

CHAPTER 796

H.B. No. 1319

AN ACT

relating to driver's licenses, permits, and resident and nonresident operating privileges.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 10(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) Only the court in which the defendant was tried may grant probation, impose conditions, revoke the probation, or discharge the defendant, unless the court has transferred jurisdiction of the case to another court with the latter's consent. Except as provided by Subsection (d) of this section, only the court may alter conditions of probation. In a felony case, only the judge who originally sentenced the defendant may suspend execution thereof

and place the defendant under probation pursuant to Section 6 of this article except that if the judge who originally sentenced the defendant is deceased or disabled or if the office is vacant and a motion is filed in accordance with Section 6 of this article, the clerk of the court shall promptly forward a copy of the motion to the presiding judge of the administrative judicial district for that court, who may deny the motion without a hearing or appoint a judge to hold a hearing on the motion. *If the court revokes the probation of a defendant for an offense under Article 6701l-1, Revised Statutes, and the driver's license or privilege to operate a motor vehicle has not previously been ordered by the court to be suspended, or if the suspension was previously probated, the court shall suspend the license or privilege for a period provided under Section 24, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes). The suspension shall be reported to the Department of Public Safety as provided under Section 25, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).*

SECTION 2. Sections 13(h), (j), (k), and (l), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(h) If a person convicted of an offense under Article 6701l-1, Revised Statutes, is punished under Subsection (c) of that article and is placed on probation, the court shall require, as a condition of the probation, that the defendant attend and successfully complete before the 181st day after the day probation is granted an educational program jointly approved by the Texas Commission on Alcohol and Drug Abuse, the Department of Public Safety, the Traffic Safety Section of the State Department of Highways and Public Transportation, and the *community justice assistance division of the Texas Department of Criminal Justice [Texas Adult Probation Commission]* designed to rehabilitate persons who have driven while intoxicated. The Texas Commission on Alcohol and Drug Abuse shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement *or may grant an extension of time to successfully complete the program that expires not later than one year after the beginning date of the person's probation*, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the offender's school and work schedule, the offender's health, the distance that the offender must travel to attend an educational program, and the fact that the offender resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause *for waiver* in the judgment. If a person is required, as a condition of probation, to attend an educational program *or if the court waives the educational program requirement*, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. *If the court grants an extension of time in which the person may complete the program, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the department.* The report must include the beginning date of the person's probation. Upon the successful completion of the educational program, the person shall give notice to the probation department. The probation department shall then forward the notice to the court clerk. The court clerk shall then report the date of successful completion of the educational program to the Department of Public Safety for inclusion in the person's driving record. If the department does not receive notice that a person required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall *revoke [suspend]* the person's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Section 24(g)(2), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes). This subsection does not apply to a defendant if a jury recommends probation for the defendant and also recommends that the defendant's driver's license not be suspended.

(j) The court may require or permit a person who was previously convicted of an offense under Article 6701l-1, Revised Statutes, and who was required to attend an educational program under Subsection (h) of this section as a condition of probation, to attend an educational program under Subsection (h) of this section with a curriculum for repeat

offenders approved by the Texas Commission on Alcohol and Drug Abuse if the court determines that attendance at a program would be in the person's best interest. *If the Department of Public Safety does not receive notice that a person required to complete an educational program has successfully completed the program before the 181st day after the date probation is granted, as shown on department records, the department shall revoke the person's driver's license, permit, or privilege and prohibit the person from obtaining a license or permit, as provided by Section 24(g)(2), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).*

(k) Notwithstanding Section 24(g), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), if the court, under Subsection (h) or (j) of this section, permits or requires a person to attend an educational program as a condition of probation, *or waives the required attendance for such a program*, and the person has previously been convicted of an offense under Article 6701l-1, Revised Statutes, and has previously been required to attend such a program, *or the required attendance at that program had been waived*, the court nonetheless shall order the suspension of ~~automatically suspend~~ the driver's license, permit, or operating privilege of that person for a period determined by the court according to the following schedule:

(1) not less than 90 days or more than 365 days, if the person is punished under Subsection (c), Article 6701l-1, Revised Statutes, whether or not the punishment is increased under Subsection (f) of that article; or

(2) not less than 180 days or more than two years, if the person is punished under Subsection (d) or (e), Article 6701l-1, Revised Statutes, whether or not the punishment is increased under Subsection (f) of that article.

