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## INTRODUCTION

The purpose of this chapter is twofold. First, it is important for court clerks to have a fundamental understanding of “traffic law.” Although the United States is a common law country, most traffic codes in this country have developed into lengthy codes that must address everything from running a red light to the weight of commercial motor vehicles. This chapter will provide clerks with an overview of some of the traffic laws commonly handled by municipal courts and provide guidance to where specific laws or regulations may be found in the code. Second, the chapter will provide an overview of certain collateral issues intertwined with the traffic law. These include statutes concerning arrest and appearance, culpability, and criminal penalties. All of these areas have been discussed in prior chapters. It may be useful to review those chapters for deeper understanding. This chapter will not rehash these topics; rather, it will demonstrate where these issues fit in with the traffic law.

Finally, it is important to note that this chapter is not a comprehensive study of the entire Transportation Code. Clerks should always consult the actual Transportation Code or the city’s legal advisor for practical application and day-to-day job functions. Additionally, it would be helpful to have both the “Green Book” and “The Brick” available when reviewing this chapter. These publications may provide greater detail on areas referenced below.

## PART 1 TRANSPORTATION CODE

The Transportation Code is broadly organized into *titles*. Each *title* is divided into *subtitles*, which in turn are further broken down into *chapters*, *subchapters*, and *sections*. Within the Transportation Code, three primary titles—*General Provisions*, *Roadways*, and *Vehicles and Traffic*—contain the majority of information on traffic offenses commonly encountered in municipal court. Brief descriptions are included in Part 1.

### A. Title 1 – General Provisions

Title 1, *General Provisions*, contains general information on the Transportation Code’s purpose and construction. Section 1.002 provides that Chapter 311 of the Government Code (the Code Construction Act) applies to the construction of the Transportation Code except where expressly stated otherwise.

### B. Title 6 – Roadways

Title 6, *Roadways*, contains information on toll roads, bridges, ferries, turnpikes, and state highways. More specifically for municipal courts, Subtitle Z, *Miscellaneous Roadway Provisions*, contains the definition for a construction or maintenance work zone. Sec. 472.022(e)(2), T.C.

### C. Title 7 – Vehicles and Traffic

The bulk of Texas traffic laws are contained in Title 7, *Vehicles and Traffic*. It is divided into the following 11 subtitles.

#### 1. Subtitle A

Subtitle A, *Certificates of Title and Registration of Vehicles*, contains rules on how vehicles are registered, sold, and tagged. Most of this subtitle is dedicated to special registration rules, but the offenses regarding driving an unregistered or improperly registered vehicle and driving a vehicle

without or with improper license plates are contained in Chapters 502, *Registration of Vehicles*, and 504, *License Plates*, respectively.

## **2. Subtitle B**

Subtitle B, *Driver's Licenses and Personal Identification Cards*, regulates driver's license requirements, records, applications, examinations, restrictions, expirations, suspensions, and fees. Most of the provisions are administrative and do not affect the daily operation of municipal courts, but courts receive many questions about the effect a conviction may have on a driver's license. This subtitle does contain common offenses such as failure to carry a driver's license, driving without a license, or driving while license invalid. The laws pertaining to driver's licenses are found in Chapter 521; laws for commercial driver's licenses are found in Chapter 522.

## **3. Subtitle C**

Subtitle C, *Rules of the Road*, is by far the portion of the code most often encountered by municipal courts. Subtitle C is divided into chapters, from Chapter 541 through 600. (Note: Chapters 554 to 599 are reserved and do not contain any laws or rules at this time.)

- Chapter 541, *Definitions*, contains the meaning of some of the more commonly used terms in the Transportation Code.
- Chapter 542, *General Provisions*, provides rules for when traffic laws apply and for the authority of local governments to regulate traffic. Sec. 542.202, T.C. This chapter also contains a general offense provision providing that a person commits an offense if the person performs an act prohibited or fails to perform an act required by Subtitle C. Sec. 542.301, T.C. Section 542.401 contains a general penalty, providing that a misdemeanor for which no other penalty is provided in Subtitle C is punishable by a fine of \$1 to \$200. In addition, this chapter includes information on the traffic fine court costs (Secs. 542.403 and 542.4031); for what purposes traffic fines must be used by the city (Sec. 542.402(a)); and the excess fines law (Sec. 542.402(b)).
- Chapter 543, *Arrest and Prosecution of Violators*, contains laws regarding when arrests may be made on traffic offenses, written notices to appear, the violation of promise to appear offense, and traffic conviction reporting requirements. The chapter provides that each judge and clerk of a municipal court shall maintain records in all traffic cases and report to the Department of Public Safety (DPS) all traffic convictions and bond forfeitures on traffic violations (Secs. 543.201 and 543.203).
- Chapter 544, *Traffic Signs, Signals, and Markings*, includes signal and light definitions, authority for placing traffic control devices upon the public thoroughfares, and familiar offenses, such as disobeying a red light, a stop, or a yield sign.
- Chapter 545, *Operation and Movement of Vehicles*, contains the bulk of traffic offenses, including speed restrictions, turning movements, lane usage, right of way rules, and special stops. Parking regulations (Secs. 545.301 - 545.350) are also found in Chapter 545, as well as many other traffic laws, including passing a school bus (Sec. 545.066); safety belt offenses (Sec. 545.413); child safety seat laws (Sec. 545.412); children riding in the back of an open vehicle bed (Sec. 545.414); novice driver restrictions (Sec. 545.424); and use of cell phones in a school zone and the state texting law (Secs. 545.425, 545.4251, 545.4252).

- Chapter 546, *Operation of Authorized Emergency Vehicles and Certain Other Vehicles*, sets out guidelines about when emergency vehicles may speed or disregard traffic regulations.
- Chapter 547, *Vehicle Equipment*, contains numerous regulations regarding necessary equipment on vehicles. It outlines safety, lighting, and other vehicle equipment, and includes laws on window tinting; mufflers; brakes; stop lamps; headlamps; and taillights. If an offense or a question arises about equipment found on a vehicle, it will most likely be found in Chapter 547. It is an offense in Texas to operate or, as an owner, to knowingly permit someone to operate a vehicle that is unsafe or fails to comply with the vehicle regulations of Chapter 547. Sec. 547.004, T.C.
- Chapter 548, *Compulsory Inspection of Vehicles*, provides the rules for inspection of vehicles and equipment.
- Chapter 550, *Accidents and Accident Reports*, explains how accident reports should be made, recorded, and distributed. There are a few offenses that may be filed in municipal court involving the duty of a motor vehicle operator to notify the owner or to provide information upon striking an unattended vehicle, striking a fixture or highway landscaping, or causing a collision that results in damage in an amount less than \$200.
- Chapter 551, *Operation of Bicycles and Mopeds, Golf Carts, and Other Low-Powered Vehicles*, provides that bicycle riders must obey all traffic laws applicable to a vehicle operator. In addition, there are provisions about the way a bicycle should be ridden and safety equipment that must be on a bicycle. This chapter also contains laws regulating mopeds, mini motorbikes, electric personal assistive mobility devices, neighborhood electric vehicles, motor assisted scooters, electric bicycles, golf carts, and package delivery vehicles.
- Chapter 551A, *Off-Highway Vehicles*, regulates “off-highway” vehicles, including all-terrain vehicles, recreational off-highway vehicles, sand rails, and utility vehicles (Note: although similar, UTVs are not golf carts).
- Chapter 552, *Pedestrians*, includes restrictions about when and where pedestrians may walk, including the use of sidewalks; crossing at signal lights; “jay walking;” and solicitation by pedestrians.
- Chapter 552A, *Devices Subject to Pedestrian Laws*, regulating automated personal delivery devices and motorized mobility devices, when operated in pedestrian rights-of-way.
- Chapter 553, *Enactment and Enforcement of Certain Traffic Laws in Certain Municipalities*, deals with the authority of cities to erect traffic signs.
- Chapter 600, *Miscellaneous Provisions*, provides requirements for dropping material on a highway; the authority for peace officers to require a driver to produce identification anytime within 250 feet of a Mexican border checkpoint; and the authority for school-crossing guards to direct traffic if they complete certain training requirements.

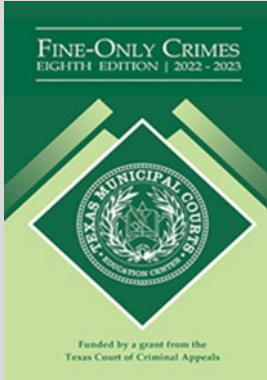
All of the offenses and provisions in Subtitle C are considered Rules of the Road. There is much confusion about the term “Rules of the Road” and the term “moving violations.” Remember that *Rules of the Road* refers to anything contained in Subtitle C (Chapters 541 to 600) of the Transportation Code, and is important for purposes of specific court costs and an adult’s right to take a driving safety course.

The term moving violation is defined in Section 15.89 of Title 37 of the Texas Administrative Code as an act committed in connection with the operation of a motor vehicle on a public street or highway, which constitutes a hazard to traffic and is prohibited by state law or city ordinance. Violations are identified as moving violations by the DPS in Table B of Section 15.89.

Although most Rules of the Road offenses are considered moving violations, the two are not the same. Not every Rules of the Road offense is a moving violation and not every moving violation is in Subtitle C. For example, the offense of driving while intoxicated, located in the Penal Code, is a moving violation, as is the offense of driving while license invalid, which is located in Chapter 521 of the Transportation Code. Both of these are outside of Subtitle C. It is important for clerks to keep these two terms separate and know the import of each term.

**Rules of the Road**  
Anything contained in Subtitle C, Title 7 (Chapters 541-600) of the Transportation Code. Important for certain court costs and also an adult’s right to take a Driving Safety Course.

**Practice Note**



The tabs in *Fine-Only Crimes*, also known as “The Green Book,” are a great way to quickly reference Rules of the Road offenses. Flip to the Rules of the Road tab to see every offense included in Chapters 541-600. The editor’s notes behind that tab include important information pertaining to Rules of the Road offenses, including references to relevant statutes located elsewhere in the law.

#### 4. Subtitle D

Subtitle D, *Motor Vehicle Safety Responsibility*, contains only Chapter 601, which provides that motor vehicle operators must maintain insurance or have some other type of financial responsibility in the event that they cause a collision. This requirement is aimed at protecting other drivers from bearing the cost of injuries or damages when a collision is not their fault. Section 601.191 provides for the offense of failure to maintain financial responsibility.

#### 5. Subtitle E

Subtitle E, *Vehicle Size and Weight*, regulates the size and weight of vehicles; provides special provisions for oversize and overweight vehicles; transit permits; and the size of a transport vehicle (including vehicles transporting concrete, milk, timber, power poles, or pipe). These laws are quite

technical and complicated, providing tiered fines, requiring a percentage of fines collected to be remitted to the State, and limitations on what fine-only offenses can be heard in municipal courts.

