

## CHAPTER 928

## H.B. No. 1300

## AN ACT

relating to the suspension of driver's licenses of persons convicted of the offense of driving while intoxicated and educational programs for those persons.

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

SECTION 1. Section 6d, Article 42.12, Code of Criminal Procedure, as added by Chapter 427, Acts of the 69th Legislature, Regular Session, 1985, is amended to read as follows:

Sec. 6d. (a) If a person convicted of an offense under Article 67011-1, 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* [~~Alcoholism~~], the Department of Public Safety, the Traffic Safety Section of the State Department of Highways and Public Transportation, and the Texas Adult Probation Commission designed to rehabilitate persons who have driven while intoxicated. The Texas Commission on *Alcohol and Drug Abuse* [~~Alcoholism~~] shall publish the jointly approved rules and shall monitor, ~~and~~ coordinate, *and provide training to persons providing the education 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.* Persons who have successfully completed an approved educational program or who are currently under an order to attend an educational program shall not be eligible for attendance upon a subsequent offense. The judge may waive the educational program requirement, 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 which 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 in the judgment. If a person is required, as a condition of probation, to attend an educational program, the court clerk shall immediately report such fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. 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 suspend the person's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Subdivision (2), Subsection (g), Section 24, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).

(b) *The court may require or permit a person who was previously convicted of an offense under Article 67011-1, Revised Statutes, and who was required to attend an*

*educational program under Subsection (a) of this section as a condition of probation, to attend an educational program under Subsection (a) of this section if the court determines that attendance at a program would be in the person's best interest.*

*(c) Notwithstanding the provision of Section 24(g), Article 6687b, Vernon's Texas Civil Statutes, if the court, under Subsection (b) of this section, permits or requires a person to attend an educational program as a condition of probation, and the person has previously been convicted of an offense under Article 67011-1, Revised Statutes, and has previously been required to attend such a program, the court shall automatically suspend the driver's license, permit, or operating privilege of such 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 67011-1, 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 2 years, if the person is punished under Subsection (d) or (e), Article 67011-1, Revised Statutes, whether or not the punishment is increased under Subsection (f) of that article.*

*(d) If the Department of Public Safety receives notice that a person has been required or permitted to attend an educational program under Subsection (b) of this section, 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 2. Section 24(g)(1), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) Except as provided by Subdivision (2) of this subsection, the Department may not, during the period of probation, suspend the driver's license, permit, or nonresident operating privilege of a person if the person is required under Section 6d [6e], Article 42.12 [42.13], Code of Criminal Procedure, [1965,] to attend and successfully complete an educational program designed to rehabilitate persons who have driven while intoxicated. The Department also may not suspend the driver's license, permit, or nonresident operating privilege of a person for whom the jury has recommended, under Section 3a(b), Article 42.12 [42.13], Code of Criminal Procedure, [1965,] no suspension.

SECTION 3. Section 6c, Article 42.13, Code of Criminal Procedure, is repealed.

SECTION 4. This Act takes effect September 1, 1987.

SECTION 5. 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 15, 1987, by a non-record vote; that the House refused to concur in Senate amendments to H.B. No. 1300 on June 1, 1987, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1300 on June 1, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 30, 1987, by a viva-voce vote; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1300 on June 1, 1987, by a viva-voce vote.

Approved June 20, 1987.

Effective Sept. 1, 1987.