(l) If the Department of Public Safety receives notice that a person has been required or permitted to attend a subsequent ~~an~~ educational program under Subsection (h), (j), or (k) of this section, *although the previously required attendance had been waived*, but the court has not ordered a period of suspension, the department shall suspend the person's driver's license, permit, or operating privilege, or shall issue an order prohibiting the person from obtaining a license or permit for a period of 365 days.

SECTION 3. Section 2(f), Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 6701l-5, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) When the director receives the report, the director shall suspend the person's license, permit, or resident or nonresident ~~operating~~ privilege to operate a motor vehicle on a public highway, or shall issue an order prohibiting the person from obtaining a license or permit, for 90 days effective 28 days after the date the person receives notice by certified mail or 31 days after the date the director sends notice by certified mail, if the person has not accepted delivery of the notice. If, not later than the 20th day after the date on which the person receives notice by certified mail or the 23rd day after the date the director sent notice by certified mail, if the person has not accepted delivery of the notice, the department receives a written demand that a hearing be held, the department shall promptly make arrangements, ~~not later than the 10th day after the day of receipt of the demand, request a court~~ to set the hearing for the earliest practical time ~~possible date~~. The hearing shall be set in the same manner as a hearing under Section 22(a), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes). If, upon such hearing the hearing officer ~~court~~ finds (1) that probable cause existed that such person was driving or in actual physical control of a motor vehicle on the highway or upon a public beach while intoxicated, (2) that the person was placed under arrest by the officer and was offered an opportunity to give a specimen under the provisions of this Act, and (3) that such person refused to give a specimen upon request of the officer, then the Director of the Texas Department of Public Safety shall suspend the person's license or permit to drive, or any nonresident operating privilege for a period of 90 days, ~~as ordered by the court~~. If the person is a resident without a license or permit to operate a motor vehicle in this State, the Texas Department of Public Safety shall deny to the person the issuance of a license or permit for 90 days. *If, after a hearing has been requested, the person or the person's agent fails to appear at a hearing under this subsection, the department shall suspend the person's license, permit, or resident or nonresident operating privilege for 90 days.*

SECTION 4. Section 1, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended by amending Subdivisions (5) and (6) and adding Subdivision (12) to read as follows:

(5) "Revocation of driver's license" means the termination *for an indefinite period of time* by formal action of the Department of a person's license or privilege to operate a motor vehicle on a public highway which may not be restored *until all requirements for which the revocation action was taken have been satisfied* [~~except by applying to the Department for a new license after the expiration date of the revocation~~].

(6) "Suspension of driver's license" means the temporary withdrawal *for a definite period of time* of a person's license or privilege to operate a motor vehicle on a public highway.

(12) "Director" has the meaning assigned by Section 411.001, Government Code.

SECTION 5. Section 4A, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), as added by Chapter 303, Acts of the 68th Legislature, Regular Session, 1983, is redesignated as Section 4C to read as follows:

Sec. 4C [4A]. (a) The Department may not issue a license or permit to a person convicted of an offense under Article 6701l-1, Revised Statutes, or Section 19.05(a)(2), Penal Code, or an offense to which Section 24(a-1) of this Act applies unless the period of suspension that would have applied had the person had a license, permit, or privilege at the time of the conviction has expired. The Department may not issue a license or permit to a person if the Department has been ordered by a juvenile court under Section 54.042, Family Code, to deny the person a license or permit, unless the period of time specified in the order has expired.

