

Municipal Traffic Safety Initiatives

Impaired Driving Legislative Packet

High School-College

The *Municipal Traffic Safety Initiatives Impaired Driving Legislative Packet* is designed to help students learn about the legislative process in Texas through **bills** related to **impaired driving**. It highlights the impaired driving-related bills before the **Texas Legislature in the 84th Texas Legislature (2015)** and contains other valuable information to help students gain a working understanding of the Texas legislative process.

The Impaired Driving Problem in Texas

Texas, when compared to other U.S. states, holds the unenviable distinction as having the highest number of impaired driving deaths on its roadways (NHTSA, 2014). In 2012, a staggering 1,498 people were killed on Texas roads when a driver involved in the crash had a **blood alcohol content (BAC)** of at least .01 g/dL (NHTSA, 2014). The next highest state was California with 946 (NHTSA, 2014). Texas also has the most traffic fatalities of any state where a driver involved in the crash had a BAC of .15 g/dL or higher with 901 (NHTSA, 2014).

Impaired driving, sadly, also affects children and teenage drivers. In 2012, 239 children nationwide were killed in alcohol impaired driving crashes (NHTSA, 2014). Of those children, 124 were in a car where the driver had a BAC of .08 g/dL or higher and 38 of them were pedestrians struck by a driver with a BAC of .08 g/dL or higher (NHTSA, 2014). Also in 2012, 28% of underage (age 20 or younger) drivers that were killed in car crashes nationwide had a BAC of .01 g/dL or higher (NHTSA, 2014).

Driving under the influence of legal and illegal drugs is also a serious problem. A 2013 survey showed that approximately 9,900,000 people nationwide had driven under the influence of illicit drugs during the year prior to being surveyed (National Survey on Drug Use and Health, 2013).

In the last 20 years, the Texas Legislature has made major changes to Texas law aimed at making Texas roadways safer. Examples include the adoption of a zero tolerance policy for underage drivers driving with any trace of alcohol in their system and the prohibition of open alcohol containers in vehicles.

Even though great strides have been made by Texas **legislators** to prevent impaired driving, there is always room for improvement. In 2015, the Texas Legislature considered various bills aimed at preventing impaired driving in Texas.

Impaired Driving Bills in the 84th Texas Legislature

Every odd numbered year, the Texas Legislature, comprised of the **Texas Senate** and the **Texas House of Representatives**, convenes and decides which bills it wants to enact as laws. The Texas Senate has 31 members and the Texas House of Representatives has 150 members. The Texas Legislature meets in Austin.

The Texas Legislature convened in 2015 for the 84th time – “The 84th Texas Legislature.” While the Legislature analyzed hundreds of bills on a wide array of issues, there were nine bills they considered relating to impaired driving. Of the nine, four passed and have become Texas law. Five bills did not pass, meaning they were rejected or simply did not receive enough votes to pass. **House Bills** are often referred to as “H.B.” followed by their numeric designation (e.g., “H.B. 326”). The same goes for **Senate Bills**, except they start with “S.B.” The following are the impaired driving bills proposed in the 84th Legislature (bills are listed in order by number):



H.B. 326 – PASSED

Effective date: September 1, 2015

This law gives **magistrates** the authority to accept sworn statements showing **probable cause** for a search warrant *electronically*. So, when law enforcement officers have probable cause to believe an individual is driving impaired, he can get in touch with the magistrate by phone and secure a warrant to draw the individual's blood without needing to see the magistrate in person. This is useful because measuring one's blood alcohol content is a time sensitive endeavor.

H.B. 460 – DID NOT PASS

H.B. 460 would have allowed law enforcement to obtain a **blood search warrant** from a magistrate in a bordering county to where the alleged intoxication offense took place. Currently, law enforcement must obtain the warrant from a magistrate in the same county that the alleged offense took place. This bill sought to alleviate the problem of being unable to obtain a blood search warrant if the magistrate in the county where the alleged offense took place is unavailable.

