

LEGISLATIVE UPDATE '09: Full Bill Text

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NOTE: Full bill text (including those bills for which only excerpts are included here) can be viewed at the Texas Legislature Online website at www.capitol.state.tx.us.

You can search by bill number under the 81st Regular Legislature, select the Text tab, and download the enrolled version of the bill in PDF, HTML, or Microsoft Word. This option also displays voting information for each bill.

AN ACT

relating to an offense of using a wireless communication device while operating a motor vehicle.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 545.425, Transportation Code, is amended to read as follows:

Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE; OFFENSE [~~BY CERTAIN MOTORISTS~~]. (a) In this section:

(1) "Hands-free device" means speakerphone capability or a telephone attachment or other piece of equipment, regardless of whether permanently installed in the motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands.

(2) "Wireless communication device" means a device that uses a commercial mobile service, as defined by 47 U.S.C. Section 332.

(b) Except as provided by Subsection (c), an operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone, as defined by Section 541.302, Transportation Code, unless:

(1) the vehicle is stopped; or

(2) the wireless communication device is used with a hands-free device.

(b-1) A municipality, county, or other political subdivision that enforces this section shall post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision. The department shall adopt standards that:

(1) allow for a sign required to be posted under this subsection to be attached to an existing sign at a minimal cost; and

(2) require that a sign required to be posted under this subsection inform an operator that:

(A) the use of a wireless communication device is prohibited in the school crossing zone; and

(B) the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone.

(c) An operator [~~A person~~] may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus unless [~~except in case of emergency or if~~] the passenger bus is stopped [~~not in motion~~].

(d) It is an affirmative defense to prosecution of an offense under this section that:

(1) the wireless communication device was used to make an emergency call to:

(A) an emergency response service, including a rescue, emergency medical, or hazardous material response service;

(B) a hospital;

(C) a fire department;

(D) a health clinic;

(E) a medical doctor's office;

(F) an individual to administer first aid treatment; or

(G) a police department; or

(2) a sign required by Subsection (b-1) was not posted at the entrance to the school crossing zone at the time of an offense committed in the school crossing zone.

(e) This section does not apply to:

(1) an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity; or

(2) an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.

(f) This section preempts all local ordinances, rules, or regulations that are inconsistent with specific

provisions of this section adopted by a political subdivision of this state relating to the use of a wireless communication device by the operator of a motor vehicle.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. 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. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 72

AN ACT

relating to the waiting period for issuing a decree in certain suits for divorce.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 6.702, Family Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (c), the [The] court may not grant a divorce before the 60th day after the date the suit was filed. A decree rendered in violation of this subsection is not subject to collateral attack.

(c) A waiting period is not required under Subsection (a) before a court may grant a divorce in a suit in which the court finds that:

(1) the respondent has been finally convicted of or received deferred adjudication for an offense involving family violence as defined by Section 71.004 against the petitioner or a member of the petitioner's household; or

(2) the petitioner has an active protective order under Title 4 or an active magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure, based on a finding of family violence, against the respondent because of family violence committed during the marriage.

SECTION 2. The change in law made by this Act applies only to a suit for dissolution of a marriage filed on or after the effective date of this Act. A suit for dissolution of a marriage filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

SECTION 3. 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.

H.B. 148

AN ACT

relating to the prosecution of the offense of barratry and solicitation of professional employment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 38.12(d), Penal Code, is amended to read as follows:

(d) A person commits an offense if the person:

(1) is an attorney, chiropractor, physician, surgeon, or private investigator licensed to practice in this state or any person licensed, certified, or registered by a health care regulatory agency of this state; and

(2) with the intent to obtain professional employment for the person [himself] or for another, provides [sends] or knowingly permits to be provided [sent] to an individual who has not sought the person's employment, legal representation, advice, or care a written communication or a solicitation, including a solicitation in person or by telephone, that:

(A) concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication or solicitation is provided [addressed] or a relative of that person and that was provided [mailed] before the 31st day after the date on which the

accident or disaster occurred;

(B) concerns a specific matter and relates to legal representation and the person knows or reasonably should know that the person to whom the communication or solicitation is directed is represented by a lawyer in the matter;

(C) concerns an arrest of or issuance of a summons to the person to whom the communication or solicitation is provided [~~addressed~~] or a relative of that person and that was provided [~~mailed~~] before the 31st day after the date on which the arrest or issuance of the summons occurred;

(D) concerns a lawsuit of any kind, including an action for divorce, in which the person to whom the communication or solicitation is provided [~~addressed~~] is a defendant or a relative of that person, unless the lawsuit in which the person is named as a defendant has been on file for more than 31 days before the date on which the communication or solicitation was provided [~~mailed~~];

(E) is provided [~~sent~~] or permitted to be provided [~~sent~~] by a person who knows or reasonably should know that the injured person or relative of the injured person has indicated a desire not to be contacted by or receive communications or solicitations concerning employment;

(F) involves coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence; or

(G) contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 205

AN ACT

relating to the applicability of certain city requirements affecting the restraint of certain dogs on annexed or otherwise acquired property used for agricultural operations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 251.005, Agriculture Code, is amended by adding Subsection (c-2) to read as follows:

(c-2) A governmental requirement of a city relating to the restraint of a dog that would apply to an agricultural operation under Subsection (c) does not apply to a dog used to protect livestock on property controlled by the property owner while the dog is being used on such property for that purpose.

SECTION 2. 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.

H.B. 319

AN ACT

relating to an exemption from jury service for certain persons with legal custody of a child.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 62.106(a), Government Code, is amended to read as follows:

(a) A person qualified to serve as a petit juror may establish an exemption from jury service if the person:

(1) is over 70 years of age;

(2) has legal custody of a child younger than 15 [~~14~~] years of age and the person's service on the jury requires leaving the child without adequate supervision;

(3) is a student of a public or private secondary school;

(4) is a person enrolled and in actual attendance at an institution of higher education;

(5) is an officer or an employee of the senate, the house of representatives, or any department,

commission, board, office, or other agency in the legislative branch of state government;

(6) is summoned for service in a county with a population of at least 200,000, unless that county uses a jury plan under Section 62.011 and the period authorized under Section 62.011(b)(5) exceeds two years, and the person has served as a petit juror in the county during the 24-month period preceding the date the person is to appear for jury service;

(7) is the primary caretaker of a person who is an invalid unable to care for himself;

(8) except as provided by Subsection (b), is summoned for service in a county with a population of at least 250,000 and the person has served as a petit juror in the county during the three-year period preceding the date the person is to appear for jury service; or

(9) is a member of the United States military forces serving on active duty and deployed to a location away from the person's home station and out of the person's county of residence.

SECTION 2. This Act applies only to a person summoned to appear for jury service who is required to appear on or after the effective date of this Act. A person summoned to appear for jury service who is required to appear before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 339

AN ACT

relating to driver education and driver's licensing requirements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Less Tears More Years Act.

SECTION 2. Section 29.902, Education Code, is amended by adding Subsection (c) to read as follows:

(c) A school district shall consider offering a driver education and traffic safety course during each school year. If the district offers the course, the district may:

(1) conduct the course and charge a fee for the course in the amount determined by the agency to be comparable to the fee charged by a driver education school that holds a license under Chapter 1001; or

(2) contract with a driver education school that holds a license under Chapter 1001 to conduct the course.

SECTION 3. Section 1001.004, Education Code, is amended to read as follows:

Sec. 1001.004. COST OF ADMINISTERING CHAPTER. (a) Except as provided by Subsection (b), the [The] cost of administering this chapter shall be included in the state budget allowance for the agency.

(b) The commissioner may charge a fee to each driver education school in an amount not to exceed the actual expense incurred in the regulation of driver education courses established under Section 1001.1015.

SECTION 4. Section 1001.055(a), Education Code, is amended to read as follows:

(a) The agency shall print and supply to each licensed or exempt driver education school driver education certificates to be used for certifying completion of an approved driver education course to satisfy the requirements of Sections [Section] 521.204(a)(2) and 521.1601, Transportation Code. The certificates must be numbered serially.

SECTION 5. Section 1001.101, Education Code, is amended to read as follows:

Sec. 1001.101. ADULT AND MINOR DRIVER EDUCATION COURSE CURRICULUM AND TEXTBOOKS. (a) The commissioner by rule shall establish or approve the curriculum and designate the textbooks to be used in a driver education course for minors and adults, including a driver education course conducted by a school district, driver education school, or parent or other individual under Section 521.205, Transportation Code.

(b) A driver education course must require the student to complete:

(1) 7 hours of behind-the-wheel instruction in the presence of a person who holds a driver education instructor license or who meets the requirements imposed under Section 521.205, Transportation Code;

(2) 7 hours of observation instruction in the presence of a person who holds a driver education instructor

license or who meets the requirements imposed under Section 521.205, Transportation Code; and
(3) 20 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, in the presence of an adult who meets the requirements of Section 521.222(d)(2), Transportation Code.

SECTION 6. Subchapter C, Chapter 1001, Education Code, is amended by adding Section 1001.1015 to read as follows:

Sec. 1001.1015. ADULT DRIVER EDUCATION COURSE CURRICULUM AND EDUCATIONAL MATERIALS. (a) The commissioner by rule shall establish the curriculum and designate the educational materials to be used in a driver education course exclusively for adults.

(b) A driver education course under Subsection (a) must:

(1) be a six-hour course; and

(2) include instruction in:

(A) alcohol and drug awareness;

(B) the traffic laws of this state;

(C) highway signs, signals, and markings that regulate, warn, or direct traffic; and

(D) the issues commonly associated with motor vehicle accidents, including poor decision-making, risk taking, impaired driving, distraction, speed, failure to use a safety belt, driving at night, failure to yield the right-of-way, and using a wireless communication device while operating a vehicle.

(c) A course approved under Subsection (a) may be offered as an online course.

(d) A driving safety course or a drug and alcohol driving awareness program may not be approved as a driver education course under Subsection (a).

SECTION 7. Subchapter C, Chapter 1001, Education Code, is amended by adding Section 1001.110 to read as follows:

Sec. 1001.110. INFORMATION RELATING TO DRIVING DISTRACTIONS. (a) The commissioner by rule shall require that information relating to the effect of using a wireless communication device or engaging in other actions that may distract a driver on the safe or effective operation of a motor vehicle be included in the curriculum of each driver education course or driving safety course.

(b) In developing rules under this section, the commissioner shall consult with the department.

SECTION 8. Subchapter F, Chapter 1001, Education Code, is amended by adding Section 1001.257 to read as follows:

Sec. 1001.257. DENIAL OF LICENSE. The commissioner may not issue or renew a driver education instructor license, including a temporary license, to a person who has six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, Transportation Code.

SECTION 9. Section 521.142(d), Transportation Code, is amended to read as follows:

(d) If the applicant is under 21 [25] years of age, the application must state whether the applicant has completed a driver education course required by Section 521.1601 [approved by the department].

SECTION 10. The heading to Subchapter H, Chapter 521, Transportation Code, is amended to read as follows:

SUBCHAPTER H. EDUCATION AND EXAMINATION REQUIREMENTS

SECTION 11. Subchapter H, Chapter 521, Transportation Code, is amended by adding Sections 521.1601 and 521.167 to read as follows:

Sec. 521.1601. DRIVER EDUCATION REQUIRED. The department may not issue a driver's license to a person who is younger than 21 years of age unless the person submits to the department a driver education certificate issued under Chapter 1001, Education Code, that states that the person has completed and passed:

(1) a driver education and traffic safety course approved by the Texas Education Agency under Section 29.902, Education Code, or a driver education course approved by that agency under Section 1001.101 of that code or approved by the department under Section 521.205; or

(2) if the person is 18 years of age or older, a driver education course approved by the Texas Education

Agency under Section 1001.101 or 1001.1015, Education Code.

Sec. 521.167. WAIVER OF CERTAIN EDUCATION AND EXAMINATION REQUIREMENTS. A person who has completed and passed a driver education course approved by the Texas Education Agency under Section 1001.1015, Education Code, is not required to take the highway sign and traffic law parts of the examination required under Section 521.161 if those parts have been successfully completed as determined by a licensed driver education instructor.

SECTION 12. Section 521.165, Transportation Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Except as provided by Subsection (d), in [H] issuing a driver's license for certain types of vehicles, the director may waive a driving test for an applicant who has successfully completed and passed the training and testing conducted by a person certified under Subsection (a).

(d) The director may not waive the driving test required by Section 521.161 for an applicant who is under 18 years of age.

SECTION 13. Section 521.204(a), Transportation Code, is amended to read as follows:

(a) The department may issue a Class C driver's license to an applicant under 18 years of age only if the applicant:

(1) is 16 years of age or older;

(2) has submitted to the department a driver education certificate issued under Section 9A, Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), that states that the person has completed and passed a driver education course approved by the department under Section 521.205 or by the Texas Education Agency;

(3) has obtained a high school diploma or its equivalent or is a student:

(A) enrolled in a public school, home school, or private school who attended school for at least 80 days in the fall or spring semester preceding the date of the driver's license application; or

(B) who has been enrolled for at least 45 days, and is enrolled as of the date of the application, in a program to prepare persons to pass the high school equivalency exam; ~~and~~

(4) has submitted to the department written parental or guardian permission for the department to access the applicant's school enrollment records maintained by the Texas Education Agency; and

(5) has passed the examination required by Section 521.161.

SECTION 14. Section 521.205(a), Transportation Code, is amended to read as follows:

(a) The department by rule shall provide for approval of a driver education course conducted by the parent, stepparent, foster parent, legal guardian, step-grandparent, or grandparent of a person who is required to complete a driver education course to obtain a Class C license. The rules must provide that:

(1) the person conducting the course possess a valid license for the preceding three years that [and the license] has not been suspended, revoked, or forfeited in the past three years for an offense that involves the operation of a motor vehicle [traffic related violations];

(2) the student driver spend a minimum number of hours in:

(A) classroom instruction; and

(B) behind-the-wheel instruction;

(3) the person conducting the course not be convicted of:

(A) criminally negligent homicide; or

(B) driving while intoxicated; ~~and~~

(4) the person conducting the course not be disabled because of mental illness; and

(5) the person conducting the course not have six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, at the time the person begins conducting the course.

SECTION 15. Subchapter J, Chapter 521, Transportation Code, is amended by adding Section 521.206 to read as follows:

Sec. 521.206. COLLISION RATE STATISTICS PUBLICATION. (a) The department shall collect data regarding collisions of students taught by public schools, driver education schools licensed under Chapter

1001, Education Code, and other entities that offer driver education courses to students for which a uniform certificate of course completion is issued. The collision rate is computed by determining the number of an entity's students who complete a driver education course during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

(b) The department shall collect data regarding the collision rate of students taught by course instructors approved under Section 521.205. The collision rate is computed by determining the number of students who completed a course approved under Section 521.205 during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

(c) Not later than October 1 of each year, the department shall issue a publication listing the collision rate for students taught by each driver education entity and the collision rate for students taught by a course instructor approved under Section 521.205, noting the severity of collisions involving students of each entity and each type of course.

SECTION 16. Section 521.271, Transportation Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Each original driver's license and provisional license expires as follows:

(1) except as provided by Section 521.2711, a driver's license expires on the first birthday of the license holder occurring after the sixth anniversary of the date of the application;

(2) a provisional license expires on ~~the earlier of:~~

~~[(A)] the 18th birthday of the license holder~~; ~~or~~

~~[(B) the first birthday of the license holder occurring after the date of the application];~~

(3) an instruction permit expires on the 18th birthday of the license holder ~~[second birthday of the license holder occurring after the date of the application];~~ and

(4) an occupational license expires on the first anniversary of the court order granting the license.

(a-1) The department and the Texas Education Agency shall enter into a memorandum of understanding under which the department may access the agency's electronic enrollment records to verify a student's enrollment in a public school. The memorandum of understanding must specify that the department may only access information necessary to verify the identity and enrollment status of a license renewal applicant and only if a parent or guardian of the applicant has provided written permission for the department to access that information. Nothing in this subsection may be construed to allow the release of information in violation of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

SECTION 17. Section 521.421(c), Transportation Code, is amended to read as follows:

(c) The fee for issuance ~~or renewal~~ of a provisional license or instruction permit is \$15 [~~\$5~~].

SECTION 18. Section 545.424, Transportation Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (f) to read as follows:

(a) A person under 18 years of age ~~[, during the six-month period following issuance of an original Class A, B, or C driver's license to the person,]~~ may not operate a motor vehicle:

(1) during the 12-month period following issuance of an original Class A, B, or C driver's license to the person:

(A) after midnight and before 5 a.m. unless the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

(B) [(2)] with more than one passenger in the vehicle under 21 years of age who is not a family member; or

(2) [(3)] while using a wireless communications device, except in case of emergency.

(b) A person under 17 years of age who holds a restricted motorcycle license or moped license, during the 12-month ~~[six-month]~~ period following the issuance of an original motorcycle license or moped license to the person, may not operate a motorcycle or moped:

- (1) after midnight and before 5 a.m. unless:
 - (A) the person is in sight of the person's parent or guardian; or
 - (B) the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or
- (2) while using a wireless communications device, except in case of emergency.
- (c) This section does not apply to:
 - (1) the holder of a hardship license; [~~or~~]
 - (2) a person operating a motor vehicle while accompanied in the manner required by Section 521.222(d)(2) for the holder of an instruction permit; or
 - (3) a person licensed by the Federal Communications Commission to operate a wireless communication device or a radio frequency device.
- (f) In this section, "wireless communication device" means a handheld or hands-free device that uses commercial mobile service, as defined by 47 U.S.C. Section 332.

SECTION 19. (a) For the purpose of compiling data for the publication required by Section 521.206, Transportation Code, as added by this Act, the Texas Department of Public Safety shall determine the number of minor students taught by each driver education entity and the total number of minor students taught by courses approved under Section 521.205, Transportation Code, who become licensed during the state fiscal year beginning September 1, 2009, and ending August 31, 2010.

(b) The first publication of collision rate data compiled under Section 521.206, Transportation Code, as added by this Act, shall be issued not later than October 1, 2011.

SECTION 20. Not later than November 30, 2009, the Texas Department of Public Safety shall appoint a task force to review and make recommendations regarding the effectiveness of the materials provided by the Texas Education Agency for use in courses licensed under Chapter 1001, Education Code, or authorized by Section 521.205. The task force shall consist of the following members:

- (1) a representative of the Texas Department of Public Safety;
- (2) a representative of the Texas Education Agency;
- (3) a commercial provider of driver education courses;
- (4) a member of an interested group or association, as determined by the department; and
- (5) other appropriate members, as determined by the department.

SECTION 21. (a) Section 29.902(c), Education Code, as added by this Act, applies beginning with the 2010-2011 school year.

(b) Not later than January 1, 2010, the commissioner of education shall adopt rules as required by Section 1001.101, Education Code, as amended by this Act.

(c) Each driver education and training program approved by the Texas Education Agency under Chapter 1001, Education Code, must comply with the curriculum requirements of Section 1001.101, Education Code, as amended by this Act, not later than May 1, 2010.

(d) Section 521.165, Transportation Code, as amended by this Act, applies only to an application for a driver's license submitted on or after the effective date of this Act. An application for a driver's license submitted before the effective date of this Act is subject to the law in effect on the date the application was submitted, and that law is continued in effect for that purpose.

(e) The changes in law made by this Act to Section 521.205, Transportation Code, apply to a course approved under that section that begins on or after the effective date of this Act. A course beginning before the effective date of this Act is governed by the law in effect on the date the course was commenced, and that law is continued in effect for that purpose.

(f) The changes in law made by this Act to Sections 521.271, 521.421, and 545.424, Transportation Code, apply only to a person issued a driver's license on or after the effective date of this Act. A person issued a driver's license before the effective date of this Act is governed by the law in effect on the date the license was issued, and that law is continued in effect for that purpose.

SECTION 22. As soon as practicable after the effective date of this Act, the commissioner of education

shall adopt the rules required by Section 1001.110, Education Code, as added by this Act.

SECTION 23. The changes in law made by Section 521.142, Transportation Code, as amended by this Act, and Sections 521.1601 and 521.167, Transportation Code, as added by this Act, apply to an application for the issuance of a driver's license filed on or after the effective date of this Act. An application for the issuance of a driver's license filed before the effective date of this Act is governed by the law in effect on the date of the filing, and that law is continued in effect for that purpose.

SECTION 24. This Act takes effect September 1, 2009.

H.B. 348

AN ACT

relating to the punishment for theft of certain aluminum, bronze, or copper materials.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.03(e), Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than:

(A) \$50; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is:

(i) \$50 or more but less than \$500; or

(ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06; or

(B) the value of the property stolen is less than:

(i) \$50 and the defendant has previously been convicted of any grade of theft; or

(ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(3) a Class A misdemeanor if the value of the property stolen is \$500 or more but less than \$1,500;

(4) a state jail felony if:

(A) the value of the property stolen is \$1,500 or more but less than \$20,000, or the property is less than 10 head of cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, or any part thereof under the value of \$20,000, or less than 100 head of sheep, swine, or goats or any part thereof under the value of \$20,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave;

(C) the property stolen is a firearm, as defined by Section 46.01;

(D) the value of the property stolen is less than \$1,500 and the defendant has been previously convicted two or more times of any grade of theft;

(E) the property stolen is an official ballot or official carrier envelope for an election; or

(F) the value of the property stolen is less than \$20,000 and the property stolen is insulated or noninsulated tubing, rods, water gate stems, wire, or cable that consists of at least 50 percent:

(i) aluminum;

(ii) bronze; or

(iii) copper;

(5) a felony of the third degree if the value of the property stolen is \$20,000 or more but less than \$100,000, or the property is:

(A) 10 or more head of cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$100,000;

or

(B) 100 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000;

(6) a felony of the second degree if the value of the property stolen is \$100,000 or more but less than \$200,000; or

(7) a felony of the first degree if the value of the property stolen is \$200,000 or more.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. 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. 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.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 358

AN ACT

relating to the seizure of the circuit board of a gambling device or equipment, altered gambling equipment, or gambling paraphernalia.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.095 to read as follows:

Art. 18.095. SEIZURE OF CIRCUIT BOARD OF GAMBLING DEVICE, EQUIPMENT, OR PARAPHERNALIA. For purposes of this chapter, an officer directed under a search warrant to search for and seize a gambling device or equipment, altered gambling equipment, or gambling paraphernalia in the discretion of the officer may:

(1) seize only the programmable main circuit board of the device, equipment, or paraphernalia if that circuit board is designed as a subassembly or essential part of the device, equipment, or paraphernalia to provide the information necessary for the device, equipment, or paraphernalia to operate as a gambling device or equipment, altered gambling equipment, or gambling paraphernalia;

(2) carry the circuit board before the magistrate; and

(3) retain custody of the circuit board as the property seized pursuant to the warrant as required under this chapter.

SECTION 2. This Act takes effect September 1, 2009.

H.B. 400

AN ACT

relating to the dismissal of a charge of unlawfully parking a vehicle in a space designated specifically for persons with disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 681, Transportation Code, is amended by adding Section 681.013 to read as follows:

Sec. 681.013. DISMISSAL OF CHARGE; ADMINISTRATIVE FEE. (a) In this section, "working day" means any day other than a Saturday, a Sunday, or a holiday on which county offices are closed.

(b) The court shall:

(1) dismiss a charge for an offense under Section 681.011(b)(1) if:

(A) the vehicle displayed a disabled parking placard that was not valid as expired;

(B) the defendant remedies the defect by renewing the expired disabled parking placard within 20 working days from the date of the offense or before the defendant's first court appearance date, whichever is later; and

(C) the disabled parking placard has not been expired for more than 60 days; and

(2) assess an administrative fee not to exceed \$20 when the charge has been remedied.

(c) Notwithstanding Subsection (b)(1)(C), the court may dismiss a charge of unlawfully parking a vehicle in a space designated specifically for persons with disabilities, if at the time of the offense the defendant's vehicle displays a disabled parking placard that has been expired for more than 60 days.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. 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. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 405

AN ACT

relating to the authority of an animal control officer to carry a bite prevention stick in the performance of official duties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 46.15, Penal Code, is amended by adding Subsection (g) to read as follows:

(g) The provisions of Sections 46.02 and 46.03 prohibiting the possession or carrying of a club do not apply to an animal control officer who holds a certificate issued under Section 829.006, Health and Safety Code, and who possesses or carries an instrument used specifically for deterring the bite of an animal while the officer is in the performance of official duties under the Health and Safety Code or is traveling to or from a place of duty.

SECTION 2. Section 829.003(a), Health and Safety Code, is amended to read as follows:

(a) The department shall prescribe the standards and curriculum for basic and continuing education animal control courses. The curriculum for both the basic and continuing education courses must include the following topics:

- (1) state laws governing animal control and protection and animal cruelty;
- (2) animal health and disease recognition, control, and prevention;
- (3) the humane care and treatment of animals;
- (4) standards for care and control of animals in an animal shelter;
- (5) standards and procedures for the transportation of animals;
- (6) principles and procedures for capturing and handling stray domestic animals and wildlife, including principles and procedures to be followed with respect to an instrument used specifically for deterring the bite of an animal;
- (7) first aid for injured animals;
- (8) the documentation of animal cruelty evidence and courtroom procedures;
- (9) animal shelter operations and administration;
- (10) spaying and neutering, microchipping, and adoption;
- (11) communications and public relations;
- (12) state and federal laws for possession of controlled substances and other medications; and
- (13) any other topics pertinent to animal control and animal shelter personnel.

SECTION 3. Section 829.003(a), Health and Safety Code, as amended by this Act, applies to the curriculum required for basic and continuing education animal control courses offered under Section 829.004, Health and Safety Code, on or after January 1, 2010.

SECTION 4. 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.

H.B. 537

AN ACT

relating to the transportation of children in motor vehicles; creating an offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 545.412(e) and (f), Transportation Code, are amended to read as follows:

(e) This section does not apply to a person:

(1) operating a vehicle transporting passengers for hire, excluding ~~including~~ third-party transport service providers when transporting clients pursuant to a contract to provide nonemergency Medicaid transportation; or

(2) transporting a child in a vehicle in which all seating positions equipped with child passenger safety seat systems or safety belts are occupied.

(f) In this section:

(1) "Child passenger safety seat system" means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.

(2) "Passenger vehicle" means a passenger car, light truck, sport utility vehicle, passenger van designed to transport 15 or fewer passengers, including the driver, truck, or truck tractor.

(3) "Safety belt" means a lap belt and any shoulder straps included as original equipment on or added to a vehicle.

(4) "Secured," in connection with use of a safety belt, means using the lap belt and any shoulder straps according to the instructions of:

(A) the manufacturer of the vehicle, if the safety belt is original equipment; or

(B) the manufacturer of the safety belt, if the safety belt has been added to the vehicle.

SECTION 2. Section 545.413, Transportation Code, is amended by amending Subsection (a) and adding Subsection (b-1) to read as follows:

(a) A person commits an offense if:

(1) the person:

(A) is at least 15 years of age;

(B) is riding in ~~the front seat of~~ a passenger vehicle while the vehicle is being operated;

(C) is occupying a seat that is equipped with a safety belt; and

(D) is not secured by a safety belt; or

(2) as the operator of a school bus equipped with a safety belt for the operator's seat, the person is not secured by the safety belt.

(b-1) A person commits an offense if the person allows a child who is younger than 17 years of age and who is not required to be secured in a child passenger safety seat system under Section 545.412(a) to ride in a passenger van designed to transport 15 or fewer passengers, including the driver, without securing the child individually by a safety belt, if the child is occupying a seat that is equipped with a safety belt.

SECTION 3. Section 545.416, Transportation Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) Except as provided by Subsection (e), an operator may not carry another person on a motorcycle unless the other person is at least five years of age. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$100 or more than \$200. It is a defense to prosecution under this subsection that the operator was operating the motorcycle in an emergency or for a law enforcement purpose.

(e) Subsection (d) does not prohibit an operator from carrying on a motorcycle a person younger than five years of age who is seated in a sidecar attached to the motorcycle.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 5. This Act takes effect September 1, 2009.

H.B. 548

AN ACT

relating to the impoundment of certain motor vehicles involved in the commission of the offense of racing on a highway.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 545.420, Transportation Code, is amended by adding Subsection (i) to read as follows:

(i) This subsection applies only to a motor vehicle used in the commission of an offense under this section that results in an accident with property damage or personal injury. A peace officer shall require the vehicle to be taken to the nearest licensed vehicle storage facility unless the vehicle is seized as evidence, in which case the vehicle may be taken to a storage facility as designated by the peace officer involved. Notwithstanding Article 18.23, Code of Criminal Procedure, the owner of a motor vehicle that is removed or stored under this subsection is liable for all removal and storage fees incurred and is not entitled to take possession of the vehicle until those fees are paid.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 558

AN ACT

relating to law enforcement and judicial procedures for, and the prosecution of, children who engage in conduct constituting public intoxication.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Articles 14.031(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) In lieu of arresting an individual who is not a child, as defined by Section 51.02, Family Code, and who commits an offense under Section 49.02, Penal Code, a peace officer may release the [an] individual if:

(1) the officer believes detention in a penal facility is unnecessary for the protection of the individual or others; and

(2) the individual:

(A) is released to the care of an adult who agrees to assume responsibility for the individual; or

(B) verbally consents to voluntary treatment for chemical dependency in a program in a treatment facility licensed and approved by the Texas Commission on Alcohol and Drug Abuse, and the program admits the individual for treatment.

(b) A magistrate may release from custody an individual who is not a child, as defined by Section 51.02, Family Code, and who is arrested under Section 49.02, Penal Code, if the magistrate determines the individual meets the conditions required for release in lieu of arrest under Subsection (a) of this article.

SECTION 2. Article 45.058, Code of Criminal Procedure, is amended by amending Subsections (a), (f), and (g) and adding Subsection (g-1) to read as follows:

(a) A child may be released to the child's parent, guardian, custodian, or other responsible adult as provided by Section 52.02(a)(1), Family Code, if the child is taken into custody for an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14 [~~other than public intoxication~~].

(f) A child taken into custody for an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14 [~~other than public intoxication,~~] may be presented or detained in a detention facility designated by the juvenile court under Section 52.02(a)(3), Family Code, only if:

(1) the child's non-traffic case is transferred to the juvenile court by a justice or municipal court under Section 51.08(b), Family Code; or

(2) the child is referred to the juvenile court by a justice or municipal court for contempt of court under Article 45.050.

(g) Except as provided by Subsection (g-1), a [A] law enforcement officer may issue a field release citation as provided by Article 14.06 in place of taking a child into custody for a traffic offense or an offense [~~other than public intoxication,~~] punishable by fine only.

(g-1) A law enforcement officer may issue a field release citation as provided by Article 14.06 in place of taking a child into custody for conduct constituting a violation of Section 49.02, Penal Code, only if the officer releases the child to the child's parent, guardian, custodian, or other responsible adult.

SECTION 3. Section 51.03(f), Family Code, is amended to read as follows:

(f) Except as provided by Subsection (g), conduct described under Subsection (b)(1) [~~other than conduct that violates Section 49.02, Penal Code, prohibiting public intoxication,~~] does not constitute conduct indicating a need for supervision unless the child has been referred to the juvenile court under Section 51.08(b).

SECTION 4. Sections 51.08(a), (b), and (c), Family Code, are amended to read as follows:

(a) If the defendant in a criminal proceeding is a child who is charged with an offense other than perjury, a traffic offense, a misdemeanor punishable by fine only [~~other than public intoxication~~], or a violation of a penal ordinance of a political subdivision, unless the child [he] has been transferred to criminal court under Section 54.02 [~~of this code~~], the court exercising criminal jurisdiction shall transfer the case to the juvenile court, together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case, and shall order that the child be taken to the place of detention designated by the juvenile court, or shall release the child [him] to the custody of the child's [his] parent, guardian, or custodian, to be brought before the juvenile court at a time designated by that court.

(b) A court in which there is pending a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only other than a traffic offense [~~or public intoxication~~] or a violation of a penal ordinance of a political subdivision other than a traffic offense:

(1) except as provided by Subsection (d), shall waive its original jurisdiction and refer the [a] child to juvenile court if the child has previously been convicted of:

(A) two or more misdemeanors punishable by fine only other than a traffic offense [~~or public intoxication~~];

(B) two or more violations of a penal ordinance of a political subdivision other than a traffic offense; or

(C) one or more of each of the types of misdemeanors described in Paragraph (A) or (B) [~~of this subdivision~~]; and

(2) may waive its original jurisdiction and refer the [a] child to juvenile court if the child:

(A) has not previously been convicted of a misdemeanor punishable by fine only other than a traffic offense [~~or public intoxication~~] or a violation of a penal ordinance of a political subdivision other than a traffic offense; or

(B) has previously been convicted of fewer than two misdemeanors punishable by fine only other than a traffic offense [~~or public intoxication~~] or two violations of a penal ordinance of a political subdivision other than a traffic offense.

(c) A court in which there is pending a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only other than a traffic offense [~~or public intoxication~~] or a violation of a penal ordinance of a political subdivision other than a traffic offense shall notify the juvenile court of the county in which the court is located of the pending complaint and shall furnish to the juvenile court a copy of the final disposition of any matter for which the court does not waive its original jurisdiction under Subsection (b) [~~of this section~~].

SECTION 5. Section 8.07(a), Penal Code, is amended to read as follows:

(a) A person may not be prosecuted for or convicted of any offense that the person committed when younger than 15 years of age except:

(1) perjury and aggravated perjury when it appears by proof that the person had sufficient discretion to understand the nature and obligation of an oath;

(2) a violation of a penal statute cognizable under Chapter 729, Transportation Code, except for conduct for which the person convicted may be sentenced to imprisonment or confinement in jail;

(3) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state;

(4) a misdemeanor punishable by fine only [~~other than public intoxication~~];

(5) a violation of a penal ordinance of a political subdivision;

(6) a violation of a penal statute that is, or is a lesser included offense of, a capital felony, an aggravated controlled substance felony, or a felony of the first degree for which the person is transferred to the court under Section 54.02, Family Code, for prosecution if the person committed the offense when 14 years of age or older; or

(7) a capital felony or an offense under Section 19.02 for which the person is transferred to the court under Section 54.02(j)(2)(A), Family Code.

SECTION 6. The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For the purposes of this section, conduct violating a penal law of this state occurs before the effective date of this Act if any element of the violation occurred before that date.

SECTION 7. This Act takes effect September 1, 2009.

H.B. 586

AN ACT

relating to the evidence required for the release of a motor vehicle after impoundment of the vehicle for failure to maintain evidence of financial responsibility.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 601.262(c), Transportation Code, is amended to read as follows:

(c) The evidence of financial responsibility must cover the two-year period immediately following the date the defendant applies for release of the impounded vehicle. The court, by order, shall permit a defendant to provide evidence of insurability in increments of a period of not less than six months.

SECTION 2. This Act takes effect September 1, 2009.

H.B. 618

AN ACT

relating to privileged parking for certain veterans and military award recipients.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 681.008, Transportation Code, is amended to read as follows:

Sec. 681.008. PARKING PRIVILEGES: CERTAIN VETERANS AND MILITARY AWARD RECIPIENTS.

SECTION 2. Section 681.008(b), Transportation Code, is amended to read as follows:

(b) A vehicle on which license plates issued under Section 504.202, [~~or~~] Section 504.315(c), (d), (e), (f), or (g), or Section 504.316 are displayed is exempt from the payment of a parking fee collected through a parking meter charged by a governmental authority other than a branch of the federal government, when being operated by or for the transportation of:

(1) the person who registered the vehicle under Section 504.202(a), [~~or~~] Section 504.315(c), (d), (e), (f), or (g), or Section 504.316; or

(2) a person described in Section 504.202(b) if the vehicle is registered under that subsection.

SECTION 3. 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.

H.B. 670

AN ACT

relating to a qualified privilege of a journalist not to testify.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 22, Civil Practice and Remedies Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. JOURNALIST'S QUALIFIED TESTIMONIAL PRIVILEGE IN CIVIL PROCEEDINGS

Sec. 22.021. DEFINITIONS. In this subchapter:

(1) "Communication service provider" means a person or the parent, subsidiary, division, or affiliate of a person who transmits information chosen by a customer by electronic means, including:

(A) a telecommunications carrier, as defined by Section 3, Communications Act of 1934 (47 U.S.C. Section 153);

(B) a provider of information service, as defined by Section 3, Communications Act of 1934 (47 U.S.C. Section 153);

(C) a provider of interactive computer service, as defined by Section 230, Communications Act of 1934 (47 U.S.C. Section 230); and

(D) an information content provider, as defined by Section 230, Communications Act of 1934 (47 U.S.C. Section 230).

(2) "Journalist" means a person, including a parent, subsidiary, division, or affiliate of a person, who for a substantial portion of the person's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information that is disseminated by a news medium or communication service provider and includes:

(A) a person who supervises or assists in gathering, preparing, and disseminating the news or information; or

(B) notwithstanding the foregoing, a person who is or was a journalist, scholar, or researcher employed by an institution of higher education at the time the person obtained or prepared the requested information, or a person who at the time the person obtained or prepared the requested information:

(i) is earning a significant portion of the person's livelihood by obtaining or preparing information for dissemination by a news medium or communication service provider; or

(ii) was serving as an agent, assistant, employee, or supervisor of a news medium or communication service provider.

(3) "News medium" means a newspaper, magazine or periodical, book publisher, news agency, wire service, radio or television station or network, cable, satellite, or other transmission system or carrier or channel, or a channel or programming service for a station, network, system, or carrier, or an audio or audiovisual production company or Internet company or provider, or the parent, subsidiary, division, or affiliate of that entity, that disseminates news or information to the public by any means, including:

(A) print;

(B) television;

(C) radio;

(D) photographic;

(E) mechanical;

(F) electronic; and

(G) other means, known or unknown, that are accessible to the public.

(4) "Official proceeding" means any type of administrative, executive, legislative, or judicial proceeding that may be conducted before a public servant, including a proceeding under Rule 202, Texas Rules of

Civil Procedure.

(5) "Public servant" means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed the person's duties:

(A) an officer, employee, or agent of government;

(B) a juror;

(C) an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy;

(D) an attorney or notary public when participating in the performance of a governmental function; or

(E) a person who is performing a governmental function under a claim of right, although the person is not legally qualified to do so.

Sec. 22.022. PURPOSE. The purpose of this subchapter is to increase the free flow of information and preserve a free and active press and, at the same time, protect the right of the public to effective law enforcement and the fair administration of justice.

Sec. 22.023. PRIVILEGE. (a) Except as otherwise provided by this subchapter, a judicial, legislative, administrative, or other body with the authority to issue a subpoena or other compulsory process may not compel a journalist to testify regarding or to produce or disclose in an official proceeding:

(1) any confidential or nonconfidential information, document, or item obtained or prepared while acting as a journalist; or

(2) the source of any information, document, or item described by Subdivision (1).

(b) A subpoena or other compulsory process may not compel the parent, subsidiary, division, or affiliate of a communication service provider or news medium to disclose the information, documents, or items or the source of any information, documents, or items that are privileged from disclosure under Subsection (a).

Sec. 22.024. LIMITED DISCLOSURE GENERALLY. After notice and an opportunity to be heard, a court may compel a journalist, a journalist's employer, or a person with an independent contract with a journalist to testify regarding or to produce or disclose any information, document, or item or the source of any information, document, or item obtained while acting as a journalist, if the person seeking the information, document, or item or the source of any information, document, or item makes a clear and specific showing that:

(1) all reasonable efforts have been exhausted to obtain the information from alternative sources;

(2) the subpoena is not overbroad, unreasonable, or oppressive and, when appropriate, will be limited to the verification of published information and the surrounding circumstances relating to the accuracy of the published information;

(3) reasonable and timely notice was given of the demand for the information, document, or item;

(4) in this instance, the interest of the party subpoenaing the information outweighs the public interest in gathering and dissemination of news, including the concerns of the journalist;

(5) the subpoena or compulsory process is not being used to obtain peripheral, nonessential, or speculative information; and

(6) the information, document, or item is relevant and material to the proper administration of the official proceeding for which the testimony, production, or disclosure is sought and is essential to the maintenance of a claim or defense of the person seeking the testimony, production, or disclosure.

Sec. 22.025. NOTICE. An order to compel testimony, production, or disclosure to which a journalist has asserted a privilege under this subchapter may be issued only after timely notice to the journalist, the journalist's employer, or a person who has an independent contract with the journalist and a hearing. The order must include clear and specific findings as to the showing made by the person seeking the testimony, production, or disclosure and the clear and specific evidence on which the court relied in issuing the court's order.

Sec. 22.026. PUBLICATION OF PRIVILEGED INFORMATION. Publication or dissemination by a news medium or communication service provider of information, documents, or items privileged under

this subchapter is not a waiver of the journalist's privilege.

Sec. 22.027. NEWS MEDIA RECORDINGS. Extrinsic evidence of the authenticity of evidence as a condition precedent to the admissibility of the evidence in a civil proceeding is not required with respect to a recording that purports to be a broadcast by a radio or television station that holds a license issued by the Federal Communications Commission at the time of the recording. The court may take judicial notice of the recording license as provided by Rule 201, Texas Rules of Evidence.

SECTION 2. Chapter 38, Code of Criminal Procedure, is amended by adding Articles 38.11 and 38.111 to read as follows:

Art. 38.11. JOURNALIST'S QUALIFIED TESTIMONIAL PRIVILEGE IN CRIMINAL PROCEEDINGS

Sec. 1. DEFINITIONS. In this article:

(1) "Communication service provider" means a person or the parent, subsidiary, division, or affiliate of a person who transmits information chosen by a customer by electronic means, including:

(A) a telecommunications carrier, as defined by Section 3, Communications Act of 1934 (47 U.S.C. Section 153);

(B) a provider of information service, as defined by Section 3, Communications Act of 1934 (47 U.S.C. Section 153);

(C) a provider of interactive computer service, as defined by Section 230, Communications Act of 1934 (47 U.S.C. Section 230); and

(D) an information content provider, as defined by Section 230, Communications Act of 1934 (47 U.S.C. Section 230).

(2) "Journalist" means a person, including a parent, subsidiary, division, or affiliate of a person, who for a substantial portion of the person's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information that is disseminated by a news medium or communication service provider and includes:

(A) a person who supervises or assists in gathering, preparing, and disseminating the news or information; or

(B) notwithstanding the foregoing, a person who is or was a journalist, scholar, or researcher employed by an institution of higher education at the time the person obtained or prepared the requested information, or a person who at the time the person obtained or prepared the requested information:

(i) is earning a significant portion of the person's livelihood by obtaining or preparing information for dissemination by a news medium or communication service provider; or

(ii) was serving as an agent, assistant, employee, or supervisor of a news medium or communication service provider.

(3) "News medium" means a newspaper, magazine or periodical, book publisher, news agency, wire service, radio or television station or network, cable, satellite, or other transmission system or carrier or channel, or a channel or programming service for a station, network, system, or carrier, or an audio or audiovisual production company or Internet company or provider, or the parent, subsidiary, division, or affiliate of that entity, that disseminates news or information to the public by any means, including:

(A) print;

(B) television;

(C) radio;

(D) photographic;

(E) mechanical;

(F) electronic; and

(G) other means, known or unknown, that are accessible to the public.

(4) "Official proceeding" means any type of administrative, executive, legislative, or judicial proceeding that may be conducted before a public servant.

(5) "Public servant" means a person elected, selected, appointed, employed, or otherwise designated as

one of the following, even if the person has not yet qualified for office or assumed the person's duties:

(A) an officer, employee, or agent of government;

(B) a juror or grand juror;

(C) an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy;

(D) an attorney or notary public when participating in the performance of a governmental function; or

(E) a person who is performing a governmental function under a claim of right, although the person is not legally qualified to do so.

Sec. 2. PURPOSE. The purpose of this article is to increase the free flow of information and preserve a free and active press and, at the same time, protect the right of the public to effective law enforcement and the fair administration of justice.

Sec. 3. PRIVILEGE. (a) Except as otherwise provided by this article, a judicial, legislative, administrative, or other body with the authority to issue a subpoena or other compulsory process may not compel a journalist to testify regarding or to produce or disclose in an official proceeding:

(1) any confidential or nonconfidential unpublished information, document, or item obtained or prepared while acting as a journalist; or

(2) the source of any information, document, or item described by Subdivision (1).

(b) A subpoena or other compulsory process may not compel the parent, subsidiary, division, or affiliate of a communication service provider or news medium to disclose the unpublished information, documents, or items or the source of any information, documents, or items that are privileged from disclosure under Subsection (a).

Sec. 4. PRIVILEGE CONCERNING CONFIDENTIAL SOURCES. (a) A journalist may be compelled to testify regarding or to disclose the confidential source of any information, document, or item obtained while acting as a journalist if the person seeking the testimony, production, or disclosure makes a clear and specific showing that the source of any information, document, or item:

(1) was observed by the journalist committing a felony criminal offense and the subpoenaing party has exhausted reasonable efforts to obtain from alternative sources the confidential source of any information, document, or item obtained or prepared while acting as a journalist;

(2) is a person who confessed or admitted to the journalist the commission of a felony criminal offense and the subpoenaing party has exhausted reasonable efforts to obtain from alternative sources the confidential source of any information, document, or item obtained or prepared while acting as a journalist;

(3) is a person for whom probable cause exists that the person participated in a felony criminal offense and the subpoenaing party has exhausted reasonable efforts to obtain from alternative sources the confidential source of any information, document, or item obtained or prepared while acting as a journalist; or

(4) disclosure of the confidential source is reasonably necessary to stop or prevent reasonably certain death or substantial bodily harm.

(b) If the alleged criminal conduct is the act of communicating, receiving, or possessing the information, document, or item, this section does not apply, and Section 5 governs the act.

(c) Notwithstanding Subsection (b), if the information, document, or item was disclosed or received in violation of a grand jury oath given to either a juror or a witness under Article 19.34 or 20.16, a journalist may be compelled to testify if the person seeking the testimony, production, or disclosure makes a clear and specific showing that the subpoenaing party has exhausted reasonable efforts to obtain from alternative sources the confidential source of any information, document, or item obtained. In this context, the court has the discretion to conduct an in camera hearing. The court may not order the production of the confidential source until a ruling has been made on the motion.

(d) An application for a subpoena of a journalist under Article 24.03, or a subpoena of a journalist issued by an attorney representing the state under Article 20.10 or 20.11, must be signed by the elected district

attorney, elected criminal district attorney, or elected county attorney, as applicable. If the elected district attorney, elected criminal district attorney, or elected county attorney has been disqualified or recused or has resigned, the application for the subpoena or the subpoena must be signed by the person succeeding the elected attorney. If the elected officer is not in the jurisdiction, the highest ranking assistant to the elected officer must sign the subpoena.

Sec. 5. PRIVILEGE CONCERNING UNPUBLISHED INFORMATION, DOCUMENT, OR ITEM AND NONCONFIDENTIAL SOURCES. (a) After service of subpoena and an opportunity to be heard, a court may compel a journalist, a journalist's employer, or a person with an independent contract with a journalist to testify regarding or to produce or disclose any unpublished information, document, or item or the source of any information, document, or item obtained while acting as a journalist, other than as described by Section 4, if the person seeking the unpublished information, document, or item or the source of any information, document, or item makes a clear and specific showing that:

- (1) all reasonable efforts have been exhausted to obtain the information from alternative sources; and
- (2) the unpublished information, document, or item:

(A) is relevant and material to the proper administration of the official proceeding for which the testimony, production, or disclosure is sought and is essential to the maintenance of a claim or defense of the person seeking the testimony, production, or disclosure; or

(B) is central to the investigation or prosecution of a criminal case and based on something other than the assertion of the person requesting the subpoena, reasonable grounds exist to believe that a crime has occurred.

(b) The court, when considering an order to compel testimony regarding or to produce or disclose any unpublished information, document, or item or the source of any information, document, or item obtained while acting as a journalist, should consider the following factors, including but not limited to whether:

- (1) the subpoena is overbroad, unreasonable, or oppressive;
- (2) reasonable and timely notice was given of the demand for the information, document, or item;
- (3) in this instance, the interest of the party subpoenaing the information outweighs the public interest in gathering and dissemination of news, including the concerns of the journalist; and
- (4) the subpoena or compulsory process is being used to obtain peripheral, nonessential, or speculative information.

(c) A court may not consider a single factor under Subsection (b) as outcome-determinative in the decision whether to compel the testimony or the production or disclosure of the unpublished information, document, or item, or the source of any information, document, or item.

Sec. 6. NOTICE. An order to compel testimony, production, or disclosure to which a journalist has asserted a privilege under this article may be issued only after timely notice to the journalist, the journalist's employer, or a person who has an independent contract with the journalist and a hearing. The order must include clear and specific findings as to the showing made by the person seeking the testimony, production, or disclosure and the clear and specific evidence on which the court relied in issuing the court's order.

Sec. 7. PUBLICATION OF PRIVILEGED INFORMATION. Publication or dissemination by a news medium or communication service provider of information, documents, or items privileged under this article is not a waiver of the journalist's privilege regarding sources and unpublished information, documents, or items.

Sec. 8. PUBLISHED INFORMATION. This article does not apply to any information, document, or item that has at any time been published or broadcast by the journalist.

Sec. 9. REIMBURSEMENT OF COSTS. The subpoenaing party shall pay a journalist a reasonable fee for the journalist's time and costs incurred in providing the information, item, or document subpoenaed, based on the fee structure provided by Subchapter F, Chapter 552, Government Code.

Art. 38.111. NEWS MEDIA RECORDINGS. Extrinsic evidence of the authenticity of evidence as a condition precedent to the admissibility of the evidence in a criminal proceeding is not required with

respect to a recording that purports to be a broadcast by a radio or television station that holds a license issued by the Federal Communications Commission at the time of the recording. The court may take judicial notice of the recording license as provided by Rule 201, Texas Rules of Evidence.

SECTION 3. This Act applies only to information, documents, or items or the source of any information, document, or item obtained or prepared for publication in a news medium or communication service provider on or after the effective date of this Act.

SECTION 4. 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.

H.B. 671

AN ACT

relating to the penalty for theft from a nonprofit organization or by Medicare providers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.03(f), Penal Code, is amended to read as follows:

(f) An offense described for purposes of punishment by Subsections (e)(1)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the actor was a public servant at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of his status as a public servant;

(2) the actor was in a contractual relationship with government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship;

~~or~~

(3) the owner of the property appropriated was at the time of the offense:

(A) an elderly individual; or

(B) a nonprofit organization; or

(4) the actor was a Medicare provider in a contractual relationship with the federal government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship.

SECTION 2. Section 31.03(h), Penal Code, is amended by adding Subdivision (3) to read as follows:

(3) "Nonprofit organization" means an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being described as an exempt organization by Section 501(c)(3) of that code.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 4. This Act takes effect September 1, 2009.

H.B. 796

AN ACT

relating to the disposition of property alleged to have been illegally acquired and to the use of the photographic evidence of that property in a criminal action.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 38.34, Code of Criminal Procedure, is amended to read as follows:

Art. 38.34. PHOTOGRAPHIC EVIDENCE IN THEFT CASES. (a) In this article ~~[As used herein]~~, ~~[the term]~~ "property" means any tangible personal property ~~[offered for sale or lease by a person engaged in the business of selling goods or services to buyers]~~.

(b) A photograph of property that ~~[which]~~ a person is alleged to have unlawfully appropriated with the

intent to deprive the owner of the [~~such~~] property is admissible into evidence under rules of law governing the admissibility of photographs. The [~~and such~~] photograph is as admissible in evidence as is the property itself.

(c) The provisions of Article 18.16 [~~of this code~~] concerning the bringing of stolen property before a magistrate for examination are complied with if a photograph of the stolen property is brought before the magistrate.

(d) The defendant's rights of discovery and inspection of tangible physical evidence are satisfied if a photograph of the [~~tangible~~] property is made available to the defendant by the state on [~~upon~~] order of any court having jurisdiction over the cause.

SECTION 2. Article 47.02, Code of Criminal Procedure, is amended to read as follows:

Art. 47.02. RESTORED ON TRIAL. (a) On [~~Upon~~] the trial of any criminal action for theft[~~;~~] or [~~for~~] any other offense involving the illegal acquisition of property [~~which is by law a penal offense~~], the court trying the case shall order the property to be restored to the person appearing by the proof to be the owner of the property [~~same~~].

(b) On written consent of the prosecuting attorney, any magistrate having jurisdiction in the county in which a [~~Likewise, the judge of any court in which the trial of any~~] criminal action for theft or any other offense involving the illegal acquisition of property [~~which is by law a penal offense~~] is pending may hold a [~~upon~~] hearing to determine the right to possession of the property. If [~~if~~] it is proved to the satisfaction of the magistrate [~~judge of said court~~] that any person is a true owner of the property alleged to have been stolen, and the property [~~which~~] is under the control [~~in possession~~] of a peace officer, the magistrate may, by written order, direct the property to be restored to that person [~~such owner~~].

[~~As to property subject to the Certificate of Title Act (Chapter 501, Transportation Code), any magistrate having jurisdiction in the county in which the criminal action is pending may hold a hearing to determine the right to possession of the property, even if a criminal action is pending, upon written consent of the prosecuting attorney.~~]

SECTION 3. The changes in law made by this Act apply only to a criminal action filed on or after the effective date of this Act and to the admissibility of evidence in that action. A criminal action filed before the effective date of this Act and the admissibility of evidence in that action are covered by the law in effect when the action was filed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2009.

H.B. 857

AN ACT

relating to the penalty for certain outdoor burning violations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 7.187, Water Code, is amended to read as follows:

Sec. 7.187. PENALTIES. (a) Except as provided by Subsection (b), a [~~A~~] person convicted of an offense under this subchapter is punishable by:

(1) a fine, as imposed under the section creating the offense, of:

(A) not more than \$1,000;

(B) not less than \$1,000 or more than \$50,000;

(C) not less than \$1,000 or more than \$100,000;

(D) not less than \$1,000 or more than \$250,000;

(E) not less than \$2,000 or more than \$500,000;

(F) not less than \$5,000 or more than \$1,000,000;

(G) not less than \$10,000 or more than \$1,500,000; or

(H) not more than twice the amount of the required fee;

(2) confinement for a period, as imposed by the section creating the offense, not to exceed:

(A) 30 days;

- (B) 90 days;
- (C) 180 days;
- (D) one year;
- (E) two years;
- (F) five years;
- (G) 10 years;
- (H) 15 years;
- (I) 20 years; or
- (J) 30 years; or

(3) both fine and confinement, as imposed by the section creating the offense.

(b) Notwithstanding Section 7.177(a)(5), conviction for an offense under Section 382.018, Health and Safety Code, is punishable as:

(1) a Class C misdemeanor if the waste is not a substance described by Subdivision (3);

(2) a Class B misdemeanor if the violation is a second or subsequent violation under Subdivision (1);

(3) a Class A misdemeanor if the violation involves the burning of tires, insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, heavy oils, asphaltic materials, potentially explosive materials, furniture, carpet, chemical wastes, or items containing natural or synthetic rubber.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 875

AN ACT

relating to civil liability for erecting or maintaining certain outdoor signs or advertising.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 391.035(a), Transportation Code, is amended to read as follows:

(a) In lieu of being subject to a criminal penalty, a person who intentionally violates this subchapter or Subchapter C may be liable ~~[to the state]~~ for a civil penalty. The attorney general or a district or county attorney of the county in which the violation is alleged to have occurred may sue to collect the penalty.

SECTION 2. Section 393.007, Transportation Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) A person who places or commissions the placement of a sign on the right-of-way of a public road that is not otherwise authorized by law may be liable ~~[to the municipality]~~ for a civil penalty. A district or county attorney or a municipal attorney in the jurisdiction in which the placement of a sign on the right-of-way of a public road is alleged to have occurred may sue to collect the penalty.

(d) A district or county attorney or a municipal attorney may recover reasonable attorney's fees incurred in an action brought under Subsection (a).

SECTION 3. (a) The changes in law made by this Act to Sections 391.035(a) and 393.007, Transportation Code, apply only to a violation described by those sections that occurs on or after the effective date of this Act. For purposes of this section, a violation occurs before the effective date of this Act if any element of the violation occurs before that date.

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

SECTION 4. 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.

H.B. 960

AN ACT

relating to providing municipalities and counties access to criminal history record information for sexually oriented business license applicants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 411.122, Government Code, is amended by adding Subsection (b) to read as follows:

(b) A municipality or county that requires a sexually oriented business to obtain a license or other permit under Section 243.007, Local Government Code, is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is an applicant for a license or other permit for a sexually oriented business issued by the municipality or county;

(2) is the holder of a license or other permit for a sexually oriented business issued by the municipality or county; or

(3) requests a determination of eligibility for a license or other permit for a sexually oriented business issued by the municipality or county.

SECTION 2. 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.

H.B. 1020

AN ACT

relating to the use, exhibition, or possession of a firearm by public school students participating in certain school-sponsored programs and activities sponsored or supported by the Parks and Wildlife Department.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 37.007, Education Code, is amended by amending Subsection (a) and adding Subsections (k) and (l) to read as follows:

(a) Except as provided by Subsection (k), a [A] student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) uses, exhibits, or possesses:

(A) a firearm as defined by Section 46.01(3), Penal Code;

(B) an illegal knife as defined by Section 46.01(6), Penal Code, or by local policy;

(C) a club as defined by Section 46.01(1), Penal Code; or

(D) a weapon listed as a prohibited weapon under Section 46.05, Penal Code;

(2) engages in conduct that contains the elements of the offense of:

(A) aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(B) arson under Section 28.02, Penal Code;

(C) murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;

(D) indecency with a child under Section 21.11, Penal Code;

(E) aggravated kidnapping under Section 20.04, Penal Code;

(F) aggravated robbery under Section 29.03, Penal Code;

(G) manslaughter under Section 19.04, Penal Code;

(H) criminally negligent homicide under Section 19.05, Penal Code; or

(I) continuous sexual abuse of young child or children under Section 21.02, Penal Code; or

(3) engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

(k) A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

(1) at an approved target range facility that is not located on a school campus; and

(2) while participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

(l) Subsection (k) does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity described by that subsection.

SECTION 2. This Act applies beginning with the 2009-2010 school year.

SECTION 3. 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.

H.B. 1060

AN ACT

relating to certain procedures for forwarding a warrant of arrest or a complaint in a criminal case.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Articles 15.08 and 15.09, Code of Criminal Procedure, are amended to read as follows:

Art. 15.08. WARRANT MAY BE FORWARDED [~~TELEGRAPHED~~]. A warrant of arrest may be forwarded by any method that ensures the transmission of a duplicate of the original warrant, including secure facsimile transmission or other secure electronic means or a telegraph transmission from any telegraph office to another in this State. If issued by any magistrate named in Article 15.06, the peace officer receiving the same shall execute it without delay. If it be issued by any other magistrate than is named in Article 15.06, the peace officer receiving the same shall proceed with it to the nearest magistrate of the peace officer's [~~his~~] county, who shall endorse thereon, in substance, these words:

"Let this warrant be executed in the county of", which endorsement shall be dated and signed officially by the magistrate making the same.

Art. 15.09. COMPLAINT MAY BE FORWARDED [~~BY TELEGRAPH~~]. A complaint in accordance with Article 15.05, may be forwarded [~~telegraphed,~~] as provided by Article 15.08 [~~in the preceding Article,~~] to any magistrate in the State; and the magistrate who receives the same shall forthwith issue a warrant for the arrest of the accused; and the accused, when arrested, shall be dealt with as provided in this Chapter in similar cases.

SECTION 2. Article 15.19(a), Code of Criminal Procedure, is amended to read as follows:

(a) If the arrested person fails or refuses to give bail, as provided in Article 15.18, the arrested person shall be committed to the jail of the county where the person was arrested; and the magistrate committing the arrested person shall immediately provide notice to the sheriff of the county in which the offense is alleged to have been committed regarding:

(1) the arrest and commitment, which notice may be given by telegraph, mail, or other written means or by secure facsimile transmission or other secure electronic means; and

(2) whether the person was also arrested under a warrant issued under Section 508.251, Government Code.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 1213

AN ACT

relating to the promulgation by the commissioner of the General Land Office of rules authorizing the use

on a public beach of a golf cart for the transportation of a person with a physical disability.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 61.011(d), Natural Resources Code, is amended to read as follows:

(d) The commissioner shall promulgate rules, consistent with the policies established in this section, on the following matters only:

(1) acquisition by local governments or other appropriate entities or public dedication of access ways sufficient to provide adequate public ingress and egress to and from the beach within the area described in Subdivision (6);

(2) protection of the public easement from erosion or reduction caused by development or other activities on adjacent land and beach cleanup and maintenance;

(3) local government prohibitions of vehicular traffic on public beaches, provision of off-beach parking, the use on a public beach of a golf cart, as defined by Section 502.001, Transportation Code, for the transportation of a person with a physical disability, and other minimum measures needed to mitigate for any adverse effect on public access and dune areas;

(4) imposition of beach access, user, or parking fees and reasonable exercises of the police power by local governments with respect to public beaches;

(5) contents and certification of beach access and use plans and standards for local government review of construction on land adjacent to and landward of public beaches, including procedures for expedited review of beach access and use plans under Section 61.015;

(6) construction on land adjacent to and landward of public beaches and lying in the area either up to the first public road generally parallel to the beach or to any closer public road not parallel to the beach, or to within 1,000 feet of mean high tide, whichever is greater, that affects or may affect public access to and use of public beaches;

(7) the temporary suspension under Section 61.0185 of enforcement of the prohibition against encroachments on and interferences with the public beach easement and the ability of a property owner to make repairs to a house while a suspension is in effect;

(8) the determination of the line of vegetation or natural line of vegetation;

(9) the factors to be considered in determining whether a structure, improvement, obstruction, barrier, or hazard on the public beach:

(A) constitutes an imminent hazard to safety, health, or public welfare; or

(B) substantially interferes with the free and unrestricted right of the public to enter or leave the public beach or traverse any part of the public beach; and

(10) the procedures for determining whether a structure is not insurable property for purposes of Section 2210.004, Insurance Code, because of the factors listed in Subsection (h) of that section.

SECTION 2. 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.

H.B. 1282

AN ACT

relating to the penalty for theft of a driver's license, commercial driver's license, or personal identification certificate.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.03(e), Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than:

(A) \$50; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

- (2) a Class B misdemeanor if:
- (A) the value of the property stolen is:
- (i) \$50 or more but less than \$500; or
- (ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06; ~~or~~
- (B) the value of the property stolen is less than:
- (i) \$50 and the defendant has previously been convicted of any grade of theft; or
- (ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;
- or
- (C) the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;
- (3) a Class A misdemeanor if the value of the property stolen is \$500 or more but less than \$1,500;
- (4) a state jail felony if:
- (A) the value of the property stolen is \$1,500 or more but less than \$20,000, or the property is less than 10 head of cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, or any part thereof under the value of \$20,000, or less than 100 head of sheep, swine, or goats or any part thereof under the value of \$20,000;
- (B) regardless of value, the property is stolen from the person of another or from a human corpse or grave;
- (C) the property stolen is a firearm, as defined by Section 46.01;
- (D) the value of the property stolen is less than \$1,500 and the defendant has been previously convicted two or more times of any grade of theft;
- (E) the property stolen is an official ballot or official carrier envelope for an election; or
- (F) the value of the property stolen is less than \$20,000 and the property stolen is insulated or noninsulated wire or cable that consists of at least 50 percent:
- (i) aluminum;
- (ii) bronze; or
- (iii) copper;
- (5) a felony of the third degree if the value of the property stolen is \$20,000 or more but less than \$100,000, or the property is:
- (A) 10 or more head of cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$100,000; or
- (B) 100 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000;
- (6) a felony of the second degree if the value of the property stolen is \$100,000 or more but less than \$200,000; or
- (7) a felony of the first degree if the value of the property stolen is \$200,000 or more.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 1285

AN ACT

relating to persons authorized to administer an oath in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 602.002, Government Code, is amended to read as follows:

Sec. 602.002. OATH MADE IN TEXAS. An oath made in this state may be administered and a certificate of the fact given by:

- (1) a judge, retired judge, or clerk of a municipal court;
- (2) a judge, retired judge, senior judge, clerk, or commissioner of a court of record;
- (3) a justice of the peace or a clerk of a justice court;
- (4) a notary public;
- (5) a member of a board or commission created by a law of this state, in a matter pertaining to a duty of the board or commission;
- (6) a person employed by the Texas Ethics Commission who has a duty related to a report required by Title 15, Election Code, in a matter pertaining to that duty;
- (7) a county tax assessor-collector or an employee of the county tax assessor-collector if the oath relates to a document that is required or authorized to be filed in the office of the county tax assessor-collector;
- (8) the secretary of state or a former secretary of state;
- (9) an employee of a personal bond office, or an employee of a county, who is employed to obtain information required to be obtained under oath if the oath is required or authorized by Article 17.04 or by Article 26.04(n) or (o), Code of Criminal Procedure;
- (10) the lieutenant governor or a former lieutenant governor;
- (11) the speaker of the house of representatives or a former speaker of the house of representatives;
- (12) the governor or a former governor;
- (13) a legislator or retired legislator;
- (14) the attorney general or a former attorney general;
- (15) the secretary or clerk of a municipality in a matter pertaining to the official business of the municipality; or
- (16) a peace officer described by Article 2.12, Code of Criminal Procedure, if:
 - (A) the oath is administered when the officer is engaged in the performance of the officer's duties; and
 - (B) the administration of the oath relates to the officer's duties.

SECTION 2. 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.

H.B. 1297

AN ACT

relating to optional flexible school day program courses offered by school districts to enable students to earn course credit under certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 29.0822, Education Code, is amended by amending Subsections (a), (c), and (d) and adding Subsection (e) to read as follows:

- (a) Notwithstanding Section 25.081 or 25.082, a school district may apply to the commissioner to provide a flexible school day program for students [~~in grades nine through 12~~] who:
 - (1) have dropped out of school or are at risk of dropping out of school as defined by Section 29.081; [~~or~~]
 - (2) attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the commissioner; or
 - (3) as a result of attendance requirements under Section 25.092, will be denied credit for one or more classes in which the students have been enrolled.
- (c) Except in the case of a course designed for a student described by Subsection (a)(3), a [A] course offered in a program under this section must provide for at least the same number of instructional hours as required for a course offered in a program that meets the required minimum number of instructional days

under Section 25.081 and the required length of school day under Section 25.082.

(d) The commissioner may adopt rules for the administration of this section, including rules establishing application requirements. The commissioner shall calculate average daily attendance for students served under this section. The commissioner shall allow accumulations of hours of instruction for students whose schedule would not otherwise allow full state funding. Funding under this subsection shall be determined based on the number of instructional days in the school district calendar and a seven-hour school day, but attendance may be cumulated over a school year, including any summer or vacation session. The attendance of students who accumulate less than the number of attendance hours required under this subsection shall be proportionately reduced for funding purposes. The commissioner may:

(1) set maximum funding amounts for an individual course under this section; and

(2) limit funding for the attendance of a student described by Subsection (a)(3) in a course under this section to funding only for the attendance necessary for the student to earn class credit that, as a result of attendance requirements under Section 25.092, the student would not otherwise be able to receive without retaking the class.

(e) A student described by Subsection (a)(3) may enroll in a course in a program under this section offered during the school year or during the period in which school is recessed for the summer to enable the student to earn class credit that, as a result of attendance requirements under Section 25.092, the student would not otherwise be able to receive without retaking the class.

SECTION 2. This Act applies beginning with the 2009-2010 school year.

SECTION 3. 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.

H.B. 1343

AN ACT

relating to blind and disabled pedestrians and failure of the operator of a motor vehicle to yield the right-of-way.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 121.007, Human Resources Code, is transferred to Chapter 552, Transportation Code, renumbered as Section 552.010, and amended to read as follows:

Sec. 552.010 [~~121.007~~]. ~~BLIND [AND DISABLED] PEDESTRIANS.~~ (a) No person may carry a white cane on a public street or highway unless the person is totally or partially blind.

(b) The driver of a vehicle approaching an intersection or crosswalk where a pedestrian guided by an assistance animal or carrying a white cane is crossing or attempting to cross shall take necessary precautions to avoid injuring or endangering the pedestrian. The driver shall bring the vehicle to a full stop if injury or danger can be avoided only by that action.

(c) If it is shown on the trial of an offense under this section that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a blind person, the offense is a misdemeanor punishable by:

(1) a fine of not more than \$500; and

(2) 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more than one year.

(c-1) A portion of the community service required under Subsection (c)(2) shall include sensitivity training. [The failure of a totally or partially blind or otherwise disabled person to carry a white cane or be guided or aided by an assistance animal does not deprive the person of the rights and privileges conferred by law on pedestrians crossing streets or highways and does not constitute evidence of contributory negligence.]

(d) For the purposes of this section:

(1) "Assistance animal" has the meaning assigned by Section 121.002, Human Resources Code.

(2) "White cane" has the meaning assigned by Section 121.002, Human Resources Code [A person who violates this section commits a Class C misdemeanor].

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

SECTION 2. Section 552.003, Transportation Code, is amended by adding Subsections (d), (d-1), (e), and (f) to read as follows:

(d) If it is shown on the trial of an offense under Subsection (a) that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a visually impaired or disabled person, the offense is a misdemeanor punishable by:

(1) a fine of not more than \$500; and

(2) 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more than one year.

(d-1) A portion of the community service required under Subsection (d)(2) shall include sensitivity training.

(e) For the purposes of this section:

(1) "Visually impaired" has the meaning assigned by Section 91.002, Human Resources Code.

(2) "Disabled" means a person who cannot walk without the use or assistance of:

(A) a device, including a brace, cane, crutch, prosthesis, or wheelchair; or

(B) another person.

(f) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

SECTION 3. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For 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 covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2009.

H.B. 1357

AN ACT

relating to the regulation of freestanding emergency medical care facilities; providing an administrative penalty; creating an offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 4, Health and Safety Code, is amended by adding Chapter 254 to read as follows:

CHAPTER 254. FREESTANDING EMERGENCY MEDICAL CARE FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 254.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of State Health Services.

(2) "Emergency care" has the meaning assigned by Sections 843.002 and 1301.155, Insurance Code.

(3) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(4) "Facility" means a freestanding emergency medical care facility.

(5) "Freestanding emergency medical care facility" means a facility, structurally separate and distinct from a hospital that receives an individual and provides emergency care, as defined by Subsection (2).

[Section 254.002-254.050 reserved for expansion]

SUBCHAPTER B. LICENSING

Sec. 254.051. LICENSE REQUIRED. (a) Except as provided by Section 254.052, a person may not establish or operate a freestanding emergency medical care facility in this state without a license issued under this chapter.

(b) Except as provided by Section 254.052, a facility or person may not hold itself out to the public as a freestanding emergency medical care facility or use any similar term, as defined by department rule, that would give the impression that the facility or person is providing emergency care unless the facility or person holds a license issued under this chapter. The use of the term "emergency" or a similar term is also subject to Section 254.152.

(c) Each separate facility location must have a separate license.

(d) A license issued under this chapter is not transferable or assignable.

(e) The executive commissioner by rule shall establish a classification for a facility that is in continuous operation 24 hours per day and 7 days per week and a classification for a facility that is in operation 7 days per week and at least 12 hours per day.

(f) A facility that is not in continuous operation 24 hours per day and 7 days per week cannot be issued a license with a term that extends beyond August 31, 2013.

Sec. 254.052. EXEMPTIONS FROM LICENSING REQUIREMENT. The following facilities are not required to be licensed under this chapter:

(1) an office or clinic owned and operated by a manufacturing facility solely for the purposes of treating its employees and contractors;

(2) temporary emergency clinics in disaster areas;

(3) an office or clinic of a licensed physician, dentist, optometrist, or podiatrist;

(4) a licensed nursing home;

(5) a licensed hospital;

(6) a hospital that is owned and operated by this state;

(7) a facility located within or connected to a hospital described by Subsection (5) or (6);

(8) a facility that is owned or operated by a hospital described by Subsection (5) or (6) and is:

(A) surveyed as a service of the hospital by an organization that has been granted deeming authority as a national accreditation program for hospitals by the Centers for Medicare and Medicaid Services; or

(B) granted provider-based status by the Centers for Medicare and Medicaid Services; or

(9) a licensed ambulatory surgical center.

Sec. 254.053. LICENSE APPLICATION AND ISSUANCE. (a) An applicant for a license under this chapter must submit an application to the department on a form prescribed by the department.

(b) Each application must be accompanied by a nonrefundable license fee in an amount set by the executive commissioner.

(c) The application must contain evidence that there is at least one physician and one nurse on the staff of the facility who are licensed by the appropriate state licensing board.

(d) The application must contain evidence that the facility meets the minimum standards and requirements specified in Section 254.151.

(e) The department shall issue a license if, after inspection and investigation, it finds that the applicant and the facility meet the requirements of this chapter and the standards adopted under this chapter.

(f) The license fee must be paid annually on renewal of the license.

[Sections 254.054-254.100 reserved for expansion]

SUBCHAPTER C. EXECUTIVE COMMISSIONER AND DEPARTMENT POWERS AND DUTIES

Sec. 254.101. ADOPTION OF RULES. The executive commissioner shall adopt rules necessary to implement this chapter, including requirements for the issuance, renewal, denial, suspension, and revocation of a license to operate a facility.

Sec. 254.102. FEES. The executive commissioner shall set fees imposed by this chapter in amounts reasonable and necessary to defray the cost of administering this chapter.

Sec. 254.103. INSPECTIONS. The department may inspect a facility at reasonable times as necessary to ensure compliance with this chapter.

Sec. 254.104. FREESTANDING EMERGENCY MEDICAL CARE FACILITY LICENSING FUND. All fees collected under this chapter shall be deposited in the state treasury to the credit of the

freestanding emergency medical care facility licensing fund and may be appropriated to the department only to administer and enforce this chapter.

[Sections 254.105-254.150 reserved for expansion]

SUBCHAPTER D. REGULATION OF FACILITIES

Sec. 254.151. MINIMUM STANDARDS. (a) The executive commissioner shall adopt rules necessary to implement this chapter, including minimum standards for:

(1) the construction and design of the facility, including plumbing, heating, lighting, ventilation, and other design standards necessary to ensure the health and safety of patients;

(2) the number, qualifications, and organization of the professional staff and other personnel;

(3) the administration of the facility;

(4) the equipment essential to the health and welfare of the patients;

(5) the sanitary and hygienic conditions within the facility and its surroundings;

(6) the requirements for the contents, maintenance, and release of medical records;

(7) the minimal level of care and standards for denial of care;

(8) the provision of laboratory and radiological services;

(9) the distribution and administration of drugs and controlled substances;

(10) a quality assurance program for patient care;

(11) disclosure, if applicable, of the following:

(A) the name and social security number of the sole proprietor, if the facility is a sole proprietor;

(B) the name and social security number of each general partner who is an individual, if the facility is a partnership;

(C) the name and social security number of any individual who has an ownership interest of more than 25 percent in the corporation, if the facility is a corporation; and

(D) the name and license numbers of any physicians licensed by the Texas Medical Board who have a financial interest in the facility or any entity which has an ownership interest in the facility;

(12) transfer protocols for patients requiring advanced medical care at a hospital; and

(13) any other aspect of the operation of a facility that the executive commissioner considers necessary to protect the facility's patients and the public.

(b) In adopting the rules required under Subsection (a) concerning transfer protocols, the executive commissioner must consult with physicians who provide emergency care, medical consultant organizations, and organizations representing hospitals licensed in this state.

(c) The minimum standards under this section shall apply to facilities operating 24 hours a day and 7 days per week and facilities operating less than 24 hours a day and 7 days per week.

Sec. 254.152. FACILITIES NOT IN CONTINUOUS OPERATION. (a) A facility that is not in continuous operation shall display a clearly visible sign that:

(1) indicates whether the facility is open or closed;

(2) provides information regarding the facility's operating hours; and

(3) provides clear instructions directing a patient to an emergency room in a licensed hospital or a freestanding emergency room classified as a facility that is in continuous operation within 10 miles of the facility that is not in continuous operation.

(b) A facility that is not in continuous operation may not advertise, market, or otherwise promote the services provided by the facility using the term "emergency" or any similar term defined by department rule.

(c) Notwithstanding Subsection (b), a facility that is not in continuous operation is not required to comply with Subsection (b) until the earlier of the second anniversary of the date the facility is issued a license under this chapter or September 1, 2012. This subsection expires January 1, 2013.

(d) This section expires August 31, 2013.

Sec. 254.153. FACILITY CARE REQUIREMENTS. (a) A facility shall provide to each facility patient, without regard to the individual's ability to pay, an appropriate medical screening, examination, and

stabilization within the facility's capability, including ancillary services routinely available to the facility, to determine whether an emergency medical condition exists and any necessary stabilizing treatment.

(b) Before a facility accepts any patient for treatment or diagnosis, the facility shall enter into a referral, transmission, or admission agreement with a hospital licensed in this state.

Sec. 254.154. COMPLAINTS. A person may file a complaint with the department against a facility licensed under this chapter.

[Sections 254.155-254.200 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT AND PENALTIES

Sec. 254.201. DENIAL, SUSPENSION, PROBATION, OR REVOCATION OF LICENSE. (a) The department may deny, suspend, or revoke a license for a violation of this chapter or a rule adopted under this chapter.

(b) The denial, suspension, or revocation of a license by the department and the appeal from that action are governed by the procedures for a contested case hearing under Chapter 2001, Government Code.