(b) A person does not have a privilege to operate a motor vehicle in this state during the period described in Subsection (a) of this section if the Department is prohibited from issuing a license or permit to that person under this section.

SECTION 6. Section 6(b), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Every said original application shall state the applicant's full name, place and date of birth, such information to be verified by presentation of *proof of identity* [~~a certified copy of the applicant's birth certificate or other documentary evidence deemed~~] satisfactory to [by] the Department. Such application shall also include the thumbprints, or if for any reason thumbprints cannot be taken, the index fingerprints of the applicant, and shall state the sex and residence address of the applicant, and briefly describe the applicant, and shall state whether the applicant has theretofore been licensed to drive a motor vehicle and, if so, when and by what state or country, and whether any such license has ever been suspended or revoked or whether an application has ever been refused, and, if so, the date of and reason for such suspension, revocation, or refusal, and whether the applicant, if less than twenty-five (25) years of age, has completed a driver education course approved by the Department, and such other information as the Department may require to determine the applicant's identity, competency and eligibility. Information about the medical history of an applicant supplied to the Department or a Medical Advisory Board is for the confidential use of the Department or the Board and may not be divulged to any person or used as evidence in a legal proceeding except a proceeding under Section 22 or Section 31 of this Act.

SECTION 7. Sections 22(a) and (b), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) When under Section 10 of this Act the Director believes the licensee to be incapable of safely operating a motor vehicle or when the Department receives necessary information about a licensee in accordance with a contract made under Section 2, Article 6687c, Revised Statutes, the Director may notify said licensee of such fact and summons him to appear for hearing as provided hereinafter. Such hearing shall be had not less than ten (10) days after notification to the licensee or operator under any of the provisions of this section, and upon charges in writing, a copy of which shall be given to said operator or licensee not less than ten (10) days before said hearing, except as otherwise provided by this subsection. For the purpose of hearing [such] cases *under this subsection*, jurisdiction is vested in the *hearing officer*, [~~mayor of the city, or~~] judge of the *municipal* [~~police~~] court, or a Justice of the Peace in the county where the operator or licensee resides. *The* [Such] officer may receive a fee for

hearing a case [~~such cases~~] if [~~such~~] a fee is approved and set by the County Commissioners Court which has jurisdiction over the residence of the operator or licensee. ~~The [and such]~~ fee shall not exceed Five Dollars (\$5.00) per case and shall be paid from the General Revenue Fund of the County. Any fees, not to exceed Five Dollars (\$5.00) per case, which the County Commissioners Court may determine to be owed to ~~the [such]~~ officer for past hearings, or any fees, not to exceed Five Dollars (\$5.00) per case, previously paid ~~the [such]~~ officer for hearing [~~said~~] cases, ~~are [is hereby]~~ authorized. ~~The officer [Such court]~~ may administer oaths and may issue subpoenas for the attendance of witnesses and the production of ~~relevant [relative]~~ books and papers. It shall be the duty of the ~~officer [court]~~ to set the matter for hearing ~~at the earliest practical time [upon ten (10) days' written notice to the Department]~~. At a [~~Upon such~~] hearing, the issues to be determined are whether the license shall be suspended or whether the license shall be revoked, and, in the event of a suspension, the length of time of the suspension, which shall not exceed one (1) year, ~~except as provided under Subsection (c) of this section~~. In the event of a revocation under the twelfth (12th) ground listed in Subsection (b) of this section, the officer who presides over the hearing shall report to the Department to revoke the person's license until notice is received under Subsection (b), Section 5, Article 6687c, Revised Statutes, to reinstate the person's license. In other cases, the officer who presides at such hearing shall report the finding to the Department which shall have authority to suspend the license for the length of time reported. In the event of an affirmative finding, the licensee may appeal ~~the decision as provided under Section 31 of this Act [to the county court of the county wherein the hearing was held, said appeal to be tried de novo]~~. Notice by ~~certified [registered]~~ mail to the address shown on the license of the licensee shall constitute service for the purpose of this section. If the hearing is to determine whether a licensee is an habitual violator of the traffic law, and if the ~~certified [registered]~~ letter is returned to the Department because the Department has not been notified of the licensee's correct address or because the licensee has refused to accept the ~~certified [registered]~~ letter, the Director may give the licensee notice of a pending hearing by publishing notice in a newspaper of general circulation in the County of the licensee's residence, as listed in Department records, at least thirty (30) days before the hearing. The Director shall specify in the notice the place, time, and date of the hearing and shall state in the notice that the Department is entitled to suspend for a period of not more than one (1) year the license of a licensee who is found to be an habitual violator of the traffic law.

