

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1199
By: Gallego (Davis)
Criminal Justice
5/23/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a person who commits a driving while intoxicated offense and causes serious bodily injury to another individual can be charged with intoxication assault, which is a third degree felony, with certain exceptions. Serious bodily injury is defined as an injury that creates a substantial risk of death or that causes serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ. Currently, there is no distinction between a driving while intoxicated offense that causes serious bodily injury and such an offense that leaves a person in a persistent vegetative state.

C.S.H.B. 1199 seeks to address this issue by creating a penalty for an intoxication assault if the commission of the offense leaves a person in a persistent vegetative state.

C.S.H.B. 1199 amends current law relating to the penalty for certain intoxication offenses.

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 Section 49.04, Penal Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Provides that except as provided by Subsections (c) (relating to providing that if it is shown on the trial of an offense under this section that at the time of the offense the person operating the motor vehicle had an open container of alcohol in the person's immediate possession, the offense is a Class B misdemeanor, with a minimum term of confinement of six days) and (d) and Section 49.09 (Enhanced Offenses and Penalties), an offense under this section is a Class B misdemeanor, with a minimum term of confinement of 72 hours.

(d) Provides that if it is shown on trial of an offense under this section that an analysis of a specimen of the person's blood, breath, or urine showed an alcohol concentration level of 0.15 or more at the time the analysis was performed, the offense is a Class A misdemeanor.

SECTION 2. Amends Section 49.09, Penal Code, by adding Subsection (b-4) to provide that an offense under Section 49.07 (Intoxication Assault) is a felony of the second degree if it is shown on the trial of the offense that the person caused serious bodily injury to another in the nature of a traumatic brain injury that results in a persistent vegetative state.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2011.