

TRAFFIC SAFETY UPDATE
Municipal Prosecutors Program
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OVERALL

- New Texas _____ of _____
Effective November 1, 2009
Transferred the authority over the registration and titling of vehicles from TxDOT to TxDMV
-HB 3097

CHAPTER 502: REGISTRATION

- Municipalities can register recreational off-highway vehicles (similar to all-terrain vehicles) for operation on a highway or public or private beach to maintain _____ and _____.
- Section 502.0071 is repealed (previously authorizing the registration of golf carts)
Instead, see Subchapter F of Chapter 551
-HB 2553

CHAPTER 521: DRIVER'S LICENSES

- Addresses:
Must have a Texas domicile
Must have a valid physical address
New residents have _____ days to obtain a Texas driver's license (Section 521.029)
Note: federal and state judges, and their spouses, can use their courthouse address as their residence address on their driver's license, but municipal judges are not considered state judges for purposes of this amendment
-HB 2730
- Application for driver's licenses
The Less Tears More Years Act:
 - Person under 21YOA must take a _____ (Section 521.142)
 - Upon successful completion, person not required to take highway sign and traffic law parts of the driving test
 - _____ waiver of driving test for anyone under 18YOA (Section 521.165)
 - Provisional licenses and instructional permits expire on person's 18th birthday
-HB 339Share the Road Campaign
 - Applicant for Class M license or endorsement must successfully complete a _____
_____ (Sections 521.148 & 522.034)
-SB 1967

Driving safety and driver education courses to include information relating to the effects of using _____ or engaging in other distracting behaviors and information related to _____.

- Driving While License Invalid (Section 521.457) enhancements:
 - Usually a Class C misdemeanor (up to \$500 fine)
 - Class B misdemeanor if it is shown on the trial of the offense that:
 - The person has a previous conviction of DWLI
 - At time of offense, the person was operating the motor vehicle in violation of Section 601.191 (_____)
 - The license of the person has previously been suspended as the result of an offense involving the operation of a motor vehicle while intoxicated
 - Class A misdemeanor if it is shown on the trial of the offense that at the time of the offense, the person was operating the motor vehicle in violation of Section 601.191 and caused or was at fault in a motor vehicle accident that resulted in serious bodily injury to or the death of another person

-HB 2012

Note: bodily injury and serious bodily injury are defined in Section 1.07, Penal Code, as:
 (8) "Bodily injury" means physical pain, illness, or any impairment of physical condition
 (46) "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

CHAPTERS 541 – 600: RULES OF THE ROAD

- New penalty in Section 542.4045: if it is shown on the trial for a Rules of the Road offense in which an element is the failure to yield the right of way to another motor vehicle, and from that failure to yield, a crash results:
 - fine not less than \$500 or more than \$2,000 if a person other than the operator who failed to yield suffers _____ injury; and
 - fine of not less than \$1,000 or more than \$4,000 if another person suffers _____ injury.

- Section 545.301: Stopping, Standing, or Parking Outside a Business or Residence District Provides that an operator may not stop, park, or leave standing (un)attended a vehicle on the main traveled part of a highway outside a residence or business district, with few exceptions New exemption for a solid/liquid waste vehicle operated at the time in connection with the removal of waste from a location adjacent to the highway

-SB 1967

- SB 1093

PASSENGER RESTRAINT LAWS

- 545.412: Child Passenger Safety Seat Systems
 - 3 changes:
 - Substantive: increased age limit to under _____, unless 4'9" or taller
 - Fine amount: reduced from \$100-\$200 to not more than \$ _____ on first offense or not more than \$ _____ on subsequent offense
 - ½ of fine remitted to State to the credit of the tertiary care fund for use by trauma centers
 - Court cost: new _____ cent court cost on conviction under this section

- Effective date vs. enforcement date
 - Bill effective date = September 1, 2009
 - Enforcement date for “booster-age” children = _____

SECTION 4. (a) Subject to Subsection (c) of this section, the change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(c) **For an offense under Section 545.412, Transportation Code, as amended by this Act, that would not have been an offense under that section before this Act took effect, if the child who is the subject of the offense is secured by a safety belt:**

(1) the offense may be prosecuted only if the offense occurs on or after June 1, 2010; and

(2) before June 1, 2010, a law enforcement officer may not arrest or issue a notice to appear to a person committing the offense, but may issue to the person a warning to comply with Section 545.412, Transportation Code, as amended by this Act.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

