

## **BILL ANALYSIS**

Senate Research Center  
76R3708 JD-D

S.B. 302  
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Criminal Justice  
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As Filed

### **DIGEST**

Currently, Texas law includes in the definition of “intoxication” an alcohol concentration of 0.10 or more, and on a third or subsequent conviction of operating a motor vehicle while intoxicated a judge or the county may to revoke the person’s license. Texas law also states that submitting to the taking of a specimen is not mandatory. This bill would lower the blood alcohol content for repeat offenders to 0.08, establish that refusal to submit a specimen upon request by a peace officer would result in a Class B misdemeanor, impound the person’s car upon the person’s third DWI conviction, and require a person’s license to be suspended for five years upon a fourth DWI conviction.

### **PURPOSE**

As proposed, S.B. 302 establishes criminal and civil consequences of operating a motor vehicle, a watercraft, or an aircraft while intoxicated.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 49.01(2), Penal Code, to redefine “intoxicated.”

SECTION 2. Amends Section 49.08(b), Penal Code, to establish that an offense under this section is a felony of the second degree, except as provided by Section 49.09.

SECTION 3. Amends Section 49.09, Penal Code, by adding Subsection (g), to establish that an offense is a felony of the first degree, if it is shown on the trial of an offense under Section 49.08 that the person has previously been convicted of an offense relating to the operation of a motor vehicle, an aircraft, or a watercraft while intoxicated.

SECTION 4. Amends Chapter 49, Penal Code, by adding Section 49.095, as follows:

Sec. 49.095. IMPOUNDMENT OF MOTOR VEHICLE. Requires the court, upon a third or subsequent conviction of operating a motor vehicle while intoxicated, to order the sheriff of the county that has jurisdiction to impound for 30 days a vehicle operated by the defendant at the time of the offense if the defendant meets certain conditions. Prohibits the court from approving the release of the vehicle unless the defendant applies to the court for the vehicle’s release and provides certain evidence that complies with Section 601.053, Transportation Code. Requires an insurance binder, offered as evidence of financial responsibility, to confirm to the court that the defendant is in compliance with Chapter 601, Transportation Code. Requires the court to impose on the defendant a cost of \$15 a day for each day of impoundment. Requires the owner to apply to the court for permission to transfer title on the vehicle. Requires the court, if there is a finding that the transfer is being made in good faith, to approve the transfer. Requires the court, notwithstanding Subsection (b), to release the impounded motor vehicle, if while the vehicle is impounded the title the vehicle is transferred by certain actions. Requires the sheriff to release the impounded vehicle under certain conditions. Establishes that impoundment of a vehicle under this section is in addition to any other punishment imposed under this chapter.

SECTION 5. Amends Section 521.341, Transportation Code, as follows:

Sec. 521.341. New heading: REQUIREMENTS FOR AUTOMATIC LICENSE SUSPENSION OR REVOCATION. Establishes that a license is automatically revoked for five years on a final conviction of the license holder of a third or subsequent offense under certain sections of the Penal Code. Makes conforming changes.

SECTION 6. Amends Chapter 724B, Transportation Code, by adding Section 724.0135, as follows:

Sec. 724.0135. REFUSAL TO SUBMIT TO TAKING OF SPECIMEN; PENALTY. Establishes that a person who refuses to submit to the taking of a specimen designated by a peace officer commits an offense. Establishes that the offense under this section is a Class B misdemeanor. Sets forth conditions for the prosecution or conviction of a person under this section.

SECTION 7. Amends Section 724.015, Transportation Code, to require an officer, before requesting a person to submit to the taking of a specimen, to inform the person orally and in writing that the refusal to submit to the taking of the specimen is a Class B misdemeanor. Makes conforming changes.

SECTION 8. Effective date: September 1, 1999.  
Makes application of this Act prospective.

SECTION 9. Emergency clause.