REVISOR'S REPORT

TRANSPORTATION CODE
TITLES 1, 2, 3, 4, 6, AND 7

VOLUME VI

A NONSUBSTANTIVE REVISION
OF THE STATUTES RELATING TO
TRANSPORTATION

Including
Carriers
Aviation
Navigation
Roadways
Vehicles and Traffic

To be submitted to the 74th Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

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two separate means of applying the brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels. Any motor vehicle or combination of motor vehicles, trailer, or semitrailer or other vehicle, shall be equipped with brakes upon one or more of such vehicles adequate to stop such combination of vehicles in dry weather upon a reasonably level surface within a distance of forty-five (45) feet from the spot where such brakes are first applied when such vehicle or combination of vehicles are traveling at a rate of speed of twenty (20) miles per hour.

Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order capable of emitting sounds audible under normal conditions for a distance of not less than two hundred (200) feet, and it shall be unlawful for any vehicle to be equipped with or for any person to use upon a vehicle any bell, siren, compression or exhaust whistle or for any person at any time to use a horn otherwise than as a reasonable warning or to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device, except that vehicles operated in the performance of duty by law enforcement officers, fire departments and ambulances may attach and use a bell, siren, compression or exhaust whistle.

Every motor vehicle engaged in the transportation of passengers for hire or lease shall be equipped with at least one quart of chemical type fire extinguisher in good condition and conveniently located for immediate use.

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CHAPTER 548. COMPULSORY INSPECTION OF VEHICLES

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 548.001. DEFINITIONS. In this chapter:

(1) "Commercial motor vehicle" means a self-propelled or towed vehicle, other than a farm vehicle with a gross weight, registered weight, or gross weight rating of less than 48,000 pounds, if:

(A) the vehicle or combination of vehicles has a gross weight, registered weight, or gross weight rating of more than 26,000 pounds;

(B) the vehicle is designed to transport more than 15 passengers, including the driver; or

(C) the vehicle is used to transport hazardous materials in a quantity requiring placarding by a regulation issued under the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.).

(2) "Commission" means the Public Safety Commission.

(3) "Conservation commission" means the Texas Natural Resource Conservation Commission.
(4) "Farm vehicle" has the meaning assigned by the federal motor carrier safety regulations.

(5) "Federal motor carrier safety regulation" has the meaning assigned by Section 549.001.

(6) "Inspection station" means a facility certified to conduct inspections of vehicles under this chapter.

(7) "Inspector" means an individual certified to conduct inspections of vehicles under this chapter. (V.A.C.S. Art. 6701d, Sec. 140A(a).)

Source Law

Sec. 140A. (a) In this section:

(1) "Commercial motor vehicle" means any self-propelled or towed vehicle, except a farm vehicle with a gross weight, registered weight, or gross weight rating of less than 48,000 pounds, used on a public highway to transport passengers or property when:

(A) the vehicle or combination of vehicles has a gross weight, registered weight, or gross weight rating in excess of 26,000 pounds;

(B) the vehicle is designed to transport more than 15 passengers, including the driver; or

(C) the vehicle is used in the transportation of hazardous materials in a quantity requiring placarding under the regulations issued under the federal Hazardous Materials Transportation Act (49 U.S.C. app. Sections 1801-1813).

(2) "Commission" means the Public Safety Commission.

(3) "Farm vehicle" has the meaning assigned by the Federal Motor Carrier Safety Regulations under Title 49, Code of Federal Regulations.

(4) "Federal safety regulations" means the Federal Motor Carrier Safety Regulations under Title 49, Code of Federal Regulations.

Revisor's Note

(1) Section 140A(a)(1), V.A.C.S. Article 6701d, in defining a "commercial motor vehicle," refers to the vehicle as used "on a . . . highway." The revised law omits the reference to use of the vehicle "on a highway" as unnecessary because Section 21, V.A.C.S. Article 6701d, revised in this code as Section 542.001, states that as a general rule, provisions in this title apply only to a vehicle that is moved or operated on a
highway.

(2) Section 140A(a)(1), V.A.C.S. Article 6701d, in defining a "commercial motor vehicle," refers to the vehicle as used "to transport passengers or property."
The revised law omits the reference to use of the vehicle "to transport passengers or property" as unnecessary because all vehicles are used to transport passengers or property.

(3) The definitions of "conservation commission," "inspection station," and "inspector" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

Revised Law
Sec. 548.002. DEPARTMENT RULES. The department may adopt rules to administer and enforce this chapter. (V.A.C.S. Art. 6701d, Sec. 142(c)(1).)

Source Law
(c)(1) The Department may adopt rules necessary for the administration and enforcement of Article XV of this Act.

Revisor's Note
Section 142(c)(1), V.A.C.S. Article 6701d, refers to "the administration and enforcement of Article XV of this Act." Article XV, V.A.C.S. Article 6701d, is codified in this code as this chapter, and the revised law is drafted accordingly.

Revised Law
Sec. 548.003. DEPARTMENT CERTIFICATION AND SUPERVISION OF INSPECTION STATIONS. (a) The department may certify inspection stations to carry out this chapter and may instruct and supervise the inspection stations and mechanics for the inspection of vehicles and equipment subject to this chapter.
(b) The department shall certify at least one inspection station for each county. (V.A.C.S. Art. 6701d, Sec. 141(a) (part).)

Source Law

Sec. 141. (a) The Department may establish state-appointed inspection stations to carry out the provisions of this Section. Such stations may be located anywhere in the state, and should any be established or appointed, there shall be at least one (1) for each county. The Department is authorized to furnish instructions to, and to supervise official inspection stations and mechanics for inspection of motor vehicles, trailers, semi-trailers, pole trailers, and mobile homes for the proper and safe performance of the required items of inspection. 

Revisor's Note

(1) Section 141(a), V.A.C.S. Article 6701d, reads "[t]he Department may establish . . . inspection stations." The revised law substitutes "certify" for "establish" for consistency of terms within related provisions.

(2) Section 141(a), V.A.C.S. Article 6701d, provides that an inspection station "may be located anywhere in the state." The revised law omits this provision as unnecessary because no other law limits the places where an inspection station may be located.

(3) Section 141(a), V.A.C.S. Article 6701d, imposes a requirement on the department contingent on whether an inspection station is certified. The revised law omits the contingency language as executed because inspection stations have been certified.

(4) Section 141(a), V.A.C.S. Article 6701d, refers to the "proper and safe" inspection of vehicles. The revised law omits the quoted language as unnecessary because it may be presumed that a vehicle inspection under this chapter will be made in a proper and safe manner.