(c) If the department finds that a facility is in repeated noncompliance with this chapter or rules adopted under this chapter but that the noncompliance does not endanger public health and safety, the department may schedule the facility for probation rather than suspending or revoking the facility's license. The department shall provide notice to the facility of the probation and of the items of noncompliance not later than the 10th day before the date the probation period begins. The department shall designate a period of not less than 30 days during which the facility remains under probation. During the probation period, the facility must correct the items that were in noncompliance and report the corrections to the department for approval.

(d) The department may suspend or revoke the license of a facility that does not correct items that were in noncompliance or that does not comply with this chapter or the rules adopted under this chapter within the applicable probation period.

Sec. 254.202. EMERGENCY SUSPENSION. (a) The department may issue an emergency order to suspend a license issued under this chapter if the department has reasonable cause to believe that the conduct of a license holder creates an immediate danger to the public health and safety.

(b) An emergency suspension under this section is effective immediately without a hearing on notice to the license holder.

(c) On written request of the license holder, the department shall conduct a hearing not earlier than the 10th day or later than the 30th day after the date the hearing request is received to determine if the emergency suspension is to be continued, modified, or rescinded.

(d) A hearing and any appeal under this section are governed by the department's rules for a contested case hearing and Chapter 2001, Government Code.

Sec. 254.203. INJUNCTION. (a) The department may petition a district court for a temporary restraining order to restrain a continuing violation of the standards or licensing requirements provided under this chapter if the department finds that the violation creates an immediate threat to the health and safety of the patients of a facility.

(b) A district court, on petition of the department and on a finding by the court that a person is violating the standards or licensing requirements provided under this chapter, may by injunction:

(1) prohibit a person from continuing a violation of the standards or licensing requirements provided under this chapter;

(2) restrain or prevent the establishment or operation of a facility without a license issued under this chapter; or

(3) grant any other injunctive relief warranted by the facts.

(c) The attorney general shall institute and conduct a suit authorized by this section at the request of the department.

(d) Venue for a suit brought under this section is in the county in which the facility is located or in Travis County.

Sec. 254.204. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 254.051.

(b) An offense under this section is a Class C misdemeanor.

(c) Each day of a continuing violation constitutes a separate offense.

Sec. 254.205. IMPOSITION OF ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter. A penalty collected under this section or Section 254.206 shall be deposited in the state treasury in the general revenue fund.

(b) A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

(c) The amount of the penalty may not exceed \$1,000 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$5,000.

(d) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

(e) If the department initially determines that a violation occurred, the department shall give written notice of the report by certified mail to the person.

(f) The notice under Subsection (e) must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(g) Within 20 days after the date the person receives the notice under Subsection (e), the person in writing may:

(1) accept the determination and recommended penalty of the department; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(h) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the commissioner of state health services by order shall approve the determination and impose the recommended penalty.

(i) If the person requests a hearing, the commissioner of state health services shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(j) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner of state health services a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(k) Based on the findings of fact, conclusions of law, and proposal for a decision, the commissioner of state health services by order may:

(1) find that a violation occurred and impose a penalty; or

(2) find that a violation did not occur.

(l) The notice of the order under Subsection (k) that is sent to the person in accordance with Chapter

2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 254.206. PAYMENT AND COLLECTION OF ADMINISTRATIVE PENALTY; JUDICIAL REVIEW. (a) Within 30 days after the date an order of the commissioner of state health services under Section 254.205(k) that imposes an administrative penalty becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review of the commissioner's order contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the commissioner's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the executive commissioner by certified mail.

(c) If the commissioner of state health services receives a copy of an affidavit under Subsection (b)(2), the commissioner may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

(d) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected. The attorney general may sue to collect the penalty.

(e) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(f) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

(g) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person within 30 days after the date that the judgement of the court becomes final. The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(h) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond. If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

SECTION 2. Section 843.002, Insurance Code, is amended by amending Subdivision (7) and adding Subdivision (9-a) to read as follows:

(7) "Emergency care" means health care services provided in a hospital emergency facility, freestanding emergency medical care facility, or comparable emergency facility to evaluate and stabilize medical conditions of a recent onset and severity, including severe pain, that would lead a prudent layperson possessing an average knowledge of medicine and health to believe that the individual's condition, sickness, or injury is of such a nature that failure to get immediate medical care could:

(A) place the individual's health in serious jeopardy;

- (B) result in serious impairment to bodily functions;
- (C) result in serious dysfunction of a bodily organ or part;
- (D) result in serious disfigurement; or
- (E) for a pregnant woman, result in serious jeopardy to the health of the fetus.

(9-a) "Freestanding emergency medical care facility" means a facility licensed under Chapter 254, Health and Safety Code.

SECTION 3. Section 1271.155(b), Insurance Code, is amended to read as follows:

(b) A health care plan of a health maintenance organization must provide the following coverage of emergency care:

- (1) a medical screening examination or other evaluation required by state or federal law necessary to determine whether an emergency medical condition exists shall be provided to covered enrollees in a hospital emergency facility or comparable facility;
- (2) necessary emergency care shall be provided to covered enrollees, including the treatment and stabilization of an emergency medical condition; and
- (3) services originated in a hospital emergency facility, freestanding emergency medical care facility, or comparable emergency facility following treatment or stabilization of an emergency medical condition shall be provided to covered enrollees as approved by the health maintenance organization, subject to Subsections (c) and (d).

SECTION 4. Section 1301.001, Insurance Code, is amended by adding Subdivision (12) to read as follows:

(12) "Freestanding emergency medical care facility" means a facility licensed under Chapter 254, Health and Safety Code.

SECTION 5. Section 1301.155, Insurance Code, is amended to read as follows:

Sec. 1301.155. EMERGENCY CARE. (a) In this section, "emergency care" means health care services provided in a hospital emergency facility, freestanding emergency medical care facility, or comparable emergency facility to evaluate and stabilize a medical condition of a recent onset and severity, including severe pain, that would lead a prudent layperson possessing an average knowledge of medicine and health to believe that the person's condition, sickness, or injury is of such a nature that failure to get immediate medical care could result in:

- (1) placing the person's health in serious jeopardy;
- (2) serious impairment to bodily functions;
- (3) serious dysfunction of a bodily organ or part;
- (4) serious disfigurement; or
- (5) in the case of a pregnant woman, serious jeopardy to the health of the fetus.

(b) If an insured cannot reasonably reach a preferred provider, an insurer shall provide reimbursement for the following emergency care services at the preferred level of benefits until the insured can reasonably be expected to transfer to a preferred provider:

- (1) a medical screening examination or other evaluation required by state or federal law to be provided in the emergency facility of a hospital that is necessary to determine whether a medical emergency condition exists;
- (2) necessary emergency care services, including the treatment and stabilization of an emergency medical condition; and
- (3) services originating in a hospital emergency facility or freestanding emergency medical care facility following treatment or stabilization of an emergency medical condition.

SECTION 6. (a) Not later than September 1, 2010, a freestanding emergency medical care facility must obtain a license as required by Chapter 254, Health and Safety Code, as added by this Act.

(b) Not later than March 1, 2010, the executive commissioner of the Health and Human Services Commission shall adopt rules as required by Chapter 254, Health and Safety Code, as added by this Act.

(c) The changes in law made by Sections 3, 4, and 5 of this Act apply only to a health insurance policy or

evidence of coverage delivered, issued for delivery, or renewed on or after March 1, 2010. A health insurance policy or evidence of coverage delivered, issued for delivery, or renewed before that date is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 7. (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect September 1, 2009.

(b) Sections 254.201, 254.202, 254.203, 254.205, and 254.206, Health and Safety Code, as added by this Act, and Sections 843.002, 1271.155, 1301.001, and 1301.155, Insurance Code, as amended by this Act, take effect March 1, 2010.

(c) Section 254.204, Health and Safety Code, as added by this Act, takes effect September 1, 2010.

H.B. 1360

AN ACT

relating to the effect under the public information law of the disclosure of certain information by a prosecutor to defense counsel.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.02 to read as follows:

Art. 38.02. EFFECT UNDER PUBLIC INFORMATION LAW OF RELEASE OF CERTAIN INFORMATION. A release of information by an attorney representing the state to defense counsel for a purpose relating to the pending or reasonably anticipated prosecution of a criminal case is not considered a voluntary release of information to the public for purposes of Section 552.007, Government Code, and does not waive the right to assert in the future that the information is excepted from required disclosure under Chapter 552, Government Code.

SECTION 2. 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.

H.B. 1372

AN ACT

relating to the definition of victim in relation to certain crime victims' rights.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 56.01(3), Code of Criminal Procedure, as amended by Chapters 66 (H.B. 1489) and 268 (S.B. 6), Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(3) "Victim" means a person who is the victim of the offense of sexual assault, kidnapping, aggravated robbery, trafficking of persons, or injury to a child, elderly individual, or disabled individual or who has suffered personal injury or death as a result of the criminal conduct of another.

SECTION 2. 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.

H.B. 1468

AN ACT

relating to the regulation of funeral services, funeral homes, cemeteries, and crematories; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter F, Chapter 154, Finance Code, is amended by adding Section 154.265 to read as follows:

Sec. 154.265. DEFAULT UNDER CERTAIN CONTRACTS. (a) Notwithstanding any other law, the

purchaser of a trust-funded prepaid funeral benefits contract may not be considered in default under the contract if:

- (1) the purchaser has paid at least 85 percent of the contract price; and
- (2) the purchaser was unable to pay due to extenuating financial circumstances.

(b) A funeral provider is not required to provide funeral merchandise or services under a trust-funded prepaid funeral benefits contract unless any remaining balance, including any applicable finance charge, owed under the contract is paid before the funeral service or the funeral provider agrees in writing to another payment arrangement.

(c) This section does not affect a purchaser's right to cancel a trust-funded prepaid funeral benefits contract.

SECTION 2. Subtitle B, Title 8, Health and Safety Code, is amended by adding Chapter 695 to read as follows:

CHAPTER 695. IN-CASKET IDENTIFICATION

Sec. 695.001. DEFINITIONS. In this chapter:

- (1) "Casket" means a container used to hold the remains of a deceased person.
- (2) "Commission" means the Texas Funeral Service Commission.

Sec. 695.002. IDENTIFICATION OF DECEASED PERSON. The commission shall ensure a casket contains identification of the deceased person, including the person's name, date of birth, and date of death.

Sec. 695.003. RULES. The commission may adopt rules to enforce this chapter.

SECTION 3. Section 711.008(b), Health and Safety Code, is amended to read as follows:

(b) Subsection (a) does not apply to:

- (1) a cemetery heretofore established and operating;
- (2) the establishment and use of a columbarium by an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, as part of or attached to the principal church building owned by the society or sect;
- (3) the establishment and use of a columbarium:
 - (A) in a municipality with a population of at least 1.8 million; and
 - (B) by an organized religious society or sect, that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, on land that:

(i) is owned by the society or sect; and

(ii) is part of the campus on which an existing principal church building is located; ~~or~~

(4) the establishment and use of a columbarium on the campus of a private or independent institution of higher education, as defined by Section 61.003, Education Code, that is wholly or substantially controlled, managed, owned, or supported by or otherwise affiliated with an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, if a place of worship is located on the campus; or

(5) the establishment and use of a mausoleum that is:

(A) constructed beneath the principal church building owned by an organized religious society or sect that:

(i) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code; and

(ii) has recognized religious traditions and practices of interring the remains of ordained clergy in or below the principal church building; and

(B) used only for the interment of the remains of ordained clergy of that organized religious society or sect.

SECTION 4. Section 711.012(b), Health and Safety Code, is amended to read as follows:

(b) The Texas Funeral Service Commission may adopt rules, establish procedures, and prescribe forms to enforce and administer Sections 711.003, 711.008, 711.010, 711.011, 711.021-711.035, 711.038,

711.0395, 711.041, 711.042, 711.052, 711.061, and 711.062 relating to cemeteries that are not perpetual care cemeteries.

SECTION 5. Section 711.038, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) A cemetery organization may not resell the exclusive right of sepulture in a plot unless the exclusive right of sepulture has been reacquired by the cemetery organization. A sanction or other penalty may not be imposed on a cemetery organization that violates this subsection unless:

(1) the state agency authorized to enforce this section provides the cemetery organization written notice of the violation; and

(2) the cemetery organization does not correct the violation before the 91st day after the date on which the cemetery organization received the notice.

SECTION 6. Subchapter C, Chapter 711, Health and Safety Code, is amended by adding Section 711.0395 to read as follows:

Sec. 711.0395. MULTIPLE INTERMENTS IN SAME PLOT. A cemetery organization may not make more than one interment in a plot unless each owner of the plot consents to the interment.

SECTION 7. Section 711.041, Health and Safety Code, is amended to read as follows:

Sec. 711.041. ACCESS TO CEMETERY. (a) Any person who wishes to visit a cemetery or private burial grounds for which no public ingress or egress is available shall have the right to reasonable ingress and egress for the purpose of visiting the cemetery or private burial grounds. This right of access extends only to visitation during the [reasonable] hours determined by the owner or owners of the lands under Subsection (b) or at a reasonable time as provided by Subsection (c) and only for purposes usually associated with cemetery visits.

(b) The owner or owners of the lands surrounding the cemetery or private burial grounds may designate the routes of reasonable ingress and egress and reasonable hours of availability.

(c) At a time other than the time provided by Subsection (b), the owner or owners of the lands surrounding a cemetery or private burial grounds must allow a person to enter and exit the owner's land for the purpose of visiting the cemetery or private burial grounds if:

(1) the person provides written notice to the owner or owners of the lands surrounding the cemetery or private burial grounds of the person's visit;

(2) the person provides the notice required by Subdivision (1) not later than the 14th day before the date the person wishes to visit the cemetery; and

(3) the time of the visit is reasonable.

SECTION 8. Subchapter D, Chapter 711, Health and Safety Code, is amended by adding Section 711.0515 to read as follows:

Sec. 711.0515. INJUNCTIVE RELIEF. In addition to bringing an action under Section 711.051, the attorney general at the request of the Texas Funeral Service Commission may bring an action for injunctive relief to enforce this chapter or a rule or order adopted by the commission under this chapter.

SECTION 9. Subchapter D, Chapter 711, Health and Safety Code, is amended by adding Section 711.0521 to read as follows:

Sec. 711.0521. ACCESS TO CEMETERIES; CRIMINAL PENALTIES. (a) A person who is an individual, firm, association, corporation, or municipality, or an officer, agent, or employee of an individual, firm, association, corporation, or municipality, commits an offense if the person interferes with a person's reasonable right to ingress and egress under Section 711.041.

(b) An offense under this section is a Class C misdemeanor.

SECTION 10. Subchapter A, Chapter 716, Health and Safety Code, is amended by adding Section 716.0035 to read as follows:

Sec. 716.0035. ACCEPTANCE OF REMAINS. A crematory establishment may accept deceased human remains for refrigeration before it receives authorization to cremate the remains under Subchapter B.

SECTION 11. Subchapter B, Chapter 716, Health and Safety Code, is amended by adding Section

716.054 to read as follows:

Sec. 716.054. EXCEPTION; WRITTEN DIRECTIONS. (a) This section applies and a cremation authorization form is not required under this chapter if:

(1) the deceased person has left written directions for the disposition by cremation of the deceased person's human remains as provided by Section 711.002(g); and

(2) the authorizing agent refuses for any reason to sign a cremation authorization form.

(b) The crematory establishment may cremate the deceased person's human remains without receipt of a cremation authorization form signed by the authorizing agent if:

(1) cremation costs are paid; and

(2) the authorizing agent provides positive written identification that the human remains to be cremated are the human remains of the deceased person.

SECTION 12. Section 716.103, Health and Safety Code, is amended to read as follows:

Sec. 716.103. IDENTIFICATION RESPONSIBILITY OF CREMATORY. (a) A crematory establishment shall place on the exterior of a cremation container a label with the deceased person's name as provided by the authorizing agent unless the crematory establishment knows the name is incorrect.

(b) A crematory establishment shall place, with the cremated remains, in the temporary container, urn, or other permanent container, a permanent metal identification disc, bracelet, or other item that can be used to identify the deceased person.

SECTION 13. Section 716.104(a), Health and Safety Code, is amended to read as follows:

(a) Except as provided by Section 716.054, a [A] funeral director or funeral establishment shall provide a signed written statement to a crematory establishment that the human remains delivered to the crematory establishment were positively identified as the deceased person listed on the cremation authorization form by the authorizing agent or a representative of the authorizing agent delegated as provided by Section 716.053.

SECTION 14. Section 716.152(d), Health and Safety Code, is amended to read as follows:

(d) To the extent practicable, the crematory establishment shall remove all recoverable cremation residue from the cremation chamber following cremation and pulverize any bone fragments to a particle size of one-eighth inch or less as necessary. The crematory establishment shall remove and dispose of any other material included with the residue.

SECTION 15. Section 716.156(a), Health and Safety Code, is amended to read as follows:

(a) A crematory establishment shall:

(1) release the cremated remains to a representative of the funeral establishment that delivered the deceased human remains to the crematory establishment;

(2) release the cremated remains to the person authorized to receive the remains on the cremation authorization form; [or]

(3) ship the remains to the shipping address provided by the authorizing agent on the cremation authorization form not later than the 30th day following the date of cremation; or

(4) release the cremated remains according to written directions for the disposition by cremation of the deceased person's human remains as provided by Section 711.002(g).

SECTION 16. Subchapter E, Chapter 716, Health and Safety Code, is amended by adding Section 716.204 to read as follows:

Sec. 716.204. IMMUNITY FROM CRIMINAL AND CIVIL LIABILITY; WRITTEN DIRECTIONS.

(a) In this section:

(1) "Cemetery organization" has the meaning assigned by Section 711.001.

(2) "Embalmer" has the meaning assigned by Section 651.001, Occupations Code.

(b) If Section 716.054(a) applies, a cemetery organization, a business operating a crematory or columbarium, a funeral director, an embalmer, or a funeral establishment is not criminally liable or liable in a civil action for:

(1) cremating the human remains of a deceased person; or

(2) carrying out the written directions of the deceased person.

SECTION 17. Section 716.304, Health and Safety Code, is amended to read as follows:

Sec. 716.304. SCATTERING REMAINS. A person may scatter cremated remains over uninhabited public land, over a public waterway or sea, or on the private property of a consenting owner~~[-if the remains are reduced to a particle size of one eighth inch or less].~~ Unless the container is biodegradable, the cremated remains must be removed from the container before being scattered.

SECTION 18. Section 716.351(a), Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person:

(1) cremates human remains without receipt of:

(A) a cremation authorization form signed by an authorizing agent; or

(B) written directions for the disposition by cremation of the deceased person's human remains as provided in Section 711.002(g);

(2) signs a cremation authorization form with actual knowledge that the form contains false or incorrect information; or

(3) represents to the public that the person may cremate human remains without being licensed as provided by Subchapter N, Chapter 651, Occupations Code.

SECTION 19. Section 651.154(a), Occupations Code, is amended to read as follows:

(a) The commission shall set the following fees in amounts reasonable and necessary to administer this chapter:

(1) the funeral director's and embalmer's application fee, license fee, duplicate license fee, and reciprocal license fee; and

(2) the cemetery, crematory, or funeral establishment license fee, renewal fee, and late renewal penalty.

SECTION 20. Section 651.156, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d) A subpoena or subpoena duces tecum issued under this section is not effective unless it is issued in compliance with:

(1) state and federal law; and

(2) commission rules adopted under Subsection (c).

SECTION 21. Section 651.165(d), Occupations Code, is amended to read as follows:

(d) A person whose license has been expired for one year or more may ~~[not]~~ renew the license by:

(1) retaking and passing the applicable examination;

(2) paying any applicable fees, including a renewal fee that is equal to two times the normally required renewal fee; and

(3) completing any continuing education required under Section 651.266. [The person may obtain a new license by complying with the requirements and procedures, including the examination requirements, for obtaining an original license.]

SECTION 22. Subchapter D, Chapter 651, Occupations Code, is amended by adding Section 651.1655 to read as follows:

Sec. 651.1655. REINSTATEMENT OF SUSPENDED LICENSE. A person whose license has been suspended may renew the license by paying to the commission a renewal fee that is equal to two times the normally required renewal fee in addition to any penalty assessed by the commission.

SECTION 23. The heading to Section 651.267, Occupations Code, is amended to read as follows:

Sec. 651.267. REISSUANCE OF REVOKED LICENSE.

SECTION 24. Sections 651.267(a) and (d), Occupations Code, are amended to read as follows:

(a) On application, the commission may reissue a license issued under this subchapter to a person whose license has been ~~[suspended or]~~ revoked. An application to reissue a license may not be made before the third ~~first~~ anniversary of the date of the ~~[suspension or]~~ revocation.

(d) A license that has been revoked ~~[or suspended for a period of five years or more]~~ may be reinstated only after the applicant:

- (1) retakes and passes the applicable examination;
- (2) pays a fee that is equal to two times the normally required renewal fee; and
- (3) satisfies any other commission requirements, including any continuing education requirements under Section 651.266.

SECTION 25. Section 651.304(e), Occupations Code, is amended to read as follows:

(e) The commission by rule shall prescribe reporting requirements for provisional license holders. The commission shall furnish report forms to be used by a provisional license holder.

SECTION 26. Section 651.351, Occupations Code, is amended by amending Subsections (d) and (f) and adding Subsection (i) to read as follows:

(d) A funeral establishment must:

- (1) meet the building, fire safety, and health standards and health ordinances of this state and of the municipality in which the establishment is located;
- (2) except as provided by Subsection (i), be located at a fixed place that is not tax-exempt property or a cemetery;
- (3) include facilities in which funeral services may be conducted;
- (4) have access to rolling stock consisting of at least one motor hearse;
- (5) include a preparation room containing the facilities, equipment, and supplies required by commission rule to ensure the provision of adequate embalming services;
- (6) include other facilities as necessary to comply with the sanitary codes of this state and of the municipality in which the room is located; and
- (7) include a display containing sufficient merchandise to permit reasonable selection, including at least five adult caskets, two of which must be full-size and displayed in a casket showroom.

(f) The least expensive casket displayed under Subsection (d)(7) must be a full-size casket displayed in the same general manner as the other full-size caskets are displayed. The three adult caskets that are not required to be full-size under Subsection (d)(7) may be displayed:

(1) in a partial panel display; or

(2) by video or brochure, online, or in any other manner.

(i) Subsection (d)(2) does not apply to a funeral establishment that is:

(1) located on the real property of a public junior college; and

(2) operated in connection with an accredited educational program in funeral services offered by the public junior college.

SECTION 27. Section 651.353(d), Occupations Code, is amended to read as follows:

(d) This section does not apply to:

- (1) a family, fraternal, or community cemetery that is not larger than 10 acres;
- (2) an unincorporated association of plot owners not operated for profit;
- (3) a church, a religious society or denomination, or an entity solely administering the temporalities of a church or religious society or denomination; ~~[or]~~
- (4) a public cemetery owned by this state, a county, or a municipality; or
- (5) a perpetual care cemetery.

SECTION 28. Sections 651.354(a), (c), and (d), Occupations Code, are amended to read as follows:

(a) The commission shall mail written notice to a cemetery or funeral establishment of the impending expiration of the establishment's license not later than the 30th day before the expiration date of the license. The ~~[Except as provided by Subsection (d), the]~~ notice must state that:

(1) to renew the license, the cemetery or funeral establishment must pay the renewal fee not later than the license expiration date ~~[September 30]~~; and

(2) the license is automatically renewed on receipt of the renewal fee.

(c) If the license is expired for longer than 30 days, the cemetery or funeral establishment ~~[may not renew the license and]~~ may not operate as a cemetery or funeral establishment until the renewal fee and the late payment penalty are paid ~~[establishment is issued a new license in the manner provided for issuing an~~

original license].

(d) ~~This section does not apply to [To renew a license for] a perpetual care cemetery [; the cemetery must submit a renewal on a form prescribed by the commission. The license is renewed on receipt of the form by the commission].~~

SECTION 29. Subchapter H, Chapter 651, Occupations Code, is amended by adding Section 651.355 to read as follows:

Sec. 651.355. PERPETUAL CARE CEMETERY REGISTRATION. (a) The Texas Department of Banking shall provide annually to the commission a list of perpetual care cemeteries, including the address and other contact information for each cemetery. The commission shall annually register each perpetual care cemetery on that list.

(b) A perpetual care cemetery is not required to pay a registration fee or renewal fee under this chapter.

SECTION 30. Subchapter J, Chapter 651, Occupations Code, is amended by adding Section 651.461 to read as follows:

Sec. 651.461. DEFENSE TO VIOLATION. A person licensed under this chapter does not violate this chapter by engaging in conduct regarding funeral arrangements under the direction of a person who:

(1) represents to the license holder that the person is authorized to make funeral arrangements for the deceased; and

(2) provides written directions to the license holder in the manner provided by Section 711.002, Health and Safety Code.

SECTION 31. Section 651.507(a), Occupations Code, is amended to read as follows:

(a) The commission or an administrative law judge employed by the State Office of Administrative Hearings shall review each disciplinary proceeding to determine whether the license holder has previously violated [committed] the same provision of this chapter or rule adopted under this chapter [type of violation on one or more previous occasions]. If it is determined that the license holder has previously violated [committed] the same provision of this chapter or rule adopted under this chapter [type of violation], the commission or administrative law judge shall impose a disciplinary action that is more severe than that imposed on the previous occasion.

SECTION 32. Section 651.658(d), Occupations Code, is amended to read as follows:

(d) If the license is expired for longer than 30 days, the crematory establishment may not operate a crematory until the renewal fee and late payment penalty are paid [A person may not renew a license that has been expired for more than 30 days. A person holding a license that has been expired for more than 30 days must apply for a new license as required by this subchapter to conduct a crematory business].

SECTION 33. The following are repealed:

(1) Section 716.004(b), Health and Safety Code; and

(2) Sections 651.304(b) and (c), 651.651(3), and 651.656(d), Occupations Code.

SECTION 34. Section 154.265, Finance Code, as added by this Act, applies only to a contract that is entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

SECTION 35. The change in law made by Section 711.0521, Health and Safety Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 36. Sections 651.165(d), 651.354, and 651.658(d), Occupations Code, as amended by this Act, apply only to a license that expires on or after the effective date of this Act. A license that expired before the effective date of this Act is governed by the law in effect at the time the license expired, and the former law is continued in effect for that purpose.

SECTION 37. Section 651.1655, Occupations Code, as added by this Act, applies only to a license suspended on or after the effective date of this Act. A license suspended before the effective date of this Act is governed by the law in effect at the time the license was suspended, and the former law is continued in effect for that purpose.

SECTION 38. Section 651.267, Occupations Code, as amended by this Act, applies only to a license revoked on or after the effective date of this Act. A license revoked before the effective date of this Act is governed by the law in effect at the time the license was revoked, and the former law is continued in effect for that purpose.

SECTION 39. Not later than January 1, 2010, the Texas Department of Banking shall provide the initial list of perpetual care cemeteries to the Texas Funeral Service Commission as required by Section 651.355, Occupations Code, as added by this Act.

SECTION 40. This Act takes effect September 1, 2009.

H.B. 1506

AN ACT

relating to the imposition of conditions on certain defendants charged with an offense involving family violence.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 17.292, Code of Criminal Procedure, is amended by adding Subsection (c-1) to read as follows:

(c-1) In addition to the conditions described by Subsection (c), the magistrate in the order for emergency protection may impose a condition described by Article 17.49(b) in the manner provided by that article, including ordering a defendant's participation in a global positioning monitoring system or allowing participation in the system by an alleged victim or other person protected under the order.

SECTION 2. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.49 to read as follows:

Art. 17.49. CONDITIONS FOR DEFENDANT CHARGED WITH OFFENSE INVOLVING FAMILY VIOLENCE. (a) In this article:

(1) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(2) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology. The term does not include a system that contains or operates global positioning system technology, radio frequency identification technology, or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

(b) A magistrate may require as a condition of release on bond that a defendant charged with an offense involving family violence:

(1) refrain from going to or near a residence, school, place of employment, or other location, as specifically described in the bond, frequented by an alleged victim of the offense;

(2) carry or wear a global positioning monitoring system device and, except as provided by Subsection (h), pay the costs associated with operating that system in relation to the defendant; or

(3) except as provided by Subsection (h), if the alleged victim of the offense consents after receiving the information described by Subsection (d), pay the costs associated with providing the victim with an electronic receptor device that:

(A) is capable of receiving the global positioning monitoring system information from the device carried or worn by the defendant; and

(B) notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under Subdivision (1).

(c) Before imposing a condition described by Subsection (b)(1), a magistrate must afford an alleged

victim an opportunity to provide the magistrate with a list of areas from which the victim would like the defendant excluded and shall consider the victim's request, if any, in determining the locations the defendant will be ordered to refrain from going to or near. If the magistrate imposes a condition described by Subsection (b)(1), the magistrate shall specifically describe the locations that the defendant has been ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations.

(d) Before imposing a condition described by Subsection (b)(3), a magistrate must provide to an alleged victim information regarding:

(1) the victim's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the magistrate terminate the victim's participation;

(2) the manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;

(3) any locations that the defendant is ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations;

(4) any sanctions that the court may impose on the defendant for violating a condition of bond imposed under this article;

(5) the procedure that the victim is to follow, and support services available to assist the victim, if the defendant violates a condition of bond or if the global positioning monitoring system equipment fails;

(6) community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other assistance available to address the consequences of family violence; and

(7) the fact that the victim's communications with the court concerning the global positioning monitoring system and any restrictions to be imposed on the defendant's movements are not confidential.

(e) In addition to the information described by Subsection (d), a magistrate shall provide to an alleged victim who participates in a global positioning monitoring system under this article the name and telephone number of an appropriate person employed by a local law enforcement agency whom the victim may call to request immediate assistance if the defendant violates a condition of bond imposed under this article.

(f) In determining whether to order a defendant's participation in a global positioning monitoring system under this article, the magistrate shall consider the likelihood that the defendant's participation will deter the defendant from seeking to kill, physically injure, stalk, or otherwise threaten the alleged victim before trial.

(g) An alleged victim may request that the magistrate terminate the victim's participation in a global positioning monitoring system at any time. The magistrate may not impose sanctions on the victim for requesting termination of the victim's participation in or refusing to participate in a global positioning monitoring system under this article.

(h) If the magistrate determines that a defendant is indigent, the magistrate may, based on a sliding scale established by local rule, require the defendant to pay costs under Subsection (b)(2) or (3) in an amount that is less than the full amount of the costs associated with operating the global positioning monitoring system in relation to the defendant or providing the victim with an electronic receptor device.

(i) If an indigent defendant pays to an entity that operates a global positioning monitoring system the partial amount ordered by a magistrate under Subsection (h), the entity shall accept the partial amount as payment in full. The county in which the magistrate who enters an order under Subsection (h) is located is not responsible for payment of any costs associated with operating the global positioning monitoring system in relation to an indigent defendant.

(j) A magistrate that imposes a condition described by Subsection (b)(1) or (2) shall order the entity that operates the global positioning monitoring system to notify the court and the appropriate local law enforcement agency if a defendant violates a condition of bond imposed under this article.

(k) A magistrate that imposes a condition described by Subsection (b) may only allow or require the defendant to execute or be released under a type of bond that is authorized by this chapter.

(l) This article does not limit the authority of a magistrate to impose any other reasonable conditions of bond or enter any orders of protection under other applicable statutes.

SECTION 3. Articles 17.292(c-1) and 17.49, Code of Criminal Procedure, as added by this Act, apply only to a defendant released on bond, or to an order for emergency protection issued, in connection with an offense committed on or after the effective date of this Act. A defendant released on bond, or an order for emergency protection issued, in connection with 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. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2009.

H.B. 1544

AN ACT

relating to court proceedings for a plea of guilty or nolo contendere for a misdemeanor punishable by fine only.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 27.14(b), Code of Criminal Procedure, is amended to read as follows:

(b) A defendant charged with a misdemeanor for which the maximum possible punishment is by fine only may, in lieu of the method provided in Subsection (a) of this article, mail or deliver in person to the court a plea of "guilty" or a plea of "nolo contendere" and a waiver of jury trial. The defendant may also request in writing that the court notify the defendant, at the address stated in the request, of the amount of an appeal bond that the court will approve. If the court receives a plea and waiver before the time the defendant is scheduled to appear in court, the court shall dispose of the case without requiring a court appearance by the defendant. If the court receives a plea and waiver after the time the defendant is scheduled to appear in court but at least five business days before a scheduled trial date, the court shall dispose of the case without requiring a court appearance by the defendant. The court shall notify the defendant either in person or by certified mail, return receipt requested, of the amount of any fine assessed in the case and, if requested by the defendant, the amount of an appeal bond that the court will approve. The defendant shall pay any fine assessed or give an appeal bond in the amount stated in the notice before the 31st day after receiving the notice.

SECTION 2. Articles 45.051(a), (a-1), (b), and (c), Code of Criminal Procedure, are amended to read as follows:

(a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs, the judge may [~~at the judge's discretion,~~] defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days. In issuing the order of deferral, the judge may impose a special expense fee on the defendant in an amount not to exceed the amount of the fine that could be imposed on the defendant as punishment for the offense. The special expense fee may be collected at any time before the date on which the period of probation ends. The judge may elect not to impose the special expense fee for good cause shown by the defendant. If the judge orders the collection of a special expense fee, the judge shall require that the amount of the special expense fee be credited toward the payment of the amount of the fine imposed by the judge. An order of deferral under this subsection terminates any liability under a bail bond or an appearance bond given for the charge.

(a-1) Notwithstanding any other provision of law, as an alternative to requiring a defendant charged with one or more offenses to make payment of all court costs as required by Subsection (a), the judge [~~in the judge's discretion,~~] may:

(1) allow the defendant to enter into an agreement for payment of those costs in installments during the

defendant's period of probation;

(2) require an eligible defendant to discharge all or part of those costs by performing community service under Article 45.049; or

(3) take any combination of actions authorized by Subdivision (1) or (2).

(b) During the deferral period, the judge may~~[-at the judge's discretion,]~~ require the defendant to:

(1) post a 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 a controlled substance or drug;

(5) submit to a 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 a driving safety course approved under Chapter 1001, Education Code, or another course as directed by the judge;

(9) present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the judge under this article; and

(10) comply with any other reasonable condition.

(c) On determining that the defendant has complied with the requirements imposed by the judge under this article, the judge shall dismiss the complaint, and it shall be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction. ~~[If the complaint is dismissed, a special expense not to exceed the amount of the fine assessed may be imposed.]~~

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2009.

H.B. 1614

AN ACT

relating to the punishment for the offense of criminal mischief.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 28.03(b), Penal Code, is amended to read as follows:

(b) Except as provided by Subsections (f) and (h), an offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than \$50; or

(B) except as provided in Subdivision (3)(A) or (3)(B), it causes substantial inconvenience to others;

(2) a Class B misdemeanor if the amount of pecuniary loss is \$50 or more but less than \$500;

(3) a Class A misdemeanor if:

(A) the amount of pecuniary loss is[:

~~(i)~~ \$500 or more but less than \$1,500; or

~~(ii) less than \$1,500 and the actor causes in whole or in part impairment or interruption of public communications, public transportation, public gas or power supply, or other public service, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for any such purpose, any public communications or public gas or power supply; or]~~

(B) the actor causes in whole or in part impairment or interruption of any public water supply, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for any such purpose, any public water supply, regardless of the amount of the pecuniary loss;

- (4) a state jail felony if the amount of pecuniary loss is:
- (A) \$1,500 or more but less than \$20,000;
 - (B) less than \$1,500, if the property damaged or destroyed is a habitation and if the damage or destruction is caused by a firearm or explosive weapon; [ø]
 - (C) less than \$1,500, if the property was a fence used for the production or containment of:
 - (i) cattle, bison, horses, sheep, swine, goats, exotic livestock, or exotic poultry; or
 - (ii) game animals as that term is defined by Section 63.001, Parks and Wildlife Code; or
 - (D) less than \$20,000 and the actor causes wholly or partly impairment or interruption of public communications, public transportation, public gas or power supply, or other public service, or causes to be diverted wholly, partly, or in any manner, including installation or removal of any device for any such purpose, any public communications or public gas or power supply;
- (5) a felony of the third degree if the amount of the pecuniary loss is \$20,000 or more but less than \$100,000;
- (6) a felony of the second degree if the amount of pecuniary loss is \$100,000 or more but less than \$200,000; or
- (7) a felony of the first degree if the amount of pecuniary loss is \$200,000 or more.

SECTION 2. The change in law made by this Act in amending Section 28.03(b), Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 1659

AN ACT

relating to creating an exception to the offense of unlawful installation of a tracking device.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 16.06, Penal Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

- (d) It is an affirmative defense to prosecution under this section that the person:
- (1) obtained the effective consent of the owner or lessee of the motor vehicle before the electronic or mechanical tracking device was installed;
 - (2) ~~[was a peace officer who installed the device in the course of a criminal investigation or pursuant to an order of a court to gather information for a law enforcement agency;~~
 - ~~[(3)]~~ assisted another whom the person reasonably believed to be a peace officer authorized to install the device in the course of a criminal investigation or pursuant to an order of a court to gather information for a law enforcement agency; or
 - ~~(3)~~ ~~[(4)]~~ was a private investigator licensed under Chapter 1702, Occupations Code, who installed the device:

- (A) with written consent:
 - (i) to install the device given by the owner or lessee of the motor vehicle; and
 - (ii) to enter private residential property, if that entry was necessary to install the device, given by the owner or lessee of the property; or
 - (B) pursuant to an order of or other authorization from a court to gather information.
- (e) This section does not apply to a peace officer who installed the device in the course of a criminal investigation or pursuant to an order of a court to gather information for a law enforcement agency.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that

purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 1665

AN ACT

relating to the penalty imposed on defaulting jurors.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 62.111, Government Code, is amended to read as follows:

Sec. 62.111. PENALTY FOR DEFAULTING JURORS. A juror lawfully notified shall be fined not less than ~~\$100~~ [~~\$10~~] nor more than ~~\$500~~ [~~\$100~~] if ~~the juror~~ [~~he~~]:

- (1) fails to attend court in obedience to the notice without reasonable excuse; or
- (2) files a false claim of exemption from jury service.

SECTION 2. Article 19.16, Code of Criminal Procedure, is amended to read as follows:

Art. 19.16. ABSENT JUROR FINED. A juror legally summoned, failing to attend without a reasonable excuse, may, by order of the court entered on the record, be fined not less than ~~\$100~~ [~~ten dollars~~] nor more than ~~\$500~~ [~~one hundred dollars~~].

SECTION 3. Article 35.01, Code of Criminal Procedure, is amended to read as follows:

Art. 35.01. JURORS CALLED. When a case is called for trial and the parties have announced ready for trial, the names of those summoned as jurors in the case shall be called. Those not present may be fined ~~not less than \$100 nor more than \$500~~ [~~not exceeding fifty dollars~~]. An attachment may issue on request of either party for any absent summoned juror, to have him brought forthwith before the court. A person who is summoned but not present, may upon an appearance, before the jury is qualified, be tried as to his qualifications and impaneled as a juror unless challenged, but no cause shall be unreasonably delayed on account of his absence.

SECTION 4. The change in law made by this Act applies only to a juror who fails to attend or provides a false claim of exemption on or after the effective date of this Act. A violation that occurred before the effective date of this Act is governed by the law in effect when the violation occurred, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2009.

H.B. 1721

AN ACT

relating to taking or attempting to take a weapon from an employee or official of a correctional facility.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 38.14, Penal Code, is amended to read as follows:

Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM PEACE OFFICER, EMPLOYEE OR OFFICIAL OF CORRECTIONAL FACILITY, PAROLE OFFICER, OR COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT OFFICER.

SECTION 2. Sections 38.14(b), (c), (d), and (e), Penal Code, are amended to read as follows:

(b) A person commits an offense if the person intentionally or knowingly and with force takes or attempts to take from a peace officer, employee or official of a correctional facility, parole officer, or community supervision and corrections department officer the officer's, employee's, or official's firearm, nightstick, stun gun, or personal protection chemical dispensing device with the intention of harming the officer, employee, or official or a third person.

(c) The actor is presumed to have known that the peace officer, employee or official of a correctional facility, parole officer, or community supervision and corrections department officer was a peace officer, employee or official of a correctional facility, parole officer, or community supervision and corrections department officer if:

(1) the officer, employee, or official was wearing a distinctive uniform or badge indicating his employment;[7] or

(2) [~~is~~] the officer, employee, or official identified himself as a peace officer, employee or official of a correctional facility, parole officer, or community supervision and corrections department officer.

(d) It is a defense to prosecution under this section that the defendant took or attempted to take the weapon from a peace officer, employee or official of a correctional facility, parole officer, or community supervision and corrections department officer who was using force against the defendant or another in excess of the amount of force permitted by law.

(e) An offense under this section is:

(1) a felony of the third degree, if the defendant took a weapon described by Subsection (b) from an officer, employee, or official described by that subsection; [Subsection (b)] and

(2) [~~is~~] a state jail felony, if the defendant attempted to take a [the] weapon described by Subsection (b) from an [the] officer, employee, or official described by that subsection.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2009.

H.B. 1793

AN ACT

relating to judicial instruction for judges who hear complaints against children alleging violations of certain misdemeanor offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 22, Government Code, is amended by adding Section 22.1105 to read as follows:

Sec. 22.1105. JUDICIAL INSTRUCTION RELATED TO CERTAIN ALLEGED CHILD OFFENDERS. (a) Each judge of a court with jurisdiction to hear a complaint against a child alleging a violation of a misdemeanor offense punishable by fine only, other than a traffic offense or public intoxication or a violation of a penal ordinance of a political subdivision other than a traffic offense, shall complete a course of instruction related to understanding relevant issues of child welfare and the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) every judicial academic year that ends in a 0 or a 5.

(b) The court of criminal appeals shall adopt the rules necessary to provide for the training required under Subsection (a). The rules must require a judge described by Subsection (a) to complete two hours of the required training every judicial academic year that ends in a 0 or a 5 as part of the training the judge is required to complete under rules adopted by the court of criminal appeals or other law.

(c) In adopting the rules, the court of criminal appeals may consult with the supreme court and with professional groups and associations in this state that have expertise in the subject matter to obtain the recommendations of those groups or associations for instructional content.

SECTION 2. (a) Not later than March 10, 2010, the Texas Court of Criminal Appeals shall adopt the rules necessary to provide the training required under Section 22.1105, Government Code, as added by this Act.

(b) Notwithstanding Section 22.1105, Government Code, as added by this Act, a judge who is in office on the effective date of this Act is not required to complete the judicial training required by Section 22.1105 before September 1, 2010.

SECTION 3. This Act takes effect September 1, 2009.

AN ACT

relating to mobile food units in certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 437, Health and Safety Code, is amended by adding Section 437.0073 to read as follows:

Sec. 437.0073. MEDALLION FOR MOBILE FOOD UNITS IN CERTAIN POPULOUS MUNICIPALITIES. (a) This section applies only to a municipality with a population of 1.5 million or more.

(b) Any person desiring to operate one or more mobile food units in a municipality subject to this section other than restricted operations mobile food units shall obtain an individual medallion for each operating mobile food unit from the health officer of the municipality. Each medallion will be issued unit-by-unit only after an inspection reveals satisfactory compliance with the provisions of this chapter and applicable municipal regulations or ordinances relating to mobile food units. The medallions shall remain the property of the municipality.

(c) A person may not operate or cause to be operated any mobile food unit that does not possess a valid medallion issued by the health officer.

(d) A medallion shall be affixed by the health officer or the health officer's authorized agents on the mobile food unit in a conspicuous place where it can be viewed by patrons.

(e) Application for a medallion shall be made on forms provided by the health officer and must include:

(1) the applicant's full name and mailing address;

(2) the address of the location at which the mobile food unit is stationed when not in use;

(3) the business name and address of the commissary or other fixed food service establishment from which potentially hazardous food supplies are obtained;

(4) the address of the servicing area;

(5) a description of the mobile food unit that includes the manufacturer's make, model, and serial number;

(6) the vehicle's state registration number; and

(7) the signature of the applicant.

(f) All of the provisions of this chapter and applicable municipal regulations or ordinances pertaining to food service establishments apply to the commissary or other fixed food service establishment from which the food supplies are obtained. Any suspension or revocation of the food dealer's permit for a food service establishment is cause for suspension or revocation of the medallion of any mobile food unit that is supplied or serviced by the establishment.

SECTION 2. Section 437.0074, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) A municipality with a population of 1.5 million or more in a county with a population of 2.8 million or more shall require a mobile food unit, other than a mobile food unit that handles only prepackaged food and does not prepare or package food, to obtain a time and date stamp on the documentation required under Subsection (a)(2) from a time and date stamp unit that is constructed to prevent tampering and approved by the municipality's governing body. A record kept by the municipality regarding the time and date stamp on the documentation under Subsection (a)(2) by means of an electronic tagging system under Subsection (b) controls if that record is inconsistent with the record kept by the mobile food unit.

SECTION 3. (a) Notwithstanding Section 437.0073, Health and Safety Code, as added by this Act, a person is not required to obtain a medallion for a mobile food unit under that section before October 1, 2009.

(b) Not later than December 1, 2009, the governing body of a municipality to which this Act applies shall approve time and date stamp units to be used under Section 437.0074(c), Health and Safety Code, as added by this Act.

SECTION 4. (a) Except as provided by Subsection (b) of this section, 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.

(b) Section 2 of this Act takes effect January 1, 2010.

H.B. 1805

AN ACT

relating to the use of laser sighting devices by hunters who have certain documented disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 62.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.005. HUNTING WITH LIGHT. Except as provided by Section 62.0055 or 62.0056, no person may hunt a game animal or bird protected by this code with the aid of an artificial light that casts or reflects a beam of light onto or otherwise illuminates the game animal or bird, including the headlights of a motor vehicle.

SECTION 2. Subchapter A, Chapter 62, Parks and Wildlife Code, is amended by adding Section 62.0056 to read as follows:

Sec. 62.0056. HUNTING WITH LASER SIGHTING DEVICE BY HUNTERS WITH CERTAIN DISABILITIES. (a) In this section, "person with a physical disability" means a person with a documented permanent physical disability that renders the person incapable of using a traditional firearm sighting device. A physician's or optometrist's statement certifying the extent of the disability is sufficient documentation.

(b) A hunter who is a person with a physical disability may use a laser sighting device during lawful hunting hours in open seasons when assisted by a person who:

(1) is not a person with a physical disability;

(2) has a hunting license; and

(3) is at least 13 years of age.

(c) The hunter who is a person with a physical disability must carry proof of the disability.

(d) Section 62.014 applies to a hunter under this section.

SECTION 3. (a) Not later than September 1, 2009, the Parks and Wildlife Commission shall adopt rules that prescribe what is acceptable as proof of a physical disability under Section 62.0056, Parks and Wildlife Code, as added by this Act.

(b) The Parks and Wildlife Department may not enforce Section 62.0056(c), Parks and Wildlife Code, as added by this Act, until the rules adopted under Subsection (a) of this section take effect.

SECTION 4. 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.

H.B. 1813

AN ACT

relating to the punishment for tampering with certain governmental records concerning forensic analyses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 37.10(c)(2), Penal Code, is amended to read as follows:

(2) An offense under this section is a felony of the third degree if it is shown on the trial of the offense that the governmental record was:

(A) a public school record, report, or assessment instrument required under Chapter 39, Education Code, or was a license, certificate, permit, seal, title, letter of patent, or similar document issued by government, by another state, or by the United States, unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the second degree;

(B) a written report of a medical, chemical, toxicological, ballistic, or other expert examination or test performed on physical evidence for the purpose of determining the connection or relevance of the evidence to a criminal action; or

(C) a written report of the certification, inspection, or maintenance record of an instrument, apparatus, implement, machine, or other similar device used in the course of an examination or test performed on physical evidence for the purpose of determining the connection or relevance of the evidence to a criminal action.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. 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. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 1831 (Excerpt)

AN ACT

relating to disaster preparedness and emergency management and to certain vehicles used in emergencies; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. Section 418.004(1), Government Code, is amended to read as follows:

(1) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination, volcanic activity, epidemic, air contamination, blight, drought, infestation, explosion, riot, hostile military or paramilitary action, extreme heat, other public calamity requiring emergency action, or energy emergency.

SECTION 1.02. Sections 418.005(a) and (b), Government Code, are amended to read as follows:

(a) This section applies only to an elected law enforcement officer or county judge, or an appointed public officer of the state or of a political subdivision, who has management or supervisory responsibilities and:

(1) whose position description, job duties, or assignment includes emergency management responsibilities; or

(2) who plays a role in emergency preparedness, response, or recovery.

(b) Each person described by Subsection (a) shall complete a course of training provided or approved by the division of not less than three hours regarding the responsibilities of state and local governments under this chapter not later than the 180th day after the date the person:

(1) takes the oath of office, if the person is required to take an oath of office to assume the person's duties as a ~~an appointed~~ public officer; or

(2) otherwise assumes responsibilities as a ~~an appointed~~ public officer, if the person is not required to take an oath of office to assume the person's duties.

SECTION 1.03. Section 418.013, Government Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The emergency management council is composed of representatives ~~the heads~~ of state agencies, boards, ~~and~~ commissions, and ~~representatives of~~ organized volunteer groups designated by the head of each entity.

(d) The emergency management council shall assist the division in identifying, mobilizing, and deploying state resources to respond to major emergencies and disasters throughout the state.

SECTION 1.03a. Section 418.016, Government Code, is amended to read as follows:

Sec. 418.016. SUSPENSION OF PROCEDURAL LAWS AND RULES. (a) The governor may

suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of a state agency if strict compliance with the provisions, orders, or rules would in any way prevent, hinder, or delay necessary action in coping with a disaster.

(b) Upon declaration of a state of disaster, enforcement of the regulation of on-premise outdoor signs under Subchapter A, Chapter 216, Local Government Code, by a municipality that is located in a county within, or that is located in a county adjacent to a county within, the disaster area specified by the declaration is suspended to allow licensed or admitted insurance carriers or licensed agents acting on behalf of insurance carriers to erect temporary claims service signage for not more than 30 days or until the end of the declaration of disaster, whichever is earlier.

(c) A temporary claims service sign shall not:

(1) be larger than forty square feet in size; and

(2) be more than five feet in height; and

(3) be placed in the right of way.

(4) At the end of the 30 days or the end of the declaration of disaster, whichever is earlier, the insurance carrier or its licensed agents must remove the temporary claims service signage that was erected.

ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2009.

H.B. 1861

AN ACT

relating to the operation and administration of the judiciary in the event of a disaster.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 22, Government Code, is amended by adding Section 22.0035 to read as follows:

Sec. 22.0035. MODIFICATION OR SUSPENSION OF CERTAIN PROVISIONS RELATING TO COURT PROCEEDINGS AFFECTED BY DISASTER. (a) In this section, "disaster" has the meaning assigned by Section 418.004.

(b) Notwithstanding any other statute, the supreme court may modify or suspend procedures for the conduct of any court proceeding affected by a disaster during the pendency of a disaster declared by the governor. An order under this section may not extend for more than 30 days from the date the order was signed unless renewed by the supreme court.

(c) If a disaster prevents the supreme court from acting under Subsection (b), the chief justice of the supreme court may act on behalf of the supreme court under that subsection.

(d) If a disaster prevents the chief justice from acting under Subsection (c), the court of criminal appeals may act on behalf of the supreme court under Subsection (b).

(e) If a disaster prevents the court of criminal appeals from acting under Subsection (d), the presiding judge of the court of criminal appeals may act on behalf of the supreme court under Subsection (b).

SECTION 2. Section 74.093(c), Government Code, is amended to read as follows:

(c) The rules may provide for:

(1) the selection and authority of a presiding judge of the courts giving preference to a specified class of cases, such as civil, criminal, juvenile, or family law cases; ~~and~~

(2) a coordinated response for the transaction of essential judicial functions in the event of a disaster; and

(3) any other matter necessary to carry out this chapter or to improve the administration and management of the court system and its auxiliary services.

SECTION 3. Section 418.002, Government Code, is amended to read as follows:

Sec. 418.002. PURPOSES. The purposes of this chapter are to:

(1) reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action;

- (2) prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster;
- (3) provide a setting conducive to the rapid and orderly restoration and rehabilitation of persons and property affected by disasters;
- (4) clarify and strengthen the roles of the governor, state agencies, the judicial branch of state government, and local governments in prevention of, preparation for, response to, and recovery from disasters;
- (5) authorize and provide for cooperation in disaster mitigation, preparedness, response, and recovery;
- (6) authorize and provide for coordination of activities relating to disaster mitigation, preparedness, response, and recovery by agencies and officers of this state, and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;
- (7) provide an emergency management system embodying all aspects of predisaster preparedness and postdisaster response;
- (8) assist in mitigation of disasters caused or aggravated by inadequate planning for and regulation of public and private facilities and land use; and
- (9) provide the authority and mechanism to respond to an energy emergency.

SECTION 4. 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.

H.B. 1949

AN ACT

relating to the issuance and execution of agriculture warrants; creating an offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 71, Agriculture Code, is amended by adding Section 71.0083 to read as follows:

Sec. 71.0083. AGRICULTURE WARRANTS. (a) In addition to vehicle inspections authorized under Section 71.0081, the department may seek an agriculture warrant with respect to a plant pest or plant disease identified in the application for the warrant to:

(1) conduct an inspection of:

(A) physical areas;

(B) containers;

(C) buildings; or

(D) items that are reasonably likely to contain:

(i) a plant pest;

(ii) a plant disease; or

(iii) an infected or potentially infected plant;

(2) set a trap for certain plant pests;

(3) examine records pertaining to the detection, treatment, purchase, or sale of plants; or

(4) test, treat, identify, quarantine, take samples of, seize, or destroy infected or potentially infected plants.

(b) An agriculture warrant may be issued only by a magistrate authorized to issue a search warrant under Chapter 18, Code of Criminal Procedure, only after the department has exercised reasonable efforts to obtain consent to conduct a search, and on application by the department accompanied by a supporting affidavit that establishes probable cause for the issuance of the warrant. The warrant must describe:

(1) the street address and municipality or the parcel number and county of each place or premises subject to the warrant; and

(2) each type of plant pest or disease that is the subject of the warrant.

(c) In determining the existence of probable cause for the issuance of an agriculture warrant, it shall be

sufficient to show only that:

(1) the place or premises described in the application for the warrant are located in an area subject to a quarantine established by the department with respect to the plant pest or disease that is the subject of the warrant; or

(2) there is a reasonable probability the place or premises contain a plant pest or disease or are located in an area that is reasonably suspected of being infected with a plant pest or disease because of its proximity to a known infestation.

(d) A single application and affidavit is sufficient for the issuance of multiple agriculture warrants if the application for the warrant describes the location of each place or premises subject to the warrant and all those places or premises are located in the same county.

(e) The department is entitled to an ex parte hearing on an application for an agriculture warrant. The warrant may be served and executed by a department employee and shall authorize department employees to undertake any action authorized by the warrant. On request by the department, a sheriff or constable shall accompany and assist the department employee in serving or executing the warrant.

(f) At the time the warrant is executed, a copy of the warrant shall be:

(1) delivered to a person 18 years of age or older who is occupying or living in the place or premises subject to the warrant; or

(2) attached to the place or premises in a conspicuous location.

(g) An agriculture warrant is valid until the 61st day after the date the warrant is issued and authorizes multiple executions of the warrant before the date the warrant expires. A warrant may be renewed or extended by the magistrate who issued the original warrant if the magistrate determines there is probable cause for the warrant to be reissued or extended. The agriculture warrant must be returned to the issuing magistrate before the warrant expires.

(h) An agriculture warrant may not:

(1) be executed between 7 p.m. and 7 a.m. of the following day or on a state holiday;

(2) authorize the entry into or inspection of the interior of any occupied residential dwelling; or

(3) be issued in blank.

(i) A person commits an offense if the person intentionally interferes with the execution of an agriculture warrant. An offense under this subsection is a Class B misdemeanor.

(j) This section does not restrict the authority of this state or a political subdivision of this state to otherwise conduct an inspection with or without a warrant as authorized by other law.

SECTION 2. This Act takes effect September 1, 2009.

H.B. 1965

AN ACT

relating to permits to control protected wildlife; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 43.151, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.151. THREATS TO PUBLIC SAFETY OR DAMAGE BY WILDLIFE. ~~[(a)]~~ A person who has evidence clearly showing that wildlife protected by this code is causing serious damage to commercial agricultural, horticultural, or aquicultural interests ~~[or other property]~~, or is a threat to public safety, and who desires to kill the protected wildlife shall give written notice of the facts to the department ~~[county judge of the county or to the mayor of the municipality in which the damage or threat occurs].~~

~~[(b) The county judge or mayor, on receiving the notice, shall immediately cause a substantial copy of the notice to be posted in the county courthouse or city hall, as applicable, and shall notify the department of the location of the property where the damage or threat is occurring, the type of damage or nature of the threat, and the name of the applicant.]~~

SECTION 2. Subchapter H, Chapter 43, Parks and Wildlife Code, is amended by adding Section 43.1515 to read as follows:

Sec. 43.1515. RULES. The commission may adopt rules to implement this subchapter, including rules governing:

- (1) reports that must be submitted to the department by a person who holds a permit issued by the department under this subchapter;
- (2) the reinstatement of a canceled permit and a fee for the reinstatement;
- (3) the possession of wildlife resources taken or held under this subchapter;
- (4) the circumstances required to qualify for a permit; and
- (5) the electronic issuance of permits.

SECTION 3. Section 43.152, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.152. DEPARTMENT INSPECTION. (a) On receiving notice from a person under Section 43.151 [a county judge or mayor], the department may [shall] inspect the property and determine if damage or a threat to public safety is occurring as alleged in the notice.

(b) If the notice received by the department under Section 43.151 alleges damage or a threat to public safety caused by mule deer, pronghorn antelope, or desert bighorn sheep, the department may not issue a permit under Section 43.154 unless the department inspects the property and determines whether serious damage or a threat to public safety is occurring. [If the damage or threat is occurring, the department shall make recommendations to the person as are feasible and appropriate for controlling the damage or threat.]

SECTION 4. Section 43.153, Parks and Wildlife Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The application must be in writing, [and] be sworn to by the applicant, and [must] contain:

- (1) a statement of facts relating to the damage or threat; and
- (2) an agreement by the applicant to comply with the provisions of this subchapter and any rules adopted by the commission under this subchapter [relating to the disposition of the protected wildlife].

(d) The application must be accompanied by a permit application fee of \$50 or an amount set by the commission, whichever amount is more. Proceeds from the fee shall be deposited in the special game, fish, and water safety account.

SECTION 5. Section 43.154, Parks and Wildlife Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (a-1) to read as follows:

(a) On receipt of an application, the department may issue a permit for the killing of wildlife without regard to the closed season, bag limit, or means and methods. As soon as practicable, but not later than the 10th business day after the date the department receives an application, the department shall approve or deny the application and, if the application is approved, issue the permit.

(a-1) The department may not issue a permit under this section for the killing of mule deer, pronghorn antelope, or desert bighorn sheep unless:

- (1) the department has inspected the property and has verified that serious damage or a threat to public safety as described in the notice under Section 43.151 is occurring;
- (2) the department has made recommendations to the applicant regarding ways to minimize the damage or threat; and
- (3) the applicant has made a reasonable effort to comply with the recommendations made by the department under this section.

(b) The department shall deliver or mail the permit, if issued, to the person requesting the permit or to the regional or local office of the department for pickup by the person. The department may issue the permit electronically [county judge or mayor that sent the notice of damage or threat. The permit may not be delivered earlier than 24 hours after the notice from the county judge or mayor was received by the department].

(c) A permit must specify:

- (1) the period of time during which it is valid;
- (2) the area in which it applies;

- (3) the kind and number of wildlife authorized to be killed; and
- (4) the persons permitted to kill the noxious wildlife.

SECTION 6. Section 43.155, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.155. DISPOSITION OF WILDLIFE. (a) The holder of a permit issued under this subchapter or a person designated by Section 43.154(c)(4) who kills wildlife under the authority of the permit shall ~~[give the location of the wildlife carcass to the game warden or other department employee assigned to the area covered by the permit.~~

~~[(b) The game warden or other department employee notified shall]~~ dispose of the carcass by donating it to a charitable institution, a hospital, a needy person, or any other appropriate recipient~~[-or as directed by the court].~~

(b) The permit holder or a person designated under Section 43.154(c)(4) may not keep or sell any part of the wildlife taken under this subchapter, including antlers.

SECTION 7. Section 43.156, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.156. CANCELLATION OF PERMIT. The department may cancel a permit if:

- (1) the permit does not accomplish its intended purposes;
- (2) the permit holder fails to submit a required report to the department; or
- (3) the permit holder intentionally made false claims on the application for the permit.

SECTION 8. Subchapter H, Chapter 43, Parks and Wildlife Code, is amended by adding Section 43.1565 to read as follows:

Sec. 43.1565. REINSTATEMENT OF PERMIT. The department may reinstate a canceled permit if the permit holder submits an application for reinstatement in the same manner as required by Section 43.153 for an original permit and pays a fee set by the commission.

SECTION 9. Section 43.157, Parks and Wildlife Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) Except as provided by Subsection (e), a [A] person who violates this section commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(e) A person who violates a reporting requirement adopted under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 10. Sections 43.153(c) and 43.157(a), Parks and Wildlife Code, are repealed.

SECTION 11. (a) 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 purpose of this subsection, an offense is committed before the effective date of this Act if any element of the offense occurs before that date. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act applies only to a permit under Subchapter H, Chapter 43, Parks and Wildlife Code, that is issued on or after the effective date of this Act. A permit issued before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 12. 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.

H.B. 2002

AN ACT

relating to a right of a close relative to seek expunction of arrest records and files on behalf of a deceased person.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 55, Code of Criminal Procedure, is amended by adding Article 55.011 to read as follows:

Art. 55.011. RIGHT OF CLOSE RELATIVE TO SEEK EXPUNCTION ON BEHALF OF DECEASED PERSON. (a) In this article, "close relative of a deceased person" means the grandparent, parent, spouse, or adult brother, sister, or child of a deceased person.

(b) A close relative of a deceased person who, if not deceased, would be entitled to expunction of records and files under Article 55.01 may file on behalf of the deceased person an ex parte petition for expunction under Section 2 or 2a, Article 55.02. If the court finds that the deceased person would be entitled to expunction of any record or file that is the subject of the petition, the court shall enter an order directing expunction.

SECTION 2. 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.

H.B. 2003

AN ACT

relating to the creation of the offense of online harassment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 33, Penal Code, is amended by adding Section 33.07 to read as follows:

Sec. 33.07. ONLINE HARASSMENT. (a) A person commits an offense if the person uses the name or persona of another person to create a web page on or to post one or more messages on a commercial social networking site:

(1) without obtaining the other person's consent; and

(2) with the intent to harm, defraud, intimidate, or threaten any person.

(b) A person commits an offense if the person sends an electronic mail, instant message, text message, or similar communication that references a name, domain address, phone number, or other item of identifying information belonging to any person:

(1) without obtaining the other person's consent;

(2) with the intent to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication; and

(3) with the intent to harm or defraud any person.

(c) An offense under Subsection (a) is a felony of the third degree. An offense under Subsection (b) is a Class A misdemeanor, except that the offense is a felony of the third degree if the actor commits the offense with the intent to solicit a response by emergency personnel.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

(e) It is a defense to prosecution under this section that the actor is any of the following entities or that the actor's conduct consisted solely of action taken as an employee of any of the following entities:

(1) a commercial social networking site;

(2) an Internet service provider;

(3) an interactive computer service, as defined by 47 U.S.C. Section 230;

(4) a telecommunications provider, as defined by Section 51.002, Utilities Code; or

(5) a video service provider or cable service provider, as defined by Section 66.002, Utilities Code.

(f) In this section:

(1) "Commercial social networking site" means any business, organization, or other similar entity operating a website that permits persons to become registered users for the purpose of establishing personal relationships with other users through direct or real-time communication with other users or the creation of web pages or profiles available to the public or to other users. The term does not include an electronic mail program or a message board program.

(2) "Identifying information" has the meaning assigned by Section 32.51.

SECTION 2. This Act takes effect September 1, 2009.

H.B. 2012

AN ACT

relating to the criminal consequences of operating without a valid driver's license a motor vehicle for which financial responsibility is not established.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as Eric's Law.

SECTION 2. Section 521.457, Transportation Code, is amended by amending Subsections (e) and (f) and adding Subsection (f-2) to read as follows:

(e) Except as provided by Subsections (f), ~~and~~ (f-1), and (f-2), an offense under this section is a Class C misdemeanor.

(f) An offense under this section is a Class B misdemeanor if ~~if~~ it is shown on the trial of the ~~an~~ offense ~~under this section~~ that the person:

(1) has previously been convicted of an offense under this section or an offense under Section 601.371(a), as that law existed before September 1, 2003; or

(2) at the time of the offense, was operating the motor vehicle in violation of Section 601.191 ~~[-the offense is a Class B misdemeanor].~~

(f-2) An offense under this section is a 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.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. 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. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 4. This Act takes effect September 1, 2009.

H.B. 2020

AN ACT

relating to parking privileges for veterans with disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 681.008(a) and (b), Transportation Code, are amended to read as follows:

(a) A vehicle may be parked for an unlimited period in a parking space or area that is designated specifically for persons with physical disabilities if:

~~(1)~~ the vehicle;

(1) is being operated by or for the transportation of:

(A) the person who registered the vehicle under Section 504.202(a); or

~~(B)~~ a person described by Section 504.202(b) if the vehicle is registered under that subsection; and

(B) displays ~~[(2) there are displayed on the vehicle]~~ special license plates issued under Section 504.202;

or

(2) displays license plates issued by another state of the United States that indicate on the face of the license plates that the owner or operator of the vehicle is a disabled veteran of the United States armed forces.

(b) A vehicle on which license plates described by Subsection (a)(2) or issued under Section 504.202 or Section 504.315(c), (d), (e), or (g) are displayed is exempt from the payment of a parking fee collected through a parking meter charged by a governmental authority other than a branch of the federal government, when being operated by or for the transportation of:

(1) the person who registered the vehicle under Section 504.202(a) or Section 504.315(c), (d), (e), or (g);

[~~or~~]

(2) a person described in Section 504.202(b) if the vehicle is registered under that subsection; or

(3) the owner or operator of a vehicle displaying license plates described by Subsection (a)(2).

SECTION 2. The change in law made by this Act applies only to the standing of a vehicle in a parking space or area designated specifically for persons with physical disabilities on or after the effective date of this Act. The standing of a vehicle in a parking space or area designated specifically for persons with physical disabilities before the effective date of this Act is governed by the law in effect on that date, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 2031

AN ACT

relating to the definition of sight order for purposes of prosecuting certain criminal offenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.07(a), Penal Code, is amended by adding Subdivision (46-a) to read as follows:

(46-a) "Sight order" means a written or electronic instruction to pay money that is authorized by the person giving the instruction and that is payable on demand or at a definite time by the person being instructed to pay. The term includes a check, an electronic debit, or an automatic bank draft.

SECTION 2. This Act takes effect September 1, 2009.

H.B. 2066

AN ACT

relating to enhancing penalties for assaulting a family member by strangulation or suffocation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 22.01, Penal Code, is amended by amending Subsections (b) and (f) and adding Subsections (b-1) and (g) to read as follows:

(b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

(1) a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant;

(2) a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if:

(A) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

(B) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth;

(3) a person who contracts with government to perform a service in a facility as defined by Section 1.07(a)(14), Penal Code, or Section 51.02(13) or (14), Family Code, or an employee of that person:

(A) while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by government to provide the service; or

(B) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract;

(4) a person the actor knows is a security officer while the officer is performing a duty as a security officer; or

(5) a person the actor knows is emergency services personnel while the person is providing emergency services.

(b-1) Notwithstanding Subsection (b)(2), an offense under Subsection (a)(1) is a felony of the second

degree if:

(1) the offense is committed against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code;

(2) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; and

(3) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

(f) For the purposes of Subsections (b)(2)(A) and (b-1)(2) [~~Subsection (b)(2)~~]:

(1) a defendant has been previously convicted of an offense listed in those subsections [~~Subsection (b)(2)~~] committed against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision; and

(2) a conviction under the laws of another state for an offense containing elements that are substantially similar to the elements of an offense listed in those subsections [~~Subsection (b)(2)~~] is a conviction of the [~~an~~] offense listed [~~in Subsection (b)(2)~~].

(g) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 2086

AN ACT

relating to the prevention, investigation, prosecution, and punishment for certain gang-related and other criminal offenses, including engaging in organized criminal activity, and to the consequences and costs of engaging in certain activities of a criminal street gang or certain other criminal activity; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 71.02(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, he commits or conspires to commit one or more of the following:

(1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

(2) any gambling offense punishable as a Class A misdemeanor;

(3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

(4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

- (6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;
- (7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;
- (8) any felony offense under Chapter 32;
- (9) any offense under Chapter 36;
- (10) any offense under Chapter 34 or 35;
- (11) any offense under Section 37.11(a);
- (12) any offense under Chapter 20A; [ø#]
- (13) any offense under Section 37.10; or
- (14) any offense under Section 38.06, 38.07, 38.09, or 38.11.

SECTION 2. Section 15.031(e), Penal Code, is amended to read as follows:

(e) An offense under this section is one category lower than the solicited offense, except that an offense under this section is the same category as the solicited offense if it is shown on the trial of the offense that the actor:

(1) was at the time of the offense 17 years of age or older and a member of a criminal street gang, as defined by Section 71.01; and

(2) committed the offense with the intent to:

(A) further the criminal activities of the criminal street gang; or

(B) avoid detection as a member of a criminal street gang.

SECTION 3. Chapter 71, Penal Code, is amended by adding Sections 71.023, 71.028, and 71.029 to read as follows:

Sec. 71.023. DIRECTING ACTIVITIES OF CERTAIN CRIMINAL STREET GANGS. (a) A person commits an offense if the person knowingly initiates, organizes, plans, finances, directs, manages, or supervises a criminal street gang or members of a criminal street gang with the intent to benefit, promote, or further the interests of the criminal street gang or to increase the person's standing, position, or status in the criminal street gang.

(b) An offense under this section is a felony of the first degree.

(c) Notwithstanding Section 71.01, in this section, "criminal street gang" means:

(1) an organization that:

(A) has more than 10 members whose names are included in an intelligence database under Chapter 61, Code of Criminal Procedure;

(B) has a hierarchical structure that has been documented in an intelligence database under Chapter 61, Code of Criminal Procedure;

(C) engages in profit-sharing among two or more members of the organization; and

(D) in one or more regions of this state served by different regional councils of government, continuously or regularly engages in conduct:

(i) that constitutes an offense listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure;

(ii) in which it is alleged that a deadly weapon is used or exhibited during the commission of or immediate flight from the commission of any felony offense; or

(iii) that is punishable as a felony of the first or second degree under Chapter 481, Health and Safety Code; or

(2) an organization that, in collaboration with an organization described by Subdivision (1), engages in conduct or commits an offense or conspires to engage in conduct or commit an offense described by Subdivision (1)(D).

Sec. 71.028. GANG-FREE ZONES. (a) In this section:

(1) "Institution of higher education," "playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Section 481.134, Health and Safety Code.

(2) "Shopping mall" means an enclosed public walkway or hall area that connects retail, service, or

professional establishments.

(b) This section applies to an offense listed in Section 71.02(a)(1), (4), or (7), other than burglary, theft, burglary of a motor vehicle, or unauthorized use of a motor vehicle.

(c) Except as provided by Subsection (d), the punishment prescribed for an offense described by Subsection (b) is increased to the punishment prescribed for the next highest category of offense if the actor is 17 years of age or older and it is shown beyond a reasonable doubt on the trial of the offense that the actor committed the offense at a location that was:

(1) in, on, or within 1,000 feet of any:

(A) real property that is owned, rented, or leased by a school or school board;

(B) premises owned, rented, or leased by an institution of higher education;

(C) premises of a public or private youth center; or

(D) playground;

(2) in, on, or within 300 feet of any:

(A) shopping mall;

(B) movie theater;

(C) premises of a public swimming pool; or

(D) premises of a video arcade facility; or

(3) on a school bus.

(d) The punishment for an offense described by Subsection (b) may not be increased under this section if the offense is punishable under Section 71.02 as a felony of the first degree.

Sec. 71.029. MAPS AS EVIDENCE OF LOCATION OR AREA. (a) In a prosecution of an offense for which punishment is increased under Section 71.028, a map produced or reproduced by a municipal or county engineer for the purpose of showing the location and boundaries of gang-free zones is admissible in evidence and is prima facie evidence of the location or boundaries of those zones if the governing body of the municipality or county adopts a resolution or ordinance approving the map as an official finding and record of the location or boundaries of those zones.

(b) A municipal or county engineer may, on request of the governing body of the municipality or county, revise a map that has been approved by the governing body of the municipality or county as provided by Subsection (a).

(c) A municipal or county engineer shall file the original or a copy of every approved or revised map approved as provided by Subsection (a) with the county clerk of each county in which the zone is located.

(d) This section does not prevent the prosecution from:

(1) introducing or relying on any other evidence or testimony to establish any element of an offense for which punishment is increased under Section 71.028; or

(2) using or introducing any other map or diagram otherwise admissible under the Texas Rules of Evidence.

SECTION 4. Subchapter D, Chapter 37, Education Code, is amended by adding Section 37.110 to read as follows:

Sec. 37.110. INFORMATION REGARDING GANG-FREE ZONES. The superintendent of each public school district and the administrator of each private elementary or secondary school located in the public school district shall ensure that the student handbook for each campus in the public school district includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

SECTION 5. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.973 to read as follows:

Sec. 51.973. INFORMATION REGARDING GANG-FREE ZONES. The governing board of each institution of higher education shall ensure that any student handbook or similar publication for the institution includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

SECTION 6. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.064 to read as follows:

Sec. 42.064. INFORMATION REGARDING GANG-FREE ZONES. Each day-care center shall, in accordance with rules adopted by the executive commissioner, distribute to parents and guardians of children who attend the center information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

SECTION 7. Section 37.110, Education Code, as added by this Act, applies beginning with the public school district's 2009-2010 school year.

SECTION 8. Section 51.973, Education Code, as added by this Act, applies beginning with the 2009 fall semester.

SECTION 9. Section 15.031(e) and Section 71.02(a), Penal Code, as amended by this Act, and Section 71.028, Penal Code, as added by this Act, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 10. Subchapter D, Chapter 125, Civil Practice and Remedies Code, is amended by adding Section 125.070 to read as follows:

Sec. 125.070. CIVIL ACTION FOR VIOLATION OF INJUNCTION. (a) In this section, "governmental entity" means a political subdivision of this state, including any city, county, school district, junior college district, levee improvement district, drainage district, irrigation district, water improvement district, water control and improvement district, water control and preservation district, freshwater supply district, navigation district, conservation and reclamation district, soil conservation district, communication district, public health district, and river authority.

(b) A criminal street gang or a member of a criminal street gang is liable to the state or a governmental entity injured by the violation of a temporary or permanent injunctive order under this subchapter.

(c) In an action brought against a member of a criminal street gang, the plaintiff must show that the member violated the temporary or permanent injunctive order.

(d) A district, county, or city attorney or the attorney general may sue for money damages on behalf of the state or a governmental entity. If the state or a governmental entity prevails in a suit under this section, the state or governmental entity may recover:

(1) actual damages;

(2) a civil penalty in an amount not to exceed \$20,000 for each violation; and

(3) court costs and attorney's fees.

(e) The property of the criminal street gang or a member of the criminal street gang may be seized in execution on a judgment under this section. Property may not be seized under this subsection if the owner or interest holder of the property proves by a preponderance of the evidence that the owner or interest holder was not a member of the criminal street gang and did not violate the temporary or permanent injunctive order. The owner or interest holder of property that is in the possession of a criminal street gang or a member of the criminal street gang and that is subject to execution under this subsection must show that the property:

(1) was stolen from the owner or interest holder; or

(2) was used or intended to be used without the effective consent of the owner or interest holder by the criminal street gang or a member of the criminal street gang.

(f) The attorney general shall deposit money received under this section for damages or as a civil penalty in the neighborhood and community recovery fund held by the attorney general outside the state treasury. Money in the fund is held by the attorney general in trust for the benefit of the community or neighborhood harmed by the violation of a temporary or permanent injunctive order. Money in the fund may be used only for the benefit of the community or neighborhood harmed by the violation of the

injunctive order. Interest earned on money in the fund shall be credited to the fund. The attorney general shall account for money in the fund so that money held for the benefit of a community or neighborhood, and interest earned on that money, are not commingled with money in the fund held for the benefit of a different community or neighborhood.

(g) A district, county, or city attorney who brings suit on behalf of a governmental entity shall deposit money received for damages or as a civil penalty in an account to be held in trust for the benefit of the community or neighborhood harmed by the violation of a temporary or permanent injunctive order. Money in the account may be used only for the benefit of the community or neighborhood harmed by the violation of the injunctive order. Interest earned on money in the account shall be credited to the account. The district, county, or city attorney shall account for money in the account so that money held for the benefit of a community or neighborhood, and interest earned on that money, are not commingled with money in the account held for the benefit of a different community or neighborhood.

(h) An action under this section brought by the state or a governmental entity does not waive sovereign or governmental immunity for any purpose.

