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INTRODUCTION

Traffic laws are regulations with a common purpose: to protect citizens who travel on the streets and highways. The purpose of this chapter is to familiarize clerks with the different traffic laws that they may encounter in municipal court. It also provides an overview of issues including arrest and appearance, culpability, and common criminal penalties. This chapter is not, however, 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.

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 bulk of information on traffic offenses seen most often by municipal courts. The first part of this guide provides a brief description of these titles and subtitles.

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.

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, while 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 used 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 fund 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)). Sections 542.405 and 542.406 regulate a municipality's authority regarding civil enforcement of red light cameras. See also, Chapter 707, T.C.
- 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 miscellaneous 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 on school property or in a school zone (Secs. 545.425 and 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. Although most of the chapter contains rules and restrictions on inspection stations, fees, and equipment, it does contain certain offenses that may be filed in municipal court.
- 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, Mopeds, and Play 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, play vehicles, electric personal assistive mobility devices, neighborhood electric vehicles, motor assisted scooters, golf carts, and utility vehicles.
- 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 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. A list of Rules of the Road offenses is included in *Appendix A*. 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. The list of moving violations is included in *Appendix B*. It is important to identify moving violations for

purposes of other court costs and a minor's (under 25 years of age) right to take a driving safety course.

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 outside of Subtitle C. It is important for clerks to keep these two terms separate and know the import of each term.

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, *Motorcycles and Off-Highway Vehicles*, regulates motorcycles, all-terrain vehicles, and recreational off-highway vehicles. The most common offense from this subtitle is not wearing protective headgear while operating a motorcycle (Sec. 661.003). Other portions of this subtitle include motorcycle operating training and safety, off-highway vehicle operation and education, and sale of motorcycles without serial numbers.

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 and allows them 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

Subtitle I, *Enforcement of Traffic Laws*, contains several provisions important to municipal courts.

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. Chapter 705 contains the offense of allowing a dangerous driver to borrow a motor vehicle. This rule authorizes the prosecution of a person who lends his or her car to a person whose license is suspended under the driving while intoxicated laws (Sec. 705.001). Chapter 706 permits a city to contract with DPS to deny renewal of a driver’s license of defendants who fail to appear or fail 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).

Chapter 707 provides the laws for photographic traffic signal enforcement system (red light cameras). Enforcement of red light cameras is civil, but the appeal is to the municipal court.

Chapter 708 contains the Texas Driver’s Responsibility Program. This chapter includes provisions for driver’s license points and surcharges. The Driver’s Responsibility Program is based on a system of points related to traffic convictions that apply surcharges a license holder must pay to maintain a driver’s license. DPS promulgates a list of “moving violations” that receive two points each conviction, three if a collision resulted. Upon reaching six or more points over 36 months, the driver is assessed a surcharge of \$100 plus \$25 for each point over six. DPS uses automatic license suspension to collect past due surcharges. For DWI convictions, surcharges vary: \$1,000 for the first DWI, \$1,500 for a subsequent, and \$2,000 for DWI with BAC over 0.16. Failure to maintain financial responsibility and driving while license invalid trigger automatic surcharges of \$250 per year. Operating a motor vehicle without a proper license results in an automatic surcharge of \$100. Surcharges continue for three years. Chapter 708 also contains provisions for the waiver of surcharges.

Ticket quotas for peace officers are prohibited under Subtitle I in Section 720.002. Cities are prohibited from requiring or suggesting that judges collect a predetermined amount of money from persons convicted of a traffic offense within a specified period and may not evaluate or discipline a judge based on the amount of money the judge collects in traffic fines. A violation of this section by an official is misconduct and grounds for removal from office.

10. Subtitle J

Subtitle J, *Miscellaneous Provisions*, is the second-to-last subtitle of Title 7. It regulates the operations of automobile clubs (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 M

Subtitle M, *Department of Motor Vehicles*, is the last subtitle of Title 7, and the newest. Under a law passed in 2009, 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.

- Q. 1. How is the Transportation Code organized? _____
- Q. 2. Most traffic law matters handled by municipal court are located in which title of the Transportation Code? _____
- Q. 3. In which subtitle do you find rules on license plates? _____
- Q. 4. In which subtitle do you find rules on driver's licenses? _____
- Q. 5. In which chapter of Subtitle C do you find rules on arrest and prosecution of traffic violators? _____
- Q. 6. In which chapter of Subtitle C do you find the requirements of reporting traffic convictions? _____
- Q. 7. Which chapter in Subtitle C regulates bicycles? _____
- Q. 8. What are the Rules of the Road? _____
- Q. 9. Where are the moving violations defined? _____
- Q. 10. In which subtitle do you find rules on maintaining financial responsibility? _____
- Q. 11. In which subtitle do you find rules about privileged (handicap) parking? _____
- Q. 12. In which subtitle do you find rules on the *Nonresident Violator Compact*? _____
- Q. 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? _____
- Q. 14. In which chapter do you find rules regarding surcharges added to driver records for convictions of traffic offenses? _____
- Q. 15. In which section do you find information about quotas being prohibited? _____

PART 2 ISSUANCE OF CITATIONS

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 citation (a/k/a a written promise to appear) 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 violator 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. After a peace officer makes an arrest under Chapter 14, the officer must take the person before a magistrate. The exception to this rule is for Class C misdemeanors.

Subsection (b) of Article 14.06 of the Code of Criminal Procedure provides authority for 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 where the peace officer may take the person to jail, release him or her to someone who will assume responsibility, or the offender consents to attend a chemical dependency program. Art. 14.031, C.C.P.

If a person fails to appear after having been released by a citation issued under the authority of Article 14.06(b), the person can be charged with the offense of failure to appear. The offense of failure to appear is a Class C misdemeanor if the underlying offense charged in court is a Class C misdemeanor. Sec. 38.10, P.C. The elements of failure to appear require that the person be taken into custody and released with or without bail and then fail to appear according to the terms of the release. When a peace officer stops a person for committing a traffic violation, the person is under arrest and in custody until the officer decides whether to take the person to jail or to release the person by issuing a citation. For offenses outside of Subtitle C, when a person fails to appear, the proper charge is the Penal Code offense of failure to appear.

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. Speeding and Open Container: Issuance of Citation Required

Peace officers who stop a person for speeding generally may not take the person into custody. Officers must issue a citation for the speeding offense and release the person *if* the person signs the citation. If the person refuses to sign the citation, the officer may then take the person before a magistrate. Sec. 543.004, T.C.

Additionally, a peace officer charging a person with open container of alcohol in a vehicle under Section 49.031 of the Penal Code, shall instead of taking the person before a magistrate issue a written citation. See also, Sec. 543.004, T.C.

C. 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 2.133 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 citation is issued or an arrest results, including:

- a physical description of person;
- the person’s gender;
- the person’s race or ethnicity;
- whether the officer knew the race or ethnicity of the individual detained before detaining the person;
- the initial reason for the stop;
- whether the officer conducted a search as a result of the stop and, if so, whether the person consented to the search;
- the reason for the search;
- whether any contraband was discovered and the type of contraband;
- whether any probable cause or reasonable suspicion existed to perform the search;
- whether the officers made an arrest as a result of the stop, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;

- the street address or approximate location of the stop; and
- whether the officer issued a written warning or citation as a result of the stop.

Law enforcement agencies must require the collection and reporting of certain information related to motor vehicle stops in which a citation is issued or arrest made. Art. 2.132, C.C.P. These reports have to 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.

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 Warning

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.

4. Notice of Surcharges

Section 708.105 of the Transportation Code requires that a citation issued for a traffic offense (under state law or city ordinance) must include in type larger than any other type on the citation the following statement:

A conviction of an offense under a traffic law of this state or a political subdivision of this state may result in the assessment on your driver's license of a surcharge under the Driver's Responsibility Program.

5. 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.

6. 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, he or she 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.

7. Commercial Operators and Driver Licenses

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.

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.