-SB 61

- Requires specialized DSC
- Does nothing to affect the defense to prosecution found in Section 545.4121
- 545.413: Safety Belts
 - Subsection (a): _____ occupants of a vehicle must be in safety belt – for adults, no longer just those in the front seat
 - Elements:
 - Applies to persons at least 15 YOA
 - Riding in a passenger vehicle while the vehicle is being operated
 - Occupying a seat that is equipped with a safety belt AND
 - Is not secured by the safety belt
 - Fine: not less than \$25, not more than \$50
 - Subsection (b): Existing offense for the operator of a passenger vehicle that is equipped with safety belts to allow child younger than 17 to ride without being secured by a safety belt (provided in seat with a belt)
 - Fine: not less than \$100, not more than \$200
 - ½ of fine remitted to State to the credit of the tertiary care fund for use by trauma centers
 - Requires specialized DSC
 - Subsection (b-1): New offense to allow a child under 17, who is not required to be in a safety seat under Section 545.412, to ride without securing the child in a safety belt (provided seat equipped with one)
 - Fine: silent
 - Specialized DSC?

-HB 537

- Defenses to prosecution: applies to offenses committed before, on or after effective date
 - Written statement from licensed physician stating that person should not wear safety belt for medical reason
 - Employed by and performing duty for USPS
 - Engaged in actual delivery of newspapers
 - Employed by and engaged in duty for public or private utility company
 - Operating commercial farm vehicle
 - New: operator of or passenger in a motor vehicle used exclusively to transport solid waste and performing duties that require frequent entry into and exit from the vehicle

-HB 3638

- 545.416: Riding on Motorcycle
 - Prohibits children under _____ from being carried on a motorcycle
 - Fine of not less than \$ _____, not more than \$200
 - Defense to prosecution that motorcycle was being operated in an emergency or for a law enforcement purpose
 - Does not prohibit person from carrying child under 5 in a sidecar

- HB 537

- 545.420: Racing on Highway
 - Made a Class B misdemeanor in 2003 (higher if defendant had prior racing convictions, racing while intoxicated or with open container, or bodily injury results)
 - Mandatory impoundment by peace officer for vehicle involved in racing offense that results in property damage or personal injury

- HB 5

CELL PHONE LAWS

- 545.424: Operation of Vehicle by Person Under 18 YOA
 - May not operate vehicle while using wireless communication device, except in case of emergency
 - Wireless communication device means a handheld or _____ that uses commercial mobile service
 - For the first _____ months of licensure, may not operate vehicle:
 - Between midnight and 5 a.m. unless for an employment, school-related, or medical emergency purpose
 - With more than one passenger under 21 YOA who is not a family member
 - Peace officer may not stop a vehicle or detain operator for sole purpose of determining whether this section violated

- HB 339

- 545.425: Use of Wireless Communication Device
 - Operator may not use wireless communication device while operating motor vehicle within a _____ unless:
 - Vehicle is stopped; or
 - Wireless communication device is used with a hands-free device

- Municipality that enforces this section shall post signs at the entrance to each school crossing zone
 - Sign can be attached to existing sign (reduced speed sign)
 - Must inform operator that use prohibited and subject to fine

“School crossing zone” means a reduced-speed zone designated on a street by a local authority to facilitate safe crossing of the street by children going to or leaving a public or private elementary or secondary school during the time the reduced speed limit applies.

- Operator may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus unless the bus is stopped
- Affirmative defenses:
 - Used to make an emergency call to enumerated departments/providers
 - Sign not posted at entrance to school crossing zone at time offense was committed
- Does not apply to operator of emergency vehicle acting in official capacity or FCC operator
- Preempts city ordinances that are inconsistent with specific provisions of this section relating to the use of a wireless communication device by the operator of a motor vehicle
- Fine: \$1 - \$ _____ (general Rules of the Road penalty)
- Moving violation?

-HB 55

- Pedestrian Offenses:
 - Sections 552.003 & 552.010
 - Penalty of fine of not more than \$ _____ and _____ hours community service (to include portion on sensitivity training) if it is shown at trial that a collision resulted in serious bodily injury or death to a blind or disabled person
 - Conduct can be charged under both sections
 - White cane offense: 552.010(a): no person may carry a white cane on a public street or highway unless the person is totally or partially blind

- HB 1343

CHAPTER 601: FINANCIAL RESPONSIBILITY

- On second or subsequent conviction for FMFR (Section 601.191), court shall order sheriff to impound defendant’s vehicle (Section 601.261)
- Impoundment lasts for 180 days –or- until defendant applies for release and shows evidence of financial responsibility for the two-year period from that date (Section 601.262)
- The court, by order, shall permit a defendant to provide this evidence of insurability in increments of a period of not less than _____