(5) Section 141(a), V.A.C.S. Article 6701d,
refers to the inspection of "motor vehicles, trailers, semi-trailers, pole trailers, and mobile homes." The revised law substitutes "vehicles and equipment subject to this chapter" for the quoted phrase to avoid unnecessary repetition of provisions revised in Section 548.051 of this code.

Revised Law

Sec. 548.004. DEPARTMENT CERTIFICATION OF INSPECTION STATIONS FOR POLITICAL SUBDIVISIONS AND STATE AGENCIES. (a) The department may certify a vehicle maintenance facility owned and operated by a political subdivision or agency of this state as an inspection station.

(b) An inspection station certified under this section is subject to the requirements of this chapter applicable to another inspection station, except as otherwise provided by this chapter.

(c) The facility may inspect only a vehicle owned by the political subdivision or state agency. An officer, employee, or inspector of the subdivision or agency may not place an inspection certificate received from the department under this section on a vehicle not owned by the subdivision or agency. (V.A.C.S. Art. 6701d, Sec. 141(e) (part).)

Source Law

(e) The Department may appoint as official inspection stations, for the limited purpose of inspecting vehicles owned by political subdivisions and agencies of the state, vehicle maintenance facilities owned and operated by the political subdivisions or agencies. ... Inspection stations appointed under this subsection must satisfy all requirements set forth in Sections 140, 141, 142, and 142A of this Act except the provisions relating to the fee contained in Subsection (a) of this section. No officer, employee, or inspector of any political subdivision or agency shall place or cause to be placed any inspection certificate received from the Department under the provisions of this subsection on any vehicle other than a vehicle owned by the political subdivision or agency.

Revisor's Note

(1) Section 141(e), V.A.C.S. Article 6701d,
requires certain inspection stations to satisfy all requirements set forth in specified sections "of this Act." The revised law states that the inspection stations are subject to the requirements "of this chapter" because all of the specified sections are contained within this chapter.

(2) Section 141(e), V.A.C.S. Article 6701d, requires certain inspection stations to satisfy all requirements set forth in specified sections of the article "except the provisions relating to the fee contained in Subsection (a) of this section." The revised law substitutes for this phrase a statement that the inspection station "is subject to the requirements of this chapter applicable to another inspection station, except as otherwise provided by this chapter," because if a requirement does not apply to the specified inspection stations, the requirement states as much or is otherwise clearly inapplicable.

Revised Law
Sec. 548.005. INSPECTION ONLY BY STATE-CERTIFIED AND SUPERVISED INSPECTION STATION. A compulsory inspection under this chapter may be made only by an inspection station, except that the department may:

(1) permit inspection to be made by an inspector under terms and conditions the department prescribes; and

(2) authorize the acceptance in this state of a certificate of inspection and approval issued in another state having a similar inspection law. (V.A.C.S. Art. 6701d, Secs. 140(c) (part), (d) (part).)

Source Law
(c) Official inspection stations appointed and supervised by the State of Texas shall make all inspections pursuant to the provisions of this Section, except as provided in subdivision (d) hereof. . . .

(d) The Department may, in its discretion, permit inspection as herein provided to be made by
State inspectors under such terms and conditions as the Department may prescribe. Provided, however, the Department may authorize the acceptance in this State of a certificate of inspection and approval issued in another state having a similar inspection law . . . .

Revisor's Note

(1) Section 140(c), V.A.C.S. Article 6701d, refers to "inspections pursuant to the provisions of this Section." The revised law replaces this phrase with "compulsory inspection under this chapter" because Section 140 addresses compulsory inspection and is codified in this code in various sections of this chapter.

(2) Section 140(c), V.A.C.S. Article 6701d, refers to inspection stations "appointed and supervised by the State of Texas." The revised law omits the quoted phrase because its meaning is included in the definition of "inspection station" in Section 548.001 of this code.

[Sections 548.006-548.050 reserved for expansion]

SUBCHAPTER B. VEHICLES AND EQUIPMENT SUBJECT TO INSPECTION AND REINSPECTION

Revised Law

Sec. 548.051. VEHICLES AND EQUIPMENT SUBJECT TO INSPECTION.

(a) A motor vehicle, trailer, semitrailer, pole trailer, or mobile home, registered in this state, must have the following items inspected at an inspection station or by an inspector:

(1) tires;

(2) wheel assembly;

(3) safety guards or flaps, if required by Section 547.606;

(4) brake system, including power brake unit;

(5) steering system, including power steering;

(6) lighting equipment;
(7) horns and warning devices;
(8) mirrors;
(9) windshield wipers;
(10) sunscreening devices, unless the vehicle is exempt from sunscreen device restrictions under Section 547.613;
(11) front seat belts in vehicles on which seat belt anchorages were part of the manufacturer's original equipment;
(12) tax decal, if required by Section 548.104(d)(1);
(13) exhaust system; and
(14) exhaust emission system.

(b) A moped is subject to inspection in the same manner as a motorcycle, except that the only items of equipment required to be inspected are the brakes, headlamps, rear lamps, and reflectors, which must comply with the standards prescribed by Sections 547.408 and 547.801. (V.A.C.S. Art. 6701d, Secs. 140(a) (part), (f) (part).)

Source Law

Sec. 140. (a) Every motor vehicle, trailer, semitrailer, pole trailer, or mobile home, registered in this state and operated on the highways of this state, shall have the tires, brake system (including power brake unit), lighting equipment, horns and warning devices, mirrors, windshield wipers, front seat belts in vehicles where seat belt anchorages were part of the manufacturer's original equipment on the vehicle, steering system (including power steering), wheel assembly, safety guards or flaps if required by Section 139A of this Act, tax decal if required by Section 141(d) of this Act, sunscreening devices unless the vehicle is exempt from sunscreen device restrictions under Section 134C(k) or (l) of this Act, exhaust system, and exhaust emission system inspected at state-appointed inspection stations or by State Inspectors as hereinafter provided . . . .

(f) All mopeds shall be subject to annual inspection in the same manner as are motorcycles and the fee for inspection shall be as provided in Section 141 of this Act and shall be used for the purposes prescribed by law. The only items of equipment required to be inspected are the brakes, headlamps, rear lamps, and reflectors, which are required to comply with the standards prescribed in Section 139F of this Act for motorcycles and motor-driven cycles . . . .
Reviser's Note

(1) Section 140(a), V.A.C.S. Article 6701d, applies to certain vehicles operated "on the highways of this state." The revised law omits the quoted phrase for the reason stated in Reviser's Note (1) to Section 548.001 of this code.

(2) Section 140(a), V.A.C.S. Article 6701d, refers to "Section 139A of this Act." That statute is codified in this code as Section 547.606, and the revised law is drafted accordingly.