(b) Except for the fifth (5th), eleventh (11th), [~~and~~] twelfth (12th), *fourteenth (14th), fifteenth (15th), and sixteenth (16th)* listed grounds in this subsection, for which the director has authority to revoke a license, the authority to suspend the license of any driver as authorized in this Section is granted the director upon determining that the person:

- (1) has operated a motor vehicle on a highway while the person's license was suspended, *revoked, canceled, disqualified, or denied;*
- (2) has been responsible as a driver for any accident resulting in death;
- (3) is an habitual reckless or negligent driver of a motor vehicle;
- (4) is an habitual violator of the traffic law.

The term "habitual violator" as used herein, shall mean any person with four (4) or more convictions arising out of different transactions in a consecutive period of twelve (12) months, or seven (7) or more convictions arising out of different transactions within a period of twenty-four (24) months, such convictions being for moving violations of the traffic laws of *any [this] state or its political subdivisions other than a violation of:*

(A) Section 3 or 5, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon's Texas Civil Statutes);

(B) Chapter 293, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6701d-12, Vernon's Texas Civil Statutes);

(C) Chapter 608, Acts of the 65th Legislature, Regular Session, 1977 (Article 6701d-12a, Vernon's Texas Civil Statutes);

(D) Chapter 73, Acts of the 54th Legislature, Regular Session, 1955 (Article 6701d-13, Vernon's Texas Civil Statutes);

(E) Chapter 212, Acts of the 56th Legislature, Regular Session, 1959 (Article 6701d-14, Vernon's Texas Civil Statutes);

(F) Chapter 8, Acts of the 62nd Legislature, Regular Session, 1971 (Article 6701d-17, Vernon's Texas Civil Statutes); or

(G) Section 107C, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes);

(5) is incapable of safely driving a motor vehicle;

(6) has permitted an unlawful or fraudulent use of such license;

(7) has committed an offense in another state, which if committed in this State would be grounds for suspension or revocation;

(8) has violated a restriction *or endorsement* imposed on the use of the license;

(9) has been responsible as a driver for any accident resulting in serious personal injury or serious property damage;

(10) is the holder of a provisional license under Section 11A of this Act and has been convicted of two (2) or more moving violations committed within a period of twelve (12) months;

(11) has not complied with the terms of a citation issued by a jurisdiction that is a member of the Nonresident Violator Compact of 1977 for a violation to which the compact applies;

(12) has a warrant of arrest outstanding, for failure to appear or pay a fine on a complaint, that is issued by a political subdivision that has contracted with the Department under Article 6687c, Revised Statutes;

(13) has committed an offense under Section 186, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes);

(14) has failed to provide medical records or has failed to undergo medical or other examinations as required by a panel of the Medical Advisory Board;

(15) has failed to take, or failed to pass, any examination required by the director under this Act; or

(16) has been reported by a court under Section 1c or 2(a), Chapter 302, Acts of the 55th Legislature, Regular Session, 1957 (Article 6701l-4, Vernon's Texas Civil Statutes), for failure to appear or default in payment of a fine unless the court has filed an additional report on final disposition of the case.

