

88th Texas Legislature Bill Summaries

The Texas Impaired Driving Task Force Legislative Subcommittee has compiled a summary of bills from the 88th Texas Legislature that impact impaired driving and traffic safety.

To read the summaries, click on the bill hyperlink below and you will be directed to the appropriate summary on the subsequent pages.

Included Bills:

- [HB 291](#) – Occupational Driver's Licenses and the Renewal of Driver's Licenses
- [HB 393](#) – Restitution Payments for Minors
- [HB 420](#) – Enhancement to Providing Alcohol to Minor Offenses
- [HB 1163](#) – Creating a Boating While Intoxicated with Child Offense
- [HB 3186](#) – Youth Diversion Strategies
- [HB 4528](#) – Confiscation of a Driver's License by a Peace Officer
- [HB 5183](#) – Minor Alcohol Offense Awareness Programs
- [SB 760](#) – Taking a Blood Specimen from a Deceased Person
- [SB 773](#) – Access to Certain Investigational Drugs, Biological Products, and Devices

HB 291

Subject: Relating to occupational driver's licenses and to the renewal of driver's licenses.

Effective: September 1, 2023

This 26-page bill makes major changes in the laws governing occupational driver's licenses (ODL). The highlights include changes in where petitions may be filed, expanded eligibility for ODLs, changes in the definition of "essential need", requirements that must be included in the petition and order and changes in the hearing procedures. This bill also repeals the statutory sections requiring delayed effective dates in some situations. Language throughout the bill stresses that courts are prohibited from granting an ODL for the operation of a commercial vehicle.

[Click here for a full bill summary](#)

[Click here to view a webinar of Occupational Driver's License Updates 2023](#)

HB 393

Subject: Relating to restitution payments for the support of a child whose parent or guardian is a victim of intoxication manslaughter.

Effective: September 1, 2023

This bill requires mandatory restitution for support of a child whose parent or guardian was a victim of Intoxication Manslaughter until the child reaches 18 years old or graduates from high school. The court determines the amount of restitution by considering the child's specific financial needs. If the defendant is imprisoned, restitution payments begin one year after release. The defendant must arrange to pay arrearages. Restitution can be enforced by the Attorney General or by the person named to receive the restitution.

HB 420

Subject: Relating to the offense of providing an alcoholic beverage to a minor; increasing a criminal penalty.

Effective: September 1, 2023

This Act is named "Kyle and Ethan's Law" after victims of an impaired driving crash caused by a minor that was provided alcohol. It amends Section 106.06(a), Alcoholic Beverage Code (Furnishing Alcohol to a Minor). An offense under this Section has been and remains a Class A misdemeanor, but an offense may now be enhanced to a state jail felony if the prosecution can prove that as a result of the alcohol consumption, another person suffered serious bodily injury or death. This is a lower degree of felony than Intoxication Assault or Intoxication Manslaughter, but more serious than the Class A misdemeanor.

The bill also removes the language "with criminal negligence" from the statute. This was likely meant to make the offense strict liability but may make the offense more difficult to prosecute. Without naming a culpable mental state, defense attorneys might argue that the prosecution must now prove that the defendant intended to provide alcohol to a minor and was not merely negligent in making it available.

If the public is educated on the new law, adults might think twice before giving or making alcohol available to a minor, which in turn should reduce the number of minors driving impaired.

HB 1163

Subject: Relating to creating the criminal offense of boating while intoxicated with a child passenger; changing the eligibility for deferred adjudication community supervision.

Effective: September 1, 2023

This bill creates an offense related to Boating While Intoxicated that parallels DWI with Child Passenger. Chapter 49, Penal Code, is amended by adding Section 49.061, Boating While Intoxicated with Child Passenger. It makes committing Boating While Intoxicated a state jail felony if the boat is “occupied by a passenger who is younger than 15 years of age.” The absence of this law made no discernable sense and served no discernable policy. In creating the Boating While Intoxicated offense, it was simply omitted. This bill fixes that.

Many other statutes related to DWI enhancement, punishment, and procedure are also amended to include this new offense.

HB 3186

Subject: Relating to youth diversion strategies and procedures for children accused of certain fine-only offenses in municipal and justice courts and related criminal justice matters; authorizing fees.