SECTION 11. Article 59.01(2), Code of Criminal Procedure, as amended by Chapters 127 (S.B. 1694), 822 (H.B. 73), and 885 (H.B. 2278), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

(iv) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Chapter 153, Finance Code;

(iv) any felony under Chapter 34, Penal Code;

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;

(vi) any felony under Chapter 152, Finance Code;

(vii) any felony under Chapter 32, Human Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that involves the state Medicaid program;

(viii) a Class B misdemeanor under Chapter 522, Business & Commerce Code; ~~[or]~~

(ix) a Class A misdemeanor under Section 35.153, Business & Commerce Code; or

(x) any offense under Chapter 71, Penal Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x) of this subdivision, or a crime of violence;

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x) of this subdivision, or a crime of violence;

or

(E) used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 or 43.25, Penal Code.

SECTION 12. Chapter 59, Code of Criminal Procedure, is amended by adding Article 59.011 to read as follows:

Art. 59.011. ELECTION OF FORFEITURE PROCEEDING. If property described by Article 59.01(2)(B)(x) is subject to forfeiture under this chapter and Article 18.18, the attorney representing the

state may proceed under either this chapter or that article.

SECTION 13. Section 125.070, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 14. Article 59.01(2), Code of Criminal Procedure, as amended by this Act, and Article 59.011, Code of Criminal Procedure, as added by this Act, apply only to the forfeiture of property used in the commission of an offense committed on or after the effective date of this Act. Forfeiture of property used in the commission of 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. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 15. Article 42.01, Code of Criminal Procedure, is amended by adding Section 9 to read as follows:

Sec. 9. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0197.

SECTION 16. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0197 to read as follows:

Art. 42.0197. FINDING REGARDING GANG-RELATED CONDUCT. In the trial of an offense, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the applicable conduct was engaged in as part of the activities of a criminal street gang as defined by Section 71.01, Penal Code.

SECTION 17. Section 11(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The judge of the court having jurisdiction of the case shall determine the conditions of community supervision and may, at any time[;] during the period of community supervision, alter or modify the conditions. The judge may impose any reasonable condition that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant. Conditions of community supervision may include, but shall not be limited to, the conditions that the defendant shall:

- (1) Commit no offense against the laws of this State or of any other State or of the United States;
- (2) Avoid injurious or vicious habits;
- (3) Avoid persons or places of disreputable or harmful character, including any person, other than a family member of the defendant, who is an active member of a criminal street gang;
- (4) Report to the supervision officer as directed by the judge or supervision officer and obey all rules and regulations of the community supervision and corrections department;
- (5) Permit the supervision officer to visit the defendant at the defendant's home or elsewhere;
- (6) Work faithfully at suitable employment as far as possible;
- (7) Remain within a specified place;
- (8) Pay the defendant's fine, if one is [~~be~~] assessed, and all court costs whether a fine is [~~be~~] assessed or not, in one or several sums;
- (9) Support the defendant's dependents;
- (10) Participate, for a time specified by the judge, in any community-based program, including a community-service work program under Section 16 of this article;
- (11) Reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending the defendant in the case, if counsel was appointed, or if the defendant was represented by a county-paid public defender, in an amount that would have been paid to an appointed attorney had the county not had a public defender;
- (12) Remain under custodial supervision in a community corrections facility, obey all rules and regulations of the [~~such~~] facility, and pay a percentage of the defendant's income to the facility for room

and board;

(13) Pay a percentage of the defendant's income to the defendant's dependents for their support while under custodial supervision in a community corrections facility;

(14) Submit to testing for alcohol or controlled substances;

(15) Attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Texas Commission on Alcohol and Drug Abuse;

(16) With the consent of the victim of a misdemeanor offense or of any offense under Title 7, Penal Code, participate in victim-defendant mediation;

(17) Submit to electronic monitoring;

(18) Reimburse the compensation to victims of crime fund for any amounts paid from that fund to or on behalf of a victim, as defined by Article 56.32, of the defendant's offense or if no reimbursement is required, make one payment to the compensation to victims of crime fund in an amount not to exceed \$50 if the offense is a misdemeanor or not to exceed \$100 if the offense is a felony;

(19) Reimburse a law enforcement agency for the analysis, storage, or disposal of raw materials, controlled substances, chemical precursors, drug paraphernalia, or other materials seized in connection with the offense;

(20) Pay all or part of the reasonable and necessary costs incurred by the victim for psychological counseling made necessary by the offense or for counseling and education relating to acquired immune deficiency syndrome or human immunodeficiency virus made necessary by the offense;

(21) Make one payment in an amount not to exceed \$50 to a crime stoppers organization as defined by Section 414.001, Government Code, and as certified by the Crime Stoppers Advisory Council;

(22) Submit a DNA sample to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant;

(23) In any manner required by the judge, provide public notice of the offense for which the defendant was placed on community supervision in the county in which the offense was committed; and

(24) Reimburse the county in which the prosecution was instituted for compensation paid to any interpreter in the case.

SECTION 18. Article 42.12, Code of Criminal Procedure, is amended by adding Sections 13E and 13F to read as follows:

Sec. 13E. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF CRIMINAL STREET GANG WHO ARE PLACED ON COMMUNITY SUPERVISION. (a) This section applies only to a defendant who:

(1) is identified as a member of a criminal street gang in an intelligence database established under Chapter 61; and

(2) has two or more times been previously convicted of, or received a grant of deferred adjudication community supervision or another functionally equivalent form of community supervision or probation for, a felony offense under the laws of this state, another state, or the United States.

(b) A court granting community supervision to a defendant described by Subsection (a) may, on the defendant's conviction of a felony offense, require as a condition of community supervision that the defendant submit to tracking under an electronic monitoring service or other appropriate technological service designed to track a person's location.

Sec. 13F. RESTRICTIONS ON OPERATION OF MOTOR VEHICLE FOR DEFENDANTS CONVICTED OF CERTAIN ORGANIZED CRIME OFFENSES. A court granting community supervision to a defendant convicted of an offense under Chapter 71, Penal Code, may impose as a condition of community supervision restrictions on the defendant's operation of a motor vehicle, including specifying:

(1) hours during which the defendant may not operate a motor vehicle; and

(2) locations at or in which the defendant may not operate a motor vehicle.

SECTION 19. Chapter 54, Family Code, is amended by adding Section 54.0491 to read as follows:

Sec. 54.0491. GANG-RELATED CONDUCT. (a) In this section:

(1) "Criminal street gang" has the meaning assigned by Section 71.01, Penal Code.

(2) "Gang-related conduct" means conduct that violates a penal law of the grade of Class B misdemeanor or higher and in which a child engages with the intent to:

(A) further the criminal activities of a criminal street gang of which the child is a member;

(B) gain membership in a criminal street gang; or

(C) avoid detection as a member of a criminal street gang.

(b) A juvenile court, in a disposition hearing under Section 54.04 regarding a child who has been adjudicated to have engaged in delinquent conduct that is also gang-related conduct, shall order the child to participate in a criminal street gang intervention program that is appropriate for the child based on the child's level of involvement in the criminal activities of a criminal street gang. The intervention program:

(1) must include at least 12 hours of instruction; and

(2) may include voluntary tattoo removal.

(c) If a child required to attend a criminal street gang intervention program is committed to the Texas Youth Commission as a result of the gang-related conduct, the child must complete the intervention program before being discharged from the custody of or released under supervision by the commission.

SECTION 20. Subchapter G, Chapter 508, Government Code, is amended by adding Section 508.227 to read as follows:

Sec. 508.227. ELECTRONIC MONITORING OF CERTAIN MEMBERS OF CRIMINAL STREET GANG. (a) This section applies only to a releasee who:

(1) is identified as a member of a criminal street gang in an intelligence database established under Chapter 61, Code of Criminal Procedure; and

(2) has three or more times been convicted of, or received a grant of deferred adjudication community supervision or another functionally equivalent form of community supervision or probation for, a felony offense under the laws of this state, another state, or the United States.

(b) A parole panel may require as a condition of release on parole or to mandatory supervision that a releasee described by Subsection (a) submit to tracking under an electronic monitoring service or other appropriate technological service designed to track a person's location.

SECTION 21. Section 3.03, Penal Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) If the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of:

(1) an offense:

(A) under Section 49.07 or 49.08, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections;

(2) an offense:

(A) under Section 33.021 or an offense under Section 21.02, 21.11, 22.011, 22.021, 25.02, or 43.25 committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section; [✕]

(3) an offense:

(A) under Section 21.15 or 43.26, regardless of whether the accused is convicted of violations of the

same section more than once or is convicted of violations of both sections; or
(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections; or

(4) an offense for which the judgment in the case contains an affirmative finding under Article 42.0197, Code of Criminal Procedure.

(b-1) Subsection (b)(4) does not apply to a defendant whose case was transferred to the court under Section 54.02, Family Code.

SECTION 22. Section 9, Article 42.01, Code of Criminal Procedure, and Article 42.0197, Code of Criminal Procedure, as added by this Act, apply only to a judgment of conviction entered on or after the effective date of this Act.

SECTION 23. Section 11(a), Article 42.12, Code of Criminal Procedure, as amended by this Act, and Sections 13E and 13F, Article 42.12, Code of Criminal Procedure, as added by this Act, apply only to a person who is placed on community supervision for an offense committed on or after the effective date of this Act. A person who is placed on community supervision for an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 24. Section 54.0491, Family Code, as added by this Act, applies only to conduct that violates a penal law of this state and that occurs on or after the effective date of this Act. Conduct that violates a penal law of this state and that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, conduct occurs before the effective date of this Act if each element of the violation occurred before that date.

SECTION 25. Section 508.227, Government Code, as added by this Act, applies only to a person released on parole or to mandatory supervision for an offense committed on or after the effective date of this Act. A person released on parole or to mandatory supervision for an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 26. Section 3.03(b), Penal Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 27. Subchapter C, Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.067 to read as follows:

Sec. 101.067. GRAFFITI REMOVAL. This chapter does not apply to a claim for property damage caused by the removal of graffiti under Section 250.006, Local Government Code.

SECTION 28. Section 485.018(a), Health and Safety Code, is amended to read as follows:

(a) A political subdivision or an agency of this state may not enact an ordinance or rule that requires a business establishment to display an abusable volatile chemical, other than aerosol paint, in a manner that makes the chemical accessible to patrons of the business only with the assistance of personnel of the business.

SECTION 29. Chapter 250, Local Government Code, is amended by adding Section 250.006 to read as follows:

Sec. 250.006. GRAFFITI REMOVAL. (a) Except as provided by Subsection (h), a county by order or a municipality by ordinance may require the owner of property within the jurisdiction of the county or municipality to remove graffiti from the owner's property on receipt of notice from the county or

municipality.

(b) The order or ordinance must provide that a county or municipality may not give notice to a property owner under Subsection (a) unless:

(1) the county or municipality has offered to remove the graffiti from the owner's property free of charge; and

(2) the property owner has refused the offer.

(c) The order or ordinance must require a property owner to remove the graffiti on or before the 15th day after the date the property owner receives notice under Subsection (a). If the property owner fails to remove the graffiti on or before the 15th day after the date of receipt of the notice, the county or municipality may remove the graffiti and charge the expenses of removal to the property owner in accordance with a fee schedule adopted by the county or municipality.

(d) The notice required by Subsection (a) must be given:

(1) personally to the owner in writing;

(2) by letter sent by certified mail, addressed to the property owner at the property owner's address as contained in the records of the appraisal district in which the property is located; or

(3) if service cannot be obtained under Subdivision (1) or (2):

(A) by publication at least once in a newspaper of general circulation in the county or municipality;

(B) by posting the notice on or near the front door of each building on the property to which the notice relates; or

(C) by posting the notice on a placard attached to a stake driven into the ground on the property to which the notice relates.

(e) The county or municipality may assess expenses incurred under Subsection (c) against the property on which the work is performed to remove the graffiti.

(f) To obtain a lien against the property for expenses incurred under Subsection (c), the governing body of the county or municipality must file a statement of expenses with the county clerk. The statement of expenses must contain:

(1) the name of the property owner, if known;

(2) the legal description of the property; and

(3) the amount of expenses incurred under Subsection (c).

(g) A lien described by Subsection (f) attaches to the property on the date on which the statement of expenses is filed in the real property records of the county in which the property is located and is subordinate to:

(1) any previously recorded lien; and

(2) the rights of a purchaser or lender for value who acquires an interest in the property subject to the lien before the statement of expenses is filed as described by Subsection (f).

(h) An order or ordinance described by this section must include an exception from the requirement that an owner of property remove graffiti from the owner's property if:

(1) the graffiti is located on transportation infrastructure; and

(2) the removal of the graffiti would create a hazard for the person performing the removal.

SECTION 30. Section 101.067, Civil Practice and Remedies Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 31. Section 37.10, Penal Code, is amended by adding Subsection (j) to read as follows:

(j) It is not a defense to prosecution under Subsection (a)(2) that the record, document, or thing made, presented, or used displays or contains the statement "NOT A GOVERNMENT DOCUMENT" or another substantially similar statement intended to alert a person to the falsity of the record, document, or thing, unless the record, document, or thing displays the statement diagonally printed clearly and indelibly on both the front and back of the record, document, or thing in solid red capital letters at least one-fourth

inch in height.

SECTION 32. Section 521.454, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SECTION 33. Section 521.455, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SECTION 34. Section 521.456, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SECTION 35. Section 37.10(j), Penal Code, and Sections 521.454(d), 521.455(c), and 521.456(e), Transportation Code, as added by this Act, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 36. Article 61.02, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) Criminal information collected under this chapter relating to a criminal street gang must:

(1) be relevant to the identification of an organization that is reasonably suspected of involvement in criminal activity; and

(2) consist of:

(A) a judgment under any law that includes, as a finding or as an element of a criminal offense, participation in a criminal street gang;

(B) a self-admission by the individual of criminal street gang membership that is made during a judicial proceeding; or

(C) except as provided by Subsection (d), any two of the following:

(i) a self-admission by the individual of criminal street gang membership that is not made during a judicial proceeding, including the use of the Internet or other electronic format or medium to post photographs or other documentation identifying the individual as a member of a criminal street gang;

(ii) an identification of the individual as a criminal street gang member by a reliable informant or other individual;

(iii) a corroborated identification of the individual as a criminal street gang member by an informant or other individual of unknown reliability;

(iv) evidence that the individual frequents a documented area of a criminal street gang and associates with known criminal street gang members;

(v) evidence that the individual uses, in more than an incidental manner, criminal street gang dress, hand signals, tattoos, or symbols, including expressions of letters, numbers, words, or marks, regardless of how or the means by [the format or medium in] which the symbols are displayed, that are associated with a criminal street gang that operates in an area frequented by the individual and described by Subparagraph (iv); ~~(iv);~~

(vi) evidence that the individual has been arrested or taken into custody with known criminal street gang members for an offense or conduct consistent with criminal street gang activity;

(vii) evidence that the individual has visited a known criminal street gang member, other than a family member of the individual, while the gang member is confined in or committed to a penal institution; or

(viii) evidence of the individual's use of technology, including the Internet, to recruit new criminal street

gang members.

(d) Evidence described by Subsections (c)(2)(C)(iv) and (vii) is not sufficient to create the eligibility of a person's information to be included in an intelligence database described by this chapter unless the evidence is combined with information described by another subparagraph of Subsection (c)(2)(C).

(e) In this article:

(1) "Family member" means a person related to another person within the third degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code, except that the term does not include a person who is considered to be related to another person by affinity only as described by Section 573.024(b), Government Code.

(2) "Penal institution" means a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice, a confinement facility operated by or under contract with the Texas Youth Commission, or a juvenile secure pre-adjudication or post-adjudication facility operated by or under a local juvenile probation department, or a county jail.

SECTION 37. Article 61.06(b), Code of Criminal Procedure, is amended to read as follows:

(b) Subject to Subsection (c), information collected under this chapter relating to a criminal street gang must be removed from an intelligence database established under Article 61.02 and the intelligence database maintained by the department under Article 61.03 after five [~~three~~] years if:

(1) the information relates to the investigation or prosecution of criminal activity engaged in by an individual other than a child; and

(2) the individual who is the subject of the information has not been arrested for criminal activity reported to the department under Chapter 60.

SECTION 38. Article 61.06(c), Code of Criminal Procedure, as amended by Chapters 258 (S.B. 11), 263 (S.B. 103), and 1308 (S.B. 909), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(c) In determining whether information is required to be removed from an intelligence database under Subsection (b), the five-year [~~three-year~~] period does not include any period during which the individual who is the subject of the information is:

(1) confined in a correctional facility operated by or under contract with the Texas Department of Criminal Justice;

(2) committed to a secure correctional facility operated by or under contract with the Texas Youth Commission, as defined by Section 51.02, Family Code; or

(3) confined in a county jail or confined in or committed to a facility operated by a juvenile board in lieu of being confined in a correctional facility operated by or under contract with the Texas Department of Criminal Justice or being committed to a secure correctional facility operated by or under contract with the Texas Youth Commission.

SECTION 39. Article 61.06, Code of Criminal Procedure, as amended by this Act, applies to any applicable information maintained in an intelligence database under Chapter 61 of that code on or after the effective date of this Act.

SECTION 40. Article 18.20, Code of Criminal Procedure, is amended by adding Section 9A to read as follows:

Sec. 9A. INTERCEPTION ORDER FOR COMMUNICATION BY SPECIFIED PERSON. (a) The requirements of Sections 8(a)(2)(B) and 9(b)(2) relating to the specification of the facilities from which or the place where a communication is to be intercepted do not apply if:

(1) in the case of an application for an order authorizing the interception of an oral communication:

(A) the application contains a full and complete statement as to why the specification is not practical and identifies the person committing or believed to be committing the offense and whose communications are to be intercepted; and

(B) a judge of competent jurisdiction finds that the specification is not practical; and

(2) in the case of an application for an order authorizing the interception of a wire or electronic

communication:

(A) the application identifies the person committing or believed to be committing the offense and whose communications are to be intercepted;

(B) a judge of competent jurisdiction finds that the applicant has made an adequate showing of probable cause to believe that the actions of the person identified in the application could have the effect of thwarting interception from a specified facility; and

(C) the authority to intercept a wire or electronic communication under the order is limited to a period in which it is reasonable to presume that the person identified in the application will be reasonably proximate to the interception device.

(b) A person implementing an order authorizing the interception of an oral communication that, in accordance with this section, does not specify the facility from which or the place where a communication is to be intercepted may begin interception only after the person ascertains the place where the communication is to be intercepted.

(c) A provider of wire or electronic communications that receives an order authorizing the interception of a wire or electronic communication that, in accordance with this section, does not specify the facility from which or the place where a communication is to be intercepted may move the court to modify or quash the order on the ground that the provider's assistance with respect to the interception cannot be performed in a timely or reasonable fashion. On notice to the state, the court shall decide the motion expeditiously.

SECTION 41. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0207 to read as follows:

Sec. 411.0207. PUBLIC CORRUPTION UNIT. (a) In this section, "organized criminal activity" means conduct that constitutes an offense under Section 71.02, Penal Code.

(b) A public corruption unit is created within the department to investigate and assist in the management of allegations of participation in organized criminal activity by:

(1) an individual elected, appointed, or employed to serve as a peace officer for a governmental entity of this state under Article 2.12, Code of Criminal Procedure; or

(2) a federal law enforcement officer while performing duties in this state.

(c) The unit shall:

(1) assist district attorneys and county attorneys in the investigation and prosecution of allegations described by Subsection (b);

(2) if requested by the agency, assist a state or local law enforcement agency with the investigation of such allegations against law enforcement officers in the agency;

(3) assist the United States Department of Justice or any other appropriate federal department or agency in the investigation and prosecution of allegations described by Subsection (b);

(4) if requested by the agency, assist a federal law enforcement agency with the investigation of such allegations against law enforcement officers in the agency;

(5) serve as a clearinghouse for information relating to the investigation and prosecution of allegations described by Subsection (b); and

(6) report to the highest-ranking officer of the Texas Rangers division of the department.

(d) On written approval of the director or of the chair of the commission, the highest-ranking officer of the Texas Rangers division of the department may initiate an investigation of an allegation of participation in organized criminal activity by a law enforcement officer described by Subsection (b)(1). Written approval under this subsection must be based on cause.

(e) To the extent allowed by law, a state or local law enforcement agency shall cooperate with the public corruption unit by providing information requested by the unit as necessary to carry out the purposes of this section. Information described by this subsection is excepted from required disclosure under Chapter 552 in the manner provided by Section 552.108.

SECTION 42. Chapter 772, Government Code, is amended by adding Section 772.007 to read as follows:

Sec. 772.007. TEXAS ANTI-GANG GRANT PROGRAM. (a) The criminal justice division established under Section 772.006 shall administer a competitive grant program to support regional, multidisciplinary approaches to combat gang violence through the coordination of gang prevention, intervention, and suppression activities.

(b) The grant program administered under this section must be directed toward regions of this state that have demonstrably high levels of gang violence.

(c) The criminal justice division shall award grants to qualified applicants, as determined by the division, that demonstrate a comprehensive approach that balances gang prevention, intervention, and suppression activities to reduce gang violence.

(d) The criminal justice division shall include in the biennial report required by Section 772.006(a)(9) detailed reporting of the results and performance of the grant program administered under this section.

(e) The criminal justice division may use any revenue available for purposes of this section.

SECTION 43. Section 9A, Article 18.20, Code of Criminal Procedure, as added by this Act, applies only to an application for an order authorizing the interception of a wire, oral, or electronic communication that is submitted on or after the effective date of this Act. An application that was submitted before the effective date of this Act is covered by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 44. Not later than December 1, 2010, the Department of Public Safety shall establish the public corruption unit under Section 411.0207, Government Code, as added by this Act.

SECTION 45. To the extent of any conflict, this Act prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 46. (a) The Legislative Budget Board shall prepare an annual criminal justice policy impact statement for this Act.

(b) The impact statement must include information concerning:

(1) the number of arrests and resulting criminal dispositions under this Act;

(2) the fiscal impact of arrests, trials, convictions, and imprisoning or imposing other sanctions on persons in accordance with this Act;

(3) the race and ethnicity of persons arrested, prosecuted, convicted, and incarcerated under this Act;

(4) the impact of this Act on existing correctional facilities, as defined by Section 1.07, Penal Code;

(5) the likelihood that this Act may create a need for additional prison capacity;

(6) civil action damages assessed and collected, and assets seized and forfeited under this Act; and

(7) any other matter the Legislative Budget Board determines relevant.

(c) The Legislative Budget Board shall complete the impact statement not later than December 1 each year, beginning December 1, 2010, and make it available to the public on its website.

SECTION 47. (a) Except as provided by Subsection (b), this Act takes effect September 1, 2009.

(b) Sections 37.110 and 51.973, Education Code, and Section 42.064, Human Resources Code, as added by this Act, take effect immediately if this Act 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, those sections of the Education Code and Human Resources Code take effect September 1, 2009.

H.B. 2240

AN ACT

relating to creating the offense of continuous violence against the family.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 25, Penal Code, is amended by adding Section 25.11 to read as follows:

Sec. 25.11. CONTINUOUS VIOLENCE AGAINST THE FAMILY. (a) A person commits an offense if, during a period that is 12 months or less in duration, the person two or more times engages in conduct that constitutes an offense under Section 22.01(a)(1) against another person or persons whose relationship

to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code.
(b) If the jury is the trier of fact, members of the jury are not required to agree unanimously on the specific conduct in which the defendant engaged that constituted an offense under Section 22.01(a)(1) against the person or persons described by Subsection (a) or the exact date when that conduct occurred. The jury must agree unanimously that the defendant, during a period that is 12 months or less in duration, two or more times engaged in conduct that constituted an offense under Section 22.01(a)(1) against the person or persons described by Subsection (a).
(c) A defendant may not be convicted in the same criminal action of another offense the victim of which is an alleged victim of the offense under Subsection (a) and an element of which is any conduct that is alleged as an element of the offense under Subsection (a) unless the other offense:
(1) is charged in the alternative;
(2) occurred outside the period in which the offense alleged under Subsection (a) was committed; or
(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a).
(d) A defendant may not be charged with more than one count under Subsection (a) if all of the specific conduct that is alleged to have been engaged in is alleged to have been committed against a single victim or members of the same household, as defined by Section 71.005, Family Code.

(e) An offense under this section is a felony of the third degree.

SECTION 2. Section 22.01(b), Penal Code, is amended to read as follows:

(b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

(1) a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant;

(2) a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, ~~21.11~~, or 25.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code;

(3) a person who contracts with government to perform a service in a facility as defined by Section 1.07(a)(14), Penal Code, or Section 51.02(13) or (14), Family Code, or an employee of that person:

(A) while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by government to provide the service; or

(B) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract;

(4) a person the actor knows is a security officer while the officer is performing a duty as a security officer; or

(5) a person the actor knows is emergency services personnel while the person is providing emergency services.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2009.

H.B. 2385

AN ACT

relating to the punishment for the offense of prohibited sexual conduct.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 25.02(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a felony of the third degree, unless the offense is committed under Subsection (a)(1) [~~(a)(6)~~], in which event the offense is a felony of the second degree.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 2467

AN ACT

relating to the definition of playgrounds and to including those playgrounds in the designation of certain places as drug-free zones for purposes of criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.134(a)(3), Health and Safety Code, is amended to read as follows:

(3) "Playground" means any outdoor facility that is not on the premises of a school and that:

(A) is intended for recreation;

(B) is open to the public; and

(C) contains three or more play stations [~~separate apparatus~~] intended for the recreation of children, such as slides, swing sets, and teeterboards.

SECTION 2. Subsections (c), (d), (e), and (f), Section 481.134, Health and Safety Code, are amended to read as follows:

(c) The minimum term of confinement or imprisonment for an offense otherwise punishable under Section 481.112(c), (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e), 481.115(c)-(f), 481.116(c), (d), or (e), 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or 481.121(b)(4), (5), or (6) is increased by five years and the maximum fine for the offense is doubled if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of the premises of a school, the premises of [~~or~~] a public or private youth center, or a playground; or

(2) on a school bus.

(d) An offense otherwise punishable under Section 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b), 481.120(b)(3), or 481.121(b)(3) is a felony of the third degree if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, [~~or~~] the premises of a public or private youth center, or a playground; or

(2) on a school bus.

(e) An offense otherwise punishable under Section 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a state jail felony if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, [~~or~~] the premises of a public or private youth center, or a playground; or

(2) on a school bus.

(f) An offense otherwise punishable under Section 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1) is a Class A misdemeanor if it is shown on the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, [~~or~~] the premises of a public or private youth center, or a playground; or

(2) on a school bus.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 4. This Act takes effect September 1, 2009.

H.B. 2553

AN ACT

relating to the registration and operation of certain motor vehicles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 29.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 29.001. DEFINITION. In this chapter, "off-highway vehicle" means:

- (1) an all-terrain vehicle, as defined by Section 663.001, Transportation Code;
- (2) an off-highway motorcycle; ~~and~~
- (3) a recreational off-highway vehicle, as defined by Section 502.001, Transportation Code; and
- (4) any other motorized vehicle used for off-highway recreation on:
 - (A) public land over which the department has authority or on land purchased or leased by the department; or
 - (B) land acquired or developed under a grant made under Section 29.008 or any other grant program operated or administered by the department.

SECTION 2. The heading to Section 29.011, Parks and Wildlife Code, is amended to read as follows:

Sec. 29.011. SAFETY APPAREL REQUIRED; SEAT BELTS.

SECTION 3. Section 29.011, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A person may not operate, ride, or be carried on an off-highway vehicle on public property unless the person wears:

- (1) a safety helmet that complies with United States Department of Transportation standards; ~~and~~
- (2) eye protection; and
- (3) seat belts, if the vehicle is equipped with seat belts.

(c) This section does not apply to a motor vehicle that:

- (1) has at least four wheels and is registered by the Texas Department of Transportation for use on a public highway, unless the vehicle is an all-terrain vehicle as defined by Section 502.001, Transportation Code;
- (2) has four wheels and is equipped with bench or bucket seats and seat belts and includes a roll bar or roll cage construction to reduce the risk of injury to an occupant of the vehicle in case of the vehicle's rollover; or
- (3) is in the process of being loaded into or unloaded from a trailer or another vehicle used to transport the motor vehicle.

SECTION 4. Section 501.002(14), Transportation Code, is amended to read as follows:

(14) "Motor vehicle" means:

- (A) any motor driven or propelled vehicle required to be registered under the laws of this state;
- (B) a trailer or semitrailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds;
- (C) a house trailer;
- (D) an all-terrain vehicle or a recreational off-highway vehicle, as those terms are defined by Section 502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state; or
- (E) a motorcycle, motor-driven cycle, or moped that is not required to be registered under the laws of this

state, other than a motorcycle, motor-driven cycle, or moped designed for and used exclusively on a golf course.

SECTION 5. Section 502.001, Transportation Code, is amended by amending Subdivision (1) and adding Subdivision (19-a) to read as follows:

(1) "All-terrain vehicle" means a motor vehicle that is:

(A) equipped with a saddle~~[, bench, or bucket seats]~~ for the use of:

(i) the rider; and

(ii) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;

(B) designed to propel itself with three or more tires in contact with the ground;

(C) designed by the manufacturer for off-highway use; and

(D) not designed by the manufacturer primarily for farming or lawn care.

(19-a) "Recreational off-highway vehicle" means a motor vehicle that is:

(A) equipped with a non-straddle seat for the use of:

(i) the rider; and

(ii) a passenger, if the vehicle is designed by the manufacturer to transport a passenger;

(B) designed to propel itself with four or more tires in contact with the ground;

(C) designed by the manufacturer for off-highway use by the operator only; and

(D) not designed by the manufacturer primarily for farming or lawn care.

SECTION 6. Section 502.006, Transportation Code, is amended to read as follows:

Sec. 502.006. CERTAIN OFF-HIGHWAY [ALL TERRAIN] VEHICLES. (a) Except as provided by Subsection (b), a person may not register an all-terrain vehicle or a recreational off-highway vehicle, with or without design alterations, for operation on a public highway.

(b) The state, a county, or a municipality may register an all-terrain vehicle or a recreational off-highway vehicle for operation on a public beach or highway to maintain public safety and welfare.

(c) A recreational off-highway vehicle registered as provided by Subsection (b) may be operated on a public or private beach in the same manner as a golf cart may be operated on a public or private beach under Section 502.0071. The operator must hold and have in the operator's possession a driver's license issued under Chapter 521 or a commercial driver's license issued under Chapter 522.

(d) [(e)] Section 502.172 does not apply to an all-terrain vehicle or a recreational off-highway vehicle.

SECTION 7. Section 547.001, Transportation Code, is amended by adding Subsection (2-a) to read as follows:

(2-a) "Golf cart" has the meaning assigned by Section 502.001.

SECTION 8. Section 547.002, Transportation Code, is amended to read as follows:

Sec. 547.002. APPLICABILITY. Unless a provision is specifically made applicable, this chapter and the rules of the department adopted under this chapter do not apply to:

(1) an implement of husbandry;

(2) road machinery;

(3) a road roller;

(4) a farm tractor;

(5) a bicycle, a bicyclist, or bicycle equipment;

(6) an electric bicycle, an electric bicyclist, or electric bicycle equipment; or

(7) a golf cart that is operated only as authorized by [not required to be registered under] Section 551.403 [502.284].

SECTION 9. Subsection (d), Section 547.703, Transportation Code, is amended to read as follows:

(d) A golf cart that is operated at a speed of not more than 25 miles per hour [as defined by Section 502.001] is required to display a slow-moving-vehicle emblem [only] when it is operated on a public highway, as defined by Section 502.001, under Section 551.403 or 551.404 [an arterial street].

SECTION 10. Chapter 551, Transportation Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. GOLF CARTS

Sec. 551.401. DEFINITIONS. In this subchapter, "golf cart" and "public highway" have the meanings assigned by Section 502.001.

Sec. 551.402. REGISTRATION NOT AUTHORIZED. (a) The Texas Department of Transportation may not register a golf cart for operation on a public highway regardless of whether any alteration has been made to the golf cart.

(b) The department may issue license plates for a golf cart only as authorized by Section 504.510.

Sec. 551.403. LIMITED OPERATION. (a) An operator may operate a golf cart:

(1) in a master planned community:

(A) that has in place a uniform set of restrictive covenants; and

(B) for which a county or municipality has approved a plat;

(2) on a public or private beach; or

(3) on a public highway for which the posted speed limit is not more than 35 miles per hour, if the golf cart is operated:

(A) during the daytime; and

(B) not more than two miles from the location where the golf cart is usually parked and for transportation to or from a golf course.

(b) The Texas Department of Transportation or a county or municipality may prohibit the operation of a golf cart on a public highway if the department or the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

Sec. 551.404. OPERATION IN MUNICIPALITIES. (a) In addition to the operation authorized by Section 551.403, the governing body of a municipality may allow an operator to operate a golf cart on all or part of a public highway that:

(1) is in the corporate boundaries of the municipality; and

(2) has a posted speed limit of not more than 35 miles per hour.

(b) A golf cart operated under Subsection (a) must have the following equipment:

(1) headlamps;

(2) taillamps;

(3) reflectors;

(4) parking brake; and

(5) mirrors.

Sec. 551.405. CROSSING CERTAIN ROADWAYS. A golf cart may cross intersections, including a road or street that has a posted speed limit of more than 35 miles per hour.

SECTION 11. Subsection (a), Section 601.052, Transportation Code, is amended to read as follows:

(a) Section 601.051 does not apply to:

(1) the operation of a motor vehicle that:

(A) is a former military vehicle or is at least 25 years old;

(B) is used only for exhibitions, club activities, parades, and other functions of public interest and not for regular transportation; and

(C) for which the owner files with the department an affidavit, signed by the owner, stating that the vehicle is a collector's item and used only as described by Paragraph (B);

(2) the operation of a golf cart that is operated only as authorized by [not required to be registered under] Section 551.403 [502.284]; or

(3) a volunteer fire department for the operation of a motor vehicle the title of which is held in the name of a volunteer fire department.

SECTION 12. The following sections of the Transportation Code are repealed:

(1) Section 502.0071; and

(2) Subsection (e), Section 547.703.

SECTION 13. The heading to Subtitle G, Title 7, Transportation Code, is amended to read as follows:

SUBTITLE G. MOTORCYCLES AND OFF-HIGHWAY ~~[ALL-TERRAIN]~~ VEHICLES

SECTION 14. The heading to Chapter 663, Transportation Code, is amended to read as follows:

CHAPTER 663. CERTAIN OFF-HIGHWAY [ALL-TERRAIN] VEHICLES

SECTION 15. Section 663.001, Transportation Code, is amended by adding Subdivision (3) to read as follows:

(3) "Recreational off-highway vehicle" has the meaning assigned by Section 502.001.

SECTION 16. Subchapter A, Chapter 663, Transportation Code, is amended by adding Section 663.003 to read as follows:

Sec. 663.003. RECREATIONAL OFF-HIGHWAY VEHICLES. This chapter applies to the operator and operation of a recreational off-highway vehicle in the same manner as if the recreational off-highway vehicle were an all-terrain vehicle.

SECTION 17. Section 502.160, Transportation Code, is amended to read as follows:

Sec. 502.160. FEE: MOTORCYCLE OR MOPED. The fee for a registration year for registration of a motorcycle or moped is \$30.

SECTION 18. The heading to Section 502.161, Transportation Code, is amended to read as follows:

Sec. 502.161. FEE: VEHICLES THAT WEIGH 6,000 POUNDS OR LESS [PASSENGER-CAR, MUNICIPAL BUS, PRIVATE BUS].

SECTION 19. Subsection (a), Section 502.161, Transportation Code, is amended to read as follows:

(a) The fee for a registration year for registration of a vehicle with a gross weight of [passenger-car, a municipal bus, or a private bus that weighs] 6,000 pounds or less is \$50.75, unless otherwise provided in this chapter[:

~~[(1) \$40.50 for a vehicle the model year of which is more than six years before the year in which the registration year begins;~~

~~[(2) \$50.50 for a vehicle the model year of which is more than three years but is six years or less before the year in which the registration year begins; or~~

~~[(3) \$58.50 for a vehicle the model year of which is three years or less before the year in which the registration year begins].~~

SECTION 20. The heading to Section 502.162, Transportation Code, is amended to read as follows:

Sec. 502.162. FEE: VEHICLES THAT WEIGH MORE THAN 6,000 POUNDS [COMMERCIAL MOTOR VEHICLE OR TRUCK TRACTOR].

SECTION 21. Subsection (a), Section 502.162, Transportation Code, is amended to read as follows:

(a) The fee for a registration year for registration of a vehicle with a gross weight of more than 6,000 pounds is [commercial motor vehicle or truck tractor is \$25 plus an amount determined according to the vehicle's gross weight and tire equipment,] as follows unless otherwise provided in this chapter:

Weight Classification Fee Schedule

in pounds

<u>6,001-10,000</u>	<u>\$54.00</u>
<u>10,001-18,000</u>	<u>\$110.00</u>
<u>18,001-25,999</u>	<u>\$205.00</u>
<u>26,000-40,000</u>	<u>\$340.00</u>
<u>40,001-54,999</u>	<u>\$535.00</u>
<u>55,000-70,000</u>	<u>\$740.00</u>
<u>70,001-80,000</u>	<u>\$840.00</u>

<u>[Gross weight</u>	<u>Fee for each 100 pounds or</u>	
<u>[in pounds</u>	<u>fraction of 100 pounds</u>	
	<u>[Equipped with</u>	<u>Equipped with</u>
	<u>[pneumatic tires</u>	<u>solid tires</u>
<u>[1-6,000</u>	<u>\$0.44</u>	<u>\$0.55</u>

[6,001-8,000	0.495	0.66
[8,001-10,000	0.605	0.77
[10,001-17,000	0.715	0.88
[17,001-24,000	0.77	0.99
[24,001-31,000	0.88	1.10
[31,001 and over	0.99	1.32]

SECTION 22. Section 502.165, Transportation Code, is amended to read as follows:

Sec. 502.165. FEE: ROAD TRACTOR. The fee for a registration year for registration of a road tractor is the fee prescribed by ~~[\$25 plus an amount determined according to the vehicle's]~~ weight as certified by a public weigher or a license and weight inspector of the Department of Public Safety under Section 502.161 or 502.162, as applicable. ~~[, as follows:~~

[Fee for each 100 pounds

[Gross weight in or	
[pounds	fraction of 100 pounds
[1-4,000	\$0.275
[4,001-6,000	0.55
[6,001-8,000	0.66
[8,001-10,000	0.825
[10,001 and over	1.10]

SECTION 23. The heading to Section 502.166, Transportation Code, is amended to read as follows:

Sec. 502.166. FEE: TRAILER, TRAVEL TRAILER, OR SEMITRAILER.

SECTION 24. Section 502.166, Transportation Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) The fee for a registration year for registration of a trailer, travel trailer, or semitrailer with a ~~[is \$25 plus an amount determined according to the vehicle's]~~ gross weight of 6,000 pounds or less is \$45.00.

(a-1) The fee for a registration year for registration of a trailer, travel trailer, or semitrailer with a gross weight of more than 6,000 pounds is calculated by gross weight according to Section 502.162. [and tire equipment, as follows:

[Gross weight	Fee for each 100 pounds or	
[in pounds	fraction of 100 pounds	
	[Equipped with	Equipped with
	[pneumatic tires	solid tires
[1-6,000	\$0.33	\$0.44
[6,001-8,000	0.44	0.55
[8,001-10,000	0.55	0.66
[10,001-17,000	0.66	0.88
[17,001 and over	0.715	0.99]

SECTION 25. Subsections (a), (b), and (c), Section 502.167, Transportation Code, are amended to read as follows:

(a) This section applies only to a truck-tractor or commercial motor vehicle with a gross weight ~~[manufacturer's rated carrying capacity]~~ of more than 10,000 pounds ~~[one ton]~~ that is used or is to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds.

(b) The ~~[Notwithstanding Section 502.162, the]~~ fee for a registration year for registration of a truck-tractor or commercial motor vehicle is calculated by gross weight according to Section 502.162. [\$40 plus an amount determined according to the combined gross weight of the vehicles, as follows:

[Fee for each 100 pounds

[Combined gross weight or	
[in pounds	fraction of 100 pounds

[18,000-36,000	\$0.60
[36,001-42,000	0.75
[42,001-62,000	0.90
[62,001 and over	1.00]

(c) ~~The [Notwithstanding Section 502.166, the]~~ fee for a registration year for registration of a semitrailer used in the manner described by Subsection (a), regardless of the date the semitrailer is registered, is:

- (1) \$30, for a semitrailer being propelled by a power unit for which a permit under Section 623.011 has been issued; or
- (2) \$15, for a semitrailer being propelled by a power unit for which a permit under Section 623.011 has not been issued.

SECTION 26. Section 502.168, Transportation Code, is amended to read as follows:

Sec. 502.168. FEE: MOTOR BUS. The fee for a registration year for registration of a motor bus is the fee prescribed by Section 502.161 or 502.162, as applicable. ~~[\$25 plus an amount determined according to the vehicle's gross weight, as follows:~~

[Gross weight	or	[Fee for each 100 pounds
[in pounds		fraction of 100 pounds
[1-6,000		\$0.44
[6,001-8,000		0.495
[8,001-10,000		0.605
[10,001-17,000		0.715
[17,001-24,000		0.77
[24,001-31,000		0.88
[31,001 and over		0.99]

SECTION 27. Subsection (b), Section 502.1705, Transportation Code, is amended to read as follows:

(b) The department may use money collected under this section to provide for or enhance ~~perform one or more of the following]:~~

- (1) ~~enhancing the department's automated registration and title system;~~
- ~~(2) providing for the automated on-site production of registration insignia; or~~
- ~~(3) providing for] automated on-premises and off-premises [self-service] registration; and~~
- (2) services related to the titling of vehicles.

SECTION 28. The heading to Section 502.184, Transportation Code, is amended to read as follows:

Sec. 502.184. REPLACEMENT OF ~~[LOST, STOLEN, OR MUTILATED LICENSE PLATE OR]~~ REGISTRATION INSIGNIA.

SECTION 29. Subsections (a), (b), (e), and (f), Section 502.184, Transportation Code, are amended to read as follows:

(a) The owner of a registered motor vehicle may obtain ~~[from the department through the county assessor collector replacement license plates or]~~ a replacement registration insignia by:

- (1) certifying ~~[filing with the assessor collector a statement:~~
 - ~~[(A) showing that one or both of the license plates or the registration insignia to be replaced has been lost, stolen, or mutilated; and~~
 - ~~[(B) stating] that the replacement [no license plate or] registration insignia [to be replaced] will not be used on any other vehicle owned or operated by the person making the statement;~~
- (2) paying a fee of \$6 ~~[\$5]~~ plus the fees required by Section ~~[Sections 502.170(a) and]~~ 502.1705(a) for ~~[each set of replacement license plates or]~~ each replacement registration insignia, except as provided by other law ~~[Subsection (b), (e), or (i)]; and~~
- (3) returning ~~[to the assessor collector]~~ each replaced ~~[plate or]~~ registration insignia in the owner's possession.

(b) No fee is required under this section if the replacement fee for a license plate has been paid under Section 502.1841 ~~[for the replacement of lost, stolen, or mutilated specialized license plates issued under Sections 504.308 and 504.315(e) and (f)].~~ ~~[The fee for replacement of certain specialized license plates is:~~

~~[License plates issued under: Fee:~~

~~[Section 504.411 \$2~~

~~[Section 504.409 \$9]~~

(e) A county assessor-collector may not issue ~~[replacement license plates or]~~ a replacement registration insignia without complying with this section.

(f) A county assessor-collector shall retain \$2.50 of each fee collected under this section and shall report and send the remainder to the department ~~[as provided by Sections 502.102 and 502.105].~~

SECTION 30. Subchapter D, Chapter 502, Transportation Code, is amended by adding Section 502.1841 to read as follows:

Sec. 502.1841. REPLACEMENT LICENSE PLATES. (a) The owner of a registered motor vehicle may obtain replacement license plates for the vehicle by:

(1) certifying that the replacement plates will not be used on any other vehicle owned or operated by the person making the statement;

(2) paying a fee of \$6 plus the fee required by Section 502.1705(a) for each set of replacement license plates, unless otherwise specified by law; and

(3) returning to the department each license plate in the owner's possession for which a replacement license plate is obtained.

(b) Replacement license plates may not be issued except as provided by this section.

(c) A county assessor-collector shall retain \$2.50 of each fee collected under this section and forward the remainder of the fee to the department.

(d) The fee required by this section applies to the issuance of license plates for a transferred used vehicle for which the registration and license plates were not transferred under Subchapter I.

SECTION 31. Subsection (d), Section 504.101, Transportation Code, is amended to read as follows:

(d) The department may not issue a replacement set of personalized license plates to the same person before the sixth anniversary of the date of issuance unless the applicant for issuance of replacement plates pays the [an additional] fee required by Section 502.1841 ~~[of \$30].~~

SECTION 32. Section 504.501, Transportation Code, is amended to read as follows:

Sec. 504.501. CLASSIC MOTOR VEHICLES AND TRAVEL TRAILERS. (a) The department shall issue specialty license plates for a motor vehicle that is at least 25 years old. The license plates must include the word "Classic" ~~[words "Classic Auto," "Classic Motorcycle," or "Classic Truck"]~~ or a similar designation, as appropriate.

(b) A person eligible for the license plates may instead use license plates that were issued by this state in the same year as the model year of the vehicle and are approved by the department if the plates are approved for the vehicle before January 1, 2011. The department may require the attachment of a registration insignia to the license plate in a manner that does not affect the display of information originally on the license plate.

(c) There is no [The] fee for issuance or approval of license plates under this section ~~[is \$15].~~

SECTION 33. Subsection (c), Section 504.505, Transportation Code, is amended to read as follows:

(c) There is no [The initial] fee for issuance of the license plates ~~[is \$8].~~ The license plates may be renewed without payment of a fee.

SECTION 34. Subsection (b), Section 504.507, Transportation Code, is amended to read as follows:

(b) There is no [The] fee for issuance of the license plates ~~[is \$8].~~ The department shall:

(1) ~~[also]~~ collect any ~~[additional]~~ fee that a county imposes under this chapter for registration of a forestry vehicle; and

(2) send the fee to the appropriate county for disposition.

SECTION 35. Subsection (b), Section 504.508, Transportation Code, is amended to read as follows:

(b) ~~There is no [The]~~ fee for issuance of the license plates ~~[is \$15]~~.

SECTION 36. Section 504.509, Transportation Code, is amended to read as follows:

Sec. 504.509. VEHICLES CARRYING MOBILE AMATEUR RADIO EQUIPMENT. ~~[(a)]~~ The department shall issue specialty license plates for a person who holds an amateur radio station license issued by the Federal Communications Commission and who operates receiving and transmitting mobile amateur radio equipment. The license plates shall include the person's amateur call letters as assigned by the Federal Communications Commission. A person may register more than one vehicle equipped with mobile amateur radio equipment under this section, and the department shall issue license plates that include the same amateur call letters for each vehicle.

~~[(b) The fee for issuance of the license plates is \$2 for the first year and \$1 for each subsequent year.]~~

SECTION 37. Subsection (b), Section 504.510, Transportation Code, is amended to read as follows:

(b) The fee for issuance of the license plates is \$6 ~~[\$10]~~.

SECTION 38. Subsection (a), Section 504.801, Transportation Code, is amended to read as follows:

(a) The department may create new specialty license plates on its own initiative or on receipt of an application from a potential sponsor. A new specialty license plate created under this section must comply with each requirement of Section 504.702 unless the license is created by the department on its own initiative. The department may permit a specialty license plate created under this section to be personalized. The redesign of an existing specialty license plate at the request of a sponsor shall be treated like the issuance of a new specialty license plate, except that the department may require a nonrefundable design fee ~~[lower deposit amount to reflect the actual costs of redesigning the license plate]~~.

SECTION 39. The following provisions of the Transportation Code are repealed:

- (1) Section 502.007;
- (2) Subsection (b), Section 502.161;
- (3) Section 502.170;
- (4) Subsection (c), Section 502.1705;
- (5) Section 502.187;
- (6) Subsection (c), Section 502.201;
- (7) Section 502.453;
- (8) Subsection (b), Section 504.409; and
- (9) Section 504.5011.

SECTION 40. Sections 1 through 16 of this Act take effect September 1, 2009. Sections 17 through 39 of this Act take effect September 1, 2011.

H.B. 2571

AN ACT

relating to the licensing and regulation of towing companies and vehicle storage facilities; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2308.002, Occupations Code, is amended by amending Subdivisions (3), (6), and (8) and adding Subdivisions (5-a), (7-a), and (8-a) to read as follows:

(3) "Consent tow" means any tow of a motor vehicle in which the tow truck is summoned ~~[initiated]~~ by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include an incident management tow or a private property ~~[a] tow~~ ~~[of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle]~~.

(5-a) "Incident management tow" means any tow of a vehicle in which the tow truck is summoned because of a traffic accident or to an incident.

(6) "Nonconsent tow" means any tow of a motor vehicle that is not a consent tow, including:

(A) an incident management tow; and

(B) a private property tow.

(7-a) "Parking facility authorized agent" means an employee or agent of a parking facility owner with the authority to:

(A) authorize the removal of a vehicle from the parking facility on behalf of the parking facility owner; and

(B) accept service on behalf of the parking facility owner of a notice of hearing requested under this chapter.

(8) "Parking facility owner" means:

(A) an individual, corporation, partnership, limited partnership, limited liability company, association, trust, or other legal entity owning or operating ~~owner or operator of~~ a parking facility~~[-, including a lessee, employee, or agent of an owner or operator];~~

(B) a property owners' association having control under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, over assigned or unassigned parking areas; or

(C) a property owner having an exclusive right under a dedicatory instrument, as that term is defined in Section 202.001, Property Code, to use a parking space.

(8-a) "Private property tow" means any tow of a vehicle authorized by a parking facility owner without the consent of the owner or operator of the vehicle.

SECTION 2. Section 2308.057(a), Occupations Code, is amended to read as follows:

(a) The commission shall adopt rules for permitting tow trucks and licensing towing operators and towing companies, including rules for denial of applications and permits if the applicant, a partner, principal, officer, or general manager of the applicant, or other license or permit holder has:

(1) a criminal conviction, or has pleaded guilty or nolo contendere to an offense, before the date of the application, for:

(A) a felony; or

(B) a misdemeanor punishable by confinement in jail or by a fine in an amount that exceeds \$500;

(2) violated an order of the commission or executive director, including an order for sanctions or administrative penalties;

(3) failed to submit a license or permit bond in an amount established by the commission;

(4) knowingly submitted false or incomplete information on the application; or

(5) filed an application to permit a tow truck previously permitted by a license or permit holder.

SECTION 3. Subchapter B, Chapter 2308, Occupations Code, is amended by adding Section 2308.0575 to read as follows:

Sec. 2308.0575. RULES ON FEES; CONTRACT FOR STUDY; CONFIDENTIAL INFORMATION.

(a) To protect the public health and safety, the commission by rule shall establish:

(1) the fees that may be charged in connection with a private property tow;

(2) the maximum amount that may be charged for fees, other than tow fees, that may be assessed by a towing company in connection with a private property tow; and

(3) a maximum amount that may be charged for the following private property tows:

(A) standard light-duty tows of motor vehicles with a gross weight rating of 10,000 pounds or less;

(B) medium-duty tows of motor vehicles with a gross weight rating of more than 10,000 pounds, but less than 25,000 pounds; and

(C) heavy-duty tows of motor vehicles with a gross weight rating that exceeds 25,000 pounds.

(b) In adopting rules under Subsection (a), the commission shall contract for a study that:

(1) examines towing fee studies conducted by municipalities in this state; and

(2) analyzes the cost of towing services by company, the consumer price index, the geographic area, and individual cost components.

(c) The commission may structure the maximum amounts that may be charged for private property tows

based on hourly or flat fees or by geographic location.

(d) The commission shall maintain the confidentiality of information contained in a study conducted under this section that is claimed to be confidential for competitive purposes and may not release information that identifies a person or company. The confidential information is exempt from disclosure under Chapter 552, Government Code.

(e) To protect the confidentiality of the information, the commission shall aggregate the information to the maximum extent possible considering the purpose of the study.

(f) The department shall contract to conduct a study on private property towing fees under this section at least once every two years.

SECTION 4. Section 2308.060, Occupations Code, is amended to read as follows:

Sec. 2308.060. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, ~~and~~ continuing education requirements, and maximum amounts that may be charged for fees related to private property tows.

SECTION 5. Section 2308.202, Occupations Code, is amended to read as follows:

Sec. 2308.202. REGULATION BY POLITICAL SUBDIVISIONS OF FEES FOR NONCONSENT TOWS. The governing body of a political subdivision may regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision if the private property tow fees:

(1) are authorized by commission rule; and

(2) do not exceed the maximum amount authorized by commission rule.

SECTION 6. Section 2308.204, Occupations Code, is amended to read as follows:

Sec. 2308.204. FEES FOR PRIVATE PROPERTY ~~[NONCONSENT]~~ TOWS IN OTHER AREAS.

~~[(a)]~~ In an area in which no political subdivision regulates the fees that may be charged or collected in connection with ~~[for]~~ a private property ~~[nonconsent]~~ tow from private property, a towing company may charge and collect fees ~~[a fee]~~ for the tow of a motor vehicle ~~[from private property]~~ in an amount not to exceed the maximum amount authorized by commission rule ~~[an amount equal to 150 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located].~~

~~[(b) A towing company may charge and collect a fee for the tow of a vehicle, with a gross vehicle weight rating in excess of 26,000 pounds, from private property in an amount not to exceed an amount equal to 125 percent of the fee that the towing company would have been authorized to charge for a nonconsent tow made at the request of a peace officer of the political subdivision in which the private property is located.]~~

SECTION 7. Section 2308.206, Occupations Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) A license or permit holder may not charge a fee related to a nonconsent tow that is not listed in the schedule most recently submitted to the department under this section.

(g) The department may require a license or permit holder that has violated Subsection (e) or (f) to reimburse the vehicle owner or operator for the charges.

SECTION 8. Section 2308.208, Occupations Code, is amended to read as follows:

Sec. 2308.208. MUNICIPAL OR COUNTY ORDINANCE REGULATING UNAUTHORIZED VEHICLES AND TOWING OF MOTOR VEHICLES. The governing body of a ~~[A]~~ municipality or the commissioners court of a county may adopt an ordinance that is identical to this chapter or that imposes additional requirements that exceed the minimum standards of this chapter but may not adopt an ordinance conflicting with this chapter.

SECTION 9. Section 2308.252(a), Occupations Code, is amended to read as follows:

(a) A parking facility owner may, without the consent of the owner or operator of an unauthorized

vehicle, cause the vehicle and any property on or in the vehicle to be removed and stored at a vehicle storage facility at the vehicle owner's or operator's expense if:

- (1) signs that comply with Subchapter G prohibiting unauthorized vehicles are located on the parking facility at the time of towing and for the preceding 24 hours and remain installed at the time of towing;
- (2) the owner or operator of the vehicle has received actual notice from the parking facility owner that the vehicle will be towed at the vehicle owner's or operator's expense if it is in or not removed from an unauthorized space;
- (3) the parking facility owner gives notice to the owner or operator of the vehicle under Subsection (b); or
- (4) on request the parking facility owner provides to the owner or operator of the vehicle information on the name of the towing company and vehicle storage facility that will be used to remove and store the vehicle and the vehicle is:

(A) left in violation of Section 2308.251 or 2308.253; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility.

SECTION 10. Section 2308.255(a), Occupations Code, is amended to read as follows:

(a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, remove and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if:

(1) the towing company has received written verification from the parking facility owner that:

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1); or

(B) the owner or operator received notice under Section 2308.252(a)(2) or the parking facility owner gave notice complying with Section 2308.252(a)(3); or

(2) on request the parking facility owner provides to the owner or operator of the vehicle information on the name of the towing company and vehicle storage facility that will be used to remove and store the vehicle and the vehicle is:

(A) left in violation of Section 2308.251; or

(B) in or obstructing a portion of a paved driveway or abutting public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

SECTION 11. Section 2308.256(a), Occupations Code, is amended to read as follows:

(a) A vehicle storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality ~~from~~ ~~in~~ which the vehicle was towed ~~[parking facility is located]~~, or, if the vehicle was towed from a location that ~~[parking facility]~~ is not ~~[located]~~ in a municipality with ~~[having]~~ a police department, to the sheriff of the county ~~from~~ ~~in~~ which the vehicle was towed ~~[parking facility is located]~~:

(1) a general description of the vehicle;

(2) the state and number of the vehicle's license plate, if any;

(3) the vehicle identification number of the vehicle, if it can be ascertained;

(4) the location from which the vehicle was towed; and

(5) the name and location of the vehicle storage facility where the vehicle is being stored.

SECTION 12. Section 2308.404(c), Occupations Code, is amended to read as follows:

(c) A towing company or parking facility owner who intentionally, knowingly, or recklessly violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for \$1,000 ~~[\$300]~~ plus three times the amount of fees assessed in the vehicle's removal, towing, or storage.

SECTION 13. Section 2308.405, Occupations Code, is amended to read as follows:

Sec. 2308.405. CRIMINAL PENALTY ~~[VIOLATION OF CHAPTER; FINE]~~. A person commits an offense if the person violates ~~[violation of]~~ this chapter. An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,500 unless it is shown on trial of the offense that the person knowingly or intentionally violated this chapter, in which event the offense is a Class B

misdemeanor.

SECTION 14. Section 2308.451, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) If in a hearing held under this chapter the court does not find that a person or law enforcement agency authorized, with probable cause, the removal and storage in a vehicle storage facility of a vehicle, the towing company, vehicle storage facility, or parking facility owner [~~person~~] or law enforcement agency that authorized the removal shall:

(1) pay the costs of the removal and storage; or

(2) reimburse the owner or operator for the cost of the removal and storage paid by the owner or operator.

(c) If, in a hearing held under this chapter, regardless of whether the court finds that there was probable cause for the removal and storage of a vehicle, the court finds that the towing charge collected exceeded fees regulated by a political subdivision or authorized by this chapter or Chapter 2303, the towing company shall reimburse the owner or operator of the vehicle an amount equal to the overcharge.

SECTION 15. Section 2308.453, Occupations Code, is amended to read as follows:

Sec. 2308.453. JURISDICTION. A hearing under this chapter shall be in the justice court having jurisdiction in the precinct from [~~in~~] which the motor vehicle was towed [~~storage facility is located~~].

SECTION 16. Section 2308.454, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) If the towing company or vehicle storage facility that received the payment fails to furnish to the owner or operator of the vehicle the name, address, and telephone number of the parking facility owner or law enforcement agency that authorized the removal of the vehicle, the towing company or vehicle storage facility that received the payment is liable if the court, after a hearing, does not find probable cause for the removal and storage of the vehicle.

SECTION 17. Section 2308.455, Occupations Code, is amended to read as follows:

Sec. 2308.455. CONTENTS OF NOTICE. The notice under Section 2308.454 must include:

(1) a statement of:

(A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove the vehicle;

(B) the information that a request for a hearing must contain; and

(C) any filing fee for the hearing;

(2) the name, address, and telephone number of the towing company that removed the vehicle;

(3) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed;

(4) the name, street address including city, state, and zip code, and telephone number of the person, parking facility [~~property~~] owner, or law enforcement agency that authorized the removal of the vehicle; and

(5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the parking [~~vehicle storage~~] facility is located.

SECTION 18. Section 2308.456, Occupations Code, is amended by amending Subsection (a) and adding Subsection (c-1) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (c) and (c-1), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility, excluding Saturdays, Sundays, and legal holidays.

(c-1) The 14-day period for requesting a hearing under Subsection (a) does not begin until the date on which the towing company or vehicle storage facility provides to the vehicle owner or operator the information necessary for the vehicle owner or operator to complete the material for the request for hearing required under Subsections (b)(2) through (6).

SECTION 19. Sections 2308.458(a) and (b), Occupations Code, are amended to read as follows:

(a) A hearing under this chapter shall be held before the 21st calendar [~~14th working~~] day after the date the court receives the request for the hearing.

(b) The court shall notify the person who requested the hearing, the parking facility owner [~~person~~] or law enforcement agency that authorized the removal of the vehicle, the towing company, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure. The notice of the hearing to the towing company and the parking facility owner [~~person~~] or law enforcement agency that authorized the removal of the vehicle shall include a copy of the request for hearing.

SECTION 20. Section 2308.460, Occupations Code, is amended to read as follows:

Sec. 2308.460. ENFORCEMENT OF AWARD. (a) An award under this chapter may be enforced by any means available for the enforcement of a judgment for a debt.

(b) The department shall suspend a license holder's license on the license holder's failure to pay a final judgment awarded to an owner or operator of a vehicle before the 60th day after the date of the final judgment. The department must provide notice of the suspension to the license holder at least 30 days before the date the license is to be suspended.

(c) The owner or operator of the vehicle shall submit a certified copy of the final judgment to the department.

(d) On receipt of the certified copy of the unpaid final judgment, the department shall disqualify a person from renewing a license or permit or deny the person the opportunity of taking a licensing examination on the grounds that the person, towing company, or vehicle storage facility has not paid a final judgment awarded to an owner or operator of a vehicle.

(e) The department shall reinstate the license on submission of evidence satisfactory to the department of payment of the final judgment by the person, towing company, or vehicle storage facility.

SECTION 21. Section 2303.159(a), Occupations Code, is amended to read as follows:

(a) The operator of a vehicle storage facility shall accept payment by an electronic check, debit card, or credit card for any charge associated with delivery or storage of a vehicle. The facility shall conspicuously post a sign that states: "This vehicle storage facility must accept payment by an electronic check, credit card, or debit card for any fee or charge associated with delivery or storage of a vehicle." The operator of a vehicle storage facility may not refuse to release a vehicle based on the inability of the facility to accept payment by electronic check, debit card, or credit card of a fee or charge associated with delivery or storage of the vehicle unless the operator, through no fault of the operator, is unable to accept the electronic check, debit card, or credit card because of a power outage or a machine malfunction.

SECTION 22. Not later than September 1, 2010, the Texas Commission of Licensing and Regulation shall adopt the rules necessary to implement the changes in law made by this Act, including rules on the maximum amount of fees that may be charged for private property tows.

SECTION 23. (a) The change in law made by this Act to Section 2308.405, Occupations Code, applies only to an offense committed on or after the effective date of this Act. For 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 covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 24. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) Section 2308.0575, Occupations Code, as added by this Act, and Sections 2308.202 and 2308.204, Occupations Code, as amended by this Act, take effect September 1, 2010.

H.B. 2609

AN ACT

relating to the prosecution and punishment of the offense of criminal trespass.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 30.05, Penal Code, is amended to read as follows:

(a) A person commits an offense if the person [he] enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle, [of another] without effective consent [or he enters or remains in a building of another without effective consent] and the person [he]:

- (1) had notice that the entry was forbidden; or
- (2) received notice to depart but failed to do so.

SECTION 2. Subsection (b), Section 30.05, Penal Code, is amended by adding Subdivisions (8), (9), (10), and (11) to read as follows:

(8) "Protected freshwater area" has the meaning assigned by Section 90.001, Parks and Wildlife Code.

(9) "Recognized state" means another state with which the attorney general of this state, with the approval of the governor of this state, negotiated an agreement after determining that the other state:

(A) has firearm proficiency requirements for peace officers; and

(B) fully recognizes the right of peace officers commissioned in this state to carry weapons in the other state.

(10) "Recreational vehicle park" means a tract of land that has rental spaces for two or more recreational vehicles, as defined by Section 522.004, Transportation Code.

(11) "Residential land" means real property improved by a dwelling and zoned for or otherwise authorized for single-family or multifamily use.

SECTION 3. Subsections (d) and (e), Section 30.05, Penal Code, are amended to read as follows:

(d) An offense under this section [Subsection (e) is a Class C misdemeanor unless it is committed in a habitation or unless the actor carries a deadly weapon on or about the actor's person during the commission of the offense, in which event it is a Class A misdemeanor. An offense under Subsection (a)] is:

(1) a Class B misdemeanor, except as provided by Subdivisions (2) and (3);

(2) a Class C misdemeanor, except as provided by Subdivision (3), if the offense is committed:

(A) on agricultural land and within 100 feet of the boundary of the land; or

(B) on residential land and within 100 feet of a protected freshwater area; and

(3) [that the offense is] a Class A misdemeanor if:

(A) [(4)] the offense is committed:

(i) [(A)] in a habitation or a shelter center;

(ii) [(B)] on a Superfund site; or

(iii) [(C)] on or in a critical infrastructure facility; or

(B) [(2)] the person [actor] carries a deadly weapon [on or about his person] during the commission of the offense.

(e) It is a defense to prosecution under this section that the actor at the time of the offense was [A person commits an offense if without express consent or if without authorization provided by any law, whether in writing or other form, the person]:

(1) a firefighter or emergency medical services personnel, as defined by Section 773.003, Health and Safety Code, acting in the lawful discharge of an official duty under exigent circumstances [enters or remains on agricultural land of another];

(2) a person who was:

(A) an employee or agent of:

(i) an electric utility, as defined by Section 31.002, Utilities Code;

(ii) a telecommunications provider, as defined by Section 51.002, Utilities Code;

(iii) a video service provider or cable service provider, as defined by Section 66.002, Utilities Code;

(iv) a gas utility, as defined by Section 101.003 or 121.001, Utilities Code; or

(v) a pipeline used for the transportation or sale of oil, gas, or related products; and

(B) performing a duty within the scope of that employment or agency; or

(3) a person who was:

(A) employed by or acting as agent for an entity that had, or that the person reasonably believed had, effective consent or authorization provided by law to enter the property; and

(B) performing a duty within the scope of that employment or agency [is on the agricultural land and within 100 feet of the boundary of the land when apprehended; and

[~~(3) had notice that the entry was forbidden or received notice to depart but failed to do so~~].

SECTION 4. Subsections (c) and (j), Section 30.05, Penal Code, are repealed.

SECTION 5. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 6. This Act takes effect September 1, 2009.

H.B. 2647

AN ACT

relating to the quasi-judicial enforcement of certain health and safety ordinances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 54.040(a), Local Government Code, is amended to read as follows:

(a) An order issued under Section 54.036, including any civil penalties assessed under Section 54.036(5), is enforceable in the same manner as provided in Sections 214.001(k), (m), (n), and (o). An abstract of judgment shall be ordered [~~issued~~] against all parties found to be the owners of the subject property or in possession of that property.

SECTION 2. This Act takes effect September 1, 2009.

H.B. 2664

AN ACT

relating to creating a defense to prosecution for the offense of unlawful carrying of a handgun by a license holder on the premises of certain businesses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 46.035, Penal Code, is amended by adding Subsection (k) to read as follows:

(k) It is a defense to prosecution under Subsection (b)(1) that the actor was not given effective notice under Section 411.204, Government Code.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 2682

AN ACT

relating to the authority of municipalities to alter speed limits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 545.356, Transportation Code, is amended by amending Subsections (b-1) and (b-2) and adding Subsection (d) to read as follows:

(b-1) The [~~Except as provided by Subsection (b-2), the~~] governing body of a municipality, for a highway

or a part of a highway in ~~[an urban district in]~~ the municipality that is not an officially designated or marked highway or road of the state highway system, ~~[is 35 feet or less in width, and along which vehicular parking is not prohibited on one or both sides of the highway,]~~ may declare a lower speed limit of not less than 25 miles per hour, if the governing body determines that the prima facie speed limit on the highway is unreasonable or unsafe.

(b-2) Subsection (b-1) applies only ~~[does not apply]~~ to a two-lane, undivided highway or part of a highway ~~[that has four or more lanes used for vehicular travel].~~

(d) The governing body of a municipality that declares a lower speed limit on a highway or part of a highway under Subsection (b-1), not later than February 1 of each year, shall publish on its Internet website and submit to the department a report that compares for each of the two previous calendar years:

(1) the number of traffic citations issued by peace officers of the municipality and the alleged speed of the vehicles, for speed limit violations on the highway or part of the highway;

(2) the number of warning citations issued by peace officers of the municipality on the highway or part of the highway; and

(3) the number of vehicular accidents that resulted in injury or death and were attributable to speed limit violations on the highway or part of the highway.

SECTION 2. The reporting and publication requirements prescribed by Section 545.356(d), Transportation Code, as added by this Act, apply only to a municipality that alters a speed limit under Section 545.356, Transportation Code, as amended by this Act, on or after the effective date of this Act.

SECTION 3. 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.

H.B. 2730 (Excerpt)

AN ACT

relating to the continuation and functions of the Department of Public Safety of the State of Texas and the Texas Private Security Board; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 5. GENERAL PROVISIONS

SECTION 5.01. Section 411.002, Government Code, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) The Department of Public Safety of the State of Texas is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and Subsections (a) and (b) expire September 1, 2015 ~~[2009]~~.

(d) Not later than December 1, 2010, the Sunset Advisory Commission shall review and prepare a written report for submission to the legislature on the department's implementation of:

(1) the recommendations in the 2008 audit of the department's information technology system; and

(2) a civilian business model for the operation of the driver's license division that focuses on improving customer service by:

(A) using best practices in call center technology and monitoring customer service calls;

(B) expanding operating hours at driver's license offices; and

(C) decreasing the time the department takes to send a replacement driver's license.

(e) The Sunset Advisory Commission shall submit the report required by Subsection (d) not later than February 15, 2011. This subsection and Subsection (d) expire August 31, 2011.

ARTICLE 6. ADDITIONAL PROVISIONS

SECTION 6.07. Subchapter C, Chapter 521, Transportation Code, is amended by adding Section 521.060 to read as follows:

Sec. 521.060. DRIVER RECORD MONITORING PILOT PROGRAM. (a) The department by rule may establish a driver record monitoring pilot program. The term of the pilot program may not exceed

one year.

(b) Under the pilot program, the department may enter into a contract with a person to provide driver record monitoring services, as described by Subsection (c), and certain information from the department's driver's license records to the person, if the person:

(1) is an employer, an insurer, an insurance support organization, an employer support organization, or an entity that self-insures its motor vehicles; and

(2) is eligible to receive the information under Chapter 730.

(c) A contract entered into by the department must require:

(1) the department, during the term of the contract, to:

(A) monitor the driver record of each holder of a driver's license issued by the department that is requested by the person with whom the department has contracted;

(B) identify any change in the status of a driver's license or any conviction for a traffic offense reported to the department during the monitoring period; and

(C) periodically, as specified in the contract, provide reports of those individuals identified as having a change in status or convictions to the person with whom the department has contracted; and

(2) the person with whom the department has contracted:

(A) to purchase under Section 521.046 a copy of the driver record of each individual identified in a report provided under Subdivision (1)(C);

(B) to warrant that:

(i) the person will not directly or indirectly disclose information received from the department under the contract to a third party without the express written consent of the department, except as required by law or legal process; and

(ii) if a disclosure is required by law or legal process, the person will immediately notify the department so that the department may seek to oppose, limit, or restrict the required disclosure; and

(C) if the person is an insurance support organization, to warrant that the person will not seek to obtain information about a holder of a driver's license under the contract unless the license holder is insured by a client of the organization, and that the person will provide the department with the name of each client to whom the insurance support organization provides information received from the department under the contract.

(d) The attorney general may file a suit against a person with whom the department has contracted under this section for:

(1) injunctive relief to prevent or restrain the person from violating a term of the contract or from directly or indirectly disclosing information received from the department under the contract in a manner that violates the terms of the contract; or

(2) a civil penalty in an amount not to exceed \$2,000 for each disclosure in violation of those terms.

(e) If the attorney general brings an action against a person under Subsection (d) and an injunction is granted against the person or the person is found liable for a civil penalty, the attorney general may recover reasonable expenses, court costs, investigative costs, and attorney's fees. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under Subsection (d).

(f) A violation of the terms of a contract entered into with the department by the person with whom the department has contracted is a false, misleading, or deceptive act or practice under Subchapter E, Chapter 17, Business & Commerce Code.

(g) A civil action brought under this section shall be filed in a district court:

(1) in Travis County; or

(2) in any county in which the violation occurred.

(h) A person with whom the department has contracted under this section commits an offense if the person directly or indirectly discloses information received from the department under the contract in a manner that violates the terms of the contract. An offense under this subsection is a Class B misdemeanor. If conduct constituting an offense under this subsection also constitutes an offense under

another law, the actor may be prosecuted under this subsection, the other law, or both.

(i) The department shall impose a fee on each person with whom the department contracts under this section for the services provided by the department under the contract. The fee must be reasonable and be not less than the amount necessary to allow the department to recover all reasonable costs to the department associated with entering into the contract and providing services to the person under the contract, including direct, indirect, and administrative costs and costs related to the development and deployment of the pilot program.

(j) The department may establish a reasonable deadline by which a person must apply to enter into a contract with the department under this section and may not enter into a contract with a person who fails to apply before that deadline.

(k) To the fullest extent practicable, the services of the department under a contract entered into under this section shall be provided by, through, or in conjunction with the interactive system established under Section 521.055.

(l) At the conclusion of the term of the pilot program, and on the recommendation of the department, the commission may authorize the department to implement the pilot program as a permanent program.

(m) Before the department recommends that the pilot program be implemented as a permanent program, the department shall submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report that contains an analysis of the scope, effectiveness, and cost benefits of the pilot program. The report must include:

(1) a list of each insurance support organization with which the department has contracted under this section; and

(2) a list of each client to whom the insurance support organization has provided information received from the department under this section.

SECTION 6.08. Subchapter S, Chapter 521, Transportation Code, is amended by adding Section 521.4565 to read as follows:

Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT LICENSE OR CERTIFICATE.

(a) In this section:

(1) "Combination," "conspires to commit," "profits," and "criminal street gang" have the meanings assigned by Section 71.01, Penal Code.

(2) "Conspires to manufacture or produce" means that:

(A) a person agrees with one or more other persons to engage in the manufacture or production of a forged or counterfeit instrument; and

(B) the person and one or more of the other persons perform an overt act in pursuance of the agreement.

(3) "Instrument" means a driver's license, commercial driver's license, or personal identification certificate.

(4) "Public servant" has the meaning assigned by Section 1.07, Penal Code.

(b) A person commits an offense if the person establishes, maintains, or participates in or conspires to establish, maintain, or participate in a combination or criminal street gang, or participates in the profits of a combination or criminal street gang, with the intent to manufacture or produce a forged or counterfeit instrument for the purpose of selling, distributing, or delivering the instrument. An agreement that constitutes conspiring to manufacture or produce may be inferred from the acts of the parties.

(c) An offense under this section is a state jail felony, except that an offense committed by a public servant is a felony of the third degree.

SECTION 6.09. Section 548.005, Transportation Code, is amended to read as follows:

Sec. 548.005. INSPECTION ONLY BY STATE-CERTIFIED AND SUPERVISED INSPECTION STATION. A compulsory inspection under this chapter may be made only by an inspection station, except that the department may:

(1) permit inspection to be made by an inspector under terms and conditions the department prescribes;

[and]

(2) authorize the acceptance in this state of a certificate of inspection and approval issued in another state having a similar inspection law; and

(3) authorize the acceptance in this state of a certificate of inspection and approval issued in compliance with 49 C.F.R. Part 396 to a motor bus, as defined by Section 502.001, that is registered in this state but is not domiciled in this state.

SECTION 6.10. Section 708.157(c), Transportation Code, is amended to read as follows:

(c) The department by rule shall ~~may~~ establish an indigency program for holders of a driver's license on which a surcharge has been assessed for certain offenses, as determined by the department.

ARTICLE 11. ADMINISTRATION OF CERTAIN PROVISIONS AFFECTING THE LICENSING OF PERSONS TO CARRY A CONCEALED HANDGUN

SECTION 11.12. Sections 411.187(a) and (c), Government Code, are amended to read as follows:

(a) The department shall suspend a [A] license ~~may be suspended~~ under this section if the license holder:

(1) is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(2) fails to display a license as required by Section 411.205;

(3) fails to notify the department of a change of address, ~~or~~ name, or status as required by Section 411.181;

(4) carries a concealed handgun under the authority of this subchapter of a different category than the license holder is licensed to carry;

(5) fails to return a previously issued license after a license is modified as required by Section 411.184(d);

(6) commits an act of family violence and is the subject of an active protective order rendered under Title 4, Family Code; or

(7) is arrested for an offense involving family violence or an offense under Section 42.072, Penal Code, and is the subject of an order for emergency protection issued under Article 17.292, Code of Criminal Procedure.

(c) The department shall suspend a [A] license ~~may be suspended~~ under this section:

(1) for 30 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(3), (4), or (5), except as provided by Subdivision (3);

(2) for 90 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2), except as provided by Subdivision (3);

(3) for not less than one year and not more than three years, if the person's license:

(A) is subject to suspension for a reason listed in Subsection (a), other than the reason listed in Subsection (a)(1); ~~and~~

(B) ~~the person's license~~ has been previously suspended for the same reason;

(4) until dismissal of the charges, if the person's license is subject to suspension for the reason listed in Subsection (a)(1); or

(5) for the duration of or the period specified by:

(A) the protective order issued under Title 4, Family Code, if the person's license is subject to suspension for the reason listed in Subsection (a)(6); or

(B) the order for emergency protection issued under Article 17.292, Code of Criminal Procedure, if the person's license is subject to suspension for the reason listed in Subsection (a)(7).

