

Senate Finance, Ways, and Means Committee 1

Amendment No. 3 to SB0403

**Watson
Signature of Sponsor**

AMEND Senate Bill No. 403

House Bill No. 167*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 39-13-115, is amended by deleting subdivision (b)(1)(B)(i) and substituting instead the following:

(i) Has two (2) or more prior convictions for driving under the influence of an intoxicant, as defined in § 55-10-401; or

SECTION 2. Tennessee Code Annotated, Section 39-13-115, is further amended by deleting subdivision (b)(2)(B) and substituting instead the following:

(B) Has one (1) prior conviction for driving under the influence of an intoxicant, as defined in § 55-10-401.

SECTION 3. Tennessee Code Annotated, Title 55, Chapter 10, Part 6, is amended by deleting the part and substituting instead the following:

A person whose driver license has been revoked or restricted due solely to the person's status as a motor vehicle habitual offender prior to July 1, 2019, may petition the court that originally made such a finding to reinstate the person's driver license. Upon receiving a petition for a reinstated driver license, the court shall determine whether the person's driver license was subject to revocation or restriction under prior law due solely to the person's status as a motor vehicle habitual offender and, if so, order the reinstatement of the person's driver license. The person may provide a copy of the court's order to the department of safety, which shall then reissue the person's driver license without restriction.

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SECTION 4. Tennessee Code Annotated, Section 39-16-609, is amended by deleting subsections (d) - (f) and substituting instead the following:

(d) Failure to appear is a Class A misdemeanor.

(e) Any sentence received for a violation of this section must be ordered to be served consecutively to any sentence received for the offense for which the defendant failed to appear.

SECTION 5. Tennessee Code Annotated, Section 40-7-120, is amended by deleting subsection (g) and substituting instead the following:

(g) The citation must give notice to the person cited that the person's failure to appear as ordered is punishable as a separate misdemeanor offense. Each citation issued pursuant to this section must have printed on it in large, conspicuous block letters, the following:

NOTICE: FAILURE TO APPEAR IN COURT ON THE DATE ASSIGNED BY
THIS CITATION WILL RESULT IN YOUR ARREST FOR A SEPARATE
CRIMINAL OFFENSE WHICH IS PUNISHABLE BY A JAIL SENTENCE OF UP
TO ELEVEN (11) MONTHS, TWENTY-NINE (29) DAYS AND/OR A FINE OF UP
TO TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500).

SECTION 6. Tennessee Code Annotated, Section 40-7-120(h), is amended by deleting the language "six (6) months, or by a fine of not more than two hundred fifty dollars (\$250)" and substituting instead the language "eleven (11) months, twenty-nine (29) days, or by a fine of not more than two thousand five hundred dollars (\$2,500)".

SECTION 7. Tennessee Code Annotated, Section 39-16-201, is amended by deleting subsections (b) and (c) and substituting instead the following:

(b) It is unlawful for any person to:

(1) Knowingly and with unlawful intent take, send, or otherwise cause to be taken into any penal institution where prisoners are quartered or under custodial supervision:

(A) Any weapon, ammunition, or explosive;

(B) Any intoxicant, legend drug, controlled substance, or controlled substance analogue found in chapter 17, part 4 of this title; or

(C) Any telecommunication device; or

(2) Knowingly and with unlawful intent possess any of the following materials while present in any penal institution where prisoners are quartered or under custodial supervision without the express written consent of the chief administrator of the institution:

(A) Any weapon, ammunition, or explosive; or

(B) Any intoxicant, legend drug, controlled substance, or controlled substance analogue found in chapter 17, part 4 of this title.

(c)

(1) A violation of subdivision (b)(1)(A) or (b)(2)(A) is a Class C felony.

(2) A violation of subdivision (b)(1)(B), (b)(1)(C), or (b)(2)(B) is a Class D felony.

SECTION 8. Tennessee Code Annotated, Section 39-14-105, is amended by adding the following new subsection:

(d) Notwithstanding subsection (a), theft of a firearm shall be punished by confinement for not less than thirty (30) days in addition to any other penalty authorized by law.

SECTION 9. Tennessee Code Annotated, Section 55-10-405, is amended by deleting subsection (c) and substituting instead the following:

(c) For purposes of determining if a person convicted of a violation of § 55-10-401 is a multiple offender, a prior conviction for vehicular assault under § 39-13-106, aggravated vehicular assault under § 39-13-115, vehicular homicide under § 39-13-213(a)(2), or aggravated vehicular homicide under § 39-13-218 shall be treated the same as a prior conviction for driving under the influence of an intoxicant under § 55-10-401; provided, the person was convicted of the prior offense at any time before committing the present violation of § 55-10-401, regardless of whether the prior offense occurred within ten (10) years of the date of the present violation.

SECTION 10. Tennessee Code Annotated, Section 55-10-405(a), is amended by deleting the language "For the sole purpose of enhancing the punishment for a violation" and substituting instead the language "Except as provided in subsection (c), for the sole purpose of enhancing the punishment for a violation".

SECTION 11. Tennessee Code Annotated, Section 55-10-402, is amended by deleting subdivision (a)(4), substituting instead the following, and redesignating the subsequent subdivision:

(4) Any person violating § 55-10-401, upon conviction for a fourth offense, shall be sentenced as a felon to serve not less than one hundred fifty (150) consecutive days nor more than the maximum punishment authorized for the appropriate range of a Class E felony.

(5)

(A) Any person violating § 55-10-401, upon conviction for a fifth offense, shall be sentenced as a Class D felon and shall be sentenced to serve not less than the minimum sentence of imprisonment established in subdivision (a)(4) for a fourth offender, and not more than the maximum punishment authorized for the

appropriate range of a Class D felony. This subdivision (a)(5) applies if the person:

(i) Has at least four (4) previous convictions for violations of § 55-10-401, or any other applicable prior conviction as described in § 55-10-405(c);

(ii) Commits a fifth violation of § 55-10-401; and

(iii) Commits the fifth violation on or after July 1, 2019.

(B) In addition to the required term of imprisonment for a fifth offense, all of the collateral consequences of a violation of § 55-10-401, including a fine, forfeiture, driver license suspension or revocation, interlock, transdermal, and other monitoring devices, substance abuse assessments, in-patient or out-patient treatment, drug court or DUI court, and conditions of probation shall also apply to a fifth offender.

SECTION 12. Tennessee Code Annotated, Section 40-35-501, is amended by adding the following as a new subsection:

(v) There shall be no release eligibility for a person committing the offense of driving under the influence, as defined in § 55-10-401, on or after January 1, 2019, if the person has at least six (6) prior convictions for driving under the influence, as determined under § 55-10-405. The person shall serve one hundred percent (100%) of the sentence imposed by the court less sentence credits earned and retained; however, no sentence reduction credits authorized by § 41-21-236 or any other law shall operate to reduce the sentence imposed by the court by more than fifteen percent (15%).

SECTION 13. Tennessee Code Annotated, Section 55-10-402(f)(1), is amended by deleting the last sentence of the subdivision and substituting instead the following:

The sheriff or chief administrative officer of a local jail or workhouse may use alternative facilities for the incarceration of an offender convicted of a violation of § 55-10-401.

SECTION 14. Section 3 of this act that authorizes a person whose driver license has been revoked or restricted prior to July 1, 2019, to petition a court for reinstatement of the person's driver license shall take effect thirty (30) days after the date upon which the commissioner of safety provides written notification to the secretary of state and the executive secretary of the Tennessee code commission that the department of safety's "A-list" driver license program is capable of implementing this act, or it shall take effect January 1, 2020, whichever is earlier, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2019, the public welfare requiring it.