(3) Section 140(a), V.A.C.S. Article 6701d, refers to "Section 134C(k) or (l) of this Act." Those provisions are codified in this code in Section 547.613, and the revised law is drafted accordingly.

(4) Section 140(a), V.A.C.S. Article 6701d, refers to "Section 141(d) of this Act." The provision referred to is codified in this code as Section 548.104(d)(l), and the revised law is drafted accordingly.

(5) Section 140(f), V.A.C.S. Article 6701d, states that "[a]ll mopeds shall be subject to annual inspection." The revised law omits "annual" because the general requirement under Section 548.101 of this code is that an inspection be made annually.

(6) Section 140(f), V.A.C.S. Article 6701d, states "the fee for inspection shall be as provided in Section 141 of this Act and shall be used for the purposes prescribed by law." The revised law omits this phrase as unnecessary because it is redundant of the provisions in Section 141, revised in Subchapter H of this chapter.

(7) Section 140(f), V.A.C.S. Article 6701d, refers to "standards prescribed in Section 139F of this
Act for motorcycles and motor-driven cycles." Section 139F is codified in this code as Sections 547.408 and 547.801, and the revised law is drafted accordingly.

Revised Law

Sec. 548.052. VEHICLES NOT SUBJECT TO INSPECTION. This chapter does not apply to:

(1) a trailer, semitrailer, pole trailer, or mobile home moving under or bearing a current factory-delivery license plate or current in-transit license plate;

(2) a vehicle moving under or bearing a paper dealer in-transit tag, machinery license, disaster license, parade license, prorate tab, one-trip permit, antique license, temporary 24-hour permit, or permit license;

(3) a trailer, semitrailer, pole trailer, or mobile home having an actual gross weight or registered gross weight of 4,500 pounds or less; or

(4) farm machinery, road-building equipment, a farm trailer, or a vehicle required to display a slow-moving-vehicle emblem under Section 547.703. (V.A.C.S. Art. 6701d, Secs. 140(a) (part), (h).)

Source Law

(a) . . . Provisions relating to the inspection of trailers, semitrailers, pole trailers, or mobile homes apply only when the actual gross weight or the registered gross weight of such vehicles is greater than four thousand five hundred (4,500) pounds. . . .

(h) The provisions of this Act shall not apply to the vehicles referred to in Subsection (a) of this Section when moving under or bearing current "Factory-Delivery License Plates" or current "In-transit License Plates." Nor shall the provisions of this Act apply to farm machinery, road-building equipment, farm trailers, paper dealer in-transit tag, machinery license, disaster license, parade license, prorate tabs, one-trip permits, antique license, temporary 24-hour permits, permit license, and all other vehicles required to have a slow-moving-vehicle emblem under Section 139(b) of this Act.
Revisor's Note

(1) Section 140(h), V.A.C.S. Article 6701d, reads "the vehicles referred to in Subsection (a) of this Section." The revised law omits this phrase and specifically names the vehicles.

(2) Section 140(h), V.A.C.S. Article 6701d, refers to "Section 139(b) of this Act," meaning Section 139B, V.A.C.S. Article 6701d. That provision is codified in this code as Section 547.703, and the revised law is drafted accordingly.

Revised Law

Sec. 548.053. REINSPECTION OF VEHICLE REQUIRING ADJUSTMENT, CORRECTION, OR REPAIR. (a) If an inspection discloses the necessity for adjustment, correction, or repair, an inspection station or inspector may not issue an inspection certificate until the adjustment, correction, or repair is made. The owner of the vehicle may have the adjustment, correction, or repair made by a qualified person of the owner's choice, subject to reinspection. The vehicle shall be reinspected once free of charge within 15 days after the date of the original inspection, not including the date the original inspection is made, at the same inspection station after the adjustment, correction, or repair is made.

(b) A vehicle that is inspected and is subsequently involved in an accident affecting the safe operation of an item of inspection must be reinspected following repair. The reinspection must be at an inspection station and shall be treated and charged as an initial inspection.

(c) If a vehicle subject to this chapter is damaged to the apparent extent that it would require repair before passing inspection, the investigating officer shall remove the inspection certificate from the vehicle windshield and give the operator of the vehicle a dated receipt. The vehicle must be reinspected not later than the 30th day after the date shown on the receipt.
(V.A.C.S. Art. 6701d, Secs. 140(b), (c) (part).)

Source Law

(b) If such inspection discloses the necessity for adjustments, corrections, or repairs, the vehicle shall be adjusted, corrected, or repaired before a certificate is issued as hereinafter provided. The owner may have such adjustments, corrections, or repairs made by such qualified person or persons as he may choose, subject to reinspection as hereinafter provided.

If an inspection discloses the necessity for adjustments, corrections, or repairs, such vehicle shall be reinspected once within fifteen (15) days, not including day of issuance, free of charge at the same inspection station after the adjustments, corrections, or repairs have been made. Any such vehicle under the terms of this Act, if involved in an accident subsequent to the required inspection, which accident affects the safe operation of any item of inspection, shall return to an inspection station after adequate repairs are made. The subsequent inspection shall be as if the vehicle had not been inspected before. The inspection fee shall be charged for reinspection.

(c) . . . If the motor vehicle, trailer, semi-trailer, pole trailer or mobile home, registered in this State, is damaged to the apparent extent that it would require repair before passing state inspection, the investigating officer shall remove the inspection certificate from the vehicle windshield and shall give the operator of the vehicle a dated receipt. Within thirty (30) days of the date indicated on the receipt, the vehicle shall be reinspected. . . .

Reviser's Note

Section 140(c), V.A.C.S. Article 6701d, refers to a "motor vehicle, trailer, semi-trailer, pole trailer or mobile home, registered in this State." The revised law replaces this phrase with "a vehicle subject to this chapter" because the vehicles listed and described encompass the vehicles subject to compulsory inspection.

[Sections 548.054-548.100 reserved for expansion]

SUBCHAPTER C. PERIODS OF INSPECTION; PREREQUISITES TO ISSUANCE OF INSPECTION CERTIFICATE

Revised Law

Sec. 548.101. GENERAL ONE-YEAR INSPECTION PERIOD. Except as provided by Section 548.102, the department shall require an annual
inspection. The department shall set the periods of inspection and may make rules with respect to those periods. (V.A.C.S. Art. 6701d, Secs. 140(c) (part), 141(c-1) (part).)

Source Law

[Sec. 140] (c) . . . The Department shall cause one (1) inspection to be made in the year commencing with the effective date of this Act, and annually thereafter. . . . The periods of inspection shall be fixed by the Department . . . . The Department shall have power to make rules and regulations, not inconsistent with law, with respect to the periods of inspection. . . .

[Sec. 141] (c-1) Notwithstanding Subsection (c) of Section 140 of this Act . . . .