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.

8. Domestic Violence Admonishments on Citations

Article 14.06 of the Code of Criminal Procedure requires that a peace officer who issues a citation to a person, including a child, for a Class C misdemeanor other than an offense under Section 49.02 of the Penal Code (public intoxication), must issue a citation that contains the following admonishment, 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.

9. General Information to Include on Citations

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

D. When Signature Required

Whether a signature is required on a citation depends on the type of offense for which the citation is being issued and the authority used to issue the citation. See the chart below.

Article 14.06, C.C.P.	Section 543.003, T.C.
<p>No signature is required, although a peace officer commonly asks for a signature on these citations.</p>	<p>Section 543.005, T.C. requires a signature on a citation issued for Rules of the Road offenses. The signature may be obtained on a duplicate form or an electronic device capable of creating a copy of the signed notice. The officer gives a copy of the notice to the person charged and releases him.</p>

E. 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 require that the defendant be given 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.

- Q. 16. Where do peace officers get authority to issue citations to persons violating Subtitle C, Rules of the Road offenses? _____
- Q. 17. Under what authority may a peace officer issue a traffic citation for offenses outside of Subtitle C, Rules of the Road? _____
- Q. 18. What are the two offenses that require a peace officer to issue a citation if the person signs it? (circle one)
- a. speeding and possession of an open container of alcohol in a motor vehicle
 - b. no driver's license and failure to maintain financial responsibility
 - c. jaywalking and failure to yield the right of way
- Q. 19. What is the consequence if a citation does not notify the defendant of his or her right to take a driving safety course? _____
- Q. 20. What must a citation contain regarding the offense of failure to maintain financial responsibility? _____
- Q. 21. What must a notice regarding surcharges on driver's licenses contains? _____
- Q. 22. What should a citation tell a juvenile regarding his or her address? _____
- Q. 23. If a city contracts with DPS to deny renewal of driver's licenses, what information should be on the citation issued to traffic violators? _____
- Q. 24. What additional information is required to be on a citation issued to a person who is a holder of a commercial driver's license? _____
- Q. 25. What general information is required to be on a citation? _____
- Q. 26. In what form may a signature on a citation be obtained? _____
- Q. 27. When does a peace officer not have to obtain a signature on a citation? _____
- Q. 28. When a peace officer issues a citation for an offense in Subtitle C, Rules of the Road, how long must the officer give the person to appear in court? (circle one)
- a. 10 days
 - b. 15 days
 - c. 20 days
 - d. 25 days

PART 3 CULPABILITY

There is often confusion about whether traffic violations are considered criminal. Put simply, in Texas, traffic cases are criminal matters that are prosecuted by the State. Nevertheless, there are differences between what is normally considered to be criminal conduct and conduct that constitutes a traffic offense. The major difference is the culpable mental state necessary to commit a crime. Criminal activity generally requires that the defendant meant to, intended to, or recklessly committed an offense. For example, the offense of simple assault requires that the actor “intentionally or knowingly” caused physical contact when he or she knew or should have had reason to believe that the victim would regard the contact as offensive or provocative. Sec. 22.01(a)(3), P.C. Recall the discussion about culpable mental states in the *Charging and Pre-Trial* chapter of this Study Guide.

Most traffic offenses, despite the fact that they are criminal offenses, do not require a culpable mental state. They are “strict liability” offenses. In other words, when a person operates a vehicle, the person must adhere to a strict standard of care that holds people accountable when they break the law in spite of their intent. This eliminates instances where a person is not held responsible for reckless or negligent actions because they were not familiar with the law or did not intend to violate the law. Additionally, it would be impractical to criminally prosecute traffic violations if the State had to prove a culpable mental state on each offense.

Some traffic-related cases do require culpable mental states, and those are clearly outlined in the law. For example, the offense of knowingly permitting an unauthorized person to drive has a mental state of “knowingly.” Sec. 521.458, T.C.

True or False

- Q. 29. In Texas, traffic cases are criminal. _____
- Q. 30. All traffic offenses require that a culpable mental state be alleged when charging a person with a traffic offense. _____
- Q. 31. In Texas, prosecutors must prove that traffic offenders intended to commit the traffic offense. _____
- Q. 32. In Texas, drivers must adhere to a strict standard of care when driving. _____

PART 4 PENALTIES

When a defendant is convicted of a fine-only offense, the court orders the defendant to pay a monetary penalty. The Transportation Code does not treat persons under the age of 17 differently from adults regarding the penalties for traffic violations. Sec. 724.001(c), T.C. Traffic violations are not subject to optional or mandatory waiver requirements to juvenile court. Sec. 51.08, F.C.

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, on defendants convicted of failure to maintain financial responsibility, judges are bound by a \$175 to \$350 fine for the first offense (Sec. 601.191, T.C.), but a \$350 to \$1,000 fine for subsequent offenses (also includes ordering the sheriff to impound the vehicle). Secs. 601.191 and 601.261, T.C. Note, however, that a court can lower the fine below \$175 under Section 601.191(d).

D. Construction or Maintenance Work Zones

For violations that occurred in a construction or maintenance work zone when workers were present, the penalty may double. For example, for disobeying instructions, signals, warnings, or markings of a warning sign in a construction zone when workers are present, the penalty range is doubled to not less than \$2 or more than \$400. Sec. 472.022(d), T.C. The higher penalty may not be considered by the judge unless the construction zone is marked by signs that state, "Fines double when workers present." TxDOT requires the removal or covering of signs that restrict speed limits in construction or maintenance work zones when no hazard exists.

For violations under Subtitle C committed in a construction or maintenance work zone when workers are present, the fine is twice the minimum or maximum fine that is applicable to an offense committed outside a 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.

Violations that occur in a construction or maintenance work zone when workers are present are not eligible for a driving safety course or for deferred disposition. Sec. 472.022(f), T.C. and Arts. 45.051(f)(1) and 45.0511(p)(3), C.C.P.

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

- Q. 33. If an offense has a specific penalty, the general penalty does not apply. _____
- Q. 34. All traffic fines have a maximum fine of \$200. _____
- Q. 35. Municipal court does not have jurisdiction over the offense of passing a school bus loading or unloading children. _____
- Q. 36. Municipal court has jurisdiction of racing on the highway. _____
- Q. 37. The court can apply enhanced penalties to offenses charged as first time offenses as long as there are prior convictions. _____
- Q. 38. 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 an administrative 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 later of 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 an administrative fee not to exceed \$20 when 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 an administrative 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 an administrative fee not to exceed \$10. Sec. 504.943(d), T.C.

b. Penalty

In 2011, the Legislature mistakenly removed the penalty for operating a vehicle without license plates. In 2013, the Legislature remedied this oversight by amending Section 504.943 to provide a fine not to exceed \$200, the former penalty. This amendment did not take effect until September 1, 2013, and only applies to offenses committed on or after the effective date. In another piece of legislation, the general penalty for Chapter 504—providing a minimum fine of \$5 and a maximum fine of \$200—took effect on June 14, 2013. Therefore, for license plate offenses committed between June 14, 2013 and August 31, 2013, inclusive, the maximum fine is \$200, but there is a minimum \$5 fine. For offenses committed September 1, 2013 and after, there is no minimum fine.

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

Effective September 1, 2013, the compliance dismissal for having a license plate that is obscured or assigned for the wrong period changed to provide that a judge may dismiss if the defendant: (1) remedies the defect before the defendant's first court appearance; (2) pays an administrative 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

Effective September 1, 2013, 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 administrative 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 an administrative 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)

The purpose of being required to secure children in child safety seat systems or safety belts along with adults while in motor vehicles is to reduce harm to children and other passengers being transported. To this end, the Legislature created the safety belt and child safety seat system laws.

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. For more information, refer to *Appendix 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.

1. Alternative Sentencing Eligibility

A person convicted 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 court may, however, grant deferred disposition and have the case dismissed upon completion of all the terms. In this instance, the court does not report the dismissal to DPS.