-HB 586

- Note: if charged with FMFR while driving with invalid license, can be filed as enhanced DWLI charge as a Class B misdemeanor (see CHAPTER 521: DRIVER’S LICENSES above)

CHAPTER 661: MOTORCYCLES

- “Motorcycle” includes an enclosed three-wheeled vehicle that is designed to operate with three wheels in contact with the ground...has a single, completely enclosed occupant compartment... and is equipped with seats, a steering wheel, a seat belt for each occupant, ... and a windshield and wipers... (Section 521.001(6-a))
 - Do not need a class _____ license or endorsement to operate this type of motorcycle (Section 521.085)
 - Can use preferential (HOV) lanes (Section 680.013)

-HB 3599

- Share the road campaign
 - Helmet laws (Section 661.003)

It _____ against the law to operate or ride as a passenger on a motorcycle and not wear protective headgear. It _____ against the law for an operator to operate the motorcycle with a passenger who is not wearing protective headgear.

- No more \$10,000 minimum requirement for health insurance
- No more DPS stickers
- Now a standard proof of insurance from TDI to persons at least _____ years old who are covered by health insurance
- Fine of \$10-\$50
- Peace officer may not stop or detain a person who is the operator of or a passenger on a motorcycle for the sole purpose of determining whether he/she (1) successfully completed a motorcycle operator training course or (2) is covered by a health insurance plan (Section 661.003(c-1))
- However, any peace officer may stop and detain a person who is a motorcycle operator or passenger to inspect the person’s protective headgear for compliance with DPS safety standards (Section 661.004)

-SB 1967

CHAPTER 681: PRIVILEGED PARKING

- Vehicles with out-of-state disabled veteran plates can park in handicap spaces and be exempt from meter fees (Section 681.008)
 - Previously only in-state disabled veteran plates were eligible for these privileges
- Physician Assistants can issue disabled parking placards only on person’s first application if in county of 125,000 or less

- HB 2020

- SB 1984

- Unlawfully parking in a space reserved for persons with disabilities (Section 681.011):

	Old law	HB 3095	SB 52
First	\$250 - \$500	\$500 - \$750	Same as current
Second	\$300 - \$600	\$550 - \$800 & 10 hrs CS	\$500 - \$800 & 10 hrs CS
Third	\$300 - \$600 & 10-20 hrs CS	\$550 - \$800 & 20-30 hrs CS	\$550 - \$800 & 20 hrs CS
Fourth	\$500 - \$1,000 & 20-50 hrs CS	\$800 - \$1,100 & 50 hrs CS	\$800 - \$1,100 & 30 hrs CS
Fifth	\$1,000 & 50 hrs CS	\$1,250 & 50 hrs CS	\$1,250 & 50 hrs CS

- New compliance dismissal (Section 681.013)
 - Court shall dismiss charge under Section 681.011(b)(1) if:
 - Vehicle displayed an expired disabled parking placard
 - Defendant remedies the defect by renewing the placard within _____ working days from date of offense or before defendant's first court appearance (whichever later)
 - Placard had not been expired more than _____ days AND
 - Court assesses an administrative fee not to exceed \$ _____
 - Court may dismiss charge if at the time of the offense, the defendant's vehicle displayed a disabled parking placard expired more than 60 days

- HB 400

CHAPTER 708: DRIVER RESPONSIBILITY PROGRAM

- Not effective until _____
and only applies to surcharges assessed after the effective date
 - DPS shall send at least 3 notices to a holder when a surcharge is assessed
 - Is currently 1 notice
 - Contains new requirements for the notices
 - License cannot be suspended before the 105th day after the date the surcharge is assessed
 - Is currently 30 days after surcharge is assessed
 - DPS must provide minimum time periods for holders to pay a surcharge
 - Prohibits any installment plan requiring holder to pay more over a shorter time
 - Ex: cannot require holder to pay surcharges of \$249 or less over a period of less than 12 consecutive months
 - A missed payment does not accelerate the balance due; rather the holder can catch up and go back on installment payments
 - DPS shall establish an indigency program
 - Procedures for establishing indigency: a person is indigent if he/she provides certain evidence to the court
 - DPS shall waive all surcharges for a person who is indigent
 - DPS shall establish a program to deduct one point accumulated by a license holder to account for each year the person does not accumulate more points in the surcharge program

-HB 2730 ↴