## **6. Subtitle F**

Subtitle F, *Commercial Motor Vehicles*, pertains to commercial motor vehicles and motor carriers. This subtitle contains commercial motor vehicle safety standards in Chapter 644, which regulate the trucking industry and ensure that federal highway safety regulations are followed by commercial drivers. When cases are filed under this subtitle, the authority to do so comes from Chapter 644 and such cases can only be filed by certified officers under Section 644.101.

## **7. Subtitle G**

Subtitle G, *Protective Headgear for Motorcycle Operators and Passengers*, regulates motorcycles and autocycles. This chapter defines an offense for not wearing protective headgear while operating a motorcycle in Section 661.003. Other portions of this subtitle include motorcycle operating training and safety, sale of motorcycles without serial numbers, and standards for electric bicycles.

## **8. Subtitle H**

Subtitle H, *Parking, Towing, and Storage of Vehicles*, provides authority for cities to regulate parking and storage of vehicles. It contains laws regarding disabled parking placards (Sec. 681.002); space designation (Sec. 681.009); privileged (handicapped) parking violations (Sec. 681.011); and exemptions from parking meter fees for vehicles sporting certain specialty plates or disabled veteran plates. Also found in Subtitle H is authority for certain cities to administratively adjudicate parking citations. This authorizes the cases to be heard by a hearing officer (Ch. 682). Subtitle H also regulates the handling of junked or abandoned vehicles (Ch. 683).

## **9. Subtitle I**

Chapter 702 permits a city to contract with the county or Texas Department of Motor Vehicles to deny renewal of vehicle registration to persons with warrants for certain traffic laws. This program is known as the “Scofflaw” program. Sec. 702.003.

Chapter 703, *Nonresident Violator Compact*, allows cities to report out-of-state residents who fail to take care of traffic citations, again with a different definition of a traffic law. This chapter includes a number of provisions. Its purpose is to ensure compliance with the terms of a traffic citation, even if the defendant lives in another state.

Chapter 706 permits a city to contract with DPS to deny renewal of a defendant’s driver’s license for failure to appear or to pay or satisfy a judgment in a manner ordered by the court for a fine-only offense. This program is known as the OmniBase program for the vendor used by DPS to administer the program (Sec. 706.004).

### **Practice Note**

Chapter 708 of the Transportation Code included the Texas Driver’s Responsibility Program and was entirely repealed effective September 1, 2019. The program, which required surcharges to be paid every year for three years on certain convictions, was generally not popular among most Texans. Its repeal resulted in an estimated 1.4 million Texas driver’s licenses being reinstated.



## 10. Subtitle J

Subtitle J, *Miscellaneous Provisions*, is the second-to-last subtitle of Title 7. It regulates the operations of automobile club services (Ch. 722); provides requirements for cities and counties to have their name on city or county vehicles (Ch. 721); contains the implied consent law, requiring motorists under certain circumstances to consent to a blood alcohol test or face driver's license suspension (Ch. 724); and other provisions dealing with master keys and the regulation of loose materials.

## 11. Subtitle K

Subtitle K, *Department of Motor Vehicles*, is the last subtitle of Title 7. This subtitle creates the Department of Motor Vehicles (DMV) as an entity separate from the Department of Transportation (TxDOT) and lays out the rules for its overall structure and governance. The DMV now oversees the registration of vehicles, issues oversize and overweight permits, regulates vehicle dealers, and credentials buses and big trucks for intrastate and interstate commerce.

1. How is the Transportation Code organized? \_\_\_\_\_
2. Most traffic law matters handled by municipal court are located in which title of the Transportation Code? \_\_\_\_\_
3. In which subtitle do you find rules on license plates? \_\_\_\_\_
4. In which subtitle do you find rules on driver's licenses? \_\_\_\_\_
5. In which chapter of Subtitle C do you find rules on arrest and prosecution of traffic violators? \_\_\_\_\_
6. In which chapter of Subtitle C do you find the requirements of reporting traffic convictions? \_\_\_\_\_
7. Which chapter in Subtitle C regulates bicycles? \_\_\_\_\_
8. What are the Rules of the Road? \_\_\_\_\_
9. Where are the moving violations defined? \_\_\_\_\_
10. In which subtitle do you find rules on maintaining financial responsibility? \_\_\_\_\_
11. In which subtitle do you find rules about privileged (handicap) parking? \_\_\_\_\_
12. In which subtitle do you find rules on the *Nonresident Violator Compact*? \_\_\_\_\_
13. In which chapter do you find rules on contracting with DPS to deny renewal of a driver's license to defendants who fail to appear or fail to pay or satisfy a judgment in a manner ordered by the court? \_\_\_\_\_
14. What happened to Chapter 708 of the Transportation Code, regarding surcharges and the Texas Driver's Responsibility Program? \_\_\_\_\_

## PART 2 CITATION REQUIREMENTS

### A. Peace Officer's Authority to Issue Citations

Peace officers may arrest persons who commit traffic violations. Specific authority for arresting persons who commit Rules of the Road violations is found in Section 543.001 of the Transportation Code, but there is also authority for a peace officer to release a person arrested for a Title 7, Subtitle C violation by issuing a written promise to appear, also known as a citation, instead. Sections 543.003 and 543.007 provide additional rules for citations issued to the operator of a commercial motor vehicle or holder of a commercial driver's license or learner's permit. Those citations must contain certain information required by DPS to comply with Chapter 522 and the Federal Commercial Motor Vehicle Safety Act of 1986. The DPS rules are in Section 16.100, Chapter 16, Title 37 of the Texas Administrative Code.

Under Chapter 543 of the Transportation Code, in order for the person to secure release from custody, he or she must sign a promise to appear. Later, if the person fails to appear in court as promised, he or she can be charged with the criminal offense of violation of promise to appear (Sec. 543.009). This is a separate crime from the underlying traffic offense and is charged by complaint.

If a person violates traffic laws outside of Subtitle C, such as failure to maintain financial responsibility (Subtitle D), no driver's license (Subtitle B), expired registration (Subtitle A), or not wearing protective headgear while riding a motorcycle (Subtitle G), the peace officer has general authority to arrest without a warrant under Article 14.01(b) of the Code of Criminal Procedure for any offense committed in his or her presence or within his or her view. Subsection (b) of Article 14.06 of the Code of Criminal Procedure authorizes a peace officer to release a person arrested for a Class C misdemeanor by issuing a citation in lieu of a full custodial arrest. The one exception is for the offense of public intoxication for which the peace officer may take the person to jail, release him or her to someone who will assume responsibility, or the offender may consent to attend a chemical dependency program (Art. 14.031, C.C.P.).

Article 14.06(c) provides authority for peace officers to issue citations for the following Class A and B misdemeanors:

- Possession of four ounces or less of marihuana (Sec. 481.121(b)(1)-(2), H.S.C.);
- Criminal mischief, where the value of damage done was \$100 or more, but less than \$750 (Sec. 28.03(b)(2), P.C.);
- Graffiti, where the amount of pecuniary loss is \$100 or more, but less than \$2,500 (Sec. 28.08(b)(2)-(3), P.C.);
- Theft, where the value of the property stolen was \$100 or more, but less than \$750 (Sec. 31.03(e)(2)(A), P.C.);
- Theft of service, where the value of the service stolen was \$100 or more, but less than \$750 (Sec. 31.04(e)(2), P.C.);
- Possession of contraband in a correctional facility, if the offense was punishable as a Class B misdemeanor (Sec. 38.114, P.C.); or
- Driving while license invalid (Sec. 521.457, T.C.).

General Authority to Issue Citations	Specific Authority for Class A and B Offenses	Specific Authority for Subtitle C, “Rules of the Road” Offenses
A peace officer’s general authority to issue a citation for any Class C misdemeanor, except for the offense of public intoxication, is found in Article 14.06(b), C.C.P.	Specific authority for a peace officer to issue citations for certain Class A and B misdemeanor offenses found in Article 14.06(c), C.C.P.	Specific authority for a peace officer to issue a notice to appear for offenses in Subtitle C, T.C., is found in Section 543.003, T.C.

## B. Information on Citations

### 1. Racial Profiling Information

Although the two statutes authorizing the issuance of a citation do not require information to be gathered for racial profiling data, Article 2.132 of the Code of Criminal Procedure requires law enforcement agencies to adopt a detailed written policy on racial profiling, including the collection of information relating to traffic stops in which a ticket, citation, or warning is issued or an arrest results. The required information includes the person’s race or ethnicity, whether the officer knew the race or ethnicity before detaining the person, whether a search was conducted, and more. The entire list is found in Article 2.132(b)(6) of the Code of Criminal Procedure.

These reports must be submitted to the Texas Commission on Law Enforcement each March. Section 543.202 of the Transportation Code requires the court to report much of this same information to DPS. For most cities, the best way for both the law enforcement agency and the court to collect this information is using the citation.

#### Practice Note

Following the traffic stop and later death of Sandra Bland while in custody, the Legislature made a number of changes to the racial profiling and reporting statutes. This included a broader definition of when information is required to be collected. The law now requires collection of information when a ticket or warning is issued, in addition to the previously required citation. What is the difference between a ticket and citation? That is unclear. What is clear, though, is that this essentially means that racial profiling information must be collected whenever an officer comes into documented contact with a motorist.

### 2. Driving Safety Course Information

Article 45.0511(q) of the Code of Criminal Procedure requires that a notice to appear issued for a Subtitle C, Rules of the Road violation include the following statement:

You may be able to require that this charge be dismissed by successfully completing a driving safety course or a motorcycle operator training course. You will lose that right if, on or before your appearance date, you do not provide the court with notice of your request to take the course.

In its absence, the person may continue to exercise the right to the course until he or she is informed or the case is disposed. Art. 45.0511(r), C.C.P.

### 3. Failure to Maintain Financial Responsibility

Section 601.233 of the Transportation Code requires that a citation for failure to maintain financial responsibility contain the following statement in type larger than other type on the citation except for the type of the statement required by Section 708.105 of the Transportation Code (regarding surcharges):

A second or subsequent conviction of an offense under the Texas Motor Vehicle Safety Responsibility Act will result in the suspension of your driver's license and motor vehicle registration unless you file and maintain evidence of financial responsibility with the Department of Public Safety for two years from the date of conviction. The department may waive the requirement to file evidence of financial responsibility if you file satisfactory evidence with the department showing that at the time this citation was issued, the vehicle was covered by a motor vehicle liability insurance policy or that you were otherwise exempt from the requirements to provide evidence of financial responsibility.

