

AN ACT

relating to the operation of a motor vehicle while intoxicated with a child passenger in the vehicle; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 49, Penal Code, is amended by adding Section 49.045 to read as follows:

Sec. 49.045. DRIVING WHILE INTOXICATED WITH CHILD PASSENGER. (a) A person commits an offense if:

(1) the person is intoxicated while operating a motor vehicle in a public place; and

(2) the vehicle being operated by the person is occupied by a passenger who is younger than 15 years of age.

(b) An offense under this section is a state jail felony.

SECTION 2. Subdivision (1), Subsection (c), Section 49.09, Penal Code, is amended to read as follows:

(1) "Offense relating to the operating of a motor vehicle while intoxicated" means:

(A) an offense under Section 49.04 or 49.045;

(B) an offense under Section 49.07 or 49.08, if the vehicle operated was a motor vehicle;

(C) an offense under Article 67011-1, Revised Statutes, as that law existed before September 1, 1994;

(D) an offense under Article 67011-2, Revised Statutes, as that law existed before January 1, 1984;

1 (E) an offense under Section 19.05(a)(2), as that
2 law existed before September 1, 1994, if the vehicle operated was a
3 motor vehicle; or

4 (F) an offense under the laws of another state
5 that prohibit the operation of a motor vehicle while intoxicated.

6 SECTION 3. Section 49.10, Penal Code, is amended to read as
7 follows:

8 Sec. 49.10. NO DEFENSE. In a prosecution under Section
9 49.03, 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, the
10 fact that the defendant is or has been entitled to use the alcohol,
11 controlled substance, drug, dangerous drug, or other substance is
12 not a defense.

13 SECTION 4. (a) This Act takes effect September 1, 2003.

14 (b) The change in law made by this Act applies only to an
15 offense committed on or after September 1, 2003.

16 (c) An offense committed before September 1, 2003, is
17 covered by the law in effect when the offense was committed, and the
18 former law is continued in effect for that purpose. For purposes of
19 this section, an offense was committed before September 1, 2003, if
20 any element of the offense was committed before that date.

Raid Newburn
President of the Senate

Jim Cusick
Speaker of the House

I hereby certify that S.B. No. 45 passed the Senate on April 30, 2003, by a viva-voce vote; and that the Senate concurred in House amendment on May 29, 2003, by a viva-voce vote. _____

Patsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 45 passed the House, with amendment, on May 25, 2003, by a non-record vote. _____

Robert Haney
Chief Clerk of the House

Approved:

20 JUN '03
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
9:30 AM O'CLOCK

JUN 20 2003
Ann Shea
Secretary of State