2. 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 proceeding offense. (Note: Although the penalty for passing a school bus is a maximum of \$1,250, the offense is still a Class C misdemeanor. Remember that Section 12.41 of the Penal Code provides that any fine-only offense outside of the Penal Code is a Class C misdemeanor.)

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 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.

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

One of the newer common offenses is commonly known as “cell phone in a school zone.” Sec. 545.425, T.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. 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;
- 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.

G. Inspection Requirements (Subtitle C)

Motor vehicles in Texas generally must pass a vehicle inspection in order to be registered with the state. Texas recently became 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.

Of most significance to municipal courts was the repeal of the criminal offense for failing to display an inspection sticker and its subsequent compliance dismissal. Both were repealed effective March 1, 2015. For more information on the recent changes, see Robby Chapman’s article, “Vehicle Registration and Inspection: One Sticker to Confuse Them All?” *The Recorder* (May 2015).

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. Sec. 601.071, T.C.

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 and most obvious is that the person has 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. Usually, the defendant brings the proof to the court facility and the clerk makes a copy to present to the judge. Sometimes the

evidence is clearly acceptable, but other proof may raise a suspicion of 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. The judge, however, should never do the substantiation, because the judge should not become involved until it is time to hear evidence regarding the case. This would be a violation of the *Code of Judicial Conduct*. 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 should 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 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)

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. There is an exception to parking free of charge; persons lawfully parked in a parking garage or lot within the boundaries of a municipal airport must still pay the parking fee. Sec. 681.006(c), 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.

Each governmental building is required to have privileged parking spaces. In addition, local, state, and federal laws require many private businesses to designate privileged parking. Sec. 681.009(c), 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.

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.

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 an administrative fee not to exceed \$20. If the placard has been expired more than 60 days, the court may dismiss the charge. 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 escalate 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

- Q. 39. A judge does not need a motion to dismiss from the prosecutor to dismiss a charge for which there is a compliance dismissal. _____
- Q. 40. The court does not assess court costs when a case is dismissed pursuant to a compliance dismissal. _____
- Q. 41. 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. _____
- Q. 42. The maximum fine for driving without two license plates is \$500. _____
- Q. 43. 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. _____
- Q. 44. 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. _____
- Q. 45. The offense of no driver's license is always a Class C misdemeanor. _____
- Q. 46. 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 fee. _____
- Q. 47. 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. _____

- Q. 48. The maximum fine for driving while license invalid is \$500. _____
- Q. 49. Speeding can be filed as a city ordinance violation. _____
- Q. 50. Under the safety belt law, “passenger vehicle” is defined to mean only a passenger car.

- Q. 51. 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. _____
- Q. 52. 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. _____
- Q. 53. 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. _____
- Q. 54. Persons charged with passing a school bus are not eligible to take a driving safety course.

- Q. 55. Passing a school bus carries a maximum penalty of \$200. _____
- Q. 56. Improperly using a cell phone in a school crossing zone is a Class C misdemeanor with a maximum fine of \$500. _____
- Q. 57. State inspections of motor vehicles and equipment are no longer required after March 1, 2015.. _____
- Q. 58. Only a vehicle liability insurance policy is acceptable proof of financial responsibility.

- Q. 59. There are no exceptions to the financial responsibility law. _____
- Q. 60. Courts are required to dismiss a charge of failure to maintain financial responsibility if a defendant obtains insurance before appearing in court. _____
- Q. 61. When a defendant presents proof of financial responsibility to the court, the court must verify it before dismissing the case. _____
- Q. 62. The court may assess a dismissal fee of up to \$20 for dismissing a charge upon proof of financial responsibility. _____
- Q. 63. The fine for a first conviction for failure to maintain financial responsibility is a minimum fine of \$175 and a maximum of \$350. _____
- Q. 64. 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. _____
- Q. 65. 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. _____
- Q. 66. The penalty for not wearing a helmet is a maximum fine of \$200. _____
- Q. 67. Only peace officers can enforce privileged parking. _____
- Q. 68. Persons who are disabled and have the proper documentation may park at parking meters free. _____
- Q. 69. Persons convicted of a parking offense under the privileged parking law face escalating penalties depending on the number of prior convictions. _____

PART 6 QUOTAS

Section 720.002, *Prohibition on Traffic-Offense Quotas*, 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 (quotas). Sec. 702.002(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 collects from persons convicted of a traffic offense. Sec. 702.002(a)(2), T.C.

Further, cities may not consider the source and amount of money collected from a municipal court when evaluating the performance of the judge. Section 702.002(c) was repealed in 2009. Cities may obtain budgetary information from the municipal court including an estimate of the amount of money the court anticipates will be collected in a budget year. Sections 702.002, T.C.

A violation of Chapter 702, T.C., by an elected official is misconduct and grounds for removal from office. Sec. 702.002(e), T.C.

True or False

- Q. 70. 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. _____
- Q. 71. 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. _____
- Q. 72. 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: RULES OF THE ROAD OFFENSES

Subtitle C, Title 7, Transportation Code Rules of the Road Offenses

*Note: Though this chart seeks to list all “Rules of the Road” offenses – those offenses contained in Chapters 541-600 of the Transportation Code – but may not be exclusive

Operation of Bicycles, Mopeds, and Play Vehicles

Carried Articles so as to Interfere with Handling of Bicycle, Moped, Motor Scooter or Electric Personal/Assistive Mobility Device 551.102(c);551.002;551.352;551.202
 Improper Operation of Golf Cart on Highway 551.403
 Failure to Keep Bicycle on Right Side of Roadway (Moped, Motor Scooter, or Electric Personal/Assistive Mobility Device)..... 551.103(a);551.002;551.352;551.202(c)
 Failure to Ride in Single Lane When Riding Two Abreast (Moped, Motor Scooter, or Electric Personal/ Assistive Mobility Device)..... 551.103(c);551.002;551.352;551.202
 No Brake or Defective Brake on Bicycle, Moped, Motor Scooter, or Electric Personal/Assistive Mobility Device 551.104(a);551.002;551.352;551.202
 No Red Reflector or Red Light or Defective Reflector or Red Light on Rear of Bicycle, Moped, Motor Scooter or Electric Personal/Assistive Mobility Device—Nighttime 551.104(b);551.002;551.352;551.202
 No White Light or Defective Light on Front of Bicycle or Moped, Motor Scooter or Electric Personal/Assistive Mobility Device—Nighttime 551.104(b);551.002;551.352;551.202
 Rider Committed Hazardous Traffic Violation (specify) 551.101
 Rode Improperly (Bicycle, Moped, Motor Scooter, or Electric Personal/ Assistive Mobility Device)..... 551.102; 551.002;551.352;551.202
 Towed by Vehicle while on Bicycle, Coaster, Roller Skates, Sled or Toy Vehicle 551.102(d)