#### **TexasSure**

Automated vehicle insurance verification database created by agencies including the Texas Department of Insurance and the Texas Department of Motor Vehicles.

In addition to the required notice, citations must also have an affirmative indication that the officer was unable to verify insurance at the time of the stop. Sec. 601.191(e), T.C. Officers do this through a program called TexasSure, which was developed by the Texas Department of Insurance and Texas Department of Motor Vehicles following a directive from the Legislature. Officers may access TexasSure by using the Texas Law Enforcement

Telecommunication System (TLETS). Beginning on June 4, 2021, municipal and justice courts may access TexasSure for the purpose of court proceedings. Sec. 601.455, T.C.

#### **Practice Note**

Individual law enforcement agencies will need to decide how the affirmative indication required by Section 601.191(e) of the Transportation Code appears on the citation. Many courts with electronic ticket writers have added a check box to the citation. The law does not provide a directive on how to practically implement this requirement. The following websites may be helpful for more information on the TexasSure program:

- <http://www.texassure.com/>
- <http://www.txdmv.gov/motorists/register-your-vehicle/texassure-insurance-verification>

#### 4. Address Obligation for Juveniles and Their Parents

Article 45.057(h) of the Code of Criminal Procedure provides that a child and parent required to appear before the court have an obligation to notify the court in writing of any change of address. Failure to do so is a Class C misdemeanor. For the obligation to become effective, notice must be provided to the child, parent, or both. This notice may be given on the citation. Art. 45.057(j), C.C.P.

#### 5. Notice of Contract with DPS or DMV

When a city contracts with DPS under the OmniBase program to deny driver's license renewal to a person who fails to appear or fails to pay a judgment in a manner ordered by the court, the citation must provide a written warning that if the violator fails to appear in court as provided by law for the prosecution of the offense or fails to pay or satisfy a judgment ordering the payment of a fine and costs in the manner ordered by the court, they may be denied renewal of their driver's license. The warning is in addition to any other warning required by law. Sec. 706.003, T.C. For a city contracting with the DMV in the Scofflaw program, the citation must include a warning that states that if the person fails to appear in court as provided by law for the prosecution of the offense or fails to pay a fine for the violation, the person might not be permitted to register a motor vehicle in Texas. Sec. 702.004, T.C.

#### 6. Commercial Drivers

Operators of commercial motor vehicles have specific obligations under the law, and they must hold a commercial driver's license issued by the DPS. Requirements are found in Chapter 522 of the Transportation Code. DPS, in Title 37, Rule 16.100 of the Texas Administrative Code requires the following information to be noted on a citation issued to a person holding a commercial driver's license or permit:

- the person's name, address, physical description, and date of birth;
- the person's driver's license number;
- the registration number of the vehicle involved;
- whether the vehicle was a commercial motor vehicle as defined in Chapter 522 of the Transportation Code;
- whether the vehicle was involved in the transporting of hazardous materials; and
- the date and nature of the offense, including whether the offense was a serious traffic violation as defined in Chapter 522 of the Transportation Code (i.e., excessive speeding 15 mph or more over; reckless driving; violation of state and local traffic laws other than parking; weight or vehicle defect violations arising in connection with a fatal collision; improper or erratic lane change; or following too closely). Sec. 522.003(25), T.C.

In addition, Section 543.202 of the Transportation Code requires courts to report the social security number on citations issued to holders of a commercial driver's license or permit. Section 543.007 of the Transportation Code requires peace officers to collect certain information by DPS rules. Secs. 2002.051-2002.056, G.C.

#### CDL

A type of driver's license that can be identified by the words "Commercial Driver's License" on the top of the license. Allows a person to drive a commercial motor vehicle.

Since CDL holders are not required to make an appearance in open court, and because such information is reported to DPS via the citation, the only way this information is guaranteed to be obtained is if it is collected by a peace officer at the time the citation is issued.

## 7. Family and Domestic Violence Admonishment

Article 14.06 of the Code of Criminal Procedure requires that a citation include notice of the potential consequences for conviction of a family or domestic violence offense. Typically, family violence cases heard in municipal courts involve an assault. An affirmative finding of family violence is possible following conviction for any offense within Title 5 of the Penal Code. Art. 42.013, C.C.P. The following admonishment must appear on the citation in boldfaced or underlined type or in all 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.**

## 8. Appearance Date

Citations issued to persons violating offenses under Subtitle C must contain a specific time and place in the citation that the person is to appear before a judge having jurisdiction over the case. This date must be at least 10 days after the date the citation was issued by the peace officer unless the person arrested demands an earlier hearing. Sec. 543.006, T.C. Article 14.06(b) of the Code of Criminal Procedure does not specify a certain number of days before requiring an appearance. It does require the officer to note the magistrate before whom the person is to appear and the citation must note the time and place for appearance.

## 9. Alternatives to Payment

Article 14.06(b)(4) of the Code of Criminal Procedure requires that citations contain information regarding the alternatives to full payment of the fine or costs if the person is convicted of the offense and is unable to pay the amount. The alternatives to payment of the fine or costs would be installment payments (Art. 45.041(b-2), C.C.P.), community service (Art. 45.049, C.C.P.), and tutoring (Art. 45.0492, C.C.P.). The statute does not specify the exact wording of what must appear on the citation.

## C. General Citation Information

Article 14.06, C.C.P.	Section 543.003, T.C.
<p>The following information is required on a citation for all eligible Class C misdemeanors:</p> <ul style="list-style-type: none"> <li>• the time and place to appear before a magistrate;</li> <li>• the name and address of the person charged;</li> <li>• the offense charged;</li> </ul>	<p>The following information is specifically required on a citation for Rules of the Road offenses:</p> <ul style="list-style-type: none"> <li>• the time and place the person is to appear;</li> <li>• the name and address of the person charged;</li> <li>• the offense charged; and</li> <li>• the license number of the person's vehicle if applicable.</li> </ul>

<ul style="list-style-type: none"> <li>• information regarding the alternatives to full payment of any fine or costs assessed against the person, if convicted of the offense and unable to pay; and</li> <li>• the domestic violence admonishment.</li> </ul>	<p>Note: The complaint and the summons or notice to appear for speeding must specify the maximum or minimum speed limits and the speed the defendant is alleged to have driven. Sec. 543.010, T.C.</p>
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15. Where do peace officers get authority to issue citations to persons violating Subtitle C, Rules of the Road offenses? \_\_\_\_\_
16. Under what authority may a peace officer issue a traffic citation for offenses outside of Subtitle C, Rules of the Road? \_\_\_\_\_
17. What is the consequence if a citation does not notify the defendant of his or her right to take a driving safety course? \_\_\_\_\_  
\_\_\_\_\_
18. What must a citation contain regarding the offense of failure to maintain financial responsibility? \_\_\_\_\_  
\_\_\_\_\_
19. What should a citation tell a juvenile regarding his or her address? \_\_\_\_\_  
\_\_\_\_\_
20. If a city contracts with DPS to deny renewal of driver's licenses, what information should be on the citation issued to traffic violators? \_\_\_\_\_  
\_\_\_\_\_
21. What additional information is required to be on a citation issued to a person who is a commercial driver's license holder? \_\_\_\_\_  
\_\_\_\_\_
22. What general information is required to be on a citation? \_\_\_\_\_
23. When a peace officer issues a citation for an offense in Subtitle C, Rules of the Road, what is the minimum number of days for a court appearance date from the date of the citation? (circle one)
  - a. At least 10 days from the date of the citation.
  - b. At most 10 days from the date of the citation.
  - c. At least 30 days from the date of the citation.
  - d. There is no minimum number of days for this type of citation.

### PART 3 CULPABLE MENTAL STATE

The culpable mental states were discussed in Chapter 4, Charging and Pre-Trial. Remember that, generally, a culpable mental state is an element of a criminal offense. The culpable mental states defined in the Penal Code are intentionally, knowingly, recklessly, and acting with criminal negligence (Sec. 6.03, P.C.). This applies to offenses defined in the Penal Code and elsewhere unless the offense clearly dispenses with the mental state requirement (Sec. 6.02, P.C.). This means that in order to be convicted of an offense such as assault, the State would need to prove that the defendant intentionally or knowingly caused offensive physical contact with the victim.

***Goodwin v. State,  
138 S.W. 399 (Tex.  
Crim. App. 1911)***

*“Very few people in driving a car have an evil intent; but the Texas Legislature has decreed it wise to limit the speed at which these cars may run.”*

Like Penal Code offenses, traffic offenses are criminal in Texas. This is different from a number of other states where traffic offenses are considered “civil violations” or “infractions” that do not carry criminal consequences. Texas traffic offenses carry criminal consequences, but often do not require a mental state to be proved by the state. Generally, a person commits an offense in the Transportation Code if the person performs a prohibited act or fails to perform a required act. This is unique and means that traffic offenses function akin to strict liability offenses. This means that the crime is committed if it is proved that the defendant did it, regardless of mental state. A defendant could be convicted of running a red light even if he or she did not intend to run the light. The crime is that the defendant did not obey the red light.

This is not to say that every offense under the Transportation Code dispenses with a mental state. Some traffic-related cases do require culpable mental states, but those are clearly outlined in the law.

24. In Texas, traffic cases are (circle one):
  - a. civil violations
  - b. infractions
  - c. criminal offenses
  - d. both a and b above are correct
25. In Texas, the state must generally prove that the traffic offense (circle one):
  - a. was intentionally or knowingly committed by the defendant.
  - b. was recklessly committed by the defendant.
  - c. was committed by the defendant.
  - d. was committed with evil intent by the defendant.
26. The culpable mental states defined in the Penal Code are (circle one):
  - a. intentionally, knowingly, recklessly, and with criminal negligence.
  - b. intentionally, willfully, recklessly, and with contributory negligence.
  - c. intentionally, knowingly, dangerously, and with criminal negligence.
  - d. Penal Code offenses are strict liability offenses.



## PART 4 PENALTIES

The Penal Code defines a Class C misdemeanor as an offense punishable by a fine not to exceed \$500. The Legislature may, however, specify both general and specific penalties that differ from the Penal Code definition.

### A. General Penalties

If an offense in the Transportation Code does not specify a penalty, courts must use a general penalty provision, where applicable. The following chart contains examples of common general penalties.

