

**PART 7  
DRIVING SAFETY COURSES (DSC)/  
MOTORCYCLE OPERATOR COURSES (MOC)**

**A. Application**

**1. Offenses to Which DSC/MOC Applies**

Article 45.0511, C.C.P., is entitled "Driving Safety Course (DSC) or Motorcycle Operator Course (MOC) Dismissal Procedures." These remedial courses are applicable to dismiss offenses that are in the jurisdiction of the justice or municipal court and involve the operation of a motor vehicle defined by Section 472.022, T.C.; Subtitle C, Title 7, T.C.; and Section 729.001(a)(3), T.C.

**2. Exceptions**

Defendants eligible for driving safety or motorcycle operators' courses have the right to take one course in each 12-month period to dismiss certain types of traffic offenses. Article 45.0511, Sections (b)(5), (p), and (s) prohibit the following groups from dismissals through DSC/MOC:

- persons who are alleged to have been speeding 25 mph or more over the speed limit;
- persons driving 95 miles per hour or more;
- an offense committed in a construction or maintenance zone when workers are present;
- persons charged with passing a school bus loading or unloading children;
- persons charged with leaving the scene of an accident after causing damage to a vehicle that is driven or attended;
- persons charged with leaving the scene of an accident and failing to give information and/or render aid;
- persons committing a serious traffic violation; and
- persons who held a commercial driver's license at the time of the offense or hold a CDL at the time of the request for DSC, including when the person is driving his or her own personal vehicle.

**B. Eligibility and Requirements**

To be eligible for a DSC or a MOC, the defendant:

- may not have completed an approved driving safety course or motorcycle operator course, as appropriate, within the 12 months preceding the date of the offense (see exception below for specialized safety belt course);
- must enter a plea of guilty or nolo contendere on or before the answer date on the citation and present the request to take the course to the court in person, by counsel, or by certified mail (postmarked on or before due date);
- must present to the court a valid Texas driver's license or permit or proof of active military duty status or be the spouse or dependent child of a person on active military duty; and
- must provide the court evidence of financial responsibility.

## **C. Costs**

### **1. Mandatory**

Court cost statutes require the defendant to pay all applicable court costs up front when the court grants the request for a driving safety course. Sec. 133.101, L.G.C.

### **2. Judge's Discretion**

#### **a. Administrative Fees**

The court may require a \$10 administrative fee if the request is made on or before the answer date on the citation. Art. 45.0511(f), C.C.P.

If someone has taken a driver's safety or motorcycle operator's course in the last 12 months or fails to timely submit their request for a DSC/MOC, the judge may nonetheless grant the course under Article 45.0511(d), C.C.P., at his or her discretion. If the judge allows a defendant to take a driving safety course under this permissive provision, the judge may require a fee in an amount not to exceed the maximum amount of the fine for the offense.

If the person does not complete the course or present the other required evidence and the fine is imposed, the person is not entitled to a refund of the fee under the mandatory or permissive provisions.

#### **b. Optional Driving Record Fee**

The court may require the defendant to pay a \$12 fee for obtaining a copy of the defendant's driving record from DPS through TexasOnline. A record must be kept of the fees and they must be remitted to the State Comptroller quarterly who then credits the fees to DPS. Art. 45.0511(c-1), C.C.P.

## **D. When Course Granted**

After the defendant enters a plea and makes the request for the course, the court enters judgment on the plea at the time the plea is made, defers imposition of the judgment, and allows the defendant 90 days to successfully complete an approved course and present required evidence of course completion to the court.

## **E. Course Requirements**

### **1. DSC**

If the offense was committed in a passenger car or a pickup truck, the judge must require the defendant to complete a driving safety course approved by the Texas Education Agency.

### **2. MOC**

If the offense was committed on a motorcycle, the judge must require a motorcycle operator course under the motorcycle operator training and safety program approved by the Texas Department of Public Safety.