H.B. 543 – DID NOT PASS

This bill would have created a statewide "DIVERT" program for first-time Driving While Intoxicated (also known as "DWI") offenders. DIVERT stands for "Direct Intervention using Voluntary Education, Restitution, and Treatment" and is a non-adversarial problem solving program run through the court which also helps ease the burden on the prison system. Certain cities, such as Houston and Dallas, already have established DIVERT programs.

H.B. 770 – DID NOT PASS

H.B. 770 would have made providing alcohol to a minor a **state jail felony** if it is shown that the minor caused serious bodily harm or death to another as a result of the alcohol consumption. One of the most common ways that alcohol can contribute to the harm or death of another is when an intoxicated person gets behind the wheel.

H.B. 1245 – DID NOT PASS

H.B. 1245 would have required the **Governor** to conduct a study on intoxication every two years that analyzed fatality rates, successful laws and programs in other states, and recommended legislation to combat impaired driving.

H.B. 1264 – PASSED

Effective date: September 1, 2015

HB 1264 requires that blood specimens taken as a result of violations of Chapter 49 of the **Penal Code** (Intoxication and Alcoholic Beverage Offenses) must be retained and preserved for (1) the greater of two years or the period of the **statute of limitations**; (2) the duration of the defendant's **sentence** or **community supervision**; or (3) until the defendant is **acquitted**. This applies retroactively to any specimens being held on the September 1, 2015 effective date.

H.B. 2246 – PASSED

Effective date: September 1, 2015

HB 2246, widely considered a major victory against impaired driving, requires anyone whose license is suspended for alcohol-related offenses (even the first offense) to use an **ignition interlock device** (IID) if they are going to drive under an **occupational driver's license** (ODL) during the period of the suspension. The bill also softens the burden on obtaining an ODL. Thus, the bill essentially says that Texas will let those charged with drunk driving drive during their license suspension *as long as* they use an IID.

H.B. 3791 – PASSED

Effective date: September 1, 2015

H.B. 3791 says that those stopped or arrested on suspicion of impaired driving offenses will be entitled to obtain any video of the stop taken by law enforcement if the video includes footage of the **stop**, the **arrest**, the conduct of the person stopped, or the procedure in which a breath or blood specimen was taken.