Subtitle	General Penalty
Chapter 502 ( <i>Registration of Vehicles</i> )	Maximum fine of \$200 (Section 502.471)
Chapter 504 ( <i>License Plates</i> )	Minimum fine of \$5, maximum fine of \$200 (Section 504.948)
Chapter 521 ( <i>Driver's Licenses and Personal Identification Cards</i> )	Maximum fine of \$200 (Section 521.461)
Subtitle C ( <i>Rules of the Road</i> )	Minimum fine of \$1, maximum fine of \$200 (Section 542.401)
Subtitle E ( <i>Vehicle Size and Weight</i> )	Maximum fine of \$200; penalty escalates for subsequent convictions (Section 621.507)

### B. Specific Penalties

General penalty provisions only govern fine ranges when a more specific fine is not included in the statute. Some offenses in the Transportation Code fall outside the municipal court jurisdiction. For example, racing on a highway is punishable by a jail term not to exceed 180 days and a maximum fine of \$2,000 (Sec. 545.420, T.C.). As the punishment includes jail time, this is an instant indication that municipal courts lack jurisdiction over this Class B misdemeanor.

### C. Prior Convictions

In some cases, the penalty can increase each time a defendant is convicted of the same offense. The charges, however, must be filed as second or subsequent offenses in order for the higher penalties to apply. For example, a first conviction for failure to maintain financial responsibility carries a fine of \$175 to \$350 (Sec. 601.191, T.C.). This means that the court could not assess a fine outside that range. A second conviction, though, carries a fine of \$350 to \$1,000. It is typically the duty of the prosecutor, as the representative of the state, to work with law enforcement to properly charge offenses.

### D. Construction or Maintenance Work Zones

For offenses that occurred in a construction or maintenance work zone when workers were present, the penalty may double. A general penalty that is not less than \$1 or more than \$200 would thus become not less than \$2 or more than \$400 in a construction or maintenance work zone (Sec. 542.404, T.C.). There are exceptions to this provision for: offenses in Chapter 548 involving inspection of vehicles; offenses in Chapter 552 involving pedestrians; and offenses in Sections 545.412 and 545.413 involving safety belts and securing children in child passenger safety seat

systems. For speeding violations, the fine range can only be doubled if the maintenance or construction work zone is marked by a sign indicating the applicable maximum lawful speed. When citations are written for offenses that occur in a construction or maintenance work zone when workers are present, the citation must contain on its face the fact that workers were present when the offense was committed before the judge can assess the higher fine (Secs. 472.022(d) and 542.404(a), T.C.).

#### **Practice Note**

Offenses that occur in construction or maintenance work zones when workers are present are not eligible for a driving safety course (Art. 45.0511(p)(3)) or deferred disposition (Art. 45.051(f)(1)).

### **E. Crash Resulting from Failure to Yield Right-of-Way**

If it is shown at the trial of a Rules of the Road offense, in which an element is a vehicle operator's failure to yield the right of way to another vehicle, that a crash resulted from that failure to yield, and a person other than the defendant suffered bodily injury as a result, the offense is punishable by a fine of \$500 to \$2,000. If a person other than the defendant suffered serious bodily injury, the offense is punishable by a fine of \$1,000 to \$4,000 (Sec. 542.4045, T.C.).

True or False

27. If an offense has a specific penalty, the general penalty does not apply. \_\_\_\_\_
28. All traffic fines have a maximum fine of \$200. \_\_\_\_\_
29. Municipal court has jurisdiction of racing on the highway. \_\_\_\_\_
30. The court can apply enhanced penalties to offenses charged as first-time offenses as long as there are prior convictions. \_\_\_\_\_
31. If a Subtitle C, Rules of the Road offense is committed in a construction or maintenance work zone when workers are present and that fact is alleged and proven, the minimum and maximum fine amounts are doubled. \_\_\_\_\_

## **PART 5 COMMONLY COMMITTED TRAFFIC OFFENSES**

### **A. Certificates of Title and Registration of Vehicles (Subtitle A)**

#### **1. Operation of Vehicle Without Registration**

One of the common offenses that municipal courts see involves a person operating an unregistered vehicle (Sec. 502.472, T.C.).

#### **2. Operation of Vehicle Without Registration Insignia**

Another offense that courts frequently adjudicate involves a person who operates a motor vehicle, motorcycle, road tractor, or trailer that does not properly display the registration insignia issued by the DMV that establishes that the vehicle has been validated for the period (Sec. 502.473, T.C.).

**a. Compliance Dismissal**

A court may waive a charge of failing to display a registration insignia if the defendant pays a reimbursement fee not to exceed \$10 and either (1) remedies the defect before the defendant's first court appearance, or (2) shows that the motor vehicle was issued a registration insignia by the department that was attached to the motor vehicle, establishing that the vehicle was registered for the period during which the offense was committed (Sec. 502.473, T.C.). The court does not need a motion from the prosecutor to dismiss a charge if there is a statutory compliance dismissal, and the court would not assess court costs to the dismissed case.

**b. Penalty**

If a defendant is convicted of either of the above offenses, the fine is not to exceed \$200 (Sec. 502.471(c), T.C.).

**3. Expired Registration Insignia**

Perhaps the most common registration-related offense that courts see involves a person who, after the fifth working day after the date the registration for the vehicle expires, operates the vehicle with the expired sticker (Sec. 502.407, T.C.).

**a. Compliance Dismissal**

The judge may dismiss the charge of driving with an expired vehicle registration if the defendant (1) remedies the defect not later than the 20th working day after the date of the offense or the defendant's first court appearance and (2) establishes that the late registration fee was paid to the county tax-assessor collector. The court may also assess a reimbursement fee up to \$20 when the charge is dismissed (Sec. 502.407(b), T.C.).

**b. Penalty**

If a defendant is convicted, the fine is not more than \$200 (Sec. 502.471(c), T.C.).

**4. Wrong, Fictitious, Altered, or Obscured Insignia**

A less-often filed registration charge involves driving with a wrong, fictitious, altered, or obscured insignia (Sec. 502.475, T.C.). This includes attaching or displaying on a motor vehicle a registration insignia that is assigned to a different motor vehicle, is assigned by any department other than the DMV, is assigned for a registration period other than the one in effect, or is fictitious.

**a. Compliance Dismissal**

The judge may dismiss the charge of attaching or displaying a registration insignia that is assigned for a different period if the defendant remedies the defect before his or her first court appearance and pays a reimbursement fee not to exceed \$10 (Sec. 502.475(c), T.C.).

**b. Penalty**

If a defendant is convicted, the fine is not more than \$200, unless it is shown at the trial of the offense that the owner knowingly altered or made illegible the letters, numbers, and other identification marks, in which case the offense is a Class B misdemeanor. Displaying a fictitious registration insignia is also a Class B misdemeanor (Sec. 502.475, T.C.).

## 5. Operation of Vehicle Without License Plates

A common offense involving license plates is the operation of a vehicle without license plates. Section 504.943 of the Transportation Code provides that a person commits an offense if he or she operates on a public highway, during a registration period, a motor vehicle that does not display two license plates that have been assigned by the DMV for the period and comply with DMV rules regarding the placement of license plates. DMV rule states that the vehicle must display two license plates, one at the exterior front and one at the exterior rear of the vehicle that are securely fastened at the exterior front and rear of the vehicle in a horizontal position of not less than 12 inches from the ground, measuring from the bottom, except that a vehicle described by Section 621.2061 of the Transportation Code may place the rear plate so that it is clearly visible (Sec. 217.22(c)(2)(A), Title 43, T.A.C.).

### a. Compliance Dismissal

The judge may dismiss a charge for driving without license plates if the defendant remedies the defect before the first court appearance and pays a reimbursement fee not to exceed \$10 (Sec. 504.943(d), T.C.).

### b. Penalty

The penalty for this offense is a fine not to exceed \$200 (Sec. 504.943(e), T.C.).

#### Practice Note

What happens when the Legislature accidentally removes any penalty for an offense? In 2011, the Legislature did just that for operating a vehicle without license plates. From 2011 until 2013 there appeared to be no penalty whatsoever for this offense. The Legislature then attempted to remedy the mistake two years later by amending Section 504.943 to provide a fine not to exceed \$200, which was the original penalty. This did not take effect until September 1, 2013, though, and only applied to offenses committed on or after the effective date. Moreover, in separate legislation, the general penalty for Chapter 504 was set at a fine of \$5 to \$200. This took effect on June 14, 2013. Therefore, for license plate offenses committed between June 14, 2013 and August 31, 2013, the fine was \$5 to \$200. For offenses committed September 1, 2013 and after the fine is simply not to exceed \$200.

## 6. Wrong, Fictitious, Altered, or Obscured License Plate

Section 504.945 of the Transportation Code provides that a person commits an offense if the person attaches to or displays on a motor vehicle a license plate that:

- is issued for a different motor vehicle;
- is issued for the vehicle under any other motor vehicle law other than by the DMV;
- is assigned for a registration period other than the registration period in effect;
- is fictitious;

- has blurring or reflective matter that significantly impairs the readability of the name of the state in which the vehicle is registered or the letters or numbers of the license plate number at any time;
- has attached an illuminated device or a sticker, decal, or other insignia that is not authorized by law and that interferes with the readability of the letters or numbers on the plate or the readability of the name of the state in which the vehicle is registered; or
- has a coating, covering, protective substance, or other material that distorts angular visibility or detectability, alters or obscures one-half or more of the name of the state in which the vehicle is registered, or alters or obscures the letters or numbers on the plate or the color of the plate.

**a. Compliance Dismissal**

A judge may dismiss this offense if the defendant: (1) remedies the defect before the defendant's first court appearance; (2) pays a reimbursement fee not to exceed \$10; and (3) shows that the vehicle was issued a plate by the DMV that was attached to the vehicle, establishing that the vehicle was registered for the period during which the offense was committed (Sec. 504.945(d), T.C.).

**b. Penalty**

If a defendant is convicted, the fine is not more than \$200, unless it is shown at the trial of the offense that the owner knowingly altered or made illegible the letters, numbers, and other identification marks, in which case the offense is a Class B misdemeanor. Displaying a fictitious license plate is also a Class B misdemeanor (Sec. 504.945(b), T.C.).

**7. Deceptively Similar Registration Insignia and License Plate**

It is an offense for a person to manufacture, sell, or possess a registration insignia deceptively similar to the registration insignia of the DMV, or make a copy or likeness of an insignia deceptively similar to the registration insignia of the DMV with intent to sell the copy or likeness. An insignia is deceptively similar if it is not prescribed by the DMV, but a reasonable person would presume that it was (Sec. 502.4755, T.C.).

An offense under this section is: (1) a felony of the third degree if the person manufactures or sells a deceptively similar registration insignia; (2) a Class C misdemeanor if the person possesses a deceptively similar registration insignia; or (3) a Class B misdemeanor if the person possesses a deceptively similar registration insignia and has previously been convicted of the same offense. This Class C misdemeanor carries a maximum fine of \$500.

Section 504.946 of the Transportation Code creates a similar offense, with similar penalty, for the manufacture, sale, or possession of a deceptively similar license plate.

