

## **BILL ANALYSIS**

Senate Research Center  
76R3706 JD-D

S.B. 388  
By: Lucio  
Criminal Justice  
3/8/1999  
As Filed

### **DIGEST**

Currently, Texas law requires a term of confinement for 72 hours and a 90-day license suspension for a person who refuses to submit to the taking of a specimen as a result of driving while intoxicated. This bill would require a mandatory five-day jail sentence and an automatic one-year license suspension for a person who refuses to submit to the taking of a specimen as a result of driving while intoxicated.

### **PURPOSE**

As proposed, S.B. 388 establishes criminal consequences of driving while intoxicated and civil consequences of failure to submit to the taking of a blood, breath, or urine specimen for analysis to determine intoxication.

### **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 49.04, Penal Code, by amending Subsection (b) and adding Subsection (d), to establish that an offense under this section is a Class B misdemeanor with a minimum term of confinement of five days if the defendant was arrested, was requested by a police officer to submit specimens for a drug or alcohol test, and the defendant refused.

SECTION 2. Amends Section 724.015, Transportation Code, to increase the amount of time a person's license to operate a motor vehicle is suspended from 90 days to one year for refusing to submit to the taking of a specimen. Establishes that if a person refuses to consent to the taking of the specimen, and the person is subsequently prosecuted and convicted as a result of the arrest for an offense under Section 49.04, Penal Code, the minimum term of confinement for the offense is increased from 72 hours to five days. Deletes text regarding the amount of time a person's license is automatically suspended as a result of an arrest for refusing to submit to the taking of a specimen. Makes a conforming change.

SECTION 3. Amends Section 724.035, Transportation Code, to delete text regarding the period of suspension or denial of a person's motor vehicle license. Makes conforming changes.

SECTION 4. Amends Section 724.043(a), to make a conforming change.

SECTION 5. Effective date: September 1, 1999.  
Makes application of this Act prospective.

SECTION 6. Emergency clause.