SECTION 11.14. Section 411.1882, Government Code, is amended to read as follows:

Sec. 411.1882. EVIDENCE OF [EXEMPTION FROM] HANDGUN PROFICIENCY [CERTIFICATE REQUIREMENT] FOR CERTAIN PERSONS. (a) A person who is serving in this state as a judge or justice of a federal court, as an active judicial officer, as defined by Section 411.201, or as a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county

attorney, or assistant county attorney may establish handgun proficiency for the purposes of this subchapter by obtaining from a handgun proficiency instructor approved by the Commission on Law Enforcement Officer Standards and Education for purposes of Section 1702.1675, Occupations Code, a sworn statement that:

(1) indicates that the person, during the 12-month period preceding the date of the person's application to the department, demonstrated to the instructor proficiency in the use of handguns; and

(2) designates the categories of handguns with respect to which the person demonstrated proficiency [Notwithstanding any other provision of this subchapter, a person may not be required to submit to the department a handgun proficiency certificate to obtain or renew a concealed handgun license issued under this subchapter if:

~~(1) the person is currently serving in this state as:~~

~~(A) a judge or justice of a federal court;~~

~~(B) an active judicial officer, as defined by Section 411.201, Government Code; or~~

~~(C) a district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney; and~~

~~(2) a handgun proficiency instructor approved by the Commission on Law Enforcement Officer Standards and Education for purposes of Section 1702.1675, Occupations Code, makes a sworn statement indicating that the person demonstrated proficiency to the instructor in the use of handguns during the 12-month period preceding the date of the person's application to the department and designating the types of handguns with which the person demonstrated proficiency].~~

(b) The director by rule shall adopt a procedure by which a person described [~~who is exempt~~] under Subsection (a) [~~from the handgun proficiency certificate requirement~~] may submit a form demonstrating the person's qualification for an exemption under that subsection. The form must provide sufficient information to allow the department to verify whether the person qualifies for the exemption.

(c) A license issued under this section automatically expires on the six-month anniversary of the date the person's status under Subsection (a) becomes inapplicable. A license that expires under this subsection may be renewed under Section 411.185.

SECTION 11.18. Sections 411.201(c) and (d), Government Code, are amended to read as follows:

(c) An active judicial officer is eligible for a license to carry a concealed handgun under the authority of this subchapter. A retired judicial officer is eligible for a license to carry a concealed handgun under the authority of this subchapter if the officer:

(1) has not been convicted of a felony;

(2) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense;

(3) is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense or of a felony under an information or indictment;

(4) is not a chemically dependent person; and

(5) is not a person of unsound mind.

(d) An applicant for a license who is an active or retired judicial officer must submit to the department:

(1) a completed application, including all required affidavits, on a form prescribed by the department;

(2) one or more [~~two recent color passport~~] photographs of the applicant that meet the requirements of the department;

(3) two complete sets of legible and classifiable fingerprints of the applicant, including one set taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints;

(4) evidence of [a] handgun proficiency, in the form and manner required by the department for an applicant under this section [~~certificate issued to the applicant as evidence that the applicant successfully completed the proficiency requirements of this subchapter~~];

(5) [(4)] a nonrefundable application and license fee set by the department in an amount reasonably designed to cover the administrative costs associated with issuance of a license to carry a concealed

handgun under this subchapter; and

~~(6) [(5)]~~ if the applicant is a retired judicial officer,;

~~[(A) two complete sets of legible and classifiable fingerprints of the applicant taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints; and~~

~~[(B)] a form executed by the applicant that authorizes the department to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under this subchapter.~~

SECTION 11.20. Article 17.292(l), Code of Criminal Procedure, is amended to read as follows:

(l) In the order for emergency protection, the magistrate shall ~~may~~ suspend a license to carry a concealed handgun issued under Subchapter H, Chapter 411 ~~[Section 411.177]~~, Government Code, that is held by the defendant.

SECTION 11.21. Section 85.022(d), Family Code, is amended to read as follows:

(d) In a protective order, the court shall ~~may~~ suspend a license to carry a concealed handgun issued under Subchapter H, Chapter 411 ~~[Section 411.177]~~, Government Code, that is held by a person found to have committed family violence.

SECTION 11.24. Section 46.04, Penal Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) For the purposes of this section , an offense under the laws of this state, another state, or the United States is, except as provided by Subsection (g), a felony if, at the time it is committed, the offense:

(1) is designated by a law of this state as a felony;

(2) contains all the elements of an offense designated by a law of this state as a felony; or

(3) is punishable by confinement for one year or more in a penitentiary.

(g) An offense is not considered a felony for purposes of Subsection (f) if, at the time the person possesses a firearm, the offense:

(1) is not designated by a law of this state as a felony; and

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

SECTION 11.25. Sections 411.175 and 411.189, Government Code, are repealed.

SECTION 11.26. The changes in law made by Sections 411.171, 411.1711, 411.172, and 411.201(c), Government Code, as amended by this article, apply only to the eligibility of a person for the issuance, modification, or renewal of a license, the application for which is made on or after the effective date of this article. A holder of a license that was issued, modified, or renewed before the effective date of this article is not disqualified from holding that license solely by reason of this article.

SECTION 11.27. The changes in law made by Sections 411.174, 411.176, 411.177, 411.184, 411.185, 411.188, 411.1882, and 411.201(d), Government Code, as amended by this article, and by the repeal of Sections 411.175 and 411.189, Government Code, apply only to an application for the issuance, modification, or renewal of a license that is submitted to the Department of Public Safety on or after the effective date of this article. An application submitted before the effective date of this article is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

SECTION 11.28. The changes in law made by this article to Sections 411.186 and 411.187, Government Code, Article 17.292, Code of Criminal Procedure, and Section 85.022, Family Code, apply only to an administrative or judicial determination concerning the revocation or suspension of a license to carry a concealed handgun that is made on or after the effective date of this article. An administrative or judicial determination made before the effective date of this article is covered by the law in effect when the determination was made, and the former law is continued in effect for that purpose.

SECTION 11.29. The change in law made by Section 411.208, Government Code, as amended by this article, applies only to a cause of action that accrues on or after the effective date of this article. A cause of action that accrued before the effective date of this article is governed by the law in effect immediately before the effective date of this article, and the former law is continued in effect for that purpose.

SECTION 11.30. The change in law made by this Act in amending Section 46.04, Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 11.31. This article takes effect September 1, 2009.

ARTICLE 12. DRIVER EDUCATION AND DRIVER'S LICENSING REQUIREMENTS FOR MINORS

SECTION 12.01. This article shall be known as the Less Tears More Years Act.

SECTION 12.02. Section 29.902, Education Code, is amended by adding Subsection (c) to read as follows:

(c) A school district shall consider offering a driver education and traffic safety course during each school year. If the district offers the course, the district may:

(1) conduct the course and charge a fee for the course in the amount determined by the agency to be comparable to the fee charged by a driver education school that holds a license under Chapter 1001; or

(2) contract with a driver education school that holds a license under Chapter 1001 to conduct the course.

SECTION 12.03. Section 1001.101, Education Code, is amended to read as follows:

Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND TEXTBOOKS. (a) The commissioner by rule shall establish or approve the curriculum and designate the textbooks to be used in a driver education course, including a driver education course conducted by a school district, driver education school, or parent or other individual under Section 521.205, Transportation Code.

(b) A driver education course must require the student to complete:

(1) 7 hours of behind-the-wheel instruction in the presence of a person who holds a driver education instructor license or who meets the requirements imposed under Section 521.205, Transportation Code;

(2) 7 hours of observation instruction in the presence of a person who holds a driver education instructor license or who meets the requirements imposed under Section 521.205, Transportation Code; and

(3) 20 hours of behind-the-wheel instruction, including at least 10 hours of instruction that takes place at night, in the presence of an adult who meets the requirements of Section 521.222(d)(2), Transportation Code.

SECTION 12.04. Subchapter F, Chapter 1001, Education Code, is amended by adding Section 1001.257 to read as follows:

Sec. 1001.257. DENIAL OF LICENSE. The commissioner may not issue or renew a driver education instructor license, including a temporary license, to a person who has six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, Transportation Code.

SECTION 12.05. Section 521.165, Transportation Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Except as provided by Subsection (d), in [H] issuing a driver's license for certain types of vehicles, the director may waive a driving test for an applicant who has successfully completed and passed the training and testing conducted by a person certified under Subsection (a).

(d) The director may not waive the driving test required by Section 521.161 for an applicant who is under 18 years of age.

SECTION 12.06. Section 521.204(a), Transportation Code, is amended to read as follows:

(a) The department may issue a Class C driver's license to an applicant under 18 years of age only if the applicant:

(1) is 16 years of age or older;

(2) has submitted to the department a driver education certificate issued under Section 9A, Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), that states that the person has completed and passed a driver education course approved by the department under Section 521.205 or by the Texas Education Agency;

- (3) has obtained a high school diploma or its equivalent or is a student:
- (A) enrolled in a public school, home school, or private school who attended school for at least 80 days in the fall or spring semester preceding the date of the driver's license application; or
 - (B) who has been enrolled for at least 45 days, and is enrolled as of the date of the application, in a program to prepare persons to pass the high school equivalency exam; ~~and~~
- (4) has submitted to the department written parental or guardian permission for the department to access the applicant's school enrollment records maintained by the Texas Education Agency; and
- (5) has passed the examination required by Section 521.161.

SECTION 12.07. Section 521.205(a), Transportation Code, is amended to read as follows:

(a) The department by rule shall provide for approval of a driver education course conducted by the parent, stepparent, foster parent, legal guardian, step-grandparent, or grandparent of a person who is required to complete a driver education course to obtain a Class C license. The rules must provide that:

- (1) the person conducting the course possess a valid license for the preceding three years ~~that~~ ~~and the license~~ has not been suspended, revoked, or forfeited in the past three years for an offense that involves the operation of a motor vehicle ~~[traffic related violations]~~;
- (2) the student driver spend a minimum number of hours in:
 - (A) classroom instruction; and
 - (B) behind-the-wheel instruction;
- (3) the person conducting the course not be convicted of:
 - (A) criminally negligent homicide; or
 - (B) driving while intoxicated; ~~and~~
- (4) the person conducting the course not be disabled because of mental illness; and
- (5) the person conducting the course not have six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, at the time the person begins conducting the course.

SECTION 12.08. Subchapter J, Chapter 521, Transportation Code, is amended by adding Section 521.206 to read as follows:

Sec. 521.206. COLLISION RATE STATISTICS PUBLICATION. (a) The department shall collect data regarding collisions of students taught by public schools, driver education schools licensed under Chapter 1001, Education Code, and other entities that offer driver education courses to students for which a uniform certificate of course completion is issued. The collision rate is computed by determining the number of an entity's students who complete a driver education course during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

(b) The department shall collect data regarding the collision rate of students taught by course instructors approved under Section 521.205. The collision rate is computed by determining the number of students who completed a course approved under Section 521.205 during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

(c) Not later than October 1 of each year, the department shall issue a publication listing the collision rate for students taught by each driver education entity and the collision rate for students taught by a course instructor approved under Section 521.205, noting the severity of collisions involving students of each entity and each type of course.

SECTION 12.09. Section 521.271, Transportation Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Each original driver's license and provisional license expires as follows:

- (1) except as provided by Section 521.2711, a driver's license expires on the first birthday of the license holder occurring after the sixth anniversary of the date of the application;
- (2) a provisional license expires on ~~the earlier of:~~
 - ~~(A)~~ the 18th birthday of the license holder~~;~~~~or~~

~~[(B) the first birthday of the license holder occurring after the date of the application];~~

(3) an instruction permit expires on the 18th birthday of the license holder ~~[second birthday of the license holder occurring after the date of the application];~~ and

(4) an occupational license expires on the first anniversary of the court order granting the license.

(a-1) The department and the Texas Education Agency shall enter into a memorandum of understanding under which the department may access the agency's electronic enrollment records to verify a student's enrollment in a public school. The memorandum of understanding must specify that the department may only access information necessary to verify the identity and enrollment status of a license renewal applicant and only if a parent or guardian of the applicant has provided written permission for the department to access that information. Nothing in this subsection may be construed to allow the release of information in violation of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

SECTION 12.10. Section 521.421(c), Transportation Code, is amended to read as follows:

(c) The fee for issuance ~~[or renewal]~~ of a provisional license or instruction permit is \$15 ~~[\$5]~~.

SECTION 12.11. Section 545.424, Transportation Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (f) to read as follows:

(a) A person under 18 years of age ~~[, during the six-month period following issuance of an original Class A, B, or C driver's license to the person,]~~ may not operate a motor vehicle:

(1) during the 12-month period following issuance of an original Class A, B, or C driver's license to the person:

(A) after midnight and before 5 a.m. unless the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

(B) [(2)] with more than one passenger in the vehicle under 21 years of age who is not a family member; or

(2) [(3)] while using a wireless communications device, except in case of emergency.

(b) A person under 17 years of age who holds a restricted motorcycle license or moped license, during the 12-month ~~[six-month]~~ period following the issuance of an original motorcycle license or moped license to the person, may not operate a motorcycle or moped:

(1) after midnight and before 5 a.m. unless:

(A) the person is in sight of the person's parent or guardian; or

(B) the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

(2) while using a wireless communications device, except in case of emergency.

(c) This section does not apply to:

(1) the holder of a hardship license; ~~[or]~~

(2) a person operating a motor vehicle while accompanied in the manner required by Section 521.222(d)(2) for the holder of an instruction permit; or

(3) a person licensed by the Federal Communications Commission to operate a wireless communication device or a radio frequency device.

(f) In this section, "wireless communication device" means a handheld or hands-free device that uses commercial mobile service, as defined by 47 U.S.C. Section 332.

SECTION 12.12. (a) For the purpose of compiling data for the publication required by Section 521.206, Transportation Code, as added by this article, the Texas Department of Public Safety shall determine the number of minor students taught by each driver education entity and the total number of minor students taught by courses approved under Section 521.205, Transportation Code, who become licensed during the state fiscal year beginning September 1, 2009, and ending August 31, 2010.

(b) The first publication of collision rate data compiled under Section 521.206, Transportation Code, as added by this article, shall be issued not later than October 1, 2011.

SECTION 12.13. Not later than November 30, 2009, the Texas Department of Public Safety shall

appoint a task force to review and make recommendations regarding the effectiveness of the materials provided by the Texas Education Agency for use in courses licensed under Chapter 1001, Education Code, or authorized by Section 521.205, Transportation Code. The task force shall consist of the following members:

- (1) a representative of the Texas Department of Public Safety;
- (2) a representative of the Texas Education Agency;
- (3) a commercial provider of driver education courses;
- (4) a member of an interested group or association, as determined by the department; and
- (5) other appropriate members, as determined by the department.

SECTION 12.14. (a) Section 29.902(c), Education Code, as added by this article, applies beginning with the 2010-2011 school year.

(b) Not later than January 1, 2010, the commissioner of education shall adopt rules as required by Section 1001.101, Education Code, as amended by this article.

(c) Each driver education and training program approved by the Texas Education Agency under Chapter 1001, Education Code, must comply with the curriculum requirements of Section 1001.101, Education Code, as amended by this article, not later than May 1, 2010.

(d) Section 521.165, Transportation Code, as amended by this article, applies only to an application for a driver's license submitted on or after the effective date of this article. An application for a driver's license submitted before the effective date of this article is subject to the law in effect on the date the application was submitted, and that law is continued in effect for that purpose.

(e) The changes in law made by this article to Section 521.205, Transportation Code, apply to a course approved under that section that begins on or after the effective date of this article. A course beginning before the effective date of this article is governed by the law in effect on the date the course was commenced, and that law is continued in effect for that purpose.

(f) The changes in law made by this article to Sections 521.271, 521.421, and 545.424, Transportation Code, apply only to a person issued a driver's license on or after the effective date of this article. A person issued a driver's license before the effective date of this article is governed by the law in effect on the date the license was issued, and that law is continued in effect for that purpose.

SECTION 12.15. This article takes effect September 1, 2009.

ARTICLE 12A. DISPLAY OF LICENSE TO

CARRY A CONCEALED HANDGUN

SECTION 12A.01. Sections 411.187(a) and (c), Government Code, are amended to read as follows:

(a) A license may be suspended under this section if the license holder:

(1) is charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;

(2) ~~fails to display a license as required by Section 411.205;~~

~~(3)~~ fails to notify the department of a change of address or name as required by Section 411.181;

~~(3)~~ ~~(4)~~ carries a concealed handgun under the authority of this subchapter of a different category than the license holder is licensed to carry;

~~(4)~~ ~~(5)~~ fails to return a previously issued license after a license is modified as required by Section 411.184(d);

~~(5)~~ ~~(6)~~ commits an act of family violence and is the subject of an active protective order rendered under Title 4, Family Code; or

~~(6)~~ ~~(7)~~ is arrested for an offense involving family violence or an offense under Section 42.072, Penal Code, and is the subject of an order for emergency protection issued under Article 17.292, Code of Criminal Procedure.

(c) A license may be suspended under this section:

(1) for 30 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2), (3) ~~(a)(3)~~, or (4), ~~or (5);~~ except as provided by Subdivision (2) ~~(3)~~;

(2) ~~[for 90 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2), except as provided by Subdivision (3);~~

~~[(3)]~~ for not less than one year and not more than three years if the person's license is subject to suspension for a reason listed in Subsection (a), other than the reason listed in Subsection (a)(1), and the person's license has been previously suspended for the same reason;

~~(3) [(4)]~~ until dismissal of the charges if the person's license is subject to suspension for the reason listed in Subsection (a)(1); or

~~(4) [(5)]~~ for the duration of or the period specified by:

(A) the protective order issued under Title 4, Family Code, if the person's license is subject to suspension for the reason listed in Subsection ~~(a)(5)~~ ~~[(a)(6)]~~; or

(B) the order for emergency protection issued under Article 17.292, Code of Criminal Procedure, if the person's license is subject to suspension for the reason listed in Subsection ~~(a)(6)~~ ~~[(a)(7)]~~.

SECTION 12A.02. Section 411.205, Government Code, is amended to read as follows:

Sec. 411.205. REQUIREMENT TO DISPLAY ~~[DISPLAYING]~~ LICENSE~~[-PENALTY]~~. ~~[(a)]~~ If a license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license. ~~[A person who fails or refuses to display the license and identification as required by this subsection is subject to suspension of the person's license as provided by Section 411.187.~~

~~[(b) A person commits an offense if the person fails or refuses to display the license and identification as required by Subsection (a) after previously having had the person's license suspended for a violation of that subsection. An offense under this subsection is a Class B misdemeanor.]~~

SECTION 12A.03. An offense under Section 411.205, Government Code, may not be prosecuted after the effective date of this article. If, on the effective date of this article, a criminal action is pending for an offense under Section 411.205, the action is dismissed on that date. However, a final conviction for an offense under Section 411.205 that exists on the effective date of this article is unaffected by this article.

SECTION 12A.04. This article takes effect September 1, 2009.

ARTICLE 13. REGULATION OF DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CERTIFICATES BY DEPARTMENT

SECTION 13.01. Section 521.029, Transportation Code, is amended to read as follows:

Sec. 521.029. OPERATION OF MOTOR VEHICLE BY NEW STATE RESIDENTS. (a) A person who enters this state as a new resident may operate a motor vehicle in this state for no more than 90 ~~[30]~~ days after the date on which the person enters this state if the person:

(1) is 16 years of age or older; and

(2) has in the person's possession a driver's license issued to the person by the person's state or country of previous residence.

(b) If a person subject to this section is prosecuted for operating a motor vehicle without a driver's license, the prosecution alleges that the person has resided in this state for more than 90 ~~[30]~~ days, and the person claims to have been covered by Subsection (a), the person must prove by the preponderance of the evidence that the person has not resided in this state for more than 90 ~~[30]~~ days.

SECTION 13.02. Subchapter C, Chapter 521, Transportation Code, is amended by adding Section 521.060 to read as follows:

Sec. 521.060. INTERNAL VERIFICATION SYSTEM. (a) The department by rule shall establish a system for identifying unique addresses that are submitted in license or certificate applications under this chapter or Chapter 522 in a frequency or number that, in the department's determination, casts doubt on whether the addresses are the actual addresses where the applicants reside.

(b) The department may contract with a third-party personal data verification service to assist the department in implementing this section.

- (c) The department shall investigate the validity of addresses identified under Subsection (a).
- (d) The department may disclose the results of an investigation under Subsection (c) to a criminal justice agency for the purposes of enforcing Section 521.4565 or other provisions of this chapter or Chapter 522.
- (e) In this section, "criminal justice agency" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

SECTION 13.03. Section 521.101, Transportation Code, is amended by adding Subsection (j) to read as follows:

- (j) The department may not issue a personal identification certificate to a person who has not established a domicile in this state.

SECTION 13.04. Subchapter G, Chapter 521, Transportation Code, is amended by adding Sections 521.1426 and 521.1427 to read as follows:

Sec. 521.1426. DOMICILE REQUIREMENT; VERIFICATION. (a) The department may not issue a driver's license or a personal identification certificate to a person who has not established a domicile in this state.

- (b) The department shall adopt rules for determining whether a domicile has been established, including rules prescribing the types of documentation the department may require from the applicant to verify the validity of the claimed domicile.

(c) The department may contract with a third-party personal data verification service to assist the department in verifying a claim of domicile, including whether the physical address provided by the applicant is the applicant's actual residence.

Sec. 521.1427. POST OFFICE BOX NOT VALID AS ADDRESS. (a) In this section, "post office box address" means a United States Postal Service post office box address or a private mailbox address.

- (b) Unless an exception exists under state or federal law, an applicant may receive delivery of a license or a personal identification certificate at a post office box address only if the applicant has provided the department the physical address where the applicant resides.

(c) The department may require the applicant to provide documentation that the department determines necessary to verify the validity of the physical address provided under Subsection (b).

(d) The department may contract with a third-party personal data verification service to assist the department in verifying whether the physical address provided by the applicant is the applicant's actual residence.

SECTION 13.05. Subchapter C, Chapter 522, Transportation Code, is amended by adding Sections 522.0225 and 522.0226 to read as follows:

Sec. 522.0225. VERIFICATION OF DOMICILE. (a) The department shall adopt rules for determining whether a domicile has been established under Section 522.022, including rules prescribing the types of documentation the department may require from the applicant to determine the validity of the claimed domicile.

- (b) The department may contract with a third-party personal data verification service to assist the department in verifying a claim of domicile, including whether the physical address provided by the applicant is the applicant's actual residence.

Sec. 522.0226. POST OFFICE BOX NOT VALID AS ADDRESS. (a) In this section, "post office box address" means a United States Postal Service post office box address or a private mailbox address.

- (b) Unless an exception exists under state or federal law, an applicant may receive delivery of a commercial driver's license at a post office box address only if the applicant has provided the department the physical address where the applicant resides.

(c) The department may require the applicant to provide documentation that the department determines necessary to verify the validity of the physical address provided under Subsection (b).

(d) The department may contract with a third-party personal data verification service to assist the department in verifying whether the physical address provided by the applicant is the applicant's actual residence.

SECTION 13.06. Subchapter S, Chapter 521, Transportation Code, is amended by adding Section 521.4565 to read as follows:

Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT LICENSE OR CERTIFICATE.

(a) In this section:

(1) "Combination," "conspires to commit," "profits," and "criminal street gang" have the meanings assigned by Section 71.01, Penal Code.

(2) "Conspires to manufacture or produce" means that:

(A) a person agrees with one or more other persons to engage in the manufacture or production of a forged or counterfeit instrument; and

(B) the person and one or more of the other persons perform an overt act in pursuance of the agreement.

(3) "Instrument" means a driver's license, commercial driver's license, or personal identification certificate.

(4) "Public servant" has the meaning assigned by Section 1.07, Penal Code.

(b) A person commits an offense if the person establishes, maintains, or participates in or conspires to establish, maintain, or participate in a combination or criminal street gang, or participates in the profits of a combination or criminal street gang, with the intent to manufacture or produce a forged or counterfeit instrument for the purpose of selling, distributing, or delivering such instrument. An agreement constituting conspiring to manufacture or produce may be inferred from the acts of the parties.

(c) An offense under this section is a state jail felony, except that an offense committed by a public servant is a felony of the third degree.

SECTION 13.07. The Department of Public Safety of the State of Texas shall adopt rules required by the amendments of this article to Chapters 521 and 522, Transportation Code, as soon as practicable after the effective date of this article.

SECTION 13.08. This article takes effect immediately if this Act 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 article takes effect September 1, 2009.

ARTICLE 13A. DRIVER'S LICENSE ISSUED TO CERTAIN FEDERAL AND STATE JUDGES AND SPOUSES

SECTION 13A.01. Section 521.001, Transportation Code, is amended by adding Subdivisions (3-a) and (8-a) to read as follows:

(3-a) "Federal judge" means:

(A) a judge of a United States court of appeals;

(B) a judge of a United States district court;

(C) a judge of a United States bankruptcy court; or

(D) a magistrate judge of a United States district court.

(8-a) "State judge" means:

(A) the judge of an appellate court, a district court, or a county court at law of this state; or

(B) an associate judge appointed under Chapter 201, Family Code.

SECTION 13A.02. Sections 521.054(a) and (b), Transportation Code, are amended to read as follows:

(a) This section applies to a person who:

(1) after applying for or being issued a [the] license or certificate moves to a new residence [from the] address [stated in the person's application for a license or certificate];

(2) has used the procedure under Section 521.121(d) and whose status as a federal judge, a state judge, or the spouse of a federal or state judge becomes inapplicable [moves from the address shown on the license or certificate held by the person]; or

(3) changes the person's name by marriage or otherwise.

(b) A person subject to this section shall notify the department of the change not later than the 30th day after the date on which the change takes effect and apply for a duplicate license or certificate as provided by Section 521.146. The duplicate license must include the person's current residence address.

SECTION 13A.03. Section 521.121, Transportation Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The driver's license must include:

- (1) a distinguishing number assigned by the department to the license holder;
- (2) a color photograph of the entire face of the holder;
- (3) the full name and[;] date of birth[~~;~~ ~~and residence address~~] of the holder; [~~and~~]
- (4) a brief description of the holder; and
- (5) the license holder's residence address or, for a license holder using the procedure under Subsection (d), the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge.

(d) The department shall establish a procedure for a federal judge, a state judge, or the spouse of a federal or state judge to omit the license holder's residence address on the license and to include, in lieu of that address, the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status as a federal judge, state judge, or the spouse of a federal or state judge.

SECTION 13A.04. Section 521.142(c), Transportation Code, is amended to read as follows:

(c) The application must state:

- (1) the sex of the applicant;
- (2) the residence address of the applicant, or if the applicant is a federal judge, a state judge, or the spouse of a federal or state judge using the procedure developed under Section 521.121(d), the street address of the courthouse in which the applicant or the applicant's spouse serves as a federal judge or a state judge;
- (3) whether the applicant has been licensed to drive a motor vehicle before;
- (4) if previously licensed, when and by what state or country;
- (5) whether that license has been suspended or revoked or a license application denied;
- (6) the date and reason for the suspension, revocation, or denial;
- (7) whether the applicant is a citizen of the United States; and
- (8) the county of residence of the applicant.

ARTICLE 14. USE OF AN OFFENDER IDENTIFICATION CARD OR SIMILAR FORM OF IDENTIFICATION AS PROOF OF IDENTITY FOR AN APPLICANT FOR A DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE

SECTION 14.01. Subsection (a), Section 521.142, Transportation Code, is amended to read as follows:

(a) An application for an original license must state the applicant's full name and place and date of birth. This information must be verified by presentation of proof of identity satisfactory to the department. The department must accept as satisfactory proof of identity under this subsection an offender identification card or similar form of identification issued to an inmate by the Texas Department of Criminal Justice if the applicant also provides supplemental verifiable records or documents that aid in establishing identity.

SECTION 14.02. Subchapter G, Chapter 521, Transportation Code, is amended by adding Section 521.1421 to read as follows:

Sec. 521.1421. INMATE IDENTIFICATION VERIFICATION PILOT PROGRAM. (a) The department shall participate in an inmate identification verification pilot program for the purpose of issuing driver's licenses and personal identification certificates to inmates of the Texas Department of Criminal Justice.

(b) Under the pilot program, the department may:

- (1) enter into a contract with the Texas Department of Criminal Justice and the Department of State Health Services to establish an identification verification process for inmates of the Texas Department of Criminal Justice; and
- (2) issue a driver's license or a personal identification certificate to an inmate whose identity has been

confirmed through the verification process and who otherwise meets the requirements for the issuance of the driver's license or personal identification certificate.

(c) At the conclusion of the pilot program the governing bodies of the participating agencies may agree to continue the pilot program on a permanent basis.

(d) Not later than December 1, 2010, the department and the Texas Department of Criminal Justice shall jointly issue a report to the standing committees of the legislature with jurisdiction over issues related to criminal justice and homeland security addressing:

(1) the status of the pilot program;

(2) the effectiveness of the pilot program; and

(3) an analysis of the feasibility of implementing a statewide program based on the pilot program.

SECTION 14.03. Subsection (c-1), Section 522.021, Transportation Code, is amended to read as follows:

(c-1) If the department requires proof of an applicant's identity as part of an application under this section, the department must accept as satisfactory proof of identity an offender identification card or similar form of identification issued to an inmate by the Texas Department of Criminal Justice if the applicant also provides supplemental verifiable records or documents that aid in establishing identity.

SECTION 14.04. The changes in law made by this article apply only to an application for a driver's license, commercial driver's license, or personal identification certificate submitted on or after the effective date of this article. An application for a driver's license, commercial driver's license, or personal identification certificate submitted before the effective date of this article is subject to the law in effect on the date the application was submitted, and that law is continued in effect for that purpose.

SECTION 14.05. This article takes effect September 1, 2009.

ARTICLE 15. DRIVER RESPONSIBILITY PROGRAM

SECTION 15.01. Section 708.151, Transportation Code, is amended to read as follows:

Sec. 708.151. NOTICE OF SURCHARGE. (a) The department shall send notices as required by Subsection (b) to ~~notify~~ the holder of a driver's license when ~~[of the assessment of]~~ a surcharge is assessed on that license. Each notice must:

(1) be sent by first class mail ~~[sent]~~ to the person's most recent address as shown on the records of the department or to the person's most recent forwarding address on record with the United States Postal Service if it is different;

(2) ~~[-The notice must]~~ specify the date by which the surcharge must be paid;

(3) state the total dollar amount of the surcharge that must be paid, the number of monthly payments required under an installment payment plan, and the minimum monthly payment required for a person to enter and maintain an installment payment plan with the department; and

(4) state the consequences of a failure to pay the surcharge.

(b) The department shall send a first notice not later than the fifth day after the date the surcharge is assessed.

(c) If on or before the 45th day after the date the first notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with the department, the department shall send a second notice. If on or before the 60th day after the date the second notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with the department, the department shall send a third notice that advises the person that the person's driving privileges are suspended.

SECTION 15.02. Section 708.152(a), Transportation Code, is amended to read as follows:

(a) If ~~on~~ ~~[before]~~ the 60th ~~[30th]~~ day after the date the department sends a second notice under Section 708.151 the person fails to pay the amount of a surcharge on the person's license or fails to enter into an installment payment agreement with the department, the license of the person is automatically suspended. A person's license may not be suspended under this section before the 105th day after the date the surcharge was assessed by the department.

SECTION 15.03. Section 708.153(b), Transportation Code, is amended to read as follows:

(b) A rule under this section:

(1) may not require ~~[permit]~~ a person to:

(A) pay surcharges that total \$500 or more [a surcharge] over a period of less [more] than 36 consecutive months;

(B) pay surcharges that total more than \$250 but not more than \$499 over a period of less than 24 consecutive months; or

(C) pay surcharges that total \$249 or less over a period of less than 12 consecutive months; and

(2) may provide that if the person fails to make any [a] required monthly installment payment, the department may reestablish the installment plan on receipt of a payment in the amount equal to at least a required monthly installment payment ~~[or declare the amount of the unpaid surcharge immediately due and payable].~~

SECTION 15.04. Subchapter D, Chapter 708, Transportation Code, is amended by adding Section 708.158 to read as follows:

Sec. 708.158. INDIGENT STATUS AND REDUCTION OF SURCHARGES. (a) The department shall waive all surcharges assessed under this chapter for a person who is indigent. For the purposes of this section, a person is considered to be indigent if the person provides the evidence described by Subsection (b) to the court.

(b) A person must provide information to the court in which the person is convicted of the offense that is the basis for the surcharge to establish that the person is indigent. The following documentation may be used as proof:

(1) a copy of the person's most recent federal income tax return that shows that the person's income or the person's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines;

(2) a copy of the person's most recent statement of wages that shows that the person's income or the person's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines; or

(3) documentation from a federal agency, state agency, or school district that indicates that the person or, if the person is a dependent as defined by Section 152, Internal Revenue Code of 1986, the taxpayer claiming the person as a dependent, receives assistance from:

(A) the food stamp program or the financial assistance program established under Chapter 31, Human Resources Code;

(B) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the child health plan program under Chapter 62, Health and Safety Code; or

(E) the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.

SECTION 15.05. Section 708.157(c), Transportation Code, is amended to read as follows:

(c) The department by rule shall [may] establish an indigency program for holders of a driver's license on which a surcharge has been assessed for certain offenses, as determined by the department.

SECTION 15.06. Subchapter B, Chapter 708, Transportation Code, is amended by adding Section 708.056 to read as follows:

Sec. 708.056. DEDUCTION OF POINTS. The department by rule shall establish a procedure to provide for the deduction of one point accumulated by a person under this subchapter to account for each year that the person has not accumulated points under this subchapter.

SECTION 15.07. The changes in law made by this article apply only to a surcharge that is assessed under Chapter 708, Transportation Code, on or after the effective date of this article. A surcharge that was assessed under that chapter before the effective date of this article is subject to the law in effect on the date the surcharge was assessed, and that law is continued in effect for that purpose.

SECTION 15.08. This article takes effect September 1, 2011.

ARTICLE 15A. MOTOR VEHICLE SAFETY RESPONSIBILITY

SECTION 15A.01. Section 601.053, Transportation Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided by Subsection (c), an [Am] operator who does not exhibit evidence of financial responsibility under Subsection (a) is presumed to have operated the vehicle in violation of Section 601.051.

(c) Subsection (b) does not apply if the peace officer determines through use of the verification program established under Subchapter N that financial responsibility has been established for the vehicle.

SECTION 15A.02. Subchapter N, Chapter 601, Transportation Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th Legislature, Regular Session, 2003, is repealed.

ARTICLE 16. SUSPENSION OF A DRIVER'S LICENSE BY DEPARTMENT

SECTION 16.01. Section 521.341, Transportation Code, is amended to read as follows:

Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE SUSPENSION. Except as provided by Sections 521.344(d)-(i), a license is automatically suspended on final conviction of the license holder of:

- (1) an offense under Section 19.05, Penal Code, committed as a result of the holder's criminally negligent operation of a motor vehicle;
- (2) an offense under Section 38.04, Penal Code, if the holder used a motor vehicle in the commission of the offense;
- (3) an offense under Section 49.04, 49.045, or 49.08, Penal Code;
- (4) an offense under Section 49.07, Penal Code, if the holder used a motor vehicle in the commission of the offense;
- (5) an offense punishable as a felony under the motor vehicle laws of this state;
- (6) an offense under Section 550.021;
- (7) an offense under Section 521.451 or 521.453; or
- (8) an offense under Section 19.04, Penal Code, if the holder used a motor vehicle in the commission of the offense.

SECTION 16.02. Sections 521.342(a) and (b), Transportation Code, are amended to read as follows:

(a) Except as provided by Section 521.344, the license of a person who was under 21 years of age at the time of the offense, other than an offense classified as a misdemeanor punishable by fine only, is automatically suspended on conviction of:

- (1) an offense under Section 49.04, 49.045, or 49.07, Penal Code, committed as a result of the introduction of alcohol into the body;
- (2) an offense under the Alcoholic Beverage Code, other than an offense to which Section 106.071 of that code applies, involving the manufacture, delivery, possession, transportation, or use of an alcoholic beverage;
- (3) a misdemeanor offense under Chapter 481, Health and Safety Code, for which Subchapter P does not require the automatic suspension of the license;
- (4) an offense under Chapter 483, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a dangerous drug; or
- (5) an offense under Chapter 485, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of an abusable volatile chemical.

(b) The department shall suspend for one year the license of a person who is under 21 years of age and is convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, regardless of whether the person is required to attend an educational program under Section 13(h), Article 42.12, Code of Criminal Procedure, that is designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person is placed under community supervision under that article and is required as a condition of the community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Section 13(i) of that article. If the person is required to attend such a program and does not complete the program before the end of the person's suspension, the department

shall suspend the person's license or continue the suspension, as appropriate, until the department receives proof that the person has successfully completed the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

SECTION 16.03. Sections 521.344(a), (c), and (i), Transportation Code, are amended to read as follows:

(a) Except as provided by Sections 521.342(b) and 521.345, and by Subsections (d)-(i), if a person is convicted of an offense under Section 49.04, 49.045, or 49.07, Penal Code, the license suspension:

(1) begins on a date set by the court that is not earlier than the date of the conviction or later than the 30th day after the date of the conviction, as determined by the court; and

(2) continues for a period set by the court according to the following schedule:

(A) not less than 90 days or more than one year, if the person is punished under Section 49.04, 49.045, or 49.07, Penal Code, except that if the person's license is suspended for a second or subsequent offense under Section 49.07 committed within five years of the date on which the most recent preceding offense was committed, the suspension continues for a period of one year;

(B) not less than 180 days or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code; or

(C) not less than one year or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code, and is subject to Section 49.09(h) of that code.

(c) The court shall credit toward the period of suspension a suspension imposed on the person for refusal to give a specimen under Chapter 724 if the refusal followed an arrest for the same offense for which the court is suspending the person's license under this chapter. The court may not extend the credit to a person:

(1) who has been previously convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

(2) whose period of suspension is governed by Section 521.342(b).

(i) On the date that a suspension order under Section 521.343(c) is to expire, the period of suspension or the corresponding period in which the department is prohibited from issuing a license is automatically increased to two years unless the department receives notice of successful completion of the educational program as required by Section 13, Article 42.12, Code of Criminal Procedure. At the time a person is convicted of an offense under Section 49.04 or 49.045, Penal Code, the court shall warn the person of the effect of this subsection. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner required by Section 13, Article 42.12, Code of Criminal Procedure. If the department receives proof of completion after a period has been extended under this subsection, the department shall immediately end the suspension or prohibition.

SECTION 16.04. Sections 13(h) and (n), Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(h) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the Texas Commission on Alcohol and Drug Abuse, the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas Department of Criminal Justice designed to rehabilitate persons who have driven while intoxicated. The Texas Commission on Alcohol and Drug Abuse shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The

judge may waive the educational program requirement or may grant an extension of time to successfully complete the program that expires not later than one year after the beginning date of the person's community supervision, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and the fact that the defendant resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause for waiver in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program or if the court waives the educational program requirement, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. If the court grants an extension of time in which the person may complete the program, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the department. The report must include the beginning date of the person's community supervision. Upon the person's successful completion of the educational program, the person's instructor shall give notice to the Department of Public Safety for inclusion in the person's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code. The Department of Public Safety may not reinstate a license suspended under this subsection unless the person whose license was suspended makes application to the department for reinstatement of the person's license and pays to the department a reinstatement fee of \$100 [~~\$50~~]. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends community supervision for the defendant and also recommends that the defendant's driver's license not be suspended.

(n) Notwithstanding any other provision of this section or other law, the judge who places on community supervision a defendant who was [~~is~~] younger than 21 years of age at the time of the offense and was convicted for an offense under Sections 49.04-49.08, Penal Code, shall:

- (1) order that the defendant's driver's license be suspended for 90 days beginning on the date that the person is placed on community supervision; and
- (2) require as a condition of community supervision that the defendant not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) of this section.

SECTION 16.05. The changes in law made by this article to Sections 521.341, 521.342, and 521.344, Transportation Code, and Section 13, Article 42.12, Code of Criminal Procedure, apply only to an offense committed on or after the effective date of this article. For purposes of this section, an offense was committed before the effective date of this article if any element of the offense occurred before the effective date of this article.

SECTION 16.06. This article takes effect September 1, 2009.

ARTICLE 17. SUBMISSION OF REPORTS ON CERTAIN CONVICTIONS OR ADJUDICATIONS RELATING TO THE OPERATION OF MOTOR VEHICLES TO THE DEPARTMENT

SECTION 17.01. Subsections (a) and (b), Section 522.061, Transportation Code, are amended to read as follows:

(a) A person who holds or is required to hold a commercial driver's license under this chapter and who is convicted in another state of violating a state law or local ordinance relating to motor vehicle traffic control shall notify the department in the manner specified by the department not later than the seventh [~~30th~~] day after the date of conviction.

(b) A person who holds or is required to hold a commercial driver's license under this chapter and who is

convicted in this state or another state of violating a state law or local ordinance relating to motor vehicle traffic control, including a law regulating the operation of vehicles on highways, shall notify the person's employer in writing of the conviction not later than the seventh ~~[30th]~~ day after the date of conviction.

SECTION 17.02. Section 543.203, Transportation Code, is amended to read as follows:

Sec. 543.203. SUBMITTING RECORD TO DEPARTMENT. Not later than the seventh ~~[30th]~~ day after the date of conviction or forfeiture of bail of a person on a charge of violating a law regulating the operation of a vehicle on a highway or conviction of a person of negligent homicide or a felony in the commission of which a vehicle was used, the magistrate, judge, or clerk of the court in which the conviction was had or bail was forfeited shall immediately submit to the department a written record of the case containing the information required by Section 543.202.

SECTION 17.03. Subsection (a), Section 543.204, Transportation Code, is amended to read as follows:

(a) A justice of the peace or municipal judge who defers further proceedings, suspends all or part of the imposition of the fine, and places a defendant on probation under Article 45.051, Code of Criminal Procedure, or a county court judge who follows that procedure under Article 42.111, Code of Criminal Procedure, may not submit a written record to the department, except that if the justice or judge subsequently adjudicates the defendant's guilt, the justice or judge shall submit the record not later than the seventh ~~[30th]~~ day after the date on which the justice or judge adjudicates guilt.

SECTION 17.04. The change in law made by this article applies only to a conviction, forfeiture of bail, or adjudication of guilt that occurs on or after the effective date of this article.

SECTION 17.05. This article takes effect September 1, 2009.

ARTICLE 18. CIVIL CONSEQUENCES OF CERTAIN CONVICTIONS ON A PERSON WHO HOLDS A COMMERCIAL DRIVER'S LICENSE AND OF CERTAIN ADJUDICATIONS ON THE DRIVER'S LICENSE OR PERMIT OF A CHILD

SECTION 18.01. Section 522.081(d), Transportation Code, is amended to read as follows:

(d) A person is disqualified from driving a commercial motor vehicle for life:

(1) if the person is convicted two or more times of an offense specified by Subsection (b)(2), or a combination of those offenses, arising from two or more separate incidents;

(2) if the person uses a motor vehicle in the commission of a felony involving:

(A) the manufacture, distribution, or dispensing of a controlled substance; or

(B) possession with intent to manufacture, distribute, or dispense a controlled substance; ~~[or]~~

(3) for any combination of two or more of the following, arising from two or more separate incidents:

(A) a conviction of the person for an offense described by Subsection (b)(2);

(B) a refusal by the person described by Subsection (b)(3); and

(C) an analysis of the person's blood, breath, or urine described by Subsection (b)(4); or

(4) if the person uses a motor vehicle in the commission of an offense under 8 U.S.C. Section 1324 that involves the transportation, concealment, or harboring of an alien.

SECTION 18.02. Section 54.042(a), Family Code, is amended to read as follows:

(a) A juvenile court, in a disposition hearing under Section 54.04, shall:

(1) order the Department of Public Safety to suspend a child's driver's license or permit, or if the child does not have a license or permit, to deny the issuance of a license or permit to the child if the court finds that the child has engaged in conduct that:

(A) violates a law of this state enumerated in Section 521.342(a), Transportation Code; or

(B) violates a penal law of this state or the United States, an element or elements of which involve a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102; or

(2) notify the Department of Public Safety of the adjudication, if the court finds that the child has engaged in conduct that violates a law of this state enumerated in Section 521.372(a), Transportation Code.

SECTION 18.03. (a) The change in law made by this article to Section 522.081, Transportation Code, applies only in connection with a conviction that becomes final on or after the effective date of this

article. A conviction that became final before the effective date of this article is covered by Section 522.081, Transportation Code, as that section existed on the date the conviction became final, and the former law is continued in effect for that purpose.

(b) The change in law made by this article in amending Section 54.042, Family Code, applies only to conduct that occurs on or after the effective date of this article. Conduct that occurred before the effective date of this article is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 18.04. This article takes effect September 1, 2009.

ARTICLE 19. [blank]

ARTICLE 23. EFFECTIVE DATE

SECTION 23.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2009.

H.B. 2840

AN ACT

relating to mortgage fraud; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 402.031(a)(1), Government Code, as added by Chapter 285 (H.B. 716), Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(1) "Authorized governmental agency" means:

- (A) the attorney general;
- (B) a local or state law enforcement agency of this state or a federal law enforcement agency;
- (C) a prosecuting attorney of the United States or of a county or judicial district of this state; or
- (D) the Department of Public Safety, the Texas Department of Insurance, the Office of Consumer Credit Commissioner, the Texas Department of Banking, the credit union department, the Department of Savings and Mortgage Lending, the Texas Real Estate Commission, ~~the~~ the Texas Appraiser Licensing and Certification Board, or the Texas Department of Housing and Community Affairs.

SECTION 2. Section 402.032(c), Government Code, is amended to read as follows:

(c) The task force consists of the following persons or their appointees:

- (1) the attorney general;
- (2) the consumer credit commissioner;
- (3) the banking commissioner;
- (4) the credit union commissioner;
- (5) the commissioner of insurance;
- (6) the savings and mortgage lending commissioner;
- (7) the presiding officer of the Texas Real Estate Commission; ~~and~~
- (8) the presiding officer of the Texas Appraiser Licensing and Certification Board; and
- (9) a representative of the Texas Department of Housing and Community Affairs.

SECTION 3. Section 555.051(a), Government Code, is amended to read as follows:

(a) This section applies only to information held by or for the office of the attorney general, the Texas Department of Insurance, the Texas State Board of Public Accountancy, the Public Utility Commission of Texas, the State Securities Board, the Department of Savings and Mortgage Lending, the Texas Real Estate Commission, the Texas Appraiser Licensing and Certification Board, the Texas Department of Banking, the credit union department, ~~the~~ the Office of Consumer Credit Commissioner, or the Texas Department of Housing and Community Affairs that relates to the possible commission of corporate fraud or mortgage fraud by a person who is licensed or otherwise regulated by any of those state agencies. In this subsection, "corporate fraud" means a violation of state or federal law or rules relating to fraud committed by a corporation, limited liability company, or registered limited liability partnership or an officer, director, or partner of those entities while acting in a representative capacity.

SECTION 4. The heading to Section 32.32, Penal Code, is amended to read as follows:

Sec. 32.32. FALSE STATEMENT TO OBTAIN PROPERTY OR CREDIT OR IN THE PROVISION OF CERTAIN SERVICES.

SECTION 5. Section 32.32, Penal Code, is amended by adding Subsection (b-1) and amending Subsection (d) to read as follows:

(b-1) A person commits an offense if the person intentionally or knowingly makes a materially false or misleading written statement in providing an appraisal of real property for compensation.

(d) The following agencies shall assist a prosecuting attorney of the United States or of a county or judicial district of this state, a county or state law enforcement agency of this state, or a federal law enforcement agency in the investigation of an offense under this section involving a mortgage loan:

- (1) the office of the attorney general;
- (2) the Department of Public Safety;
- (3) the Texas Department of Insurance;
- (4) the Office of Consumer Credit Commissioner;
- (5) the Texas Department of Banking;
- (6) the credit union department;
- (7) the Department of Savings and Mortgage Lending;
- (8) the Texas Real Estate Commission; ~~and~~
- (9) the Texas Appraiser Licensing and Certification Board; and
- (10) the Texas Department of Housing and Community Affairs.

SECTION 6. This Act takes effect September 1, 2009.

H.B. 3001

AN ACT

relating to the consideration of longevity and cost of living in setting the salaries for certain municipal employees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 141, Local Government Code, is amended by adding Section 141.010 to read as follows:

Sec. 141.010. MUNICIPAL EMPLOYEES IN TYPE A AND B GENERAL-LAW MUNICIPALITIES.

To the extent consistent with Subchapter B of this chapter and Chapters 142 and 143, the governing body of a Type A or B general-law municipality may consider longevity and cost of living in setting the salary of a municipal employee.

SECTION 2. 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.

H.B. 3095

AN ACT

relating to the use of a parking space or area designated specifically for persons with disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 681.002(b), Transportation Code, is amended to read as follows:

(b) A disabled parking placard must be two-sided and hooked and include on each side:

(1) the international symbol of access, which must be at least three inches in height, be centered on the placard, and be:

(A) white on a blue shield for a placard issued to a person with a permanent ~~[mobility]~~ disability ~~[described by Section 681.001(5)(B) or (C)]~~; or

(B) white on a red shield for a placard issued to a person with a [any other permanent or] temporary disability;

(2) an identification number;

- (3) an expiration date at least three inches in height; and
- (4) the seal or other identification of the department.

SECTION 2. Section 681.003(b), Transportation Code, is amended to read as follows:

(b) An application for a disabled parking placard must be:

- (1) on a form furnished by the department;
- (2) submitted to the county assessor-collector of the county in which the person with the disability resides; and
- (3) accompanied by a fee of \$5 if the application is for a temporary placard.

SECTION 3. Section 681.009(e), Transportation Code, is amended to read as follows:

(e) Parking ~~[A private property owner or private person who controls property used for parking and who designates one or more uncovered parking]~~ spaces or areas designated for the exclusive use of vehicles transporting persons with disabilities may be used by ~~[shall assign at least half of those spaces for the exclusive use of]~~ vehicles displaying a white on blue shield disabled parking placard, ~~[or]~~ license plates issued under Section 504.201 or 504.202, or ~~[except that if an odd number of spaces is designated, only the number of spaces that is the largest whole number less than half of the number of designated spaces must be assigned for the exclusive use of vehicles displaying a white on blue shield placard or license plates issued under Section 504.202. Van accessible parking spaces shall be counted as assigned spaces under this subsection. These assigned spaces must be the spaces located closest to an accessible route to an entrance accessible to a person with a disability. The remaining designated parking spaces may be used by vehicles displaying a white on blue shield disabled parking placard,]~~ a white on red shield disabled parking placard, ~~license plates issued under Section 504.201, or license plates issued under Section 504.202. This subsection applies only to a property used for parking that serves a building or other facility:~~

~~[(1) that state law requires to be accessible to person with disabilities; and~~

~~[(2) for which construction or an alteration of the building or other facility is completed on or after September 1, 1999].~~

SECTION 4. Sections 681.011(b), (g), (h), (i), (j), and (k), Transportation Code, are amended to read as follows:

(b) A person commits an offense if the person~~[:~~

~~[(4)]~~ stands a vehicle on which license plates issued under Section 504.201 or 504.202 are not displayed and a disabled parking placard is not displayed in a parking space or area designated specifically for individuals with disabilities by:

~~(1) [(A)]~~ a political subdivision; or

~~(2) [(B)]~~ a person who owns or controls private property used for parking as to which a political subdivision has provided for the application of this section under ~~[this]~~ Subsection (f)~~[: or~~

~~[(2) stands a vehicle displaying a white on red shield disabled parking placard or license plates issued under Section 504.201 in a space designated under Section 681.009(e) for the exclusive use of vehicles displaying a white on blue shield disabled parking placard or license plates issued under Section 504.202].~~

(g) Except as provided by Subsections (h)-(k), an offense under this section is a misdemeanor punishable by a fine of not less than \$500 ~~[\$250]~~ or more than \$750 ~~[\$500]~~.

(h) If it is shown on the trial of an offense under this section that the person has been previously convicted one time of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$550 ~~[\$300]~~ or more than \$800; and

(2) 10 hours of community service ~~[\$600]~~.

(i) If it is shown on the trial of an offense under this section that the person has been previously convicted two times of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$550 ~~[\$300]~~ or more than \$800 ~~[\$600]~~; and

(2) not less than 20 ~~[10]~~ or more than 30 ~~[20]~~ hours of community service.

(j) If it is shown on the trial of an offense under this section that the person has been previously convicted three times of an offense under this section, the offense is punishable by:

- (1) a fine of not less than \$800 [~~\$500~~] or more than \$1,100 [~~\$1,000~~]; and
- (2) [~~not less than 20 or more than~~] 50 hours of community service.

(k) If it is shown on the trial of an offense under this section that the person has been previously convicted four times of an offense under this section, the offense is punishable by a fine of \$1,250 [~~\$1,000~~] and 50 hours of community service.

SECTION 5. A disabled parking placard issued before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6. (a) The change in law made by this Act applies only to an offense committed on or after September 1, 2009.

(b) An offense committed before September 1, 2009, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this subsection, an offense was committed before September 1, 2009, if any element of the offense was committed before that date.

SECTION 7. This Act takes effect September 1, 2009.

H.B. 3097 (Excerpt)

AN ACT

relating to the creation, organization, governance, duties, and functions of the Texas Department of Motor Vehicles, including the transfer of certain duties to the Texas Department of Motor Vehicles and the Texas Department of Licensing and Regulation, and to the regulation of certain franchised motor vehicle dealers; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. TEXAS DEPARTMENT OF MOTOR VEHICLES

SECTION 1.01. Title 7, Transportation Code, is amended by adding Subtitle M to read as follows:

SUBTITLE M. DEPARTMENT OF MOTOR VEHICLES

CHAPTER 1001. ORGANIZATION OF DEPARTMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1001.001. DEFINITIONS. In this subtitle:

- (1) "Board" means the board of the department.
- (2) "Department" means the Texas Department of Motor Vehicles.

Sec. 1001.002. CREATION OF DEPARTMENT; DUTIES. (a) The department is created as an agency of this state.

(b) In addition to the other duties required of the Texas Department of Motor Vehicles, the department shall administer and enforce:

- (1) Subtitle A;
- (2) Chapters 642, 643, 645, 646, and 648; and
- (3) Chapters 2301 and 2302, Occupations Code.

Sec. 1001.003. COMPOSITION OF DEPARTMENT. The department is composed of an executive director appointed by the board and other employees required to efficiently implement:

- (1) this subtitle;
- (2) other applicable vehicle laws of this state; and
- (3) other laws that grant jurisdiction to or are applicable to the department.

Sec. 1001.004. DIVISIONS. The board shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

- (1) administration;

- (2) motor carriers;
- (3) motor vehicle board; and
- (4) vehicle titles and registration.

Sec. 1001.005. SUNSET PROVISION. The department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2015.

Sec. 1001.006. DEFENSE BY ATTORNEY GENERAL. The attorney general shall defend an action brought against the board or the department or an action brought against an employee of the department as a result of the employee's official act or omission, regardless of whether at the time of the institution of the action that person has terminated service with the department.

[Sections 1001.007-1001.020 reserved for expansion]

ARTICLE 2. TRANSFER OF DUTIES AND FUNCTIONS OF THE TEXAS DEPARTMENT OF TRANSPORTATION

PART A. GENERAL PROVISIONS AND ADMINISTRATION

SECTION 2A.01. Subsection (a), Section 201.202, Transportation Code, is amended to read as follows:

(a) The commission shall organize the department into divisions to accomplish the department's functions and the duties assigned to it, including divisions for:

- (1) aviation;
- (2) highways and roads; and
- (3) public transportation[~~;~~ and
- ~~[(4) motor vehicle titles and registration].~~

SECTION 2A.02. Subdivision (2), Section 201.931, Transportation Code, is amended to read as follows:

(2) "License" includes:

(A) a permit issued by the department that authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitations; and

(B) ~~[a motor carrier registration issued under Chapter 643;~~

~~[(C) a vehicle storage facility license issued under Chapter 2303, Occupations Code;~~

~~[(D) a license or permit for outdoor advertising issued under Chapter 391 or 394;~~

~~[(E) a salvage vehicle dealer or agent license issued under Chapter 2302, Occupations Code;~~

~~[(F) specially designated or specialized license plates issued under Subchapters E and F, Chapter 502; and~~

~~[(G) an apportioned registration issued according to the International Registration Plan under Section 502.054].~~

SECTION 2A.03. Subsection (c), Section 201.202, Transportation Code, is repealed.

PART B. STATE HIGHWAY TOLL PROJECTS

SECTION 2B.01. Subsections (b) and (h), Section 228.055, Transportation Code, are amended to read as follows:

(b) The department may impose and collect the administrative fee, so as to recover the cost of collecting the unpaid toll, not to exceed \$100. The department shall send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the Texas Department of Motor Vehicles [department] by first class mail and may require payment not sooner than the 30th day after the date the notice was mailed. The registered owner shall pay a separate toll and administrative fee for each event of nonpayment under Section 228.054.

(h) In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the Texas Department of Motor Vehicles [department] or the analogous department or agency of another state or country.

SECTION 2B.02. Subsection (b), Section 228.056, Transportation Code, is amended to read as follows:

(b) In the prosecution of an offense under Section 228.055(c), (d), or (e):

- (1) it is presumed that the notice of nonpayment was received on the fifth day after the date of mailing;

(2) a computer record of the Texas Department of Motor Vehicles [~~department~~] of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 228.054 occurred; and

(3) a copy of the rental, lease, or other contract document covering the vehicle on the date of the underlying event of nonpayment under Section 228.054 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 228.054 occurred.

PART C. CAUSEWAYS, BRIDGES, TUNNELS, TURNPIKES, FERRIES, AND HIGHWAYS IN CERTAIN COUNTIES

SECTION 2C.01. Subsections (b), (e), and (h), Section 284.0701, Transportation Code, are amended to read as follows:

(b) The county may impose and collect the administrative cost so as to recover the expense of collecting the unpaid toll, not to exceed \$100. The county shall send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the Texas Department of Motor Vehicles [~~department~~] by first-class mail not later than the 30th day after the date of the alleged failure to pay and may require payment not sooner than the 30th day after the date the notice was mailed. The registered owner shall pay a separate toll and administrative cost for each event of nonpayment under Section 284.070.

(e) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 284.070 occurred, submitted written notice of the transfer to the Texas Department of Motor Vehicles [~~department~~] in accordance with Section 520.023, and before the 30th day after the date the notice of nonpayment is mailed, provides to the county the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the county may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by first-class mail before the 30th day after the date of receipt of the required information from the former owner. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. The subsequent owner shall pay a separate toll and administrative cost for each event of nonpayment under Section 284.070. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

(h) In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the Texas Department of Motor Vehicles [~~department~~] or the analogous department or agency of another state or country.

PART D. CERTIFICATE OF TITLE ACT

SECTION 2D.01. Subdivision (3), Section 501.002, Transportation Code, is amended to read as follows:

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

PART E. REGISTRATION OF VEHICLES

SECTION 2E.01. Section 502.001, Transportation Code, is amended by adding Subdivision (1-a) and amending Subdivision (3) to read as follows:

(1-a) "Board" means the board of the Texas Department of Motor Vehicles.

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 2E.02. Section 502.051, Transportation Code, is amended to read as follows:

Sec. 502.051. DEPOSIT OF REGISTRATION FEES IN STATE HIGHWAY FUND. Except as otherwise provided by this chapter, the board [~~Texas Transportation Commission~~] and the department shall deposit all money received from registration fees in the state treasury to the credit of the state highway fund.

SECTION 2E.03. Section 502.052(a), Transportation Code, is amended to read as follows:

(a) The department shall prepare the designs and specifications of license plates and devices selected by the board [~~Texas Transportation Commission~~] to be used as the registration insignia.

SECTION 2E.04. Subsections (a) and (b), Section 502.053, Transportation Code, are amended to read as follows:

(a) The department [~~Texas Department of Transportation~~] shall reimburse the Texas Department of Criminal Justice for the cost of manufacturing license plates or registration insignia as the license plates or insignia and the invoice for the license plates or insignia are delivered to the department [~~Texas Department of Transportation~~].

(b) When manufacturing is started, the Texas Department of Criminal Justice, the department [~~Texas Department of Transportation~~], and the comptroller, after negotiation, shall set the price to be paid for each license plate or insignia. The price must be determined from:

- (1) the cost of metal, paint, and other materials purchased;
- (2) the inmate maintenance cost per day;
- (3) overhead expenses;
- (4) miscellaneous charges; and
- (5) a previously approved amount of profit for the work.

SECTION 2E.05. Section 502.1515, Transportation Code, is amended to read as follows:

Sec. 502.1515. OUTSOURCING PRODUCTION OF RENEWAL NOTICES; PAID ADVERTISING.

The board [~~commission~~] may authorize the department to enter into a contract with a private vendor to produce and distribute motor vehicle registration renewal notices. The contract may provide for the inclusion of paid advertising in the registration renewal notice packet.

SECTION 2E.06. Section 502.352(c), Transportation Code, is amended to read as follows:

(c) A person may obtain a permit under this section by:

- (1) applying to the county assessor-collector, the department, or the department's wire service agent, if the department has a wire service agent;
- (2) paying a fee of \$25 for a 72-hour permit or \$50 for a 144-hour permit:
 - (A) in cash;
 - (B) by postal money order;
 - (C) by certified check;
 - (D) by wire transfer through the department's wire service agent, if any;
 - (E) by an escrow account; or
 - (F) where the service is provided, by a credit card issued by:
 - (i) a financial institution chartered by a state or the United States; or
 - (ii) a nationally recognized credit organization approved by the board [~~Texas Transportation Commission~~];
- (3) paying a discount or service charge for a credit card payment or escrow account, in addition to the fee; and
- (4) furnishing to the county assessor-collector, the department, or the department's wire service agent, evidence of financial responsibility for the vehicle that complies with Sections 502.153(c) and 601.168(a) and is written by an insurance company or surety company authorized to write motor vehicle liability insurance in this state.

SECTION 2E.07. Section 502.355(h), Transportation Code, is amended to read as follows:

(h) A person operating a vehicle under a permit issued under this section commits an offense if the person:

- (1) transports farm products to a place of market, storage, or processing or a railhead or seaport that is farther from the place of production or point of entry, as appropriate, than the distance provided for in the permit; or
- (2) follows a route other than that prescribed by the board [~~Texas Transportation Commission~~].

PART F. DEALER'S AND MANUFACTURER'S VEHICLE LICENSE PLATES

SECTION 2F.01. Subdivisions (2) and (5), Section 503.001, Transportation Code, are amended to read as follows:

(2) "Commission" means the board of the Texas Department of Motor Vehicles [~~Texas Transportation Commission~~].

(5) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

PART G. SPECIALTY LICENSE PLATES

SECTION 2G.01. Section 504.001(a), Transportation Code, is amended to read as follows:

(a) In this chapter:

(1) "Board" means the board of the Texas Department of Motor Vehicles [~~,"commission" and "director" have the meanings assigned by Section 201.001~~].

(2) "Department" means the Texas Department of Motor Vehicles.

SECTION 2G.02. Section 504.004, Transportation Code, is amended to read as follows:

Sec. 504.004. RULES AND FORMS. The board [~~commission~~] may adopt rules and the department may issue forms to implement and administer this chapter.

SECTION 2G.03. Sections 504.851(b), (c), and (d), Transportation Code, are amended to read as follows:

(b) Instead of the fees established by Section 504.101(c), the board [~~commission~~] by rule shall establish fees for the issuance or renewal of personalized license plates that are marketed and sold by the private vendor. Fees must be reasonable and not less than the greater of:

(1) the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs; or

(2) the amount established by Section 504.101(c).

(c) The board [~~commission~~] by rule shall establish the fees for the issuance or renewal of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized that are marketed and sold by the private vendor. Fees must be reasonable and not less than the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs. A fee established under this subsection is in addition to:

(1) the registration fee and any optional registration fee prescribed by this chapter for the vehicle for which specialty license plates are issued;

(2) any additional fee prescribed by this subchapter for the issuance of specialty license plates for that vehicle; and

(3) any additional fee prescribed by this subchapter for the issuance of personalized license plates for that vehicle.

(d) At any time as necessary to comply with Subsection (b) or (c), the board [~~commission~~] may increase or decrease the amount of a fee established under the applicable subsection.

PART H. MISCELLANEOUS PROVISIONS

SECTION 2H.01. Section 520.001, Transportation Code, is amended to read as follows:

Sec. 520.001. DEFINITION. In this chapter, "department" means the Texas Department of Motor Vehicles [~~Transportation~~].

PART I. OPERATION OF BICYCLES, MOPEDS, AND PLAY VEHICLES

SECTION 2I.01. Section 551.302, Transportation Code, is amended to read as follows:

Sec. 551.302. REGISTRATION. The Texas Department of Motor Vehicles [~~Transportation~~] may adopt rules relating to the registration and issuance of license plates to neighborhood electric vehicles.

PART J. MOTOR VEHICLE SAFETY RESPONSIBILITY ACT

SECTION 2J.01. Section 601.023, Transportation Code, is amended to read as follows:

Sec. 601.023. PAYMENT OF STATUTORY FEES. The department may pay:

- (1) a statutory fee required by the Texas Department of Motor Vehicles [~~Transportation~~] for a certified abstract or in connection with suspension of a vehicle registration; or
- (2) a statutory fee payable to the comptroller for issuance of a certificate of deposit required by Section 601.122.

SECTION 2J.02. Section 601.451, Transportation Code, as added by Chapter 892 (S.B. 1670), Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 601.451. DEFINITION. In this subchapter, "implementing agencies" means:

- (1) the department;
- (2) the Texas Department of Motor Vehicles [~~Transportation~~];
- (3) the Texas Department of Insurance; and
- (4) the Department of Information Resources.

SECTION 2J.03. Subchapter N, Chapter 601, Transportation Code, as added by Chapter 1325 (H.B. 3588), Acts of the 78th Legislature, Regular Session, 2003, is repealed.

PART K. IDENTIFYING MARKINGS ON CERTAIN COMMERCIAL MOTOR VEHICLES

SECTION 2K.01. Subsection (d), Section 642.002, Transportation Code, is amended to read as follows:

- (d) The Texas Department of Motor Vehicles [~~Transportation~~] by rule may prescribe additional requirements regarding the form of the markings required by Subsection (a)(2) that are not inconsistent with that subsection.

PART L. MOTOR CARRIER REGISTRATION

SECTION 2L.01. Subdivision (1), Section 643.001, Transportation Code, is amended to read as follows:

- (1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

PART M. SINGLE STATE REGISTRATION

SECTION 2M.01. Section 645.001, Transportation Code, is amended to read as follows:

Sec. 645.001. FEDERAL MOTOR CARRIER REGISTRATION. The Texas Department of Motor Vehicles [~~Transportation~~] may, to the fullest extent practicable, participate in a federal motor carrier registration program under the unified carrier registration system as defined by Section 643.001 or a [the] single state registration system established under federal law [~~49 U.S.C. Section 14504~~].

PART N. MOTOR TRANSPORTATION BROKERS

SECTION 2N.01. Subsection (a), Section 646.003, Transportation Code, is amended to read as follows:

- (a) A person may not act as a motor transportation broker unless the person provides a bond to the Texas Department of Motor Vehicles [~~Transportation~~].

PART O. FOREIGN COMMERCIAL MOTOR TRANSPORTATION

SECTION 2O.01. Section 648.002, Transportation Code, is amended to read as follows:

Sec. 648.002. RULES. In addition to rules required by this chapter, the Texas Department of Motor Vehicles [~~Transportation~~], the Department of Public Safety, and the Texas Department of Insurance may adopt other rules to carry out this chapter.

PART P. PRIVILEGED PARKING

SECTION 2P.01. Section 681.001(1), Transportation Code, is amended to read as follows:

- (1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

PART Q. ADMINISTRATIVE ADJUDICATION OF VEHICLE PARKING AND STOPPING OFFENSES

SECTION 2Q.01. Section 682.008, Transportation Code, is amended to read as follows:

Sec. 682.008. PRESUMPTIONS. In an administrative adjudication hearing under this chapter:

- (1) it is presumed that the registered owner of the motor vehicle is the person who parked or stopped the vehicle at the time and place of the offense charged; and
- (2) the Texas Department of Motor Vehicles' [~~Transportation's~~] computer-generated record of the registered vehicle owner is prima facie evidence of the contents of the record.

PART R. ABANDONED MOTOR VEHICLES

SECTION 2R.01. Subdivision (1), Section 683.001, Transportation Code, is amended to read as follows:
(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

PART S. CONTRACTS FOR ENFORCEMENT OF CERTAIN ARREST WARRANTS

SECTION 2S.01. Subdivision (1), Section 702.001, Transportation Code, is amended to read as follows:
(1) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

PART T. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM

SECTION 2T.01. Subdivision (2), Section 707.001, Transportation Code, is amended to read as follows:
(2) "Owner of a motor vehicle" means the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Motor Vehicles [~~Transportation~~] or the analogous department or agency of another state or country.

SECTION 2T.02. Subsection (b), Section 707.011, Transportation Code, is amended to read as follows:

(b) Not later than the 30th day after the date the violation is alleged to have occurred, the designated department, agency, or office of the local authority or the entity with which the local authority contracts under Section 707.003(a)(1) shall mail the notice of violation to the owner at:

(1) the owner's address as shown on the registration records of the Texas Department of Motor Vehicles [~~Transportation~~]; or

(2) if the vehicle is registered in another state or country, the owner's address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 2T.03. Section 707.017, Transportation Code, is amended to read as follows:

Sec. 707.017. ENFORCEMENT. If the owner of a motor vehicle is delinquent in the payment of a civil penalty imposed under this chapter, the county assessor-collector or the Texas Department of Motor Vehicles [~~Transportation~~] may refuse to register a motor vehicle alleged to have been involved in the violation.

PART U. SALE OR LEASE OF MOTOR VEHICLES

SECTION 2U.01. Subdivision (9), Section 2301.002, Occupations Code, is amended to read as follows:
(9) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 2U.02. Subdivision (33), Section 2301.002, Occupations Code, is repealed.

PART V. AUTOMOBILE BURGLARY AND THEFT PREVENTION AUTHORITY

SECTION 2V.01. Subdivision (3), Section 1, Article 4413(37), Revised Statutes, is amended to read as follows:

(3) "Department" means the Texas Department of Motor Vehicles [~~Transportation~~].

SECTION 2V.02. Section 2, Article 4413(37), Revised Statutes, is amended to read as follows:

Sec. 2. The Automobile Burglary and Theft Prevention Authority is established in the Texas Department of Motor Vehicles [~~Transportation~~]. The authority is not an advisory body to the Texas Department of Motor Vehicles [~~Transportation~~].

ARTICLE 3. CONFORMING AMENDMENTS PERTAINING TO TEXAS DEPARTMENT OF TRANSPORTATION IN OTHER CODES

ARTICLE 4. USED AUTOMOTIVE PARTS RECYCLERS

SECTION 4.01. Subdivision (6), Section 2302.001, Occupations Code, is amended to read as follows:

(6) "Salvage vehicle agent" means a person who acquires, sells, or otherwise deals in nonrepairable or salvage motor vehicles [~~or used parts~~] in this state as directed by the salvage vehicle dealer under whose license the person operates. The term does not include a person who:

(A) is a licensed salvage vehicle dealer or a licensed used automotive parts recycler;

(B) is a partner, owner, or officer of a business entity that holds a salvage vehicle dealer license or a used automotive parts recycler license;

(C) is an employee of a licensed salvage vehicle dealer or a licensed used automotive parts recycler; or

(D) only transports salvage motor vehicles for a licensed salvage vehicle dealer or a licensed used automotive parts recycler.

SECTION 4.02. Subsection (b), Section 2302.006, Occupations Code, is amended to read as follows:

(b) This chapter applies to a transaction in which a motor vehicle:

- (1) is sold, transferred, released, or delivered to a metal recycler for the purpose of reuse or resale as a motor vehicle [~~or as a source of used parts~~]; and
- (2) is used for that purpose.

SECTION 4.03. Subchapter A, Chapter 2302, Occupations Code, is amended by adding Section 2302.008 to read as follows:

Sec. 2302.008. APPLICABILITY OF CHAPTER TO USED AUTOMOTIVE PARTS RECYCLERS.

This chapter does not apply to a used automotive parts recycler licensed under Chapter 2309.

SECTION 4.04. Subsection (b), Section 2302.103, Occupations Code, is amended to read as follows:

(b) An applicant may apply for a salvage vehicle dealer license with an endorsement in one or more of the following classifications:

- (1) new automobile dealer;
- (2) used automobile dealer;
- (3) [~~used vehicle parts dealer~~;
- [~~(4)~~] salvage pool operator;
- (4) [~~(5)~~] salvage vehicle broker; or
- (5) [~~(6)~~] salvage vehicle rebuilder.

SECTION 4.05. Subsection (d), Section 2302.107, Occupations Code, is amended to read as follows:

(d) A salvage vehicle agent may acquire, sell, or otherwise deal in, nonrepairable or salvage motor vehicles [~~or used parts~~] as directed by the authorizing dealer.

SECTION 4.06. Section 2302.202, Occupations Code, is amended to read as follows:

Sec. 2302.202. RECORDS OF PURCHASES. A salvage vehicle dealer shall maintain a record of each salvage motor vehicle [~~and each used part~~] purchased or sold by the dealer.

SECTION 4.07. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2309 to read as follows:

CHAPTER 2309. USED AUTOMOTIVE PARTS RECYCLERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2309.001. SHORT TITLE. This chapter may be cited as the Texas Used Automotive Parts Recycling Act.

Sec. 2309.002. DEFINITIONS. In this chapter:

- (1) "Insurance company," "metal recycler," "motor vehicle," "nonrepairable motor vehicle," "nonrepairable vehicle title," "salvage motor vehicle," "salvage vehicle title," and "salvage vehicle dealer" have the meanings assigned by Section 501.091, Transportation Code.
- (2) "Commission" means the Texas Commission of Licensing and Regulation.
- (3) "Department" means the Texas Department of Licensing and Regulation.
- (4) "Executive director" means the executive director of the department.
- (5) "Used automotive part" has the meaning assigned to "used part" by Section 501.091, Transportation Code.
- (6) "Used automotive parts recycler" means a person licensed under this chapter to operate a used automotive parts recycling business.
- (7) "Used automotive parts recycling" means the dismantling and reuse or resale of used automotive parts and the safe disposal of salvage motor vehicles or nonrepairable motor vehicles, including the resale of those vehicles.

Sec. 2309.003. APPLICABILITY OF CHAPTER TO METAL RECYCLERS. (a) Except as provided by Subsection (b), this chapter does not apply to a transaction to which a metal recycler is a party.

(b) This chapter applies to a transaction in which a motor vehicle:

- (1) is sold, transferred, released, or delivered to a metal recycler as a source of used automotive parts; and
- (2) is used as a source of used automotive parts.

Sec. 2309.004. APPLICABILITY OF CHAPTER TO SALVAGE VEHICLE DEALERS. (a) Except as provided by Subsection (b), this chapter does not apply to a transaction in which a salvage vehicle dealer is a party.

(b) This chapter applies to a salvage vehicle dealer who deals in used automotive parts as more than an incidental part of the salvage vehicle dealer's primary business.

Sec. 2309.005. APPLICABILITY OF CHAPTER TO INSURANCE COMPANIES. This chapter does not apply to an insurance company.

[Sections 2309.006-2309.050 reserved for expansion]

SUBCHAPTER B. ADVISORY BOARD

Sec. 2309.051. USED AUTOMOTIVE PARTS RECYCLING ADVISORY BOARD. (a) The advisory board consists of five members representing the used automotive parts industry in this state appointed by the presiding officer of the commission with the approval of the commission.

(b) The advisory board shall include members who represent used automotive parts businesses owned by domestic entities, as defined by Section 1.002, Business Organizations Code.

(c) The advisory board shall include one member who represents a used automotive parts business owned by a foreign entity, as defined by Section 1.002, Business Organizations Code.

(d) The advisory board may not include more than one member from any one used automotive parts business entity.

(e) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 2309.052. TERMS; VACANCIES. (a) Advisory board members serve terms of six years, with the terms of one or two members expiring on February 1 of each odd-numbered year.

(b) A member may not serve more than two full consecutive terms.

(c) If a vacancy occurs during a term, the presiding officer of the commission shall appoint a replacement who meets the qualifications of the vacated position to serve for the remainder of the term.

Sec. 2309.053. PRESIDING OFFICER. The presiding officer of the commission shall appoint one of the advisory board members to serve as presiding officer of the advisory board for a term of one year. The presiding officer of the advisory board may vote on any matter before the advisory board.

Sec. 2309.054. POWERS AND DUTIES OF ADVISORY BOARD. The advisory board shall provide advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including licensing standards.

Sec. 2309.055. COMPENSATION; REIMBURSEMENT OF EXPENSES. Advisory board members may not receive compensation but are entitled to reimbursement for actual and necessary expenses incurred in performing the functions of the advisory board, subject to the General Appropriations Act.

Sec. 2309.056. MEETINGS. The advisory board shall meet twice annually and may meet at other times at the call of the presiding officer of the commission or the executive director.

[Sections 2309.057-2309.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES OF COMMISSION AND DEPARTMENT

Sec. 2309.101. GENERAL POWERS AND DUTIES. The executive director or commission, as appropriate, may take action as necessary to administer and enforce this chapter.

Sec. 2309.102. RULES. (a) The commission shall adopt rules for licensing used automotive parts recyclers and used automotive parts employees.

(b) The commission by rule shall adopt standards of conduct for license holders under this chapter.

Sec. 2309.103. RULES REGARDING LICENSING AND STANDARDS OF CONDUCT. (a) The commission shall adopt rules for licensing applicants, including rules for denial of an application if the applicant, a partner, principal, officer, or general manager of the applicant, or another license or permit holder with a connection to the applicant, has:

(1) before the application date, been convicted of, pleaded guilty or nolo contendere to, or been placed on deferred adjudication for:

(A) a felony; or

(B) a misdemeanor punishable by confinement in jail or by a fine exceeding \$500;

(2) violated an order of the commission or executive director, including an order for sanctions or administrative penalties; or

(3) knowingly submitted false information on the application.