**B. Driver's Licenses (Subtitle B)**

**1. Failure to Carry and Exhibit**

A person operating a motor vehicle on a highway must hold a valid driver's license that is appropriate for the type of vehicle operated. Motor vehicle operators must display the license on the demand of a magistrate, court officer, or peace officer (Secs. 521.025 and 522.011, T.C.).

### **a. Defense to Prosecution**

If a person is charged with failing to carry and exhibit a driver's license, it is a defense to the prosecution if the person produces in court a driver's license appropriate for the type of vehicle operated that was valid at the time the citation was issued. A defense to prosecution must be raised by the defendant and requires a prosecutor's motion to dismiss for the court to dismiss the charge. However, if the court does grant a dismissal, the court may charge a \$10 reimbursement fee (Sec. 521.025(d), T.C.). If the person is charged with failure to display a commercial driver's license, but brings in proof of such a license that was valid on the day of the offense, it is a defense to prosecution. If the charge is dismissed, there is no authority to assess any fee.

### **b. Penalty**

If the person did not actually have a valid driver's license at the time he or she committed the offense or if the defendant does not bring in proof of a valid driver's license, the penalty for a:

- first time offense is a fine not to exceed \$200;
- second conviction within one year after the date of the first conviction is a fine of not less than \$25 or more than \$200; and
- third or subsequent conviction within one year after the date of the second conviction is a fine of not less than \$25 or more than \$500, or confinement in the county jail for not less than 72 hours or more than six months, or both the fine and confinement (a Class B misdemeanor).

If it is shown on the trial of the offense that at the time of the offense the person was (1) operating the motor vehicle without maintaining financial responsibility and (2) caused or was at fault in a motor vehicle collision that resulted in serious bodily injury to or the death of another person, the offense is a Class A misdemeanor (Sec. 521.025(c), T.C.).

## **2. Expired Driver's License**

A person who operates a vehicle on a highway in Texas is required to hold a valid driver's license. Sec. 521.021, T.C. A driver's license generally expires on the first birthday of the license holder occurring after the sixth anniversary of the date of the application (Sec. 521.271, T.C.). There are exceptions for new licensees under the age of 21.

### **a. Compliance Dismissal**

An expired driver's license charge may be dismissed by the judge if the defendant renews the license within 20 working days from the date of the offense or by the defendant's first court appearance, whichever is later (Sec. 521.026, T.C.). If the judge dismisses the charge, the judge may assess a reimbursement fee of up to \$20.

### **b. Penalty**

If a person is convicted of the offense of operating a vehicle with an expired driver's license, the penalty is a fine not to exceed \$200 (Sec. 521.461, T.C.).

## **3. Driving While License Invalid**

The maximum penalty for driving while license invalid (DWLI) is \$500. This traffic offense is a Class C Misdemeanor unless it is shown at trial that the person has been previously convicted of DWLI, the license was previously suspended for driving while intoxicated, or the person is also driving without maintaining financial responsibility, in which case the offense is a Class B

misdemeanor. If, at the time of the offense, the person was operating the motor vehicle without maintaining financial responsibility and caused or was at fault in a motor vehicle crash that resulted in seriously bodily injury or death to another person, the offense is a Class A misdemeanor (Sec. 521.457, T.C.).

### **C. Speeding (Subtitle C)**

Speeding is another common offense that municipal courts will see. Texas law provides for a “maximum speed requirement,” which states that a person commits an offense if that person operates a motor vehicle on a public street or highway at a speed greater than is reasonable or prudent under the conditions then in existence (Sec. 545.351, T.C.). In addition, any speed in excess of a posted speed limit is prima facie evidence that the speed is unreasonable or imprudent and therefore unlawful (Sec. 545.352, T.C.). Speeding is punishable by a fine of not less than \$1 and not more than \$200. Municipalities may raise or lower a prima facie speed limit. (Sec. 545.356, T.C.). Even if this is done through a municipal ordinance, speeding remains a state law violation.

### **D. Safety Belts and Child Safety Seats (Subtitle C)**

Adults and children age eight and older, both in the front and back seats, are required to be secured by a safety belt, and children under age eight, unless taller than 4’9” must be secured in child safety seats while being transported in a passenger vehicle. “Passenger vehicle” is defined as a passenger car, light truck, sport utility vehicle, passenger van designed to transport 15 or fewer passengers, including the driver, truck, or truck tractor (Sec. 545.412(f)(2), T.C.). Section 541.201 of the Transportation Code provides definitions for the above list of vehicles.

Sections 545.412(f)(3) and (4) define the terms “safety belt” and “secured.” Both definitions apply also to Section 545.413. “Safety belt” means a lap belt and any shoulder straps included as original equipment on or added to a vehicle. “Secured” means using the lap belt and any shoulder straps according to the instruction of the manufacturer of the vehicle if the belt is original equipment or the manufacturer of the safety belt if the belt was added to the vehicle. Because the definition of secured requires the use of the shoulder harness along with the lap belt, if a person is not properly secured, he or she could be charged with not wearing a safety belt.

“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. Under Section 545.412 of the Transportation Code, a person commits an offense if the person operates a passenger vehicle, transports a child who is younger than eight years of age, unless the child is taller than 4’9”, 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.

The operator of a passenger vehicle must secure himself or herself with a safety belt. If a child passenger is younger than eight, unless the child is taller than 4’9”, the child must be secured in a child passenger safety seat system. All other children under 17 must be secured with a safety belt. All occupants, adults and children, must be secured with a safety belt or child passenger safety seat regardless of their position in the vehicle, if their seat is equipped with a seat belt (Sec. 545.493, T.C.).

### **1. Defenses to Prosecution**

There are several defenses to prosecution for safety belt violations. They include a person who:

- possesses and 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;
- is employed by the U.S. Postal Service and is 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;
- 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;
- 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;
- is operating a commercial vehicle registered as a farm vehicle under the provisions of Section 502.433 that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more; or
- 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.

The defense to prosecution for not securing a child in a proper child passenger safety seat system requires that the defendant provide satisfactory evidence to the court that, at the time of the offense, (1) the defendant was not arrested or issued a citation for violation of any other offense, (2) the vehicle the defendant was driving was not involved in a collision, (3) the defendant did not possess a child passenger safety seat system in the vehicle, and, subsequent to the time of the offense, (4) the defendant obtained an appropriate child passenger safety seat system for each child required to be secured in such a system (Sec. 545.4121, T.C.).

## **2. Penalty**

The penalty for a driver or passenger, age 15 or older, not secured by a safety belt is a fine of not less than \$25 or more than \$50. If a driver is charged with not securing a passenger younger than 17 years of age, who is not required to be in a child safety seat, the fine is not less than \$100 or more than \$200 (Sec. 545.413(b), T.C.). If a driver is charged with not securing a child who is under eight years of age, and not over 4'9" tall, in a child passenger safety seat system, the fine is not less than \$25 and not more than \$250 (Sec. 545.412(b), T.C.).

## **3. Fines Remitted to State**

The city is required to remit to the State half of the fines collected for allowing a child to ride and not be secured by a child passenger safety seat system or a safety belt. The city must remit the fines at the end of the city's fiscal year on a form prescribed by the Comptroller.

## **E. Passing a School Bus (Subtitle C)**

An operator of a vehicle on a highway must, when approaching from either direction a school bus stopped on the highway to receive or discharge a student, stop before reaching the school bus and not proceed until the school bus resumes motion (Sec. 545.066, T.C.). An operator on a highway having separate roadways is not required to stop for a school bus that is on a different roadway; or if on a controlled-access highway for a school bus that is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway. A



highway is considered to have separate roadways only if the highway has roadways separated by an intervening space on which operation of vehicles is not permitted, a physical barrier, or a clearly indicated dividing section constructed to impede vehicle traffic. A highway is not considered to have separate roadways if the highway has roadways separated only by a left turn lane. Starting September 1, 2021, school bus operators may use the bus's stop alert system when delivering food or technological equipment. Sec. 547.701, T.C. The passing a school bus offense, however, is still limited to when a bus is receiving or discharging students.

## **1. Penalty**

### **a. Fine Range**

The offense of passing a school bus has one of the higher fines in the Transportation Code. For a first conviction, the minimum fine is \$500 and the maximum fine is \$1,250. For a second or subsequent offense, the penalty is a fine of not less than \$1,000 or more than \$2,000 if it is within five years of the date of the most recent preceding offense. If a defendant causes serious bodily injury when passing a school bus, the offense becomes a Class A misdemeanor. If the person is convicted a second time for causing serious bodily injury when passing a school bus loading or unloading children, the offense becomes a state jail felony. Sec. 545.066(c), T.C.

### **b. Driver's License Suspension**

When a defendant is convicted of a second or subsequent passing a school bus offense, the court may order the defendant's driver's license suspended for a period of time not to exceed six months. If the judge orders the driver's license suspension, the clerk reports the order to DPS. Sec. 545.066(d), T.C.

#### **Practice Note**

Clerks should pay close attention to the excluded offenses under the driving safety course and deferred disposition statutes. The two are similar, but not the same. A person charged with the offense of passing a school bus is not eligible to take a driving safety course to have the charge dismissed. Art. 45.0511(p), C.C.P. The person would be eligible, however, for deferred disposition. Art. 45.051, C.C.P.

## **F. Cell Phones in a School Zone (Subtitle C)**

First passed by the Legislature in 2009, this law makes it illegal for an operator to use a wireless communication device while operating a motor vehicle within a school crossing zone, unless the vehicle is stopped or the wireless communication device is used with a hands-free device. Sec. 545.425, T.C. Municipalities wanting to enforce this offense must post "warning" signs at the entrance to each school crossing zone. Some cities have, however, banned cell phone use throughout the entire municipality, and are not required to post separate signs at the entrance to the school crossing zone so long as the municipality posts notice of the ban at all entrances to the city.

The ban on the use of cell phones in school zones also includes other areas on school property, such as pick-up and drop-off lanes and parking lots. The ban covers the property of a public

elementary, middle, junior high, or high school for which a local authority has designated a school crossing zone. Sec. 545.4252, T.C. Cell phone use will only be restricted during the time a reduced speed limit is in effect for the school crossing zone. The law governing cell phone use on school property is nearly identical to the cell phone in a school zone law; the only difference being there are no signs required to be posted under Section 545.4252, as are required to be posted at each entrance to the school crossing zone. The new law preempts any local ordinances, rules, or regulations relating to the use of a wireless communication device by the operator of a motor vehicle, unless the city has prohibited the use throughout the entire jurisdiction.