Revisor's Note

(1) The revised law omits the reference in Section 140(c), V.A.C.S. Article 6701d, to "the effective date of this Act" because that provision is executed.

(2) Section 140(c), V.A.C.S. Article 6701d, refers to "rules and regulations." The reference to "regulations" is omitted from the revised law because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

(3) Section 140(c), V.A.C.S. Article 6701d, refers to rules "not inconsistent with law." The revised law omits this phrase as unnecessary because a rule inconsistent with superior law is invalid.

Revised Law

Sec. 548.102. TWO-YEAR INITIAL INSPECTION PERIOD FOR PASSENGER CAR OR LIGHT TRUCK. (a) The initial inspection period is two years for a passenger car or light truck that:

(1) is sold in this state;
(2) has not been previously registered in this or another state; and
(3) on the date of sale is of the current or preceding model year.

(b) This section does not affect a requirement that a motor vehicle emission inspection be conducted during an initial inspection period in a county covered by an inspection and maintenance program approved by the United States Environmental Protection Agency under Section 548.301 and the Clean Air Act (42 U.S.C. Section 7401 et seq.). (V.A.C.S. Art. 6701d, Sec. 141(c-1) (part).)

Source Law
(c-1) . . . a passenger car or light truck that is sold in this state, has not been previously registered in this or another state, and on the date of sale is of the current or the immediately preceding model year is subject to an initial inspection that expires at the end of two years. . . . This subsection does not preclude motor vehicle emission inspections from being conducted during an initial certification period under this subsection in counties covered by a federal Environmental Protection Agency-approved inspection and maintenance program pursuant to Subsection (d) of Section 142 of this Act and the federal Clean Air Act (42 U.S.C. Section 7401 et seq.). . . .

Revisor's Note
Section 141(c-1), V.A.C.S. Article 6701d, refers to "Subsection (d) of Section 142 of this Act." That provision is codified in this code as Section 548.301, and the revised law is drafted accordingly.

Revised Law
Sec. 548.103. EXTENDED INSPECTION PERIOD FOR CERTAIN VEHICLES. The department may extend the time within which the resident owner of a vehicle that is not in this state when an inspection is required must obtain an inspection certificate in this state. (V.A.C.S. Art. 6701d, Sec. 140(d) (part).)

Source Law
(d) . . . the Department may . . . extend the
time within which a certificate shall be obtained by
the resident owner of a vehicle which was not in this
State during the time an inspection was required.

Revised Law

Sec. 548.104. EQUIPMENT-RELATED PREREQUISITES TO ISSUANCE OF
INSPECTION CERTIFICATE. (a) The commission shall adopt uniform
standards of safety applicable to each item required to be
inspected by Section 548.051. The standards and the list of items
to be inspected shall be posted in each inspection station.
(b) An inspection station or inspector may issue an
inspection certificate only if the vehicle is inspected and found
to be in proper and safe condition and to comply with this chapter
and the rules adopted under this chapter.
(c) An inspection station or inspector may inspect only the
equipment required to be inspected by Section 548.051 and may not:
(1) falsely and fraudulently represent to an applicant
that equipment required to be inspected must be repaired, adjusted,
or replaced before the vehicle will pass inspection; or
(2) require an applicant to have another part of the
vehicle or other equipment inspected as a prerequisite for issuance
of an inspection certificate.
(d) An inspection station or inspector may not issue an
inspection certificate for a vehicle equipped with:
(1) a carburetion device permitting the use of
liquefied gas alone or interchangeably with another fuel, unless a
valid liquefied gas tax decal issued by the comptroller is attached
to the lower right-hand corner of the front windshield of the
vehicle on the passenger side; or
(2) a sunscreening device prohibited by Section
547.613, except that the department by rule shall provide
procedures for issuance of an inspection certificate for a vehicle
exempt under Section 547.613(c).
(e) The department shall adopt rules relating to inspection
of and issuance of an inspection certificate for a moped.
(V.A.C.S. Art. 6701d, Secs. 140(a) (part), (f) (part); 141(d)(1) (part), (g) (part); 141A; 142(a).)

Source Law

[Sec. 140]
(a). . . Only the mechanism and equipment designated in this section may be inspected, and the owner shall not be required to have any other equipment or part of his motor vehicle inspected as a prerequisite for the issuance of an inspection certificate. . . .

(f) . . . The Department shall promulgate rules and regulations relating to the inspection of mopeds and the issuance . . . of inspection certificates with respect to those vehicles.

[Sec. 141]
(d)(1) No certificate of inspection shall be issued by any inspector or inspection station until the vehicle has been inspected and found to be in proper and safe condition and to comply with the uniform standards of safety, inspection rules and regulations, and laws of this state. . . . No certificate of inspection may be issued by any inspector or inspection station for a motor vehicle equipped with a carburetion device permitting the use of liquefied gas alone or interchangeably with other fuels, unless a currently valid liquefied gas tax decal issued by the comptroller of public accounts is affixed to the lower right-hand corner of the front windshield of the vehicle on the passenger side.

(g) No person who performs an inspection at a state-appointed inspection station may fraudulently represent to an applicant that a mechanism or item of equipment required to be inspected must be repaired, adjusted, or replaced before the vehicle will pass inspection when that is not the case. . . .

Sec. 141A. (a) Except as provided by Subsection (b) of this section, a certificate of inspection may not be issued for a vehicle equipped with a sunscreening device prohibited by Section 134C of this Act.

(b) The department by rule shall provide procedures for the issuance of certificates of inspection for vehicles exempted by Section 134C(i) of this Act.

Sec. 142. (a) The Public Safety Commission shall establish uniform standards of safety whenever applicable with respect to items to be inspected as provided by Section 140 of this Act and shall list those items to be inspected in conformity with these standards established as provided by law. The list of items to be inspected and uniform standards of safety shall be posted in every official inspection station. Every vehicle inspected shall conform in all respects to the uniform standards of safety and the list of items to be inspected established pursuant to this Section.

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Revisor's Note

(1) Section 140(a), V.A.C.S. Article 6701d, refers to "this section," and Section 142(a), V.A.C.S. Article 6701d, refers to "Section 140 of this Act." The pertinent part of Section 140 is codified in this code as Section 548.051, and the revised law is drafted accordingly.

(2) Section 142(a), V.A.C.S. Article 6701d, states that "[e]very vehicle inspected shall conform in all respects to the uniform standards of safety and the list of items to be inspected established pursuant to this Section." Section 141(d)(1), V.A.C.S. Article 6701d, states that "[n]o certificate of inspection shall be issued by any inspector or inspection station until the vehicle has been inspected and found to be in proper and safe condition and to comply with the uniform standards of safety, inspection rules and regulations, and laws of this state." The revised law replaces these statements with "[a]n inspection station or inspector may issue an inspection certificate only if the vehicle is inspected and found to be in proper and safe condition and to comply with this chapter and the rules adopted under this chapter" to encompass both of the quoted provisions.

