

## **BILL ANALYSIS**

Senate Research Center  
81R10089 GCB-D

H.B. 1983  
By: Martinez Fischer, Moody (Davis, Wendy)  
Transportation & Homeland Security  
5/8/2009  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Nearly half of the driving fatalities in Texas occur in alcohol-related accidents. Tragically, Texas is one of the worst states for alcohol-related vehicular deaths. A recent study suggested that at best, only one in 88 driving-while-intoxicated (DWI) events lead to an arrest. Texas must increase enforcement of DWI-related laws in any way possible. Currently, an offense of aggravated DWI does not exist.

H.B. 1983 relates to the punishment for certain intoxication related offenses and creates the offense of aggravated DWI.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 49, Penal Code, by adding Section 49.046, as follows:

Sec. 49.046. AGGRAVATED DRIVING WHILE INTOXICATED. (a) Provides that a person commits an offense if the person is intoxicated while operating a motor vehicle in a public place and the person has an alcohol concentration of 0.16 or more or has an alcohol concentration of 0.02 or more and is operating a commercial motor vehicle, as defined by Section 522.003 (Definitions), Transportation Code.

(b) Provides that an offense under this section, except as provided by Section 49.09 (Enhanced Offenses and Penalties), an offense under this section is a Class A misdemeanor, with a minimum term of confinement of 30 days.

SECTION 2. Amends Section 49.09, Penal Code, by amending Subsection (b) and adding Subsection (b-4), as follows:

(b) Provides that an offense under Section 49.04 (Driving While Intoxicated), 49.05 (Flying While Intoxicated), 49.06 (Boating While Intoxicated), or 49.065 (Assembling or Operating an Amusement Ride While Intoxicated) is a felony of the third degree if it is shown on the trial of the offense that the person has previously been convicted one time of an offense under Section 49.046 or an offense under the laws of another state if the offense contains elements that are substantially similar to the elements of an offense under Section 49.046, among other offenses. Makes nonsubstantive changes.

(b-4) Provides that an offense under Section 49.046 is a felony of the third degree if it is shown on the trial of the offense that the person has previously been convicted one time of an offense under Section 49.08 (Intoxication Manslaughter) or an offense under the laws of another state if the offense contains elements that are substantially similar to the elements of an offense under Section 49.08 or one time of an offense relating to the operating of a motor vehicle while intoxicated, an offense of operating an aircraft while intoxicated, and offense of operating a watercraft while intoxicated, or an offense of operating or assembling an amusement ride while intoxicated.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2009.