Effective: January 1, 2024

HB 3186 amends Chapter 45, Code of Criminal Procedure to require municipal and justice courts to divert certain fine-only misdemeanors (other than “traffic offenses”) committed on or after January 1, 2025 from the criminal justice system. This includes possession of drug paraphernalia, underage drinking, and various other Chapter 106, Alcoholic Beverage Code offenses. A wide-ranging menu of possible diversion strategies are provided including teen court and rehabilitation programs. Note: reasonable debate currently exists whether the term “traffic offense” applies to Driving Under the Influence (DUI) by a minor. TJCTC’s position is that, based on Chapter 720 of the Transportation Code, DUI is not a “traffic offense” for the purposes of HB 3186. This would mean that municipal and justice courts would soon be required to divert certain DUI cases.

A defendant is not eligible to enter into a diversion agreement under Chapter 45 if:

- they entered into one in the previous 365 days;
- they are 17 or older;
- they previously had an unsuccessful diversion under Chapter 45;
- the prosecutor objects to the diversion; or
- the defendant or the defendant’s parent does not consent in writing to the diversion.

If the defendant does not successfully complete the diversion, the court must hold a non-adversarial hearing. Following the hearing, multiple options exist, including extending the diversion period or

determining the diversion to be successful or unsuccessful. Unsuccessful diversions may be referred to juvenile court or to the prosecutor for criminal filing. If an eligible case is not diverted, the court is required to offer diversion to the child and parent before entering a judgment of guilt.

HB 3186 further requires each justice or municipal court to adopt a youth diversion plan by January 1, 2025. Courts are authorized to employ a youth diversion coordinator. Various individuals and entities that can perform this position's duties, such as a juvenile case manager, are provided. HB 3186 also lays out possible funding sources for these positions.

HB 4528

Subject: Relating to the requirement that a peace officer take possession of a person's driver's license following the person's failure to pass or refusal to consent to a test for intoxication.

Effective: September 1, 2023

Current law requires peace officers to confiscate a driver's license from an individual upon arrest for failure to pass an intoxication test or for refusal to take one. However, the Department of Public Safety reports that it can suspend a driver's license electronically and no longer has a need to collect the physical card. Because a driver's license is integral to many people's ability to obtain services or exercise other rights aside from driving, HB 4528 amends Sections 524.011 (Officer's Duties for License Suspension) and 724.032 (Officer's Duties for License Suspension; Written Refusal Report), Transportation Code removing the requirement that peace officers take possession of the person's license. HB 4528 also removes a peace officer's authority to issue a temporary driving permit upon arrest for failure to pass an intoxication test or for refusal to take one. The bill makes corresponding changes to Sections 524.032, 524.035, 724.041, 724.043, Transportation Code, which cover individuals who had their license taken under Sections 524.011 or 724.032.

HB 5183

Subject: Relating to educational programs for persons whose driver's license is suspended following conviction of certain drug offenses.

Effective: September 1, 2023

When a minor is convicted of or granted deferred disposition for public intoxication or an alcohol offense under Chapter 106, Alcoholic Beverage Code (DUI, possession, etc.), the minor may be required to complete a class. HB 5183 removes the drug and alcohol driving awareness program (DADAP) as one of the class options. It also changes the name of one of the two remaining options from "drug education program" to "substance misuse education program." The other remaining option, an alcohol awareness program, is unchanged.

SB 760

Subject: Relating to taking a blood specimen from the body of a deceased person during an inquest.

Effective: September 1, 2023

SB 760 amends Article 49.10, Code of Criminal Procedure to expand the authority of a justice of the peace to require the taking of a blood specimen during an inquest to any situation where it is necessary to determine cause and manner of death. This is in addition to the previously existing authority to do so when the circumstances indicate that the deceased may have been driving while intoxicated.

SB 773

Subject: Relating to access to certain investigational drugs, biological products, and devices used in clinical trials by patients with severe chronic diseases.

Effective: June 18, 2023

The stated intent of this bill is “to allow patients with a severe chronic disease to use potentially life-altering investigational drugs, biological products, and devices” despite those treatments not yet being approved by the FDA. The bill describes these products as having “successfully completed phase one of a clinical trial.” The new law expressly states that it does not include “low-THC cannabis . . . or a product containing marijuana.” Although the bill does not expressly exclude illicit substances such as LSD, MDMA, psilocybin (mushrooms), kratom, and other drugs with anecdotal therapeutic properties, it does not appear to be the intent of the bill to allow the use of such substances and it is not opening the door for commercial nor widespread use.
