

1-1 By: Patrick

S.B. No. 1787

1-2 (In the Senate - Filed March 11, 2011; March 23, 2011, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 May 9, 2011, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; May 9, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the information provided by a peace officer before
1-9 requesting a specimen to determine intoxication.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 724.015, Transportation Code, is amended
1-12 to read as follows:

1-13 Sec. 724.015. INFORMATION PROVIDED BY OFFICER BEFORE
1-14 REQUESTING SPECIMEN. Before requesting a person to submit to the
1-15 taking of a specimen, the officer shall inform the person orally and
1-16 in writing that:

1-17 (1) if the person refuses to submit to the taking of
1-18 the specimen, that refusal may be admissible in a subsequent
1-19 prosecution;

1-20 (2) if the person refuses to submit to the taking of
1-21 the specimen, the person's license to operate a motor vehicle will
1-22 be automatically suspended, whether or not the person is
1-23 subsequently prosecuted as a result of the arrest, for not less than
1-24 180 days;

1-25 (3) if the person refuses to submit to the taking of a
1-26 specimen, the officer may apply for a warrant authorizing a
1-27 specimen to be taken from the person;

1-28 (4) if the person is 21 years of age or older and
1-29 submits to the taking of a specimen designated by the officer and an
1-30 analysis of the specimen shows the person had an alcohol
1-31 concentration of a level specified by Chapter 49, Penal Code, the
1-32 person's license to operate a motor vehicle will be automatically
1-33 suspended for not less than 90 days, whether or not the person is
1-34 subsequently prosecuted as a result of the arrest;

1-35 (5) [+4] if the person is younger than 21 years of age
1-36 and has any detectable amount of alcohol in the person's system, the
1-37 person's license to operate a motor vehicle will be automatically
1-38 suspended for not less than 60 days even if the person submits to
1-39 the taking of the specimen, but that if the person submits to the
1-40 taking of the specimen and an analysis of the specimen shows that
1-41 the person had an alcohol concentration less than the level
1-42 specified by Chapter 49, Penal Code, the person may be subject to
1-43 criminal penalties less severe than those provided under that
1-44 chapter;

1-45 (6) [+5] if the officer determines that the person is
1-46 a resident without a license to operate a motor vehicle in this
1-47 state, the department will deny to the person the issuance of a
1-48 license, whether or not the person is subsequently prosecuted as a
1-49 result of the arrest, under the same conditions and for the same
1-50 periods that would have applied to a revocation of the person's
1-51 driver's license if the person had held a driver's license issued by
1-52 this state; and

1-53 (7) [+6] the person has a right to a hearing on the
1-54 suspension or denial if, not later than the 15th day after the date
1-55 on which the person receives the notice of suspension or denial or
1-56 on which the person is considered to have received the notice by
1-57 mail as provided by law, the department receives, at its
1-58 headquarters in Austin, a written demand, including a facsimile
1-59 transmission, or a request in another form prescribed by the
1-60 department for the hearing.

1-61 SECTION 2. This Act takes effect September 1, 2011.

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