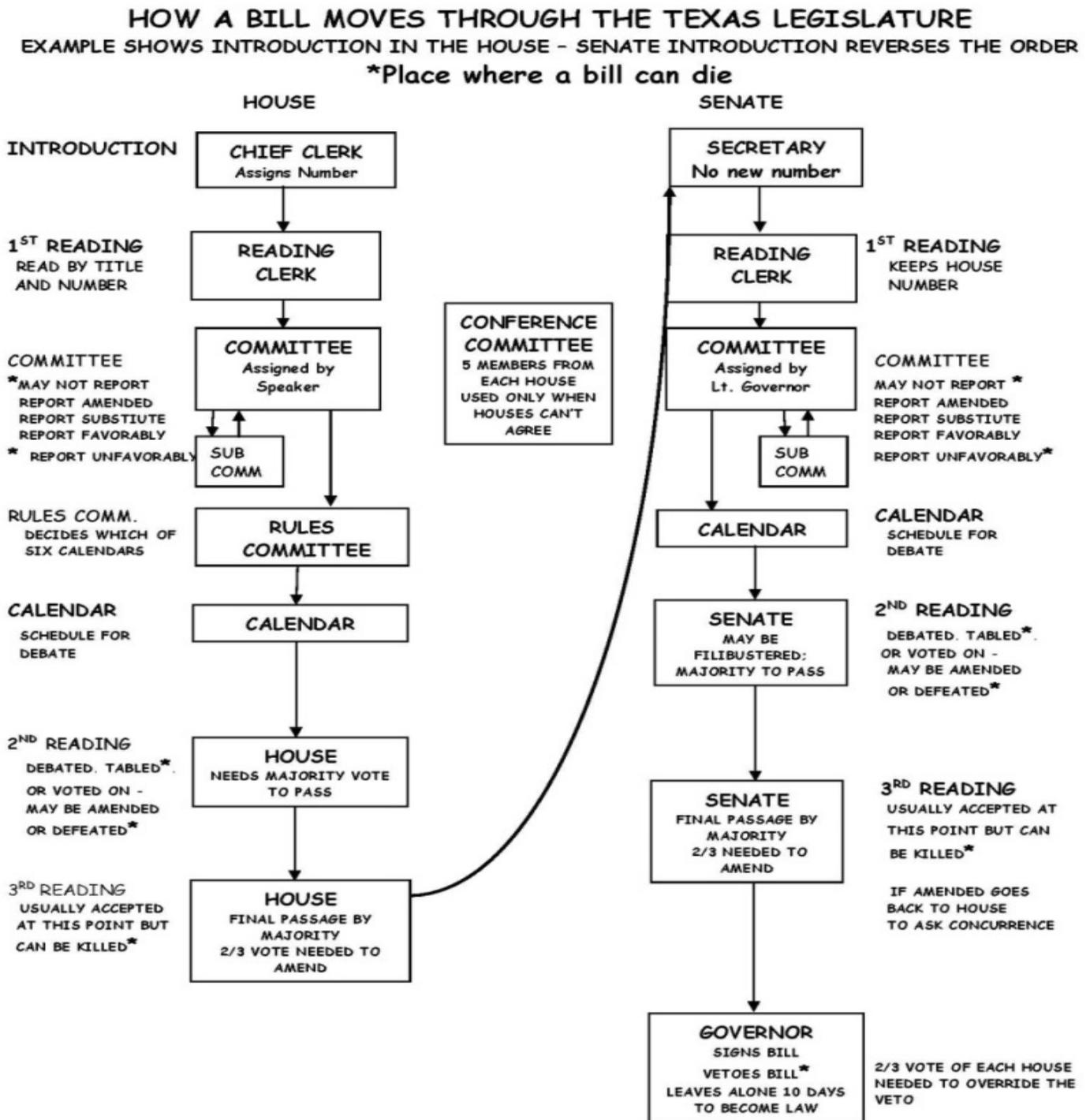
S.B. 510 – DID NOT PASS

S.B. 510 would have created an entirely new **Class B Misdemeanor** for violating a **bond or community supervision condition** which required the use of an IID. And it would have been a **Class A Misdemeanor** on the second offense!



How A Bill Becomes a Law

A bill's journey to becoming a law is a long and complicated one. There are many stages at which a bill can fail. The below chart is a detailed overview of the process:



If you are confused by this chart, do not worry – you are not alone. While the process is complicated, you can refer to the next page for a list of steps for a *simplified* understanding:



1. A legislator writes a bill.
2. The bill is introduced and read aloud in either the House or the Senate (whichever the author is from) in the first 60 days of the legislative session. Bills relating to tax increases or raising money for the state, however, must be heard in the House first.
3. Next, the chair of each **committee** decides which bills they want to formally consider. They make these decisions in committee meetings (the “**committee process**”).
4. The committees then write **committee reports** on each bill, which are detailed analyses of each bill that are distributed to all members of the House or Senate.
5. In the House, the committee report is sent to the **Committee on Calendars** for placement on a calendar for consideration by the entire House.
6. The reports are then considered and debated by the entire House or Senate (“**floor action**”).
7. **Amendments** may be proposed by any member, but they must be approved by a **majority** of the members present. If an amendment is passed, there is then another **reading** of the bill. After the second reading, additional amendments may be proposed, but this time they must be approved by a **two thirds majority** vote.
8. At any point during floor action, if a bill receives the requisite number of votes to pass, it is considered passed and is then sent to the opposite chamber.
9. The opposite chamber may propose amendments, which would then be sent back to the drafting chamber for consideration by **conference committees**.
10. If both chambers vote to approve the bill, the governor then has 10 days to sign the bill, **veto** it, or allow it to become a law without signature. If a bill is sent to the governor within 10 days of the final **adjournment**, the governor then has 20 days to sign the bill.
11. If the governor vetoes the bill, a two thirds majority vote in each chamber can override the veto.¹

Why Some Bills Do Not Pass

While many bills undeniably focus on important issues that need to be addressed – including many of the ones above – oftentimes they nonetheless do not pass. The reasons that a bill might not pass are numerous. A few examples include:

- There are so many bills filed that the Legislature simply does not have time to consider every one.
- Individual legislators do not agree with certain **provisions** of the bill and thus vote against it as a whole.
- A bill inadvertently affects an issue other than the one that it was intended to address.
- The financial cost of the bill is too great.

