

## CHAPTER 922

## H.B. No. 914

## AN ACT

relating to elements and punishment of, and penalties for, offenses involving the operation of a motor vehicle after the invalidation of a driver's license, permit, or privilege or a vehicle registration.

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

SECTION 1. Section 34, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 34. DRIVING WHILE LICENSE SUSPENDED, [OR] REVOKED, CANCELLED, DENIED, OR EXPIRED. (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), 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).*

(b) *A person commits an offense if the person is the subject of an order, issued under this Act or Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 6701l-5, Vernon's Texas Civil Statutes), prohibiting the person from obtaining a driver's license and the person operates a motor vehicle on a highway.*

(c) *It is no defense to prosecution that the person had not received actual notice of a suspension imposed as a result of a conviction for an offense described in Section 24(a) of this Act.*

(d) *Except as provided by Subsection (c) of this section, it is an affirmative defense to prosecution of an offense, other than an offense listed in Section 24(a) of this Act, that the person had not received actual notice of a suspension, revocation, cancellation, or prohibition order concerning the person's driver's license or privilege to operate a motor vehicle. For purposes of this section, actual notice shall be presumed if the notice was sent by certified mail to the last known address of the person as shown by the records of the Department.*

(e) *Except as provided by Subsection (f) of this section, an offense under this section is punishable by:*

(1) *a fine of not less than One Hundred Dollars (\$100) or more than Five Hundred Dollars (\$500); and*

(2) *confinement in jail for a term of not less than seventy-two (72) hours or more than six (6) months.*

(f) *If it is shown on the trial of an offense under this section that the person has previously been convicted of an offense under this section or Section 32(c)(1), Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), the offense is punishable as a Class A misdemeanor.*

(g) *For the purposes of this section, a conviction for an offense that involves operation of a motor vehicle after August 31, 1987, is a final conviction, whether or not the sentence for the conviction is probated. [~~Any person whose driver's license or~~*

~~driving privilege as a nonresident has been cancelled, suspended, or revoked as provided in this Act, and who drives any motor vehicle upon the highways of this State while such license or privilege is cancelled, suspended, or revoked is guilty of a misdemeanor and upon conviction shall be punished by fine of not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500), and, in addition, there shall be imposed a sentence of imprisonment of not less than seventy-two (72) hours nor more than six (6) months.]~~

SECTION 2. Section 32(c), Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), is amended to read as follows:

(c)(1) *A person commits an offense if the person operates a motor vehicle on a highway:*

(A) *during a period that a suspension or revocation under this Act of the person's driver's license or privilege is in effect; or*

(B) *while the person's driver's license is expired, if the license expired during a period of suspension imposed under this Act.*

(2) *A person commits an offense if the person, during a period that a suspension under this Act of the person's registration is in effect, knowingly permits any motor vehicle owned by the person to be operated on a highway.*

(3) *It is an affirmative defense to prosecution that the person had not received actual notice of a suspension or revocation order concerning the person's driver's license, privilege to operate a motor vehicle, or vehicle registration. For purposes of this subsection, actual notice shall be presumed if the notice was mailed in accordance with this Act to the last known address of the person as shown by the records of the Department.*

(4) *Except as provided by Subdivision (5) of this subsection, an offense under this subsection is punishable by:*

(A) *a fine of not less than One Hundred Dollars (\$100) or more than Five Hundred Dollars (\$500); and*

(B) *confinement in jail for a term of not less than seventy-two (72) hours or more than six (6) months.*

(5) *If it is shown on the trial of an offense under this subsection that the person has previously been convicted of an offense under this subsection or Section 34, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), the offense is punishable as a Class A misdemeanor.*

(6) *For the purposes of this subsection, a conviction for an offense that involves operation of a motor vehicle after August 31, 1987, is a final conviction, whether or not the sentence for the conviction is probated. ~~[Any person whose license or registration or non-resident's operating privilege has been suspended or revoked under this Act and who, during such suspension or revocation drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this Act, shall be fined not more than Five Hundred Dollars (\$500) or imprisoned not exceeding six (6) months, or both.]~~*

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

(i) *A person whose license, permit, or privilege is suspended under this section, or who is the subject of a prohibition order issued under this section, is subject to Section 34, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).*

SECTION 4. Section 3d(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) This section does not apply to a defendant charged with an offense under Subdivision (2), Subsection (a), Section 19.05, Penal Code, ~~[or]~~ an offense under Article 6701l-1, Revised Statutes, *an offense under Section 34, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), or*

*an offense under Section 32(c), Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes) [as amended].*

SECTION 5. This Act takes effect September 1, 1987. The change in law made by this Act applies only to operation of a motor vehicle on or after that date. Operation of a motor vehicle before the effective date of this Act is governed by the law in effect at the time of operation, and the former law is continued in effect for this purpose.

SECTION 6. 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 8, 1987, by a non-record vote. Passed by the Senate on May 26, 1987, by a viva-voce vote.

Approved June 20, 1987.

Effective Sept. 1, 1987.