(b) The commission by rule shall adopt standards of conduct for license holders under this chapter.

Sec. 2309.104. FEES. The commission shall establish and collect reasonable and necessary fees in amounts sufficient to cover the costs of administering this chapter.

Sec. 2309.105. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. (a) The commission may not adopt a rule restricting advertising or competitive bidding by a person who holds a license issued under this chapter except to prohibit false, misleading, or deceptive practices by the person.

(b) The commission may not include in its rules to prohibit false, misleading, or deceptive practices a rule that:

(1) restricts the use of any advertising medium;

(2) restricts the person's personal appearance or use of the person's voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the use of a trade name in advertising by the person.

Sec. 2309.106. PERIODIC AND RISK-BASED INSPECTIONS. (a) The department shall inspect each used automotive parts recycling facility at least once every two years.

(b) The department may enter and inspect at any time during business hours:

(1) the place of business of any person regulated under this chapter; or

(2) any place in which the department has reasonable cause to believe that a license holder is in violation of this chapter or in violation of a rule or order of the commission or executive director.

(c) The department shall conduct additional inspections based on a schedule of risk-based inspections using the following criteria:

(1) the inspection history;

(2) any history of complaints involving a used automotive parts recycler; and

(3) any other factor determined by the commission by rule.

(d) A used automotive parts recycler shall pay a fee for each risk-based inspection performed under this section. The commission by rule shall set the amount of the fee.

(e) In conducting an inspection under this section, the department may inspect a facility, a used automotive part, a business record, or any other place or thing reasonably required to enforce this chapter or a rule or order adopted under this chapter.

Sec. 2309.107. PERSONNEL. The department may employ personnel necessary to administer and enforce this chapter.

[Sections 2309.108-2309.150 reserved for expansion]

SUBCHAPTER D. LICENSE REQUIREMENTS

Sec. 2309.151. USED AUTOMOTIVE PARTS RECYCLER LICENSE REQUIRED. (a) Unless the person holds a used automotive parts recycler license issued under this chapter, a person may not own or operate a used automotive parts recycling business or sell used automotive parts.

(b) A used automotive parts recycler license:

(1) is valid only with respect to the person who applied for the license; and

(2) authorizes the license holder to operate a used automotive parts recycling business only at the one facility listed on the license.

Sec. 2309.152. GENERAL LICENSE APPLICATION REQUIREMENTS. An applicant for a used automotive parts recycler license under this chapter must submit to the department:

(1) a completed application on a form prescribed by the executive director;

(2) the required fees; and

(3) any other information required by commission rule.

Sec. 2309.153. LICENSE REQUIREMENTS. An applicant for a used automotive parts recycler license under this chapter must provide in a manner prescribed by the executive director:

- (1) a federal tax identification number;
- (2) proof of general liability insurance in an amount not less than \$250,000; and
- (3) proof of a storm water permit if the applicant is required by the Texas Commission on Environmental Quality to obtain a permit.

Sec. 2309.154. USED AUTOMOTIVE PARTS EMPLOYEE LICENSE REQUIRED. (a) A person employed by a used automotive parts recycler may not in the scope of the person's employment acquire a vehicle or used automotive parts and may not sell used automotive parts unless the person holds a used automotive parts employee license issued under this chapter.

(b) The commission by rule shall adopt requirements for the application for and issuance of a used automotive parts employee license under this chapter.

Sec. 2309.155. NONTRANSFERABILITY OF LICENSE. A license issued by the executive director is valid throughout this state and is not transferable.

Sec. 2309.156. LICENSE RENEWAL. (a) A license issued under this chapter is valid for one year. The department may adopt a system under which licenses expire at different times during the year.

(b) The department shall notify the license holder at least 30 days before the date a license expires. The notice must be in writing and sent to the license holder's last known address according to the records of the department.

(c) The commission by rule shall adopt requirements to renew a license issued under this chapter.

[Sections 2309.157-2309.200 reserved for expansion]

SUBCHAPTER E. LOCAL REGULATION

Sec. 2309.201. APPLICABILITY OF CERTAIN MUNICIPAL ORDINANCES, LICENSES, AND PERMITS. (a) The requirements of this chapter apply in addition to the requirements of any applicable municipal ordinance relating to the regulation of a person who deals in used automotive parts.

(b) This chapter does not prohibit the enforcement of an applicable municipal license or permit requirement that is related to an activity regulated under this chapter.

[Sections 2309.202-2309.250 reserved for expansion]

SUBCHAPTER F. ENFORCEMENT

Sec. 2309.251. ADMINISTRATIVE PENALTY. (a) The commission may impose an administrative penalty on a person under Subchapter F, Chapter 51, regardless of whether the person holds a license under this chapter, if the person violates:

- (1) this chapter or a rule adopted under this chapter; or
- (2) a rule or order of the executive director or commission.

(b) An administrative penalty may not be imposed unless the person charged with a violation is provided the opportunity for a hearing.

Sec. 2309.252. CEASE AND DESIST ORDER; INJUNCTION; CIVIL PENALTY. (a) The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines that the action is necessary to prevent a violation of this chapter and to protect public health and safety.

(b) The attorney general or executive director may institute an action for an injunction or a civil penalty under this chapter as provided by Section 51.352.

Sec. 2309.253. SANCTIONS. The department may impose sanctions as provided by Section 51.353.

Sec. 2309.254. CRIMINAL PENALTY; LICENSING. (a) A person commits an offense if the person:

- (1) violates the licensing requirements of this chapter;
- (2) deals in used parts without a license required by this chapter; or
- (3) employs an individual who does not hold the appropriate license required by this chapter.

(b) An offense under this section is a Class C misdemeanor.

[Sections 2309.255-2309.300 reserved for expansion]

SUBCHAPTER G. CONDUCTING BUSINESS

Sec. 2309.301. DUTIES ON ACQUISITION OF SALVAGE MOTOR VEHICLE. (a) A used automotive parts recycler who acquires ownership of a salvage motor vehicle shall obtain a properly assigned title from the previous owner of the vehicle.

(b) A used automotive parts recycler who acquires ownership of a motor vehicle, nonrepairable motor vehicle, or salvage motor vehicle for the purpose of dismantling, scrapping, or destroying the motor vehicle, shall, before the 31st day after the date of acquiring the motor vehicle, submit to the Texas Department of Transportation a properly assigned manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, other ownership document, or comparable out-of-state ownership document for the motor vehicle.

(c) After receiving the title or document, the Texas Department of Transportation shall issue the used automotive parts recycler a receipt for the manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, other ownership document, or comparable out-of-state ownership document.

(d) The recycler shall comply with Subchapter E, Chapter 501, Transportation Code.

Sec. 2309.302. RECORDS OF PURCHASES. A used automotive parts recycler shall maintain a record of or sales receipt for each motor vehicle, salvage motor vehicle, nonrepairable motor vehicle, and used automotive part purchased.

Sec. 2309.303. REGISTRATION OF NEW BUSINESS LOCATION. Before moving a place of business, a used automotive parts recycler must notify the department of the new location. The used automotive parts recycler shall provide a storm water permit for the location if a permit is required by the Texas Commission on Environmental Quality.

[Sections 2309.304-2309.350 reserved for expansion]

SUBCHAPTER H. ADDITIONAL DUTIES OF USED AUTOMOTIVE PARTS RECYCLER IN CONNECTION WITH MOTOR VEHICLE COMPONENT PARTS

Sec. 2309.351. DEFINITIONS. In this subchapter:

(1) "Component part" means a major component part as defined by Section 501.091, Transportation Code, or a minor component part.

(2) "Interior component part" means a motor vehicle's seat or radio.

(3) "Minor component part" means an interior component part, a special accessory part, or a motor vehicle part that displays or should display at least one of the following:

(A) a federal safety certificate;

(B) a motor number;

(C) a serial number or a derivative; or

(D) a manufacturer's permanent vehicle identification number or a derivative.

(4) "Special accessory part" means a motor vehicle's tire, wheel, tailgate, or removable glass top.

Sec. 2309.352. REMOVAL OF LICENSE PLATES. Immediately on receipt of a motor vehicle, a used automotive parts recycler shall:

(1) remove any unexpired license plates from the vehicle; and

(2) place the license plates in a secure place until destroyed by the used automotive parts recycler.

Sec. 2309.353. DISMANTLEMENT OR DISPOSITION OF MOTOR VEHICLE. A used automotive parts recycler may not dismantle or dispose of a motor vehicle unless the recycler first obtains:

(1) a certificate of authority to dispose of the vehicle, a sales receipt, or a transfer document for the vehicle issued under Chapter 683, Transportation Code; or

(2) a certificate of title showing that there are no liens on the vehicle or that all recorded liens have been released.

Sec. 2309.354. RECORD OF PURCHASE; INVENTORY OF PARTS. (a) A used automotive parts recycler shall keep an accurate and legible record of each used component part purchased by or delivered to the recycler. The record must include:

- (1) the date of purchase or delivery;
- (2) the driver's license number of the seller and a legible photocopy of the seller's driver's license; and
- (3) a description of the part and, if applicable, the make and model of the part.

(b) As an alternative to the information required by Subsection (a), a used automotive parts recycler may record:

- (1) the name of the person who sold the part or the motor vehicle from which the part was obtained; and
- (2) the Texas certificate of inventory number or the federal taxpayer identification number of the person.
- (c) The department shall prescribe the form of the record required by Subsection (a) and shall make the form available to used automotive parts recyclers.

(d) This section does not apply to:

- (1) an interior component part or special accessory part from a motor vehicle more than 10 years old; or
- (2) a part delivered to a used automotive parts recycler by a commercial freight line, commercial carrier, or licensed used automotive parts recycler.

Sec. 2309.355. RETENTION OF COMPONENT PARTS. (a) A used automotive parts recycler shall retain each component part in its original condition on the business premises of the recycler for at least three calendar days, excluding Sundays, after the date the recycler obtains the part.

(b) This section does not apply to the purchase by a used automotive parts recycler of a nonoperational engine, transmission, or rear axle assembly from another used automotive parts recycler or an automotive-related business.

Sec. 2309.356. MAINTENANCE OF RECORDS. A used automotive parts recycler shall maintain copies of each record required under this subchapter until the first anniversary of the purchase date of the item for which the record is maintained.

Sec. 2309.357. SURRENDER OF CERTAIN DOCUMENTS OR LICENSE PLATES. (a) A used automotive parts recycler shall surrender to the Texas Department of Transportation for cancellation a certificate of title or authority, sales receipt, or transfer document, as required by the department.

(b) The Texas Department of Transportation shall provide a signed receipt for a surrendered certificate of title.

Sec. 2309.358. INSPECTION OF RECORDS. (a) A peace officer at any reasonable time may inspect a record required to be maintained under this subchapter, including an inventory record.

(b) On demand by a peace officer, a used automotive parts recycler shall provide to the officer a copy of a record required to be maintained under this subchapter.

(c) A peace officer may inspect the inventory on the premises of a used automotive parts recycler at any reasonable time to verify, check, or audit the records required to be maintained under this subchapter.

(d) A used automotive parts recycler or an employee of the recycler shall allow and may not interfere with a peace officer's inspection of the recycler's inventory, premises, or required inventory records.

[Sections 2309.359-2309.400 reserved for expansion]

SUBCHAPTER I. MOTOR VEHICLE SALVAGE YARDS IN CERTAIN COUNTIES

Sec. 2309.401. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a used automotive parts facility located in a county with a population of 2.8 million or more.

Sec. 2309.402. LIMITS ON OPERATION OF HEAVY MACHINERY. (a) A used automotive parts recycler may not operate heavy machinery in a used automotive parts recycling facility between the hours of 7 p.m. of one day and 7 a.m. of the following day.

(b) This section does not apply to conduct necessary to a sale or purchase by the recycler.

SECTION 4.08. Section 501.091, Transportation Code, is amended by amending Subdivision (17) and adding Subdivision (20) to read as follows:

(17) "Salvage vehicle dealer" means a person engaged in this state in the business of acquiring, selling, ~~dismantling,~~ repairing, rebuilding, reconstructing, or otherwise dealing in nonrepairable motor vehicles, salvage motor vehicles, or, if incidental to a salvage motor vehicle dealer's primary business, used automotive parts. The term does not include a person who casually repairs, rebuilds, or reconstructs

fewer than ~~five~~ ~~[three]~~ salvage motor vehicles in the same calendar year or, except as provided by Paragraph (C), a used automotive parts recycler. The term includes a person engaged in the business of:

(A) a salvage vehicle dealer, regardless of whether the person holds a license issued by the department to engage in that business;

(B) dealing in nonrepairable motor vehicles or salvage motor vehicles~~[, regardless of whether the person deals in used parts];~~ or

(C) a used automotive parts recycler if the sale of repaired, rebuilt, or reconstructed nonrepairable motor vehicles or salvage motor vehicles is more than an incidental part of the used automotive parts recycler's business ~~[dealing in used parts regardless of whether the person deals in nonrepairable motor vehicles or salvage motor vehicles].~~

(20) "Used parts dealer" and "used automotive parts recycler" have the meaning assigned to "used automotive parts recycler" by Section 2309.002, Occupations Code.

SECTION 4.09. Subsection (d), Section 501.092, Transportation Code, is amended to read as follows:

(d) An insurance company may sell a motor vehicle to which this section applies, or assign a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle, only to a salvage vehicle dealer, an out-of-state buyer, a buyer in a casual sale at auction, ~~[or]~~ a metal recycler, or a used automotive parts recycler. If the motor vehicle is not a salvage motor vehicle or a nonrepairable motor vehicle, the insurance company is not required to surrender the regular certificate of title for the vehicle or to be issued a salvage vehicle title or a nonrepairable vehicle title for the motor vehicle.

SECTION 4.10. Subsections (a) and (b), Section 501.095, Transportation Code, are amended to read as follows:

(a) If the department has not issued a nonrepairable vehicle title or salvage vehicle title for the motor vehicle and an out-of-state ownership document for the motor vehicle has not been issued by another state or jurisdiction, a business or governmental entity described by Subdivisions (1)-(3) may sell, transfer, or release a nonrepairable motor vehicle or salvage motor vehicle only to a person who is:

(1) a licensed salvage vehicle dealer, a used automotive parts recycler under Chapter 2309, Occupations Code, or a metal recycler under Chapter 2302, Occupations Code;

(2) an insurance company that has paid a claim on the nonrepairable or salvage motor vehicle;

(3) a governmental entity; or

(4) an out-of-state buyer.

(b) A person, other than a salvage vehicle dealer, a used automotive parts recycler, or an insurance company licensed to do business in this state, who acquired ownership of a nonrepairable or salvage motor vehicle that has not been issued a nonrepairable vehicle title, salvage vehicle title, or a comparable ownership document issued by another state or jurisdiction shall, before selling the motor vehicle, surrender the properly assigned certificate of title for the motor vehicle to the department and apply to the department for:

(1) a nonrepairable vehicle title if the vehicle is a nonrepairable motor vehicle; or

(2) a salvage vehicle title if the vehicle is a salvage motor vehicle.

SECTION 4.11. Section 501.105, Transportation Code, is amended to read as follows:

Sec. 501.105. RETENTION OF RECORDS RELATING TO CERTAIN CASUAL SALES. Each licensed salvage vehicle dealer, used automotive parts recycler, or insurance company that sells a nonrepairable motor vehicle or a salvage motor vehicle at a casual sale shall keep on the business premises of the dealer or the insurance company a list of all casual sales made during the preceding 36-month period that contains:

(1) the date of the sale;

(2) the name of the purchaser;

(3) the name of the jurisdiction that issued the identification document provided by the purchaser, as shown on the document; and

(4) the vehicle identification number.

SECTION 4.12. Section 2302.253, Occupations Code, is repealed.

SECTION 4.13. Not later than January 1, 2010, the Texas Commission of Licensing and Regulation shall adopt rules under Section 2309.102, Occupations Code, as added by this Act.

SECTION 4.14. If there is a conflict between a provision of this Act and a provision of another Act of the 81st Legislature, Regular Session, 2009, that becomes law concerning the licensing or regulation of used automotive parts recyclers, this Act prevails regardless of the relative dates of enactment.

SECTION 4.15. Sections 2309.151 and 2309.154, Occupations Code, as added by this article, and Subchapter F, Chapter 2309, Occupations Code, as added by this article, take effect September 1, 2010.

ARTICLE 6. TRANSFERS OF CERTAIN POWERS, DUTIES, OBLIGATIONS, AND RIGHTS OF ACTION

SECTION 6.01. (a) All powers, duties, obligations, and rights of action of the Motor Vehicle Division and the Vehicle Titles and Registration Division of the Texas Department of Transportation are transferred to the Texas Department of Motor Vehicles and all powers, duties, obligations, and rights of action of the Texas Transportation Commission in connection or associated with those divisions of the Texas Department of Transportation are transferred to the board of the Texas Department of Motor Vehicles on November 1, 2009.

(b) The powers, duties, obligations, and rights of action of the portion of the Motor Carrier Division of the Texas Department of Transportation that is responsible for motor carrier registration and the enforcement of Subtitle F, Title 7, Transportation Code, are transferred to the Texas Department of Motor Vehicles and the associated powers, duties, obligations, and rights of action of the Texas Transportation Commission are transferred to the board of the Texas Department of Motor Vehicles on November 1, 2009.

(c) In connection with the transfers required by Subsections (a) and (b) of this section, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of the Texas Department of Transportation described in Subsection (b) of this section are transferred to the Texas Department of Motor Vehicles.

(d) The Texas Department of Motor Vehicles shall continue any proceeding involving the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of the Texas Department of Transportation described in Subsection (b) of this section that was brought before the effective date of this Act in accordance with the law in effect on the date the proceeding was brought, and the former law is continued in effect for that purpose.

(e) A certificate, license, document, permit, registration, or other authorization issued by the Motor Vehicle Division or the Vehicle Titles and Registration Division of the Texas Department of Transportation or a registration issued by the Motor Carrier Division of the Texas Department of Transportation that is in effect on the effective date of this Act remains valid for the period for which it was issued unless suspended or revoked by the Texas Department of Motor Vehicles.

(f) A rule adopted by the Texas Transportation Commission or the executive director of the Texas Department of Transportation in connection with or relating to the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of the Texas Department of Transportation described in Subsection (b) of this section continues in effect until it is amended or repealed by the board of the Texas Department of Motor Vehicles or the Texas Department of Motor Vehicles, as applicable.

(g) The unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation in connection with or relating to the Motor Vehicle Division, the Vehicle Titles and Registration Division, or the portion of the Motor Carrier Division of the Texas Department of Transportation described in Subsection (b) of this section for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to the Texas Department of Motor Vehicles for the purpose of implementing the powers, duties, obligations, and rights of action transferred to that department under

Subsections (a) and (b) of this section.

(h) The Texas Department of Transportation shall continue, as necessary, to perform the duties and functions being transferred to the Texas Department of Motor Vehicles until the transfer of agency duties and functions is complete.

SECTION 6.02. (a) In connection with the establishment by this Act of the Automobile Burglary and Theft Prevention Authority in the Texas Department of Motor Vehicles and with the transfer by this Act of the duty to provide personnel and services to the Automobile Burglary and Theft Prevention Authority from the Texas Department of Transportation to the Texas Department of Motor Vehicles, the personnel, furniture, computers, other property and equipment, files, and related materials used by the Automobile Burglary and Theft Prevention Authority are transferred to the Texas Department of Motor Vehicles.

(b) The unobligated and unexpended balance of any appropriations made to the Texas Department of Transportation in connection with or relating to the Automobile Burglary and Theft Prevention Authority for the state fiscal biennium ending August 31, 2009, is transferred and reappropriated to the Texas Department of Motor Vehicles for the purpose of allowing the authority to continue to exercise its powers, duties, and obligations under the auspices of that department.

SECTION 6.03. (a) In addition to the positions of the Texas Department of Transportation assigned to the Vehicle Titles and Registration Division, Motor Vehicle Division, Motor Carrier Division, and Automobile Burglary and Theft Prevention Authority Division that are transferred to the Texas Department of Motor Vehicles, it is estimated that 75 other full-time equivalent employee positions of the Texas Department of Transportation primarily support the transferred divisions and, subject to this section, those positions are also transferred to the Texas Department of Motor Vehicles. The number of positions transferred under this subsection may be modified by agreement of the two agencies in a memorandum of understanding.

(b) If in another Act of the 81st Legislature, Regular Session, 2009, the legislature establishes a maximum number of full-time equivalent employee positions for the Texas Department of Motor Vehicles, the number of positions transferred under Subsection (a) of this section may not result in a number of full-time equivalent employee positions of that department that exceeds the maximum.

(c) When filling a position described by Subsection (a) of this section, the Texas Department of Motor Vehicles shall give first consideration to an applicant who, as of September 1, 2009, was a full-time employee of the Texas Department of Transportation and primarily supported one or more of the transferred divisions.

ARTICLE 7. APPOINTMENT OF BOARD

SECTION 7.01. Not later than October 1, 2009, the governor shall appoint the members of the board of the Texas Department of Motor Vehicles in accordance with Subchapter B, Chapter 1001, Transportation Code, as added by this Act.

ARTICLE 8. MEMORANDUM OF UNDERSTANDING

SECTION 8.01. (a) The board of the Texas Department of Motor Vehicles and the Texas Transportation Commission shall enter into or revise a joint memorandum of understanding to coordinate the Texas Department of Motor Vehicles' and the Texas Department of Transportation's information systems to allow for the sharing of information so that each department may effectively and efficiently perform the functions and duties assigned to it. Neither the Texas Department of Motor Vehicles nor the Texas Department of Transportation may impose or collect a fee or charge in connection with the sharing of information under a joint memorandum of understanding entered into or revised under this section.

(b) The Texas Department of Motor Vehicles and the Texas Department of Transportation shall implement the joint memorandum of understanding using existing personnel and resources.

(c) Otherwise confidential information shared under the memorandum of understanding remains subject to the same confidentiality requirements and legal restrictions on access to the information that are imposed by law on the department that originally obtained or collected the information.

(d) Information may be shared under the memorandum of understanding without the consent of the

person who is the subject of the information.

(e) The memorandum of understanding required by Subsection (a) of this section must be entered into or revised at the first official meeting of the board members of the Texas Department of Motor Vehicles.

SECTION 8.02. (a) In addition to the memorandum of understanding required by Section 8.01 of this article, the board of the Texas Department of Motor Vehicles and the Texas Transportation Commission may enter into or revise one or more other joint memoranda of understanding necessary to effectuate the transfer of the powers and duties of the Texas Department of Transportation to the Texas Department of Motor Vehicles under this Act. A memorandum of understanding may include an agreement for the provision of office space, utilities, and other facility services; the need for full-time equivalent positions of the Texas Department of Transportation to provide support services in addition to the positions transferred to the Texas Department of Motor Vehicles under Section 6.01 of this Act; support services; and the transfer of information technology as necessary or appropriate to effectuate the transfer of the powers and duties of the Texas Department of Transportation to the Texas Department of Motor Vehicles.

(b) Subsections (b), (c), and (d) of Section 8.01 of this article apply to a memorandum of understanding entered into or revised under Subsection (a) of this section.

ARTICLE 9. DEPARTMENT OF MOTOR VEHICLES TRANSITION TEAM

SECTION 9.01. (a) The Texas Department of Transportation shall establish a Department of Motor Vehicles Transition Team to plan for and make recommendations regarding the transfer of obligations, property, full-time equivalent positions, rights, powers, and duties from the Texas Department of Transportation to the Texas Department of Motor Vehicles. The transition team must include the division directors from the Motor Vehicle Division, the Vehicle Titles and Registration Division, and the Motor Carrier Division and the Assistant Executive Director for Support Operations.

(b) Not later than October 1, 2009, the transition team shall report on and make recommendations to the board of the Texas Department of Motor Vehicles, the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the senate and house committees with jurisdiction over transportation regarding the transfer of obligations, property, full-time equivalent positions, rights, powers, and duties from the Texas Department of Transportation to the Texas Department of Motor Vehicles.

ARTICLE 10. FINANCIAL AUDIT

SECTION 10.01. (a) As soon as practicable after the effective date of this Act, the office of the state auditor shall conduct an initial financial audit to establish financial benchmarks for the Texas Department of Motor Vehicles on its overall status and condition in relation to funds on hand, equipment and other assets, pending matters, and other issues considered appropriate by the office of the state auditor.

(b) As soon as practicable after the completion of the audit required by Subsection (a) of this section, the results of the audit shall be reported by the office of the state auditor to the board of the Texas Department of Motor Vehicles and to the Texas Transportation Commission. The office of the state auditor shall also provide a copy of the audit to the board and the commission.

ARTICLE 11. EFFECTIVE DATE

SECTION 11.01. This Act takes effect September 1, 2009.

H.B. 3128

AN ACT

relating to service of process on condominium unit owners and condominium unit owners' associations in certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 82.002(c), Property Code, is amended to read as follows:

(c) This section and the following sections apply to a condominium in this state for which the declaration was recorded before January 1, 1994: Sections 82.005, 82.006, 82.007, 82.053, 82.054, 82.102(a)(1)-(7) and (12)-(22), 82.108, 82.111, 82.113, 82.114, 82.116, 82.118, 82.157, and 82.161. The definitions

prescribed by Section 82.003 apply to a condominium in this state for which the declaration was recorded before January 1, 1994, to the extent the definitions do not conflict with the declaration. The sections listed in this subsection apply only with respect to events and circumstances occurring on or after January 1, 1994, and do not invalidate existing provisions of the declaration, bylaws, or plats or plans of a condominium for which the declaration was recorded before January 1, 1994.

SECTION 2. Subchapter C, Chapter 82, Property Code, is amended by adding Section 82.118 to read as follows:

Sec. 82.118. SERVICE OF PROCESS ON UNIT OWNERS. (a) A unit owner of a condominium located wholly or partly in a municipality with a population of more than 1.9 million may be served with process by the municipality or the municipality's agent for a judicial or administrative proceeding initiated by the municipality and directly related to the unit owner's property interest in the condominium by serving the unit owner at the unit owner's last known address, according to the records of the appraisal district in which the condominium is located, by any means permitted by Rule 21a, Texas Rules of Civil Procedure.

(b) Notwithstanding Subsection (a), a unit owner may not offer proof in the judicial or administrative proceeding, or in a subsequent related proceeding, that otherwise proper service by mail of the notice was not received not later than three days after the date the notice was deposited in a post office or official depository under the care and custody of the United States Postal Service.

SECTION 3. Section 82.153(a), Property Code, is amended to read as follows:

(a) A condominium information statement must contain or accurately disclose:

- (1) the name and principal address of the declarant and of the condominium;
- (2) a general description of the condominium that includes the types of units and the maximum number of units;
- (3) the minimum and maximum number of additional units, if any, that may be included in the condominium;
- (4) a brief narrative description of any development rights reserved by a declarant and of any conditions relating to or limitations upon the exercise of development rights;
- (5) copies of the declaration, articles of incorporation of the association, the bylaws, any rules of the association, and amendments to any of them, and copies of leases and contracts, other than loan documents, that are required by the declarant to be signed by purchasers at closing;
- (6) a projected or pro forma budget for the association that complies with Subsection (b) for the first fiscal year of the association following the date of the first conveyance to a purchaser, identification of the person who prepared the budget, and a statement of the budget's assumptions concerning occupancy and inflation factors;
- (7) a general description of each lien, lease, or encumbrance on or affecting the title to the condominium after conveyance by the declarant;
- (8) a copy of each written warranty provided by the declarant;
- (9) a description of any unsatisfied judgments against the association and any pending suits to which the association is a party or which are material to the land title and construction of the condominium of which a declarant has actual knowledge;
- (10) a general description of the insurance coverage provided for the benefit of unit owners; ~~and~~
- (11) current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the condominium; and
- (12) for a condominium located wholly or partly in a municipality with a population of more than 1.9 million a statement that a unit owner:

(A) as an alternative to personal service, may be served with process by the municipality or the municipality's agent for a judicial or administrative proceeding initiated by the municipality and directly related to the unit owner's property interest in the condominium by serving the unit owner at the unit owner's last known address, according to the records of the appraisal district in which the condominium is

located, by any means permitted by Rule 21a, Texas Rules of Civil Procedure;
(B) shall promptly notify the appraisal district of a change in the unit owner's mailing address; and
(C) may not offer proof in the judicial or administrative proceeding, or in a subsequent related proceeding, that otherwise proper service by mail of the notice was not received not later than three days after the date the notice was deposited in a post office or official depository under the care and custody of the United States Postal Service.

SECTION 4. Section 54.035, Local Government Code, is amended by amending Subsections (a), (d), (e), and (f) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsections (a-1) and (a-2), notice [Notice] of all proceedings before the commission panels must be given:

(1) by personal delivery, by certified mail with return receipt requested, or by delivery by the United States Postal Service using signature confirmation service, to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or [and/or] other applicable instruments on file in the office of the county clerk; and

(2) to all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable.

(a-1) Notice to a condominium association of a proceeding before a commission panel relating to a condominium, as defined by Section 81.002 or 82.003, Property Code, located wholly or partly in a municipality with a population of more than 1.9 million must be served by personal service, by certified mail, return receipt requested, or by the United States Postal Service using signature confirmation service, to the registered agent of the unit owners' association.

(a-2) Notice to an owner of a unit of a condominium, as defined by Section 81.002 or 82.003, Property Code, located wholly or partly in a municipality with a population of more than 1.9 million must be given in accordance with Section 82.118, Property Code.

(d) A municipality must exercise due diligence to determine the identity and address of a property owner, ~~[or]~~ lienholder, or registered agent to whom the municipality is required to give notice.

(e) A municipality exercises due diligence in determining the identity and address of a property owner, ~~[or]~~ lienholder, or registered agent when it follows the procedures for service under Section 82.118, Property Code, or searches the following records:

(1) county real property records of the county in which the property is located;

(2) appraisal district records of the appraisal district in which the property is located;

(3) records of the secretary of state, if the property owner, ~~[or]~~ lienholder, or registered agent is a corporation, partnership, or other business association;

(4) assumed name records of the county in which the property is located;

(5) tax records of the municipality; and

(6) utility records of the municipality.

(f) When a municipality mails a notice in accordance with this section to a property owner, ~~[or]~~ lienholder, or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

SECTION 5. Section 214.001, Local Government Code, is amended by amending Subsections (b) and (r) and adding Subsection (b-1) to read as follows:

(b) The ordinance must:

(1) establish minimum standards for the continued use and occupancy of all buildings regardless of the date of their construction;

(2) provide for giving proper notice, subject to Subsection (b-1), to the owner of a building; and

(3) provide for a public hearing to determine whether a building complies with the standards set out in the ordinance.

(b-1) For a condominium, as defined by Section 81.002 or 82.003, Property Code, located wholly or partly in a municipality with a population of more than 1.9 million, notice to a unit owner in accordance with Section 82.118, Property Code, and notice to the registered agent for the unit owners' association in the manner provided for service of process to a condominium association under Section 54.035(a-1) satisfy the notice requirements under this section.

(r) When a municipality mails a notice in accordance with this section to a property owner, lienholder, ~~[ø]~~ mortgagee, or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

SECTION 6. This Act takes effect September 1, 2009.

H.B. 3147

AN ACT

relating to taking or attempting to take a weapon from a commissioned security officer.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 38.14, Penal Code, is amended to read as follows:

Sec. 38.14. TAKING OR ATTEMPTING TO TAKE WEAPON FROM PEACE OFFICER, PAROLE OFFICER, ~~[ø]~~ COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT OFFICER, OR COMMISSIONED SECURITY OFFICER.

SECTION 2. Section 38.14(a), Penal Code, is amended by adding Subdivision (3) to read as follows:

(3) "Commissioned security officer" has the meaning assigned by Section 1702.002(5), Occupations Code.

SECTION 3. Sections 38.14(b), (c), and (d), Penal Code, are amended to read as follows:

(b) A person commits an offense if the person intentionally or knowingly and with force takes or attempts to take from a peace officer, parole officer, ~~[ø]~~ community supervision and corrections department officer, or commissioned security officer the officer's firearm, nightstick, stun gun, or personal protection chemical dispensing device with the intention of harming the officer or a third person.

(c) The actor is presumed to have known that the peace officer, parole officer, ~~[ø]~~ community supervision and corrections department officer, or commissioned security officer was a peace officer, parole officer, ~~[ø]~~ community supervision and corrections department officer, or commissioned security officer if:

(1) the officer was wearing a distinctive uniform or badge indicating his employment;~~[;]~~ or

(2) ~~[i]~~ the officer identified himself as a peace officer, parole officer, ~~[ø]~~ community supervision and corrections department officer, or commissioned security officer.

(d) It is a defense to prosecution under this section that the defendant took or attempted to take the weapon from a peace officer, parole officer, ~~[ø]~~ community supervision and corrections department officer, or commissioned security officer who was using force against the defendant or another in excess of the amount of force permitted by law.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5. This Act takes effect September 1, 2009.

H.B. 3201

AN ACT

relating to the designation of certain fire marshals and related officers, inspectors, and investigators as peace officers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 2.12, Code of Criminal Procedure, is amended to read as follows:

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

- (1) sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;
- (2) constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;
- (3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;
- (4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;
- (5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;
- (6) law enforcement agents of the Texas Alcoholic Beverage Commission;
- (7) each member of an arson investigating unit commissioned by a city, a county, or the state;
- (8) officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;
- (9) officers commissioned by the General Services Commission;
- (10) law enforcement officers commissioned by the Parks and Wildlife Commission;
- (11) airport police officers commissioned by a city with a population of more than 1.18 million that operates an airport that serves commercial air carriers;
- (12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state, other than a city described by Subdivision (11), that operates an airport that serves commercial air carriers;
- (13) municipal park and recreational patrolmen and security officers;
- (14) security officers and investigators commissioned as peace officers by the comptroller;
- (15) officers commissioned by a water control and improvement district under Section 49.216, Water Code;
- (16) officers commissioned by a board of trustees under Chapter 54, Transportation Code;
- (17) investigators commissioned by the Texas Medical Board;
- (18) officers commissioned by the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, or the Bexar County Hospital District under Section 281.057, Health and Safety Code;
- (19) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;
- (20) investigators employed by the Texas Racing Commission;
- (21) officers commissioned under Chapter 554, Occupations Code;
- (22) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;
- (23) investigators commissioned by the attorney general under Section 402.009, Government Code;
- (24) security officers and investigators commissioned as peace officers under Chapter 466, Government Code;
- (25) an officer employed by the Department of State Health Services under Section 431.2471, Health and Safety Code;
- (26) officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code;
- (27) officers commissioned by the state fire marshal under Chapter 417, Government Code;
- (28) an investigator commissioned by the commissioner of insurance under Section 701.104, Insurance Code;
- (29) apprehension specialists and inspectors general commissioned by the Texas Youth Commission as officers under Sections 61.0451 and 61.0931, Human Resources Code;
- (30) officers appointed by the inspector general of the Texas Department of Criminal Justice under

Section 493.019, Government Code;

(31) investigators commissioned by the Commission on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code;

(32) commission investigators commissioned by the Texas Private Security Board under Section 1702.061(f), Occupations Code;

(33) the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code;

(34) officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section; ~~and~~

(35) investigators commissioned by the Texas Juvenile Probation Commission as officers under Section 141.055, Human Resources Code; and

(36) the fire marshal and any related officers, inspectors, or investigators commissioned by a county under Subchapter B, Chapter 352, Local Government Code.

SECTION 2. 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.

H.B. 3224

AN ACT

relating to the prosecution and punishment of the offense of arson.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 28.02, Penal Code, is amended by adding Subsection (a-2) and amending Subsections (f) and (g) to read as follows:

(a-2) A person commits an offense if the person intentionally starts a fire or causes an explosion and in so doing:

(1) recklessly damages or destroys a building belonging to another; or

(2) recklessly causes another person to suffer bodily injury or death.

(f) An offense under Subsection (a-2) is a state jail felony ~~[It is a felony of the third degree if a person commits an offense under Subsection (a)(2) of this section and the person intentionally starts a fire in or on a building, habitation, or vehicle, with intent to damage or destroy property belonging to another, or with intent to injure any person, and in so doing, recklessly causes damage to the building, habitation, or vehicle].~~

(g) If conduct that constitutes an offense under Subsection (a-1) or that constitutes an offense under Subsection (a-2) [(f)] also constitutes an offense under another subsection of this section or another section of this code, the actor may be prosecuted under Subsection (a-1) or Subsection (a-2) [(f)], under the other subsection of this section, or under the other section of this code.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 3228

AN ACT

relating to the offense of prohibited substances and items in correctional facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 38.11, Penal Code, as amended by Chapters 949 (H.B. 1575) and 1092 (H.B. 2077), Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

Sec. 38.11. PROHIBITED SUBSTANCES AND ITEMS IN ~~[ADULT OR JUVENILE]~~ CORRECTIONAL ~~[OR DETENTION]~~ FACILITY ~~[OR ON PROPERTY OF TEXAS DEPARTMENT OF CRIMINAL JUSTICE OR TEXAS YOUTH COMMISSION]~~. (a) A person commits an offense if the person provides, or possesses with the intent to provide:

(1) an alcoholic beverage, controlled substance, or dangerous drug to ~~[an inmate of a correctional facility or to]~~ a person in the custody of a ~~[secure]~~ correctional facility ~~[or secure detention facility for juveniles]~~, except on the prescription of a ~~[physician or]~~ practitioner~~[, as defined in Section 551.003, Occupations Code]~~;

(2) a deadly weapon to ~~[an inmate of a correctional facility or to]~~ a person in the custody of a ~~[secure]~~ correctional facility ~~[or secure detention facility for juveniles]~~;

(3) a cellular telephone or other wireless communications device or a component of one of those devices~~[, cigarette, tobacco product, or money]~~ to a person in the custody ~~[an inmate]~~ of a correctional facility ~~[operated by or under contract with the Texas Department of Criminal Justice or to a person in the custody of a secure correctional facility or secure detention facility for juveniles, except for money that is provided for the benefit of the juvenile in accordance with facility rules]~~;

(4) ~~[a cellular telephone or]~~ money to a person confined in a correctional facility ~~[local jail regulated by the Commission on Jail Standards]~~; or

(5) a cigarette or tobacco product to a person confined in a correctional facility, except that if the facility is a local jail regulated by the Commission on Jail Standards, the person commits an offense only if ~~[and in]~~ providing the cigarette or tobacco product ~~[the person]~~ violates a rule or regulation adopted by the sheriff or jail administrator that:

(A) prohibits the possession of a cigarette or tobacco product by a person ~~[an inmate]~~ confined in the jail; or

(B) places restrictions on:

(i) the possession of a cigarette or tobacco product by a person ~~[an inmate]~~ confined in the jail; or

(ii) the manner in which a cigarette or tobacco product may be provided to a person ~~[an inmate]~~ confined in the jail.

(b) A person commits an offense if the person takes an alcoholic beverage, controlled substance, or dangerous drug into a correctional facility ~~[or a secure correctional facility or secure detention facility for juveniles, except for delivery to a facility warehouse, pharmacy, or physician]~~.

(c) A person commits an offense if the person takes a controlled substance or dangerous drug on property owned, used, or controlled by a correctional facility ~~[the Texas Department of Criminal Justice, the Texas Youth Commission, or a secure correctional facility or secure detention facility for juveniles, except for delivery to a warehouse, pharmacy, or physician on property owned, used, or controlled by the department, the commission, or the facility]~~.

(d) A person commits an offense if the person:

(1) possesses a controlled substance or dangerous drug while in a correctional facility or~~[:~~

~~[(A)]~~ on property owned, used, or controlled by ~~[the Texas Department of Criminal Justice, the Texas Youth Commission, or]~~ a ~~[secure]~~ correctional facility ~~[or secure detention facility for juveniles; or~~

~~[(B) in a correctional facility or a secure correctional facility or secure detention facility for juveniles]~~; or

(2) possesses a deadly weapon while in a correctional facility ~~[or in a secure correctional facility or secure detention facility for juveniles]~~.

(e) It is an affirmative defense to prosecution under Subsection (b), (c), or (d)(1) ~~[of this section]~~ that the person possessed the alcoholic beverage, controlled substance, or dangerous drug pursuant to a prescription issued by a practitioner or while delivering the beverage, substance, or drug to a warehouse, pharmacy, or practitioner ~~[physician]~~ on property owned, used, or controlled by the ~~[department, the Texas Youth Commission, or by the operator of a secure]~~ correctional facility ~~[or secure detention facility for juveniles]~~. It is an affirmative defense to prosecution under Subsection (d)(2) ~~[of this section]~~ that the person possessing the deadly weapon is a peace officer or is an officer or employee of the correctional

facility who is authorized to possess the deadly weapon while on duty or traveling to or from the person's place of assignment.

(f) In this section:

(1) "Practitioner" has the meaning assigned by Section 481.002, Health and Safety Code.

(2) "Prescription" has the meaning assigned by Section 481.002, Health and Safety Code.

(3) "Cigarette" has the meaning assigned by Section 154.001, Tax Code.

(4) "Tobacco product" has the meaning assigned by Section 155.001, Tax Code.

(5) "Component" means any item necessary for the current, ongoing, or future operation of a cellular telephone or other wireless communications device, including a subscriber identity module card or functionally equivalent portable memory chip, a battery or battery charger, and any number of minutes that have been purchased or for which a contract has been entered into and during which a cellular telephone or other wireless communications device is capable of transmitting or receiving communications.

(6) "Correctional facility" means:

(A) any place described by Section 1.07(a)(14)(A), (B), or (C); or

(B) a secure correctional facility or secure detention facility, as defined [~~"Secure correctional facility" and "secure detention facility" have the meanings assigned]~~ by Section 51.02, Family Code.

(g) An offense under this section is a felony of the third degree.

(h) Notwithstanding Section 15.01(d), if a person commits the offense of criminal attempt to commit an offense under Subsection (a), ~~or~~ (b), or (c), the offense committed under Section 15.01 is a felony of the third degree.

(i) It is an affirmative defense to prosecution under Subsection (b) that the actor:

(1) is a duly authorized member of the clergy with rights and privileges granted by an ordaining authority that includes administration of a religious ritual or ceremony requiring the presence or consumption of an alcoholic beverage; and

(2) takes four ounces or less of an alcoholic beverage into the correctional facility ~~[or the secure correctional facility or secure detention facility for juveniles]~~ and personally consumes all of the alcoholic beverage or departs from the facility with any portion of the beverage not consumed.

(j) A person commits an offense if the person, while confined in ~~[an inmate of]~~ a correctional facility, ~~[operated by or under contract with the Texas Department of Criminal Justice or while in the custody of a secure correctional facility or secure detention facility for juveniles]~~ possesses a cellular telephone or other wireless communications device or a component of one of those devices.

(k) A person commits an offense if, with the intent to provide to or make a cellular telephone or other wireless communications device or a component of one of those devices available for use by a person in the custody of a correctional facility, the person:

(1) acquires a cellular telephone or other wireless communications device or a component of one of those devices to be delivered to the person in custody;

(2) provides a cellular telephone or other wireless communications device or a component of one of those devices to another person for delivery to the person in custody; or

(3) makes a payment to a communication common carrier, as defined by Article 18.20, Code of Criminal Procedure, or to any communication service that provides to its users the ability to send or receive wire or electronic communications.

SECTION 2. The heading to Article 18.20, Code of Criminal Procedure, is amended to read as follows:

Art. 18.20. DETECTION, INTERCEPTION, AND USE OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.

SECTION 3. Section 4, Article 18.20, Code of Criminal Procedure, is amended to read as follows:

Sec. 4. OFFENSES FOR WHICH INTERCEPTIONS MAY BE AUTHORIZED. A judge of competent jurisdiction may issue an order authorizing interception of wire, oral, or electronic communications only if the prosecutor applying for the order shows probable cause to believe that the interception will provide

evidence of the commission of:

- (1) a felony under Section 19.02, 19.03, or 43.26, Penal Code;
- (2) a felony under:
 - (A) Chapter 481, Health and Safety Code, other than felony possession of marihuana;
 - (B) Section 485.032 [~~485.033~~], Health and Safety Code; or
 - (C) Chapter 483, Health and Safety Code;
- (3) an offense under Section 20.03 or 20.04, Penal Code;
- (4) an offense under Chapter 20A, Penal Code;
- (5) an offense under Chapter 34, Penal Code, if the criminal activity giving rise to the proceeds involves the commission of an offense under Title 5, Penal Code, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense under Title 5; [Ø]
- (6) an offense under Section 38.11, Penal Code; or
- (7) an attempt, conspiracy, or solicitation to commit an offense listed in this section.

SECTION 4. Section 5, Article 18.20, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) Except as otherwise provided by this section and Sections [~~Section~~] 8A and 8B, only the Department of Public Safety is authorized by this article to own, possess, install, operate, or monitor an electronic, mechanical, or other device. The Department of Public Safety may be assisted by an investigative or law enforcement officer or other person in the operation and monitoring of an interception of wire, oral, or electronic communications, provided that the officer or other person:

- (1) is designated by the director for that purpose; and
- (2) acts in the presence and under the direction of a commissioned officer of the Department of Public Safety.

(c) The Texas Department of Criminal Justice may own electronic, mechanical, or other devices for a use or purpose authorized by Section 500.008, Government Code, and the inspector general of the Texas Department of Criminal Justice, a commissioned officer of that office, or another person acting in the presence and under the direction of a commissioned officer of that office may possess, install, operate, or monitor those devices as provided by Section 500.008.

(d) The Texas Youth Commission may own electronic, mechanical, or other devices for a use or purpose authorized by Section 61.0455, Human Resources Code, and the inspector general of the Texas Youth Commission, a commissioned officer of that office, or another person acting in the presence and under the direction of a commissioned officer of that office may possess, install, operate, or monitor those devices as provided by Section 61.0455.

SECTION 5. Article 18.20, Code of Criminal Procedure, is amended by adding Section 8B to read as follows:

Sec. 8B. DETECTION OF CELLULAR TELEPHONE OR OTHER WIRELESS COMMUNICATIONS DEVICE IN CORRECTIONAL OR DETENTION FACILITY. (a) In this section, "correctional facility" has the meaning assigned by Section 39.04(e), Penal Code.

(b) Notwithstanding any other provision of this article or Article 18.21, the office of the inspector general of the Texas Department of Criminal Justice may:

- (1) without a warrant, use electronic, mechanical, or other devices to detect the presence or use of a cellular telephone or other wireless communications device in a correctional facility;
- (2) without a warrant, intercept, monitor, detect, or, as authorized by applicable federal laws and regulations, prevent the transmission of any communication transmitted through the use of a cellular telephone or other wireless communications device in a correctional facility; and
- (3) use, to the extent authorized by law, any information obtained under Subdivision (2), including the contents of an intercepted communication, in any criminal or civil proceeding before a court or other governmental agency or entity.

(c) Not later than the 30th day after the date on which the office of the inspector general uses an electronic, mechanical, or other device under Subsection (b), the inspector general shall report the use of the device to:

(1) a prosecutor with jurisdiction in the county in which the device was used; or

(2) the special prosecution unit established under Subchapter E, Chapter 41, Government Code, if that unit has jurisdiction in the county in which the device was used.

(d) When using an electronic, mechanical, or other device under Subsection (b), the office of the inspector general shall minimize the impact of the device on any communication that is not reasonably related to the detection of the presence or use of a cellular telephone or other wireless communications device in a correctional facility.

(e) A person confined in a correctional facility does not have an expectation of privacy with respect to the possession or use of a cellular telephone or other wireless communications device located on the premises of the facility. The person who is confined, and any person with whom that person communicates through the use of a cellular telephone or other wireless communications device, does not have an expectation of privacy with respect to the contents of any communication transmitted by the cellular telephone or wireless communications device.

SECTION 6. Section 17, Article 18.20, Code of Criminal Procedure, is amended to read as follows:

Sec. 17. NONAPPLICABILITY. This article does not apply to conduct described as an affirmative defense under Section 16.02(c), Penal Code, except as otherwise specifically provided by that section.

SECTION 7. Chapter 500, Government Code, is amended by adding Section 500.008 to read as follows:

Sec. 500.008. DETECTION AND MONITORING OF CELLULAR TELEPHONES. (a) The department may own and the office of inspector general may possess, install, operate, or monitor an electronic, mechanical, or other device, as defined by Article 18.20, Code of Criminal Procedure.

(b) The inspector general shall designate in writing the commissioned officers of the office of inspector general who are authorized to possess, install, operate, and monitor electronic, mechanical, or other devices for the department.

(c) An investigative or law enforcement officer or other person, on request of the office of inspector general, may assist the office in the operation and monitoring of an interception of wire, oral, or electronic communications if the investigative or law enforcement officer or other person:

(1) is designated by the executive director for that purpose; and

(2) acts in the presence and under the direction of a commissioned officer of the inspector general.

SECTION 8. Subchapter C, Chapter 61, Human Resources Code, is amended by adding Section 61.0455 to read as follows:

Sec. 61.0455. DETECTION AND MONITORING OF CELLULAR TELEPHONES. (a) The commission may own and the office of the inspector general may possess, install, operate, or monitor an electronic, mechanical, or other device, as defined by Article 18.20, Code of Criminal Procedure.

(b) The inspector general shall designate in writing the commissioned officers of the office of inspector general who are authorized to possess, install, operate, and monitor electronic, mechanical, or other devices for the commission.

(c) An investigative or law enforcement officer or other person, on request of the office of inspector general, may assist the office in the operation and monitoring of an interception of wire, oral, or electronic communications if the investigative or law enforcement officer or other person:

(1) is designated by the executive commissioner for that purpose; and

(2) acts in the presence and under the direction of a commissioned officer of the inspector general.

SECTION 9. Section 16.02, Penal Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) It is a defense to prosecution under Subsection (d)(1) that the electronic, mechanical, or other device is possessed by a person authorized to possess the device under Section 500.008, Government Code, or Section 61.0455, Human Resources Code.

SECTION 10. The changes in law made by this Act with respect to Sections 16.02 and 38.11, Penal

Code, apply only to an offense committed on or after the effective date of this Act. 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. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 11. This Act takes effect September 1, 2009.

H.B. 3389 (Excerpt)

AN ACT

relating to the continuation and functions of the Texas Commission on Law Enforcement Officer Standards and Education; providing civil and administrative penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 25. Article 2.132, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle [~~traffic~~] stops in the routine performance of the officers' official duties.

(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance.

(3) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, [~~or~~] Native American, or Middle Eastern descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle [~~traffic~~] stops in which a citation is issued and to arrests made as a result of [~~resulting from~~] those [~~traffic~~] stops, including information relating to:

(A) the race or ethnicity of the individual detained; [~~and~~]

(B) whether a search was conducted and, if so, whether the individual [~~person~~] detained consented to the search; and

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit [~~to the governing body of each county or municipality served by the agency~~] an annual report of the information collected under Subdivision (6) to:

(A) the Commission on Law Enforcement Officer Standards and Education; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle [~~traffic~~] stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle [~~traffic~~] stops. If a law

enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation. (e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle [traffic] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.

SECTION 26. Article 2.133, Code of Criminal Procedure, is amended to read as follows:

Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE [TRAFFIC AND PEDESTRIAN] STOPS.

(a) In this article, "race[":

[(1) "Race] or ethnicity" has the meaning assigned by Article 2.132(a).

[(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.]

(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance [regulating traffic or who stops a pedestrian for any suspected offense] shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of any [each] person operating the motor vehicle who is detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the initial reason for the stop [traffic law or ordinance alleged to have been violated or the suspected offense];

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband or other evidence was discovered in the course of the search and a description [the type] of the contraband or evidence [discovered];

(5) the reason for the search, including whether:

(A) any contraband or other evidence was in plain view;

(B) any probable cause or reasonable suspicion existed to perform the search; or

(C) the search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle [existed and the facts supporting the existence of that probable cause];

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a written warning or a citation as a result of the stop~~[, including a description of the warning or a statement of the violation charged].~~

SECTION 27. Article 2.134, Code of Criminal Procedure, is amended by amending Subsections (a) through (e) and adding Subsection (g) to read as follows:

(a) In this article:

(1) "Motor vehicle[,"pedestrian] stop" has the meaning assigned by Article 2.132(a) [means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest].

(2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each ~~[local]~~ law

enforcement agency shall submit a report containing the incident-based data [information] compiled during the previous calendar year to the Commission on Law Enforcement Officer Standards and Education and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency [~~in a manner approved by the agency~~].

(c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities [~~determine the prevalence of racial profiling by peace officers employed by the agency~~]; and

(B) examine the disposition of motor vehicle [traffic and pedestrian] stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from [the] stops within the applicable jurisdiction; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle [traffic or pedestrian] stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.

(g) On a finding by the Commission on Law Enforcement Officer Standards and Education that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

SECTION 28. Article 2.135, Code of Criminal Procedure, is amended to read as follows:

Art. 2.135. PARTIAL EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT.

(a) A peace officer is exempt from the reporting requirement under Article 2.133 and the chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is exempt from the compilation, analysis, and reporting requirements under Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make motor vehicle [traffic and pedestrian] stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle [traffic and pedestrian] stops is equipped with transmitter-activated equipment; and

(B) each motor vehicle [traffic and pedestrian] stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a)(1)(A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each motor

vehicle [~~traffic and pedestrian~~] stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a motor vehicle [~~traffic or pedestrian~~] stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

(d) In this article, "motor vehicle stop" has the meaning assigned by Article 2.132(a).

SECTION 29. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.1385 to read as follows:

Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.

(b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.

(c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION 30. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.022 to read as follows:

Art. 102.022. COSTS ON CONVICTION TO FUND STATEWIDE REPOSITORY FOR DATA RELATED TO CIVIL JUSTICE. (a) In this article, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and

(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation in a justice court, county court, county court at law, or municipal court shall pay a fee of 10 cents as a cost of court.

(c) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this article. The clerk shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Occupations Code.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION 31. (a) Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B.

3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.061, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.061. ADDITIONAL COURT COSTS ON CONVICTION IN STATUTORY COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a statutory county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) ... \$20;
- (2) a fee for services of the clerk of the court (Art. 102.005, Code of Criminal Procedure) ... \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) ... \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) ... \$3;
- (5) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) ... \$5; ~~and~~
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) ... not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) ... \$0.10.

(b) Section 102.061, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.061, Government Code, as reenacted and amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION 32. (a) Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 102.081, Government Code, by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 102.081. ADDITIONAL COURT COSTS ON CONVICTION IN COUNTY COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a county court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) ... \$20;
- (2) a fee for clerk of the court services (Art. 102.005, Code of Criminal Procedure) ... \$40;
- (3) a records management and preservation services fee (Art. 102.005, Code of Criminal Procedure) ... \$25;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) ... \$3;
- (5) a graffiti eradication fee (Art. 102.0171, Code of Criminal Procedure) ... \$5; ~~and~~
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) ... not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) ... \$0.10.

(b) Section 102.081, Government Code, as amended by Chapter 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 102.081, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION 33. Section 102.101, Government Code, is amended to read as follows:

Sec. 102.101. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: CODE OF CRIMINAL PROCEDURE. A clerk of a justice court shall collect fees and costs under the Code of Criminal Procedure on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) ... \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) ... \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) ... one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) ... \$4;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0173, Code of Criminal Procedure) ... \$4;

- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) ... not to exceed \$5;
- (7) a fee on conviction of certain offenses involving issuing or passing a subsequently dishonored check (Art. 102.0071, Code of Criminal Procedure) ... not to exceed \$30; [~~and~~]
- (8) a court cost on conviction of a Class C misdemeanor in a county with a population of 3.3 million or more, if authorized by the county commissioners court (Art. 102.009, Code of Criminal Procedure) ... not to exceed \$7; and
- (9) a civil justice fee (Art. 102.022, Code of Criminal Procedure) ... \$0.10.

SECTION 34. Section 102.121, Government Code, is amended to read as follows:

Sec. 102.121. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: CODE OF CRIMINAL PROCEDURE. The clerk of a municipal court shall collect fees and costs on conviction of a defendant as follows:

- (1) a jury fee (Art. 102.004, Code of Criminal Procedure) ... \$3;
- (2) a fee for withdrawing request for jury less than 24 hours before time of trial (Art. 102.004, Code of Criminal Procedure) ... \$3;
- (3) a jury fee for two or more defendants tried jointly (Art. 102.004, Code of Criminal Procedure) ... one jury fee of \$3;
- (4) a security fee on a misdemeanor offense (Art. 102.017, Code of Criminal Procedure) ... \$3;
- (5) a fee for technology fund on a misdemeanor offense (Art. 102.0172, Code of Criminal Procedure) ... not to exceed \$4; [~~and~~]
- (6) a juvenile case manager fee (Art. 102.0174, Code of Criminal Procedure) ... not to exceed \$5; and
- (7) a civil justice fee (Art. 102.022, Code of Criminal Procedure) ... \$0.10.

SECTION 35. The following laws are repealed:

- (1) Section 1701.051(d), Occupations Code;
- (2) Section 1701.156(c), Occupations Code;
- (3) Section 1701.315, Occupations Code; and
- (4) Section 1701.406, Occupations Code.

SECTION 36. (a) The changes in law made by this Act to Sections 1701.053, 1701.056, and 1701.059, Occupations Code, apply only to a member of the Texas Commission on Law Enforcement Officer Standards and Education appointed on or after the effective date of this Act and do not affect the entitlement of a member serving on the commission immediately before that date to continue to serve and function as a member of the commission for the remainder of the member's term.

(b) Not later than March 1, 2010, the Texas Commission on Law Enforcement Officer Standards and Education shall adopt rules and policies required under:

- (1) Sections 1701.202, 1701.254, and 1701.451, Occupations Code, as amended by this Act; and
- (2) Sections 1701.1521, 1701.1522, 1701.1523, 1701.1524, and 1701.162, Occupations Code, as added by this Act.

(c) The changes in law made by this Act with respect to conduct that is grounds for the imposition of a disciplinary sanction, including an administrative penalty, apply only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before that date is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose.

(d) The Commission on Law Enforcement Officer Standards and Education shall modify the training program required by Section 1701.352(b), Occupations Code, as amended by this Act, and ensure that the modified program is available not later than January 1, 2010.

(e) A law enforcement agency affected by the change in law made by this Act to Section 1701.355(a), Occupations Code, shall designate a firearms proficiency officer not later than March 1, 2010. For purposes of this section, a state or local governmental entity that employs one or more peace officers is a law enforcement agency.

(f) The changes in law made by this Act to Section 1701.157(b), Occupations Code, apply to allocations made on or after January 1, 2011. Allocations made before that date are governed by the law in effect

immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(g) The requirements of Articles 2.132, 2.133, and 2.134, Code of Criminal Procedure, as amended by this Act, relating to the compilation, analysis, and submission of incident-based data apply only to information based on a motor vehicle stop occurring on or after January 1, 2010.

(h) The imposition of a cost of court under Article 102.022, Code of Criminal Procedure, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 37. This Act takes effect September 1, 2009.

H.B. 3599

AN ACT

relating to the operation of certain three-wheeled vehicles in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 521.001(a), Transportation Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Motorcycle" includes an enclosed three-wheeled passenger vehicle that:

(A) is designed to operate with three wheels in contact with the ground;

(B) has a minimum unladen weight of 900 lbs.;

(C) has a single, completely enclosed, occupant compartment;

(D) at a minimum, is equipped with:

(i) seats that are certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard 207, 49 C.F.R. Section 571.207;

(ii) a steering wheel used to maneuver the vehicle;

(iii) a propulsion unit located in front of or behind the enclosed occupant compartment;

(iv) a seat belt for each vehicle occupant certified by the manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard 209, 49 C.F.R. Section 571.209;

(v) a windshield and one or more windshield wipers certified by the manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard 205, 49 C.F.R. Section 571.205, and Federal Motor Vehicle Safety Standard 104, 49 C.F.R. Section 571.104; and

(vi) a vehicle structure certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard 216, 49 C.F.R. Section 571.216; and

(E) is produced by its manufacturer in a minimum quantity of 300 in any calendar year.

SECTION 2. Section 521.085, Transportation Code, is amended to read as follows:

Sec. 521.085. TYPE OF VEHICLE AUTHORIZED. (a) Unless prohibited by Chapter 522, and except as provided by Subsection (b), the license holder may operate any vehicle of the type for which that class of license is issued and any lesser type of vehicle other than a motorcycle or moped.

(b) Subsection (a) does not prohibit a license holder from operating a lesser type of vehicle that is a motorcycle described by Section 521.001(a)(6-a).

SECTION 3. Section 661.001(1), Transportation Code, is amended to read as follows:

(1) "Motorcycle" means a motor vehicle designed to propel itself with not more than three wheels in contact with the ground, and having a saddle for the use of the rider. The term does not include a tractor or a three-wheeled vehicle equipped with a cab or occupant compartment, seat, and seat belt and designed to contain the operator in the cab or occupant compartment.

SECTION 4. Section 680.013, Transportation Code, is amended to read as follows:

Sec. 680.013. USE OF PREFERENTIAL LANE BY MOTORCYCLE. A motorcycle, including a

motorcycle described by Section 521.001(a)(6-a), may be operated in a preferential lane that is not closed to all vehicular traffic.

SECTION 5. This Act takes effect September 1, 2009.

H.B. 3638

AN ACT

relating to the use of safety belts by the operator of or a passenger in a motor vehicle used exclusively to transport solid waste.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 545.413(e), Transportation Code, is amended to read as follows:

(e) It is a defense to prosecution under this section that:

- (1) the person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;
- (2) the person presents to the court, not later than the 10th day after the date of the offense, a statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;
- (3) the person is employed by the United States Postal Service and performing a duty for that agency that requires the operator to service postal boxes from a vehicle or that requires frequent entry into and exit from a vehicle;
- (4) the person is engaged in the actual delivery of newspapers from a vehicle or is performing newspaper delivery duties that require frequent entry into and exit from a vehicle;
- (5) the person is employed by a public or private utility company and is engaged in the reading of meters or performing a similar duty for that company requiring the operator to frequently enter into and exit from a vehicle; ~~or~~
- (6) ~~the~~ ~~The~~ person is operating a commercial vehicle registered as a farm vehicle under the provisions of Section 502.163 that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more; ~~or~~
- (7) the person is the operator of or a passenger in a vehicle used exclusively to transport solid waste and performing duties that require frequent entry into and exit from the vehicle.

SECTION 2. The change in law made by this Act to Section 545.413(e), Transportation Code, as amended by this Act, applies only to an offense under Section 545.413(a) of that code, regardless of whether the offense was committed before, on, or after the effective date of this Act.

H.B. 3751

AN ACT

relating to the conditions of bond for a defendant charged with committing certain offenses against a child and to the denial of bail pending trial with respect to certain defendants who violate those conditions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Articles 17.41(a) and (b), Code of Criminal Procedure, are amended to read as follows:

(a) This article applies to a defendant charged with an offense under any of the following provisions of the Penal Code, if committed against a child younger than 14 ~~[12]~~ years of age ~~[or younger]~~:

- (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses);
- (2) Section 25.02 (Prohibited Sexual Conduct); or
- (3) Section 43.25 (Sexual Performance by a Child).

(b) Subject to Subsections (c) and (d), a ~~[A]~~ magistrate shall ~~[may]~~ require as a condition of bond for a defendant charged with an offense described by Subsection (a) ~~[of this article]~~ that the defendant not:

- (1) directly communicate with the alleged victim of the offense; or
- (2) go near a residence, school, or other location, as specifically described in the bond, frequented by the alleged victim.

SECTION 2. Chapter 17, Code of Criminal Procedure, is amended by adding Article 17.153 to read as

follows:

Art. 17.153. DENIAL OF BAIL FOR VIOLATION OF CONDITION OF BOND WHERE CHILD ALLEGED VICTIM. (a) This article applies to a defendant charged with a felony offense under any of the following provisions of the Penal Code, if committed against a child younger than 14 years of age:

- (1) Chapter 21 (Sexual Offenses);
- (2) Section 25.02 (Prohibited Sexual Conduct); or
- (3) Section 43.25 (Sexual Performance by a Child).

(b) A defendant described by Subsection (a) who violates a condition of bond set under Article 17.41 and whose bail in the case is revoked for the violation may be taken into custody and denied release on bail pending trial if, following a hearing, a judge or magistrate determines by a preponderance of the evidence that the defendant violated a condition of bond related to the safety of the victim of the offense or the safety of the community. If the magistrate finds that the violation occurred, the magistrate may revoke the defendant's bond and order that the defendant be immediately returned to custody. Once the defendant is placed in custody, the revocation of the defendant's bond discharges the sureties on the bond, if any, from any future liability on the bond. A discharge under this subsection from any future liability on the bond does not discharge any surety from liability for previous forfeitures on the bond.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2009.

H.B. 3866

AN ACT

relating to fire safety inspections.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter Z, Chapter 419, Government Code, is amended by adding Section 419.908 to read as follows:

Sec. 419.908. FIRE SAFETY INSPECTIONS. (a) Only an individual certified by the commission as a fire inspector may conduct a fire safety inspection required by a state or local law, rule, regulation, or ordinance.

(b) A fire safety inspection required by a state or local law, rule, regulation, or ordinance must be conducted in accordance with:

- (1) the most recent local fire code; or
- (2) the most recent fire code adopted by the state fire marshal.

(c) This section does not apply to state agency personnel who conduct a life safety code survey of a building or facility in connection with determining whether to issue or renew a license under Chapter 142, 241, 242, 243, 244, 245, 247, 248, 251, 252, 464, 466, or 577, Health and Safety Code, or Chapter 103, Human Resources Code.

SECTION 2. (a) Section 419.908(a), Government Code, as added by this Act, applies only to a fire safety inspection that occurs on or after September 1, 2011. A fire safety inspection that occurs before September 1, 2011, is covered by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(b) Section 419.908(b), Government Code, as added by this Act, applies only to a fire safety inspection that occurs on or after the effective date of this Act. A fire safety inspection that occurs before the effective date of this Act is covered by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 4445

AN ACT

relating to the licensing and appointment of court interpreters.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 57.002, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) A licensed court interpreter appointed by a court under Subsection (a) or (b) must hold a license that includes the appropriate designation under Section 57.043(d) that indicates the interpreter is permitted to interpret in that court.

SECTION 2. Section 57.043, Government Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) The executive director shall issue a court interpreter license to an applicant who:

(1) can interpret for an individual who can hear but who does not comprehend English or communicate in English;

(2) passes the appropriate examination prescribed by the executive director not earlier than two years before the date the executive director receives the applicant's application for a license; and

(3) possesses the other qualifications for the license required by this subchapter or by rules adopted under this subchapter.

(d) A license issued under this subchapter must include at least one of the following designations:

(1) a basic designation that permits the interpreter to interpret court proceedings in justice courts and municipal courts that are not municipal courts of record, other than a proceeding before the court in which the judge is acting as a magistrate; or

(2) a master designation that permits the interpreter to interpret court proceedings in all courts in this state, including justice courts and municipal courts described by Subdivision (1).

(e) In adopting rules relating to licensing under this subchapter, the commission shall, after consulting with the board, prescribe the minimum score an individual must achieve on an examination to receive a license that includes a basic designation under Subsection (d) and the minimum score an individual must achieve to receive a license that includes a master designation under that subsection.

SECTION 3. Section 57.046(a), Government Code, is amended to read as follows:

(a) The executive director shall prepare examinations under this subchapter that test an applicant's knowledge, skill, and efficiency in interpreting under this subchapter. The same examinations must be used for issuing a license that includes a basic designation or master designation as described by Section 57.043(d).

SECTION 4. (a) Notwithstanding Section 57.043(e), Government Code, as added by this Act, and not later than December 1, 2011, the executive director of the Texas Department of Licensing and Regulation shall issue to a person who, on September 1, 2011, holds a court interpreter license issued under Section 57.043(a), Government Code, a new court interpreter license that includes a master designation described by Section 57.043(d)(2), Government Code, as added by this Act.

(b) Section 57.043(d), Government Code, as added by this Act, applies only to a court interpreter license, other than a court interpreter license issued under Subsection (a) of this section, that is initially issued under Section 57.043(a), Government Code, on or after September 1, 2011, and to the subsequent renewal of that license.

(c) Section 57.002(b-1), Government Code, as added by this Act, applies only to the appointment of a licensed court interpreter on or after January 1, 2012. An appointment before that date is governed by the law in effect on the date the appointment was made, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2011.

H.B. 4456

AN ACT

relating to the definition of a switchblade knife for purposes of the offense of prohibited weapons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 46.01(11), Penal Code, is amended to read as follows:

(11) "Switchblade knife" means any knife that has a blade that folds, closes, or retracts into the handle or sheath[;] and that[;]

[~~(A)~~] opens automatically by pressure applied to a button or other device located on the handle[;] or

[~~(B)~~] opens or releases a blade from the handle or sheath by the force of gravity or by the application of centrifugal force. The term does not include a knife that has a spring, detent, or other mechanism designed to create a bias toward closure and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 3. This Act takes effect September 1, 2009.

H.B. 4464

AN ACT

relating to crime victim information in a criminal judgment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1, Article 42.01, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. A judgment is the written declaration of the court signed by the trial judge and entered of record showing the conviction or acquittal of the defendant. The sentence served shall be based on the information contained in the judgment. The judgment shall reflect:

1. The title and number of the case;
2. That the case was called and the parties appeared, naming the attorney for the state, the defendant, and the attorney for the defendant, or, where a defendant is not represented by counsel, that the defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel;
3. The plea or pleas of the defendant to the offense charged;
4. Whether the case was tried before a jury or a jury was waived;
5. The submission of the evidence, if any;
6. In cases tried before a jury that the jury was charged by the court;
7. The verdict or verdicts of the jury or the finding or findings of the court;
8. In the event of a conviction that the defendant is adjudged guilty of the offense as found by the verdict of the jury or the finding of the court, and that the defendant be punished in accordance with the jury's verdict or the court's finding as to the proper punishment;
9. In the event of conviction where death or any punishment is assessed that the defendant be sentenced to death, a term of confinement or community supervision, or to pay a fine, as the case may be;
10. In the event of conviction where the imposition of sentence is suspended and the defendant is placed on community supervision, setting forth the punishment assessed, the length of community supervision, and the conditions of community supervision;
11. In the event of acquittal that the defendant be discharged;
12. The county and court in which the case was tried and, if there was a change of venue in the case, the name of the county in which the prosecution was originated;
13. The offense or offenses for which the defendant was convicted;

14. The date of the offense or offenses and degree of offense for which the defendant was convicted;
15. The term of sentence;
16. The date judgment is entered;
17. The date sentence is imposed;
18. The date sentence is to commence and any credit for time served;
19. The terms of any order entered pursuant to Article 42.08 of this code that the defendant's sentence is to run cumulatively or concurrently with another sentence or sentences;
20. The terms of any plea bargain;
21. Affirmative findings entered pursuant to Subdivision (2) of Subsection (a) of Section 3g of Article 42.12 of this code;
22. The terms of any fee payment ordered under Article 42.151 of this code;
23. The defendant's thumbprint taken in accordance with Article 38.33 of this code;
24. In the event that the judge orders the defendant to repay a reward or part of a reward under Articles 37.073 and 42.152 of this code, a statement of the amount of the payment or payments required to be made;
25. In the event that the court orders restitution to be paid to the victim, a statement of the amount of restitution ordered and:
 - (A) the name and address of a person or agency that will accept and forward restitution payments to the victim [~~and the permanent mailing address of the victim at the time of the judgment~~]; or
 - (B) if the court specifically elects to have payments made directly to the crime victim, [~~determines that the inclusion of~~] the [victim's] name and permanent address [~~in the judgment is not in the best interest~~] of the victim at the time of judgment [~~; the name and address of a person or agency that will accept and forward restitution payments to the victim~~];
26. In the event that a presentence investigation is required by Section 9(a), (b), (h), or (i), Article 42.12 of this code, a statement that the presentence investigation was done according to the applicable provision;
27. In the event of conviction of an offense for which registration as a sex offender is required under Chapter 62, a statement that the registration requirement of that chapter applies to the defendant and a statement of the age of the victim of the offense;
28. The defendant's state identification number required by Section 60.052(a)(2), if that number has been assigned at the time of the judgment; and
29. The incident number required by Section 60.052(a)(4), if that number has been assigned at the time of the judgment.

SECTION 2. Article 42.037(g), Code of Criminal Procedure, is amended to read as follows:

- (g)(1) The court may require a defendant to make restitution under this article within a specified period or in specified installments. If the court requires the defendant to make restitution in specified installments, in addition to the installment payments, the court may require the defendant to pay a one-time restitution fee of \$12, \$6 of which the court shall retain for costs incurred in collecting the specified installments and \$6 of which the court shall order to be paid to the compensation to victims of crime fund.
- (2) The end of the period or the last installment may not be later than:
 - (A) the end of the period of probation, if probation is ordered;
 - (B) five years after the end of the term of imprisonment imposed, if the court does not order probation; or
 - (C) five years after the date of sentencing in any other case.
- (3) If the court does not provide otherwise, the defendant shall make restitution immediately.
- (4) Except as provided by Subsection (n), the order of restitution must require the defendant to: (i) make restitution directly to the person or agency that will accept and forward restitution payments to the victim or other person eligible for restitution under this article, including the compensation to victims of crime fund; (ii) make restitution directly to the victim or other person eligible for restitution under this article, including the compensation to victims of crime fund; [-] or (iii) [tø] deliver the amount or property due as

restitution to a community supervision and corrections department for transfer to the victim or person.
SECTION 3. This Act takes effect September 1, 2009.

H.B. 4529

AN ACT

relating to court reporter service fees in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.601, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), the clerk of each court that has an official court reporter and that serves a county located on the Texas-Mexico border that contains a municipality with a population of 500,000 or more shall collect a court reporter service fee of \$30 as a court cost in each civil case filed with the clerk to maintain a court reporter who is available for assignment in the court.

SECTION 2. Section 103.0211, Government Code, is amended to read as follows:

Sec. 103.0211. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: GOVERNMENT CODE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Government Code if ordered by the court or otherwise required:

(1) a court reporter fee when testimony is taken:

(A) in a criminal court in Dallas County (Sec. 25.0593, Government Code) . . . \$3;

(B) in a county criminal court of appeals in Dallas County (Sec. 25.0594, Government Code) . . . \$3;

(C) in a county court at law in McLennan County (Sec. 25.1572, Government Code) . . . \$3; and

(D) in a county criminal court in Tarrant County (Sec. 25.2223, Government Code) . . . \$3;

(2) a court reporter service fee if the courts have official court reporters (Sec. 51.601, Government Code) . . . \$15 or, in specified counties, \$30;

(3) a speedy trial filing fee in El Paso County (Sec. 54.745, Government Code) . . . \$100;

(4) costs for use of magistrate in Brazos County (Sec. 54.1116, Government Code) . . . not to exceed \$50;

(5) the costs of a criminal magistrate if the court determines that the nonprevailing party is able to defray the costs:

(A) in Bexar County (Sec. 54.913, Government Code) . . . magistrate's fees;

(B) in Dallas County (Sec. 54.313, Government Code) . . . magistrate's fees;

(C) in Lubbock County (Sec. 54.883, Government Code) . . . magistrate's fees;

(D) in Tarrant County (Sec. 54.663, Government Code) . . . magistrate's fees;

(E) in Travis County (Sec. 54.983, Government Code) . . . magistrate's fees; and

(F) in Williamson County (Sec. 54.958, Government Code) . . . expense of the magistrate;

(6) an administrative fee for participation in certain community supervision programs (Sec. 76.015, Government Code) . . . not less than \$25 and not more than \$40 per month; and

(7) fee paid on filing a petition for an order of nondisclosure of criminal history record information in certain cases (Sec. 411.081, Government Code) . . . \$28.

SECTION 3. The change in law made by this Act applies only to a case filed with the clerk of a court that has an official court reporter on or after the effective date of this Act. A case filed with the clerk of the court before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 4. 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.

H.B. 4742

AN ACT

relating to the preservation of a record in a proceeding in a municipal court of record in Austin.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 30.00737, Government Code, is repealed.

SECTION 2. The change in law made by this Act applies to a case that is pending or commenced in a municipal court of record in Austin on or after the effective date of this Act.

SECTION 3. 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.

H.B. 4750

AN ACT

relating to the appointment of magistrates in the White Settlement municipal courts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter DD, Chapter 30, Government Code, is amended by adding Section 30.01137 to read as follows:

Sec. 30.01137. MAGISTRATES. (a) The governing body may appoint one or more magistrates to act on behalf of a municipal court of record or a municipal court in the city of White Settlement.

(b) A magistrate is not required to possess all the qualifications necessary to be a municipal court of record judge.

(c) A magistrate may not preside over the court or hear contested cases.

(d) A magistrate may:

(1) conduct an arraignment;

(2) hold an indigency hearing;

(3) accept a plea;

(4) sign a judgment;

(5) set the amount of a bond; and

(6) perform other functions under Article 15.17, Code of Criminal Procedure.

SECTION 2. 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.

S.B. 52

AN ACT

relating to the penalties for the illegal use of a parking space or area designated specifically for persons with disabilities and to the unauthorized use of a disabled parking placard.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (h), (i), (j), and (k), Section 681.011, Transportation Code, are amended to read as follows:

(h) If it is shown on the trial of an offense under this section that the person has been previously convicted one time of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$500 [~~\$300~~] or more than \$800; and

(2) 10 hours of community service [~~\$600~~].