### **3. Special Safety Belt Course**

If the offense charged is either Section 545.412 or 545.413(b), T.C., involving securing children in child safety seat systems or safety belts, defendants have a right to request a driving safety course. The court, after determining if the defendant is eligible, must require a driving safety course that contains four hours of instruction on the effectiveness and safety of using a child

safety seat systems and safety belts. Secs. 545.412(g) and 545.413(i), T.C. If the defendant completes the course, the court must dismiss the case and report the completion date of the driving safety course for inclusion in the defendant's driving record.

A defendant may take a specialized driving safety course for failing to keep a child secured in a child passenger safety seat system or a safety belt even though he or she has taken a regular driving safety course in the last 12 months. The defendant's driving record and affidavit must show that the specialized driving safety course was not taken in the last 12 months. The Texas Education Agency refers to this specialized DSC as "Seat Belt School." Art. 45.0511(u), C.C.P.

#### **F. Requirements for Dismissal**

For dismissal of the case, the defendant must present to the court on or before the 90<sup>th</sup> day after permission was granted to take the DSC or MOC:

- a certificate of completion of the DSC or MOC;
- the defendant's driving record as maintained by the Department of Public Safety showing that the defendant had not completed an approved driving safety course or motorcycle operator training course, as applicable, within the 12 months preceding the date of the offense; or
- an affidavit stating that the defendant was not taking a driving safety course or motorcycle operator training course at the time of the request nor has the defendant taken a course in the preceding 12 months from the date of the offense (members of active military duty must swear that they have not taken a course in another state in the preceding 12 months from the date of the offense).

#### **G. Satisfactory Completion**

When the defendant presents all the evidence required, the court shall remove the judgment and dismiss the charge.

#### **H. Failure Submit Required Evidence**

If a person fails to present the court with the required evidence of course completion, the copy of the driving record as maintained by the Texas Department of Public Safety, and the affidavit, the court shall set a show cause hearing and notify the defendant by mail of the hearing. If the defendant fails to appear for the show cause hearing, the court shall impose the fine. If the person appears and can show good cause for the failure to furnish evidence to the court, the court may allow an extension of time during which the defendant may present the evidence of course completion and other required evidence.

#### **I. Appeal**

If a defendant fails to complete the course or fails to submit all the required evidence and the judge subsequently adjudicates the defendant's guilt, the defendant may appeal the conviction.

#### **J. Payment of Fine**

Defendants who do not complete the driving safety course and do not appeal must pay the fine. The judge, after a show cause hearing, enters judgment, which may be appealed or paid. When the defendant decides not to appeal, the payment becomes due. If the defendant is placed on a time payment plan, the court will count days from the final judgment at the end of the 90 day period to determine the 31<sup>st</sup> day for the time payment fee to be added if necessary.

### K. Report to the Texas Department of Public Safety

If the defendant completes the DSC or MOC and presents satisfactory evidence of the other requirements and the charge is dismissed, the court reports the date of successful completion to DPS. Art. 45.0511, C.C.P.

If the defendant fails to complete the course and does not appeal, the court reports the conviction to the DPS.