SECTION 8. Section 22, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended by adding Subsections (c) and (g) to read as follows:

(c) *For purposes of a hearing under Subsection (b)(1) of this section, the period of suspension shall be automatically extended on an affirmative finding. The extended period of suspension shall be for the same period as the original suspension, or one year, whichever is less.*

(g) *All decisions rendered under this section become final 10 days after the date an order is entered, except when the decision is appealed as provided under Section 31 of this Act.*

SECTION 9. Section 22(e), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(e)(1) The [~~judge or~~] officer holding a hearing under Subsection (a), (b), or (d) of this section, or the court trying an appeal under Section 31 of this Act, on determining that the License shall be suspended [~~or revoked~~], may, when it appears to the satisfaction of the court that the ends of justice and the best interests of the public as well as the defendant will be subserved thereby, recommend that the [~~revocation or~~] suspension be probated on terms and conditions deemed by the officer or judge to be necessary or proper. The report to the Department of the results of the hearing must include the terms and conditions of such probation. When probation is recommended by the judge or officer presiding at a hearing, the Department shall probate the suspension [~~or revocation~~]. This subsection does not apply to an appeal under Section 31 of this Act for suspension of a driver's license or denial of operating privileges under *Subsection (b)(1) of this section, or Section 2, Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 6701l-5, Vernon's Texas Civil Statutes).*

(2) If an officer probates a suspension of a driver's license or privilege under this section or Section 31 of this Act, the probationary period must be for a term of not less than ninety (90) days or more than two (2) years.

SECTION 10. Section 23B, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

(c) The court that enters an order for an essential need license, as provided under Section 23A of this Act, may at any time during the duration of the order issue an order revoking the essential need license for good cause. A certified copy of the court order revoking the essential need license shall be forwarded to the Department.

SECTION 11. Section 24, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 24. AUTOMATIC SUSPENSION OF LICENSE. (a) Except as provided by Subsection (g) of this Section, the license of any person shall be automatically suspended upon final conviction of:

- (1) an offense under Section 19.07, Penal Code, committed as a result of the person's criminally negligent operation of a motor vehicle;
- (2) an offense under Section 19.05(a)(2), Penal Code;
- (3) an offense under Article 6701L-1, Revised Statutes;
- (4) an offense punishable as a felony under the motor vehicle laws of this State;
- (5) an offense under Section 38, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes); or
- (6) an offense under Section 32 or 32A of this Act.

(a-1) The license of any person who was younger than 21 years of age at the time of the offense, other than a misdemeanor punishable by fine only, shall be automatically suspended on conviction of:

- (1) an offense under Article 6701L-1, Revised Statutes;
- (2) an offense under the Alcoholic Beverage Code involving the manufacture, delivery, possession, transportation, or use of an alcoholic beverage;
- (3) an offense under Chapter 481, Health and Safety Code (Texas Controlled Substances Act), involving the manufacture, delivery, possession, transportation, or use of a controlled substance;
- (4) an offense under Chapter 483, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a dangerous drug;
- (5) an offense under Chapter 484, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a volatile chemical.

(b) Except as provided by Subsections (d), (e), (g), (h), (i), and (j) of this Section, the suspension above provided shall in the first instance be for a period of twelve (12) months. In event any license shall be suspended under the provision of this Section for a subsequent time, said subsequent suspension shall be for a period of eighteen (18) months, except as provided by Subsections (d), (e), (g), (h), (i), and (j) of this Section.

(c) The suspension or disqualification period of any license shall be automatically extended upon the person [licensee] being convicted of operating a motor vehicle or commercial motor vehicle while the license or privilege to operate a motor vehicle of such person is suspended, revoked, canceled, denied, or disqualified [~~or under disqualification~~]; such extended period of suspension or disqualification to be for a like period as the original suspension or disqualification, and is in addition to any other penalty assessed, as provided in this Act or in the Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes).