Drivers — Miscellaneous Violations

Backed on Shoulder/Roadway-Controlled Access Highway 545.415(b)
 Backed so as to Interfere or without Safety 545.415(a)
 Bus Failed to Stop at RR Crossing, or Proceeded Unsafely 545.253(a)
 Bus Shifting Gears while Crossing RR Track 545.253(b)
 Coasting (truck, tractor, or bus) with Clutch Disengaged 545.406(b)
 Coasting in Neutral (any vehicle) 545.406(a)
 Crossed RR with Heavy Equipment without Stop or Crossed When Not Safe 545.255(c)
 Disobeyed Police Officer 542.501(1)
 Disobeyed School Crossing Guard 542.501(2)
 Drove around, under, or through RR Crossing Gate 545.251(d)
 Drove on Controlled Access Highway where Prohibited 545.064
 Drove on Improved Shoulder when Unauthorized 545.058
 Drove on or across Streetcar Tracks where Prohibited 545.203
 Drove on Sidewalk or Hike and Bike Trail 545.422
 Drove without Being Secured by Safety Belt 545.413(a)
 Drove without Lights—When Required 547.302(a)
 Failed to Dim Headlights—When Approaching Oncoming Vehicle 547.333(c)(1)
 Failed to Dim Headlights—When Following a Vehicle 547.333(c)(2)
 Failed to Display Warning Devices (flags, flares, fuses, reflectors) 547.503; 547.504;547.505; 547.506; 547.507
 Failed to Give Way or Accelerated When Overtaken 545.053(b)
 Failed to Keep Right on Mountain Road 545.405
 Failed to Light Parking Lamp when Parked 547.383(b)
 Failed to Move Vehicle off Streetcar Tracks upon Signal from Streetcar Operator 545.203(a)
 Failed to Stop for Approaching Train at Hazardous Proximity 545.251(a)(4)
 Failed to Stop for Approaching Train Emitting Audible Signal 545.251(a)(3)
 Failed to Stop or Reduce Speed at RR Crossing while Operating Vehicle Hauling Explosives 545.254
 Failed to Stop when Emerging from Alley, Driveway, or Building 545.256
 Failed to Use Designated Lane (Slow or Direction)..... 545.060(c)

Failed to Use Proper Headlight Beam 547.333(c)
 Failure to Display White Flag on Tow Chain or Cable 545.409(b)
 Improper Use of or Excessive Auxiliary Driving Lamps 547.330
 Improper Use of or Excessive Auxiliary Passing Lamps 547.329
 Improper Use of or Excessive Fog Lamps 547.328
 Improper Use of or Excessive Spot Lamps 547.327
 More Than Four Driving Lamps Lighted on Front of Vehicle 547.302(d)
 Opened or Kept Open Door on Vehicle Side Available to Moving Traffic 545.418
 Operated Motor Vehicle by Person Under 18 Years of Age: Provisional Restrictions 545.424
 Operated Truck or Tractor while Persons Riding in Trailer or Semitrailer 545.4191
 Operated Vehicle so Loaded or with Too Many Passengers, Obstructing Driver's View or Interfering with Driver's Control 545.417
 Operated Vehicle with Child Under 18 in Open Bed 545.414
 Operated Vehicle with Child under 18 Riding in Open Bed 545.414
 Operated Vehicle with Unsecured Child Passenger 545.412(a)
 Parked with Head Lamps Not Dimmed 547.383(d)
 Safety Belt Violations 545.413
 School Bus Failed to Stop at RR Crossing or Proceeded Unsafely 545.2535(a)
 School Bus Shifted Gears while Crossing RR Tracks 545.2535(b)
 Slower Vehicle Failed to Keep Right 545.051(b)
 Turned so as to Impede or Interfere with Streetcar 545.203(c)
 Unauthorized Use of Siren, Whistle, or Bell 547.501(b)
 Used Highway where Prohibited 545.065
 Used Improper Drawbar over 15 Feet 545.409(a)(2)
 Used Wireless Communication Device while in School Crossing Zone 545.425(b)
 Used Wireless Communication Device while Operating School Bus with Minor Passenger 545.425(c)
 Used Wireless Communication Device while Operating Vehicle on Property of Public School with School Crossing Zone—When Reduced Speed Limit in Effect 545.4252(b)

Following

Following Too Closely 545.062(a)
 Following Too Closely while in Caravan of Vehicles 545.062(c)
 Following Too Closely while Operating Truck Drawing Another Vehicle 545.062(b)

Highway

Placed or Maintained Unauthorized Sign, Signal, or Device 544.006(a)
 Placed Unauthorized Display Obscuring or Interfering with Official Traffic Control Device or RR Sign 544.006(a); 544.005
 Placed Unauthorized Flashing Light or Sign within 1,000 Feet of Intersection 544.006(c)

Miscellaneous Violations

Displayed Traffic Sign or Signal Bearing Advertising 544.006(b)
 Erected Tent, Shelter, Booth or Structure at Rest Area where Prohibited 545.411(a)
 Operated Motorcycle with Too Many Riders 545.416
 Operated Motorcycle/Moped by Person Unders 17 Years of Age in Violation of License Restrictions 545.424
 Owner Required or Permitted Another to Operate Vehicle Unlawfully 542.302
 Passenger Failed to Wear Sear Belt Where Required 545.413(a)
 Passenger Interfered with Driver's View or Control 545.206; 545.417(b)
 Permitted Display by Local Authorities of Unauthorized Traffic Control Device 544.002(c)
 Person (other than driver) Opened Door or Kept Door Open on Side of Vehicle Available to Moving Traffic 545.418

Rode In House Trailer while Being Moved	545.419
Stayed at Rest Area Longer than 24 Hours.....	545.411(a)

Oversize Violations

Towed More than Three Vehicles by Saddle-Mount Method	545.409
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Overtaking

Cut in After Passing	545.053
Failed to Pass to Left Safely	545.053
Failed to Stop for Streetcar or Stopped at Wrong Location.....	545.202
Passed Another Vehicle with Insufficient Clearance	545.054
Passed or Failed to Stop/Remain Stopped for School Bus.....	545.066
Passed Streetcar on Left When Unauthorized	545.201(a)
Passed Streetcar without Reducing Speed or Using Caution.....	545.201(b)
Passed to Right When Unauthorized or Unsafely	545.057
Passed Vehicle Stopped for Pedestrian	552.003(c)

Parking Violations

Park, Stand, or Stop in Prohibited Area (Highway Dept.).....	545.303(d)
Parked at Angle (where not permitted).....	545.303(c)
Parked Commercial Vehicle Overnight In/Adjacent to Residential Area.....	545.307
Parked Facing Traffic.....	545.303(b)
Parked in Block where Fire Engine has Stopped to Answer Alarm	545.407(a)
Parked in Prohibited Area.....	545.302(c)(2)
Parked where Ambulance Summoned, with Intent to Interfere.....	545.407(b)(2)
Parked with Wheels over 18" from Curb or Edge of Roadway.....	545.303(a), (b)
Parked within 50 Feet of RR Crossing.....	545.302(c)(1)
Parking Unlawfully, Unauthorized.....	545.304
Stand or Park in Front of Public or Private Driveway	545.302(b)(1)
Stand or Park where Prohibited by Official Sign.....	545.302(b)(6)
Stand or Park with 20 Feet of Driveway or Opposite Entrance to Fire Station	545.302(b)(5)
Stand or Park within 15 Feet of Fire Hydrant	545.302(b)(2)
Stand or Park within 20 Feet of Crosswalk (at intersection).....	545.302(b)(3)
Stand or Park within 30 Feet of Traffic Control Device at Side of Roadway.....	545.302(b)(4)
Stop, Stand, or Park Alongside or Opposite Street Excavation or Obstruction	545.302(a)(6)
Stop, Stand, or Park Between Safety Zone and Curb.....	545.302(a)(5)
Stop, Stand, or Park on Crosswalk.....	545.302(a)(4)
Stop, Stand, or Park on Main Traveled Part of Highway.....	545.301
Stop, Stand, or Park on Roadway Side of Vehicle Parked at Curb.....	545.302(a)(1)
Stop, Stand, or Park on RR Track	545.302(a)(8)
Stop, Stand, or Park on Sidewalk	545.302(a)(2)
Stop, Stand, or Park Upon Bridge or in Tunnel	545.302(a)(7)
Stop, Stand, or Park where Prohibited by Official Sign	545.302(a)(9)
Stop, Stand, or Park within an Intersection	545.302(a)(3)
Unattended Vehicle—Engine Running.....	545.404(1)
Unattended Vehicle—Failed to Turn Wheels when Parked on Grade.....	545.404(5)
Unattended Vehicle—Ignition Unlocked or Key in Ignition.....	545.404(2),(3)
Unattended Vehicle—Parked and Failed to Set Parking Brake.....	545.404(4)
Unsafe Start from Parked Position	545.402