(3) Section 140(a), V.A.C.S. Article 6701d, refers to "the mechanism and equipment designated in this section." The revised law omits the reference to "mechanism" because "mechanism" is included within the meaning of "equipment."

(4) Section 140(f), V.A.C.S. Article 6701d, refers to "rules and regulations." The reference to "regulations" is omitted from the revised law for the reason stated in Revisor's Note (2) to Section 548.101.

(5) Section 141(d)(1), V.A.C.S. Article 6701d,
refers to the "comptroller of public accounts." The revised law substitutes "comptroller" because Section 403.001, Government Code, defines "comptroller" in any state statute to mean the comptroller of public accounts.

(6) Section 141A, V.A.C.S. Article 6701d, refers to "Section 134C [and] Section 134C(i) of this Act."
Section 134C is codified in this code as Section 547.613, and Subsection (i) of Section 134C is codified in Subsection (c) of Section 547.613. The revised law is drafted accordingly.

Revised Law

Sec. 548.105. EVIDENCE OF FINANCIAL RESPONSIBILITY AS PREREQUISITE TO ISSUANCE OF INSPECTION CERTIFICATE. (a) An inspection station or inspector may not issue an inspection certificate for a vehicle unless the owner or operator furnishes evidence of financial responsibility at the time of inspection. Evidence of financial responsibility may be shown in the manner specified under Section 601.053(a). A personal automobile insurance policy used as evidence of financial responsibility must be written for a term of 30 days or more as required by Article 5.06, Insurance Code.

(b) An inspection station is not liable to a person, including a third party, for issuing an inspection certificate in reliance on evidence of financial responsibility furnished to the station. An inspection station that is the seller of a motor vehicle may rely on an oral insurance binder. (V.A.C.S. Art. 6701d, Sec. 140(a) (part).)

Source Law

(a) ... At the time of inspection the owner or operator shall furnish evidence of financial responsibility. The evidence of financial responsibility may be shown in the manner specified under Section 1B(a), Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes). A personal automobile
insurance policy used as evidence of financial responsibility under this subsection must be written for a term of 30 days or more as required by Article 5.06, Insurance Code. An inspection certificate may not be issued for a vehicle for which the owner or operator fails to furnish the required evidence of financial responsibility. An inspection facility or station is not liable to any person, including a third party, for issuing an inspection certificate in reliance on evidence of financial responsibility submitted to the facility or station. If the inspection facility or station is the seller of a motor vehicle, the inspection facility or station may rely on an oral insurance binder.

Reviser's Note

Section 140(a), V.A.C.S. Article 6701d, refers to "Section 1B(a), Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes)." That statute is codified in this code as Section 601.053(a), and the revised law is drafted accordingly.

[Sections 548.106-548.200 reserved for expansion]

SUBCHAPTER D. INSPECTION OF COMMERCIAL MOTOR VEHICLES

Revised Law

Sec. 548.201. COMMERCIAL MOTOR VEHICLE INSPECTION PROGRAM. The commission shall establish an inspection program for commercial motor vehicles that:

(1) meets the requirements of federal motor carrier safety regulations; and

(2) requires a commercial motor vehicle registered in this state to pass an annual inspection of all safety equipment required by the federal motor carrier safety regulations.

(V.A.C.S. Art. 6701d, Secs. 140A(b)(1), (2).)

Source Law

(b)(1) The commission shall establish an inspection program for commercial motor vehicles that meets the requirements of the federal safety regulations.

(2) Under the program, a commercial motor vehicle that is registered in this state shall be required to pass an annual inspection of all safety equipment required by the federal safety regulations.
Revised Law

Sec. 548.202. GENERAL APPLICABILITY OF CHAPTER TO COMMERCIAL MOTOR VEHICLES. This chapter applies to a commercial motor vehicle inspection program established under Section 548.201 except as otherwise provided. (V.A.C.S. Art. 6701d, Secs. 140A(b)(3), (e) (part).)

Source Law

(b) . . .
(3) A commercial motor vehicle inspected under the program established under this section is also subject to the inspection requirements established in Section 140 of this Act.

(e) Except as provided by this subsection, Sections 141 and 142 of this Act apply to the inspection program established under this section. . . .

Revisor's Note

(1) Section 140A(b)(3), V.A.C.S. Article 6701d, states that "[a] commercial motor vehicle inspected under the program established under this section is also subject to the inspection requirements established in Section 140 of this Act." The revised law substitutes "[t]his chapter applies to a commercial motor vehicle . . . except as otherwise provided" because all of the inspection requirements established in Section 140, V.A.C.S. Article 6701d, are found in this chapter, and if a provision of the chapter does not apply to commercial motor vehicles, it states as much or is otherwise clearly inapplicable.

(2) Section 140A(e), V.A.C.S. Article 6701d, reads "[e]xcept as provided by this subsection." The revised law substitutes "except as otherwise provided" because the subsection to which reference is made relates to fees for inspection of commercial motor vehicles. Provisions relating to fees for inspection of commercial motor vehicles are codified in Subchapter
Hof this chapter, which provides an exception to the fee requirements for inspection of motor vehicles generally.

(3) Section 140A(e), V.A.C.S. Article 6701d, states that "Sections 141 and 142 of this Act apply to the inspection program established under this section."

The revised law substitutes "[t]his chapter applies to a . . . vehicle inspection program established under Section 548.201" because Sections 141 and 142 are codified in this chapter, and the section establishing an inspection program is codified in this code as Section 548.201.

[Sections 548.203-548.250 reserved for expansion]

SUBCHAPTER E. ISSUANCE, RECORDING, AND PROOF OF INSPECTION CERTIFICATES AND VERIFICATION FORMS

Revised Law

Sec. 548.251. DEPARTMENT TO PROVIDE INSPECTION CERTIFICATES AND VERIFICATION FORMS. The department shall provide serially numbered inspection certificates and verification forms to inspection stations. The department may issue a unique inspection certificate for:

(1) a commercial motor vehicle inspected under Section 548.201; or

(2) a vehicle inspected under Section 548.301(a).

(V.A.C.S. Art. 6701d, Secs. 140A(d), 142(b) (part), (f).)

Source Law

[Sec. 140A]
(d) The department may issue a unique inspection certificate for a commercial motor vehicle inspected under the program established under this section.

[Sec. 142]
(b) The Department shall furnish serially numbered certificates of inspection and verification forms to inspection stations . . . .