This list summarizes where each of the five above impaired driving bills failed:

H.B. 460: Vote passed by the House Committee on Criminal Jurisprudence, was placed on the Calendar, was considered by the full House, was amended and sent to the Senate, but never made it out of the Senate Committee on Criminal Justice

H.B. 543: Never made it out the House Committee on Judiciary & Civil Jurisprudence

H.B. 770: Passed the House Committee on Licensing & Administrative Procedures, but died in Calendars before a full House vote

H.B. 1245: Vote passed by the House Committee on Criminal Jurisprudence, but died in Calendars before a full House vote

S.B. 510: Never made it out of the Senate Committee on Criminal Justice

Even though the Texas Legislature did not pass some of the bills which sought to prevent impaired driving, it is important to remember that these bills were designed to supplement existing impaired driving laws and that *impaired driving is illegal*. The primary law which provides that impaired driving is illegal can be found in the Texas Penal Code. Texas Penal Code Section 49.04(a) provides that “A person commits an offense if the person is intoxicated while operating a motor vehicle in a public place.” There is never a situation where impaired driving is acceptable. For those under the age of 21 in Texas, driving with *any* amount of alcohol in your system is an illegal **Class C Misdemeanor** (See Section 106.041 of the Texas **Alcoholic Beverage Code**).

How to Research Bills and Laws Online

The Texas Legislature’s website (<http://www.capitol.state.tx.us/>) is a great place to go to research Texas bills and existing laws. On the homepage, find the headers “Search Legislation” and “Additional Searches.” From here, you can explore all the bills and laws in Texas using key words or bill numbers.

When researching bills, once you find the main page for the bill you want to research, you will see nine tabs at the top of the page. Each tab provides useful information about the bill:

- “History” – Basic information about the bill
- “Text” – The text of the bill, plus notes, analyses, and other documents related to the bill
- “Actions” – Any actions that the legislature has taken on the bill, such as “considered in public hearing”
- “Companions” – Matching bills that have been filed concurrently
- “Amendments” – Any changes that have been made to the bill
- “Authors” – The creator or creators of the bill
- “Sponsors” – Those people that support the bill
- “Captions” – A short summary of what the bill is about
- “Bill Stages” – A summary of what stages in the legislative process the bill has passed and where it currently stands

Researching laws, on the other hand, can be a very daunting task because, simply put, there are *a lot* of them! Lawyers spend much of their three years in law school learning how to effectively research laws. All Texas **state laws** can be found on the Texas Legislature’s website. Under “Additional Searches,” click the “**Statutes**” link. Here, you can search the vast body of Texas laws. You will notice that there are various “**codes**” that you can select. Each code contains a different type of law. For example, you may recall from above that impaired driving laws are found in the Penal Code. Other codes include the Alcoholic Beverage Code, the Transportation Code, and the Family Code. You can navigate through the various codes to see what sorts of laws they contain.



Exercise

Learning Objectives – The students will:

- Learn about the impaired driving problem in Texas and the 84th Texas Legislature’s proposed legislation to combat this problem;
- Discover why and at what stage of the legislative process these bills passed or did not pass; and
- Complete a writing exercise that analyzes a bill.