Pedestrians—Miscellaneous

Crossed Between Intersections Other than at Marked Crosswalk.....	552.005(b)
Crossed Intersection Diagonally.....	552.005(c)
Disobeyed Police Officer.....	542.501
Failed to Use Right Half of Crosswalk when Possible.....	552.004
Failed to Walk on Left Side of Roadway when Possible when No Sidewalk	552.006(b)
Pedestrian Entering Path of Vehicle.....	552.003(b)
Pedestrian Failed to Yield ROW to Vehicle when Crossing not at Marked Crosswalk.....	552.005(a)(1)
Pedestrian Failed to Yield ROW to Vehicle when Pedestrian Bridge/Tunnel Provided.....	552.005(a)(2)
Pedestrian on Restricted Access Roadway.....	545.065
Stood in or Near Highway to Solicit Guarding Vehicle	552.007(b)
Stood in Roadway to Solicit Ride, Contributions, Employment, or Business.....	552.007(a)
Walked on Roadway where Sidewalk Provided.....	552.006(a)

Right of Way

Failed to Stop/Yield in Obedience to Official Traffic Control Device	545.151(a); 545.153
Failed to Stop/Yield when Approaching a Divided Highway with More than Two Lanes	544.007(c); 552.001(b)
Failed to Yield ROW on Green Signal for Left Turn	544.007(b); 552.001(b)
Failed to Yield ROW on Green Signal	545.051(a)(2)
Failed to Yield ROW on Left when Avoiding Obstruction	545.061
Failed to Yield ROW on Red Signal for Right or Lawful Left Turn	544.007(d)
Failed to Yield ROW to Emergency Vehicle.....	545.156; 545.204
Failed to Yield ROW to Traffic Approaching from Opposite Direction when Turning Left	545.152
Failed to Yield ROW when Turning from Alley, Private Drive, or Building	545.155; 545.256
from a Single- or Two-Lane Roadway	545.151(b)
Passed Stationary Emergency Vehicle or Tow Truck without Vacating Lane or Slowing	545.157

Signal Intention

Failed to Signal Intention to Start from Parked Position.....	545.104(a)
Failed to Signal Intention to Stop or Decrease Speed	545.105
Failed to Signal Intention to Turn for at Least 100 Feet Before Turn	545.104(b)
Failed to Signal Lane Change.....	545.104(a)
Failed to Sound Horn when Approaching Curve on Mountain Road	545.405
Improper Method of Signaling.....	545.106; 545.107
Improper Use of Turn Indicator	545.104(c)
School Bus Driver Failed to Activate All Flashing Warning Signal Lights (or other equipment)	547.701

Speeding

Drove at Unsafe Speed.....	545.351
Drove below Posted Minimum Speed.....	545.363
Failed to Control Speed	545.351
Impeded Traffic by Driving Slowly	545.363(a)
Impeding Traffic	545.363
Racing—Drag Racing—Acceleration Contest	545.420
Speeding (exceed prima facie limit at time and place for that type vehicle).....	545.351; 545.352
Speeding in Vehicle without Solid Rubber or Cushion Tires (over 10 mph)	545.361
Speeding on Beach.....	545.352(b)(5)
Speeding on Motorcycle without Headlamp (over 35 mph).....	545.361

Speeding—Zoned (inclement weather, signs posted).....	545.353
Speeding—Zoned.....	545.353; 545.354; 545.355;
545.356; 545.357; 545.358; 545.359; 545.360	

Traffic Signals—Pedestrians

Disregarded Green Arrow Turn Signal.....	552.001(b)
Disregarded Pedestrian Control Signal.....	552.002
Disregarded Red or Yellow Signal.....	552.001(c)

Traffic Signs, Signals, and Road Markings

Changed Lane When Unsafe.....	545.060(a)(2)
Disregarded Lane-Direction-Control Signals on Highway.....	544.009
Disregarded No Lane Change Device.....	545.060(d)
Disregarded RR Signal, Crossing Gate, or Flagger.....	545.251
Drove through Safety Zone.....	545.403
Failed to Drive in Single Lane.....	545.060(a)(1)
Failed to Make Necessary Stop at Proper Place at Yield Sign.....	544.010
Failed to Stop at Marked RR Crossing.....	545.252(b)
Failed to Stop at Proper Place at Stop Sign.....	544.010
Failed to Stop at Proper Place at Traffic Light.....	544.007(d)
Failed to Stop at Proper Place—Flashing Red Signal.....	544.008
Failed to Stop at Proper Place—Traffic Light Not at Intersection.....	544.007(g)
Failure to Obey No Passing Zone Sign.....	545.055(a)
Failure to Obey Official Traffic Control Device.....	544.004
Failure to Proceed with Caution at Flashing Yellow Signal.....	544.008(b)
Failure to Stop and Remain Standing at Steady Red Light (traffic signal).....	544.007(d)
Failure to Stop at Flashing Red Signal.....	544.008(a)
Failure to Stop at Stop Sign.....	545.151
Heavy Equipment Disregarded Signal of Approaching Train.....	545.255(d)
Lack of Caution on Green Arrow Signal.....	544.007(c)

Traffic Violations—Miscellaneous

Drove Into Block where Fire Engine Stopped.....	545.407(a)
Drove over Fire Hose without Consent.....	545.205; 545.408
Drove where Ambulance Summoned.....	545.407(b)
Failed to Make Written Report of Accident to DPS.....	550.061
Failed to Notify of Damage to an Unattended Vehicle.....	550.024
Failed to Notify of Damage to Structure/Fixture/Landscaping Next to Roadway.....	550.025
Failed to Report Serious Accident to Authorities.....	550.026
Failed to Stop when Involved in Accident Resulting Only in Damage to Vehicle.....	550.022
Following Closer than 500 Feet from Ambulance.....	545.407(b)
Following Closer than 500 Feet from Fire Apparatus.....	545.407(a)
Improper Use of Horn.....	547.501(c)
Violation of Promise to Appear.....	543.009

Turning Movements

Crossed Barrier/Space between Divided Highway.....	545.063
Crossed Sidewalk, Parking Lot, Business or Residential Entrance to Make Turn.....	545.423
Failed to Make Left Turn from Extreme Left-Hand Lane Available.....	545.101(b)-(d)

Failed to Make Right Turn as Close as Possible to Right-Hand Curb.....	545.101(a)
Made U-Turn on Curve or Hill.....	545.102
Turned When Unsafe.....	545.103

Vehicle—Brakes

Brakes Inadequate to Control Vehicle.....	547.402
Brakes Not Maintained in Good Working order.....	547.402
Brakes Not on All Wheels.....	547.402
Brakes Not on All Wheels—Motorcycle.....	547.802
Defective or Inadequate Brake Reservoir for Air Brakes.....	547.406
Defective or Inadequate Brake Reservoir for Vacuum Brakes.....	547.406
Defective or No Automatic Brakes on Trailer, Semitrailer, or Pole Trailer.....	547.405
Inadequate Braking Performance.....	547.408
No Emergency Device for Air-Controlled Brakes on Towed Vehicle.....	547.405(a)
No Second Control Device for Vacuum Brakes on Towed Vehicle.....	547.405(b)
No Service Brakes in Case of Breakaway on Towed Vehicle.....	547.405
No Single Control to Operate all Brakes.....	547.402; 547.403
No Warning Devices on Brakes (other than gauges when vehicle equipped with both air and vacuum brakes).....	547.407(c)
No Warning Signal for Air Brakes.....	547.407(a)
No Warning Signal for Vacuum Brakes.....	547.407(b)
No Working Parking Brake.....	547.404