(f) The department may issue a unique inspection certificate for those vehicles inspected pursuant to Subsection (d) of this section.
Revisor's Note

(1) Section 140A(d), V.A.C.S. Article 6701d, refers to "the program established under this section."
The provision establishing a program for commercial motor vehicles is codified in this code as Section 548.201, and the revised law is drafted accordingly.

(2) Section 142(f), V.A.C.S. Article 6701d, refers to "Subsection (d) of this section." That provision is codified in this code as Section 548.301(a), and the revised law is drafted accordingly.

Revised Law

Sec. 548.252. SAFEKEEPING AND CONTROL OF INSPECTION CERTIFICATES AND VERIFICATION FORMS. On being licensed, an inspector or owner of an inspection station shall:

(1) provide for the safekeeping of inspection certificates and verification forms;

(2) safeguard the certificates and forms against theft, loss, or damage;

(3) control the sequence of issuance of the certificates and forms; and

(4) ensure that the certificates and forms are issued in accordance with department rules. (V.A.C.S. Art. 6701d, Sec. 142(b) (part).)

Source Law

(b) ... It shall be the responsibility of each owner and certified inspector, upon being licensed, to provide for the safekeeping of certificates of inspection and verification forms, safeguarding them against theft, loss or damage, controlling their sequence of issuance, and insuring that they are issued in accordance with the Department rules and regulations. ...

Revisor's Note

(1) Section 142(b), V.A.C.S. Article 6701d, refers to a "certified inspector." The word "certified" is omitted from the revised law as...
unnecessary because Section 548.001 of this code defines "inspector" to mean "an individual certified to conduct inspections."

(2) Section 142(b), V.A.C.S. Article 6701d, refers to "rules and regulations." The reference to "regulations" is omitted from the revised law for the reason stated in Revisor's Note (2) to Section 548.101.

Revised Law

Sec. 548.253. INFORMATION TO BE RECORDED ON ISSUANCE OF INSPECTION CERTIFICATE AND VERIFICATION FORM. An inspection station or inspector, on issuing an inspection certificate and verification form, shall:

(1) make a record and report as prescribed by the department of the inspection and certificate issued; and

(2) include in the inspection certificate and verification form the information required by the department for the type of vehicle inspected. (V.A.C.S. Art. 6701d, Sec. 142(b) (part).)

Source Law

(b) ... Each inspection certificate and verification form, when issued, shall bear such information as required by the Department for the type of vehicle that was inspected. ... A record and report as prescribed by the Department shall be made of every inspection and every certificate so issued. ...

Revised Law

Sec. 548.254. VALIDITY OF INSPECTION CERTIFICATE. An inspection certificate is invalid after the end of the 12th month following the month in which the certificate is issued. An unused inspection certificate representing a previous inspection period may not be issued after the beginning of the next period. (V.A.C.S. Art. 6701d, Sec. 142(b) (part).)

Source Law

(b) ... The inspection certificate shall be invalid after the end of the twelfth month in which the vehicle was last inspected, approved, and the
1 certificate of inspection issued. . . . No unused certificates of inspection representing a prior inspection period shall be issued after the beginning of the next ensuing period.

Reviser's Note
(1) Section 142(b), V.A.C.S. Article 6701d, states that "[t]he inspection certificate shall be invalid after the end of the twelfth month in which the vehicle was last inspected, approved, and the certificate of inspection issued." The revised law omits the phrases "the vehicle was last inspected [and] approved" and "of inspection" as unnecessary because they are prerequisite to the issuance of the certificate.

(2) Section 142(b), V.A.C.S. Article 6701d, refers to the "next ensuing period." The revised law omits "ensuing" as unnecessary.

Revised Law
Sec. 548.255. ATTACHMENT OR PRODUCTION OF INSPECTION CERTIFICATE. (a) An inspection certificate shall be attached to or produced for a vehicle in the manner required by department rule.
(b) The department shall:
(1) require that a certificate for a motorcycle be attached to the rear of the motorcycle near the license plate; and
(2) adopt rules with respect to display of an inspection certificate for a moped. (V.A.C.S. Art. 6701d, Secs. 140(f) (part), 142(b) (part).)

Source Law
[Sec. 140] (f) . . . The Department shall promulgate rules and regulations relating to [the inspection of mopeds and the issuance and] display of inspection certificates with respect to those vehicles.
[Sec. 142] (b) . . . A certificate of inspection and approval for any vehicle shall be attached to or produced for such vehicles as the Department shall
require. The Department shall require that certificates for motorcycles be attached to the rear of the vehicle near the license plate. . . .

Revisor's Note

(1) Section 140(f), V.A.C.S. Article 6701d, refers to "rules and regulations." The reference to "regulations" is omitted from the revised law for the reason stated in Revisor's Note (2) to Section 548.101.

(2) Section 142(b), V.A.C.S. Article 6701d, refers to a "certificate of inspection and approval." The revised law omits "and approval" as unnecessary because issuance of an inspection certificate is premised on approval of the vehicle.

Revised Law

Sec. 548.256. VERIFICATION FORM REQUIRED TO REGISTER AND TITLE VEHICLE. (a) Before a vehicle may be issued a title under Section 501.030, the owner must have the vehicle inspected and have the inspection station record the following information on a verification form prescribed and provided by the department:

(1) the vehicle identification number;

(2) the number appearing on the odometer of the vehicle at the time of the inspection, if the vehicle has an odometer; and

(3) other information the department requires.

(b) An inspection station may not issue the verification form unless the vehicle complies with the inspection requirements of this chapter.

(c) An inspection certificate or receipt for an inspection certificate may not be required to register a motor vehicle, except as provided by this section or by Section 382.037, Health and Safety Code. (V.A.C.S. Art. 6701d, Secs. 140(c) (part); 142A(a), (b).)
Sec. 140. (c) ... provided, however, that at no time, except as provided in Section 142A of this Act or as may be provided under Section 382.037, Health and Safety Code, shall a certificate of inspection or a receipt for a certificate of inspection be required or demanded as a condition precedent to securing a license plate for any motor vehicle, regardless of any period or periods of inspection as may be fixed by the Department. ... This subsection does not affect the authority of the Texas Natural Resource Conservation Commission under Section 382.037, Health and Safety Code, to require a valid vehicle emissions inspection certificate as a condition of registering a vehicle under Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes).

Sec. 142A. (a) Before a vehicle may be registered and titled under Subsection (a), Section 30, Certificate of Title Act, as amended (Article 6687-1, Vernon's Texas Civil Statutes), the owner must have the vehicle inspected as required under Section 140 of this Act and in addition must have the state-appointed inspection station record the permanent identification number, the number appearing on the odometer of the motor vehicle at the time of the inspection, if the motor vehicle has an odometer, and such other information as the Department may require on a verification form prescribed and furnished by the Department.