(d) Except as provided by Subsections (g), (h), and (j) of this Section, if a person is convicted of an offense under Article 6701L-1, Revised Statutes, the suspension of the person's license shall begin on the date of conviction or not more than thirty (30) days after the date of conviction, as determined by the court, and be for a period determined by the court according to the following schedule:

(1) not less than ninety (90) or more than three hundred sixty-five (365) days, if the person is punished under Subsection (c) of that article, whether or not the punishment is increased under Subsection (f) of that article; or

(2) not less than one hundred eighty (180) days or more than two (2) years, if the person is punished under Subsection (d) or (e) of that article, whether or not the punishment is increased under Subsection (f) of that article.

(e) Except as provided by Subsection (j) of this section, if a person is convicted of an offense under Section 19.05(a)(2), Penal Code, the suspension of the person's license shall be for a period determined by the court of not less than one hundred eighty (180) days *and not* ~~more~~ more than two (2) years. *The suspension shall begin on the date of conviction or not more than thirty (30) days after the date of conviction, as determined by the court.*

(f) Except as otherwise provided by this subsection, the court shall credit toward the period of suspension of a person's license required by this article a period of suspension imposed on the person for refusal to give a specimen under Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 6701l-5, Vernon's Texas Civil Statutes), if the refusal followed an arrest for the same offense for which the court is suspending the person's license under this article. The court may not extend the credit to a person that has been previously convicted of an offense under Article 6701l-1, Revised Statutes, or Section 19.05(a)(2), Penal Code, or to a person whose period of suspension is governed by Subsection (j) of this section.

(g)(1) Except as provided by Subdivision (2) of this subsection and Subsection (j) of this section, the Department may not, during the period of probation, *revoke* ~~[suspend]~~ the driver's license, permit, *or resident or nonresident* ~~[operating]~~ privilege to operate a motor vehicle of a person if the person is required under Section 13(h) or (j), Article 42.12, Code of Criminal Procedure, to attend and successfully complete an educational program designed to rehabilitate persons who have driven while intoxicated. The Department also may not *revoke* ~~[suspend]~~ the driver's license, permit, or nonresident operating privilege of a person for whom the jury has recommended, under Section 13(g) [4], Article 42.12, Code of Criminal Procedure, no *revocation* ~~[suspension]~~.

(2) After the date has passed, according to records of the Department, for successful completion of an educational program designed to rehabilitate persons who have driven while intoxicated, if the records do not indicate successful completion of the program, the Director shall *revoke* ~~[suspend]~~ the person's driver's license, permit, *or resident or nonresident* ~~[operating]~~ privilege to operate a motor vehicle or, if the person is a resident without a license or permit to operate a motor vehicle in this state, shall issue an order prohibiting the person from obtaining a license or permit. A *revocation* ~~[suspension]~~ or prohibition order under this subsection is effective *until the Department receives notice of the successful completion of the educational program* ~~[for a period of twelve (12) months]~~.

(3) The Director shall promptly send notice of a *revocation* ~~[suspension]~~ or prohibition order issued under this subsection, by certified mail, return receipt requested, to the person at the person's most recent address as listed in records of the Department. The notice must include the date of the *revocation* ~~[suspension]~~ or prohibition order *and* ~~[,]~~ the reason for the *revocation* ~~[suspension]~~ or prohibition ~~[, and the beginning and ending dates of the suspension or prohibition]~~. A *revocation* ~~[suspension]~~ or prohibition under this subsection may not take effect before the twenty-eighth (28th) day after the date the person receives notice by certified mail or the thirty-first (31st) day after the Director sends notice by certified mail, if the person has not accepted delivery of the notice. The notice must also include a statement that the person has a right to demand in writing that a hearing on the *revocation* ~~[suspension]~~ or prohibition be held. If, not later than the twentieth (20th) day after the date on which the person receives notice by certified mail or the twenty-third (23rd) day after the date the Director sent notice by certified mail, if the person has not accepted delivery of the notice, the Department receives a written demand that a hearing be held, the Department shall *make arrangements* ~~[, not later than the tenth (10th) day after the day of receipt of the demand, request a court]~~ to set the hearing for the earliest *practical time* ~~[possible date]~~. If a person demands a hearing as provided by this subsection, the *revocation* ~~[suspension]~~ or prohibition does not take effect until resolution of the hearing.