## 1. Defenses

There are several affirmative defenses to prosecution for use of a cell phone in a school zone, specifically:

- the wireless communication device was used to make an emergency call to:
  - an emergency response service, including a rescue, emergency medical, or hazardous material response service;
  - a hospital;
  - a fire department;
  - a health clinic;
  - a medical doctor’s office;
  - an individual to administer first aid treatment; or
  - a police department; or
- a sign required by the law was not posted at the entrance to the school crossing zone at the time of an offense committed in the school crossing zone.

## 2. Exceptions

The ban on cell phones in school zones 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.

## 3. Penalty


The offense of using a cell phone in a school crossing zone is punishable by a fine of not less than \$1 and not more than \$200. The same penalty applies to the offense of using a cell phone on school property when the school zone is in effect. Sec. 542.401, T.C.

### Practice Note

This offense is separate from the state texting law that became effective on September 1, 2017. That offense is found in Section 545.4251 of the Transportation Code. It includes a specific penalty of \$25 to \$99 for a first offense.

## G. Inspection Requirements (Subtitle C)

Motor vehicles in Texas generally must pass a vehicle inspection in order to be registered with the State. Texas is a “single sticker” state, with a combined registration and inspection sticker. Under this system, a vehicle may not be registered without first providing proof of a safety and/or emission vehicle inspection report, either electronically or via a printed report. This system requires vehicle owners to complete vehicle safety inspections prior to their registration renewal, not earlier than 90 days before the expiration of the vehicle’s registration.



### Practice Note

*The Recorder* is a useful resource for background on municipal court issues or new legislation. For example, a May 2015 *Recorder* article titled “Vehicle Registration and Inspection: One Sticker to Confuse Them All?” provided analysis of the legislation that repealed the criminal offense for failure to display inspection. This and other *Recorder* articles may be accessed located at [www.tmcec.com/journal](http://www.tmcec.com/journal) on the TMCEC website.

## H. Financial Responsibility (Subtitle D)

It is an offense to operate a motor vehicle in Texas without some type of financial responsibility. Sec. 601.051, T.C. This means that a person who is driving and causes a collision must be able to pay for damages or injuries to another person in the collision. When a person is involved in a collision or is stopped by a peace officer, the person is required to present proof of financial responsibility. Sec. 601.053, T.C. Peace officers may issue citations to persons who fail to present proof of financial responsibility. Most commonly this offense is called “no insurance” because liability insurance is the most common way to fulfill the requirement of financial responsibility.

Section 601.051 of the Transportation Code generally provides the requirements for persons to maintain financial responsibility for the motor vehicles that they operate. The following methods will establish financial responsibility.

- A motor vehicle liability insurance policy.
- A surety bond filed with DPS. The bond is a lien in favor of the State on the real property described in the bond. The lien exists in favor of a person who holds a final judgment against the person.
- A deposit in the amount of \$55,000 made with the State Comptroller. It can be in cash or securities.
- A deposit in the amount of \$55,000 made with the county judge of the county in which the motor vehicle is registered. It must be made in cash or cashier’s check.

- Self-insurance. A person in whose name more than 25 motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by DPS. The person must have the ability to pay judgments obtained against him or her.

Section 601.007 of the Transportation Code provides that Chapter 601 does not apply to:

- government vehicles, provided the vehicle is owned by the United States, state, or political subdivision, operated by an officer, agent, or employee of the government, and used in the course of employment;
- tow trucks;
- motor carriers; and
- vehicles transporting persons or cargo.

The above-listed vehicles must maintain liability insurance in an amount set by DPS that does not exceed the amount required for a motor carrier under a federal regulation adopted under 49 U.S.C. Section 13906(a)(1). Sec. 643.101, T.C.

### **1. Exceptions**

There are exceptions to the financial responsibility law under Section 601.052 of the Transportation Code. Vehicles that do not have to be covered with some type of financial responsibility include:

- antique collectables including vehicles that are:
  - at least 25 years old or a former military vehicle;
  - used only for exhibitions, club activities, parades, and other functions of public interest and not used for regular transportation; and
  - on file with DPS stating that the vehicle is a collector’s item and used only for exhibition purposes;
- golf carts; and
- volunteer fire department vehicles (but the vehicle must be registered in the name of the volunteer fire department).

### **2. Defense**

There are legal defenses to the financial responsibility law. The first is that the person had insurance or other proof of coverage. Sec. 601.193, T.C. The offense is for not maintaining a current form of financial responsibility, not for failure to present proof to a peace officer. Therefore, having the proper coverage at the time of the alleged violation is a defense. Purchasing insurance after the citation is issued is not a legal defense.

Another defense is if a motor vehicle is in the possession of a person for the sole purpose to effect repairs on the vehicle. Sec. 601.194, T.C. This is only valid if the mechanic is working on someone else’s car. Sec. 601.194(b), T.C. A person cannot use this defense when repairing his or her own car.

### **3. Dismissal**

If a person charged with failure to maintain financial responsibility produces a motor vehicle insurance policy or certificate of self-insurance to the court that was valid at the time of the citation,

the court is required to dismiss the charge after it verifies the document. Sec. 601.193, T.C. The court may not assess any fee upon this dismissal.

#### **Practice Note**

Sometimes the evidence provided by a defendant is clearly acceptable, but other times there may be a question as to its authenticity. The statute does not provide procedures for how the court verifies the document or who is to do the verification. Some courts have the clerk call the insurance company to verify the coverage. Others have the prosecutor verify the document since the evidence is a defense to the prosecution. Municipal and justice courts' new ability to access TexasSure may also help, though it is currently limited in that it only shows insurance statuses at the time the database is accessed (not necessarily when the alleged offense occurred). Clerks should work with their judge and prosecutor to establish a procedure for handling these types of cases. In a situation where a document cannot be verified, the defendant would likely be set for trial.

## **4. Penalty**

The fine for a financial responsibility charge is higher than for most other traffic violations. A first offense carries a fine of \$175 to \$350. Sec. 601.191(c), T.C. On the first offense, the judge has the authority to lower the fine below the \$175 minimum if the judge finds the person convicted is economically unable to pay the fine. Sec. 601.191(d), T.C. This authority to lower the fine below the minimum does not apply to subsequent offenses.

A second offense carries a minimum fine of \$350 with a possible fine up to \$1,000. Sec. 601.191(c), T.C. On the second offense, courts must also order the sheriff to impound the defendant's vehicle, if the defendant owns the vehicle. To charge a defendant with a second or subsequent offense, it must be filed as such. It is the prosecutor's responsibility to review the case and file it as a subsequent offense if he or she wishes.

### **I. Motorcycle Protective Headgear (Subtitle G)**

Persons who operate or ride on a motorcycle generally must wear protective headgear or a helmet. Sec. 661.003, T.C.

#### **1. Exceptions**

There are, however, exceptions to this requirement if the person is at least 21 years of age and:

- has successfully completed a motorcycle operator training and safety course; or
- the person is covered by health insurance for injuries that may be incurred as a result of operating or riding on a motorcycle. Sec. 661.003, T.C.

If a motorcycle operator or his or her passenger can produce evidence to an officer who has lawfully stopped them that they are at least 21 years of age and either have successfully completed

the training and safety course or that they have the required medical insurance, peace officers are prohibited from issuing a citation for not wearing a helmet. Sec. 661.003(c), T.C.

## **2. Penalty**

Persons convicted of not wearing motorcycle protective headgear may be fined in an amount of \$10 to \$50. Sec. 661.003(h), T.C.

## **J. Privileged (Handicapped) Parking (Subtitle H)**

It is an offense to park a vehicle not bearing either the placard or tag in a space designated as privileged parking. Sec. 681.011(b), T.C. Furthermore, it is an offense to park a vehicle with a tag or placard in a disabled space if, at the time of parking, it is not being used to transport a person with a disability. Sec. 681.011(a), T.C. Parking violations may also be charged against persons who block ramps for the disabled. Sec. 681.011(c), T.C. In addition, persons who have a placard and lend it to someone who is not mobility impaired may also be charged. Sec. 681.011(d), T.C. A peace officer may seize and destroy a disabled placard from a person upon determination that the person's driver license does not match the placard of the person operating the vehicle or the person being transported. Sec. 681.012(a-1), T.C.

### **Eligibility**

To be eligible for privileged parking, a person must be legally blind or have substantial mobility problems, including someone who cannot walk over 200 feet without stopping; must use a brace, crutch, cane, prosthetic device, or wheelchair; has severe lung disease; or uses portable oxygen. A person who has a severe cardiac condition, has an arthritic, neurological, or orthopedic condition which limits his or her ability to walk, or has a debilitating condition which, in the opinion of a doctor, limits his or her ability to walk is also considered to have severe mobility problems. Sec. 681.001, T.C.

A person who is disabled must apply to the tax assessor-collector for a disabled parking permit. When approved, the person is given either two window placards or a license tag and one window placard. Sec. 681.003, T.C. These tags or placards allow parking in privileged parking spaces for an unlimited amount of time. Sec. 681.006(a), T.C. Persons with privileged parking tags or placards may also park at parking meters free of charge. Sec. 681.006(b), T.C. A governmental unit may provide by ordinance that persons parking in specially designated privileged parking spaces in a parking garage, a lot, or a space may be exempt from paying a fee or penalty imposed by the governmental unit for parking in those spaces. Sec. 681.006(e), T.C.

Three groups have authority to enforce privileged parking: peace officers, security guards of private businesses, and persons appointed by the city. Sec. 681.010(b), T.C. The person must take an oath of office and complete a training program. Sec. 681.0101, T.C. Many cities are designating persons with disabilities or other citizens to assist in enforcement.

## **1. Dismissal**

Someone convicted of a privileged parking offense does not have the right to take a driving safety course to have the offense dismissed, as the offense is not a Rules of the Road offense or a moving violation. The judge may, however, grant deferred disposition under Article 45.051 of the Code of Criminal Procedure.

A person charged with parking in a space designated for privileged parking who has an expired handicap parking placard is entitled to a compliance dismissal if (1) the placard has been expired

60 days or less; (2) the defendant gets the placard renewed within 20 working days of the date of the offense or before the defendant's first court appearance, whichever is later; (3) and the defendant pays a reimbursement fee not to exceed \$20. If the placard has been expired more than 60 days, the court has discretion whether to permit a compliance dismissal. Sec. 681.013, T.C.

## 2. Penalty

Privileged parking is taken very seriously by the Texas Legislature and the penalties are severe. A person convicted of a privileged parking offense faces high fines, which steeply increase with subsequent offenses.

