has any previous~~
 2-49 ~~conviction under those laws.~~

2-50 [~~(b) As part of the order the judge may~~] restrict the person
 2-51 to the operation of a motor vehicle equipped with an ignition
 2-52 interlock device [~~if the judge determines that the person's license~~
 2-53 ~~has been suspended following a conviction under Section 49.04,~~
 2-54 ~~49.07, or 49.08, Penal Code. As part of the order, the judge shall~~
 2-55 ~~restrict the person to the operation of a motor vehicle equipped~~
 2-56 ~~with an ignition interlock device if the judge determines that:~~

- 2-57 (1) ~~the person has two or more convictions under any~~
 2-58 ~~combination of Section 49.04, 49.07, or 49.08, Penal Code, or~~
- 2-59 (2) ~~the person's license has been suspended after a~~
 2-60 ~~conviction under Section 49.04, Penal Code, for which the person~~
 2-61 ~~has been punished under Section 49.09, Penal Code].~~

2-62 (d) The court shall order the ignition interlock device to
 2-63 remain installed for the duration of the period of suspension [~~at~~
 2-64 ~~least half of the period of supervision~~].

2-65 (f) A previous conviction may not be used for purposes of
 2-66 restricting a person to the operation of a motor vehicle equipped
 2-67 with an interlock ignition device under this section if:

- 2-68 (1) the previous conviction was a final conviction for
 2-69 an offense under Sections 49.04-49.08 [~~Section 49.04, 49.07, or~~

3-1 ~~49.08~~], Penal Code, and was for an offense committed more than 10
3-2 years before the instant offense for which the person was
3-3 convicted; and

3-4 (2) the person has not been convicted of an offense
3-5 under Sections 49.04-49.08 [~~Section 49.04, 49.07, or 49.08~~] of that
3-6 code committed within 10 years before the date on which the instant
3-7 offense for which the person was convicted.

3-8 SECTION 7. Section 521.2465, Transportation Code, is
3-9 amended to read as follows:

3-10 Sec. 521.2465. RESTRICTED LICENSE. (a) On receipt of
3-11 notice that a person has been restricted to the use of a motor
3-12 vehicle equipped with an ignition interlock device, the department
3-13 shall notify that person that the person's driver's license expires
3-14 on the 30th day after the date of the notice. On application by the
3-15 person and payment of a fee of \$10, the department shall issue a
3-16 special restricted license that conspicuously indicates that
3-17 [authorizes] the person is authorized to operate only a motor
3-18 vehicle equipped with an ignition interlock device.

3-19 (b) On receipt of a copy of a court order removing the
3-20 restriction or at the end of the period of suspension, as
3-21 applicable, the department shall issue the person a driver's
3-22 license without the restriction.

3-23 SECTION 8. Section 521.248, Transportation Code, is amended
3-24 by adding Subsection (d) to read as follows:

3-25 (d) A person who is restricted to the operation of a motor
3-26 vehicle equipped with an ignition interlock device may not be
3-27 subject to any time of travel, reason for travel, or location of
3-28 travel restrictions described by Subsection (a)(1), (2), or (3) or
3-29 (b).

3-30 SECTION 9. Section 521.251, Transportation Code, is amended
3-31 by amending Subsections (c) and (d) and adding Subsection (d-1) to
3-32 read as follows:

3-33 (c) If the person's driver's license has been suspended as a
3-34 result of a conviction of an offense under Sections 49.04-49.08
3-35 [~~Section 49.04, 49.07, or 49.08~~], Penal Code, during the five years
3-36 preceding the date of the person's arrest, the order may not take
3-37 effect before the 181st day after the effective date of the
3-38 suspension.

3-39 (d) Notwithstanding any other provision in this section, if
3-40 the person's driver's license has been suspended as a result of a
3-41 second or subsequent conviction under Sections 49.04-49.08
3-42 [~~Section 49.04, 49.07, or 49.08~~], Penal Code, committed within five
3-43 years of the date on which the most recent preceding offense was
3-44 committed, an order granting the person an occupational license may
3-45 not take effect before the first anniversary of the effective date
3-46 of the suspension.

3-47 (d-1) Notwithstanding Subsections (b), (c), and (d), the
3-48 court may issue an occupational license to a person if the person
3-49 submits proof the person has an ignition interlock device installed
3-50 on each motor vehicle owned or operated by the person. If a person
3-51 issued an occupational license under this subsection fails to
3-52 maintain an installed ignition interlock device on each motor
3-53 vehicle owned or operated by the person, the court shall revoke the
3-54 occupational license under Section 521.252 and reinstate the
3-55 suspension of the person's driver's license. A person granted an
3-56 occupational license under this subsection may not be ordered to
3-57 submit to the supervision of the local community supervision and
3-58 corrections department under Section 521.2462, unless the order is
3-59 entered by a court of record.

3-60 SECTION 10. The change in law made by this Act applies only
3-61 to a person whose driver's license is suspended on or after the
3-62 effective date of this Act, regardless of whether the underlying
3-63 incident giving rise to the suspension occurred before, on, or
3-64 after that date.

3-65 SECTION 11. This Act takes effect September 1, 2015.

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