(4) A hearing on *revocation* [~~suspension~~] or prohibition shall be held in a municipal or justice court in the county of the person's residence in the manner provided for a hearing on suspension under Section 22(a) of this Act. At a hearing, the issues to be determined are whether the person has successfully completed an educational program that was imposed under Section 13(h) or (j) [6e], Article 42.12 [42.13], Code of Criminal Procedure, [1965,] and whether the period for completion of the program has passed. If the *hearing officer* [court] determines that the educational program imposed has not been completed and the period for completion of the program has passed, the *hearing officer* [court] shall confirm the *revocation* [~~suspension~~] or prohibition and notify the Department of that fact. If the *hearing officer* [court] finds that the program imposed has been completed or that, before the administrative hearing, the court that originally imposed the requirement to attend an educational program under Section 13(h) or (j), Article 42.12, Code of Criminal Procedure, has granted an extension of time that has not expired, or that the period for completion has not passed, the Director shall take no action to revoke or prohibit the issuance of any license, permit, or privilege to operate a vehicle. If, after a hearing has been requested, the person or the person's agent fails to appear at the hearing, the Department shall revoke the person's license, permit, or privilege to operate until the Department receives notice of the successful completion of the educational program [~~the court shall direct the Department to promptly rescind the order and reinstate in the records of the Department any driver's license, permit, or privilege of the person. The court may modify or revoke an order of suspension or prohibition if the court determines for good cause shown that the person was unable to complete an educational program within the period originally specified by the court. The court shall condition the modification or revocation of the order on the person's completion of the course within a period specified by the court not to exceed one (1) year from the beginning date of the person's probation~~].

(h) The Department shall suspend the license of a person on receiving an order from a juvenile court under Section 54.042, Family Code, to suspend that person's license. The period of the suspension shall be for the period specified in the order.

(i) If a person is convicted of an offense under Section 32 or 32A of this Act, the suspension of the person's license shall be for a period determined by the court of not less than ninety (90) days or more than three hundred and sixty-five (365) days. *If the court fails to set a period of suspension, the Department shall suspend the license for a period of three hundred and sixty-five (365) days.*

(j) The Department shall suspend the license of a person who is younger than 21 years of age and is convicted of an offense under Section 19.05(a)(2), Penal Code, or Article 6701-1, Revised Statutes, regardless of whether the person is required to attend an educational program designed to rehabilitate persons who have driven while intoxicated under Section 13(h), Article 42.12, Code of Criminal Procedure, for one year. If a person required to attend an educational program designed to rehabilitate persons who have driven while intoxicated under Section 13(h), Article 42.12, Code of Criminal Procedure, does not complete the program before the end of the person's suspension, the Department shall continue the suspension until the Department receives proof that the person has successfully completed the program. A person who completes the educational program required under this subsection may submit proof of the completion to the clerk of the convicting court who shall send it to the Department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

(k) A person whose license is suspended under Subsection (a-1) of this section is not ineligible to receive an occupational license under Section 23A of this Act because of the suspension. In addition, suspension under Subsection (a-1) of this section is not a suspension for physical or mental disability or impairment for purposes of eligibility to apply for an occupational license under Section 23A of this Act.

(l) Except for a conviction for Subsection (a)(6) of this section, any person who has had their license or privilege to operate a motor vehicle automatically suspended is subject to Section 17, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes).