(b) An inspection station may not issue a verification form required under Subsection (a) of this section unless the vehicle satisfies the inspection requirements under Article XV of this Act.

Revisor's Note

(1) Section 140(c), V.A.C.S. Article 6701d, refers to a "required or demanded" certificate or receipt. The revised law omits "demanded" because it is included within the meaning of "required."

(2) Section 140(c), V.A.C.S. Article 6701d, reads "except as provided in Section 142A of this Act." The revised law substitutes "except as provided by this section" because the pertinent parts of Section 142A are included in this section of the revised law.

(3) Section 140(c), V.A.C.S. Article 6701d, provides "[t]his subsection does not affect the authority of the Texas Natural Resource Conservation Commission under Section 382.037, Health and Safety
Code, to require a valid vehicle emissions inspection certificate as a condition of registering a vehicle under Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes)." The revised law omits this provision because its meaning is included within the phrase "except as provided by . . . Section 382.037, Health and Safety Code."

(4) Section 142A(a), V.A.C.S. Article 6701d, refers to "Subsection (a), Section 30, Certificate of Title Act, as amended (Article 6687-1, Vernon's Texas Civil Statutes)." That statute is codified in this code as Section 501.030, and the revised law is drafted accordingly.

(5) Section 142A(a), V.A.C.S. Article 6701d, states that "the owner must have the vehicle inspected as required under Section 140 of this Act." The revised law omits "as required under Section 140 of this Act" as unnecessary.

(6) Section 142A(a), V.A.C.S. Article 6701d, refers to a "state-appointed inspection station." The revised law omits "state-appointed" for the reason stated in Revisor's Note (2) to Section 548.005 of this code.

[Sections 548.257-548.300 reserved for expansion]

SUBCHAPTER F. MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE

Revised Law

Sec. 548.301. COMMISSION TO ESTABLISH PROGRAM. (a) The commission shall establish a motor vehicle emissions inspection and maintenance program for vehicles registered in a county for which the conservation commission has adopted a resolution requesting the department to establish such a program if:

(1) the county does not meet the national ambient air
quality standards for ozone, carbon monoxide, or another vehicle-related pollutant; or

(2) the program is required in the county by any law of the United States, including the Texas air quality state implementation plan.

(b) The commission may establish a motor vehicle emissions inspection and maintenance program for vehicles registered in a county for which the conservation commission has adopted a resolution requesting the department to establish such a program and for which the county and the municipality with the largest population in the county by resolution have formally requested a proactive air quality plan consisting of such a program.

(c) A program established under Subsection (b) may not include registration-based enforcement unless the Texas Department of Transportation includes the program in its registration enforcement system. (V.A.C.S. Art. 6701d, Secs. 142(d), (d-1).)

Source Law

(d) The Public Safety Commission shall establish a motor vehicle emissions inspection and maintenance program for vehicles registered in any county in this state for which the Texas Natural Resource Conservation Commission has adopted a resolution requesting the department to institute such a program and which satisfies one of the following conditions:

(1) the county does not meet the national ambient air quality standards for ozone, carbon monoxide, or another vehicle-related pollutant; or

(2) the vehicle emissions inspection and maintenance program is required by any provision of federal law, including any provision of the Texas air quality state implementation plan.

(d-1) The Public Safety Commission may establish a motor vehicle emissions inspection and maintenance program for vehicles registered in any county in this state for which the Texas Natural Resource Conservation Commission has adopted a resolution requesting the Department to institute such a program and for which the affected county and the most populous municipality in the county, according to the most recent federal decennial census, by resolution have formally requested a proactive air quality plan consisting of a vehicle emissions inspection and maintenance program. A program initiated under this subsection may not include registration-based enforcement unless the State Department of Highways and Public Transportation elects to include the program in its registration enforcement system.
Revisor's Note

(1) Section 142(d-l), V.A.C.S. Article 6701d, describes a population number that is to be determined according to the most recent federal census. The revised law omits the reference to the federal census as unnecessary. Section 311.005(3), Government Code (Code Construction Act), and Section 312.011(20), Government Code, define "population" as population according to the most recent federal decennial census. That definition applies to the revised law.

(2) Section 142(d-l), V.A.C.S. Article 6701d, refers to the "State Department of Highways and Public Transportation." The revised law substitutes "Texas Department of Transportation" for the reason stated in the reviser's note to Section 201.003 of this code.

Revised Law

Sec. 548.302. COMMISSION TO ADOPT STANDARDS. The commission shall adopt standards for emissions-related inspection criteria consistent with requirements of the United States and the conservation commission applicable to a county in which a program is established under Section 548.301. (V.A.C.S. Art. 6701d, Sec. 142(e).)

Source Law

(e) The Public Safety Commission shall adopt standards for emissions-related inspection criteria consistent with Texas Natural Resource Conservation Commission and federal requirements applicable to a county in which such a program, pursuant to Subsections (d) and (d-1) of this section, is established.

Revisor's Note

Section 142(e), V.A.C.S. Article 6701d, refers to "Subsections (d) and (d-1) of this section." Those provisions are codified in this code as Section 548.301, and the revised law is drafted accordingly.
Revised Law

Sec. 548.303. PROGRAM ADMINISTRATION. (a) The commission shall administer the motor vehicle emissions inspection and maintenance program under this subchapter until the date a vehicle emissions inspection program administered by the conservation commission is implemented under the Clean Air Act.

(b) The executive director of the conservation commission shall notify the commission of the date the conservation commission's program will become effective. (V.A.C.S. Art. 6701d, Sec. 142(h).)

Source Law

(h) The Public Safety Commission shall continue to administer the motor vehicle emissions inspection and maintenance program instituted under this Act until the date that a vehicle emissions inspection program administered by the Texas Natural Resource Conservation Commission is implemented in accordance with the federal Clean Air Act. The executive director of the Texas Natural Resource Conservation Commission shall notify the Public Safety Commission of the date on which the vehicle emissions inspection program administered by the Texas Natural Resource Conservation Commission will become effective.

Revised Law

Sec. 548.304. STATIONS LICENSED TO CONDUCT EMISSIONS REINSPECTIONS. (a) The conservation commission may authorize and license inspection stations as necessary to implement the emissions-related reinspection requirements of the program established under Section 548.301.

(b) At the request of the conservation commission, the department shall provide inspection certificates for distribution and issuance at centralized reinspection stations licensed by the conservation commission.