Sec. 681.011: Offense	Minimum Fine	Maximum Fine	Additional Requirements
First offense	\$500	\$750	N/A
One prior conviction	\$500 or \$550 (there are two statutes prescribing different minimum fines)	\$800	10 hours of community service
Two prior convictions	\$550	\$800	not less than 20 or more than 30 hours of community service or 20 hours of community service (there are competing statutes)
Three prior convictions	\$800	\$1,100	50 hours of community service or 30 hours of community service (there are competing statutes)
Four prior convictions	\$1,250	\$1,250	50 hours of community service

### True or False

32. A judge does not need a motion to dismiss from the prosecutor to dismiss a charge for which there is a compliance dismissal. \_\_\_\_\_
33. The court does not assess court costs when a case is dismissed pursuant to a compliance dismissal. \_\_\_\_\_
34. Judges may dismiss the charge of operating a vehicle with expired registration, if the defendant purchased valid registration and paid the late fee within 10 working days and presents the evidence to the court. \_\_\_\_\_
35. The maximum fine for driving without two license plates is \$500. \_\_\_\_\_
36. Peace officers may issue citations to a person driving a vehicle if a license plate holder obscures the name of the state on the license plate. \_\_\_\_\_
37. The court may charge a dismissal fee for dismissing a charge of failure to display a driver's license if the defendant had a valid driver's license on the day of the arrest. \_\_\_\_\_
38. The offense of no driver's license is always a Class C misdemeanor. \_\_\_\_\_

39. If a person charged with an expired driver's license obtains a valid driver's license within 20 working days, the court may dismiss the charge and assess a \$20 fine. \_\_\_\_\_
40. It is a defense to the prosecution if a person produces in court a valid commercial driver's license that was valid when the offense occurred even though the license is not valid for the class of vehicle being driven. \_\_\_\_\_
41. The maximum fine for driving while license invalid is \$500. \_\_\_\_\_
42. Speeding can be filed as a city ordinance violation. \_\_\_\_\_
43. Under the safety belt law, "passenger vehicle" is defined to mean only a passenger car. \_\_\_\_\_
44. The penalty for failure to secure a child under eight in a child passenger safety seat is a minimum fine of \$25 and maximum fine of \$250. \_\_\_\_\_
45. Cities must remit one-half of all safety belt fines and fines for not securing a child in a passenger safety seat system to the State at the end of the city's fiscal year. \_\_\_\_\_
46. A 15-year-old can be cited for failure to wear a safety belt and be fined not less than \$25 or not more than \$50. \_\_\_\_\_
47. Persons charged with passing a school bus are not eligible to take a driving safety course. \_\_\_\_\_
48. Passing a school bus carries a maximum penalty of \$200. \_\_\_\_\_
49. Improperly using a cell phone in a school crossing zone is a Class C misdemeanor with a maximum fine of \$500. \_\_\_\_\_
50. Only a vehicle liability insurance policy is acceptable proof of financial responsibility. \_\_\_\_\_
51. There are no exceptions to the financial responsibility law. \_\_\_\_\_
52. Courts are required to dismiss a charge of failure to maintain financial responsibility if a defendant obtains insurance before appearing in court. \_\_\_\_\_
53. When a defendant presents proof of financial responsibility to the court, the court must verify it before dismissing the case. \_\_\_\_\_
54. The court may assess a dismissal fee of up to \$20 for dismissing a charge upon proof of financial responsibility. \_\_\_\_\_
55. The fine for a first conviction for failure to maintain financial responsibility is a minimum fine of \$175 and a maximum of \$350. \_\_\_\_\_
56. On a conviction for a second or subsequent offense of failure to maintain financial responsibility, the court is required to order the impoundment of the vehicle. \_\_\_\_\_
57. If a motorcycle operator can produce evidence to an officer who has lawfully stopped them that they are under the exceptions to wearing protective headgear, the officer cannot issue a citation. \_\_\_\_\_
58. The penalty for not wearing a helmet is a maximum fine of \$200. \_\_\_\_\_
59. Only peace officers can enforce privileged parking. \_\_\_\_\_
60. Persons who are disabled and have the proper documentation may park at parking meters free. \_\_\_\_\_



61. Persons convicted of a parking offense under the privileged parking law face escalating penalties depending on the number of prior convictions. \_\_\_\_\_

## PART 6 QUOTAS

Finally, as discussed in Chapter 1, cities are prohibited from establishing quotas for courts. This prohibition is found in Section 720.002 of the Transportation Code. It prohibits cities from establishing or maintaining a plan to evaluate, promote, compensate, or discipline peace officers according to a predetermined or specified number of any type or combination of types of traffic citations. Sec. 720.002(a)(1), T.C. This same prohibition also applies to judges. Cities may not evaluate, promote, compensate, or discipline a judge according to the amount of money the judge

### **Sec. 720.002(e), T.C.**

A violation of the prohibition on traffic offense quotas is a ground for removal from the person's office or position. For an elected official, it is misconduct.

collects from persons convicted of a traffic offense. Sec. 720.002(a)(2), T.C. Cities also may not consider the source and amount of money collected from a municipal court when evaluating the performance of the judge. Cities may obtain budgetary information, however, from the municipal court. This includes an estimate of the amount of money the court anticipates will be collected in a budget year. Sec. 720.002, T.C.

True or False

62. Although peace officers may not be evaluated on the number of tickets that they issue, they may be evaluated on the type of tickets that they issue. \_\_\_\_\_
63. City officials are prohibited from evaluating or disciplining a judge on the amount of money they collect from persons convicted of traffic offenses and may be removed from office for doing so. \_\_\_\_\_
64. Cities may not obtain budgetary information from a municipal judge because that would require the judge to estimate the amount of money he or she anticipates will be collected in the coming budget year. \_\_\_\_\_

## APPENDIX A: PASSENGER RESTRAINT LAWS

### **Back Seat**

ADULTS (17 and over) \$25 - \$50 fine to offender

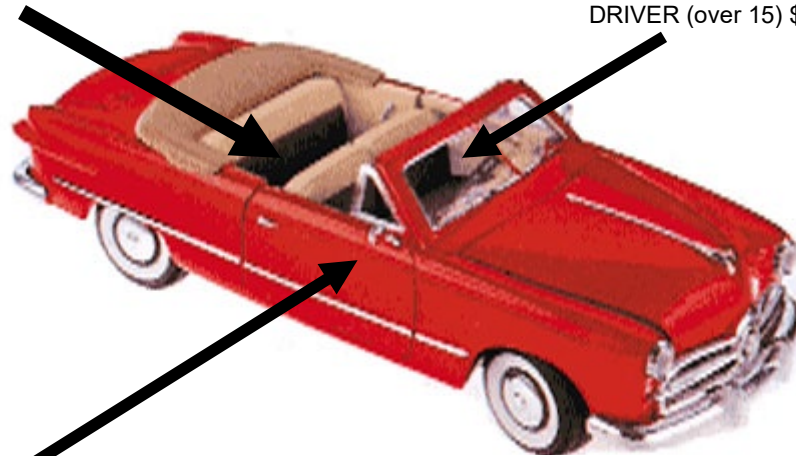
CHILDREN (15-16) \$25 - \$50 fine to passenger & \$100 - \$200 fine to driver

CHILDREN (8-15, and those under 8 but taller than 4'9") \$100 - \$200 fine to driver

CHILDREN (under age 8, unless taller than 4'9") \$25 - \$250 fine to driver

### **Driver's Seat**

DRIVER (over 15) \$25 - \$50 fine



### **Front Seat Passengers**

ADULTS (17 and over) \$25 - \$50 to offender

CHILDREN (15-16) \$25 - \$50 fine to passenger & \$100 - \$200 fine to driver

CHILDREN (8-15, and those under 8 but taller than 4'9") \$100 - \$200 fine to driver

CHILDREN (under age 8, unless taller than 4'9") \$25 - \$250 fine to driver

### **Passenger Restraint Laws**

#### **Child in safety seats**

A child *under 8 years old, unless the child is taller than 4 feet 9 inches (4'9")* must be restrained in a **child passenger safety seat** in accordance with the manufacturer's instructions.

#### **Child in safety belts**

A child *at least age 8 and younger than age 17* must be restrained in a **safety belt** regardless of position in the vehicle. A child under 8 years old who is not required to be in a safety seat must be in a safety belt.

#### **Adults in safety belts the**

A person must be restrained in a safety belt regardless of position in vehicle.

#### **Motorcycles**

A child *under age 5* cannot ride as a passenger on a motorcycle, unless seated in a sidecar.

#### **Pick-up trucks and trailers**

A child *under age 18* cannot ride in the open bed of a pick-up or flatbed truck or open flatbed trailer on a public road.

#### **House trailers and towed trailers**

A person cannot ride in a house trailer being moved or in a trailer or semitrailer being towed.

#### **Towed watercraft**

A child *under age 18* cannot ride in a boat being towed by a vehicle.

## Passenger Safety Seat Systems and Safety Belts

Age	Person Responsible	Type of Restraint	Location in vehicle	Cited for	Penalty	Eligible for Special DSC (until June 1, 2023) (emphasizes seatbelts & child safety seat systems)	Eligible for DSC	Eligible for Deferred Disposition
Child under age 8, unless over 4'9" tall	driver	child passenger safety seat system	front and back seats	child not in passenger safety seat system	minimum \$25 maximum \$250	yes	no	yes
Child at least age 8 and under age 17*	driver	safety belt	front and back seats	child not in safety belt	minimum \$100 maximum \$200 if in passenger vehicle minimum \$1 maximum \$200 if in passenger van	yes	no	yes
At least age 15	passenger	safety belt	front and back seats	passenger not wearing safety belt	minimum \$25 maximum \$50	no	no	yes
At least age 15	driver	safety belt	front and back seats	driver not wearing safety belt	minimum \$25 maximum \$50	no	yes	yes

\*Children under age 8 that are taller than 4'9" must wear a safety belt.

### Definitions

- 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.
- 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. (*Passenger car* means a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate 10 or fewer passengers, including the operator. *Light truck* means a truck, including a pickup truck, panel delivery truck, or carryall truck, that has a manufacturer's carrying capacity of 2,000 pounds or less. Since *sport utility vehicle* is not specifically defined, look to the definition of passenger vehicle. *Truck* means a motor vehicle designed, used, or maintained primarily to transport property. *Truck tractor* means a motor vehicle designed and used primarily to draw another vehicle but not constructed to carry a load other than a part of the weight of the other vehicle and its load. *Motor vehicle* means a self-propelled vehicle or a vehicle that is propelled by electric power from overhead trolley wires. Section 541.201, T.C.)
- Safety belt means a lap belt and any shoulder straps included as original equipment on or added to a vehicle.
- Secured in connection with use of a safety belt means using the lap belt and any shoulder straps according to the manufacturer of the vehicle, if the safety belt is original equipment, or the manufacturer of the safety belt, if the safety belt has been added to the vehicle.