SECTION 12. Section 31, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 31. RIGHT OF APPEAL TO COURTS. (a) Any person whose driver's license has been suspended or revoked after an administrative hearing under Section 22(a) of this Act, any person whose license suspension has been probated under Section 22(e) of this Act, and any person denied a license or whose driver's license has been cancelled by the Department, except where such cancellation, suspension, or revocation is automatic under the provisions of this Act or the *Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes)*, shall have the right to file a petition within thirty (30) days after the date the order of the Department was entered for a hearing in the matter in the County Court at Law in the county wherein such person shall reside, or if there be no County Court at Law therein, then in the county court of said county, and such court is hereby vested with jurisdiction, and it shall be its duty to set the matter for hearing upon thirty (30) days written notice to the Department, and thereupon to take testimony and examine into the facts of the case, and to determine whether the petitioner is entitled to a license or is subject to suspension, cancellation, denial, or revocation of license under the provisions of this Act. A person who appeals under this section must send a copy of the person's petition, certified by the clerk of the court in which the petition is filed, to the Department by certified mail. An order of the Department is binding on the person to whom it pertains unless the person appeals the order as provided by this section or unless the person established that a hearing was timely requested, as provided by Section 24(g) of this Act or Section 2(f), Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 6701-5, Vernon's Texas Civil Statutes), but was not held. The Department may appeal the ruling of the judge or officer presiding at the hearing by filing a petition in the manner provided by this section.

(b) The trial on appeal as herein provided for shall be a trial de novo and the licensee shall have the right of trial by jury.

(c) The *proper* filing of a petition of appeal as provided by this section shall abate an order of suspension, probated suspension, revocation, or cancellation until the trial herein provided for shall have been consummated and final judgment thereon is had.

SECTION 13. Section 32(a), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Except as provided in Subsection (b) of this section, it is unlawful for any person to commit any of the following acts:

(1) to display or cause or permit to be displayed or to have in possession any driver's license or certificate knowing the same to be fictitious or to have been cancelled, revoked, suspended, or altered;

(2) to lend or knowingly permit the use of, by one not entitled thereto, any driver's license or certificate issued to the person so lending or permitting the use thereof;

(3) to display or to represent as one's own, any driver's license or certificate not issued to the person so displaying same;

(4) to fail or refuse to surrender to the Department on demand any driver's license or certificate which has been suspended, cancelled, or revoked as provided by law;

(5) to have in one's possession more than one currently valid driver's license or more than one currently valid certificate; or

(6) to use a false or fictitious name or give a false or fictitious address or use a fictitious or counterfeit document in any application for *an original*, [a] renewal, or duplicate driver's license or certificate, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application.

SECTION 14. Section 33(a), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A person commits an offense if the person knowingly swears to or affirms falsely before a person authorized to take statements under oath any matter, information, or statement required by the Department in an [original] application for *an original, renewal, or duplicate* [a] driver's license or certificate issued under this Act.

SECTION 15. Section 34(a), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A person commits an offense if the person operates a motor vehicle on a highway:

(1) after the person's driver's license has been cancelled under this Act and the person does not have a valid license that was subsequently issued under this Act;

(2) during a period that a suspension or revocation, imposed under this Act or Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 6701l-5, Vernon's Texas Civil Statutes), or Article 42.12, Code of Criminal Procedure, of the person's driver's license or privilege is in effect; or

(3) while the person's driver's license is expired, if the license expired during a period of suspension imposed under this Act or Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 6701l-5, Vernon's Texas Civil Statutes), or Article 42.12, Code of Criminal Procedure.

SECTION 16. The following are repealed:

(1) Section 24A, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes); and

(2) Section 30A, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).

SECTION 17. (a) This Act takes effect September 1, 1993.

(b) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date. An offense committed before the effective date of the Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 18. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 14, 1993, by a non-record vote; passed by the Senate on May 26, 1993: Yeas 30, Nays 0.

Approved June 18, 1993.

Effective Sept. 1, 1993.