Vehicle Lights, Signal Lamps, and Reflectors

Driving without Proper Headlamps.....	547.321; 547.302
Driving without Proper Reflectors.....	547.325
Driving without Proper Stoplamps.....	547.323
Driving without Proper Taillamps.....	547.322
Driving without Proper Turn Signal Lamps.....	547.324
Driving without Rear License Plate Lamp.....	547.322
Emergency Vehicles—Improper Signal Lamps.....	547.702(c)
Federal Standard Compliance.....	547.3215
Hazard Lamps, or Cowl or Fender Lamps.....	547.327;547.328;547.329;547.330;547.331;547.332
Improper Lamps or Reflectors on Farm Equipment or Combination Vehicle.....	547.371;547.372
Improper Mounting or Visibility of Clearance Lamp, Side Marker Lamp, or Reflector.....	547.354
Improper Multi-beam Lighting Equipment.....	547.333
Improper Number or Direction of Spotlamps, Foglamps, Auxiliary Driving or Passing Lamps, Improper Use of Back-up Lamps.....	547.332
Improperly Intense Light Directed at Roadway, Greater than 300 Candlepower.....	547.305
Motorcycle—No Multiple-Beam Lighting Equipment.....	547.801(b)
Motorcycle—No Proper Headlamps, Taillamps, License Plate Lamp, Stoplamp, or Rear Reflector.....	547.801(a)
Motorcycle—Operating without Headlamp Illuminated.....	547.801(d)
Motor-driven Cycle—No Proper Multiple-Beam or Single-Beam Lighting Equipment.....	547.801(c)
No Clearance Lamp (identification or side marker on type of vehicle and location of vehicle).....	547.352
No License Plate Light.....	547.322
No Light on Animal-Drawn Vehicle.....	547.326
No or Defective Parking Lamp when Required.....	547.383
No Reflector on Rear.....	547.325
No Reflector on Side at or Near Front, Rear, Central.....	547.352
No Turn Signal Lamps—When Required.....	545.106
No Vehicular Hazard Warning Lights on Farm Tractor.....	547.327

Public Transportation—Not Equipped with Hazard Lamps and Exiting Sign.....	547.7011
Unauthorized Use of Flashing Red, White, or Blue Lights.....	547.305
Unauthorized Use of Red Light in Front Center of Vehicle.....	547.305
Wrong Color Clearance Lamps, Side Marker Lamps, Identification Lamps, or Side Reflector.....	547.353
Wrong Color Lighting Device, Reflector, or Signaling Device.....	547.303

Vehicle—Miscellaneous

Emissions System—Does Not Prevent Crankcase.....	547.605
Emissions System—Does Not Prevent Excessive Smoke or Fumes.....	547.605
Emissions System—Removed or Non-Functioning System.....	547.605
Horn—Not Equipped with Horn in Good Working Condition.....	547.501
Horn—Unauthorized Type or Sound.....	547.501
Improper Mud Flaps.....	547.606
Improper Safety Glazing Material.....	547.608
Improper Use of Emblem.....	547.005
Mirror Violation.....	547.602; 547.701
Muffler Violation.....	547.604
No Flag on Projecting Load—Daytime.....	547.382
No Front Seat Belts.....	547.601
No Lamp (or reflector on Projecting Load at Night.....	547.382
No Lamp on Projecting Load (to side) at Night.....	547.382
No Proper Mud Flaps on Large Towing Vehicle.....	547.606
No Safety Belts.....	547.601
No Visible Flags/Lights/Flares on Vehicle Towing House Trailer or Explosive Cargo.....	547.502
No Working Windshield Wipers.....	547.603
Non-Motorized Vehicle on Prohibited Roadway.....	545.065
Obstructed View Through Windshield, Side, or Rear Windows.....	547.613(a)
Operated or Permitted Another to Operate Vehicle Equipped in Manner Non-Compliant or Prohibited.....	547.004(a)
Operated or Permitted Another to Operate Vehicle that is Unsafe.....	547.004(a)(1)
Operated Vehicle with Equipment in Violation of Compliance Proceeding.....	547.004(b)
Remove, Damage, or Destroy Warning Device.....	547.508
Slow-Moving Vehicle—Emblem in Non-Reflective Condition.....	547.703
Slow-Moving Vehicle—No Properly Affixed Reflective Emblem.....	547.703
Television/Video Receiver Visible to Driver when Vehicle is in Motion.....	547.611
Unsafe Air Conditioning Equipment.....	547.001; 547.103 547.610
Vehicle with Defective Required Equipment.....	548.004; 548.104; 548.401; 548.405; 548.406; 548.407; 548.408; 548.502
Window Tint Violation.....	547.613

Vehicle—Miscellaneous Equipment

No Fire Extinguisher in Vehicle that Transports Passengers.....	547.607
Restrictions on Airbags.....	547.614(b)
Tires—Improper Preturbance beyond Tread of Traction Surface.....	547.612(c)
Tires—Improper Use of Metal Tires.....	547.612(b)
Tires—Insufficient Rubber on Traction Surface.....	547.612(a)

Violations Against Pedestrians

Failed to Use Due for Blind Pedestrian.....	552.010(b)
Failed to Use Due Care for Pedestrian.....	552.008
Failed to Yield ROW to Pedestrian in Crosswalk when No Traffic Signal.....	552.003(a)
Failed to Yield ROW to Pedestrian Lawfully in Roadway with Green Traffic Signal.....	544.007(b),(c)
Failed to Yield ROW to Pedestrian Lawfully in Roadway with Red Signal for Right or Lawful Left Turn.....	(d)
Failed to Yield ROW to Pedestrian on Sidewalk when Emerging from Driveway.....	552.006(c)
Failed to Yield ROW to Pedestrian with “Walk” Control Signal.....	552.002

Wrong Side or Wrong Way

Drove Left of Center Lane on Four-Lane Roadway with Two-Way Traffic.....	545.051
Drove on Left Side of Road in No Passing Zone.....	545.055(b)
Drove on Wrong Side of Divided Highway.....	545.063(a)
Drove on Wrong Side of Road Approaching Bridge.....	545.055; 545.056
Drove on Wrong Side of Road Approaching Intersection.....	545.055; 545.056
Drove on Wrong Side of Road Approaching RR Grade Crossing.....	545.055; 545.056
Drove on Wrong Side of Road Awaiting Access to Ferry.....	545.055; 545.056
Drove on Wrong Side of Road when Not Passing.....	545.051
Drove to Left of Rotary Traffic Island.....	545.059
Drove Wrong Way in Designated Lane.....	545.060(c)
Drove Wrong Way on One-Way Roadway.....	545.059(b)
Failed to Obey No-Passing Zone Sign or Markings.....	545.055; 545.056
Failed to Pass Met Vehicle to Right.....	545.052
Failed to Yield One-Half of Roadway on One-Lane Road.....	545.052
Failed to Yield ROW on Left when Avoiding Obstruction.....	545.051(a)(2)
Improperly Drove in Center Lane of Three-Lane Roadway with Two Directions of Traffic.....	545.060(b)
Slower Vehicle Failed to Keep Right.....	545.051(b)

APPENDIX B: MOVING VIOLATIONS

(a) Moving violations are defined 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.

(b) A list of traffic offenses that constitute a moving violation is available in Table 1.

TABLE 1: 37 TAC §15.89(b)

Note that all offenses listed on this chart are moving violations. The Yes/No column refers to those offenses that receive points under the surcharge program.