(i) If it is shown on the trial of an offense under this section that the person has been previously convicted two times of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$550 [~~\$300~~] or more than \$800 [~~\$600~~]; and

(2) [~~not less than 10 or more than~~] 20 hours of community service.

(j) If it is shown on the trial of an offense under this section that the person has been previously convicted three times of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$800 [~~\$500~~] or more than \$1,100 [~~\$1,000~~]; and

(2) 30 [~~not less than 20 or more than 50~~] hours of of community service.

(k) If it is shown on the trial of an offense under this section that the person has been previously convicted four times of an offense under this section, the offense is punishable by a fine of \$1,250 [~~\$1,000~~] and 50 hours of community service.

SECTION 2. Section 681.012, Transportation Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsection (b) to read as follows:

(a-1) A peace officer may seize a disabled parking placard from a person who operates a vehicle on which a disabled parking placard is displayed if the peace officer determines by inspecting the person's driver's license or personal identification certificate that the disabled parking placard does not contain the first four digits of the driver's license number or personal identification certificate number and the initials of:

(1) the person operating the vehicle; or

(2) a person being transported by the vehicle.

(a-2) A peace officer shall submit each seized parking placard to the department not later than the fifth day after the seizure.

(b) On submission to the department under Subsection (a) or (a-2), a placard is revoked. On request of the person from whom the placard was seized, the department shall conduct a hearing and determine whether the revocation should continue or the placard should be returned to the person and the revocation rescinded.

SECTION 3. (a) The change in law made by this Act applies only to an offense committed on or after September 1, 2009.

(b) An offense committed before September 1, 2009, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before September 1, 2009, if any element of the offense was committed before that date.

SECTION 4. This Act takes effect September 1, 2009.

S.B. 61

AN ACT

relating to the offense of failing to secure a child passenger in a motor vehicle and to fines for the offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 545.412, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) A person commits an offense if the person operates a passenger vehicle, transports a child who is younger than eight [~~five~~] years of age, unless the child is taller than four feet, nine inches [~~and less than 36 inches in height~~], and does not keep the child secured during the operation of the vehicle in a child passenger safety seat system according to the instructions of the manufacturer of the safety seat system.

(b) An offense under this section is a misdemeanor punishable by a fine of not [~~less than \$100 or~~] more than \$25 for the first offense and not more than \$250 for a second or subsequent offense [~~\$200~~].

(b-1) In addition to all other fees and court costs, a person shall pay 15 cents as a court cost on conviction of an offense under this section. Court costs due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case. The clerk at least monthly shall send the court costs collected under this section to the comptroller for deposit in a separate account in the general revenue fund that may be appropriated only to the Texas Department of Transportation and used to purchase child passenger safety seat systems and distribute them to low-income families.

SECTION 2. Subchapter F, Chapter 102, Government Code, is amended by adding Section 102.104 to read as follows:

Sec. 102.104. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURTS: TRANSPORTATION CODE. The clerk of a justice court shall collect 15 cents as a court cost under

Section 545.412, Transportation Code, on conviction of an offense under that section.

SECTION 3. Subchapter G, Chapter 102, Government Code, is amended by adding Section 102.122 to read as follows:

Sec. 102.122. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: TRANSPORTATION CODE. The clerk of a municipal court shall collect 15 cents as a court cost under Section 545.412, Transportation Code, on conviction of an offense under that section.

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.

S.B. 82

AN ACT

relating to a fee imposed as a condition of community supervision for an offense involving family violence and to certain nonsubstantive revisions involving court fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (h), Section 11, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(h) If a judge grants community supervision to a person convicted of an offense under Title 5, Penal Code, that the court determines involves family violence, the judge ~~shall~~ ~~may~~ require the person to pay ~~make one payment in an amount not to exceed~~ \$100 to a family violence ~~shelter~~ center that receives state or federal funds and that serves the county in which the court is located. In this subsection, "family violence" has the meaning assigned by Section 71.004, Family Code, and "family violence ~~shelter~~ center" has the meaning assigned by Section 51.002, Human Resources Code.

SECTION 2. (a) Section 103.021, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, is amended to conform to the amendments made to Section 103.021, Government Code, by Chapter 1226 (H.B. 2385), Acts of the 80th Legislature, Regular Session, 2007, and to conform to Chapters 805 (S.B. 1083) and 910 (H.B. 2949), Acts of the 80th Legislature, Regular Session, 2007, and is further amended to read as follows:

Sec. 103.021. ADDITIONAL FEES AND COSTS IN CRIMINAL OR CIVIL CASES: CODE OF CRIMINAL PROCEDURE. An accused or defendant, or a party to a civil suit, as applicable, shall pay the following fees and costs under the Code of Criminal Procedure if ordered by the court or otherwise required:

(1) a personal bond fee (Art. 17.42, Code of Criminal Procedure) ... the greater of \$20 or three percent of the amount of the bail fixed for the accused;

(2) cost of electronic monitoring as a condition of release on personal bond (Art. 17.43, Code of Criminal Procedure) ... actual cost;

- (3) a fee for verification of and monitoring of motor vehicle ignition interlock (Art. 17.441, Code of Criminal Procedure) ... not to exceed \$10;
- (4) repayment of reward paid by a crime stoppers organization on conviction of a felony (Art. 37.073, Code of Criminal Procedure) ... amount ordered;
- (5) reimbursement to general revenue fund for payments made to victim of an offense as condition of community supervision (Art. 42.12, Code of Criminal Procedure) ... not to exceed \$50 for a misdemeanor offense or \$100 for a felony offense;
- (6) payment to a crime stoppers organization as condition of community supervision (Art. 42.12, Code of Criminal Procedure) ... not to exceed \$50;
- (7) children's advocacy center fee (Art. 42.12, Code of Criminal Procedure) ... not to exceed \$50;
- (8) family violence ~~shelter~~ center fee (Art. 42.12, Code of Criminal Procedure) ... ~~[not to exceed]~~ \$100;
- (9) community supervision fee (Art. 42.12, Code of Criminal Procedure) ... not less than \$25 or more than \$60 per month;
- (10) additional community supervision fee for certain offenses (Art. 42.12, Code of Criminal Procedure) ... \$5 per month;
- (11) for certain financially able sex offenders as a condition of community supervision, the costs of treatment, specialized supervision, or rehabilitation (Art. 42.12, Code of Criminal Procedure) ... all or part of the reasonable and necessary costs of the treatment, supervision, or rehabilitation as determined by the judge;
- (12) fee for failure to appear for trial in a justice or municipal court if a jury trial is not waived (Art. 45.026, Code of Criminal Procedure) ... costs incurred for impaneling the jury;
- (13) costs of certain testing, assessments, or programs during a deferral period (Art. 45.051, Code of Criminal Procedure) ... amount ordered;
- (14) special expense on dismissal of certain misdemeanor complaints (Art. 45.051, Code of Criminal Procedure) ... not to exceed amount of fine assessed;
- (15) an additional fee:
 - (A) for a copy of the defendant's driving record to be requested from the Department of Public Safety by the judge (Art. 45.0511(c-1), Code of Criminal Procedure) ... amount equal to the sum of the fee established by Section 521.048, Transportation Code, and the TexasOnline fee ~~[\$10]~~;
 - (B) as an administrative fee for requesting a driving safety course or a course under the motorcycle operator training and safety program for certain traffic offenses to cover the cost of administering the article (Art. 45.0511(f)(1), Code of Criminal Procedure) ... not to exceed \$10; or
 - (C) for requesting a driving safety course or a course under the motorcycle operator training and safety program before the final disposition of the case (Art. 45.0511(f)(2), Code of Criminal Procedure) ... not to exceed the maximum amount of the fine for the offense committed by the defendant;
- (16) a request fee for teen court program (Art. 45.052, Code of Criminal Procedure) ... \$20, if the court ordering the fee is located in the Texas-Louisiana border region, but otherwise not to exceed \$10;
- (17) a fee to cover costs of required duties of teen court (Art. 45.052, Code of Criminal Procedure) ... \$20, if the court ordering the fee is located in the Texas-Louisiana border region, but otherwise \$10;
- (18) a mileage fee for officer performing certain services (Art. 102.001, Code of Criminal Procedure) ... \$0.15 per mile;
- (19) certified mailing of notice of hearing date (Art. 102.006, Code of Criminal Procedure) ... \$1, plus postage;
- (20) certified mailing of certified copies of an order of expunction (Art. 102.006, Code of Criminal Procedure) ... \$2, plus postage;
- (20-a) a fee to defray the cost of notifying state agencies of orders of expungement (Art. 45.0216, Code of Criminal Procedure) ... \$30 per application;
- (20-b) a fee to defray the cost of notifying state agencies of orders of expunction (Art. 45.055, Code of Criminal Procedure) ... \$30 per application;

(21) sight orders:

(A) if the face amount of the check or sight order does not exceed \$10 (Art. 102.007, Code of Criminal Procedure) ... not to exceed \$10;

(B) if the face amount of the check or sight order is greater than \$10 but does not exceed \$100 (Art. 102.007, Code of Criminal Procedure) ... not to exceed \$15;

(C) if the face amount of the check or sight order is greater than \$100 but does not exceed \$300 (Art. 102.007, Code of Criminal Procedure) ... not to exceed \$30;

(D) if the face amount of the check or sight order is greater than \$300 but does not exceed \$500 (Art. 102.007, Code of Criminal Procedure) ... not to exceed \$50; and

(E) if the face amount of the check or sight order is greater than \$500 (Art. 102.007, Code of Criminal Procedure) ... not to exceed \$75;

(22) fees for a pretrial intervention program:

(A) a supervision fee (Art. 102.012(a) [402.012], Code of Criminal Procedure) ... [not to exceed] \$60 a month plus expenses; and

(B) a district attorney, criminal district attorney, or county attorney administrative fee (Art. 102.0121, Code of Criminal Procedure) ... not to exceed \$500;

(23) parking fee violations for child safety fund in municipalities with populations:

(A) greater than 850,000 (Art. 102.014, Code of Criminal Procedure) ... not less than \$2 and not to exceed \$5; and

(B) less than 850,000 (Art. 102.014, Code of Criminal Procedure) ... not to exceed \$5;

(24) an administrative fee for collection of fines, fees, restitution, or other costs (Art. 102.072, Code of Criminal Procedure) ... not to exceed \$2 for each transaction; and

(25) a collection fee, if authorized by the commissioners court of a county or the governing body of a municipality, for certain debts and accounts receivable, including unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid (Art. 103.0031, Code of Criminal Procedure) ... 30 percent of an amount more than 60 days past due.

(b) Section 103.021, Government Code, as amended by Chapter 1226 (H.B. 2385), Acts of the 80th Legislature, Regular Session, 2007, is repealed. Section 103.021, Government Code, as amended by Chapter 921 (H.B. 3167), Acts of the 80th Legislature, Regular Session, 2007, to reorganize and renumber that section, continues in effect as further amended by this section.

SECTION 3. Subsection (h), Section 11, Article 42.12, Code of Criminal Procedure, as amended by this Act, applies only to a person granted community supervision for an offense committed on or after the effective date of this Act. A person granted community supervision for an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2009.

S.B. 129

AN ACT

relating to the maximum speed limit for a neighborhood electric vehicle being operated on a street or highway and to the operation of a motorcycle.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (1), Section 551.301, Transportation Code, as amended by Chapters 281 (H.B. 2702) and 1242 (H.B. 1596), Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(1) "Neighborhood electric vehicle" means a vehicle that can attain a maximum speed of 35 miles per hour on a paved level surface and otherwise complies with ~~[subject to]~~ Federal Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500).

SECTION 2. Subsection (a), Section 551.303, Transportation Code, is amended to read as follows:

(a) A neighborhood electric vehicle may be operated only on a street or highway for which the posted speed limit is 45 [~~35~~] miles per hour or less. A neighborhood electric vehicle may cross a road or street at an intersection where the road or street has a posted speed limit of more than 45 [~~35~~] miles per hour. A neighborhood electric vehicle may not be operated on a street or highway at a speed that exceeds the lesser of:

(1) the posted speed limit; or

(2) 35 miles per hour.

SECTION 3. Subsection (a), Section 521.001, Transportation Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Motorcycle" includes an enclosed three-wheeled passenger vehicle that:

(A) is designed to operate with three wheels in contact with the ground;

(B) has a minimum unladen weight of 900 lbs.;

(C) has a single, completely enclosed, occupant compartment;

(D) at a minimum, is equipped with:

(i) seats that are certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard 207, 49 C.F.R. Section 571.207;

(ii) a steering wheel used to maneuver the vehicle;

(iii) a propulsion unit located in front of or behind the enclosed occupant compartment;

(iv) a seat belt for each vehicle occupant certified by the manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard 209, 49 C.F.R. Section 571.209;

(v) a windshield and one or more windshield wipers certified by the manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard 205, 49 C.F.R. Section 571.205, and Federal Motor Vehicle Safety Standard 104, 49 C.F.R. Section 571.104; and

(vi) a vehicle structure certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard 216, 49 C.F.R. Section 571.216; and

(E) is produced by its manufacturer in a minimum quantity of 300 in any calendar year.

SECTION 4. Section 521.085, Transportation Code, is amended to read as follows:

Sec. 521.085. TYPE OF VEHICLE AUTHORIZED. (a) Unless prohibited by Chapter 522, and except as provided by Subsection (b), the license holder may operate any vehicle of the type for which that class of license is issued and any lesser type of vehicle other than a motorcycle or moped.

(b) Subsection (a) does not prohibit a license holder from operating a lesser type of vehicle that is a motorcycle described by Section 521.001(a)(6-a).

SECTION 5. Subdivision (1), Section 661.001, Transportation Code, is amended to read as follows:

(1) "Motorcycle" means a motor vehicle designed to propel itself with not more than three wheels in contact with the ground, and having a saddle for the use of the rider. The term does not include a tractor or a three-wheeled vehicle equipped with a cab or occupant compartment, seat, and seat belt and designed to contain the operator in the cab or occupant compartment.

SECTION 6. Section 680.013, Transportation Code, is amended to read as follows:

Sec. 680.013. USE OF PREFERENTIAL LANE BY MOTORCYCLE. A motorcycle, including a motorcycle described by Section 521.001(a)(6-a), may be operated in a preferential lane that is not closed to all vehicular traffic.

SECTION 7. This Act takes effect September 1, 2009.

S.B. 281

AN ACT

relating to the confidentiality of the home address information of the spouses of certain federal judges and certain state judges.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (b), Section 13.0021, Election Code, is amended to read as follows:

(b) If the registration applicant is a federal judge, ~~a~~ state judge, or the spouse of a state judge or a federal judge who seeks to have the applicant's residence address omitted from the registration list, the applicant shall include with the application an affidavit stating that the applicant is a federal judge or state judge or the spouse of a federal judge or state judge.

SECTION 2. Subsections (c) and (d), Section 13.004, Election Code, are amended to read as follows:

(c) The following information furnished on a registration application is confidential and does not constitute public information for purposes of Chapter 552, Government Code:

- (1) a social security number;
- (2) a Texas driver's license number;
- (3) a number of a personal identification card issued by the Department of Public Safety;
- (4) an indication that an applicant is interested in working as an election judge; or
- (5) the residence address of the applicant, if the applicant is a federal judge or state judge, as defined by Section 13.0021, or the spouse of a federal judge or state judge, and included an affidavit with the registration application under Section 13.0021 or the registrar has received an affidavit submitted under Section 15.0215.

(d) The voter registrar or other county official who has access to the information furnished on a registration application may not post the following information on a website:

- (1) a telephone number;
- (2) a social security number;
- (3) a driver's license number or a number of a personal identification card;
- (4) a date of birth; or
- (5) the residence address of a voter who is a federal judge or state judge, as defined by Section 13.0021, or the spouse of a federal judge or state judge, if the voter included an affidavit with the application under Section 13.0021 or the registrar has received an affidavit submitted under Section 15.0215.

SECTION 3. Subsection (b), Section 15.0215, Election Code, is amended to read as follows:

(b) A federal judge, ~~a~~ state judge, or the spouse of a federal judge or state judge who is registered to vote may at any time submit to the registrar of the county in which the judge resides an affidavit stating that the voter is a federal judge or state judge or the spouse of a federal judge or state judge.

SECTION 4. Subsection (d), Section 15.081, Election Code, is amended to read as follows:

(d) Notwithstanding Subsection (b), the suspense list may not contain the residence address of a voter who is a federal judge, ~~a~~ state judge, or the spouse of a federal judge or state judge, if the voter included an affidavit with the voter's registration application under Section 13.0021 or the registrar received an affidavit submitted under Section 15.0215 before the list was prepared. In this subsection, "federal judge" and "state judge" have the meanings assigned by Section 13.0021.

SECTION 5. Subsection (c), Section 18.005, Election Code, is amended to read as follows:

(c) The original or supplemental list of registered voters may not contain the residence address of a voter who is a federal judge, ~~a~~ state judge, or the spouse of a federal judge or state judge, if the voter included an affidavit with the voter's registration application under Section 13.0021 or the registrar received an affidavit submitted under Section 15.0215 before the list was prepared. In this subsection, "federal judge" and "state judge" have the meanings assigned by Section 13.0021.

SECTION 6. Subsection (b), Section 18.066, Election Code, is amended to read as follows:

(b) Information furnished under this section may not include:

- (1) a voter's social security number; or
- (2) the residence address of a voter who is a federal judge or state judge, as defined by Section 13.0021, or the spouse of a federal judge or state judge, if the voter included an affidavit with the voter's registration application under Section 13.0021 or the applicable registrar has received an affidavit submitted under Section 15.0215.

SECTION 7. Subsection (a), Section 25.025, Tax Code, as amended by Chapters 594 (H.B. 41), 621 (H.B. 455), and 851 (H.B. 1141), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and

amended to read as follows:

(a) This section applies only to:

- (1) a current or former peace officer as defined by Article 2.12, Code of Criminal Procedure;
- (2) a county jailer as defined by Section 1701.001, Occupations Code;
- (3) an employee of the Texas Department of Criminal Justice;
- (4) a commissioned security officer as defined by Section 1702.002, Occupations Code;
- (5) a victim of family violence as defined by Section 71.004, Family Code, if as a result of the act of family violence against the victim, the actor is convicted of a felony or a Class A misdemeanor; ~~and~~
- (6) a federal judge, a ~~or~~ state judge, or the spouse of a federal judge or state judge;
- ~~(7) [(6)] a current or former employee of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any criminal law or child protective services matters; and~~
- ~~(8) [(6)] an officer or employee of a community supervision and corrections department established under Chapter 76, Government Code, who performs a duty described by Section 76.004(b) of that code.~~

SECTION 8. This Act takes effect September 1, 2009.

S.B. 328

AN ACT

relating to operating a motor vehicle or a watercraft while intoxicated or under the influence of alcohol.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Nicole "Lilly" Lalime Act.

SECTION 2. The heading to Section 106.041, Alcoholic Beverage Code, is amended to read as follows:

Sec. 106.041. DRIVING OR OPERATING WATERCRAFT UNDER THE INFLUENCE OF ALCOHOL BY MINOR.

SECTION 3. Subsections (a) and (g), Section 106.041, Alcoholic Beverage Code, are amended to read as follows:

(a) A minor commits an offense if the minor operates a motor vehicle in a public place, or a watercraft, while having any detectable amount of alcohol in the minor's system.

(g) An offense under this section is not a lesser included offense under Section 49.04, 49.045, or 49.06, Penal Code.

SECTION 4. Subsection (j), Section 106.041, Alcoholic Beverage Code, is amended by adding Subdivision (4) to read as follows:

(4) "Watercraft" has the meaning assigned by Section 49.01, Penal Code.

SECTION 5. Article 18.01, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsection (j) to read as follows:

(c) A search warrant may not be issued under Article 18.02(10) [pursuant to Subdivision (10) of Article 18.02 of this code] unless the sworn affidavit required by Subsection (b) ~~[of this article]~~ sets forth sufficient facts to establish probable cause: (1) that a specific offense has been committed, (2) that the specifically described property or items that are to be searched for or seized constitute evidence of that offense or evidence that a particular person committed that offense, and (3) that the property or items constituting evidence to be searched for or seized are located at or on the particular person, place, or thing to be searched. Except as provided by Subsections (d), ~~and~~ (i), and (j) [of this article], only a judge of a municipal court of record or a county court who is an attorney licensed by the State of Texas, a statutory county court judge, a district court judge, a judge of the Court of Criminal Appeals, including the presiding judge, or a justice of the Supreme Court of Texas, including the chief justice, may issue warrants under Article 18.02(10) [pursuant to Subdivision (10), Article 18.02 of this code].

(j) Any magistrate who is an attorney licensed by this state may issue a search warrant under Article 18.02(10) to collect a blood specimen from a person who:

(1) is arrested for an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code; and

(2) refuses to submit to a breath or blood alcohol test.

SECTION 6. Subsections (h) and (n), Section 13, Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(h) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the Texas Commission on Alcohol and Drug Abuse, the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas Department of Criminal Justice designed to rehabilitate persons who have driven while intoxicated. The Texas Commission on Alcohol and Drug Abuse shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement or may grant an extension of time to successfully complete the program that expires not later than one year after the beginning date of the person's community supervision, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and the fact that the defendant resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause for waiver in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program or if the court waives the educational program requirement, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. If the court grants an extension of time in which the person may complete the program, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the department. The report must include the beginning date of the person's community supervision. Upon the person's successful completion of the educational program, the person's instructor shall give notice to the Department of Public Safety for inclusion in the person's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code. The Department of Public Safety may not reinstate a license suspended under this subsection unless the person whose license was suspended makes application to the department for reinstatement of the person's license and pays to the department a reinstatement fee of \$100 [~~\$50~~]. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends community supervision for the defendant and also recommends that the defendant's driver's license not be suspended.

(n) Notwithstanding any other provision of this section or other law, the judge who places on community supervision a defendant who was [~~is~~] younger than 21 years of age at the time of the offense and was convicted for an offense under Sections 49.04-49.08, Penal Code, shall:

(1) order that the defendant's driver's license be suspended for 90 days beginning on the date that the person is placed on community supervision; and

(2) require as a condition of community supervision that the defendant not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) of this section.

SECTION 7. Section 521.341, Transportation Code, is amended to read as follows:

Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE SUSPENSION. Except as provided by Sections 521.344(d)-(i), a license is automatically suspended on final conviction of the license holder of:

- (1) an offense under Section 19.05, Penal Code, committed as a result of the holder's criminally negligent operation of a motor vehicle;
- (2) an offense under Section 38.04, Penal Code, if the holder used a motor vehicle in the commission of the offense;
- (3) an offense under Section 49.04, 49.045, or 49.08, Penal Code;
- (4) an offense under Section 49.07, Penal Code, if the holder used a motor vehicle in the commission of the offense;
- (5) an offense punishable as a felony under the motor vehicle laws of this state;
- (6) an offense under Section 550.021;
- (7) an offense under Section 521.451 or 521.453; or
- (8) an offense under Section 19.04, Penal Code, if the holder used a motor vehicle in the commission of the offense.

SECTION 8. Subsections (a) and (b), Section 521.342, Transportation Code, are amended to read as follows:

(a) Except as provided by Section 521.344, the license of a person who was under 21 years of age at the time of the offense, other than an offense classified as a misdemeanor punishable by fine only, is automatically suspended on conviction of:

- (1) an offense under Section 49.04, 49.045, or 49.07, Penal Code, committed as a result of the introduction of alcohol into the body;
- (2) an offense under the Alcoholic Beverage Code, other than an offense to which Section 106.071 of that code applies, involving the manufacture, delivery, possession, transportation, or use of an alcoholic beverage;
- (3) a misdemeanor offense under Chapter 481, Health and Safety Code, for which Subchapter P does not require the automatic suspension of the license;
- (4) an offense under Chapter 483, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a dangerous drug; or
- (5) an offense under Chapter 485, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of an abusable volatile chemical.

(b) The department shall suspend for one year the license of a person who is under 21 years of age and is convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, regardless of whether the person is required to attend an educational program under Section 13(h), Article 42.12, Code of Criminal Procedure, that is designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person is placed under community supervision under that article and is required as a condition of the community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Section 13(i) of that article. If the person is required to attend such a program and does not complete the program before the end of the person's suspension, the department shall suspend the person's license or continue the suspension, as appropriate, until the department receives proof that the person has successfully completed the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

SECTION 9. Subsections (a), (c), and (i), Section 521.344, Transportation Code, are amended to read as follows:

(a) Except as provided by Sections 521.342(b) and 521.345, and by Subsections (d)-(i), if a person is convicted of an offense under Section 49.04, 49.045, or 49.07, Penal Code, the license suspension:

- (1) begins on a date set by the court that is not earlier than the date of the conviction or later than the 30th day after the date of the conviction, as determined by the court; and

(2) continues for a period set by the court according to the following schedule:

(A) not less than 90 days or more than one year, if the person is punished under Section 49.04, 49.045, or 49.07, Penal Code, except that if the person's license is suspended for a second or subsequent offense under Section 49.07 committed within five years of the date on which the most recent preceding offense was committed, the suspension continues for a period of one year;

(B) not less than 180 days or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code; or

(C) not less than one year or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code, and is subject to Section 49.09(h) of that code.

(c) The court shall credit toward the period of suspension a suspension imposed on the person for refusal to give a specimen under Chapter 724 if the refusal followed an arrest for the same offense for which the court is suspending the person's license under this chapter. The court may not extend the credit to a person:

(1) who has been previously convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

(2) whose period of suspension is governed by Section 521.342(b).

(i) On the date that a suspension order under Section 521.343(c) is to expire, the period of suspension or the corresponding period in which the department is prohibited from issuing a license is automatically increased to two years unless the department receives notice of successful completion of the educational program as required by Section 13, Article 42.12, Code of Criminal Procedure. At the time a person is convicted of an offense under Section 49.04 or 49.045, Penal Code, the court shall warn the person of the effect of this subsection. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner required by Section 13, Article 42.12, Code of Criminal Procedure. If the department receives proof of completion after a period has been extended under this subsection, the department shall immediately end the suspension or prohibition.

SECTION 10. Subdivision (3), Section 524.001, Transportation Code, is amended to read as follows:

(3) "Alcohol-related or drug-related enforcement contact" means a driver's license suspension, disqualification, or prohibition order under the laws of this state or another state resulting from:

(A) a conviction of an offense prohibiting the operation of a motor vehicle or watercraft while:

(i) intoxicated;

(ii) under the influence of alcohol; or

(iii) under the influence of a controlled substance;

(B) a refusal to submit to the taking of a breath or blood specimen following an arrest for an offense prohibiting the operation of a motor vehicle or an offense prohibiting the operation of a watercraft, if the watercraft was powered with an engine having a manufacturer's rating of 50 horsepower or more, while:

(i) intoxicated;

(ii) under the influence of alcohol; or

(iii) under the influence of a controlled substance; or

(C) an analysis of a breath or blood specimen showing an alcohol concentration of a level specified by Section 49.01, Penal Code, following an arrest for an offense prohibiting the operation of a motor vehicle or watercraft while intoxicated.

SECTION 11. Subsection (a), Section 524.011, Transportation Code, is amended to read as follows:

(a) An officer arresting a person shall comply with Subsection (b) if:

(1) the person is arrested for an offense under Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08 of that code involving the operation of a motor vehicle or watercraft, submits to the taking of a specimen of breath or blood and an analysis of the specimen shows the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code; or

(2) the person is a minor arrested for an offense under Section 106.041, Alcoholic Beverage Code, or

Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08, Penal Code, involving the operation of a motor vehicle or watercraft and:

(A) the minor is not requested to submit to the taking of a specimen; or

(B) the minor submits to the taking of a specimen and an analysis of the specimen shows that the minor had an alcohol concentration of greater than .00 but less than the level specified by Section 49.01(2)(B), Penal Code.

SECTION 12. Subsection (b), Section 524.012, Transportation Code, is amended to read as follows:

(b) The department shall suspend the person's driver's license if the department determines that:

(1) the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code, while operating a motor vehicle in a public place or while operating a watercraft; or

(2) the person was [is] a minor on the date that the breath or blood specimen was obtained and had any detectable amount of alcohol in the minor's system while operating a motor vehicle in a public place or while operating a watercraft.

SECTION 13. Subsection (b), Section 524.015, Transportation Code, is amended to read as follows:

(b) A suspension may not be imposed under this chapter on a person who is acquitted of a criminal charge under Section 49.04, 49.045, 49.06, 49.07, or 49.08, Penal Code, or Section 106.041, Alcoholic Beverage Code, arising from the occurrence that was the basis for the suspension. If a suspension was imposed before the acquittal, the department shall rescind the suspension and shall remove any reference to the suspension from the person's computerized driving record.

SECTION 14. Subsection (b), Section 524.022, Transportation Code, is amended to read as follows:

(b) A period of suspension under this chapter for a minor is:

(1) 60 days if the minor has not been previously convicted of an offense under Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08, Penal Code, involving the operation of a motor vehicle or a watercraft;

(2) 120 days if the minor has been previously convicted once of an offense listed by Subdivision (1); or

(3) 180 days if the minor has been previously convicted twice or more of an offense listed by Subdivision (1).

SECTION 15. Section 524.023, Transportation Code, is amended to read as follows:

Sec. 524.023. APPLICATION OF SUSPENSION UNDER OTHER LAWS. (a) If a person is convicted of an offense under Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.045, 49.06, 49.07, or 49.08, Penal Code, and if any conduct on which that conviction is based is a ground for a driver's license suspension under this chapter and Section 106.041, Alcoholic Beverage Code, Subchapter O, Chapter 521, or Subchapter H, Chapter 522, each of the suspensions shall be imposed.

(b) The court imposing a driver's license suspension under Section 106.041, Alcoholic Beverage Code, or Chapter 521 or 522 as required by Subsection (a) shall credit a period of suspension imposed under this chapter toward the period of suspension required under Section 106.041, Alcoholic Beverage Code, or Subchapter O, Chapter 521, or Subchapter H, Chapter 522, unless the person was convicted of an offense under Article 67011-1, Revised Statutes, as that law existed before September 1, 1994, Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994, Section 49.04, 49.045, 49.06, 49.07, or 49.08, Penal Code, or Section 106.041, Alcoholic Beverage Code, before the date of the conviction on which the suspension is based, in which event credit may not be given.

SECTION 16. Subsections (a) and (d), Section 524.035, Transportation Code, are amended to read as follows:

(a) The issues that must be proved at a hearing by a preponderance of the evidence are:

(1) whether:

(A) the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code, while operating a motor vehicle in a public place or while operating a watercraft; or

(B) the person was [is] a minor on the date that the breath or blood specimen was obtained and had any detectable amount of alcohol in the minor's system while operating a motor vehicle in a public place or

while operating a watercraft; and

(2) whether reasonable suspicion to stop or probable cause to arrest the person existed.

(d) An administrative law judge may not find in the affirmative on the issue in Subsection (a)(1) if:

(1) the person is an adult and the analysis of the person's breath or blood determined that the person had an alcohol concentration of a level below that specified by Section 49.01, Penal Code, at the time the specimen was taken; or

(2) the person was [is] a minor on the date that the breath or blood specimen was obtained and the administrative law judge does not find that the minor had any detectable amount of alcohol in the minor's system when the minor was arrested.

SECTION 17. Subsection (a), Section 524.042, Transportation Code, is amended to read as follows:

(a) A suspension of a driver's license under this chapter is stayed on the filing of an appeal petition only if:

(1) the person's driver's license has not been suspended as a result of an alcohol-related or drug-related enforcement contact during the five years preceding the date of the person's arrest; and

(2) the person has not been convicted during the 10 years preceding the date of the person's arrest of an offense under:

(A) Article 67011-1, Revised Statutes, as that law existed before September 1, 1994;

(B) Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994;

(C) Section 49.04, ~~49.045, or 49.06~~, Penal Code;

(D) Section 49.07 or 49.08, Penal Code, if the offense involved the operation of a motor vehicle or a watercraft; or

(E) Section 106.041, Alcoholic Beverage Code.

SECTION 18. Subsections (b) and (d), Section 724.012, Transportation Code, are amended to read as follows:

(b) A peace officer shall require the taking of a specimen of the person's breath or blood under any of the following circumstances if:

~~[(4)]~~ the officer arrests the person for an offense under Chapter 49, Penal Code, involving the operation of a motor vehicle or a watercraft and the person refuses the officer's request to submit to the taking of a specimen voluntarily;

~~(1)~~ ~~[(2)]~~ the person was the operator of a motor vehicle or a watercraft involved in an accident that the officer reasonably believes occurred as a result of the offense and;

~~[(3)]~~ at the time of the arrest, the officer reasonably believes that as a direct result of the accident:

(A) any individual has died or will die; ~~or~~

(B) an individual other than the person has suffered serious bodily injury; or

(C) an individual other than the person has suffered bodily injury and been transported to a hospital or other medical facility for medical treatment;

(2) the offense for which the officer arrests the person is an offense under Section 49.045, Penal Code; or

(3) at the time of the arrest, the officer possesses or receives reliable information from a credible source that the person:

(A) has been previously convicted of or placed on community supervision for an offense under Section 49.045, 49.07, or 49.08, Penal Code, or an offense under the laws of another state containing elements substantially similar to the elements of an offense under those sections; or

(B) on two or more occasions, has been previously convicted of or placed on community supervision for an offense under Section 49.04, 49.05, 49.06, or 49.065, Penal Code, or an offense under the laws of another state containing elements substantially similar to the elements of an offense under those sections

~~and~~

~~[(4) the person refuses the officer's request to submit to the taking of a specimen voluntarily].~~

(d) In this section, "bodily injury" and "serious bodily injury" have [has] the meanings [meaning] assigned by Section 1.07, Penal Code.

SECTION 19. Section 724.017, Transportation Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) If the blood specimen was taken according to recognized medical procedures, the [The] person who takes the blood specimen under this chapter, the facility that employs the person who takes the blood specimen, or the hospital where the blood specimen is taken[;] is immune from civil liability [not liable] for damages arising from the taking of the blood specimen at the request or order of the peace officer or pursuant to a search warrant [to take the blood specimen] as provided by this chapter and is not subject to discipline by any licensing or accrediting agency or body [if the blood specimen was taken according to recognized medical procedures]. This subsection does not relieve a person from liability for negligence in the taking of a blood specimen. The taking of a specimen from a person who objects to the taking of the specimen or who is resisting the taking of the specimen does not in itself constitute negligence and may not be considered evidence of negligence.

(d) A person whose blood specimen is taken under this chapter in a hospital is not considered to be present in the hospital for medical screening or treatment unless the appropriate hospital personnel determine that medical screening or treatment is required for proper medical care of the person.

SECTION 20. (a) The change in law to Article 18.01, Code of Criminal Procedure, applies only to a search warrant issued on or after the effective date of this Act. A search warrant issued before the effective date of this Act is governed by the law in effect on the date the warrant was issued, and the former law is continued in effect for that purpose.

(b) The changes in law to Chapters 521 and 524 and Section 724.012, Transportation Code, and Section 13, Article 42.12, Code of Criminal Procedure, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 21. This Act takes effect September 1, 2009.

S.B. 333

AN ACT

relating to the retention by a county or municipality of certain court costs for maintaining and supporting a certified breath alcohol testing program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (b), Article 102.016, Code of Criminal Procedure, is amended to read as follows:

(b) The custodian of a municipal or county treasury in a county that maintains a certified breath alcohol testing program but does not use the services of a certified technical supervisor employed by the department may, to defray the costs of maintaining and supporting a certified breath alcohol ~~breath~~ testing program, retain \$22.50 of each court cost collected under Section 133.102, Local Government Code, [Article 102.075] on conviction of an offense under Chapter 49, Penal Code, other than an offense that is a Class C misdemeanor.

SECTION 2. (a) The change in law made by this Act applies only to a court cost collected on or after the effective date of this Act. A court cost collected before the effective date of this Act is governed by the law in effect when the court cost was collected, and the law is continued in effect for that purpose.

(b) Notwithstanding Subsection (a) of this section, the custodian of a municipal or county treasury may retain any amount retained under Subsection (b), Article 102.016, Code of Criminal Procedure, before the effective date of this Act to maintain and support a certified breath alcohol testing program.

SECTION 3. This Act takes effect September 1, 2009.

AN ACT

relating to punishment for certain offenses committed in a disaster area or an evacuated area.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 12, Penal Code, is amended by adding Section 12.50 to read as follows:

Sec. 12.50. PENALTY IF OFFENSE COMMITTED IN DISASTER AREA OR EVACUATED AREA.

(a) Subject to Subsection (c), the punishment for an offense described by Subsection (b) is increased to the punishment prescribed for the next higher category of offense if it is shown on the trial of the offense that the offense was committed in an area that was, at the time of the offense:

(1) subject to a declaration of a state of disaster made by:

(A) the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);

(B) the governor under Section 418.014, Government Code; or

(C) the presiding officer of the governing body of a political subdivision under Section 418.108, Government Code; or

(2) subject to an emergency evacuation order.

(b) The increase in punishment authorized by this section applies only to an offense under:

(1) Section 22.01;

(2) Section 29.02;

(3) Section 30.02; and

(4) Section 31.03.

(c) If an offense listed under Subsection (b)(1) or (4) is punishable as a Class A misdemeanor, the minimum term of confinement for the offense is increased to 180 days. If an offense listed under Subsection (b)(3) or (4) is punishable as a felony of the first degree, the punishment for that offense may not be increased under this section.

(d) It is a defense to a charge under Subsection (b)(4) that the conduct in question meets the elements of necessity outlined in Section 9.22.

(e) For purposes of this section, "emergency evacuation order" means an official statement issued by the governing body of this state or a political subdivision of this state to recommend or require the evacuation of all or part of the population of an area stricken or threatened with a disaster.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

AN ACT

relating to the release of certain motor vehicle accident report information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 550.065, Transportation Code, is amended by amending Subsections (a), (b), and (d) and adding Subsections (e), (f), and (g) to read as follows:

(a) This section applies only to information that is held by the department or another governmental entity and relates to a motor vehicle accident reported under this chapter or Section 601.004, including accident report information compiled under Section 201.805, as added by Chapter 1407 (S.B. 766), Acts of the 80th Legislature, Regular Session, 2007.

(b) Except as provided by Subsection (c) or (e), the information is privileged and for the confidential use

of:

- (1) the department; and
- (2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.

(d) The fee for a copy of the accident report [~~or accident information~~] is \$6 [~~or the actual cost of the preparation of the copy, whichever is less~~]. The copy may be certified by the department or the governmental entity for an additional fee of \$2. The department or the governmental entity may issue a certification that no report or information is on file for a fee of \$6.

(e) In addition to the information required to be released under Subsection (c), the department may release:

(1) information relating to motor vehicle accidents that the department compiles under Section 201.805, as added by Chapter 1407 (S.B. 766), Acts of the 80th Legislature, Regular Session, 2007; or

(2) a vehicle identification number and specific accident information relating to that vehicle.

(f) The department:

(1) may not release under Subsection (e) information that:

(A) is personal information, as defined by Section 730.003; or

(B) would allow a person to satisfy the requirements of Subsection (c)(4) for the release of information for a specific motor vehicle accident; and

(2) shall withhold or redact the following items of information:

(A) the first, middle, and last name of any person listed in an accident report, including a vehicle driver, occupant, owner, or lessee, a bicyclist, a pedestrian, or a property owner;

(B) the number of any driver's license, commercial driver's license, or personal identification certificate issued to any person listed in an accident report;

(C) the date of birth, other than the year, of any person listed in an accident report;

(D) the address, other than zip code, and telephone number of any person listed in an accident report;

(E) the license plate number of any vehicle listed in an accident report;

(F) the date of any accident, other than the year;

(G) the name of any insurance company listed as a provider of financial responsibility for a vehicle listed in an accident report;

(H) the number of any insurance policy issued by an insurance company listed as a provider of financial responsibility;

(I) the date the peace officer who investigated the accident was notified of the accident;

(J) the date the investigating peace officer arrived at the accident site;

(K) the date the investigating officer's report was prepared;

(L) the badge number or identification number of the investigating officer;

(M) the date on which any person who died as a result of the accident died;

(N) the date of any commercial motor vehicle report; and

(O) the place where any person injured or killed in an accident was taken and the person or entity that provided the transportation.

(g) The amount that may be charged for information provided under Subsection (e) shall be calculated in the manner specified by Chapter 552, Government Code, for public information provided by a governmental body under that chapter.

SECTION 2. 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.

S.B. 407

AN ACT

relating to the appointment of magistrates to hear truancy cases in certain counties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 54.1172, Government Code, is amended to read as follows:

(a) The county judge may appoint one or more part-time or full-time magistrates to hear a matter alleging a violation of Section 25.093 or 25.094, Education Code.

SECTION 2. 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.

S.B. 408 (Excerpt)

AN ACT

relating to jurisdiction, venue, and appeals in certain matters, including the jurisdiction of and appeals from certain courts and administrative decisions and the appointment of counsel in certain appeals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 11. (a) Subsection (a), Section 821.025, Health and Safety Code, is amended to read as follows:

(a) An owner divested of ownership of an animal under Section 821.023 [~~ordered sold at public auction as provided in this subchapter~~] may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located. As a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, the owner must file a notice of appeal and an appeal bond in an amount determined by the [~~justice or municipal~~] court from which the appeal is taken to be adequate to cover the estimated expenses incurred in housing and caring for the impounded animal during the appeal process. Not later than the fifth calendar day after the date the notice of appeal and appeal bond is filed, the court from which the appeal is taken shall deliver a copy of the court's transcript to the county court or county court at law to which the appeal is made. Not later than the 10th calendar day after the date the county court or county court at law, as appropriate, receives the transcript, the court shall dispose of the appeal. The decision of the county court or county court at law under this section is final and may not be further appealed. [~~An owner may not appeal an order:~~

[~~(1) to give the animal to a nonprofit animal shelter, pound, or society for the protection of animals; or~~
[~~(2) to humanely destroy the animal.~~]

(b) Subsection (a), Section 821.025, Health and Safety Code, as amended by this section, applies only to an appeal of a court order issued on or after the effective date of this Act. An appeal of a court order issued before the effective date of this Act is covered by the law in effect when the appeal was issued, and the former law is continued in effect for that purpose.

SECTION 14. Except as otherwise provided by this Act, the changes in law made by this Act apply only to an action filed on or after the effective date of this Act. An action filed before the effective date of this Act is governed by the law applicable to the action immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 15. Except as otherwise provided by this Act, this Act takes effect September 1, 2009.

S.B. 410

AN ACT

relating to the statute of limitations for a misdemeanor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 12.02, Code of Criminal Procedure, is amended to read as follows:

Art. 12.02. MISDEMEANORS. (a) An indictment or information for any Class A or Class B misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward.

(b) A complaint or information for any Class C misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward.

SECTION 2. The change in law made by Article 12.02, Code of Criminal Procedure, as amended by this Act, does not apply to an offense if the prosecution of that offense became barred by limitation before the effective date of this Act. The prosecution of that offense remains barred as if this Act had not taken effect.

SECTION 3. This Act takes effect September 1, 2009.

S.B. 413

AN ACT

relating to the prosecution of a Class C misdemeanor offense for which the defendant does not appear.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (d), Article 27.14, Code of Criminal Procedure, is amended to read as follows:

(d) If written notice of an offense for which maximum possible punishment is by fine only or of a violation relating to the manner, time, and place of parking has been prepared, delivered, and filed with the court and a legible duplicate copy has been given to the defendant, the written notice serves as a complaint to which the defendant may plead "guilty," "not guilty," or "nolo contendere." If the defendant pleads "not guilty" to the offense or fails to appear based on the written notice, a complaint shall be filed that conforms to the requirements of Chapter 45 of this code, and that complaint serves as an original complaint. A defendant may waive the filing of a sworn complaint and elect that the prosecution proceed on the written notice of the charged offense if the defendant agrees in writing with the prosecution, signs the agreement, and files it with the court.

SECTION 2. The change in law made by this Act applies only to the prosecution of an offense committed on or after the effective date of this Act. The prosecution of an offense committed before the effective date of this Act is covered by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

S.B. 414

AN ACT

relating to conducting by electronic means a hearing to determine a defendant's ability to discharge certain fines and court costs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 43.03, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f) For purposes of a hearing described by Subsection (d), a defendant may be brought before the court in person or by means of an electronic broadcast system through which an image of the defendant is presented to the court. For purposes of this subsection, "electronic broadcast system" means a two-way electronic communication of image and sound between the defendant and the court and includes secure Internet videoconferencing.

SECTION 2. Article 45.046, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) For purposes of a hearing described by Subsection (a), a defendant may be brought before the court in person or by means of an electronic broadcast system through which an image of the defendant is presented to the court. For purposes of this subsection, "electronic broadcast system" means a two-way electronic communication of image and sound between the defendant and the court and includes secure Internet videoconferencing.

SECTION 3. The change in law made by this Act applies only to a hearing held under Article 43.03 or 45.046, Code of Criminal Procedure, on or after the effective date of this Act. A hearing held under Article 43.03 or 45.046, Code of Criminal Procedure, before the effective date of this Act is governed by the law in effect at the time of the hearing, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2009.

S.B. 415

AN ACT

relating to the court in which certain persons charged with misdemeanors punishable by fine only may be arraigned.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (b), Article 15.17, Code of Criminal Procedure, is amended to read as follows:

(b) After an accused charged with a misdemeanor punishable by fine only is taken before a magistrate under Subsection (a) [~~of this article~~] and the magistrate has identified the accused with certainty, the magistrate may release the accused without bond and order the accused to appear at a later date for arraignment in the applicable justice [county] court or municipal [statutory county] court. The order must state in writing the time, date, and place of the arraignment, and the magistrate must sign the order. The accused shall receive a copy of the order on release. If an accused fails to appear as required by the order, the judge of the court in which the accused is required to appear shall issue a warrant for the arrest of the accused. If the accused is arrested and brought before the judge, the judge may admit the accused to bail, and in admitting the accused to bail, the judge should set as the amount of bail an amount double that generally set for the offense for which the accused was arrested. This subsection does not apply to an accused who has previously been convicted of a felony or a misdemeanor other than a misdemeanor punishable by fine only.

SECTION 2. This Act takes effect September 1, 2009.

S.B. 420

AN ACT

relating to the performance evaluation criteria for judges employed by a municipality.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 720.002, Transportation Code, is repealed.

SECTION 2. 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.

S.B. 446

AN ACT

relating to the use of certain court costs in a criminal case for municipal programs enhancing public safety and security.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (g), Article 102.014, Code of Criminal Procedure, is amended to read as follows:

(g) In a municipality with a population less than 850,000 according to the most recent federal decennial census, the money collected under this article in a municipal court case must be used for a school crossing guard program if the municipality operates one. If the municipality does not operate a school crossing guard program or if the money received from court costs from municipal court cases exceeds the amount necessary to fund the school crossing guard program, the municipality may:

(1) [~~either~~] deposit the additional money in an interest-bearing account;

(2) [~~or~~] expend the additional money [~~it~~] for programs designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention; or

(3) expend the additional money for programs designed to enhance public safety and security.

SECTION 2. Subsection (g), Section 502.173, Transportation Code, is amended to read as follows:

(g) A municipality with a population greater than 850,000 shall deposit revenue from a fee imposed under this subsection to the credit of the child safety trust fund created under Section 106.001, Local

Government Code. A municipality with a population less than 850,000 shall use revenue from a fee imposed under this section in accordance with Article 102.014(g) [~~Subsection (f), Article 102.014~~], Code of Criminal Procedure.

SECTION 3. 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.

S.B. 449

AN ACT

relating to the penalty group classification of certain controlled substances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 481.102, Health and Safety Code, is amended to read as follows:

Sec. 481.102. PENALTY GROUP 1. Penalty Group 1 consists of:

(1) the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Alfentanil;
Allylprodine;
Alphacetylmethadol;
Benzethidine;
Betaprodine;
Clonitazene;
Diampromide;
Diethylthiambutene;
Difenoxin not listed in Penalty Group 3 or 4;
Dimenoxadol;
Dimethylthiambutene;
Dioxaphetyl butyrate;
Dipipanone;
Ethylmethylthiambutene;
Etonitazene;
Etoxidine;
Furethidine;
Hydroxypethidine;
Ketobemidone;
Levophenacetylmorphan;
Meprodine;
Methadol;
Moramide;
Morpheridine;
Noracymethadol;
Norlevorphanol;
Normethadone;
Norpipanone;
Phenadoxone;
Phenampromide;
Phenomorphane;
Phenoperidine;
Piritramide;

Proheptazine;
Properidine;
Propiram;
Sufentanil;
Tilidine; and
Trimeperidine;

(2) the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine;
Acetyldihydrocodeine;
Benzylmorphine;
Codeine methylbromide;
Codeine-N-Oxide;
Cyprenorphine;
Desomorphine;
Dihydromorphine;
Drotebanol;
Etorphine, except hydrochloride salt;
Heroin;
Hydromorphinol;
Methyldesorphine;
Methyldihydromorphine;
Monoacetylmorphine;
Morphine methylbromide;
Morphine methylsulfonate;
Morphine-N-Oxide;
Myrophine;
Nicocodeine;
Nicomorphine;
Normorphine;
Pholcodine; and
Thebacon;

(3) the following substances, however produced, except those narcotic drugs listed in another group:

(A) Opium and opiate not listed in Penalty Group 3 or 4, and a salt, compound, derivative, or preparation of opium or opiate, other than thebaine derived butorphanol, nalmeferene and its salts, naloxone and its salts, and naltrexone and its salts, but including:

Codeine not listed in Penalty Group 3 or 4;
Dihydroetorphine;
Ethylmorphine not listed in Penalty Group 3 or 4;
Granulated opium;
Hydrocodone not listed in Penalty Group 3;
Hydromorphone;
Metopon;
Morphine not listed in Penalty Group 3;
Opium extracts;
Opium fluid extracts;
Oripavine;
Oxycodone;

Oxymorphone;
 Powdered opium;
 Raw opium;
 Thebaine; and
 Tincture of opium;
 (B) a salt, compound, isomer, derivative, or preparation of a substance that is chemically equivalent or identical to a substance described by Paragraph (A), other than the isoquinoline alkaloids of opium;
 (C) Opium poppy and poppy straw;
 (D) Cocaine, including:
 (i) its salts, its optical, position, and geometric isomers, and the salts of those isomers;
 (ii) coca leaves and a salt, compound, derivative, or preparation of coca leaves;
 (iii) a salt, compound, derivative, or preparation of a salt, compound, or derivative that is chemically equivalent or identical to a substance described by Subparagraph (i) or (ii), other than decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine; and
 (E) concentrate of poppy straw, meaning the crude extract of poppy straw in liquid, solid, or powder form that contains the phenanthrine alkaloids of the opium poppy;
 (4) the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, if the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:
 Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
 Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
 Alphaprodine;
 Anileridine;
 Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);
 Beta-hydroxy-3-methylfentanyl;
 Bezitramide;
 Carfentanil;
 Dihydrocodeine not listed in Penalty Group 3 or 4;
 Diphenoxylate not listed in Penalty Group 3 or 4;
 Fentanyl or alpha-methylfentanyl, or any other derivative of Fentanyl;
 Isomethadone;
 Levomethorphan;
 Levorphanol;
 Metazocine;
 Methadone;
 Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;
 3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
 3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
 Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenyl-propane-carboxylic acid;
 Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-phenylethyl)-4-piperidinylpropanamide);
 PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
 Pethidine (Meperidine);
 Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
 Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
 Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
 Phenazocine;
 Piminodine;
 Racemethorphan;
 Racemorphan;
 Remifentanil; and

- Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide);
- (5) Flunitrazepam (trade or other name: Rohypnol);
 - (6) Methamphetamine, including its salts, optical isomers, and salts of optical isomers;
 - (7) Phenylacetone and methylamine, if possessed together with intent to manufacture methamphetamine;
 - (8) Phencyclidine, including its salts;
 - (9) Gamma hydroxybutyric acid (some trade or other names: gamma hydroxybutyrate, GHB), including its salts; and
 - (10) Ketamine.

SECTION 2. Subsection (a), Section 481.103, Health and Safety Code, is amended to read as follows:

(a) Penalty Group 2 consists of:

(1) any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

alpha-ethyltryptamine;

alpha-methyltryptamine;

4-bromo-2, 5-dimethoxyamphetamine (some trade or other names: 4-bromo-2, 5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2, 5-DMA);

4-bromo-2, 5-dimethoxyphenethylamine;

Bufotenine (some trade and other names: 3-(beta- Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)- 5- indolol; N, N-dimethylserotonin; 5-hydroxy-N, N- dimethyltryptamine; mappine);

Diethyltryptamine (some trade and other names: N, N-Diethyltryptamine, DET);

2, 5-dimethoxyamphetamine (some trade or other names: 2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);

2, 5-dimethoxy-4-ethylamphetamine (trade or other name: DOET);

2, 5-dimethoxy-4-(n)-propylthiophenethylamine (trade or other name: 2C-T-7);

Dimethyltryptamine (trade or other name: DMT);

Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product (some trade or other names for Dronabinol: (a6aR-trans)-6a,7,8,10a-tetrahydro- 6,6, 9- trimethyl-3-pentyl-6H- dibenzo [b,d]pyran-1-ol or (-)-delta-9- (trans)-tetrahydrocannabinol);

Ethylamine Analog of Phencyclidine (some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Ibogaine (some trade or other names: 7-Ethyl-6, 6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H- pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);

Mescaline;

5-methoxy-N, N-diisopropyltryptamine;

5-methoxy-3, 4-methylenedioxy amphetamine;

4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);

1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP, PPMP);

4-methyl-2, 5-dimethoxyamphetamine (some trade and other names: 4-methyl-2, 5-dimethoxy-alpha-methylphenethylamine; "DOM"; "STP");

3,4-methylenedioxy methamphetamine (MDMA, MDM);

3,4-methylenedioxy amphetamine;

3,4-methylenedioxy N-ethylamphetamine (Also known as N-ethyl MDA);

Nabilone (Another name for nabilone: (+)-trans- 3-(1,1-dimethylheptyl)- 6,6a, 7,8,10,10a-hexahydro-1-hydroxy- 6, 6-dimethyl-9H-dibenzo[b,d] pyran-9-one;

N-benzylpiperazine (some trade or other names: BZP; 1-benzylpiperazine);

N-ethyl-3-piperidyl benzilate;
 N-hydroxy-3,4-methylenedioxyamphetamine (Also known as N-hydroxy MDA);
 4-methylaminorex;
 N-methyl-3-piperidyl benzilate;
 Parahexyl (some trade or other names: 3-Hexyl-1- hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d] pyran; Synhexyl);
 1-Phenylcyclohexylamine;
 1-Piperidinocyclohexanecarbonitrile (PCC);
 Psilocin;
 Psilocybin;
 Pyrrolidine Analog of Phencyclidine (some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);
 Tetrahydrocannabinols, other than marijuana, and synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as:
 delta-1 cis or trans tetrahydrocannabinol, and their optical isomers;
 delta-6 cis or trans tetrahydrocannabinol, and their optical isomers;
 delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
 compounds of these structures, regardless of numerical designation of atomic positions, since nomenclature of these substances is not internationally standardized;
 Thiophene Analog of Phencyclidine (some trade or other names: 1-[1-(2-thienyl) cyclohexyl] piperidine;
 2-Thienyl Analog of Phencyclidine; TPCP, TCP);
 1-pyrrolidine (some trade or other name: TCPy);
 1-(3-trifluoromethylphenyl)piperazine (trade or other name: TFMPP); and
 3,4,5-trimethoxy amphetamine;
 (2) Phenylacetone (some trade or other names: Phenyl-2-propanone; P2P, Benzylmethyl ketone, methyl benzyl ketone); and
 (3) unless specifically excepted or unless listed in another Penalty Group, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant or stimulant effect on the central nervous system:
 Aminorex (some trade or other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5-phenyl-2-oxazolamine);
 Amphetamine, its salts, optical isomers, and salts of optical isomers;
 Cathinone (some trade or other names: 2-amino-1- phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone);
 Etorphine Hydrochloride;
 Fenethylamine and its salts;
Lisdexamfetamine, including its salts, isomers, and salts of isomers;
 Mecloqualone and its salts;
 Methaqualone and its salts;
 Methcathinone (some trade or other names: 2- methylamino-propiofenone; alpha-(methylamino)propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone, N- methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR 1431);
 N-Ethylamphetamine, its salts, optical isomers, and salts of optical isomers; and
 N,N-dimethylamphetamine (some trade or other names: N,N,alpha-trimethylbenzeneethaneamine; N,N,alpha-trimethylphenethylamine), its salts, optical isomers, and salts of optical isomers.
 SECTION 3. Subsection (a), Section 481.104, Health and Safety Code, is amended to read as follows:
 (a) Penalty Group 3 consists of:

(1) a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

Methylphenidate and its salts; and

Phenmetrazine and its salts;

(2) a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

a substance that contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid not otherwise described by this subsection;

a compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of these, and one or more active medicinal ingredients that are not listed in any penalty group;

a suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs, and approved by the United States Food and Drug Administration for marketing only as a suppository;

Alprazolam;

Amobarbital;

Bromazepam;

Camazepam;

Chlordiazepoxide;

Chlorhexadol;

Clobazam;

Clonazepam;

Clorazepate;

Clotiazepam;

Cloxazolam;

Delorazepam;

Diazepam;

Estazolam;

Ethyl loflazepate;

Fludiazepam;

Flurazepam;

Glutethimide;

Halazepam;

Haloxazolam;

Ketazolam;

Loprazolam;

Lorazepam;

Lormetazepam;

Lysergic acid, including its salts, isomers, and salts of isomers;

Lysergic acid amide, including its salts, isomers, and salts of isomers;

Mebutamate;

Medazepam;

Methypylon;

Midazolam;

Nimetazepam;

Nitrazepam;

Nordiazepam;

Oxazepam;

Oxazolam;

Pentazocine, its salts, derivatives, or compounds or mixtures thereof;

Pentobarbital;

Pinazepam;

Prazepam;

Quazepam;

Secobarbital;

Sulfondiethylmethane;

Sulfonethylmethane;

Sulfonmethane;

Temazepam;

Tetrazepam;

Tiletamine and zolazepam in combination, and its salts. (some trade or other names for a tiletamine-zolazepam combination product: Telazol, for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, and for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e](1,4)-diazepin-7(1H)-one, flupyrazapon);

Triazolam;

Zaleplon; ~~and~~

Zolpidem; and

Zopiclone;

(3) Nalorphine;

(4) a material, compound, mixture, or preparation containing limited quantities of the following narcotic drugs, or any of their salts:

not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

not more than 300 milligrams of dihydrocodeinone (hydrocodone), or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) a material, compound, mixture, or preparation that contains any quantity of the following substances:

Barbital;

Chloral betaine;

Chloral hydrate;

Ethchlorvynol;

Ethinamate;
Meproamate;
Methohexital;
Methylphenobarbital (Mephobarbital);
Paraldehyde;
Petrichloral; and
Phenobarbital;

(6) Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant classified botanically as Lophophora, whether growing or not, the seeds of the plant, an extract from a part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts;

(7) unless listed in another penalty group, a material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including the substance's salts, optical, position, or geometric isomers, and salts of the substance's isomers, if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

Benzphetamine;
Cathine [(+)-norpseudoephedrine];
Chlorphentermine;
Clortermine;
Diethylpropion;
Fencamfamin;
Fenfluramine;
Fenproporex;
Mazindol;
Mefenorex;
Modafinil;
Pemoline (including organometallic complexes and their chelates);
Phendimetrazine;
Phentermine;
Pipradrol;
Sibutramine; and
SPA [(-)-1-dimethylamino-1,2-diphenylethane];

(8) unless specifically excepted or unless listed in another penalty group, a material, compound, mixture, or preparation that contains any quantity of the following substance, including its salts:

Dextropropoxyphene (Alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane); and

(9) an anabolic steroid, including any drug or hormonal substance, or any substance that is chemically or pharmacologically related to testosterone, other than an estrogen, progestin, dehydroepiandrosterone, or corticosteroid, and promotes muscle growth, including the following drugs and substances and any salt, ester, or ether of the following drugs and substances:

Androstanediol;
Androstanedione;
Androstenediol;
Androstenedione;
Bolasterone;
Boldenone;
Calusterone;
[Chlorotestosterone (4-chlorotestosterone)];
Clostebol;

Dehydrochlormethyltestosterone;
Delta-1-dihydrotestosterone;
Dihydrotestosterone (4-dihydrotestosterone);
Drostanolone;
Ethylestrenol;
Fluoxymesterone;
Formebolone;
Furazabol;
13beta-ethyl-17beta-hydroxygon-4-en-3-one;
4-hydroxytestosterone;
4-hydroxy-19-nortestosterone;
Mestanolone;
Mesterolone;
Methandienone;
[Methandranone];
Methandriol;
[Methandrostenolone];
Methenolone;
17alpha-methyl-3beta, 17 beta-dihydroxy-5alpha- androstane;
17alpha-methyl-3alpha, 17 beta-dihydroxy-5alpha- androstane;
17alpha-methyl-3beta, 17beta-dihydroxyandrost-4- ene;
17alpha-methyl-4-hydroxynandrolone;
Methyldienolone;
Methyltestosterone;
Methyltrienolone;
17alpha-methyl-delta-1-dihydrotestosterone;
Mibolerone;
Nandrolone;
Norandrostenediol;
Norandrostenedione;
Norbolethone;
Norclostebol;
Norethandrolone;
Normethandrolone;
Oxandrolone;
Oxymesterone;
Oxymetholone;
[Stanolone];
Stanozolol;
Stenbolone;
Testolactone;
Testosterone;
Tetrahydrogestrinone; and
Trenbolone.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 5. This Act takes effect September 1, 2009.

S.B. 554

AN ACT

relating to conduct constituting the offense of dog fighting and to the criminal and civil consequences of committing that offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (a), (b), and (e), Section 42.10, Penal Code, are amended to read as follows:

(a) A person commits an offense if the person [~~he~~] intentionally or knowingly:

- (1) causes a dog to fight with another dog;
- (2) participates in the earnings of or operates a facility used for dog fighting;
- (3) uses or permits another to use any real estate, building, room, tent, arena, or other property for dog fighting;
- (4) owns or possesses dog-fighting equipment with the intent that the equipment be used to train a dog for dog fighting or in furtherance of dog fighting;
- (5) owns or trains a dog with the intent that the dog be used in an exhibition of dog fighting; or
- (6) [~~(5)~~] attends as a spectator an exhibition of dog fighting.

(b) In this section:

- (1) "Dog[~~, "dog~~] fighting" means any situation in which one dog attacks or fights with another dog.
- (2) "Dog-fighting equipment" has the meaning assigned by Article 18.18(g), Code of Criminal Procedure.

(e) An offense under Subsection (a)(4), [~~(5)~~], or (6) is a Class A misdemeanor. An offense under Subsection (a)(1), (2), or (3) is a state jail felony.

SECTION 2. Subsection (a), Section 71.02, Penal Code, is amended to read as follows:

(a) A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, he commits or conspires to commit one or more of the following:

- (1) murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;
- (2) any gambling offense punishable as a Class A misdemeanor;
- (3) promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;
- (4) unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;
- (5) unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;
- (6) any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;
- (7) any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;
- (8) any felony offense under Chapter 32;
- (9) any offense under Chapter 36;
- (10) any offense under Chapter 34 or 35;
- (11) any offense under Section 37.11(a);
- (12) any offense under Chapter 20A; [~~(13)~~]
- (13) any offense under Section 37.10; or
- (14) any offense under Section 42.10.

SECTION 3. Subdivision (2), Article 59.01, Code of Criminal Procedure, as amended by Chapters 127

(S.B. 1694), 822 (H.B. 73), and 885 (H.B. 2278), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(2) "Contraband" means property of any nature, including real, personal, tangible, or intangible, that is:

(A) used in the commission of:

(i) any first or second degree felony under the Penal Code;

(ii) any felony under Section 15.031(b), 20.05, 21.11, 38.04, Subchapter B of Chapter 43, or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal Code;

(iii) any felony under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

(iv) any offense under Chapter 49, Penal Code, that is punishable as a felony of the third degree or state jail felony, if the defendant has been previously convicted three times of an offense under that chapter;

(B) used or intended to be used in the commission of:

(i) any felony under Chapter 481, Health and Safety Code (Texas Controlled Substances Act);

(ii) any felony under Chapter 483, Health and Safety Code;

(iii) a felony under Chapter 153, Finance Code;

(iv) any felony under Chapter 34, Penal Code;

(v) a Class A misdemeanor under Subchapter B, Chapter 365, Health and Safety Code, if the defendant has been previously convicted twice of an offense under that subchapter;

(vi) any felony under Chapter 152, Finance Code;

(vii) any felony under Chapter 32, Human Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that involves the state Medicaid program;

(viii) a Class B misdemeanor under Chapter 522, Business & Commerce Code; ~~[or]~~

(ix) a Class A misdemeanor under Section 35.153, Business & Commerce Code; or

(x) any offense under Section 42.10, Penal Code;

(C) the proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x) of this subdivision, or a crime of violence;

(D) acquired with proceeds gained from the commission of a felony listed in Paragraph (A) or (B) of this subdivision, a misdemeanor listed in Paragraph (B)(viii) or (x) of this subdivision, or a crime of violence; or

(E) used to facilitate or intended to be used to facilitate the commission of a felony under Section 15.031 or 43.25, Penal Code.

SECTION 4. Chapter 59, Code of Criminal Procedure, is amended by adding Article 59.011 to read as follows:

Art. 59.011. If property described by Article 59.01(2)(B)(x) is subject to forfeiture under this chapter and Article 18.18, the attorney representing the state may proceed under either provision.

SECTION 5. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act or to the forfeiture of property used in the commission of that offense. An offense committed before the effective date of this Act, or the forfeiture of property used in the commission of that offense, is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. This Act takes effect September 1, 2009.

S.B. 589

AN ACT

relating to certain requirements for suncreening devices that are placed on or attached to a motor vehicle; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 547.609, Transportation Code, is amended to read as follows:

Sec. 547.609. REQUIRED LABEL FOR SUNSCREENING DEVICES ~~[PERMITTED]~~. A

sunscreening device must have a label that:

- (1) is legible;
- (2) contains information required by the department on light transmission and luminous reflectance of the device; ~~and~~
- (3) if the device is placed on or attached to a windshield or a side or rear window, states that the light transmission of the device is consistent with Section 547.613(b)(1) or (2), as applicable; and
- (4) is permanently installed between the material and the surface to which the material is applied.

SECTION 2. Section 547.613, Transportation Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (e) to read as follows:

(a-1) A person in the business of placing or attaching transparent material that alters the color or reduces the light transmission to the windshield or side or rear window of a motor vehicle commits a misdemeanor punishable by a fine not to exceed \$1,000 if the person:

- (1) places or attaches such transparent material to the windshield or side or rear window of a motor vehicle; and
- (2) does not install a label that complies with Section 547.609 between the transparent material and the windshield or side or rear window of the vehicle, as applicable.

(b) Subsection (a) [This section] does not apply to:

- (1) a windshield that has a sunscreening device that:
 - (A) in combination with the windshield has a light transmission of 25 percent or more;
 - (B) in combination with the windshield has a luminous reflectance of 25 percent or less;
 - (C) is not red, blue, or amber; and
 - (D) does not extend downward beyond the AS-1 line or more than five inches from the top of the windshield, whichever is closer to the top of the windshield;
- (2) a wing vent or a window that is to the left or right of the vehicle operator [other than a windshield] if the vent or window has a sunscreening device that in combination with the vent or window has:
 - (A) a light transmission of 25 percent or more; and
 - (B) a luminous reflectance of 25 percent or less;
- (2-a) a side window that is to the rear of the vehicle operator;
- (3) a rear window, if the motor vehicle is equipped with an outside mirror on each side of the vehicle that reflects to the vehicle operator a view of the highway for a distance of at least 200 feet from the rear;
- (4) a rearview mirror;
- (5) an adjustable nontransparent sun visor that is mounted in front of a side window and not attached to the glass;
- (6) a direction, destination, or termination sign on a passenger common carrier motor vehicle, if the sign does not interfere with the vehicle operator's view of approaching traffic;
- (7) a rear window wiper motor;
- (8) a rear trunk lid handle or hinge;
- (9) a luggage rack attached to the rear trunk;
- (10) a side window that is to the rear of the vehicle operator on a multipurpose vehicle;
- (11) a window that has a United States, state, or local certificate placed on or attached to it as required by law;
- (12) a motor vehicle that is not registered in this state;
- (13) a window that complies with federal standards for window materials, including a factory-tinted or a pretinted window installed by the vehicle manufacturer, or a replacement window meeting the specifications required by the vehicle manufacturer;
- (14) a vehicle that is:
 - (A) used regularly to transport passengers for a fee; and
 - (B) authorized to operate under license or permit by a local authority;
- (15) a vehicle that is maintained by a law enforcement agency and used for law enforcement purposes; or

(16) a commercial motor vehicle as defined by Section 644.001.

(e) It is a defense to prosecution under Subsection (a) [~~this section~~] that the defendant or a passenger in the vehicle at the time of the violation is required for a medical reason to be shielded from direct rays of the sun.

SECTION 3. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

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

SECTION 4. This Act takes effect September 1, 2009.

S.B. 633

AN ACT

relating to the number of counties or municipalities necessary to establish a regional drug court program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 469.0025, Health and Safety Code, is amended to read as follows:

(a) The commissioners courts of two [~~three~~] or more counties, or the governing bodies of two [~~three~~] or more municipalities, may elect to establish a regional drug court program under this chapter for the participating counties or municipalities.

SECTION 2. 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.

S.B. 743

AN ACT

relating to the time allowed for execution of a search warrant issued to obtain a specimen for DNA analysis.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 18.07, Code of Criminal Procedure, is amended to read as follows:

Art. 18.07. DAYS ALLOWED FOR WARRANT TO RUN. (a) The time allowed for the execution of a search warrant [~~shall be three whole days~~], exclusive of the day of its issuance and of the day of its execution, is:

(1) 15 whole days if the warrant is issued solely to search for and seize specimens from a specific person for DNA analysis and comparison, including blood and saliva samples; or

(2) three whole days if the warrant is issued for a purpose other than that described by Subdivision (1).

(b) The magistrate issuing a search warrant under [~~the provisions of~~] this chapter shall endorse on the [~~such~~] search warrant the date and hour of its [~~the~~] issuance [~~of the same~~].

SECTION 2. The change in law made by this Act applies only to a search warrant that is issued on or after the effective date of this Act. A search warrant that was issued before the effective date of this Act is covered by the law in effect when the warrant was issued, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

S.B. 820

AN ACT

relating to the adoption and amendment of model building codes by certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 214, Local Government Code, is amended by adding Sections 214.217 and 214.218 to read as follows:

Sec. 214.217. NOTICE REGARDING MODEL CODE ADOPTION OR AMENDMENT IN CERTAIN MUNICIPALITIES. (a) In this section, "national model code" means a publication that is developed, promulgated, and periodically updated at a national level by organizations consisting of industry and government fire and building safety officials through a legislative or consensus process and that is intended for consideration by units of government as local law. National model codes include the International Residential Code, the National Electrical Code, and the International Building Code.

(b) This section applies only to a municipality with a population of more than 100,000.

(c) On or before the 21st day before the date the governing body of a municipality takes action to consider, review, and recommend the adoption of or amendment to a national model code governing the construction, renovation, use, or maintenance of buildings and building systems in the municipality, the governing body shall publish notice of the proposed action conspicuously on the municipality's Internet website.

(d) The governing body of the municipality shall make a reasonable effort to encourage public comment from persons affected by the proposed adoption of or amendment to a national model code under this section.

(e) On the written request from five or more persons, the governing body of the municipality shall hold a public hearing open to public comment on the proposed adoption of or amendment to a national model code under this section. The hearing must be held on or before the 14th day before the date the governing body adopts the ordinance that adopts or amends a national model code under this section.

(f) If the governing body of a municipality has established an advisory board or substantially similar entity for the purpose of obtaining public comment on the proposed adoption of or amendment to a national model code, this section does not apply.

Sec. 214.218. IMMEDIATE EFFECT OF CERTAIN CODES OR PROVISIONS DELAYED. (a) In this section, "national model code" has the meaning assigned by Section 214.217.

(b) Except as provided by Subsection (c), the governing body of a municipality with a population of more than 100,000 that adopts an ordinance or national model code provision that is intended to govern the construction, renovation, use, or maintenance of buildings and building systems in the municipality shall delay implementing and enforcing the ordinance or code provision for at least 30 days after final adoption to permit persons affected to comply with the ordinance or code provision.

(c) If a delay in implementing or enforcing the ordinance or code provision would cause imminent harm to the health or safety of the public, the municipality may enforce the ordinance or code provision immediately on the effective date of the ordinance or code provision.

SECTION 2. 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.

S.B. 828

AN ACT

relating to a determination of value for purposes of punishment of the offense of abuse of official capacity.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 39.02, Penal Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) If separate transactions that violate Subsection (a)(2) are conducted pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense and the value of the use of the things misused in the transactions may be aggregated in determining the classification of the offense.

(f) The value of the use of a thing of value misused under Subsection (a)(2) may not exceed:

(1) the fair market value of the thing at the time of the offense; or

(2) if the fair market value of the thing cannot be ascertained, the cost of replacing the thing within a reasonable time after the offense.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

S.B. 926

AN ACT

relating to the imposition of a civil penalty against the owner of an authorized emergency vehicle for a violation recorded by a photographic traffic signal enforcement system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 707, Transportation Code, is amended by adding Section 707.0021 to read as follows:

Sec. 707.0021. IMPOSITION OF CIVIL PENALTY ON OWNER OF AUTHORIZED EMERGENCY VEHICLE. (a) In this section, "authorized emergency vehicle" has the meaning assigned by Section 541.201.

(b) A local authority may not impose or attempt to impose a civil penalty under this chapter on the owner of an authorized emergency vehicle.

(c) This section does not prohibit an employer from taking disciplinary action against an employee who as the operator of an authorized emergency vehicle operated the vehicle in violation of a rule or policy of the employer.

SECTION 2. This Act takes effect September 1, 2009.

S.B. 935

AN ACT

relating to authorizing a judge of a municipal court to conduct a marriage ceremony.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 2.202, Family Code, is amended to read as follows:

(a) The following persons are authorized to conduct a marriage ceremony:

(1) a licensed or ordained Christian minister or priest;

(2) a Jewish rabbi;

(3) a person who is an officer of a religious organization and who is authorized by the organization to conduct a marriage ceremony; and

(4) a justice of the supreme court, judge of the court of criminal appeals, justice of the courts of appeals, judge of the district, county, and probate courts, judge of the county courts at law, judge of the courts of domestic relations, judge of the juvenile courts, retired justice or judge of those courts, justice of the peace, retired justice of the peace, judge of a municipal court, or judge or magistrate of a federal court of this state.

SECTION 2. The change in law made by this Act applies only to a marriage ceremony that is conducted on or after the effective date of this Act. A marriage ceremony conducted before the effective date of this Act is governed by the law in effect on the date the ceremony was conducted, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

S.B. 1016 (Excerpt)

AN ACT

relating to the continuation and functions of the Department of Agriculture and the Prescribed Burning Board, the creation of the Texas Bioenergy Policy Council and Texas Bioenergy Research Committee,

and the abolition of the Texas-Israel Exchange Fund Board; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 5. CERTAIN AGRICULTURAL REGULATORY PROGRAMS

SECTION 5.01. Section 13.251, Agriculture Code, is amended to read as follows:

Sec. 13.251. DEFINITION. In this subchapter, "public weigher" means a business certified under this subchapter ~~[person who is elected or appointed]~~ to issue an official certificate declaring the accurate weight or measure of a commodity that the business ~~[person]~~ is requested to weigh.

SECTION 5.02. Section 13.255, Agriculture Code, is amended to read as follows:

Sec. 13.255. CERTIFICATE. (a) A public weigher~~[, whether elected or appointed, or deputy public weigher]~~ may not officially weigh a commodity unless the weigher has obtained from the department a certificate of authority.

(b) A ~~[state public weigher must submit a nonrefundable fee, as provided by department rule, with the application for a certificate of authority. A county public weigher or a deputy]~~ public weigher must submit a fee, as provided by department rule, with the application for a certificate of authority.

SECTION 5.03. Section 13.2555, Agriculture Code, is amended to read as follows:

Sec. 13.2555. REVOCATION, MODIFICATION, OR SUSPENSION OF CERTIFICATE. (a) The department shall revoke, modify, or suspend the certificate of authority of a ~~[an appointed public weigher or a deputy of an appointed county]~~ public weigher, assess an administrative penalty, place on probation the public weigher ~~[person]~~ whose certificate has been suspended, or reprimand a ~~[an appointed public weigher or a deputy of an appointed county]~~ public weigher for a violation of this subchapter or a rule adopted by the department under this subchapter.

(b) If a certificate suspension is probated, the department may require the public weigher ~~[person]~~ to:

- (1) report regularly to the department on matters that are the basis of the probation;
- (2) limit practice to the areas prescribed by the department; or
- (3) continue or renew professional education until the public weigher ~~[person]~~ attains a degree of skill satisfactory to the department in those areas that are the basis of the probation.

(c) If the department proposes to revoke, modify, or suspend a public weigher's ~~[person's]~~ certificate, the public weigher ~~[person]~~ is entitled to a hearing conducted under Section 12.032. The decision of the department is appealable in the same manner as provided for contested cases under Chapter 2001, Government Code.