#### True or False

- Q. 1. A defendant charged with speeding in a school zone less than 25 mph over the speed limit is eligible for a driving safety course. \_\_\_\_\_
- Q. 2. A person charged with committing a traffic offense in a construction or maintenance zone when workers are present is not eligible for a driving safety course. \_\_\_\_\_
- Q. 3. A person charged with failure to yield-right-of-way and causing an accident is never eligible for a driving safety course. \_\_\_\_\_
- Q. 4. A defendant operating a commercial vehicle at the time of the offense is not eligible to take a driving safety course regardless of the traffic offense he or she is charged with. \_\_\_\_\_
- Q. 5. To attend a driving safety course for dismissal of a citation, all defendants must make a personal appearance at the court on or before the answer date on their citation. \_\_\_\_\_
- Q. 6. Only drivers with a Texas driver's license or permit are eligible to take a driving safety course. \_\_\_\_\_
- Q. 7. Courts may charge an administrative fee of up to \$10 dollars to offset costs involved in the processing of driving safety course requests. \_\_\_\_\_
- Q. 8. When a defendant elects to take a driving safety course, the court must enter judgment but defer imposition of the judgment for 90 days. \_\_\_\_\_
- Q. 9. If the defendant was operating a motorcycle, the court must require the defendant to complete a motorcycle operator-training course approved by DPS. \_\_\_\_\_
- Q. 10. Defendants who have had a DSC in the preceding 12 months are not eligible for the special safety belt course. \_\_\_\_\_
- Q. 11. If a defendant has had a DSC in the preceding 12 months from the date of the current offense, the court may allow a defendant to take a driving safety course, but the court has the discretion to require a special expense fee not to exceed the maximum amount of the possible fine. \_\_\_\_\_
- Q. 12. If a defendant completes the driving safety course and submits the other required evidence, the court is required to remove the judgment and dismiss the charge. \_\_\_\_\_
- Q. 13. If a defendant does not show evidence of completion of a driving safety course, a sworn affidavit, and a copy of his or her driving record from the Texas Department of Public Safety, the court is required to set a show cause hearing and mail notice to the defendant. \_\_\_\_\_
- Q. 14. Defendants who fail to complete a driving safety course do not have the right to appeal. \_\_\_\_\_

Q. 15. If a defendant completes a driving safety course, the court must report to the Department of Public Safety the date the court dismissed the case. \_\_\_\_\_

### **CONCLUSION**

Traffic law is a mixture of various laws and regulations with a common purpose. They attempt to protect citizens who travel on the streets and highways. The courts are responsible for knowing and understanding these laws, educating the public on them, and promoting safer driving through punitive or remedial action.

## COMPARISONS OF DEFERRED OPTIONS

(Effective September 1, 2009)



