

## Chapter 49: Intoxication and Alcoholic Beverage Offenses

### Sec. 49.02. Public Intoxication

#### (1) GENERAL

then and there appear in a public place, namely, **#1** [describe place], while intoxicated by reason of the introduction of **#2** ["alcohol" **OR** "a controlled substance" **OR** "a drug" **OR** "a dangerous drug" **OR** a combination of (describe intoxicating substances)] into the body, and the defendant was then and there intoxicated to the degree that the defendant might endanger **#3** ["himself" **OR** "herself"] or another.

#### (2) PRIOR CONVICTIONS

[Add paragraph after main charge:]

And it is further presented that before the commission of the charged offense (hereafter styled the primary offense), the defendant had been previously convicted three times of offenses under **#1** ["Section 42.01" **OR** "Section 49.02" **OR** "Sections 42.01 and 49.02"] of the Texas Penal Code, in that on the **#2** [date of conviction], in the **#3** [name of court] of **#4** [county of court] County, Texas, in cause number **#5** [cause number], the defendant was convicted of the offense of **#6** [charge convicted], and on the **#7** [date of conviction], in the **#8** [name of court] of **#9** [county of court] County, Texas, in cause number **#10** [cause number], the defendant was convicted of the offense of **#11** [charge convicted], and on the **#12** [date of conviction], in the **#13** [name of court] of **#14** [county of court] County, Texas, in cause number **#15** [cause number], the defendant was convicted of the offense of **#16** [charge convicted], and each of the convictions were for offenses that were committed in the 24 months preceding the date of commission of the primary offense.

### Sec. 49.04. Driving While Intoxicated

#### (1) ALCOHOL

then and there operate a motor vehicle in a public place while the defendant was intoxicated.

#### (2) DRUGS

then and there operate a motor vehicle in a public place while the defendant was intoxicated.

#### (3) COMBINATION OF INTOXICATING SUBSTANCES

then and there operate a motor vehicle in a public place while the defendant was intoxicated.

#### (4) SERIOUS BODILY INJURY

And it is further presented that as a direct result of this offense, another person, namely, **#1** [injured party], suffered serious bodily injury.

#### (5) OPEN CONTAINER

And it is further presented that at the time of the above offense, the defendant, who was operating the motor vehicle, knowingly had an open container of an alcoholic beverage, to-wit: **#1** [describe container and beverage], in **#2** ["his" **OR** "her"] immediate possession.

#### (6) ALCOHOL CONCENTRATION LEVEL OF 0.15 OR MORE

And it is further presented that at the time of performing an analysis of a specimen of the defendant's **#1** ["blood" **OR** "breath" **OR** "urine"], the analysis showed an alcohol concentration level of 0.15 or more.

## **(7) ONE PRIOR CONVICTION**

### **(A) DRIVING WHILE INTOXICATED**

And it is further presented that prior to the commission of the charged offense, on the **#1** [date of conviction], in cause number **#2** [cause number] in the **#3** [name of court] of **#4** [county of court] County, Texas, the defendant was convicted of an offense relating to the operating of a motor vehicle while intoxicated.

### **(B) FLYING, BOATING, OR AMUSEMENT RIDE WHILE INTOXICATED**

And it is further presented that prior to the commission of the charged offense, on the **#1** [date of conviction], in cause number **#2** [cause number] in the **#3** [name of court] of **#4** [county of court] County, Texas, the defendant was convicted of an offense relating to the **#5** ["operating" **OR** "operating or assembling"] **#6** ["an aircraft" **OR** "a watercraft" **OR** "an amusement ride"] while intoxicated.

### **(C) INTOXICATION MANSLAUGHTER**

#### ***(1) Texas Conviction***

And it is further presented that before the commission of the charged offense, the defendant had theretofore been convicted of an offense under Section 49.08 of the Texas Penal Code, in that on the **#1** [date of conviction], in the **#2** [name of court] of **#3** [county of court] County, Texas, in cause number **#4** [cause number], the defendant was convicted of the offense of **#5** [charge convicted].

#### ***(2) Foreign Conviction***

And it is further presented that before the commission of the charged offense, on the **#1** [date of conviction], in the **#2** [name of court] of **#3** [jurisdiction of court] in cause number **#4** [cause number], the defendant was convicted of the offense of **#5** [charge convicted], and the offense contained elements that are substantially similar to the elements of an offense under Section 49.08 of the Texas Penal Code.

## **(8) TWO PRIOR CONVICTIONS**

### **(A) BOTH FOR DRIVING WHILE INTOXICATED**

And it is further presented that prior to the commission of the charged offense (hereafter styled the primary offense), on the **#1** [date of first conviction], in cause number **#2** [cause number of first conviction] in the **#3** [name of court of first conviction] of **#4** [county of court of first conviction] County, Texas, the defendant was convicted of an offense relating to the operating of a motor vehicle while intoxicated; and on the **#5** [date of second conviction], in cause number **#6** [cause number of second conviction] in the **#7** [name of court of second conviction] of **#8** [county of court of second conviction] County, Texas, the defendant was convicted of an offense relating to the operating of a motor vehicle while intoxicated.

### **(B) OTHER**

And it is further presented that prior to the commission of the charged offense (hereafter styled the primary offense), on the **#1** [date of first conviction], in cause number **#2** [cause number of first conviction] in the **#3** [name of court of first conviction] of **#4** [county of court of first conviction] County, Texas, the defendant was convicted of an offense relating to the **#5** ["operating" **OR** "operating or assembling"] **#6** ["a motor vehicle" **OR** "an aircraft" **OR** "a watercraft" **OR** "an

amusement ride”] while intoxicated; and on the **#7** [date of second conviction], in cause number **#8** [cause number of second conviction] in the **#9** [name of court of second conviction] of **#10** [county of court of second conviction] County, Texas, the defendant was convicted of an offense relating to the **#11** [“operating” **OR** “operating or assembling”] **#12** [“a motor vehicle” **OR** “an aircraft” **OR** “a watercraft” **OR** “an amusement ride”] while intoxicated.