SECTION 5.04. Section 13.256, Agriculture Code, is amended to read as follows:

Sec. 13.256. BOND. ~~[(a) Each [county public weigher, whether elected or appointed, and each deputy] public weigher shall execute [for the full term of office] a bond in accordance with rules adopted [that is in the amount of \$2,500, approved] by the department[, and made payable to the county judge of the county for which the weigher is elected or appointed]. The bond must be conditioned on the accurate weight or measure of a commodity being reflected on the certificate issued by the public weigher [or deputy], on the protection of a commodity that the public weigher [or deputy] is requested to weigh or measure, and on compliance with all laws and rules governing public weighers. [The bond shall be filed with the county clerk's office in the county for which the public weigher or deputy is appointed or elected.] The bond is not void on first recovery. A person injured by the public weigher may sue on the bond.~~

~~[(b) Each state public weigher shall execute a bond similar to the bond required under Subsection (a) of this section, except that the bond is for \$10,000, made payable to the State of Texas, and filed with the department.]~~

SECTION 5.05. Subsection (a), Section 13.257, Agriculture Code, is amended to read as follows:

(a) On each certificate of weight or measure that a public weigher ~~[or deputy public weigher]~~ issues, the public weigher ~~[or deputy public weigher]~~ shall include the:

- (1) time and date that the weight or measurement was taken;
- (2) signature and license number of the public weigher ~~[or deputy public weigher]~~; and

(3) seal of the department.

SECTION 5.06. Subsection (a), Section 13.259, Agriculture Code, is amended to read as follows:

(a) A public weigher [~~or deputy public weigher~~] who intentionally or knowingly issues a certificate of weight or measure giving a false weight or measure for a commodity weighed or measured commits an offense.

SECTION 5.07. Section 13.261, Agriculture Code, is amended to read as follows:

Sec. 13.261. [~~POWER OF DEPARTMENT;~~] RULES. The department shall [~~may~~] adopt rules governing the bond requirements and [procedures to be followed in administering the] fees imposed under this subchapter.

SECTION 5.08. Section 52.038, Agriculture Code, is amended to read as follows:

Sec. 52.038. EXISTING CORPORATIONS AND ASSOCIATIONS. [~~(a)~~] Any corporation or association organized under prior law before March 1, 1921, may elect, by a majority vote of its members or stockholders, to adopt this chapter and become subject to it by:

(1) adopting the restrictions provided by this chapter; and

(2) executing, in duplicate on forms supplied by the secretary of state, an instrument, signed and acknowledged by its directors, stating that the entity, by a majority vote of its members or stockholders, has decided to accept the benefits of and be bound by this chapter[~~; and~~

~~[(3) filing articles of incorporation in accordance with the requirements of Section 52.035 of this code except that the entity's directors shall sign the articles].~~

~~[(b) The filing fee for the articles filed under Subsection (a) of this section is equal to the filing fee for an amendment to the articles of incorporation as provided by Section 52.151 of this code.]~~

SECTION 5.09. Section 52.151, Agriculture Code, is amended to read as follows:

Sec. 52.151. TAX EXEMPTIONS [~~FEES~~]. [~~(a) The fee for filing articles of incorporation under this chapter is \$10.~~

~~[(b) The fee for filing an amendment to the articles of incorporation under this chapter is \$2.50.~~

~~[(c) Each marketing association shall pay to the department an annual license fee, as provided by department rule.]~~ A marketing association is exempt from all [~~other~~] franchise or license taxes, except that a marketing association is exempt from the franchise tax imposed by Chapter 171, Tax Code, only if exempted by that chapter.

SECTION 5.10. Section 101.003, Agriculture Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) This section does not apply to:

(1) a retailer, unless the retailer:

(A) has annual sales of perishable commodities that comprise 50 percent or more of the retailer's total sales; or

(B) employs a buying agent who buys directly from a producer;

(2) a producer who handles or deals exclusively in the producer's own products;

(3) a person shipping less than six standard boxes of citrus fruit in any one separate shipment; [~~or~~]

(4) a person who ships a noncommercial shipment of perishable commodities; or

(5) a person who purchases perishable commodities and pays for the perishable commodities in United States currency before or at the time of delivery or taking possession.

(c) A person who purchases perishable commodities without a license, as owner, agent, or otherwise, does not violate this section if the person obtains a license not later than the 30th day after the date the person first purchases perishable commodities.

SECTION 5.11. Section 101.004, Agriculture Code, is amended to read as follows:

Sec. 101.004. LICENSE OR REGISTRATION CATEGORIES. [~~(a)~~] A person shall apply for a license if the person:

(1) purchases perishable commodities on credit;

(2) takes possession of perishable commodities for consignment or handling on behalf of the producer or

owner of the perishable commodities; or

(3) takes possession of perishable commodities for consignment or handling in a manner or under a contract that does not require or result in payment to the producer, seller, or consignor of the full amount of the purchase price in United States currency at the time of delivery or at the time that the perishable commodities pass from the producer, seller, or consignor to the person.

~~[(b) A person shall register as a cash dealer if the person purchases perishable commodities and pays for the perishable commodities in United States currency before or at the time of delivery or taking possession.]~~

SECTION 5.12. Subsections (b) and (c), Section 101.007, Agriculture Code, are amended to read as follows:

(b) If ~~[an applicant for a license indicates on the application that]~~ a previous license of the applicant has been or is suspended or has been revoked, the department may not issue or renew a license to the applicant until the department is furnished with satisfactory proof that the applicant is, on the date of application, qualified to receive the license for which the applicant applied as provided by department rule.

(c) The department may refuse to issue or renew a license under this section if the department determines that a license previously issued to the applicant was revoked or suspended or that the applicant has engaged in conduct for which a license could have been revoked or suspended. In determining whether to refuse to issue or renew a license under this section, the department may consider:

- (1) the facts and circumstances pertaining to a prior suspension or revocation;
- (2) the financial condition of the applicant as of the date of the application;
- (3) any judgment by a court of this state that is outstanding against the applicant and is due and owing to a licensee, grower, or producer of perishable commodities; and
- (4) any certified claim against the applicant by a licensee, grower, or producer of perishable commodities that is under consideration by the department.

SECTION 5.13. Section 101.009, Agriculture Code, is amended to read as follows:

Sec. 101.009. LICENSEE LIST. The department may publish as often as it considers necessary a list in pamphlet form or on the department's Internet website of all persons licensed under this chapter.

SECTION 5.14. Subsections (a) and (b), Section 101.013, Agriculture Code, are amended to read as follows:

(a) If a licensee or a person required to be licensed causes a producer, seller, or owner, or an agent of a producer, seller, or owner, to part with control or possession of all or any part of the person's perishable commodities and agrees by contract of purchase to pay the purchase price on demand following delivery, the licensee or person required to be licensed shall make payment immediately on demand.

(b) If a person makes demand for the purchase price in writing, the mailing of a registered letter that makes the demand and is addressed to the licensee or person required to be licensed at their ~~[the licensee's]~~ business address is prima facie evidence that demand was made at the time the letter was mailed.

SECTION 5.15. Section 101.014, Agriculture Code, is amended to read as follows:

Sec. 101.014. COMMISSION OR SERVICE CHARGE IN CONTRACT. If a licensee or a person required to be licensed handles perishable commodities by guaranteeing a producer or owner a minimum price and handles the perishable commodities on the account of the producer or owner, the licensee or person required to be licensed shall include in the contract with the producer or owner the maximum amount that the licensee or person required to be licensed will charge for commission, service, or both, in connection with the perishable commodities handled.

SECTION 5.16. Subsections (a) and (b), Section 101.015, Agriculture Code, are amended to read as follows:

(a) Except as otherwise provided by this section, a licensee or a person required to be licensed shall settle with the producer or seller of perishable commodities on the basis of the grade and quality that is referred

to in the contract under which the licensee or person required to be licensed obtained possession or control of the perishable commodities.

(b) If the perishable commodities have been inspected by a state or federal inspector in this state and found to be of a different grade or quality than that referred to in the contract, the licensee or person required to be licensed shall settle with the producer or seller of the perishable commodities on the basis of the grade and quality determined by the inspector.

SECTION 5.17. Section 101.0151, Agriculture Code, is amended to read as follows:

Sec. 101.0151. BUYING OR SELLING BY WEIGHT. A licensee or a person required to be licensed who buys or sells perishable commodities by weight shall weigh or have the perishable commodities weighed on scales that meet state requirements.

SECTION 5.18. Section 101.016, Agriculture Code, is amended to read as follows:

Sec. 101.016. RECORDS OF PURCHASE. (a) A licensee or a person required to be licensed or a packer, processor, or warehouseman may not receive or handle perishable commodities without requiring the person from whom the perishable commodities are purchased or received to furnish a statement in writing showing:

- (1) the owner of the perishable commodities;
- (2) the grower of the perishable commodities;
- (3) the approximate location of the land on which the perishable commodities were grown;
- (4) the date the perishable commodities were gathered; and
- (5) by whose authority the perishable commodities were gathered.

(b) The licensee or person required to be licensed, packer, processor, or warehouseman shall keep records of statements furnished under Subsection (a) in a permanent book or folder for a minimum of three years from the date of the transaction and shall make the records available for inspection by any interested party.

(c) The licensee or person required to be licensed, packer, handler, or warehouseman shall:

- (1) prepare a receipt detailing the quantity of perishable commodities received from the producer or owner at the time of receipt of the commodities; and
- (2) on request, provide the receipt to the producer or owner.

(d) The department periodically may investigate licensees, persons required to be licensed, or persons alleged to be selling or purchasing perishable commodities in violation of this chapter and, without notice, may require evidence of purchase of any perishable commodities in a person's possession or past possession.

SECTION 5.19. Section 101.017, Agriculture Code, is amended to read as follows:

Sec. 101.017. RECORD OF SALE. (a) Except for a retailer, a licensee or a person required to be licensed shall maintain for each sale a complete and accurate record showing:

- (1) the date of sale of the perishable commodities;
- (2) the person to whom the perishable commodities were sold;
- (3) the grade and selling price of the perishable commodities; and
- (4) an itemized statement of expenses of any kind or character incurred in the sale or handling of the perishable commodities, including the amount of the commission to the licensee or person required to be licensed.

(b) On demand of the department or of an owner, seller, or agent of the owner or seller, the licensee or person required to be licensed shall furnish the information demanded before the 11th day following the date of demand.

(c) A licensee or a person required to be licensed shall maintain the information required to be kept by this section for at least three years after the date of sale.

SECTION 5.20. Subsection (a), Section 101.020, Agriculture Code, is amended to read as follows:

(a) A person commits an offense if the person:

- (1) acts in violation of Section 101.003 by not obtaining a license or registration or after receiving notice

of cancellation of a license or registration;

(2) acts or assumes to act as a transporting agent or buying agent:

(A) without first obtaining an identification card; or

(B) after receiving notice of cancellation of an identification card;

(3) as a transporting agent or buying agent, fails and refuses to turn over to the department an identification card in accordance with Section 101.010(e);

(4) as a license holder or a person required to be licensed, fails to furnish information under Section 101.017 before the 11th day following the date of demand;

(5) as a license holder or a person required to be licensed, fails to settle with a producer or seller on the grade and quality of perishable commodities in the manner provided by Section 101.015;

(6) ~~as a cash dealer, pays for perishable commodities by a means other than United States currency;~~

~~(7)~~ as a license holder or a person required to be licensed, transporting agent, or buying agent, violates a provision of this chapter;

~~(7)~~ ~~(8)~~ acts or assumes to act as a cash dealer without first registering as a cash dealer;

~~(9)~~ as a license holder or a person required to be licensed, buys or sells perishable commodities by weight and does not have the perishable commodities weighed on scales that meet state requirements;

~~(8)~~ ~~(10)~~ fails to prepare and maintain records required by Sections 101.016, 101.017, and 101.018; or

~~(9)~~ ~~(11)~~ fails to provide records as required by Sections 101.016 and 101.018.

SECTION 5.21. Subsection (a), Section 103.002, Agriculture Code, is amended to read as follows:

(a) The produce recovery fund is a special trust fund with the comptroller administered by the department, without appropriation, for the payment of claims against license holders, ~~and~~ retailers, and persons required to be licensed under Chapter 101.

SECTION 5.22. Section 103.005, Agriculture Code, is amended to read as follows:

Sec. 103.005. INITIATION OF CLAIM. (a) A person who deals with a license holder or a person required to be licensed under Chapter 101 in the purchasing, handling, selling, and accounting for sales of perishable commodities and who is aggrieved by an action of the license holder or person required to be licensed as a result of a violation of terms or conditions of a contract made by the license holder or person required to be licensed for the sale of Texas-grown produce may initiate a claim against the fund by filing with the department:

(1) a sworn complaint against the license holder or person required to be licensed; and

(2) a filing fee, as provided by department rule.

(b) A complaint and the fee under Subsection (a) ~~[of this section]~~ must be filed on or before the second ~~[first]~~ anniversary of the date that payment was due ~~[of the violation]~~, or recovery from the fund is barred.

SECTION 5.23. Section 103.0055, Agriculture Code, is amended to read as follows:

Sec. 103.0055. BANKRUPTCY OF MERCHANT OR RETAILER. For purposes of this chapter, the amount due an aggrieved party by a license holder or a person required to be licensed is not affected by a final judgment of a bankruptcy court that releases the license holder or person required to be licensed from the legal duty to satisfy the claim.

SECTION 5.24. Subsection (a), Section 103.006, Agriculture Code, is amended to read as follows:

(a) After a claim is initiated, the department shall investigate the complaint and determine the amount due the aggrieved party. If the amount determined by the department is disputed by the license holder, a person required to be licensed, or the aggrieved party, the board shall conduct a hearing on the claim and determine the amount due the aggrieved party.

SECTION 5.25. Subsection (a), Section 103.007, Agriculture Code, is amended to read as follows:

(a) If the amount determined by the department's investigation to be due the aggrieved party is not disputed by the license holder, a person required to be licensed, or the aggrieved party, the department shall pay the claim within the limits prescribed by this chapter.

SECTION 5.26. Subsections (a), (b), (d), and (f), Section 103.008, Agriculture Code, are amended to read as follows:

(a) In making payments from the fund the department ~~may~~ ~~can~~ pay the aggrieved party the full value of their validated claim, subject to Subsections (b) and (d) [all of the first \$2,000 of any claim and no more than 70 percent of the claim above \$2,000].

(b) The total payment of all claims arising from the same contract with a license holder or a person required to be licensed may not exceed \$50,000 ~~[\$35,000]~~.

(d) Payment of a claim filed against a person who is not licensed in violation of Chapter 101 shall be limited to 80 percent of the recovery prescribed under this section ~~[The department may not pay a claim against:~~

~~(1) a person who was not licensed on the date the contract on which the claim is based was entered into;~~
~~or~~

~~(2) a cash dealer registered under Chapter 101].~~

(f) If a license holder or a person required to be licensed owes money to the produce recovery fund at the time the license holder or person required to be licensed makes a claim against the fund, the department shall offset the amount owed to the fund from the amount dispensed.

SECTION 5.27. Section 103.009, Agriculture Code, is amended by amending Subsections (a), (c), and (d) and adding Subsection (e) to read as follows:

(a) If the department pays a claim against a license holder or a person required to be licensed, the license holder or person required to be licensed shall:

(1) reimburse the fund immediately or agree in writing to reimburse the fund on a schedule to be determined by rule of the department; and

(2) immediately pay the aggrieved party any amount due that party or agree in writing to pay the aggrieved party on a schedule to be determined by rule of the department.

(c) If the license holder or person required to be licensed does not reimburse the fund or pay the aggrieved party, or does not agree to do so, in accordance with this section, the department shall issue an order canceling the license and may not issue a new license to or renew the license of that person for four years from the date of cancellation. If the license holder or person required to be licensed is a corporation, an officer or director of the corporation or a person owning more than 25 percent of the stock in the corporation may not be licensed under Chapter 101 during the four-year period in which the corporation is ineligible for licensing.

(d) Subsections (a) and (b) do ~~[This section does]~~ not apply to a license holder or a person required to be licensed who is released by a final judgment of a bankruptcy court from the legal duty to satisfy the claim paid by the department.

(e) The amount to be reimbursed under this section shall be one and one-half times the amount of the claim paid if the person required to reimburse the department was not licensed on the date on which the transaction forming the base of the claim occurred.

SECTION 5.28. Section 103.010, Agriculture Code, is amended to read as follows:

Sec. 103.010. SUBROGATION OF RIGHTS. If the department pays a claim against a license holder or a person required to be licensed, the department is subrogated to all rights of the aggrieved party against the license holder or person required to be licensed to the extent of the amount paid to the aggrieved party.

SECTION 5.29. Subsection (b), Section 103.011, Agriculture Code, is amended to read as follows:

(b) A person registered as a ~~[cash dealer or a]~~ marketing association organized under Chapter 52 that handles citrus fruit only for its members is exempt from payment of the fee under this section.

SECTION 5.30. Subsections (a) and (b), Section 103.013, Agriculture Code, are amended to read as follows:

(a) A person commits an offense if the person acts or assumes to act as a license holder under Chapter 101 without first paying the annual fee required by Section 103.011 ~~[this chapter]~~.

(b) An offense under this section is a Class B misdemeanor ~~[punishable by a fine of not more than \$500]~~.

SECTION 5.31. Subsection (a), Section 121.005, Agriculture Code, is amended to read as follows:

(a) Each rose plant or shipment of rose plants shall be labeled with[
[~~(4)~~] the proper grade[; and
[~~(2)~~ the number of the certificate of authority of the person selling or offering for sale the plant or
shipment].

SECTION 5.32. Subsection (f), Section 52.092, Election Code, is amended to read as follows:

(f) Precinct offices shall be listed in the following order:

- (1) county commissioner;
- (2) justice of the peace;
- (3) constable[;
- [~~(4)~~ public weigher].

SECTION 5.33. Subsection (a), Section 172.024, Election Code, is amended to read as follows:

(a) The filing fee for a candidate for nomination in the general primary election is as follows:

- | | |
|--|---------|
| (1) United States senator | \$5,000 |
| (2) office elected statewide, except United States senator | 3,750 |
| (3) United States representative | 3,125 |
| (4) state senator | 1,250 |
| (5) state representative | 750 |
| (6) member, State Board of Education | 300 |
| (7) chief justice or justice, court of appeals, other than a justice specified by Subdivision (8) | 1,875 |
| (8) chief justice or justice of a court of appeals that serves a court of appeals district in which a county with a population of more than 750,000 is wholly or partly situated | 2,500 |
| (9) district judge or judge specified by Section 52.092(d) for which this schedule does not otherwise prescribe a fee | 1,500 |
| (10) district or criminal district judge of a court in a judicial district wholly contained in a county with a population of more than 850,000 | 2,500 |
| (11) judge, statutory county court, other than a judge specified by Subdivision (12) | 1,500 |
| (12) judge of a statutory county court in a county with a population of more than 850,000 | 2,500 |
| (13) district attorney, criminal district attorney, or county attorney performing the duties of a district attorney | 1,250 |
| (14) county commissioner, district clerk, county clerk, sheriff, county tax assessor-collector, county treasurer, or judge, constitutional county court: | |
| (A) county with a population of 200,000 or more | 1,250 |
| (B) county with a population of under 200,000 | 750 |
| (15) justice of the peace or constable: | |
| (A) county with a population of 200,000 or more | 1,000 |
| (B) county with a population of under 200,000 | 375 |
| (16) county surveyor <u>or</u> [;] inspector of hides and animals[, or public weigher] | 75 |
| (17) office of the county government for which this schedule does not otherwise prescribe a fee | 750 |

SECTION 5.34. Subsection (b), Section 62.160, Labor Code, is amended to read as follows:

(b) Sections 62.051-62.054 [~~and Subchapter C~~] do not apply to an agricultural employer with respect to an employee engaged in the production of livestock.

SECTION 5.35. The following statutes are repealed:

- (1) Section 13.252, Agriculture Code;
- (2) Section 13.253, Agriculture Code;
- (3) Section 13.2535, Agriculture Code;
- (4) Section 13.254, Agriculture Code;
- (5) Subsection (b), Section 52.035, Agriculture Code;
- (6) Section 52.152, Agriculture Code;
- (7) Subsection (b), Section 101.006, Agriculture Code;

- (8) Subsection (c), Section 103.008, Agriculture Code;
- (9) Section 121.004, Agriculture Code;
- (10) Subdivision (1), Section 62.002, Labor Code; and
- (11) Subchapter C, Chapter 62, Labor Code.

SECTION 5.36. (a) The changes in law made by this Act to Subchapter E, Chapter 13, Agriculture Code, do not affect the entitlement of a public weigher or deputy public weigher elected or appointed before the effective date of this Act to serve as a public weigher or deputy public weigher for the remainder of the public weigher's or deputy public weigher's term. A public weigher or deputy public weigher elected or appointed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) The changes in law made by this Act to Section 103.008, Agriculture Code, apply only to a claim for payment filed on or after the effective date of this Act. A claim filed before that date is governed by the law in effect on the date the claim was filed, and the former law is continued in effect for that purpose.

ARTICLE 9. ADDITIONAL PROVISIONS

SECTION 9.01. Subsection (a), Section 11.005, Agriculture Code, is amended to read as follows:

(a) To be eligible for election as commissioner or appointment to fill a vacancy in the office of commissioner, a person must:

- (1) have been engaged, for at least five of the 10 years preceding the year in which the person is elected or appointed to the person's initial term, in the business of agriculture;
- (2) have worked, for the five-year period preceding the calendar year in which the person is elected or appointed to the person's initial term, for a state or federal agency in a position directly related to agriculture; ~~[or]~~
- (3) have owned or operated, for at least five of the 10 years preceding the year in which the person is elected or appointed to the person's initial term, farm, ranch, or timber land that qualifies for agricultural use appraisal under Subchapter C, Chapter 23, Tax Code, and be participating, in the calendar year in which the person is elected or appointed to the person's initial term, in a farm program administered by the federal Agricultural Stabilization and Conservation Service; or
- (4) have worked, for at least five years at any time before the calendar year in which the person is elected or appointed to the person's initial term, for the Texas Agricultural Council, an organization that is a member of the Texas Agricultural Council, or another agricultural producer association.

SECTION 9.02. Section 12.022, Agriculture Code, is amended to read as follows:

Sec. 12.022. AUTHORITY TO SOLICIT AND ACCEPT GIFTS, GRANTS, AND DONATIONS. The department may solicit and ~~[is authorized to]~~ accept gifts, grants, and donations of money, services, or property from any person. Money received by the department under this section may be expended or distributed for any public purpose related to the department's duties ~~[and shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all gifts, grants, and donations received and disbursed, used, or maintained by the department during the preceding fiscal year. This report shall be included in the annual report required by Section 12.014 of this chapter].~~

SECTION 9.03. Chapter 12, Agriculture Code, is amended by adding Section 12.0027 to read as follows:

Sec. 12.0027. NUTRITION OUTREACH PROGRAM. (a) The department may develop an outreach program to promote better health and nutrition programs and prevent obesity among children in this state.

(b) The department may solicit and accept gifts, grants, and donations from any public or private sources for the purposes of this section.

(c) The department may adopt rules as necessary to administer an outreach program established under this section.

SECTION 9.04. Chapter 12, Agriculture Code, is amended by adding Section 12.046 to read as follows:

Sec. 12.046. TEXAS RURAL INVESTMENT FUND. (a) In this section:

- (1) "Fund" means the Texas Rural Investment Fund.
- (2) "Rural community" means a municipality with a population of less than 50,000 or a county with a population of less than 200,000.
- (b) The fund is a dedicated account in the general revenue fund and consists of:
 - (1) appropriations of money to the fund by the legislature;
 - (2) gifts, grants, including federal grants, and other donations received for the fund; and
 - (3) interest earned on the investment of money in the fund.
- (b-1) The department shall administer the fund and select recipients of grants and loans from the fund.
- (c) The fund may be used by the department only to:
 - (1) pay for grants or loans to public or private entities for projects in rural communities that have strong local support, provide positive return on the state's investment, and stimulate one or more of the following:
 - (A) local entrepreneurship;
 - (B) job creation or retention;
 - (C) new capital investment;
 - (D) strategic economic development planning;
 - (E) individual economic and community development leadership training;
 - (F) housing development; or
 - (G) innovative workforce education; and
 - (2) administer the grant and loan program under this section.
- (d) In awarding a grant or loan of money from the fund for a project, the department shall consider:
 - (1) the project's effect on job creation and wages;
 - (2) the financial strength of the applicant;
 - (3) the applicant's business history;
 - (4) an analysis of the relevant business sector;
 - (5) whether there is public or private sector financial support for the project; and
 - (6) whether there is local support for the project.
- (e) The fund is exempt from the application of Sections 403.095 and 404.071, Government Code.
- (f) The department may accept grants, gifts, or donations from any source that are made for the purposes of this section. Money received under this subsection shall be deposited in the fund.
- (g) The department shall adopt rules to administer this section.

SECTION 9.05. Chapter 12, Agriculture Code, is amended by adding Section 12.048 to read as follows: Sec. 12.048. OBTAINING CRIMINAL HISTORY RECORD INFORMATION. (a) The department is authorized to obtain from the Department of Public Safety criminal history record information maintained by the Department of Public Safety that relates to a person who:

- (1) applies for a license issued by the department;
- (2) holds a license issued by the department;
- (3) requests a determination of eligibility for a license issued by the department; or
- (4) is an employee, volunteer, or intern of the department, or an applicant to be an employee, volunteer, or intern of the department.
- (b) In addition to the information the department is authorized to obtain under Sections 411.122 and 411.1405, Government Code, and this section, the department is authorized to request and obtain criminal history record information through the Federal Bureau of Investigation as provided by Section 411.087, Government Code.
- (c) Information provided to the department under this section and Chapter 411, Government Code, is confidential, is not subject to disclosure under Chapter 552, Government Code, and may not be disclosed to any person other than as required by a court order.

SECTION 9.06. Subsection (a), Section 19.012, Agriculture Code, is amended to read as follows:

- (a) A person commits an offense if the person:

(1) sells or offers to sell citrus budwood or a citrus nursery tree falsely claiming that it is certified or that it comes from a designated foundation grove; [Ø]

(2) uses, for commercial purposes, citrus budwood that is required by department rule to be certified and is not certified or does not come from a designated foundation grove; or

(3) fails to comply with an order of the department issued under this chapter.

SECTION 9.07. Section 19.014, Agriculture Code, is amended to read as follows:

Sec. 19.014. ADMINISTRATIVE PENALTIES. The department may assess an administrative penalty under Chapter 12 for a violation of this chapter if the department finds that a person:

(1) sells or offers to sell citrus budwood or a citrus nursery tree falsely claiming that it is certified or that it comes from a designated foundation grove under this chapter;

(2) uses citrus budwood in violation of rules adopted under this chapter; [Ø]

(3) uses, for commercial purposes, citrus budwood that is required by department rule to be certified and is not certified or does not come from a designated foundation grove; or

(4) fails to comply with an order of the department issued under this chapter.

SECTION 9.08. Section 41.151, Agriculture Code, is amended to read as follows:

Sec. 41.151. DEFINITIONS. In this subchapter:

(1) "Beef products" means products produced in whole or in part from beef. The term does not include milk or products made from milk.

(2) [~~"Board" means the board of directors of the Texas Beef Council.~~

[~~3~~] "Council" means the Texas Beef Council.

(3) [(4)] "Producer" means a person who owns or acquires ownership of cattle, except that a person is not a producer if the person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee.

SECTION 9.09. Subsection (b), Section 41.152, Agriculture Code, is amended to read as follows:

(b) The council shall be the certified organization [~~recognized as the entity~~] to plan, implement, and operate research, education, promotion, and marketing programs under this subchapter. The council is the state beef council qualified to collect the proceeds of and administer in this state the beef check off program established by federal law.

SECTION 9.10. Section 41.156, Agriculture Code, is amended to read as follows:

Sec. 41.156. COUNCIL [~~BOARD~~] MEMBERS. (a) The council [~~board~~] is composed of 20 [~~24~~] members nominated by the council and appointed by the commissioner as follows:

(1) three representatives of the Texas and Southwestern Cattle Raisers Association;

(2) three representatives of the Texas Cattle Feeders Association;

(3) three representatives of the Texas Farm Bureau;

(4) two representatives of the Independent Cattlemen's Association of Texas;

(5) two representatives of the Texas purebred cattle industry;

(6) two representatives of the Texas dairy industry;

(7) one representative [~~two representatives~~] of the Livestock Marketing Association of Texas;

(8) one representative of meat packer and exporter associations;

(9) one representative of Texas CattleWomen; and

(10) two at-large directors.

(b) A council [~~board~~] member serves a one-year term or until his or her successor is appointed. A council member may serve not more than six consecutive one-year terms, except that a council member who is elected to serve as an officer during the member's sixth consecutive one-year term may serve as chairman or past chairman for not more than two additional consecutive one-year terms.

(c) The commissioner, on recommendation of the council, shall fill a vacancy on the council [~~board~~] by appointment for the unexpired term.

SECTION 9.11. Section 41.157, Agriculture Code, is amended to read as follows:

Sec. 41.157. GENERAL POWERS OF COUNCIL. The council may take action or exercise other

authority as necessary to execute any act authorized by this ~~chapter~~ ~~[subchapter]~~ or the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

SECTION 9.12. Subsections (b), (c), and (e), Section 41.160, Agriculture Code, are amended to read as follows:

(b) If an assessment referendum is approved, the council shall recommend to the commissioner an assessment amount not greater than the maximum amount approved in the referendum. After the assessment is approved by the commissioner, the council shall collect the assessment.

(c) An assessment levied on producers shall ~~[may]~~ be applied by the council to efforts relating to the marketing, education, research, and promotion of beef and beef products in Texas, the United States, and international markets, including administrative costs of conducting an assessment referendum.

(e) Section 41.083 applies to an assessment collected by the council under this subchapter. Section 41.082 does not apply to an assessment collected under this subchapter. The commissioner, on the council's recommendation, may exempt from the assessment certain producers who are exempt under federal law.

SECTION 9.13. Subsection (a), Section 41.161, Agriculture Code, is amended to read as follows:

(a) The commissioner shall annually review and approve the council's operating budget for the funds collected under this subchapter.

SECTION 9.14. Subsection (g), Section 41.162, Agriculture Code, is amended to read as follows:

(g) The council shall pay all expenses incurred in conducting a referendum with funds collected from the beef industry.

SECTION 9.15. Subsection (d), Section 71.004, Agriculture Code, is amended to read as follows:

(d) An emergency quarantine shall be established in accordance with the provisions related to emergency rulemaking in Chapter 2001, Government Code [expires 30 days following the date on which it was established unless reestablished following notice and hearing as provided by this subchapter].

SECTION 9.16. Subsection (b), Section 72.002, Agriculture Code, is amended to read as follows:

(b) The department may adopt rules~~[-, to be proclaimed by the governor,]~~ as necessary for the administration of this chapter.

SECTION 9.17. Subsections (a) and (b), Section 72.011, Agriculture Code, are amended to read as follows:

(a) When advised of the existence of Mexican fruit fly within a county or part of a county in this state, the department shall certify that fact and ~~[to the governor, and the governor shall]~~ proclaim the county or part of a county quarantined under this chapter.

(b) If the department determines that the exigencies of the situation require a modified quarantine, the department may designate a modified quarantined area ~~[to be certified to the governor for proclamation].~~

SECTION 9.18. Section 72.012, Agriculture Code, is amended to read as follows:

Sec. 72.012. PERSONS AND PREMISES SUBJECT. The premises of each individual, whether an owner, lessee, renter, tenant, or occupant, within the area named in the quarantine ~~[proclamation]~~ are subject to the quarantine, even though not specifically named.

SECTION 9.19. Subsection (a), Section 72.015, Agriculture Code, is amended to read as follows:

(a) A person may not haul, truck, or otherwise move citrus fruit from any premises or area that is under quarantine for Mexican fruit fly infestation by this chapter or ~~[;]~~ by order of the department~~[-, or by proclamation of the governor]~~ in violation of the quarantine without a written permit or certificate issued by the department or an inspector of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, United States Department of Agriculture.

SECTION 9.20. Subsection (a), Section 76.004, Agriculture Code, is amended to read as follows:

(a) The ~~[Except as provided by Subchapter G, after notice, the department shall conduct at least five regional hearings throughout the state before the adoption of any rule for carrying out the provisions of this chapter. Thereafter, the]~~ department may adopt rules for carrying out the provisions of this chapter, including rules providing for:

- (1) the collection, examination, and reporting of records, devices, and samples of pesticides;
- (2) the safe handling, transportation, storage, display, distribution, or disposal of pesticides and pesticide containers;
- (3) labeling requirements for pesticides and devices required to be registered under this chapter; and
- (4) compliance with federal pesticide rules and regulations.

SECTION 9.21. Section 144.041, Agriculture Code, is amended by adding Subsection (g) to read as follows:

(g) The recording of marks and brands at a point of sale for use by an association authorized to inspect livestock under 7 U.S.C. Section 217a does not serve as a record under this chapter. An association authorized to inspect livestock under 7 U.S.C. Section 217a has no duty to verify ownership at a point of sale.

SECTION 9.22. Section 251.005, Agriculture Code, is amended by adding Subsection (e) to read as follows:

(e) A governmental requirement of a political subdivision of the state does not apply to conduct described by Section 42.09(f), Penal Code, on an agricultural operation.

SECTION 9.23. The following provisions are repealed:

- (1) Section 12.017, Agriculture Code;
- (2) Section 72.003, Agriculture Code;
- (3) Subsection (c), Section 72.011, Agriculture Code; and
- (4) Section 76.005, Agriculture Code.

SECTION 9.24. (a) The change in law made by this Act to Section 19.012, Agriculture Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

(b) The change in law made by this Act to Section 19.014, Agriculture Code, applies only to conduct that occurred on or after the effective date of this Act. Conduct that occurred before the effective date of this Act is governed by the law in effect when the conduct occurred, and the former law is continued in effect for that purpose.

(c) The change in law made by this Act to Section 41.156, Agriculture Code, does not affect the entitlement of a member of the board of directors of the Texas Beef Council to serve for the remainder of the member's term. A board member appointed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(d) The change in law made by this Act to Section 41.160, Agriculture Code, applies only to an assessment approved on or after the effective date of this Act. An assessment approved before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(e) The change in law made by this Act to Section 41.162, Agriculture Code, applies only to an assessment referendum conducted on or after the effective date of this Act. An assessment referendum conducted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(f) The changes in law made by this Act by the amendment of Section 76.004, Agriculture Code, and the repeal of Section 76.005, Agriculture Code, apply only to a public hearing held on or after the effective date of this Act. A public hearing held before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

ARTICLE 10. ESTABLISHMENT OF THE OFFICIAL CITRUS PRODUCERS' PEST AND DISEASE MANAGEMENT CORPORATION

SECTION 10.01. Subtitle B, Title 5, Agriculture Code, is amended by adding Chapter 80 to read as follows:

CHAPTER 80. OFFICIAL CITRUS PRODUCERS' PEST AND DISEASE MANAGEMENT CORPORATION

Sec. 80.001. FINDINGS AND DECLARATION OF POLICY. (a) The legislature finds that:

(1) the insect known as the Asian citrus psyllid and the disease known as citrus greening are public nuisances and menaces to the citrus industry, and their control and suppression is a public necessity;

(2) because of the natural migration patterns of the Asian citrus psyllid, the control and suppression of the nuisance can best be accomplished by dividing the commercial citrus-growing areas into separate zones so that integrated pest management programs may be developed for each zone;

(3) there is a need for a quasi-governmental entity acting under the supervision and control of the commissioner whose members are actual citrus producers who would be represented on the board of the entity by directors elected by them to manage control and suppression programs and to furnish expertise in the field of insect control and suppression, because such an entity would enhance the interest and participation of citrus producers in the program;

(4) citrus producers, in partnership with the state and federal governments, have made significant investments toward the suppression of these pests and disease in this state; and

(5) it is essential to the well-being of the citrus industry and the agricultural economy of this state that the investments of the citrus producers and the state and federal governments be protected.

(b) It is the intent of the legislature that the program of control and suppression of the Asian citrus psyllid be carried out with the best available integrated pest management techniques.

(c) The department may recover costs for administration of this chapter.

Sec. 80.002. DESIGNATION OF ENTITY TO CARRY OUT ASIAN CITRUS PSYLLID AND CITRUS GREENING CONTROL AND SUPPRESSION. (a) The Texas Citrus Pest and Disease Management Corporation, Inc., a Texas nonprofit corporation, shall be recognized by the department as the entity to plan, carry out, and operate suppression programs to manage and control the Asian citrus psyllid and citrus greening in citrus plants in the state under the supervision of the department as provided by this chapter.

(b) The commissioner may terminate the corporation's designation as the entity recognized to carry out Asian citrus psyllid control and management by giving 45 days' written notice to the corporation and by designating a successor entity. If the commissioner designates a successor to the corporation, the successor has all the powers and duties of the corporation under this chapter. Any successor to the corporation shall assume and shall be responsible for all obligations and liabilities relating to any notes, security agreements, assignments, loan agreements, and any other contracts or other documents entered into by the corporation with or for the benefit of any financial institution or its predecessor, successor, or assignee.

Sec. 80.003. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the Texas Citrus Pest and Disease Management Corporation, Inc.

(2) "Asian citrus psyllid" means Diaphorina citri Kuwayama.

(3) "Commissioner" means the commissioner of agriculture.

(4) "Citrus" means:

(A) a citrus plant;

(B) a part of a citrus plant, including trees, limbs, flowers, roots, and leaves; or

(C) citrus products.

(5) "Citrus greening" means the disease caused by the Asian citrus psyllid.

(6) "Citrus producer" means a person who grows citrus and receives income from the sale of citrus. The term includes an individual who as owner, landlord, tenant, or sharecropper is entitled to share in the citrus grown and available for marketing from a farm or to share in the proceeds from the sale of the

citrus from the farm.

(7) "Suppression" means control of the numbers and migration of the Asian citrus psyllid to the extent that the commissioner does not consider further management of the Asian citrus psyllid necessary to prevent economic loss to citrus producers.

(8) "Pest management zone" means a geographic area designated by the commissioner in accordance with Section 80.005 in which citrus producers by referendum approve their participation in a citrus pest control program.

(9) "Corporation" means the Texas Citrus Pest and Disease Management Corporation, Inc., a Texas nonprofit corporation.

(10) "Host" means a plant or plant product in which the Asian citrus psyllid is capable of completing any portion of its life cycle.

(11) "Infested" means the presence of the Asian citrus psyllid in any life stage or the existence of generally accepted entomological evidence from which it may be concluded with reasonable certainty that the Asian citrus psyllid is present.

(12) "Integrated pest management" means the coordinated use of pest and environmental information with available pest control methods, including pesticides, natural predator controls, cultural farming practices, and climatic conditions, to prevent unacceptable levels of pest damage by the most economical means and with the least possible hazard to people, property, and the environment.

(13) "Regulated article" means an article carrying or capable of carrying the Asian citrus psyllid, including citrus plants, nursery plants, citrus rootstock, or other hosts.

Sec. 80.004. ADVISORY COMMITTEES. (a) The commissioner may appoint an advisory committee for an existing pest management zone or an area of the state that is to be considered by the commissioner for designation as or inclusion in a pest management zone. The committee shall gather advice, input, and guidance from citrus producers from the area represented by the committee concerning the interest in and concerns about the implementation of this chapter.

(b) Each advisory committee may consider and make recommendations to the commissioner and the corporation concerning:

(1) the geographic boundaries for a proposed pest management zone;

(2) the amount of local interest in operating a suppression program;

(3) the basis and amount of an assessment necessary to support a suppression program;

(4) ongoing implementation of a suppression program approved by growers in a pest management zone; and

(5) any other matter requested by the commissioner or the corporation.

(c) Each advisory committee appointed under this section must include a sufficient number of citrus producers to ensure adequate representation across the pest management zone and other persons as determined by the commissioner.

(d) An advisory committee established under this section is subject to Chapters 551 and 552, Government Code.

Sec. 80.005. CREATION OF PEST MANAGEMENT ZONES. (a) The commissioner by rule may designate an area of this state as a proposed pest management zone.

(b) The commissioner may hold a public hearing in the proposed pest management zone to discuss the proposed geographic boundaries of the zone. The public hearing may include any other topic allowed under this chapter.

(c) After the adoption of a rule under Subsection (a), the commissioner shall conduct a referendum under Section 80.006.

Sec. 80.006. PEST MANAGEMENT ZONE REFERENDA. (a) The commissioner shall conduct a referendum in each proposed pest management zone to determine whether citrus producers want to establish a pest management zone.

(b) Pest management zone referenda shall be conducted under the procedures provided by Section

80.016.

(c) A proposed pest management zone referendum ballot must include or be accompanied by information about the proposed pest management zone, including:

(1) a statement of the purpose of the Asian citrus psyllid suppression program;

(2) the geographic area included in the proposed pest management zone;

(3) a general summary of rules adopted by the commissioner under Sections 80.016, 80.020, and 80.022, including a description of:

(A) citrus producer responsibilities; and

(B) penalties for noncompliance with rules adopted under this chapter; and

(4) an address and toll-free telephone number that a citrus producer may use to request more information about the referendum or the Asian citrus psyllid suppression program.

(d) If a referendum to establish a pest management zone is not approved, the concurrent election of a board member from the proposed pest management zone under Section 80.007 has no effect, and the commissioner shall appoint a representative to the board from the area.

(e) The corporation may request the commissioner to call additional referenda in a proposed pest management zone in which a referendum has not been approved. An additional pest management zone referendum and concurrent board election may not be held before the first anniversary of the date of the preceding referendum.

(f) After the approval of any referendum, the eligible voters shall be allowed, by subsequent referenda, to vote on whether to continue their assessments. The requirements for an initial referendum must be complied with in a subsequent referendum.

Sec. 80.007. BOARD ELECTIONS. (a) The initial election for board members from a proposed pest management zone shall be held concurrently with a pest management zone referendum held under Section 80.006. Each pest management zone must be represented on the board and remain represented on the board until suppression operations are concluded and all debt of the pest management zone is paid.

(b) A board election shall be conducted under the procedures provided by this section and Section 80.016.

(c) A citrus producer who is eligible to vote in a referendum or election under this chapter is eligible to be a candidate for and member of the board if the person has at least seven years of experience as a citrus producer and otherwise meets the qualifications for the office.

(d) A citrus producer who wants to be a candidate for the board must meet the qualifications for board membership and file an application with the commissioner. The application must be:

(1) filed not later than the 30th day before the date set for the board election;

(2) on a form approved by the commissioner; and

(3) signed by at least 10 citrus producers who are eligible to vote in the board election.

(e) On receipt of an application and verification that the application meets the requirements of Subsection (d), an applicant's name shall be placed on the ballot for the board election.

(f) An eligible voter may vote for a citrus producer whose name does not appear on the official ballot by writing that person's name on the ballot.

(g) A board election must be preceded by at least 45 days' notice published in one or more newspapers published and distributed in the proposed or established pest management zone. The notice shall be published not less than once a week for three consecutive weeks. Not later than the 45th day before the date of the election, direct written notice of the election shall be given to each Texas AgriLife Extension Service agent in the pest management zone.

(h) Each board member shall be sworn into office by a representative of the commissioner by taking the oath of office required for elected officers of the state.

Sec. 80.008. COMPOSITION OF BOARD. (a) The board is composed of members elected from each pest management zone established by referendum, members appointed by the commissioner from other citrus-growing areas of the state, and members appointed by the commissioner under Subsection (b). The

commissioner shall appoint an initial board composed of 15 members. Except as provided by Subsection (b), the term of each board position may not exceed four years.

(b) In making appointments under this section, the commissioner shall appoint the following board members, selected from a variety of citrus-growing regions of the state, for four-year terms:

(1) an agricultural lender;

(2) an independent entomologist who is an integrated pest management specialist;

(3) two representatives from industries allied with citrus production; and

(4) a representative from the pest control industry.

(c) The commissioner may change the number of board positions or the pest management zone representation on the board to accommodate changes in the number of pest management zones. A change under this subsection may not contravene another provision of this chapter.

(d) A vacancy on the board shall be filled by appointment by the commissioner for the unexpired term.

(e) On 30 days' notice and opportunity for hearing, the commissioner may replace any unelected board member of the corporation.

Sec. 80.009. POWERS OF BOARD AND COMMISSIONER. (a) The board may:

(1) conduct programs consistent with the declaration of policy stated in Section 80.001;

(2) accept, as necessary to implement this chapter, gifts and grants;

(3) borrow money, with the approval of the commissioner, as necessary to execute this chapter;

(4) take other action and exercise other authority as necessary to execute any act authorized by this chapter or the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); and

(5) form an advisory committee composed of individuals from this state, other states, or other countries and change membership on the committee, as necessary. Any advisory committee created under this subdivision for the purpose of establishing treatment methods shall include among its members persons with knowledge of the effects of different treatments on the health of agricultural workers, the local population, and the ecosystem, including but not limited to the effects of a particular method of treatment on beneficial organisms and wildlife, the potential for secondary infestations from nontarget pests, and the potential for pest resistance to particular methods of treatment.

(b) On petition of at least 30 percent of the citrus producers eligible to vote in the proposed area, the commissioner may, or at the commissioner's discretion the commissioner by rule may, add an area to a pest management zone or transfer an area or county from one zone to another zone if:

(1) citrus production has begun or could begin in the area;

(2) the area is adjacent to a pest management zone or is in an area with biological characteristics similar to the pest management zone; and

(3) the addition is approved in a referendum held in the area.

(c) The board must adopt a procurement policy, subject to approval by the commissioner, outlining the procedures to be used in purchasing.

(d) The commissioner at any time may inspect the books and other financial records of the corporation.

Sec. 80.010. BOARD DUTIES. (a) The board shall have an annual independent audit of the books, records of account, and minutes of proceedings maintained by the corporation prepared by an independent certified public accountant or a firm of independent certified public accountants. The audit must include information for each zone in which a suppression program has been conducted under this chapter. The audit shall be filed with the board, the commissioner, and the state auditor and be made available to the public by the corporation or the commissioner. The transactions of the corporation are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

(b) Not later than the 45th day after the last day of the fiscal year, the board shall submit to the commissioner a report itemizing all income and expenditures and describing all activities of the corporation during the fiscal year.

(c) The corporation shall provide fidelity bonds in amounts determined by the board for employees or

agents who handle money for the corporation.

(d) The corporation and the board are state agencies for the following purposes only:

(1) exemption from taxation, including exemption from sales and use taxes and taxes under Chapter 152, Tax Code; and

(2) exemption from vehicle registration fees.

(e) Funds collected by the corporation are not state funds and are not required to be deposited in the state treasury. The corporation shall deposit all money collected under this chapter in a bank or other depository approved by the commissioner.

(f) The board shall collect data on the type and quantity of pesticides used in accordance with this chapter. The data shall be filed with the commissioner.

(g) All money collected under this chapter shall be used solely to finance programs approved by the commissioner as consistent with this chapter.

(h) The corporation is subject to the requirements of:

(1) the open meetings law, Chapter 551, Government Code; and

(2) the public information law, Chapter 552, Government Code.

(i) A board member may not vote on any matter in which the member has a direct pecuniary interest. A board member is subject to the same restrictions as a local public official under Chapter 171, Local Government Code.

Sec. 80.011. ADMINISTRATIVE REVIEW. (a) The commissioner by rule shall establish procedures for the informal review and resolution of a claim arising out of certain acts taken by the corporation under this chapter. Rules established under this section shall include a designation of the acts that are subject to review under this subsection and the appropriate remedial action, as authorized by this chapter.

(b) A person dissatisfied with the department's informal resolution of a claim under procedures adopted under Subsection (a) may appeal the department's decision to the commissioner.

(c) A decision issued by the commissioner on a claim appealed under Subsection (b) is the final administrative action of the department and is subject to judicial review under Chapter 2001, Government Code.

(d) This section does not constitute a waiver of the state's immunity from liability.

Sec. 80.012. CONTRACTING. (a) For a purchase of goods and services under this chapter, the corporation may purchase goods and services that provide the best value for the corporation.

(b) In determining the best value for the corporation, the purchase price and whether the goods or services meet specifications are the most important considerations. However, the corporation may consider other relevant factors, including:

(1) the quality and reliability of the goods and services;

(2) the delivery terms;

(3) indicators of probable vendor performance under the contract, including:

(A) past vendor performance;

(B) the vendor's financial resources and ability to perform;

(C) the vendor's experience or demonstrated capability and responsibility; and

(D) the vendor's ability to provide reliable maintenance agreements and support;

(4) the cost of any employee training associated with a purchase; and

(5) other factors relevant to determining the best value for the corporation in the context of a particular purchase.

Sec. 80.013. BOARD MEMBER COMPENSATION. Board members serve without compensation but are entitled to reimbursement for reasonable and necessary expenses incurred in the discharge of their duties.

Sec. 80.014. DISCONTINUATION OF PROGRAM AND CORPORATION AND DISPOSITION OF FUNDS ON DISCONTINUANCE. (a) On the determination by the corporation that the Asian citrus psyllid suppression program has been completed in all pest management zones established under this

chapter, the corporation shall provide notice of the completion to the commissioner along with a request for discontinuance of the control and suppression program and collection of the assessment. Any request under this subsection must include documentation supporting the fact that the Asian citrus psyllid is no longer a threat to the state's citrus industry and a plan for discontinuance of the program and assessment.

(b) The commissioner shall determine whether or not the further suppression of the Asian citrus psyllid is necessary in the pest management zones and approve or disapprove discontinuance of the corporation and the plan for dissolution.

(c) On completion of the dissolution, the corporation shall file a final report with the commissioner, including a financial report, and submit all remaining funds into the trust of the commissioner. Final books of the corporation shall be filed with the commissioner and are subject to audit by the department.

(d) The commissioner shall pay from the corporation's remaining funds all of the corporation's outstanding obligations.

(e) Funds remaining after payment under Subsection (d) shall be returned to contributing citrus producers on a pro rata basis.

(f) If 30 percent or more of the citrus producers eligible to vote within a zone participating in the program present to the commissioner a petition calling for a referendum of the qualified voters on the proposition of discontinuing the program, the commissioner shall conduct a referendum for that purpose.

(g) The commissioner shall give notice of the referendum, the referendum shall be conducted, and the results shall be declared in the manner provided by law for the original referendum and election, with any necessary exceptions provided by rule of the commissioner.

(h) The commissioner shall conduct the referendum before the 90th day after the date the petition was filed, except that a referendum may not be held before the second anniversary of any other referendum in the pest management zone pertaining to establishing or discontinuing the pest management zone.

(i) Approval of the proposition requires the same vote as required in a referendum under Section 80.016(g). If the proposition is approved, the suppression program is abolished and the pest management zone ceases to exist on payment of all debts of the pest management zone.

Sec. 80.015. ASSESSMENT REFERENDA. (a) The commissioner shall propose the assessment needed in each pest management zone to ensure the stability of the citrus industry by suppressing the public nuisance caused by the Asian citrus psyllid.

(b) The commissioner shall propose in a referendum the:

(1) maximum assessment to be paid by citrus producers having production in the pest management zone; and

(2) time for which the assessment will be made.

(c) With the commissioner's approval, the corporation may make an assessment in a pest management zone at a level less than the assessment approved by the referendum.

(d) The commissioner shall conduct an assessment referendum under the procedures provided by Section 80.016.

(e) If an assessment referendum is approved, the corporation may collect the assessment.

(f) An assessment levied on citrus producers in a pest management zone may be applied only to:

(1) pest control in that zone;

(2) the corporation's operating costs, including payments on debt incurred for a corporation activity, except that the funds of one zone may not be used to pay another zone's bank loans or debts; and

(3) the conducting of other programs consistent with the declaration of policy stated in Section 80.001.

(g) The assessment shall be adequate and necessary to achieve the goals of this chapter. The amount of the assessment shall be determined by criteria established by the commissioner, including:

(1) the extent of infestation;

(2) the amount of acreage planted;

(3) historical efforts to suppress;

(4) the growing season;

(5) epidemiology;
(6) historical weather conditions; and
(7) the costs and financing of the program.
(h) The commissioner shall give notice of and hold a public hearing in the pest management zone regarding the proposed assessment referendum. Before the referendum, the commissioner shall review and approve:
(1) the amount of the assessment;
(2) the basis for the assessment;
(3) the time for payment of the assessment;
(4) the method of allocation of the assessment among citrus producers;
(5) the restructuring and repayment schedule for any preexisting debt; and
(6) the amount of debt to be incurred in the pest management zone.
(i) The commissioner shall on a zone-by-zone basis set the date on which assessments are due and payable.
(j) Each year, the commissioner shall review and approve the corporation's operating budget.
(k) The corporation shall prepare and mail billing statements to each citrus producer subject to the assessment that state the amount due and the due date. The assessments shall be sent to the corporation.
Sec. 80.016. CONDUCT OF BOARD ELECTIONS AND REFERENDA; BALLOTING. (a) The commissioner shall conduct a referendum or board election authorized under this chapter.
(b) The corporation shall bear all expenses incurred in conducting a referendum or board election.
(c) The commissioner shall adopt rules for voting in board elections and referenda to establish pest management zones. Rules adopted under this subsection must include provisions for determining:
(1) who is a citrus producer eligible to vote in an election or referendum;
(2) whether a board member is elected by a plurality or a majority of the votes cast; and
(3) the area from which each board member is elected.
(d) A citrus producer having citrus production in a proposed or established pest management zone is entitled to:
(1) vote in a referendum concerning the pest management zone; and
(2) elect board members to represent the pest management zone.
(e) An eligible citrus producer may vote only once in a referendum or board election.
(f) Ballots in a referendum or board election shall be mailed directly to a central location, as determined by the commissioner. A citrus producer eligible to vote in a referendum or board election who has not received a ballot from the commissioner, corporation, or another source shall be offered the option of requesting a ballot by mail or obtaining a ballot at the office of the Texas AgriLife Extension Service or a government office distributing ballots in a county in the proposed or established zone in which the referendum or board election is conducted.
(g) A referendum is approved if:
(1) at least two-thirds of those voting vote in favor of the referendum; or
(2) those voting in favor of the referendum cultivate more than 50 percent, as determined by the commissioner, of the citrus acreage in the relevant pest management zone.
(h) If a referendum under this chapter is not approved, the commissioner may conduct another referendum. A referendum under this subsection may not be held before the first anniversary of the date on which the previous referendum on the same issue was held.
(i) A public hearing regarding the proposed suppression program, including information regarding regulations to be promulgated by the commissioner, may be held by the commissioner in each of several locations in each Asian citrus psyllid pest management zone.
(j) Individual voter information, including an individual's vote in a referendum or board election conducted under this section, is confidential and is not subject to disclosure under Chapter 552, Government Code.

Sec. 80.017. PAYMENT OF ASSESSMENTS; ASSESSMENT LIENS. (a) A citrus producer who fails to pay an assessment levied under this chapter when due may be subject, after reasonable notice and opportunity for hearing, to a penalty set by the commissioner. In determining the amount of the penalty to be assessed, the commissioner shall consider:

(1) the seriousness of the violation, including the nature, circumstances, and extent of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter future violations;

(4) the economic situation of the citrus producer; and

(5) any other matter that justice may require.

(b) The corporation may develop a compliance certificate program to manage the payment and collection of an assessment levied under this chapter. Under the program the corporation, subject to department rules, may issue a compliance certificate for citrus for which an assessment has been paid.

(c) In addition to any other remedies for the collection of assessments and penalties, the commissioner may adopt rules relating to the compliance certificate program for suppression assessments. The rules may include:

(1) provisions establishing and relating to the obligations of growers, packers, and buyers in due course of citrus produced in active pest management zones to ensure that assessments are paid within a prescribed time period;

(2) provisions allowing incentives in the form of discounted assessments for growers who pay assessments within a prescribed time period;

(3) provisions establishing penalties and interest against growers who pay assessments after a prescribed time period; and

(4) other provisions the commissioner determines are proper.

(d) In addition to any other remedies for the collection of assessments and penalties, an assessment lien in favor of the corporation attaches and is perfected 60 days after the date the corporation mails notice of the assessment on citrus produced and harvested that year from the acreage that is subject to the assessment that is due and unpaid. An assessment lien is not an agricultural lien for the purposes of Chapter 9, Business & Commerce Code, and is not subject to the provisions of that chapter. An assessment lien is subject to and preempted by the Food Security Act of 1985 (7 U.S.C. Section 1631 et seq.) and shall be treated under that Act in the same manner as a security interest created by the seller. A buyer of citrus takes free of the assessment lien if the buyer:

(1) receives a compliance certificate issued by the corporation when the buyer purchases the citrus that certifies that the assessment has been paid to the corporation;

(2) pays for the citrus by a check on which the department is named as a joint payee;

(3) does not receive notice of the assessment lien as required by the Food Security Act of 1985 (7 U.S.C. Section 1631 et seq.); or

(4) buys the citrus from a person other than the producer of the citrus.

(e) The corporation may assign, with the approval of the commissioner, assessments or liens in favor of the corporation as collateral for a loan to the corporation only if the proceeds of the loan are designated for use in the pest management zone from which the assessments or liens originated.

(f) If the department believes that a violation of this section or a rule adopted under this section has occurred, the department may investigate and, during normal business hours, audit and inspect the records of the person who is the subject of the investigation.

Sec. 80.018. EXEMPTION FROM ASSESSMENT PENALTIES. (a) The commissioner by rule shall adopt criteria to exempt from payment of an assessment penalty under Section 80.017 a citrus producer for whom payment would impose an undue financial burden.

(b) A citrus producer is not eligible for an exemption under this section for a year in which the amount computed by subtracting the assessments and penalties due under this chapter from the citrus producer's net income subject to federal income taxation in the previous year is greater than \$15,000.

(c) A citrus producer who applies for an exemption under this section must use a form prescribed by the commissioner. A citrus producer must file a separate application form for each year for which the citrus producer claims an exemption.

(d) The commissioner may establish a payment plan for a citrus producer applying for an exemption under this section.

(e) The commissioner shall promptly notify an applicant of the determination regarding the applicant's request for an exemption.

(f) If an exemption under this section is denied, assessments and penalties for the year for which the application is made are due on the later of:

(1) the date on which they would be due in the absence of an application for exemption; or

(2) 30 days after the date the applicant receives notice of the denial.

(g) In addition to the authority provided under Subsections (a)-(f), the commissioner may reduce or waive an assessment penalty as appropriate and necessary.

Sec. 80.019. ENTRY OF PREMISES; SUPPRESSION ACTIVITIES; INSPECTIONS. The department, the corporation, or a designated representative of either entity may enter citrus groves or other premises to carry out the purposes of this chapter, which include the treatment and monitoring of growing citrus or other host plants. The department, the corporation, or a designated representative of either entity may inspect groves or premises in this state for the purpose of determining whether the property is infested with the Asian citrus psyllid or citrus greening. An inspection must be conducted during reasonable daylight hours. The department shall give notice by publication of the planned schedule of dates for entry by the department, the corporation, or a designated representative of either entity, to the owner or occupant of the groves or premises to carry out the purposes of this chapter, including treatment, monitoring, or inspection functions. The department shall publish notice of the planned schedule to enter the groves or premises in a newspaper of general circulation in the pest management zone not less than once a week for two weeks immediately before the scheduled dates of entry. In addition to the notice published by the department, the corporation shall post notice of the planned schedule to enter groves or premises to carry out the purposes of this chapter at the county courthouse of each county in the pest management zone not later than the 15th day before the planned dates of entry.

Sec. 80.020. AUTHORITY TO PROHIBIT PLANTING OF CITRUS AND REQUIRE PARTICIPATION IN SUPPRESSION PROGRAM. (a) The commissioner may adopt reasonable rules regarding areas where citrus may not be planted in a pest management zone if there is reason to believe planting will jeopardize the success of the program or present a hazard to public health or safety.

(b) The commissioner may adopt rules requiring all growers of citrus in a pest management zone to participate in an Asian citrus psyllid suppression program and growers of commercial citrus to participate in pest and disease management programs that include cost sharing as required by the rules.

(c) Notice of a prohibition or requirement shall be given by publication for one day each week for three successive weeks in a newspaper having general circulation in the affected area.

(d) The commissioner may adopt a reasonable schedule of penalty fees to be assessed against growers in a designated pest management zone who do not meet the requirements of the rules issued by the commissioner relating to reporting of acreage and participation in cost sharing. A penalty fee may not exceed \$50 per acre.

Sec. 80.021. AUTHORITY FOR DESTRUCTION OR TREATMENT OF CITRUS IN PEST MANAGEMENT ZONES; COMPENSATION PAYABLE. The department may destroy or treat, and establish procedures for the purchase and destruction of, citrus plants or hosts in pest management zones if the department determines the action is necessary to carry out the purposes of this chapter. The department is not liable to the owner or lessee for the destruction of or injury to any citrus that was planted in a pest management zone after the date notice is published as required by this chapter. The corporation is liable for the destruction of citrus if the citrus was planted in a pest management zone before the date that notice is published.

Sec. 80.022. AUTHORITY TO ADOPT RULES. (a) The commissioner shall adopt rules to protect individuals, livestock, wildlife, and honeybee colonies on any premises in a pest management zone on which citrus plants are being grown that have been or are being treated to control or suppress the Asian citrus psyllid and citrus greening.

(b) Rules adopted under this section shall establish the criteria by which the corporation develops its procedures and methods of treatment, which shall:

(1) establish a methodology for determining when Asian citrus psyllid population levels have reached economic significance or when citrus greening is present;

(2) establish an effective treatment regimen that seeks to provide the least possible risk to workers, the public, and the environment;

(3) minimize the effects of the use of pesticides on long-term control methods, including but not limited to the effect a particular pesticide may have on biological controls;

(4) establish methods for monitoring Asian citrus psyllids, citrus greening, and secondary pests;

(5) establish methods for verifying pesticide use reduction; and

(6) consider the acute and chronic toxicity of particular pesticides and the quantity of particular pesticides needed. Pest management zone treatment plans may take into account the potential for the use of smaller quantities of more toxic substances to result in fewer health and environmental risks than larger quantities of less toxic substances.

(c) The commissioner may adopt other reasonable rules necessary to carry out the purposes of this chapter. All rules issued under this chapter must be adopted and published in accordance with the laws of this state.

(d) An advisory committee may be established to assist the commissioner in the development of rules under this section. The advisory committee may be composed of:

(1) three citrus producers from the commercial citrus growing area of the state, appointed by the commissioner;

(2) three entomologists with knowledge of the principles of integrated pest management, at least one of whom has special knowledge of nonchemical or biological pest control, appointed by the commissioner;

(3) two individuals with experience representing the general interests of the environment, appointed by the chair of the Texas Commission on Environmental Quality;

(4) an environmental engineer with expert knowledge of ground and surface water protection from contamination, appointed by the chair of the Texas Commission on Environmental Quality; and

(5) a toxicologist, appointed by the commissioner of state health services.

Sec. 80.023. REPORTS. Each person in an active pest management zone growing citrus in this state shall furnish to the corporation on forms supplied by the corporation information that the corporation requires concerning the size and location of all commercial citrus orchards and of noncommercial citrus grown for ornamental or other purposes. The corporation may provide an incentive for early and timely reporting.

Sec. 80.024. DOCUMENTING REGULATED ARTICLES. To implement this chapter, the department may issue or authorize issuance of:

(1) a certificate that indicates that a regulated article is not infested with the Asian citrus psyllid; and

(2) a permit that provides for the movement of a regulated article to a restricted destination for limited handling, use, or processing.

Sec. 80.025. COOPERATIVE PROGRAMS AUTHORIZED. (a) The corporation may carry out programs to destroy and manage the Asian citrus psyllid and citrus greening in this state by cooperating through written agreements, as approved by the commissioner, with:

(1) an agency of the federal government;

(2) a state agency;

(3) an appropriate agency of a foreign country contiguous to the affected area to the extent allowed by federal law;

(4) a person who is engaged in growing, processing, marketing, or handling citrus;

(5) a group of persons in this state involved in similar programs to carry out the purposes of this chapter;
or

(6) an appropriate state agency of another state contiguous to the affected area, to the extent allowed by federal law, the law of the contiguous state, and the law of this state.

(b) An agreement entered into under this section may provide for cost sharing and for division of duties and responsibilities under this chapter and may include other provisions to carry out the purposes of this chapter.

Sec. 80.026. ORGANIC CITRUS PRODUCERS. (a) The commissioner shall develop rules and procedures to:

(1) protect the eligibility of organic citrus producers to be certified by the commissioner;

(2) ensure that organic and transitional certifications by the commissioner continue to meet national certification standards in order for organic citrus to maintain international marketability; and

(3) in all events maintain the effectiveness of the Asian citrus psyllid suppression program and citrus greening management administered under this chapter.

(b) The board may not treat or require treatment of organic citrus groves with chemicals that are not approved for use on certified organic citrus. Rules adopted under Subsection (a) may provide indemnity for the organic citrus producers for reasonable losses that result from a prohibition of production of organic citrus or from any requirement of destruction of organic citrus.

Sec. 80.027. PENALTIES. (a) A person who violates this chapter or a rule adopted under this chapter or who alters, forges, counterfeits, or uses without authority a certificate, permit, or other document issued under this chapter or under a rule adopted under this chapter commits an offense.

(b) An offense under this section is a Class C misdemeanor.

(c) If the commissioner determines that a violation of this chapter or a rule adopted under this chapter has occurred, the commissioner may request that the attorney general or the county or district attorney of the county in which the alleged violation occurred or is occurring file suit for civil, injunctive, or other appropriate relief.

Sec. 80.028. SUNSET PROVISION. (a) The board of directors of the official citrus producers' pest and disease management corporation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2021.

(b) The commissioner may order the dissolution of the corporation at any time the commissioner determines that the purposes of this chapter have been fulfilled or that the corporation is inoperative and abandoned. Dissolution shall be conducted in accordance with Section 80.014.

(c) If the corporation is abolished or the suppression program discontinued for any reason, assessments approved, levied, or otherwise collectible on the date of abolishment remain valid as necessary to pay the financial obligations of the corporation.

Sec. 80.029. ANNUAL REPORT. The board shall issue to the commissioner and the appropriate oversight committee in the house of representatives an annual report detailing its efforts to carry out the purposes of this chapter.

Sec. 80.030. EXEMPTION FROM TAXATION. All payments, contributions, funds, and assessments received or held by the corporation under this chapter are exempt from state or local taxation, levies, sales, and any other process and are unassignable.

Sec. 80.031. USE OF BIO-INTENSIVE CONTROLS. (a) The commissioner shall develop and adopt rules to allow a citrus producer in a suppression program to use biological, botanical, or other nonsynthetic pest control methods. In developing rules, the commissioner shall consider:

(1) scientific studies and field trials of the effectiveness of a proposed alternative control method;

(2) the feasibility of using a proposed alternative control technique within a particular region;

(3) the degree of monitoring necessary to establish the success of the use of a proposed alternative

control; and

(4) methods to prevent the use of substances that would impede the use of alternative controls and the promotion of beneficial insect populations.

(b) A citrus producer that chooses to use an alternative method of control as provided in Subsection (a) shall notify the board. The board and the citrus producer shall coordinate their actions to prevent the use of substances that would impede the use of alternative controls and the promotion of beneficial insect populations.

(c) The citrus producer shall pay any additional cost of bio-intensive control in addition to any assessment.

Sec. 80.032. VENUE. Venue for an action arising out of this chapter in which the corporation is a party is in Travis County.

ARTICLE 11. EFFECTIVE DATE

SECTION 11.01. This Act takes effect September 1, 2009.

S.B. 1056

AN ACT

relating to authorizing a criminal justice agency to disclose certain criminal history record information and to orders of disclosure regarding such information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 411.081, Government Code, is amended by adding Subsections (f-1) and (j) and amending Subsection (i) to read as follows:

(f-1) In this subsection, "child" has the meaning assigned by Section 51.02, Family Code. Notwithstanding any other provision of this subchapter, on conviction of a child for a misdemeanor offense punishable by fine only that does not constitute conduct indicating a need for supervision under Section 51.03, Family Code, the convicting court shall immediately issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense. A criminal justice agency may disclose criminal history record information that is the subject of the order only to other criminal justice agencies for criminal justice purposes, to an agency or entity listed in Subsection (j), or to the person who is the subject of the order.

(i) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (d) to the following noncriminal justice agencies or entities only:

- (1) the State Board for Educator Certification;
- (2) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement;
- (3) the Texas Medical Board;
- (4) the Texas School for the Blind and Visually Impaired;
- (5) the Board of Law Examiners;
- (6) the State Bar of Texas;
- (7) a district court regarding a petition for name change under Subchapter B, Chapter 45, Family Code;
- (8) the Texas School for the Deaf;
- (9) the Department of Family and Protective Services;
- (10) the Texas Youth Commission;
- (11) the Department of Assistive and Rehabilitative Services;
- (12) the Department of State Health Services, a local mental health service, a local mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (13) the Texas Private Security Board;
- (14) a municipal or volunteer fire department;
- (15) the Texas Board of Nursing;
- (16) a safe house providing shelter to children in harmful situations;

- (17) a public or nonprofit hospital or hospital district;
- (18) the Texas Juvenile Probation Commission;
- (19) the securities commissioner, the banking commissioner, the savings and mortgage lending commissioner, or the credit union commissioner;
- (20) the Texas State Board of Public Accountancy;
- (21) the Texas Department of Licensing and Regulation;
- (22) the Health and Human Services Commission;
- (23) the Department of Aging and Disability Services; ~~and~~
- (24) the Texas Education Agency;
- (25) the Guardianship Certification Board; and
- (26) a county clerk's office in relation to a proceeding for the appointment of a guardian under Chapter XIII, Texas Probate Code.

(j) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure under Subsection (f-1) to the following agencies or entities only:

- (1) the Texas Youth Commission;
- (2) the Texas Juvenile Probation Commission;
- (3) the Department of State Health Services, a local mental health or mental retardation authority, or a community center providing services to persons with mental illness or retardation;
- (4) the Department of Family and Protective Services;
- (5) a juvenile probation department;
- (6) a municipal or county health department;
- (7) a public or nonprofit hospital or hospital district;
- (8) a county department that provides services to at-risk youth or their families;
- (9) a children's advocacy center established under Section 264.402, Family Code;
- (10) a school district, charter school, private school, regional education service center, commercial transportation company, or education shared service arrangement; and
- (11) a safe house providing shelter to children in harmful situations.

SECTION 2. Subsection (a), Section 411.0851, Government Code, is amended to read as follows:

(a) A private entity that compiles and disseminates for compensation criminal history record information shall destroy and may not disseminate any information in the possession of the entity with respect to which the entity has received notice that:

- (1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or
- (2) an order of nondisclosure has been issued under Section 411.081(d) or (f-1).

SECTION 3. The heading to Section 552.142, Government Code, is amended to read as follows:

Sec. 552.142. EXCEPTION: RECORDS OF CERTAIN DEFERRED ADJUDICATIONS AND CERTAIN MISDEMEANORS PUNISHABLE BY FINE ONLY.

SECTION 4. Subsection (a), Section 552.142, Government Code, is amended to read as follows:

(a) Information is excepted from the requirements of Section 552.021 if an order of nondisclosure with respect to the information has been issued under Section 411.081(d) or (f-1).

SECTION 5. Subsection (a), Section 552.1425, Government Code, is amended to read as follows:

(a) A private entity that compiles and disseminates for compensation criminal history record information may not compile or disseminate information with respect to which the entity has received notice that:

- (1) an order of expunction has been issued under Article 55.02, Code of Criminal Procedure; or
- (2) an order of nondisclosure has been issued under Section 411.081(d) or (f-1).

SECTION 6. The change in law made by this Act applies to a conviction that occurs on or after the effective date of this Act, regardless of whether the offense was committed before, on, or after the effective date of this Act.

SECTION 7. Notwithstanding Section 6 of this Act, a child, as that term is defined by Section 51.02, Family Code, who is convicted of a misdemeanor offense punishable by fine only that does not constitute

conduct indicating a need for supervision under Section 51.03, Family Code, before the effective date of this Act may petition the court for an order of nondisclosure, and the court shall issue the order under Subsection (f-1), Section 411.081, Government Code, as added by this Act.

SECTION 8. 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.

S.B. 1093

AN ACT

relating to the operation of commercial motor vehicles and vehicles used exclusively to transport waste.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (5), Section 522.003, Transportation Code, is amended to read as follows:

(5) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property that:

(A) has a gross combination weight or a gross combination weight rating of 26,001 or more pounds, including a towed unit with a gross vehicle weight or a gross vehicle weight rating of more than 10,000 pounds;

(B) has a gross vehicle weight or a gross vehicle weight rating of 26,001 or more pounds;

(C) is designed to transport 16 or more passengers, including the driver; or

(D) is transporting hazardous materials and is required to be placarded under 49 C.F.R. Part 172, Subpart F.

SECTION 2. Subsection (a), Section 522.072, Transportation Code, as amended by Chapters 13 (S.B. 332) and 424 (S.B. 1372), Acts of the 80th Legislature, Regular Session, 2007, is reenacted to read as follows:

(a) An employer may not knowingly permit a person to drive a commercial motor vehicle during a period in which:

(1) the person has been denied the privilege of driving a commercial motor vehicle;

(2) the person is disqualified from driving a commercial motor vehicle;

(3) the person, the person's employer, or the vehicle being operated is subject to an out-of-service order in a state; or

(4) the person has more than one commercial driver's license, except during the 10-day period beginning on the date the person is issued a driver's license.

SECTION 3. Subsection (b), Section 545.301, Transportation Code, is amended to read as follows:

(b) This section does not apply to an operator of:

(1) a vehicle that is disabled while on the paved or main traveled part of a highway if it is impossible to avoid stopping and temporarily leaving the vehicle on the highway; or

(2) a vehicle used exclusively to transport solid, semisolid, or liquid waste operated at the time in connection with the removal or transportation of solid, semisolid, or liquid waste from a location adjacent to the highway.

SECTION 4. This Act takes effect September 1, 2009.

S.B. 1145

AN ACT

relating to protocol for folding the state flag.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as the Rod Welsh Act, in honor of Rod Welsh, Sergeant-at-Arms of the Texas House of Representatives, who is primarily responsible for developing the method of folding the state flag of Texas established by this Act.

SECTION 2. Subchapter B, Chapter 3100, Government Code, is amended by adding Section 3100.073 to read as follows:

Sec. 3100.073. FOLDED STATE FLAG. (a) The state flag should be folded as follows:

- (1) fold the flag in half lengthwise with the red stripe facing upward;
- (2) fold the flag in half lengthwise once more, concealing the red stripe on the inside of the fold;
- (3) position the flag with the white star facing downward and the blue stripe facing upward;
- (4) fold the corner with the white stripe to the opposite side of the flag to form a triangle;
- (5) continue folding the corners over in triangles until the resulting fold produces a blue triangle with a portion of the white star visible; and
- (6) secure all edges into the folds.

(b) A folded state flag should be presented or displayed with all folded edges secured and with the blue stripe and a portion of the white star visible.

(c) A folded state flag should be stored or displayed in a manner that prevents tearing or soiling of the flag.

SECTION 3. This Act takes effect September 1, 2009.

S.B. 1152

AN ACT

relating to the making or acceptance of political contributions in a courthouse; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 253.039, Election Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (h) to read as follows:

(a) A person may not knowingly make or authorize a political contribution while in the Capitol or a courthouse to:

- (1) a candidate or officeholder;
- (2) a political committee; or
- (3) a person acting on behalf of a candidate, officeholder, or political committee.

(b) A candidate, officeholder, or political committee or a person acting on behalf of a candidate, officeholder, or political committee may not knowingly accept a political contribution, and shall refuse a political contribution that is received, in the Capitol or a courthouse.

(c) This section does not prohibit contributions made in the Capitol or a courthouse through the United States postal service or a common or contract carrier.

(h) In this section, "courthouse" means any building owned by the state, a county, or a municipality, or an office or part of a building leased to the state, a county, or a municipality, in which a justice or judge sits to conduct court proceedings.

SECTION 2. This Act takes effect September 1, 2009.

S.B. 1163

AN ACT

relating to the penalties for theft of cattle, horses, exotic livestock, exotic fowl, sheep, swine, or goats.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (e), Section 31.03, Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than:

(A) \$50; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is:

- (i) \$50 or more but less than \$500; or
- (ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06; or
- (B) the value of the property stolen is less than:
 - (i) \$50 and the defendant has previously been convicted of any grade of theft; or
 - (ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;
- (3) a Class A misdemeanor if the value of the property stolen is \$500 or more but less than \$1,500;
- (4) a state jail felony if:
 - (A) the value of the property stolen is \$1,500 or more but less than \$20,000, or the property is less than 10 head of ~~[cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, or any part thereof under the value of \$20,000, or less than 100 head of]~~ sheep, swine, or goats or any part thereof under the value of \$20,000;
 - (B) regardless of value, the property is stolen from the person of another or from a human corpse or grave;
 - (C) the property stolen is a firearm, as defined by Section 46.01;
 - (D) the value of the property stolen is less than \$1,500 and the defendant has been previously convicted two or more times of any grade of theft;
 - (E) the property stolen is an official ballot or official carrier envelope for an election; or
 - (F) the value of the property stolen is less than \$20,000 and the property stolen is insulated or noninsulated wire or cable that consists of at least 50 percent:
 - (i) aluminum;
 - (ii) bronze; or
 - (iii) copper;
- (5) a felony of the third degree if the value of the property stolen is \$20,000 or more but less than \$100,000, or the property is:
 - (A) ~~[10 or more head of]~~ cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$100,000; or
 - (B) 10 ~~[100]~~ or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000;
- (6) a felony of the second degree if the value of the property stolen is \$100,000 or more but less than \$200,000; or
- (7) a felony of the first degree if the value of the property stolen is \$200,000 or more.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 3. This Act takes effect September 1, 2009.