Arrest Title	Driver Responsibility Points
Aggravated assault with motor vehicle	Yes
Allow passenger to stand/sit improperly on a school bus	Yes
Bus driver failed to activate warning signal/equipment	Yes
Bus failed to stop at RR crossing	Yes
Bus shifting gears while crossing RR tracks	Yes
Carry motorcycle passenger under 5; except in side car	Yes
Changed lane when unsafe	Yes
Child passenger safety seat offense	Yes
Coasting	Yes
Coasting (truck, truck tractor or bus, specify) with clutch disengaged	Yes
Consume alcohol while driving	Yes
Criminal negligent homicide with motor vehicle-- 1st or 2nd degree	Yes
Crossed RR with heavy equipment without notice	Yes
Crossed RR with heavy equipment without stop (or safety)	Yes
Crossing fire hose without permission	Yes
Crossing physical barrier	Yes
Cut across driveway to make turn	Yes
Cut corner left turn	Yes

Cut in after passing	Yes
Did not use designated lane or direction	Yes
Disregard solid green turn signal arrow	Yes
Disregard warning signs or barricades	Yes
Disregarded flashing red signal (at stop sign, etc.)	Yes
Disregarded flashing yellow signal	Yes
Disregarded lane control signal	Yes
Disregarded no lane change sign	Yes
Disregarded no passing zone	Yes
Disregarded police officer	Yes
Disregarded RR crossing gate or flagman	Yes
Disregarded signal at RR crossing	Yes
Disregarded traffic control device	Yes
Disregarded turn marks at intersection	Yes
Disregarded warning sign at construction	Yes
Drive into block where fire engine stopped	Yes
Driving around barricades	Yes
Driving under influence	No
Driving under influence (DUI)--minor	Yes
Driving under influence of drugs	No
Driving while impaired	No
Driving while intoxicated > 0.16	No
Driving while intoxicated with child younger than 15 yoa	No
Driving while intoxicated--felony	No
Driving while intoxicated--juvenile	No
Driving while intoxicated--misdemeanor	No
Driving while intoxicated--on beach	No
Driving while intoxicated--probated	No
Driving while intoxicated--under 21	No
Driving while license disqualified--CMV	No
Driving while license suspended under provisions of DL laws	No
Driving while license suspended--SR	No

Drove center lane (not passing, not turning left)	Yes
Drove on (or across) streetcar tracks where prohibited	Yes
Drove on sidewalk	Yes
Drove on wrong side--RR crossing	Yes
Drove on wrong side of approaching bridge	Yes
Drove on wrong side of divided highway	Yes
Drove on wrong side of road	Yes
Drove on wrong side road approaching intersection	Yes
Drove on wrong side road approaching RR grade crossing	Yes
Drove on wrong side road awaiting access to ferry	Yes
Drove onto (or from) controlled access highway where prohibited	Yes
Drove through safety zone	Yes
Drove to left of rotary traffic island	Yes
Drove without lights--when required	Yes
Drove wrong way in designated lane	Yes
Drove wrong way on one-way roadway	Yes
Endorsement violation CDL	No
Fail stop proper place-flash red signal	Yes
Fail to control speed	Yes
Fail to dim headlights--following	Yes
Fail to dim headlights--meeting	Yes
Fail to drive in single lane	Yes
Fail to give hand signals when required	Yes
Fail to give info/render aid	No
Fail to give one-half of roadway	Yes
Fail to keep to right on mountain road	Yes
Fail to pass left safely	Yes
Fail to pass met vehicle to right	Yes
Fail to pass to right safely	Yes
Fail to signal for stop	Yes
Fail to signal required distance before turning	Yes

Fail to signal turn	Yes
Fail to signal with turn indicator	Yes
Fail to sound horn--mountain road	Yes
Fail to stop--designated point--at stop sign	Yes
Fail to stop--designated point--at yield sign	Yes
Fail to stop and render aid--felony	No
Fail to stop and render aid--misdemeanor	No
Fail to stop at marked RR crossing	Yes
Fail to stop at proper place (at traffic light)	Yes
Fail to stop at proper place (flashing red signal)	Yes
Fail to stop at proper place (not at intersection)	Yes
Fail to stop for approaching train	Yes
Fail to stop for school bus (or remain stopped, specify)	Yes
Fail to stop for streetcar--or stop at wrong location	Yes
Fail to stop--emerging from alley, driveway or bldg.	Yes
Fail to use due care for pedestrian	Yes
Fail to use proper headlight beam	Yes
Fail to yield at stop intersection	Yes
Fail to yield at yield intersection	Yes
Fail to yield for blind or incapacitated person	Yes
Fail to yield right of way	Yes
Fail to yield right of way from private road	Yes
Fail to yield row at open intersection (specify type)	Yes
Fail to yield row leaving (private drive, alley, building)	Yes
Fail to yield row on green arrow signal	Yes
Fail to yield row on green signal	Yes
Fail to yield row on left at obstruction	Yes
Fail to yield row to emergency vehicle	Yes
Fail to yield row to pedestrian at signal intersection	Yes
Fail to yield row to pedestrian in crosswalk	Yes
Fail to yield row to pedestrian in crosswalk--no signal	Yes

Fail to yield row to pedestrian on sidewalk	Yes
Fail to yield row to pedestrian turning right or left at intersection	Yes
Fail to yield row--changing lanes	Yes
Fail to yield row--turning left (at intersection, alley, private road or driveway)	Yes
Fail to yield row--turning right on red signal	Yes
Fail to yield to vehicle in intersection	Yes
Fail to yield to vehicle leaving highway	Yes
Failed to give way when overtaken	Yes
Failed to signal lane change	Yes
Fleeing from police officer	Yes
Following ambulance	Yes
Following fire apparatus	Yes
Following too closely	Yes
Following too closely--caravan	Yes
Following too closely--truck	Yes
Head lamps glaring not adjusted	Yes
Heavy equipment disregarded signal of train	Yes
Illegal backing	Yes
Illegal pass on right	Yes
Illegally passed streetcar	Yes
Impeding traffic	Yes
Improper passing	Yes
Improper turn	Yes
Improper turn or stop hand signal	Yes
Improper use of auxiliary driving lamps	Yes
Improper use of auxiliary passing lamps	Yes
Improper use of lighting--hwy. equip.	Yes
Improper use of spot lamps	Yes
Improper use of turn indicator	Yes
Increased speed while being overtaken	Yes
Interfere with streetcar	Yes
Intoxication assault	No

Intoxication assault motor vehicle	No
Intoxication manslaughter	No
Intoxication manslaughter motor vehicle	No
Involuntary manslaughter with motor vehicle	Yes
Lack of caution on green arrow signal	Yes
Leaving scene of accident	Yes
Made U-turn on curve or hill	Yes
Negligent collision	Yes
No commercial driver license (CDL)	No
No double trailer endorsement (CDL)	No
No driver license	No
No hazmat endorsement (CDL)	No
No motorcycle endorsement	No
No passenger vehicle endorsement (CDL)	No
No tank vehicle endorsement (CDL)	No
No school bus endorsement (CDL)	No
Obstructed view through windshield	Yes
Obstructing traffic	Yes
Open Container DRIVER	Yes
Operate school bus over passenger design capacity	Yes
Operate school bus with door open	Yes
Operate vehicle more than one passenger-minor	Yes
Operate vehicle where prohibited	Yes
Operate vehicle with child in open bed	Yes
Passed streetcar on left without reducing speed or without caution	Yes
Passed vehicle stopped for pedestrian	Yes
Passed--insufficient clearance	Yes
Passengers/load obstruct driver's view or control	Yes
Passing authorized emergency vehicle	Yes
Permitted/operated unsafe vehicle	Yes
Person(s) riding in trailer or semi-trailer	Yes
Prohibited motor vehicle on controlled-access highway	Yes

Racing--drag racing--acceleration contest, etc.	Yes
Ran red light	Yes
Ran stop sign	Yes
Reckless driving	Yes
Restriction violation--CDL	Yes
Slower vehicle failed to keep to right	Yes
Speed under minimum	Yes
Speeding	No
Speeding > 10% above posted speed limit	Yes
Speeding--15 miles or over (CDL)	Yes
Speeding--school zone	Yes
Too many riders on motorcycle	Yes
Turned across dividing section	Yes
Turned left from wrong lane	Yes
Turned right from wrong lane	Yes
Turned right too wide	Yes
Turned so as to impede or interfere with streetcar	Yes
Turned when unsafe	Yes
Unauthorized use of siren, bell or whistle	Yes
Unsafe speed (too fast for conditions)	Yes
Unsafe start	Yes
Unsafe start from parked, stopped or standing position	Yes
Use of school bus signal for wrong purpose	Yes
Use wireless device while driving bus	Yes
Use wireless device while driving--minor	Yes
Use wireless device in school zone	Yes
Veh. hauling explosives (or flammable materials) failed to stop at RR crossing	Yes
Veh. hauling explosives failed to reduce speed at RR crossing	Yes
Vehicle without required equipment or in unsafe condition	Yes
Violate DL restriction	Yes

Violate DL restriction on occupational license	Yes
Violate operating hours-minor	Yes
Violated out of service order	Yes
Violated out-of-service order hazmat and/or passenger	Yes
Wrong side road--not passing	Yes
Wrong side, 4 or more lane, two-way roadway	Yes

(c) Table 1 also indicates the moving violations that will be assessed points under the Driver Responsibility Program, Texas Transportation Code (TRC), Chapter 708, Subchapter B.