TEKS –

GOVT: 8ACEH, 13AE, 14BC, 20ABCD, 21ABCD, 22AB

US: 29B, 30ABC, 32AB

ELA: 11.11AB, 11.17B, 11.18, 11.19, 11.20, 12.11AB, 12.17AB, 12.18, 12.19

Teaching Strategy –

1. The teacher will pose the following questions: “What is impaired driving? What are some consequences of impaired driving? What laws are aimed to prevent impaired driving?” The teacher will list the answers on the white board or presentation board and the class will discuss the answers.
2. The teacher will pass out the Legislative Packet. Students will then:
 - a. Jigsaw the packet with each group reading a different portion, becoming experts on that part of the packet, then presenting to the class;
 - b. Go through the packet as a class, having the students take highlighter notes (where they use a highlighter to note the important phrases in the text); or
 - c. Have students go through the packet individually, taking notes on the important parts of the packet.
3. Students will then complete a writing exercise. This may be done individually or students can pair up on the same bill. The teacher can choose whether students should complete one or both exercises.
 - a. Students select one of the impaired driving bills that they have reviewed. They will go to the Texas Legislature’s website (www.capitol.state.tx.us) and review their chosen bill. They are to write a paragraph between 100-200 words that summarizes what they have learned about the bill. The paragraph should present the issue that the bill sought to address and how the bill proposed to solve this problem. Using teacher approved websites, students can conduct additional research to support their writing.
 - b. Students select one of the impaired driving bills that did not pass this legislative session. They will re-view the bill on the Texas Legislature’s website and prepare a letter to their local state Senator or Representative asking them to support the bill in the next legislative session. The letter must clearly state three reasons why they should support this bill with supporting data.
4. Students should then present their bill summary and letters to the class. One or more of the letters may be mailed the representative if the students so choose.

Talented and Gifted Extension: Locate recent data about impaired driving in your county or city using the TxDOT (<http://www.txdot.gov/government/enforcement/annual-summary.html>), National Highway Traffic Safety Institute (<http://www-nrd.nhtsa.dot.gov/Pubs/810942.pdf>), or other teacher approved websites. Analyze this data to pinpoint any patterns or trends relating to impaired driving in their county or city. Author an original bill that seeks to address these issues. Present this bill to a local state legislator by e-mail or physical letter. If possible, arrange an in-person meeting with the legislator to discuss the bill.



Vocabulary

84th Texas Legislature – Lasting from January 13, 2015 to June 1, 2015, this is the 84th time the Texas House and Senate have convened to analyze and vote on bills

Acquittal – A decision that a person is not guilty for the crime with which they are charged

Adjournment – When the legislative session ends and bills are no longer analyzed or voted on

Alcoholic Beverage Code – A subset of Texas state laws covering only offenses related to alcohol

Amendment – A change to a law; amendments can be minor or substantial and can be proposed either before or after a law is passed

Arrest – To seize a person and take them into custody

Bill – A proposed law

Blood Alcohol Content (BAC) – The amount of alcohol in one's body (in Texas, it is illegal to drink alcohol under the age of 21 and it is illegal for anyone to operate a motor vehicle with a BAC of .08% or higher)

Blood Search Warrant – A document, signed by a magistrate, which allows law enforcement to draw blood from a person in order to determine their blood alcohol content

Bond (or Community Supervision) Condition – Requirements that are imposed on a defendant during the period of their bond (release from jail prior to a hearing or trial) or community supervision; an example would be the requirement not to use drugs or alcohol

Class A Misdemeanor – A class of offenses in Texas where the punishment is a fine of up to \$4,000, jail time up to one year, or both; Examples: DWI (second offense), Assault with Bodily Injury

Class B Misdemeanor – A class of offenses in Texas where the punishment is a fine of up to \$2,000, jail time up to 180 days, or both; Examples: DWI (first offense), Criminal Trespass

Class C Misdemeanor – A class of offenses in Texas where the punishment is a fine of up to \$500 and/or community service at the judge's discretion; Examples: Public Intoxication, Minor in Possession of Alcohol, Disorderly Conduct

Code – A category of Texas law comprised of laws relating to the same topic; Example: The Alcoholic Beverage Code

Conference Committee – A committee that is formed, comprised of members of both the House and Senate, in order to reconcile differences or disagreements that the House and Senate have over a bill

Committee – Groups of legislators within the House and Senate that consider bills on certain topics; (e.g., Public Health Committee, Transportation Committee). For a list of House committees, please visit <http://www.house.state.tx.us/committees/>. For a list of Senate committees, please visit <http://www.senate.state.tx.us/75r/senate/Commit.htm>.