S.B. 1224

AN ACT

relating to a waiver of fees imposed for certain expunctions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 102.006, Code of Criminal Procedure, is amended to read as follows:

Art. 102.006. FEES IN EXPUNCTION PROCEEDINGS. (a) In addition to any other fees required by other law and except as provided by Subsection (b), a petitioner seeking expunction of a criminal record shall pay the following fees:

- (1) the fee charged for filing an ex parte petition in a civil action in district court;
 - (2) \$1 plus postage for each certified mailing of notice of the hearing date; and
 - (3) \$2 plus postage for each certified mailing of certified copies of an order of expunction.
- (b) The fees under Subsection (a) shall be waived if:

- (1) the petitioner seeks expunction of a criminal record that relates to an arrest for an offense of which the person was acquitted, other than an acquittal for an offense described by Article 55.01(c); and
- (2) the petition for expunction is filed not later than the 30th day after the date of the acquittal.

SECTION 2. The change in law made by this Act applies only to a petition for expunction filed on or after the effective date of this Act. A petition for expunction filed before the effective date of this Act is governed by the law in effect on the date the petition was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

S.B. 1235 (Excerpt)

AN ACT

relating to the sale and use of unregistered vehicles, including the issuance and use of temporary tags on vehicles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 8. The heading to Section 503.063, Transportation Code, is amended to read as follows:

Sec. 503.063. BUYER'S TEMPORARY [~~CARDBOARD~~] TAGS.

SECTION 9. Subsections (a), (b), (g), and (h), Section 503.063, Transportation Code, are amended to read as follows:

(a) Except as provided by this section, a dealer shall issue to a person who buys a vehicle one temporary [~~cardboard~~] buyer's tag for the vehicle.

(b) Except as provided by this section, the buyer's tag is valid for the operation of the vehicle until the earlier of:

- (1) the date on which the vehicle is registered; or
- (2) the 60th [~~21st~~] day after the date of purchase.

(g) [~~Using the same vehicle-specific number generated under Subsection (e)(2)(A), a dealer may issue an additional temporary cardboard buyer's tag to a person after the expiration of 20 working days after the issue of a temporary cardboard buyer's tag, and the person may operate the vehicle for which the tag was issued on the additional temporary cardboard buyer's tag if the dealer has been unable to obtain on behalf of the vehicle's owner the necessary documents to obtain permanent metal license plates because the documents are in the possession of a lienholder who has not complied with the terms of Section 501.115(a). An additional tag issued under the terms of this subsection is valid for a maximum of 20 working days after the date of issue.~~]

[~~(h)~~] For each buyer's temporary [~~cardboard~~] tag [~~other than an additional temporary cardboard buyer's tag under Subsection (g)~~], a dealer shall charge the buyer a registration fee of not more than \$5 as prescribed by the department to be sent to the comptroller for deposit to the credit of the state highway fund.

SECTION 11. Subsection (a), Section 503.065, Transportation Code, is amended to read as follows:

(a) The department may issue or cause to be issued to a person a temporary license plate [~~made of cardboard or similar material~~] authorizing the person to operate a new unregistered vehicle on a public highway of this state if the person:

- (1) buys the vehicle from a dealer outside this state and intends to drive the vehicle from the dealer's place of business; or
- (2) buys the vehicle from a dealer in this state but intends to drive the vehicle from the manufacturer's place of business outside this state.

SECTION 12. Section 503.067, Transportation Code, is amended to read as follows:

Sec. 503.067. UNAUTHORIZED REPRODUCTION, PURCHASE, USE, OR SALE OF TEMPORARY [CARDBOARD] TAGS. (a) A person may not produce or reproduce a temporary [cardboard] tag or an item represented to be a temporary [cardboard] tag for the purpose of distributing the tag to someone other than a dealer or converter.

(b) A person may not operate a vehicle that displays an unauthorized temporary [cardboard] tag.

(c) A person other than a dealer or converter may not purchase a temporary [cardboard] tag.

(d) A person may not sell or distribute a temporary [cardboard] tag or an item represented to be a temporary [cardboard] tag unless the person is:

(1) a dealer issuing the tag in connection with the sale of a vehicle; or

(2) a printer or distributor engaged in the business of selling temporary [cardboard] tags solely for uses authorized under this chapter.

SECTION 13. Subsections (a), (b), and (c), Section 503.068, Transportation Code, are amended to read as follows:

(a) A dealer or an employee of a dealer may not use a dealer's temporary [cardboard] tag as authorization to operate a vehicle for the dealer's or the employee's personal use.

(b) A person may not use a metal dealer's license plate or dealer's temporary [cardboard] tag on:

(1) a service or work vehicle; or

(2) a commercial vehicle that is carrying a load.

(c) For purposes of this section, a boat trailer carrying a boat is not a commercial vehicle carrying a load. A dealer complying with this chapter may affix to the rear of a boat trailer the dealer owns or sells a metal dealer's license plate or temporary [cardboard] tag issued under Section 503.061, 503.062, or 503.063.

SECTION 14. Subsection (a), Section 503.069, Transportation Code, is amended to read as follows:

(a) A license plate, other than an in-transit license plate, or a temporary [cardboard] tag issued under this chapter shall be displayed in accordance with commission [board] rules.

SECTION 15. Subdivision (12), Section 601.002, Transportation Code, is amended to read as follows:

(12) "Vehicle registration" means:

(A) a registration certificate, registration receipt, or number plate issued under Chapter 502; or

(B) a dealer's license plate or temporary [cardboard] tag issued under Chapter 503.

SECTION 17. Section 503.0632, Transportation Code, is repealed.

SECTION 18. The changes in law made by this Act to Section 503.067, Transportation Code, apply to an offense committed on or after the effective date of this Act. 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. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 19. This Act takes effect September 1, 2009.

S.B. 1236

AN ACT

relating to admonishments given to a person charged with a misdemeanor.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (b), Article 14.06, Code of Criminal Procedure, is amended to read as follows:

(b) A peace officer who is charging a person, including a child, with committing an offense that is a Class C misdemeanor, other than an offense under Section 49.02, Penal Code, may, instead of taking the person before a magistrate, issue a citation to the person that contains written notice of the time and place the person must appear before a magistrate, the name and address of the person charged, ~~and~~ the offense charged, and the following admonishment, in boldfaced or underlined type or in capital letters:

"If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long

gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney."

SECTION 2. Subsection (a), Article 26.13, Code of Criminal Procedure, is amended to read as follows:

(a) Prior to accepting a plea of guilty or a plea of nolo contendere, the court shall admonish the defendant of:

(1) the range of the punishment attached to the offense;

(2) the fact that the recommendation of the prosecuting attorney as to punishment is not binding on the court. Provided that the court shall inquire as to the existence of any plea bargaining agreements between the state and the defendant and, in the event that such an agreement exists, the court shall inform the defendant whether it will follow or reject such agreement in open court and before any finding on the plea. Should the court reject any such agreement, the defendant shall be permitted to withdraw his plea of guilty or nolo contendere;

(3) the fact that if the punishment assessed does not exceed the punishment recommended by the prosecutor and agreed to by the defendant and his attorney, the trial court must give its permission to the defendant before he may prosecute an appeal on any matter in the case except for those matters raised by written motions filed prior to trial;

(4) the fact that if the defendant is not a citizen of the United States of America, a plea of guilty or nolo contendere for the offense charged may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law; and

(5) the fact that the defendant will be required to meet the registration requirements of Chapter 62, if the defendant is convicted of or placed on deferred adjudication for an offense for which a person is subject to registration under that chapter[; ~~and~~

~~[(6) the fact that it is unlawful for the defendant to possess or transfer a firearm or ammunition if the defendant is convicted of a misdemeanor involving family violence, as defined by Section 71.004, Family Code].~~

SECTION 3. Article 27.14, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e)(1) Before accepting a plea of guilty or a plea of nolo contendere by a defendant charged with a misdemeanor involving family violence, as defined by Section 71.004, Family Code, the court shall admonish the defendant by using the following statement:

"If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney."

(2) The court may provide the admonishment under Subdivision (1) orally or in writing, except that if the defendant is charged with a misdemeanor punishable by fine only, the statement printed on a citation issued under Article 14.06(b) may serve as the court admonishment required by this subsection.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5. This Act takes effect September 1, 2009.

S.B. 1273

AN ACT

relating to creating an offense for interference with certain radio frequencies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 38, Penal Code, is amended by adding Section 38.152 to read as follows:

Sec. 38.152. INTERFERENCE WITH RADIO FREQUENCY LICENSED TO GOVERNMENT ENTITY. (a) A person commits an offense if, without the effective consent of the law enforcement agency, fire department, or emergency medical services provider, the person intentionally interrupts, disrupts, impedes, jams, or otherwise interferes with a radio frequency that is licensed by the Federal Communications Commission to a government entity and is used by the law enforcement agency, fire department, or emergency medical services provider.

(b) An offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if the actor committed the offense with the intent to:

(1) facilitate the commission of another offense; or

(2) interfere with the ability of a law enforcement agency, a fire department, or an emergency medical services provider to respond to an emergency.

(c) In this section:

(1) "Emergency" has the meaning assigned by Section 38.15.

(2) "Emergency medical services provider" has the meaning assigned by Section 773.003, Health and Safety Code.

(3) "Law enforcement agency" has the meaning assigned by Article 59.01, Code of Criminal Procedure.

(d) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

SECTION 2. This Act takes effect September 1, 2009.

S.B. 1317

AN ACT

relating to education and examination requirements for the issuance of a driver's license to certain persons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (d), Section 521.142, Transportation Code, is amended to read as follows:

(d) If the applicant is under 25 years of age, the application must state whether the applicant has completed a driver education course required by Section 521.1601 [approved by the department].

SECTION 2. The heading to Subchapter H, Chapter 521, Transportation Code, is amended to read as follows:

SUBCHAPTER H. EDUCATION AND EXAMINATION REQUIREMENTS

SECTION 3. Subchapter H, Chapter 521, Transportation Code, is amended by adding Sections 521.1601 and 521.167 to read as follows:

Sec. 521.1601. DRIVER EDUCATION REQUIRED. The department may not issue a driver's license to a person who is younger than 25 years of age unless the person submits to the department a driver education certificate issued under Chapter 1001, Education Code, that states that the person has completed and passed:

(1) a driver education and traffic safety course approved by the Texas Education Agency under Section 29.902, Education Code, or a driver education course approved by that agency under Section 1001.101(a)(1) of that code or approved by the department under Section 521.205; or

(2) if the person is 18 years of age or older, a driver education course approved by the Texas Education Agency under Section 1001.101(a)(1) or (2), Education Code.

Sec. 521.167. WAIVER OF CERTAIN EDUCATION AND EXAMINATION REQUIREMENTS. A person who has completed and passed a driver education course approved by the Texas Education Agency under Section 1001.101(a)(2), Education Code, is not required to take the highway sign and traffic law parts of the examination required under Section 521.161 if those parts have been successfully

completed as determined by a licensed driver education instructor.

SECTION 4. Section 1001.004, Education Code, is amended to read as follows:

Sec. 1001.004. COST OF ADMINISTERING CHAPTER. (a) Except as provided by Subsection (b), the [The] cost of administering this chapter shall be included in the state budget allowance for the agency.

(b) The commissioner may charge a fee to each driver education school in an amount not to exceed the actual expense incurred in the regulation of driver education courses established under Section 1001.101(a)(2).

SECTION 5. Subsection (a), Section 1001.055, Education Code, is amended to read as follows:

(a) The agency shall print and supply to each licensed or exempt driver education school driver education certificates to be used for certifying completion of an approved driver education course to satisfy the requirements of Sections [Section] 521.204(a)(2) and 521.1601, Transportation Code. The certificates must be numbered serially.

SECTION 6. Section 1001.101, Education Code, is amended to read as follows:

Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND EDUCATIONAL MATERIALS [~~TEXTBOOKS~~]. (a) The commissioner by rule shall establish the curriculum and designate the educational materials [~~textbooks~~] to be used in:

(1) a driver education course for minors and adults; and

(2) a driver education course exclusively for adults.

(b) A driver education course under Subsection (a)(2) must:

(1) be a six-hour course; and

(2) include instruction in:

(A) alcohol and drug awareness;

(B) the traffic laws of this state;

(C) highway signs, signals, and markings that regulate, warn, or direct traffic; and

(D) the issues commonly associated with motor vehicle accidents, including poor decision-making, risk taking, impaired driving, distraction, speed, failure to use a safety belt, driving at night, failure to yield the right-of-way, and using a wireless communication device while operating a vehicle.

(c) A course approved under Subsection (a)(2) may be offered as an online course.

(d) A driving safety course or a drug and alcohol driving awareness program may not be approved as a driver education course under Subsection (a)(2).

SECTION 7. The changes in law made by this Act apply to an application for the issuance of a driver's license filed on or after the effective date of this Act. An application for the issuance of a driver's license filed before the effective date of this Act is governed by the law in effect on the date of the filing, and that law is continued in effect for that purpose.

SECTION 8. This Act takes effect March 1, 2010.

S.B. 1436

AN ACT

relating to the appeal of a censure issued by the State Commission on Judicial Conduct.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (11), Section 33.001, Government Code, is amended to read as follows:

(11) "Special court of review" means a panel of three justices of the courts of appeal selected by lot by the chief justice of the supreme court on petition to review a censure or sanction issued by the commission under Section 1-a(8), Article V, Texas Constitution.

SECTION 2. Section 33.034, Government Code, is amended by amending Subsections (a), (d), (e), (f), and (g) and adding Subsection (e-1) to read as follows:

(a) A judge who receives from the commission any type of sanction, or a censure issued by the commission under Section 1-a(8), Article V, Texas Constitution, is entitled to a review of the commission's decision as provided by this section. This section does not apply to a decision by the

commission to institute formal proceedings.

(d) Within 15 days after the appointment of the court of review, the commission shall file with the clerk a charging document that includes, as applicable, a copy of the censure or sanction issued and any additional charges to be considered by the court of review [~~in the de novo proceeding~~]. The charging document is public on its filing with the clerk. On receipt of the filing of the charging document, the clerk shall send the charging document to the judge who is the subject of the document and to each justice on the court of review.

(e) The review by the court under this section:

(1) of a censure is a review of the record of the proceedings that resulted in the censure and is based on the law and facts that were presented in the proceedings and any additional evidence that the court in its discretion may, for good cause shown, permit; and

(2) of a sanction is by trial de novo as that term is used in the appeal of cases from justice to county court.

(e-1) Any hearings of the court shall be public and shall be held at the location determined by the court. Any evidence introduced during a hearing, including papers, records, documents, and pleadings filed with the clerk in the proceedings, is public.

(f) Except as otherwise provided by this section, the procedure for the review of a sanction is governed to the extent practicable by the rules of law, evidence, and procedure that apply to the trial of civil actions generally.

(g) A judge is not entitled to a trial by jury in a review of a sanction under this section.

SECTION 3. The change in law made by this Act applies only to a censure issued by the State Commission on Judicial Conduct under Subdivision (8), Section 1-a, Article V, Texas Constitution, on or after the effective date of this Act. A censure issued before the effective date of this Act is governed by the law in effect on the date the censure was issued, and the former law is continued in effect for that purpose.

SECTION 4. 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.

S.B. 1448

AN ACT

relating to actions in a justice court regarding the repair of residential rental property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 92.0563, Property Code, is amended by amending Subsection (c) and adding Subsections (d), (e), and (f) to read as follows:

(c) The justice, county, and district courts have concurrent jurisdiction in [~~of~~] an action under Subsection

(a) [~~of this section except that the justice court may not order repairs under Subdivision (1) of Subsection (a) of this section~~].

(d) If a suit is filed in a justice court requesting relief under Subsection (a), the justice court shall conduct a hearing on the request not earlier than the sixth day after the date of service of citation and not later than the 10th day after that date.

(e) A justice court may not award a judgment under this section, including an order of repair, that exceeds \$10,000, excluding interest and costs of court.

(f) An appeal of a judgment of a justice court under this section takes precedence in county court and may be held at any time after the eighth day after the date the transcript is filed in the county court. An owner of real property who files a notice of appeal of a judgment of a justice court to the county court perfects the owner's appeal and stays the effect of the judgment without the necessity of posting an appeal bond.

SECTION 2. Not later than January 1, 2010, the Texas Supreme Court shall adopt rules of civil

procedure applicable to orders of repair issued by a justice court under Subdivision (1), Subsection (a), Section 92.0563, Property Code.

SECTION 3. Section 92.0563, Property Code, as amended by this Act, applies only to an action filed on or after the effective date of this Act. An action filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect January 1, 2010.

S.B. 1449

AN ACT

relating to the appointment of a receiver to remedy hazardous properties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 214, Local Government Code, is amended by adding Section 214.0031 to read as follows:

Sec. 214.0031. ADDITIONAL AUTHORITY TO APPOINT RECEIVER FOR HAZARDOUS PROPERTIES. (a) In this section:

(1) "Eligible nonprofit housing organization" means a nonprofit housing organization that is certified by a home-rule municipality to bring an action under this section.

(2) "Multifamily residential property" means any residential dwelling complex consisting of four or more units.

(b) A home-rule municipality may annually certify one or more nonprofit housing organizations to bring an action under this section after making the following findings:

(1) the nonprofit housing organization has a record of community involvement; and

(2) the certification will further the home-rule municipality's goal to rehabilitate hazardous properties.

(c) A home-rule municipality or an eligible nonprofit housing organization may bring an action under this section in district court against an owner of property that is not in substantial compliance with one or more municipal ordinances regarding:

(1) the prevention of substantial risk of injury to any person; or

(2) the prevention of an adverse health impact to any person.

(d) A municipality that grants authority to an eligible nonprofit housing organization to initiate an action under this section has standing to intervene in the proceedings at any time as a matter of right.

(e) The court may appoint a receiver if the court finds that:

(1) the property is in violation of one or more ordinances of the municipality described by Subsection (c);

(2) the condition of the property constitutes a serious and imminent public health or safety hazard; and

(3) the property is not an owner-occupied, single-family residence.

(f) The following are eligible to serve as court-appointed receivers:

(1) an entity with, as determined by the court, sufficient capacity and experience rehabilitating properties; and

(2) an individual with, as determined by the court, sufficient resources and experience rehabilitating properties.

(g) Notwithstanding Subsection (f), an entity is ineligible to serve as a receiver for a multifamily residential property if the nonprofit housing organization that brought the action under this section has an ownership interest or a right to income in the entity.

(h) The home-rule municipality or eligible nonprofit housing organization must send by certified mail notice of any ordinance violation alleged to exist on the property on or before the 30th day before the date an action is filed under this section to:

(1) the physical address of the property; and

(2) the address as indicated on the most recently approved municipal tax roll for the property owner or the property owner's agent.

(i) In an action under this section, each record owner and each lienholder of record of the property shall

be served with notice of the proceedings or, if not available after due diligence, may be served by alternative means, including publication, as prescribed by the Texas Rules of Civil Procedure. Actual service or service by publication on a record owner or lienholder constitutes notice to each unrecorded owner or lienholder.

(j) On a showing of imminent risk of injury to a person occupying the property or present in the community, the court may issue a mandatory or prohibitory temporary restraining order or temporary injunction as necessary to protect the public health or safety.

(k) Unless inconsistent with this section or other law, the rules of equity govern all matters relating to a court action under this section.

(l) Subject to control of the court, a court-appointed receiver has all powers necessary and customary to the powers of a receiver under the laws of equity and may:

(1) take possession and control of the property;

(2) operate and manage the property;

(3) establish and collect rents and income on the property;

(4) lease the property;

(5) make any repairs and improvements necessary to bring the property into compliance with local codes and ordinances and state laws, including:

(A) performing and entering into contracts for the performance of work and the furnishing of materials for repairs and improvements; and

(B) entering into loan and grant agreements for repairs and improvements to the property;

(6) pay expenses, including paying for utilities and paying taxes and assessments, insurance premiums, and reasonable compensation to a property management agent;

(7) enter into contracts for operating and maintaining the property;

(8) exercise all other authority of an owner of the property other than the authority to sell the property unless authorized by the court under Subsection (n); and

(9) perform other acts regarding the property as authorized by the court.

(m) A court-appointed receiver may demolish a single-family structure on the property under this section on authorization by the court and only if the court finds:

(1) it is not economically feasible to bring the structure into compliance with local codes and ordinances and state laws; and

(2) the structure is:

(A) unfit for human habitation or is a hazard to the public health or safety;

(B) regardless of its structural condition:

(i) unoccupied by its owners or lessees or other invitees; and

(ii) unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

(C) boarded, fenced, or otherwise secured, but:

(i) the structure constitutes a danger to the public even though secured from entry; or

(ii) the means used to secure the structure are inadequate to prevent unauthorized entry or use of the structure in the manner described by Paragraph (B)(ii).

(n) On demolition of the structure, the court may authorize the receiver to sell the property to an individual or organization that will bring the property into productive use.

(o) On completing the repairs or demolishing the structure or before petitioning a court for termination of the receivership, the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs or demolition, including reasonable costs for labor and supervision, all income received from the property, and, at the receiver's discretion, a receivership fee of 10 percent of those costs and expenses. If the property was sold under Subsection (n) and the revenue exceeds the total of the costs and expenses incurred by the receiver plus any receivership fee, any net income shall be returned to the owner. If the property is not sold and the income produced exceeds the total of the costs and expenses

incurred by the receiver plus any receivership fee, the rehabilitated property shall be restored to the owner and any net income shall be returned to the owner. If the total of the costs and expenses incurred by the receiver plus any receivership fee exceeds the income produced during the receivership, the receiver may maintain control of the property until all rehabilitation and maintenance costs plus any receivership fee are recovered or until the receivership is terminated.

(p) A receiver shall have a lien on the property for all of the receiver's unreimbursed costs and expenses, plus any receivership fee.

(q) Any lienholder of record may, after initiation of an action under this section:

(1) intervene in the action; and

(2) request appointment as a receiver under this section if the lienholder demonstrates to the court an ability and willingness to rehabilitate the property.

(r) A receiver appointed under this section or the home-rule municipality or eligible nonprofit housing organization that filed the action under which the receiver was appointed may petition the court to terminate the receivership and order the sale of the property if an owner has been served with notice but has failed to repay all of the receiver's outstanding costs and expenses plus any receivership fee on or before the 180th day after the date the notice was served.

(s) The court may order the sale of the property if the court finds that:

(1) notice was given to each record owner of the property and each lienholder of record;

(2) the receiver has been in control of the property and the owner has failed to repay all the receiver's outstanding costs and expenses of rehabilitation plus any receivership fee within the period prescribed by Subsection (r); and

(3) no lienholder of record has intervened in the action and tendered the receiver's costs and expenses, plus any receivership fee, and assumed control of the property.

(t) The court may order the property sold:

(1) to a land bank or other party as the court may direct, excluding, for multifamily residential properties, an eligible nonprofit housing organization that initiated the action under this section; or

(2) at public auction.

(u) The receiver, if an entity not excluded under Subsection (t), may bid on the property at the sale described by Subsection (t)(2) and may use a lien granted under Subsection (p) as credit toward the purchase.

(v) The court shall confirm a sale under this section and order a distribution of the proceeds of the sale in the following order:

(1) court costs;

(2) costs and expenses, plus a receivership fee, and any lien held by the receiver; and

(3) other valid liens.

(w) Any remaining amount shall be paid to the owner. If the owner cannot be identified or located, the court shall order the remaining amount to be deposited in an interest-bearing account with the district clerk's office in the district court in which the action is pending. The district clerk shall hold the funds as provided by other law.

(x) After the proceeds are distributed, the court shall award fee title to the purchaser. If the proceeds of the sale are insufficient to pay all liens, claims, and encumbrances on the property, the court shall extinguish all unpaid liens, claims, and encumbrances on the property and award title to the purchaser free and clear.

(y) This section does not foreclose any right or remedy that may be available under Section 214.003, other state law, or the laws of equity.

SECTION 2. This Act takes effect September 1, 2009.

S.B. 1504

AN ACT

relating to the concurrent jurisdiction of certain municipal courts in certain criminal cases punishable by fine only.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 4.14, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f) A municipality with a population of 1.9 million or more and another municipality contiguous to that municipality may enter into an agreement providing concurrent jurisdiction for the municipal courts of either jurisdiction for all criminal cases arising from offenses under state law that are:

(1) committed on the boundary of those municipalities or within 200 yards of that boundary; and

(2) punishable by fine only.

SECTION 2. Chapter 13, Code of Criminal Procedure, is amended by adding Article 13.045 to read as follows:

Art. 13.045. ON THE BOUNDARIES OF CERTAIN MUNICIPALITIES. An offense punishable by fine only that is committed on the boundary, or within 200 yards of the boundary, of contiguous municipalities that have entered into an agreement authorized by Article 4.14(f) and Section 29.003(h), Government Code, may be prosecuted in either of those municipalities.

SECTION 3. Section 29.003, Government Code, is amended by adding Subsection (h) to read as follows:

(h) A municipality with a population of 1.9 million or more and another municipality contiguous to that municipality may enter into an agreement providing concurrent jurisdiction for the municipal courts of either jurisdiction for all criminal cases arising from offenses under state law that are:

(1) committed on the boundary of those municipalities or within 200 yards of that boundary; and

(2) punishable by fine only.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. 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. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5. This Act takes effect September 1, 2009.

S.B. 1506

AN ACT

relating to the payment of the costs associated with certain conditions of bond.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 17.44, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

(c) The magistrate may revoke the bond and order the defendant arrested if the [H-a] defendant:

(1) violates a condition of home confinement and electronic monitoring;

(2) [;] refuses to submit to a test for controlled substances[;] or submits to a test for controlled substances and the test indicates the presence of a controlled substance in the defendant's body; or

(3) fails to pay the costs of monitoring or testing for controlled substances, if payment is ordered under Subsection (e) as a condition of bond and the magistrate determines that the defendant is not indigent and is financially able to make the payments as ordered[; the magistrate may revoke the bond and order the defendant arrested].

(e) The cost of electronic monitoring or testing for controlled substances under this article may be assessed as court costs or ordered paid directly by the defendant as a condition of bond.

SECTION 2. This Act takes effect September 1, 2009.

S.B. 1681

AN ACT

relating to requiring the corroboration of certain testimony to support a criminal conviction.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.075 to read as follows:

Art. 38.075. CORROBORATION OF CERTAIN TESTIMONY REQUIRED. (a) A defendant may not be convicted of an offense on the testimony of a person to whom the defendant made a statement against the defendant's interest during a time when the person was imprisoned or confined in the same correctional facility as the defendant unless the testimony is corroborated by other evidence tending to connect the defendant with the offense committed. In this subsection, "correctional facility" has the meaning assigned by Section 1.07, Penal Code.

(b) Corroboration is not sufficient for the purposes of this article if the corroboration only shows that the offense was committed.

SECTION 2. The change in law made by this Act applies to any case in which a judgment has not been entered before the effective date of this Act. A case in which a judgment has been entered before the effective date of this Act is governed by the law in effect when the judgment was entered, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

S.B. 1945

AN ACT

relating to the issuance of a citation to an owner of real property for a violation of a county or municipal rule or ordinance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 250.003, Local Government Code, is amended to read as follows:

(a) An individual who is an employee of the owner of real property for which a citation for a violation of a county or municipal rule or ordinance is issued, or of a company that manages the property on behalf of the property owner, is not personally liable for criminal or civil penalties resulting from the violation if, not later than the fifth calendar day after the date the citation is issued, the individual provides the property owner's name, current street address, and telephone number to the enforcement official who issues the citation or the official's superior.

SECTION 2. Section 250.004, Local Government Code, is amended to read as follows:

Sec. 250.004. AGENT FOR SERVICE; NOTICE OF CITATION. (a) ~~The [If the property owner's street address is not in this state, the]~~ employee of the owner or management company to whom a citation described by Section 250.003 is issued is considered the owner's agent for accepting service of the citation for the violation of the county or municipal rule or ordinance. Service of the citation on the agent has the same legal effect as service on the owner for the purpose of fines against the owner or the property, including a warrant or capias.

(b) The county or municipality issuing the citation shall mail notice of the citation to the property owner at the address most recently provided to the county or municipality by the property owner or by the employee of the owner or management company under Section 250.003(a). This subsection does not require a county or municipality to mail notice using a service that provides delivery confirmation.

SECTION 3. This Act takes effect January 1, 2010.

S.B. 1967

AN ACT

relating to the safe operation of motorcycles and other vehicles in this state; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.621 to read as follows:

Sec. 201.621. MOTORCYCLIST SAFETY AND SHARE THE ROAD CAMPAIGN. From funds appropriated for that purpose, the department shall conduct a continuing public awareness campaign to promote motorcyclist safety and the concept of sharing the road with motorcyclists.

SECTION 2. Subsection (a), Section 521.001, Transportation Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Motorcycle" includes an enclosed three-wheeled passenger vehicle that:

(A) is designed to operate with three wheels in contact with the ground;

(B) has a minimum unladen weight of 900 pounds;

(C) has a single, completely enclosed, occupant compartment;

(D) at a minimum, is equipped with:

(i) seats that are certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard 207, 49 C.F.R. Section 571.207;

(ii) a steering wheel used to maneuver the vehicle;

(iii) a propulsion unit located in front of or behind the enclosed occupant compartment;

(iv) a seat belt for each vehicle occupant certified by the manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard 209, 49 C.F.R. Section 571.209;

(v) a windshield and one or more windshield wipers certified by the manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard 205, 49 C.F.R. Section 571.205, and Federal Motor Vehicle Safety Standard 104, 49 C.F.R. Section 571.104; and

(vi) a vehicle structure certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard 216, 49 C.F.R. Section 571.216; and

(E) is produced by its manufacturer in a minimum quantity of 300 in any calendar year.

SECTION 3. Section 521.085, Transportation Code, is amended to read as follows:

Sec. 521.085. TYPE OF VEHICLE AUTHORIZED. (a) Unless prohibited by Chapter 522, and except as provided by Subsection (b), the license holder may operate any vehicle of the type for which that class of license is issued and any lesser type of vehicle other than a motorcycle or moped.

(b) Subsection (a) does not prohibit a license holder from operating a lesser type of vehicle that is a motorcycle described by Section 521.001(a)(6-a).

SECTION 4. Subchapter G, Chapter 521, Transportation Code, is amended by adding Section 521.148 to read as follows:

Sec. 521.148. APPLICATION FOR CLASS M LICENSE OR AUTHORIZATION TO OPERATE MOTORCYCLE. (a) An applicant for an original Class M license or Class A, B, or C driver's license that includes an authorization to operate a motorcycle must furnish to the department evidence satisfactory to the department that the applicant has successfully completed a basic motorcycle operator training course approved by the department under Chapter 662.

(b) The department may not issue an original Class M license or Class A, B, or C driver's license that includes an authorization to operate a motorcycle to an applicant who fails to comply with Subsection (a).

(c) When the department issues a license to which this section applies, the department shall provide the person to whom the license is issued with written information about the Glenda Dawson Donate Life-Texas Registry program established under Chapter 49, Health and Safety Code.

SECTION 5. Subchapter C, Chapter 522, Transportation Code, is amended by adding Section 522.034 to read as follows:

Sec. 522.034. APPLICATION FOR AUTHORIZATION TO OPERATE MOTORCYCLE. (a) An applicant for an original commercial driver's license or commercial driver learner's permit that includes an authorization to operate a motorcycle must furnish to the department evidence satisfactory to the department that the applicant has successfully completed a basic motorcycle operator training course approved by the department under Chapter 662.

(b) The department may not issue an original commercial driver's license or commercial driver learner's permit that includes an authorization to operate a motorcycle to an applicant who fails to comply with

Subsection (a).

(c) When the department issues a license or permit to which this section applies, the department shall provide the person to whom the license is issued with written information about the Glenda Dawson Donate Life-Texas Registry program established under Chapter 49, Health and Safety Code.

SECTION 6. Subchapter D, Chapter 542, Transportation Code, is amended by adding Section 542.4045 to read as follows:

Sec. 542.4045. PENALTIES FOR FAILURE TO YIELD RIGHT-OF-WAY OFFENSE RESULTING IN ACCIDENT. If it is shown on the trial of an offense under this subtitle in which an element is the failure by the operator of a vehicle to yield the right-of-way to another vehicle that an accident resulted from the operator's failure to yield the right-of-way:

(1) the offense is punishable by a fine of not less than \$500 or more than \$2,000, if a person other than the operator of the vehicle suffered bodily injury, as defined by Section 1.07, Penal Code, in the accident; and

(2) the offense is punishable by a fine of not less than \$1,000 or more than \$4,000, if a person other than the operator of the vehicle suffered serious bodily injury, as defined by Section 1.07, Penal Code, in the accident.

SECTION 7. Subdivision (1), Section 661.001, Transportation Code, is amended to read as follows:

(1) "Motorcycle" means a motor vehicle designed to propel itself with not more than three wheels in contact with the ground, and having a saddle for the use of the rider. The term does not include a tractor or a three-wheeled vehicle equipped with a cab or occupant compartment, seat, and seat belt and designed to contain the operator in the cab or occupant compartment.

SECTION 8. Section 661.003, Transportation Code, is amended by amending Subsection (c) and adding Subsections (c-1) and (c-2) to read as follows:

(c) It is an exception to the application of Subsection (a) or (b) that at the time the offense was committed, the person required to wear protective headgear was at least 21 years old and had successfully completed a motorcycle operator training and safety course under Chapter 662 or was covered by a health insurance plan providing the person with ~~[at least \$10,000 in]~~ medical benefits for injuries incurred as a result of an accident while operating or riding on a motorcycle. A peace officer may not arrest a person or issue a citation to a person for a violation of Subsection (a) or (b) if the person required to wear protective headgear is at least 21 years of age and presents evidence sufficient to show that the person required to wear protective headgear has successfully completed a motorcycle operator training and safety course or is covered by a health insurance plan as described by this subsection.

(c-1) A 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 the person has successfully completed the motorcycle operator training and safety course or is covered by a health insurance plan.

(c-2) The Texas Department of Insurance shall prescribe a standard proof of health insurance for issuance to persons who are at least 21 years of age and covered by a health insurance plan described by Subsection (c).

SECTION 9. Subsection (a), Section 662.011, Transportation Code, is amended to read as follows:

(a) Of each fee collected under Sections 521.421(b) and (f) and~~[;~~ Sections 522.029(f) and (g), ~~[and Section 661.003(d);]~~ the Department of Public Safety shall send \$5 to the comptroller for deposit to the credit of the motorcycle education fund account.

SECTION 10. Section 680.013, Transportation Code, is amended to read as follows:

Sec. 680.013. USE OF PREFERENTIAL LANE BY MOTORCYCLE. A motorcycle, including a motorcycle described by Section 521.001(a)(6-a), may be operated in a preferential lane that is not closed to all vehicular traffic.

SECTION 11. Subchapter C, Chapter 1001, Education Code, is amended by adding Section 1001.1025 to read as follows:

Sec. 1001.1025. MOTORCYCLE AWARENESS INFORMATION. (a) The agency by rule shall

require that information relating to motorcycle awareness, the dangers of failing to yield the right-of-way to a motorcyclist, and the need to share the road with motorcyclists be included in the curriculum of any driver education course or driving safety course.

(b) In developing rules under this section, the agency shall consult with the department.

SECTION 12. Subsections (d), (e), (f), and (g), Section 661.003, Transportation Code, are repealed.

SECTION 13. The change in law made by this Act to Chapters 521 and 522, Transportation Code, apply only in connection with an application for a driver's license, personal identification certificate, commercial driver's license, or commercial driver learner's permit filed on or after the effective date of this Act. An application for a driver's license, personal identification certificate, commercial driver's license, or commercial driver learner's permit filed before the effective date of this Act is covered by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

SECTION 14. This Act takes effect September 1, 2009.

S.B. 1970

AN ACT

relating to certain election practices and procedures; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (a), Section 2.051, Election Code, is amended to read as follows:

(a) Except as provided by Sections 2.055 and 2.056, this subchapter applies only to an election for officers of a political subdivision other than a county in which write-in votes may be counted only for names appearing on a list of write-in candidates and in which[:

~~(1) each candidate for an office that is to appear on the ballot is unopposed, except as provided by Subsection (b)]~~;~~ and~~

~~(2) no proposition is to appear on the ballot].~~ For purposes of this section, a special election of a political subdivision is considered to be a separate election with a separate ballot from:

(1) a general election for officers of the political subdivision held at the same time as the special election;
or

(2) another special election of the political subdivision held at the same time as the special election.

SECTION 2. Section 2.053, Election Code, is amended to read as follows:

Sec. 2.053. ACTION ON CERTIFICATION. (a) On receipt of the certification, the governing body of the political subdivision by order or ordinance may declare each unopposed candidate elected to the office. If no election is to be held on election day by the political subdivision, a copy of the order or ordinance shall be posted on election day at each polling place used or that would have been used in the election.

(b) If a declaration is made under Subsection (a), the election is not held. ~~[A copy of the order or ordinance shall be posted on election day at each polling place that would have been used in the election.]~~

(c) The ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section shall include the offices and names of the candidates declared elected under this section listed separately after the measures or contested races in the separate election under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the candidates.

(d) The secretary of state by rule may prescribe any additional procedures necessary to accommodate a particular voting system or ballot style and to facilitate the efficient and cost-effective implementation of this section.

(e) A certificate of election shall be issued to each candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election.

SECTION 3. Subsection (a), Section 2.054, Election Code, is amended to read as follows:

(a) In an election that may be subject to this subchapter, a [A] person commits an offense if by intimidation or by means of coercion the person influences or attempts to influence a person to:
(1) not file an application for a place on the ballot or a declaration of write-in candidacy; or
(2) withdraw as a candidate [in an election that may be subject to this subchapter].

SECTION 4. Chapter 2, Election Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. CANCELLATION OF ELECTIONS

Sec. 2.081. CANCELLATION OF MOOT MEASURE. (a) If an authority that orders an election on a measure determines that the action to be authorized by the voters may not be taken, regardless of the outcome of the election, the authority may declare the measure moot and remove the measure from the ballot.

(b) If a measure is declared moot under this section and is removed from the ballot, the authority holding the election shall post notice of the declaration during early voting by personal appearance and on election day, at each polling place that would have been used for the election on the measure.

Sec. 2.082. SPECIFIC AUTHORITY FOR CANCELLATION REQUIRED. An authority that orders an election may cancel the election only if the power to cancel the election is specifically provided by statute.

SECTION 5. Subsection (a), Section 4.004, Election Code, is amended to read as follows:

(a) The notice of a general or special election must state:

- (1) the nature and date of the election;
- (2) except as provided by Subsection (c), the location of each polling place, including each early voting polling place;
- (3) the hours that the polls will be open; and
- (4) any other information required by other law.

SECTION 6. Subsection (a), Section 16.031, Election Code, is amended to read as follows:

(a) The registrar shall cancel a voter's registration immediately on receipt of:

- (1) notice under Section 13.072(b) or 15.021 or a response under Section 15.053 that the voter's residence is outside the county;
- (2) an abstract of the voter's death certificate under Section 16.001(a) or an abstract of an application indicating that the voter is deceased under Section 16.001(b);
- (3) an abstract of a final judgment of the voter's total mental incapacity, partial mental incapacity without the right to vote, conviction of a felony, or disqualification under Section 16.002, 16.003, or 16.004;
- (4) notice under Section 112.012 that the voter has applied for a limited ballot in another county;
- (5) notice from a voter registration official in another state that the voter has registered to vote outside this state; [ø]
- (6) notice from the early voting clerk under Section 101.0041 that a federal postcard application submitted by an applicant states a voting residence address located outside the registrar's county; or
- (7) notice from the secretary of state that the voter has registered to vote in another county, as determined by the voter's driver's license number or personal identification card number issued by the Department of Public Safety or social security number.

SECTION 7. Section 67.010, Election Code, is amended by adding Subsection (d) to read as follows:

(d) The presiding officer may make a clerical correction to the officially canvassed returns based on any authorized amended county canvass filed with the presiding officer.

SECTION 8. Subsection (e), Section 85.001, Election Code, is amended to read as follows:

(e) For an election held on the uniform election date in May and any resulting runoff election, the period for early voting by personal appearance begins on the 12th day before election day and continues through the fourth day before election day.

SECTION 9. Section 85.004, Election Code, is amended to read as follows:

Sec. 85.004. PUBLIC NOTICE OF [MAIN] POLLING PLACE LOCATION. The election order and the election notice must state the location of each [the main] early voting polling place.

SECTION 10. Chapter 101, Election Code, is amended by adding Section 101.0041 to read as follows:
Sec. 101.0041. ACTION BY EARLY VOTING CLERK ON CERTAIN APPLICATIONS. The early voting clerk shall notify the voter registrar of a federal postcard application submitted by an applicant that states a voting residence address located outside the registrar's county.

SECTION 11. Subsection (a), Section 112.002, Election Code, is amended to read as follows:

(a) After changing residence to another county, a person is eligible to vote a limited ballot by personal appearance during the early voting period or by mail if:

(1) the person would have been eligible to vote in the county of former residence on election day if still residing in that county;

(2) the person is ~~was~~ registered to vote in the county of former residence at the time the person offers to vote in the county of new ~~when the voter changed~~ residence; and

(3) a voter registration for the person in the county of new residence is not effective on or before election day.

SECTION 12. Subchapter A, Chapter 125, Election Code, is amended by adding Section 125.010 to read as follows:

Sec. 125.010. PRESENCE OF VOTING SYSTEM TECHNICIAN AUTHORIZED. (a) In this section, "voting system technician" means a person who as a vocation repairs, assembles, maintains, or operates voting system equipment.

(b) On the request of the authority holding the election, a voting system technician may be present at a polling place, a meeting of the early voting ballot board, or a central counting station for the purpose of repairing, assembling, maintaining, or operating voting system equipment.

SECTION 13. Subchapter B, Chapter 141, Election Code, is amended by adding Section 141.040 to read as follows:

Sec. 141.040. NOTICE OF DEADLINES. Not later than the 30th day before the first day on which a candidate may file an application for a place on the ballot under this subchapter, the authority with whom the application must be filed shall post notice of the dates of the filing period in a public place in a building in which the authority has an office.

SECTION 14. Subsection (a), Section 146.0301, Election Code, as amended by Chapters 1107 (H.B. 2309) and 1109 (H.B. 2339), Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(a) A write-in candidate may not withdraw from the election after the 67th day before election day.

SECTION 15. Subsection (b), Section 172.116, Election Code, is amended to read as follows:

(b) The committee shall convene to conduct the local canvass at the county seat ~~[not earlier than 6 p.m.]~~ on the second Thursday ~~[or later than 1 p.m. on the second Friday]~~ after election day at the hour specified by the county chair.

SECTION 16. Section 172.120, Election Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) The state executive committee shall convene to conduct the state canvass for the general primary election not later than:

(1) ~~on~~ the second Sunday ~~[Wednesday]~~ after general primary election day, for an election in which three or more candidates are seeking election to the same office; or

(2) the 22nd day after general primary election day, for an election not described by Subdivision (1).

(b-1) Not later than the third ~~second~~ Saturday after runoff primary election day, the committee shall convene at the call of the state chair to conduct the state canvass of the runoff primary election.

SECTION 17. Section 192.031, Election Code, is amended to read as follows:

Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT. (a) A political party is entitled to have the names of its nominees for president and vice-president of the United States placed on the ballot in a presidential general election if:

(1) the nominees possess the qualifications for those offices prescribed by federal law;

(2) ~~[before 5 p.m. of the 70th day before presidential election day,]~~ the party's state chair signs ~~[and delivers to the secretary of state]~~ a written certification of:

(A) the names of the party's nominees for president and vice-president; and

(B) the names and residence addresses of presidential elector candidates nominated by the party, in a number equal to the number of presidential electors that federal law allocates to this state; ~~[and]~~

(3) the party's state chair delivers the written certification to the secretary of state before the later of:

(A) 5 p.m. of the 70th day before presidential election day; or

(B) 5 p.m. of the first business day after the date of final adjournment of the party's national presidential nominating convention; and

(4) the party is:

(A) required or authorized by Subchapter A of Chapter 172 to make its nominations by primary election; or

(B) entitled to have the names of its nominees placed on the general election ballot under Chapter 181.

(b) If the state chair's certification of the party's nominees is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state.

SECTION 18. Subsection (b), Section 192.033, Election Code, is amended to read as follows:

(b) The ~~[Not later than the 62nd day before presidential election day, the]~~ secretary of state shall deliver the certification to the authority responsible for having the official ballot prepared in each county before the later of the 62nd day before presidential election day or the second business day after the date of final adjournment of the party's national presidential nominating convention.

SECTION 19. Subsection (a), Section 201.054, Election Code, is amended to read as follows:

(a) Except as provided by Subsection (f), a candidate's application for a place on a special election ballot must be filed not later than:

(1) 5 p.m. of the 62nd ~~[67th]~~ day before election day, if election day is on or after the 70th day after the date the election is ordered;

(2) 5 p.m. of the 31st day before election day, if election day is on or after the 36th day and before the 70th day after the date the election is ordered; or

(3) 5 p.m. of a day fixed by the authority ordering the election, which day must be not earlier than the fifth day after the date the election is ordered and not later than the 20th day before election day, if election day is before the 36th day after the date the election is ordered.

SECTION 20. Section 212.112, Election Code, is amended to read as follows:

Sec. 212.112. AMOUNT OF DEPOSIT. The ~~[(a) Subject to Subsection (d), the]~~ amount of the recount deposit is ~~[determined by the number of precincts for which a recount is requested in the document that the deposit accompanies, in accordance with the following schedule]:~~

(1) \$60 ~~[five times the maximum hourly rate of pay for election judges,]~~ for each [a] precinct in which[: ~~[(A)]~~ regular paper ballots were used; and

(2) \$100 for each precinct in which an electronic voting system was used ~~[(B) electronic voting system ballots, other than printed images of ballots cast using direct recording electronic voting machines, are to be recounted manually; or~~

~~[(C) both write-in votes and voting system votes are to be recounted;~~

~~[(2) 10 times the maximum hourly rate of pay for election judges, for a precinct in which printed images of ballots cast using direct recording electronic voting machines are to be recounted manually;~~

~~[(3) three times the maximum hourly rate of pay for election judges, for a precinct in which ballots are to be recounted by automatic tabulating equipment and no write-in votes are to be recounted; and~~

~~[(4) two times the maximum hourly rate of pay for election judges, for a precinct in which:~~

~~[(A) voting machines were used and no write-in votes are to be recounted; or~~

~~[(B) only the write-in votes cast in connection with a voting system are to be recounted].~~

~~[(b) In a recount of an election for which a majority vote is required for nomination or election to an office, the rate prescribed by Subsection (a)(1)(C) applies to each precinct in which a voting system was~~

used, regardless of whether any write-in votes were cast in the precinct, if:

~~[(1) the original election results show that write-in votes were cast in the election; and~~

~~[(2) an exclusion of write-in votes from the recount is not obtained under Section 212.136.~~

~~[(c) If more than one method of voting is used for early voting, each additional method of voting used for the early voting shall be treated as constituting an additional precinct in determining the amount of a recount deposit for a recount of early voting votes.~~

~~[(d) The minimum amount of a deposit accompanying a petition for a recount is \$50.]~~

SECTION 21. Subsections (b), (c), (d), (e), (f), (g), (h), and (i), Section 213.013, Election Code, are amended to read as follows:

(b) In a recount of an election on an office, each candidate for the office is entitled to be present at the recount and have watchers ~~[representatives]~~ present in the number corresponding to the number of counting teams designated for the recount. If only one counting team is designated or the recount is conducted on automatic tabulating equipment, each candidate is entitled to two watchers ~~[representatives]~~.

(c) In a recount of an election on an office for which a political party has a nominee or for which a candidate is aligned with a political party, the party is entitled to have watchers ~~[representatives]~~ present in the same number prescribed for candidates under Subsection (b).

(d) In a recount of an election on a measure, watchers ~~[representatives]~~ may be appointed by the campaign treasurer or assistant campaign treasurer of a specific-purpose political committee that supports or opposes the measure in the number corresponding to the number of counting teams designated for the recount. If only one counting team is designated or the recount is conducted on automatic tabulating equipment, each eligible specific-purpose political committee is entitled to two watchers ~~[representatives]~~.

(e) A watcher ~~[representative]~~ appointed to serve at a recount must deliver a certificate of appointment to the recount committee chair at the time the watcher ~~[representative]~~ reports for service. A watcher ~~[representative]~~ who presents himself or herself for service at any time immediately before or during the recount and submits a proper certificate of appointment must be accepted for service unless the number of appointees to which the appointing authority is entitled have already been accepted.

(f) The certificate must be in writing and must include:

(1) the printed name and the signature of the watcher ~~[representative]~~;

(2) the election subject to the recount;

(3) the time and place of the recount;

(4) the measure, candidate, or political party being represented;

(5) the signature and the printed name of the person making the appointment; and

(6) an indication of the capacity in which the appointing authority is acting.

(g) If the watcher ~~[representative]~~ is accepted for service, the recount committee chair shall keep the certificate and deliver it to the recount coordinator after the recount for preservation under Section 211.007. If the watcher ~~[representative]~~ is not accepted for service, the recount committee chair shall return the certificate to the watcher ~~[representative]~~ with a signed statement of the reason for the rejection.

(h) Each person entitled to be present at a recount is entitled to observe any activity conducted in connection with the recount. The person is entitled to sit or stand conveniently near the officers conducting the observed activity and near enough to an officer who is announcing the votes or examining or processing the ballots to verify that the ballots are counted or processed correctly or to an officer who is tallying the votes to verify that they are tallied correctly. Rules concerning a watcher's ~~[representative's]~~ rights, duties, and privileges are otherwise the same as those prescribed by this code for poll watchers to the extent they can be made applicable.

(i) No mechanical or electronic means of recording images or sound are allowed inside the room in which the recount is conducted, or in any hallway or corridor in the building in which the recount is conducted within 30 feet of the entrance to the room, while the recount is in progress. However, on

request of a person entitled to appoint watchers [~~representatives~~] to serve at the recount, the recount committee chair shall permit the person to photocopy under the chair's supervision any ballot, including any supporting materials, challenged by the person or person's watcher [~~representative~~]. The person must pay a reasonable charge for making the copies and, if no photocopying equipment is available, may supply that equipment at the person's expense. The person shall provide a copy on request to another person entitled to appoint watchers [~~representatives~~] to serve at the recount.

SECTION 22. Section 213.016, Election Code, is amended to read as follows:

Sec. 213.016. PRINTING IMAGES OF BALLOTS CAST USING DIRECT RECORDING ELECTRONIC VOTING MACHINES. During any printing of images of ballots cast using direct recording electronic voting machines for the purpose of a recount, the full recount committee is not required to be present. The recount committee chair shall determine how many committee members must be present during the printing of the images. Each candidate is entitled to be present and to have representatives present during the printing of the images in the same number as [~~prescribed by~~] Section 213.013(b) prescribes for watchers for a recount [~~during the printing of the images~~].

SECTION 23. Subsection (b), Section 221.014, Election Code, is amended to read as follows:

(b) The county shall pay the expenses of a new election ordered in the contest of a local option election [~~held under the Alcoholic Beverage Code~~] that was financed from money deposited by the applicants for the petition requesting the election.

SECTION 24. Subsections (a), (b), and (c), Section 271.002, Election Code, are amended to read as follows:

(a) If the elections ordered by the authorities of two or more political subdivisions are to be held on the same day in all or part of the same county [~~territory~~], the governing bodies of the political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(b) If an election ordered by the governor and the elections ordered by the authorities of one or more political subdivisions are to be held on the same day in all or part of the same county [~~territory~~], the commissioners court of a county in which the election ordered by the governor is to be held and the governing bodies of the other political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(c) If another law requires two or more political subdivisions to hold a joint election, the governing body of any other political subdivision holding an election on the same day in all or part of the same county [~~territory~~] in which the joint election is to be held may enter into an agreement to participate in the joint election with the governing bodies of the political subdivisions holding the joint election.

SECTION 25. Section 277.001, Election Code, is amended to read as follows:

Sec. 277.001. APPLICABILITY OF CHAPTER. This chapter applies to a petition authorized or required to be filed under a law outside this code in connection with an election [~~except a petition for a local option election held under the Alcoholic Beverage Code~~].

SECTION 26. The following provisions of the Election Code are repealed:

- (1) Section 1.016;
- (2) Subsection (d), Section 32.051;
- (3) Subsection (b), Section 33.031;
- (4) Subsection (b), Section 41.0041; and
- (5) Subsection (d), Section 65.002.

SECTION 27. The change in law made by the repeal of Section 1.016, Election Code, by this Act does not affect the validity of a person's action taken before the effective date of this Act, including a person's registration to vote, if the person was qualified to take such action before the effective date of this Act.

SECTION 28. The changes in law made by this Act apply only to an election ordered on or after September 1, 2009.

SECTION 29. This Act takes effect September 1, 2009.

S.B. 1984

AN ACT

relating to certification of a person in certain counties as eligible for disabled parking privileges.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 681.003, Transportation Code, is amended by amending Subsection (c) and adding Subsection (f) to read as follows:

(c) Subject to Subsections [~~Subsection~~] (e) and (f), the first application must be accompanied by a notarized written statement or written prescription of a physician licensed to practice medicine in this state or a state adjacent to this state, or authorized by applicable law to practice medicine in a hospital or other health facility of the United States Department of Veterans Affairs [~~Administration~~], certifying and providing evidence acceptable to the department that the person making the application or on whose behalf the application is made is legally blind or has a mobility problem that substantially impairs the person's ability to ambulate. The statement or prescription must include a certification of whether the disability is temporary or permanent and information acceptable to the department to determine the type of disabled parking placard for which the applicant is eligible. The department shall determine a person's eligibility based on evidence provided by the applicant establishing legal blindness or mobility impairment.

(f) This subsection applies only to the first application for a disabled parking placard submitted by a person who resides in a county with a population of 125,000 or less. The notarized written statement or prescription may be issued by:

(1) a person acting under the delegation and supervision of a licensed physician in conformance with Subchapter B, Chapter 157, Occupations Code; or

(2) a physician assistant licensed to practice in this state acting as the agent of a licensed physician under Section 204.202(e), Occupations Code.

SECTION 2. 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.

S.B. 2153

AN ACT

relating to the booting of vehicles by private entities in parking facilities; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 2308, Occupations Code, is amended to read as follows:

CHAPTER 2308. VEHICLE TOWING AND BOOTING

SECTION 2. Section 2308.001, Occupations Code, is amended to read as follows:

Sec. 2308.001. SHORT TITLE. This chapter may be cited as the Texas Towing and Booting Act.

SECTION 3. Section 2308.002, Occupations Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a), (1-b), and (1-c) to read as follows:

(1) "Advisory board" means the Towing, [~~and~~] Storage, and Booting Advisory Board.

(1-a) "Boot" means a lockable road wheel clamp or similar vehicle immobilization device that is designed to immobilize a parked vehicle and prevent its movement until the device is unlocked or removed.

(1-b) "Booting company" means a person that controls, installs, or directs the installation and removal of one or more boots.

(1-c) "Boot operator" means an individual who installs or removes a boot on or from a vehicle.

SECTION 4. Subchapter A, Chapter 2308, Occupations Code, is amended by adding Section 2308.004 to read as follows:

Sec. 2308.004. EXEMPTION. (a) This chapter does not apply to a person who, while exercising a

statutory or contractual lien right with regard to a vehicle:

(1) installs or removes a boot; or

(2) controls, installs, or directs the installation and removal of one or more boots.

(b) This chapter does not apply to a commercial office building owner or manager who installs or removes a boot in the building's parking facility.

SECTION 5. The heading to Section 2308.051, Occupations Code, is amended to read as follows:

Sec. 2308.051. TOWING, ~~[AND]~~ STORAGE, AND BOOTING ADVISORY BOARD.

SECTION 6. Subsection (a), Section 2308.051, Occupations Code, is amended to read as follows:

(a) The advisory board consists of the following members appointed by the presiding officer of the commission with the approval of the commission:

(1) one representative of a towing company operating in a county with a population of less than one million;

(2) one representative of a towing company operating in a county with a population of one million or more;

(3) one owner of a vehicle storage facility located in a county with a population of less than one million;

(4) one owner of a vehicle storage facility located in a county with a population of one million or more;

(5) one parking facility owner;

(6) one law enforcement officer from a county with a population of less than one million;

(7) one law enforcement officer from a county with a population of one million or more; ~~[and]~~

(8) one representative of property and casualty insurers who write automobile insurance in this state; and

(9) one representative of a booting company.

SECTION 7. Subsection (a), Section 2308.057, Occupations Code, is amended to read as follows:

(a) The commission shall adopt rules for permitting tow trucks and licensing towing operators, ~~[and]~~ towing companies, booting companies, and boot operators.

SECTION 8. Section 2308.151, Occupations Code, is amended to read as follows:

Sec. 2308.151. LICENSE REQUIRED. Unless the person holds an appropriate license under this subchapter, a person may not:

(1) perform towing operations; ~~[or]~~

(2) operate a towing company;

(3) perform booting operations; or

(4) operate a booting company.

SECTION 9. Subchapter D, Chapter 2308, Occupations Code, is amended by adding Sections 2308.1555 and 2308.1556 to read as follows:

Sec. 2308.1555. BOOT OPERATOR'S LICENSE. (a) A boot operator's license is required to install or remove a boot from a vehicle.

(b) An applicant for a boot operator's license must be at least 18 years of age.

Sec. 2308.1556. BOOTING COMPANY LICENSE. (a) A booting company license is required for a person to operate a booting company.

(b) To be eligible for a booting company license, an applicant must submit evidence that the applicant is covered by:

(1) a general liability insurance policy on a broad form with:

(A) a combined single limit for bodily injury and property damage for each occurrence of at least \$500,000; and

(B) an aggregate limit for all occurrences for each policy year of at least \$500,000; and

(2) an automobile liability insurance policy covering the applicant and the applicant's employees for vehicles owned, hired, or otherwise used in the applicant's business, with a combined single limit for each occurrence of at least \$500,000.

SECTION 10. The heading to Subchapter E, Chapter 2308, Occupations Code, is amended to read as follows:

SUBCHAPTER E. LOCAL REGULATION OF TOWING AND BOOTING

SECTION 11. Subchapter E, Chapter 2308, Occupations Code, is amended by adding Section 2308.2085 to read as follows:

Sec. 2308.2085. MUNICIPAL ORDINANCE REGULATING BOOTING COMPANIES AND OPERATORS. (a) A municipality may adopt an ordinance that is identical to the booting provisions in this chapter or that imposes additional requirements that exceed the minimum standards of the booting provisions in this chapter but may not adopt an ordinance that conflicts with the booting provisions in this chapter.

(b) A municipality may regulate the fees that may be charged in connection with the booting of a vehicle, including associated parking fees.

(c) A municipality may require booting companies to obtain a permit to operate in the municipality.

SECTION 12. Subchapter F, Chapter 2308, Occupations Code, is amended by adding Section 2308.257 to read as follows:

Sec. 2308.257. BOOTING OF UNAUTHORIZED VEHICLE. (a) A parking facility owner may, without the consent of the owner or operator of an unauthorized vehicle, cause a boot to be installed on the vehicle in the parking facility if signs that comply with Subchapter G prohibiting unauthorized vehicles are located on the parking facility at the time of the booting and for the preceding 24 hours and remain installed at the time of the booting.

(b) A boot operator that installs a boot on a vehicle must affix a conspicuous notice to the vehicle's front windshield or driver's side window stating:

(1) that the vehicle has been booted and damage may occur if the vehicle is moved;

(2) the date and time the boot was installed;

(3) the name, address, and telephone number of the booting company;

(4) a telephone number that is answered 24 hours a day to enable the owner or operator of the vehicle to arrange for removal of the boot;

(5) the amount of the fee for removal of the boot and any associated parking fees; and

(6) notice of the right of a vehicle owner or vehicle operator to a hearing under Subchapter J.

(c) On removal of a boot, the boot operator shall provide a receipt to the vehicle owner or operator stating:

(1) the name of the person who removed the boot;

(2) the date and time the boot was removed;

(3) the name of the person to whom the vehicle was released;

(4) the amount of fees paid for removal of the boot and any associated parking fees; and

(5) the right of the vehicle owner or operator to a hearing under Subchapter J.

(d) The booting company shall maintain a copy of the receipt at its place of business for a period of three years. A peace officer has the right, on request, to inspect and copy the records to determine compliance with the requirements of this section.

(e) A booting company shall accept payment by an electronic check, debit card, or credit card for any fee or charge associated with the removal of a boot. A booting company may not collect a fee for any charge associated with the removal of a boot from a person who offers to pay the charge with an electronic check, debit card, or credit card form of payment that the booting company is not equipped to accept.

SECTION 13. Section 2308.301, Occupations Code, is amended to read as follows:

Sec. 2308.301. GENERAL REQUIREMENTS FOR SIGN PROHIBITING UNAUTHORIZED VEHICLES. (a) Except as provided by Subsection (a)(2)(B) and Section 2308.304 or 2308.305, an unauthorized vehicle may not be towed under Section 2308.252(a)(1) or booted under Section 2308.257 unless a sign prohibiting unauthorized vehicles on a parking facility is:

(1) facing and conspicuously visible to the driver of a vehicle that enters the facility;

(2) located:

(A) on the right or left side of each driveway or curb-cut through which a vehicle can enter the facility,

including an entry from an alley abutting the facility; or

(B) at intervals along the entrance so that no entrance is farther than 25 feet from a sign if:

(i) curbs, access barriers, landscaping, or driveways do not establish definite vehicle entrances onto a parking facility from a public roadway other than an alley; and

(ii) the width of an entrance exceeds 35 feet;

(3) permanently mounted on a pole, post, permanent wall, or permanent barrier;

(4) installed on the parking facility; and

(5) installed so that the bottom edge of the sign is no lower than five feet and no higher than eight feet above ground level.

(b) Except as provided by Section 2308.305, an unauthorized vehicle may be towed under Section 2308.252(a)(1) or booted under Section 2308.257 only if each sign prohibiting unauthorized vehicles:

(1) is made of weather-resistant material;

(2) is at least 18 inches wide and 24 inches tall;

(3) contains the international symbol for towing vehicles;

(4) contains a statement describing who may park in the parking facility and prohibiting all others;

(5) bears the words "Unauthorized Vehicles Will Be Towed or Booted at Owner's or Operator's Expense";

(6) contains a statement of the days and hours of towing and booting enforcement; and

(7) contains a number, including the area code, of a telephone that is answered 24 hours a day to enable an owner or operator of a vehicle to locate a towed [the] vehicle or to arrange for removal of a boot from a vehicle.

SECTION 14. Subsections (c) and (e), Section 2308.302, Occupations Code, are amended to read as follows:

(c) The portion of the sign immediately below the international towing symbol must contain the words "Towing And Booting Enforced" [~~or the information provided by Section 2308.301(b)(4)~~] in lettering at least two inches in height. The lettering on this portion of the sign must consist of white letters on a bright red background.

(e) The bottommost portion of the sign must contain the telephone numbers [~~number~~] required by Section 2308.301(b), in lettering at least one inch in height and may, if the facility owner chooses or if an applicable municipal ordinance requires, include the name and address of the storage facility to which an unauthorized vehicle will be removed. The lettering on this portion of the sign must consist of white letters on a bright red background.

SECTION 15. The heading to Subchapter I, Chapter 2308, Occupations Code, is amended to read as follows:

SUBCHAPTER I. REGULATION OF TOWING COMPANIES, BOOTING COMPANIES, AND PARKING FACILITY OWNERS

SECTION 16. Section 2308.401, Occupations Code, is amended to read as follows:

Sec. 2308.401. PARKING FACILITY OWNER PROHIBITED FROM RECEIVING FINANCIAL GAIN FROM TOWING COMPANY OR BOOTING COMPANY. (a) A parking facility owner may not directly or indirectly accept anything of value from:

(1) a towing company in connection with the removal of a vehicle from a parking facility; or

(2) a booting company in connection with booting a vehicle in a parking facility.

(b) A parking facility owner may not have a direct or indirect monetary interest in:

(1) a towing company that for compensation removes unauthorized vehicles from a parking facility in which the parking facility owner has an interest; or

(2) a booting company that for compensation boots vehicles in a parking facility in which the parking facility owner has an interest.

SECTION 17. Section 2308.402, Occupations Code, is amended to read as follows:

Sec. 2308.402. TOWING COMPANY AND BOOTING COMPANY PROHIBITED FROM

FINANCIAL INVOLVEMENT WITH PARKING FACILITY OWNER. (a) A towing company or booting company may not directly or indirectly give anything of value to a parking facility owner in connection with:

(1) the removal of a vehicle from a parking facility; or

(2) the booting of a vehicle in a parking facility.

(b) A towing company or booting company may not have a direct or indirect monetary interest in a parking facility:

(1) from which the towing company for compensation removes unauthorized vehicles; or

(2) in which the booting company for compensation installs boots on unauthorized vehicles.

SECTION 18. The heading to Section 2308.404, Occupations Code, is amended to read as follows:

Sec. 2308.404. CIVIL LIABILITY OF TOWING COMPANY, BOOTING COMPANY, OR PARKING FACILITY OWNER FOR VIOLATION OF CHAPTER.

SECTION 19. Subsections (a), (b), and (c), Section 2308.404, Occupations Code, are amended to read as follows:

(a) A towing company, booting company, or parking facility owner who violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for:

(1) damages arising from the removal, ~~[or]~~ storage, or booting of the vehicle; and

(2) towing, ~~[or]~~ storage, or booting fees assessed in connection with the vehicle's removal, ~~[or]~~ storage, or booting.

(b) A vehicle's owner or operator is not required to prove negligence of a parking facility owner, ~~[or]~~ towing company, or booting company to recover under Subsection (a).

(c) A towing company, booting company, or parking facility owner who intentionally, knowingly, or recklessly violates this chapter is liable to the owner or operator of the vehicle that is the subject of the violation for \$300 plus three times the amount of fees assessed in the vehicle's removal, towing, ~~[or]~~ storage, or booting.

SECTION 20. The heading to Subchapter J, Chapter 2308, Occupations Code, is amended to read as follows:

SUBCHAPTER J. RIGHTS OF OWNERS AND OPERATORS OF STORED OR BOOTED VEHICLES

SECTION 21. The heading to Section 2308.451, Occupations Code, is amended to read as follows:

Sec. 2308.451. PAYMENT OF COST OF REMOVAL, ~~[AND]~~ STORAGE, AND BOOTING OF VEHICLE.

SECTION 22. Section 2308.451, Occupations Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) If in a hearing held under this chapter the court finds that a person authorized, with probable cause, the booting of a vehicle in a parking facility, the person who requested the hearing shall pay the costs of the booting.

(d) If in a hearing held under this chapter the court does not find that a person authorized, with probable cause, the booting of a vehicle, the person that authorized the booting shall:

(1) pay the costs of the booting and any related parking fees; or

(2) reimburse the owner or operator for the cost of the booting and any related parking fees paid by the owner or operator.

SECTION 23. Section 2308.452, Occupations Code, is amended to read as follows:

Sec. 2308.452. RIGHT OF OWNER OR OPERATOR OF VEHICLE TO HEARING. The owner or operator of a vehicle that has been removed and placed in a vehicle storage facility or booted without the consent of the owner or operator of the vehicle is entitled to a hearing on whether probable cause existed for the removal and placement or booting.

SECTION 24. Section 2308.453, Occupations Code, is amended to read as follows:

Sec. 2308.453. JURISDICTION. A hearing under this chapter shall be in the justice court having

jurisdiction in:

- (1) the precinct in which the vehicle storage facility is located; or
- (2) for booted vehicles, the precinct in which the parking facility is located.

SECTION 25. Section 2308.454, Occupations Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) If before a hearing held under this chapter the owner or operator of a vehicle pays the costs for removal of a boot, the booting company shall at the time of payment give the owner or operator written notice of the person's rights under this chapter.

(d) The booting operator that places a notice on a booted vehicle under Section 2308.257 shall include with that notice a notice of the person's rights under this chapter.

SECTION 26. Section 2308.455, Occupations Code, is amended to read as follows:

Sec. 2308.455. CONTENTS OF NOTICE. The notice under Section 2308.454 must include:

(1) a statement of:

- (A) the person's right to submit a request within 14 days for a court hearing to determine whether probable cause existed to remove, or install a boot on, the vehicle;
- (B) the information that a request for a hearing must contain; and
- (C) any filing fee for the hearing;

(2) the name, address, and telephone number of the towing company that removed the vehicle or the booting company that booted the vehicle;

(3) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed;

(4) the name, address, and telephone number of the person, property owner, or law enforcement agency that authorized the removal of the vehicle; and

(5) the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the vehicle storage facility is located or, for booted vehicles, the name, address, and telephone number of the justice court having jurisdiction in the precinct in which the parking facility is located.

SECTION 27. Subsections (a) and (b), Section 2308.456, Occupations Code, are amended to read as follows:

(a) Except as provided by Subsection (c), a person entitled to a hearing under this chapter must deliver a written request for the hearing to the court before the 14th day after the date the vehicle was removed and placed in the vehicle storage facility or booted, excluding Saturdays, Sundays, and legal holidays.

(b) A request for a hearing must contain:

- (1) the name, address, and telephone number of the owner or operator of the vehicle;
- (2) the location from which the vehicle was removed or in which the vehicle was booted;
- (3) the date when the vehicle was removed or booted;

(4) the name, address, and telephone number of the person or law enforcement agency that authorized the removal or booting;

(5) the name, address, and telephone number of the vehicle storage facility in which the vehicle was placed;

(6) the name, address, and telephone number of the towing company that removed the vehicle or of the booting company that installed a boot on the vehicle;

(7) a copy of any receipt or notification that the owner or operator received from the towing company, the booting company, or the vehicle storage facility; and

(8) if the vehicle was removed from or booted in a parking facility:

(A) one or more photographs that show the location and text of any sign posted at the facility restricting parking of vehicles; or

(B) a statement that no sign restricting parking was posted at the parking facility.

SECTION 28. Section 2308.458, Occupations Code, is amended by amending Subsections (b), (c), and (e) and adding Subsections (b-2) and (c-1) to read as follows:

(b) The court shall notify the person who requested the hearing for a towed vehicle, the person or law enforcement agency that authorized the removal of the vehicle, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure. The notice of the hearing to the person or law enforcement agency that authorized the removal of the vehicle must [~~shall~~] include a copy of the request for hearing.

(b-2) The court shall notify the person who requested the hearing for a booted vehicle, the parking facility in which the vehicle was booted, and the booting company of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure. The notice of hearing to the person that authorized the booting of the vehicle must include a copy of the request for hearing.

(c) The issues in a hearing regarding a towed vehicle under this chapter are:

- (1) whether probable cause existed for the removal and placement of the vehicle;
- (2) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized by the political subdivision under Section 2308.201 or 2308.202;
- (3) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.203 or 2308.204; or
- (4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount filed with the department under Section 2308.206.

(c-1) The issues in a hearing regarding a booted vehicle under this chapter are:

- (1) whether probable cause existed for the booting of the vehicle; and
- (2) whether a boot removal charge imposed or collected in connection with the removal of the boot from the vehicle was greater than the amount authorized by the political subdivision under Section 2308.2085.

(e) The court may award:

- (1) court costs to the prevailing party;
- (2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) to a vehicle owner or operator who is the prevailing party;
- (3) an amount equal to the amount that the towing charge or booting removal charge and associated parking fees exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and
- (4) reimbursement of fees paid for vehicle towing, [~~and~~] storage, or removal of a boot.

SECTION 29. Subsection (a), Section 2308.505, Occupations Code, is amended to read as follows:

(a) A person commits an offense if the person:

- (1) violates an ordinance, resolution, order, rule, or regulation of a political subdivision adopted under Section 2308.201, [~~or~~] 2308.202, or 2308.2085 for which the political subdivision does not prescribe the penalty;
- (2) charges or collects a fee in a political subdivision that regulates the operation of tow trucks under Section 2308.201 or 2308.202 or booting under Section 2308.2085 that is not authorized or is greater than the authorized amount of the fee;
- (3) charges or collects a fee greater than the amount authorized under Section 2308.204;
- (4) charges or collects a fee in excess of the amount filed with the department under Section 2308.206;
- (5) violates Section 2308.205; or
- (6) violates a rule of the department applicable to a tow truck, [~~and~~] towing company, or booting company.

SECTION 30. Section 2303.058, Occupations Code, is amended to read as follows:

Sec. 2303.058. ADVISORY BOARD. The Towing, [~~and~~] Storage, and Booting Advisory Board under Chapter 2308 shall advise the commission in adopting vehicle storage rules under this chapter.

SECTION 31. Promptly after this Act takes effect, the presiding officer of the Texas Commission of Licensing and Regulation shall appoint to the Towing, Storage, and Booting Advisory Board one representative of a booting company as required by Subsection (a), Section 2308.051, Occupations Code,

as amended by this Act.

SECTION 32. This Act takes effect September 1, 2009.

S.B. 2379

AN ACT

relating to responsibility and criminal penalties for certain violations committed by commercial oyster boat crews.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 76.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.001. DEFINITIONS [NATURAL OYSTER BED]. In this chapter:

(1) "Barrel of oysters" means three boxes of oysters in the shell or two gallons of shucked oysters without shells. The dimensions of a box are 10 inches by 20 inches by 13-1/2 inches. In filling a box for measurement, the oysters may not be piled more than 2-1/2 inches above the height of the box at the center.

(2) "Natural [(a) A natural] oyster bed" means an area where [exists when] at least five barrels of oysters are found within 2,500 square feet of any position on a reef or bed.

(3) "Open season" means a period during which it is lawful to take oysters.

~~[(b) In this section, a barrel of oysters is equal to three boxes of oysters in the shell. The dimensions of a box are 10 inches by 20 inches by 13-1/2 inches. In filling a box for measurement, the oysters may not be piled more than 2-1/2 inches above the height of the box at the center. Two gallons of shucked oysters without shells equals one barrel of oysters in the shell.]~~

SECTION 2. Subsection (a), Section 76.116, Parks and Wildlife Code, is amended to read as follows:

(a) There is no open season for taking oysters from areas closed by the [Texas] Department of State Health Services.

SECTION 3. Section 76.118, Parks and Wildlife Code, is amended by amending Subsections (b), (c), and (e) and adding Subsection (e-1) to read as follows:

(b) A person who violates Section 76.101, 76.107, or 76.109~~[, or 76.116 of this code]~~ or a regulation of the commission issued under one of those sections commits an offense that is a Class B Parks and Wildlife Code misdemeanor.

(c) A person who violates Section 76.116, or at the same time violates Sections ~~[Section]~~ 76.109 and ~~[either Section]~~ 76.116, ~~[or Section 76.205 of this code]~~ commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

(e) If it is shown at the trial of a defendant for a violation of Section 76.101, 76.107, or 76.109~~[, or 76.116 of this code]~~ that the defendant has been convicted once within five years before the trial date of a violation of Section 76.101, 76.107, or 76.109, ~~[or 76.116 of this code,]~~ the defendant is guilty of a Class A Parks and Wildlife Code misdemeanor.

(e-1) If it is shown at the trial of a defendant for a violation of Section 76.116 that the defendant has been convicted once within five years before the trial date of a violation of Section 76.116, the defendant is guilty of a Parks and Wildlife Code state jail felony.

SECTION 4. Subsection (a), Section 76.119, Parks and Wildlife Code, is amended to read as follows:

(a) If a vessel licensed as a commercial oyster boat is involved in a violation of this chapter, the captain of the vessel licensed as a commercial oyster boat is primarily responsible for the violation. A member of the crew of a vessel licensed as a commercial oyster boat is not guilty of a violation unless the member of the crew committed the violation against the captain's orders, except for a violation of Section 76.109 or 76.116 ~~[of this subchapter]~~, in which case each person on the vessel is responsible for the violation.

SECTION 5. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. This Act takes effect September 1, 2009.

H.R. 257

RESOLUTION

WHEREAS, Municipal courts provide citizens of the Lone Star State with a local forum where questions of law and fact can be resolved in regard to alleged violations of state law and municipal ordinances; and

WHEREAS, Because citizens come into contact with municipal courts more than any other courts, the public impression of the Texas judicial system is largely dependent on their experience there; and

WHEREAS, Judges of the municipal courts function also as magistrates for the State of Texas, and in that role they perform such duties as issuing search and arrest warrants, giving magistrate warnings, and setting bail for offenses ranging from petty theft to murder; and

WHEREAS, Pledging to be impartial and to conform to the standards set by the Canons of Judicial Conduct, the estimated 6,000 employees of municipal courts work diligently to ensure the fair administration of justice while upholding the rigorous standards of professionalism; and

WHEREAS, Municipal judges, clerks, court administrators, bailiffs, and warrant officers continually strive to improve the administration of justice through participation in judicial education programs, seminars, workshops, and the annual meetings of their state and local professional organizations; and

WHEREAS, Municipal courts in Texas play a vital role in preserving public safety, protecting the quality of life for area residents, and deterring future criminal behavior, and it is indeed fitting to recognize municipal judges and court support personnel for their exemplary dedication to the communities they serve; now, therefore, be it

RESOLVED, That the House of Representatives of the 81st Texas Legislature hereby recognize November 2-6, 2009, as Municipal Courts Week and take special note of the important work performed by all those associated with the state's municipal courts.