### Section 545.412, T.C., does not apply to:

- A person operating a vehicle transporting passengers for hire, excluding third-party transport service providers when transporting clients pursuant to a contract to provide nonemergency Medicaid transportation; or
- A person transporting a child in a vehicle in which all seating positions equipped with child passenger safety seat systems or safety belts are occupied.

### Defenses to prosecution under Section 545.412, T.C.:

- The person was operating the vehicle in an emergency;
- The person was operating the vehicle for a law enforcement purpose; or
- The person provides satisfactory evidence to the court that, at the time of the offense:
  - (1) the person was not arrested or issued a citation for violation of any other offense,
  - (2) the vehicle the person was driving was not involved in a crash,
  - (3) the person did not possess a child passenger safety seat system in the vehicle, and
  - (4) subsequent to the time of the offense, the defendant obtained an appropriate child passenger safety seat system for each child required to be secured in such a system. [Section 545.4121, T.C.,]

### Defenses to prosecution under Section 545.413, T.C.:

- The person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;
- The person presents to the court, not later than the 10<sup>th</sup> 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;
- 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;
- 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;
- 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;
- The person is operating a commercial vehicle registered as a farm vehicle under the provisions of Section 502.433, T.C., that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more; or
- 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.

### Amount Due to the State

- Fifty percent of the fines for convictions for not securing a child in a child passenger safety seat system (under Section 545.412, T.C.) or a safety belt (under Section 545.413(b), T.C.) must be remitted to the State Comptroller at the end of the city's fiscal year.

## APPENDIX B: COMPLIANCE DISMISSALS AND DEFENSES TO PROSECUTION

### COMPLIANCE DISMISSALS

Offense	Statute	Mandatory or Discretionary Dismissal	Length of Time to Comply	Required Conditions	Amount of Reimbursement Fee
Expired vehicle registration	Section 502.407(b), Transportation Code	Court may dismiss	20 working days after the date of the offense or before the defendant's first court appearance, whichever is later	Defendant must remedy the defect; and Show proof of payment of late registration fee to county assessor-collector	Fee optional Not to exceed \$20
Operate vehicle without valid registration insignia properly displayed	Section 502.473(d), Transportation Code	Court may dismiss	Before defendant's first court appearance	Defendant must: Remedy the defect; or Show that vehicle was issued a registration insignia that was attached to the vehicle establishing that the vehicle was registered for the period during which the offense was committed	Fee required Not to exceed \$10
Attaching or displaying on a vehicle a registration insignia that is assigned for a period other than in effect	Section 502.475(c), Transportation Code	Court may dismiss	Before defendant's first court appearance	Defendant must remedy the defect	Fee required Not to exceed \$10
Operate vehicle without two valid license plates	Section 504.943(d), Transportation Code	Court may dismiss	Before the defendant's first court appearance	Defendant must remedy the defect	Fee required Not to exceed \$10
Attaching or displaying on a vehicle a license plate that is assigned for a period other than in effect, or has a blurring, reflective, coating, covering, or protective matter or attached illuminated device, sticker, decal, or emblem that obscures, impairs, or interferes with the plate's readability	Section 504.945(d), Transportation Code	Court may dismiss	Before the defendant's first court appearance	Defendant must: Remedy the defect; and Show that vehicle was issued a plate that was attached to the vehicle establishing that the vehicle was registered for the period during which the offense was committed	Fee required Not to exceed \$10
Expired driver's license	Section 521.026(a), Transportation Code	Court may dismiss	20 working days after the date of the offense or before the defendant's first court appearance, whichever is later	Defendant must remedy the defect	Fee optional Not to exceed \$20
Fail to report change of address or name on driver's license	Section 521.054(d), Transportation Code	Court may dismiss	20 working days after the date of the offense	Defendant must remedy the defect	Fee required Not to exceed \$20 Court may waive in interest of justice

Offense	Statute	Mandatory or Discretionary Dismissal	Length of Time to Comply	Required Conditions	Amount of Reimbursement Fee
Violate driver's license restriction or endorsement	Section 521.221(d), Transportation Code	Court may dismiss	Before the defendant's first court appearance	Defendant must show that:  Driver's license restriction or endorsement was imposed because of a physical condition that was surgically or otherwise medically corrected before the date of the offense, or in error and that is established by the defendant; and  DPS removes the restriction or endorsement before the defendant's first court appearance	Fee required Not to exceed \$10
Operate vehicle with defective required equipment (or in unsafe condition)	Section 547.004(c), Transportation Code	Court may dismiss	Before the defendant's first court appearance	Defendant must remedy the defect  Does not apply if the offense involves a commercial motor vehicle	Fee required Not to exceed \$10
Operating a vehicle without complying with inspection requirements as certified (vehicle was located in another state at the time the applicant applied for registration or renewal, Section 548.256(b) of the Transportation Code)	Section 548.605(e), Transportation Code	Court shall dismiss	Not later than the 20th working day after the date of the citation or before the defendant's first court appearance, whichever is later  and  Not later than the 40th working day after the applicable deadline regarding inspection requirements	Defendant must remedy the defect	Fee required Not to exceed \$20
Expired disabled parking placard	Section 681.013, Transportation Code	Court shall dismiss if expired not more than 60 days  Court may dismiss if expired more than 60 days	20 working days after the date of the offense or before the defendant's first court appearance, whichever is later	Defendant must remedy the defect	Fee required Not to exceed \$20
Operate vessel with expired certificate of number	Section 31.127(f), Parks & Wildlife Code	Court may dismiss	10 working days after the date of the offense	Defendant must remedy the defect  Certificate cannot be expired more than 60 days	Fee required Not to exceed \$10

## COMMON DEFENSES TO PROSECUTION

Offense	Statute	Defense	Amount of Fee
Failure to have driver's license in possession while operating a motor vehicle (Failure to display)	Section 521.025, Transportation Code	Defendant must produce in court a driver's license issued to that person appropriate for the type of vehicle operated and valid at the time of the arrest	Optional \$10 fee
Failure to have commercial driver's license in possession while operating a commercial motor vehicle	Section 522.011, Transportation Code	Defendant must produce in court a commercial driver's license issued to that person appropriate for the class of vehicle being driven and valid at the time of the offense	Optional \$10 fee
Failure to secure child in a child passenger safety seat system	Section 545.412, Transportation Code  Defense in: Section 545.4121, Transportation Code	Defendant must provide the court with satisfactory evidence that, at the time of the offense:  Defendant was not arrested or cited for any other offense, the vehicle was not involved in a crash, and the defendant did not possess a child passenger safety seat in the vehicle; and  Subsequent to the offense, the defendant obtained an appropriate child passenger safety seat for each child required to be secured in a child passenger safety seat system	None
Failure to maintain financial responsibility	Section 601.193 or Section 601.194, Transportation Code	Two defenses available:  • Defendant must provide the court satisfactory evidence of valid proof of financial responsibility under Section 601.053(a) that was valid and in effect at the time of the arrest  OR  • Defendant possessed the vehicle for the sole purpose or maintenance or repair and did not own the vehicle	None

## ANSWERS TO QUESTIONS

### PART 1

1. It is divided into titles, subtitles, chapters, subchapters, and sections.
2. Title 7.
3. Subtitle A, Chapter 504.
4. Subtitle B, Chapters 521 and 522.
5. Chapter 543.
6. Chapter 543.
7. Chapter 551.
8. Offenses in Subtitle C of Title 7 of the Transportation Code, Chapters 541-600.
9. Title 37, Section 15.89 of the Texas Administrative Code.
10. Subtitle D, Chapter 601.
11. Subtitle H, Chapter 681.
12. Subtitle I, Chapter 703.
13. Chapter 706.
14. Chapter 708 was repealed effective September 1, 2019 and the Texas Driver's Responsibility Program, including the assessment of surcharges, is no longer the law in Texas.

### PART 2

15. Section 543.003 of the Transportation Code.
16. Article 14.06(b) of the Code of Criminal Procedure.
17. The defendant can continue to exercise his or her right to take the course until the person is informed of the right or until the case is disposed.
18. The citation must contain notice in type larger than other type on the citation (except for the type of the statement required about the surcharges) about a second or subsequent conviction resulting in suspension of the defendant's driver's license and motor vehicle registration. Section 601.233 of the Transportation Code provides specific text to include for this notice.
19. The requirement to notify the court of any change of address and that the failure to do so is a Class C misdemeanor.
20. The notice should inform the violator that if he or she fails to appear or pay the fine or satisfy the judgment, he or she may be denied renewal of their driver's license.
21. The additional information required to be on a citation issued to a person who holds a commercial driver's license includes the following: (1) whether the vehicle is a commercial motor vehicle as defined in Chapter 522 of the Transportation Code; (2) whether the vehicle was transporting hazardous materials; and (3) whether the offense was a serious traffic violation as defined in Chapter 522.
22. 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.
23. a. At least 10 days from the date of the citation. Some courts set the appearance date more than 10 days, but the law provides that the number may not be less than 10.

### **PART 3**

- 24. c. criminal offenses.
- 25. c. was committed by the defendant.
- 26. a. intentionally, knowingly, recklessly, and with criminal negligence.

### **PART 4**

- 27. True.
- 28. False.
- 29. False (it is a Class B misdemeanor).
- 30. False (they must be alleged as such or enhanced by the officer or prosecutor).
- 31. True.

### **PART 5**

- 32. True.
- 33. True.
- 34. False (the defendant has 20 working days or before first court appearance date).
- 35. False (the maximum fine is \$200).
- 36. True.
- 37. True.
- 38. False (the offense can be enhanced on a third or subsequent conviction or if the defendant did not have financial responsibility and caused serious bodily injury or death to another in a crash).
- 39. True.
- 40. False (the commercial driver's license must also be valid for the class of commercial motor vehicle that was driven on the day of the offense).
- 41. True.
- 42. False (it is a state law violation, but the speed limit is set by city ordinance if it differs from that provided for under state law).
- 43. False (passenger vehicle means passenger car, light truck, sport utility vehicle, passenger van designed to transport 15 or fewer passengers, including the driver, truck, or truck tractor).
- 44. True.
- 45. False (cities must remit one-half of the fines collected upon conviction for a child not being secured in a passenger safety seat system or a safety belt, not of all safety belt fines).
- 46. True.
- 47. True.
- 48. False (minimum fine of \$500 and a maximum fine of \$1,250 for a first offense).
- 49. False (the maximum fine is \$200).
- 50. False.
- 51. False.
- 52. False (the judge does not have authority to dismiss the case unless the defendant had valid insurance on the date of the arrest).



- 53. True.
- 54. False.
- 55. True.
- 56. True.
- 57. True.
- 58. False (the penalty is a minimum of \$10 and a maximum of \$50).
- 59. False.
- 60. True.
- 61. True.

**PART 6**

- 62. False.
- 63. True.
- 64. False.