(1) Not all moving violations are assessed points under the Driver Responsibility Program, however, they may be considered for Habitual Violator action under TRC, §521.292(a)(3).

(2) Moving violation convictions that are assessed specific surcharges pursuant to Texas Transportation Code, §§708.102 (intoxicated driver offenses), 708.103 (driving while license invalid or without financial responsibility), and 708.104 (driving without valid license including no commercial driver license, driving without the proper commercial license endorsement and driving without the proper motorcycle endorsement), will not be assessed points under the Driver Responsibility Program.

Source Note: The provisions of this §15.89 adopted to be effective June 22, 2004, 29 TexReg 5945; amended to be effective November 28, 2005, 30 TexReg 7889; amended to be effective June 8, 2006, 31 TexReg 4659; amended to be effective July 11, 2010, 35 TexReg 5899; amended to be effective September 7, 2014, 39 TexReg 6875.

APPENDIX C: PASSENGER RESTRAINT LAWS

Back Seat

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

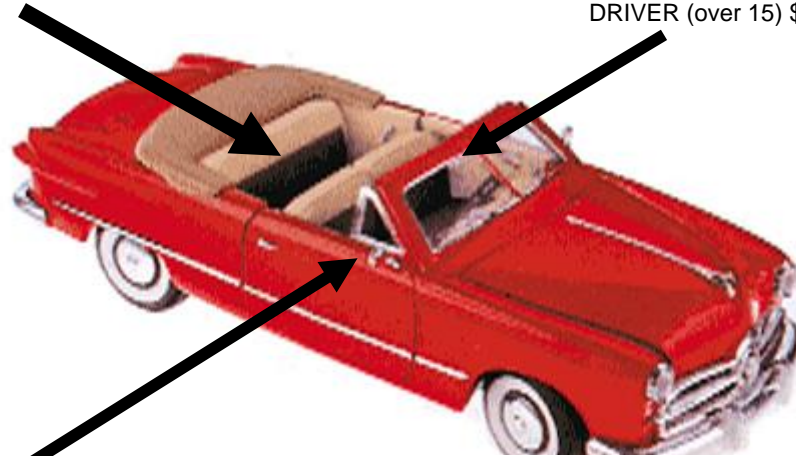
CHILDREN (15-16) \$25 - \$50 fine to passenger & \$100 - \$200 fine to driver

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*

* It is strongly recommended that all children less than 13 years old ride properly restrained in the back seat

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

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



Funded by a grant from the Texas Court of Criminal Appeals.

Passenger Safety Seat Systems and Safety Belts

Effective on offenses committed on or after September 1, 2013

Age	Person Responsible	Type of Restraint	Location in vehicle	Cited for	Penalty	Eligible for Special DSC (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 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;
- 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.



Funded by a grant from the Texas Court of Criminal Appeals.

APPENDIX D: COMPLIANCE DISMISSALS AND DEFENSES TO PROSECUTION

COMPLIANCE DISMISSALS

Updated to Reflect Changes from the 84th Legislature

Offense	Statute	Mandatory or Discretionary Dismissal	Length of Time to Comply	Required Conditions	Amount of 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
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
Expired Inspection *Repealed as of 3/1/15, but still applies to citations issued before that date	Section 548.605, 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
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) *Effective 1/1/16	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

Updated to Reflect Changes from the 84th Legislature

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
Failure to display valid motor vehicle inspection certificate *Repealed as of 3/1/15, but still applies to citations issued before that date.	Section 548.602, Transportation Code	Defendant must show that an inspection certificate for the vehicle was in effect at the time of the arrest	None

ANSWERS TO QUESTIONS

PART 1

- Q. 1. It is divided into titles, subtitles, chapters, subchapters, and sections.
- Q. 2. Title 7.
- Q. 3. Subtitle A, Chapter 504.
- Q. 4. Subtitle B, Chapters 521 and 522.
- Q. 5. Chapter 543.
- Q. 6. Chapter 543.
- Q. 7. Chapter 551.
- Q. 8. Offenses in Subtitle C of Title 7 of the Transportation Code, Chapters 541-600.
- Q. 9. Title 37, Section 15.89 of the Texas Administrative Code.
- Q. 10. Subtitle D, Chapter 601.
- Q. 11. Subtitle H, Chapter 681.
- Q. 12. Subtitle I, Chapter 703.
- Q. 13. Chapter 706.
- Q. 14. Chapter 708.
- Q. 15. Section 720.002.

PART 2

- Q. 16. Section 543.003 of the Transportation Code.
- Q. 17. Article 14.06(b) of the Code of Criminal Procedure.
- Q. 18. b. Speeding and possession of an open container of alcohol in a motor vehicle.
- Q. 19. 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.
- Q. 20. 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.
- Q. 21. The notice regarding surcharges must be in type larger than any other type on the citation and notify the defendant that a conviction of a traffic law may result in an assessment of a surcharge on the defendant's driver's license. Section 708.105 of the Transportation Code provides specific text to include for this notice.
- Q. 22. The requirement to notify the court of any change of address and that the failure to do so is a Class C misdemeanor.
- Q. 23. 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.
- Q. 24. 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.

- Q. 25. 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.
- Q. 26. Duplicate form or on an electronic device capable of creating a copy of the signed notice, such as an electronic ticket writer.
- Q. 27. No signature is required on a citation issued by a peace officer for offenses outside of Subtitle C, Rules of the Road offenses under the authority of Article 14.06(b) of the Code of Criminal Procedure.
- Q. 28. a. 10 days.

PART 3

- Q. 29. True.
- Q. 30. False.
- Q. 31. False.
- Q. 32. True.

PART 4

- Q. 33. True.
- Q. 34. False.
- Q. 35. False.
- Q. 36. False (it is a Class B misdemeanor).
- Q. 37. False (they must be alleged as such or enhanced by the officer or prosecutor).
- Q. 38. True.

PART 5

- Q. 39. True.
- Q. 40. True.
- Q. 41. False (the defendant has 20 working days or before first court appearance date).
- Q. 42. False (the maximum fine is \$200).
- Q. 43. True.
- Q. 44. True.
- Q. 45. 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).
- Q. 46. True.
- Q. 47. 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).
- Q. 48. True.

- Q. 49. 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).
- Q. 50. 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).
- Q. 51. True.
- Q. 52. 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).
- Q. 53. True.
- Q. 54. True.
- Q. 55. False (minimum fine of \$500 and a maximum fine of \$1,250 for a first offense).
- Q. 56. False (the maximum fine is \$200).
- Q. 57. False (Inspection is still required in Texas. After March 1, 2015, however, there will not be a separate inspection sticker. In addition, the offense of failing to display an inspection sticker was repealed effective on this date).
- Q. 58. False.
- Q. 59. False.
- Q. 60. False (the judge does not have authority to dismiss the case unless the defendant had valid insurance on the date of the arrest).
- Q. 61. True.
- Q. 62. False.
- Q. 63. True.
- Q. 64. True.
- Q. 65. True.
- Q. 66. False (the penalty is a minimum of \$10 and a maximum of \$50).
- Q. 67. False.
- Q. 68. True.
- Q. 69. True.

PART 6

- Q. 70. False.
- Q. 71. True.
- Q. 72. False.