	Driving Safety Course (DSC) or Motorcycle Operator Course (MOC) Dismissal Procedures, Article 45.0511, C.C.P.	Suspension of Sentence and Deferral of Final Disposition, Article 45.051, C.C.P.
<b>Application/Use</b>	<p>Applies to the following traffic offenses:</p> <ul style="list-style-type: none"> <li>• Section 472.022, T.C.; (Obeying Warning Signs)</li> <li>• Subtitle C, Title 7, T.C.; (Rules of the Road)</li> <li>• Section 729.001(a)(3), T.C. (Operation of Motor Vehicle by Minor)</li> </ul> <p>Does <u>not</u> apply to:</p> <ul style="list-style-type: none"> <li>• Offenses committed in a construction work maintenance zone when workers are present, Sec. 542.404, T.C.; Art. 45.0511(p)(3), C.C.P.;</li> <li>• Traffic offenses committed by a person with a commercial driver's license, Art. 45.0511(s), C.C.P.;</li> <li>• Passing a school bus, Sec. 545.066, T.C.;</li> <li>• Leaving the scene of an accident, Sec. 550.022 or 550.023, T.C.; or</li> <li>• Speeding 25 mph or more over the limit or in excess of 95 m.p.h. Art. 45.0511(b)(5), C.C.P.</li> </ul> <p>Court must advise person charged with offenses under Subtitle C, Rules of the Road, T.C., of right to take course.</p>	<p>Applies to all fine-only offenses except:</p> <ul style="list-style-type: none"> <li>• Traffic offenses committed in a construction work maintenance zone when workers present (Sec. 542.404, T.C.; Art. 45.051(f)(1), C.C.P.); or</li> <li>• A violation of a state law or local ordinance relating to motor vehicle control, other than a parking violation, committed by a person who holds a commercial driver's license; or held a commercial driver's license when offense committed (Art. 45.051(f), C.C.P.).</li> </ul>
<b>How Often</b>	<p>Defendant may request if the defendant has not had a driving safety course within the 12 months preceding the date of the current offense.</p> <p>Under Subsection (u), defendants may take DSC for a violation of Child Passenger Safety Seat laws even if they have taken DSC in the last 12 months, as long as the judge requires the defendant to take a specialized DSC (including 4 hours of instruction on child passenger safety seat systems) and any course the defendant has taken in the last 12 months did not include such instruction.</p> <p>If the defendant is a member, spouse, or dependant child of a member, of the US military forces serving on active duty, the defendant cannot have taken a driving safety course/motorcycle operator course in another state within the 12 months preceding the date of the current offense.</p> <p>Under Subsection (d), the court has discretion to grant DSC/MOC even if one has been taken within the previous 12 month period, or if the request was not made timely.</p>	<p>Subject to judicial discretion.</p>
<b>Plea Required</b>	<p>A plea of guilty or nolo contendere is required when the request is made. Request must be made on or before answer date on citation. Judge has discretion to grant a late request under Subsection (d).</p>	<p>A plea of guilty or nolo contendere or a finding of guilt required.</p>
<b>Proof of TX DL or on Active Military Duty</b>	<p>Defendant must have a Texas driver's license or permit. If the defendant is on active military duty or is an active duty military spouse or dependant child, the defendant does not have to have a Texas driver's license or permit.</p>	<p>NO</p>
<b>Proof of Financial Responsibility</b>	<p>Defendants are required to present proof of financial responsibility as required by Chapter 601, Transportation Code.</p>	<p>NO</p>
<b>State Court Cost Collected</b>	<p>YES Due when request made.</p>	<p>YES Judge may allow defendant to pay out during deferral period by time payments, performing community service, or both.</p>
<b>Time Limit</b>	<p>Court defers imposition of the judgment for 90 days. The defendant must take the course and present evidence of completion by the 90<sup>th</sup> day. Defendant is also required to present to the court a certified copy of his or her driving record as maintained by DPS and an affidavit stating that he or she was not taking DSC or MOC at the time of the request nor has he or she taken a course that is not on his or her driving record. Under Subsection (u), the defendant's driving record and affidavit are required to show that defendant did not have specialized DSC in preceding 12 months.</p>	<p>Not to exceed 180 days. (1 to 180 days)</p>
<b>Optional Administrative or Special Expense Fee</b>	<p>If defendant makes request on or before answer date, the court may only assess an administrative \$10 non-refundable fee.</p> <p>If the judge grants a course before the final disposition of the case under Subsection (d), the court may assess a fee not to exceed the maximum possible penalty for the offense.</p>	<p>SPECIAL EXPENSE FEE (SEF), not to exceed amount of fine that could be imposed at the time the court grants the deferral. Court may elect not to collect for good cause shown. SEF may be collected at anytime before the date the probation ends. In the event of default, the judge shall require that the amount of the SEF be credited toward the amount of the fine imposed by the judge.</p>