Committee on Calendars – A House committee charged with putting bills that are in committee reports (see below) on the calendar for consideration by the entire House; Note: not all bills get placed on the calendar! This is known as "Dying in Calendars"

Committee Process – The process of a committee formally considering bills within their subject area

Committee Report – A detailed analysis of a bill by a committee that is distributed to all members of the House and Senate

Community Supervision – Commonly known as "probation," community supervision is a form of punishment where someone does not go to jail, but must periodically check in with the court

Floor Action – When a bill is considered by the *entire* House or Senate

Governor – The elected head of the state

House Bill – A proposed law authored by a member or members of the House

Ignition Interlock Device – A mechanism that a driver blows into, designed to prevent the vehicle from starting if the driver has alcohol in their system

Impaired Driving – Operating a motor vehicle under the influence of some intoxicant, such as alcohol or drugs

Law – A rule generated by a governing body meant to regulate the community's actions; if a law is broken, penalties may be imposed

Legislator – An individual who writes and/or votes on proposed laws

Magistrate – A judge or justice of the peace that has the authority to set bonds, arraign defendants, or issue search warrants

Majority – *More than* half (e.g., if 30 legislators are present, 16 votes would constitute a majority)

Occupational Driver's License – A special type of license for those whose license has been suspended or revoked that allows the person to drive to work, school, or in order to perform essential household duties

Penal Code – A body of laws concerning the punishment of a crime

Probable Cause – Apparent facts that would lead a reasonable and intelligent person to believe that a person has committed a crime

Provision – A section of a bill

Reading – The presentation of a bill in its entirety for analysis

Texas House of Representatives – One of the branches of the Texas Legislature comprising 150 members

Texas Legislature – A body of lawmakers, including 181 members, that propose Texas laws

Texas Senate – One of the branches of the Texas Legislature comprising 31 members

Senate Bill – A proposed law by the Texas Senate

Sentence – The punishment assigned to a defendant found guilty of violating a law

State Jail Felony – A class of Texas laws, when broken, can result in 180 days to two years of jail time and fine of up to \$10,000

State Law – A law passed by a state legislature that is only applicable in the state in which it was passed

Statute – A written law

Statute of Limitations – A law prescribing the amount of time after an alleged violation of law in which legal action can be brought against the alleged violator

Two Thirds Majority – *More than* two thirds (e.g., if 100 legislators are present, 67 votes would be required for a two thirds majority)

Stop – The temporary detention of a motorist by police to investigate a possible violation of the law

Veto – A right to reject a decision or proposal made by a law-making body



Municipal Traffic Safety Initiatives

With funding from the Texas Department of Transportation (TxDOT), the Texas Municipal Courts Education Center's Municipal Traffic Safety Initiatives (MTSI) project provides municipal courts in Texas with the information and resources necessary to combat impaired driving in their communities and in Texas as a whole. In FY15, 3,898 municipal judges, 4,866 municipal court staff, and 572 prosecutors² were trained in impaired driving issues through the MTSI project. MTSI also supplies municipal courts with impaired driving informational brochures, lessons for children, educational items, and other resources necessary to prevent impaired driving – all free of charge through funding from TxDOT. These resources, including this packet, are ideal tools for municipal courts to engage local youth in traffic safety issues.

To see how your community can benefit from these excellent resources, please contact Ned Minevitz at Ned@tmcec.com or (512) 320-8274.

1 Information on how a bill becomes a law in Texas was primarily found at The Texas House of Representatives website located at <http://www.house.state.tx.us/about-us/bill/>.

2 These figures represent the total number of people in all courses taught, not the total number of individuals trained.



Drink. Drive. Go to Jail. 