	<b>Driving Safety Course (DSC) or Motorcycle Operator Course (MOC) Dismissal Procedures Article 45.0511, C.C.P.</b>	<b>Suspension of Sentence and Deferral of Final Disposition Article 45.051, C.C.P.</b>
<b>Fee for Driving Record</b>	Rather than allowing the defendant to obtain his or her driving record and provide it to the court, the court may obtain the certified driving record from DPS. A \$10 fee plus the \$2 TexasOnline fee may be imposed if the court chooses this option (Art. 45.0511 (c-1), C.C.P.).	Court is not required to order the defendant to obtain a driving record (it may, however, be mandated as a reasonable condition). There is no authorization for the court to collect a fee for obtaining the defendant's driving record.
<b>Other Requirements</b>	Request may be oral or in writing. If mailed, request must be sent certified mail. (Art. 45.0511(b)(3), C.C.P.)  When a defendant requests a course on or before the answer date on the citation, the defendant must present evidence of a valid Texas driver's license or permit, or show that he or she is on active military duty.  On or before the 90 <sup>th</sup> day after the request the defendant must present: 1. Evidence of course completion; 2. A copy of his or her driving record as maintained by DPS, if any; 3. If the defendant is on active military duty and does not have a Texas driver's license, the affidavit must state that the defendant was not taking a driving safety course or motorcycle operator course, as appropriate, in another state on the date of the request to take the course was made and had not completed such a course within the 12 months preceding the date of the offense. 4. An affidavit stating that he or she was not taking a course at the time of request for the current offense nor had he or she taken a course that was not yet on his or her driving record within the 12 months preceding the date of the current offense. 5. If the offense is charged under Section 545.412, T.C., (Child Passenger Safety Seat Systems), the defendant's driving record and affidavit are only required to show that they have not taken the specialized DSC in the last 12 months.	Requirements: Judge <u>may</u> require the defendant to do the following: 1. Post bond in the amount of the fine assessed to secure payment of the fine; 2. Pay restitution to the victim of the offense in an amount not to exceed the fine assessed; 3. Submit to professional counseling; 4. Submit to diagnostic testing for alcohol or controlled substance or drug; 5. Submit to psychosocial assessment; 6. Participate in an alcohol or drug abuse treatment or education program; 7. Pay the costs of any diagnostic testing, psychosocial assessment, or participation in a treatment or education program either directly or through the court as court costs; 8. Complete DSC or other course as directed by the judge; 9. Present to the court satisfactory evidence of compliance with the terms imposed by the judge; and 10. Comply with any other reasonable condition.  Requirements - Judge <u>must</u> : If defendant under age 25 is charged with a moving traffic offense, Subsection (b)(8) does not apply. The judge shall require DSC. If the defendant holds a provisional license, the judge shall require the defendant to be examined by DPS under Sec. 521.161(b)(2), T.C., and pay DPS a \$10 fee.  For Alcoholic Beverage Code Offenses and the offense of Public Intoxication (Sec. 49.02(e), P.C., defendant under the age of 21), court must require an alcohol awareness course. Sec. 106.115(a), A.B.C.  For Alcoholic Beverage Code offenses, except DUI, and the offense of Public Intoxication (Sec. 49.02(e), P.C., defendant under the age of 21), court must require community service. Sec. 106.071(d), A.B.C. <b>1st offense:</b> eight to 12 hours. <b>2nd offense:</b> 20 to 40 hours.
<b>Satisfactory Completion</b>	Judge shall remove the judgment and dismiss the case; the dismissal must be noted in the docket. Court reports the completion date of the course after the court dismisses the case.	Judge shall dismiss and note in docket that complaint is dismissed. (Only report to DPS the order of deferred for Alcoholic Beverage Code offenses.)
<b>Failure to Complete</b>	If defendant fails to furnish the evidence of course completion, a copy of his or her driving record as maintained by DPS that shows that he or she had not taken DSC or MOC within the 12 months preceding the date of offense, and the affidavit, the court shall set a show cause hearing and notify the person by mail. At the hearing the judge may, on a showing of good cause, allow the defendant time to present the uniform certificate of course completion. If the court does not grant more time, the court shall enter a final judgment ordering the defendant to pay the fine.  If a defendant fails to appear at the show cause hearing, the court may, after signing a final judgment, issue a <i>capias</i> pro fine.	If defendant fails to comply with terms of the deferral, the court shall set a show cause hearing and notify the person by mail to the address on file. At the hearing the judge may, on a showing of good cause, allow an additional period during which the defendant may present evidence of compliance with requirements. If at the show cause hearing or by the conclusion of the additional period the defendant does not present satisfactory evidence of compliance, the judge may enter judgment and impose the fine. The judge may reduce fine previously assessed if the defendant is at least 25 years of age or older and not charged with a traffic offense. If the offense is a traffic offense, the court must report the traffic conviction to DPS.  If a defendant fails to appear at the show cause hearing, the court may, after signing a final judgment, issue a <i>capias</i> pro fine.
<b>Appeal</b>	The entering of the final judgment triggers the requirements for making a timely appeal (Arts. 45.042-45.043, C.C.P.).	The entering of the final judgment triggers the requirements for making a timely appeal (Arts. 45.042-45.043, C.C.P.).