(c) Notwithstanding Section 548.053(a), if an emissions-related inspection under Section 548.301 discloses the necessity for adjustment, correction, or repair, the conservation commission may by rule require that the vehicle be reinspected at a specified inspection station authorized and licensed by the
conservation commission to ensure that the emissions-related adjustment, correction, or repair is made. (V.A.C.S. Art. 6701d, Secs. 140(b-1), 141(a-1) (part).)

Source Law

[Sec. 140]
(b-1) Notwithstanding Subsection (b) of this section, if an emissions-related inspection under Section 142(d) or (d-1) of this Act discloses the necessity for adjustments, corrections, or repairs, the Texas Natural Resource Conservation Commission by rule may require that the vehicle be reinspected at a specified inspection station authorized and licensed by the Texas Natural Resource Conservation Commission to ensure that the proper emissions-related adjustments, corrections, or repairs have been made.

[Sec. 141]
(a-1) The Texas Natural Resource Conservation Commission may authorize and license inspection stations as necessary to conduct the emissions-related reinspection requirements of the vehicle emissions inspection and maintenance program under Sections 142(d) and (d-1) of this Act. At the request of the Texas Natural Resource Conservation Commission, the Department shall provide inspection certificates for distribution and issuance at centralized reinspection stations licensed by the Texas Natural Resource Conservation Commission. . . .

Revisor's Note

(1) Section 140(b-1), V.A.C.S. Article 6701d, reads "[n]otwithstanding Subsection (b) of this section." The relevant part of Section 140(b), V.A.C.S. Article 6701d, is codified in this code as Section 548.053(a), and the revised law is drafted accordingly.

(2) Sections 140(b-1) and 141(a-1), V.A.C.S. Article 6701d, refer to "Section[s] 142(d) and (d-1) of this Act." Sections 142(d) and (d-1), V.A.C.S. Article 6701d, are codified in this code as Section 548.301, and the revised law is drafted accordingly.

(3) Section 141(a-1), V.A.C.S. Article 6701d, refers to the "vehicle emissions inspection and maintenance program under Sections 142(d) and (d-1) of this Act." The revised law omits "vehicle emissions
inspection and maintenance" because the phrase
describes the only program established under Section
142, V.A.C.S. Article 6701d.

Revised Law
Sec. 548.305. DEALER AUTHORITY REGARDING EMISSIONS-RELATED
INSPECTIONS. Unless prohibited by the United States Environmental
Protection Agency, a person who holds a dealer's general
distinguishing number issued under Chapter 503 and who is
authorized to perform emissions-related inspections may repair a
vehicle to make the vehicle comply with emissions-related
inspection requirements, reinspect the vehicle, and issue an
emissions-related inspection certificate for the vehicle if the
vehicle:
(1) is held by the person for sale, including a
vehicle on which the person has conducted an emissions-related
inspection; or
(2) is a vehicle on which the person is authorized to
perform warranty work under a manufacturer's warranty. (V.A.C.S.
Art. 6701d, Sec. 140(b-2).)

Source Law
(b-2) Notwithstanding the other provisions of
this section or other law and unless prohibited by the
United States Environmental Protection Agency, a person
who holds a dealer's general distinguishing number
issued pursuant to Article 6686, Revised Statutes, and
who is authorized to perform emissions-related
inspections may:
(1) with respect to a vehicle held by the
person for sale, including a vehicle on which the
person has conducted an emissions-related inspection,
perform the repairs necessary to bring the vehicle into
compliance with applicable emissions-related inspection
requirements, reinspect the vehicle, and issue an
emissions-related inspection certificate for that
vehicle; and
(2) perform an emissions-related
inspection on a vehicle with respect to which the
person is authorized to perform warranty work pursuant
to a manufacturer's warranty, perform the repairs
necessary to bring the vehicle into compliance with
applicable emissions-related inspection requirements,
reinspect the vehicle, and issue an emissions-related
inspection certificate for the vehicle.
Revisor's Note

(1) Section 140(b-2), V.A.C.S. Article 6701d, reads "notwithstanding the other provisions of this section or other law." The revised law omits this phrase as unnecessary because the provision effectively stands on its own as an exception to general rules regarding authority to conduct emissions-related inspections and related procedures.

(2) Section 140(b-2), V.A.C.S. Article 6701d, refers to "Article 6686, Revised Statutes." That statute is codified in this code as Chapter 503, and the revised law is drafted accordingly.

[Sections 548.306-548.400 reserved for expansion]

SUBCHAPTER G. CERTIFICATION OF INSPECTION STATION OR INSPECTOR

Revised Law

Sec. 548.401. CERTIFICATION GENERALLY. A person may perform an inspection or issue an inspection certificate only if certified to do so by the department under rules adopted by the department. (V.A.C.S. Art. 6701d, Secs. 141(a) (part), (d)(3).)

Source Law

(a) . . . The certification of persons to inspect vehicles shall be in accordance with the rules and regulations promulgated by the Department. . . .

(d) . . .

(3) No person shall perform an inspection or issue an inspection certificate without such person first having been certified to do so by the Department.

Revisor's Note

Section 141(a), V.A.C.S. Article 6701d, refers to "rules and regulations." The reference to "regulations" is omitted from the revised law for the reason stated in Revisor's Note (2) to Section 548.101.
Sec. 548.402. APPLICATION FOR CERTIFICATION AS INSPECTION STATION. (a) To operate as an inspection station, a person must apply to the department for certification. The application must:

(1) be filed with the department on a form prescribed and provided by the department; and

(2) state:

(A) the name of the applicant;

(B) if the applicant is an association, the names and addresses of the persons constituting the association;

(C) if the applicant is a corporation, the names and addresses of its principal officers;

(D) the name under which the applicant transacts or intends to transact business;

(E) the location of the applicant's place of business in the state; and

(F) other information required by the department, including information required by the department for identification.

(b) The application must be signed and sworn or affirmed by:

(1) if the applicant is an individual, the owner; or

(2) if the applicant is a corporation, an executive officer or person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of the person's authority.

(c) An applicant who has or intends to have more than one place of business in this state must file a separate application for each place of business. (V.A.C.S. Art. 6701d, Sec. 141(a) (part).)

(a) . . . Every person desiring to operate as an official inspection station shall file an application for a certificate of appointment with the Department. The application shall be made upon a form prescribed and furnished by the Department, and shall set forth the name of the applicant, the name under
which the applicant transacts or intends to transact business, the location of his place of business within the state, and such other information as the Department may require. If the applicant has or intends to have more than one place of business within the state, a separate application shall be made for each place of business.

If the applicant is an association, the application shall set forth the names and the addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof, and any other information prescribed by the Department for purposes of identification. The application shall be signed and verified by oath or affirmation by the owner, if a natural person; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of his authority.

Revisor's Note
Section 141(a), V.A.C.S. Article 6701d, refers to an "official inspection station." The word "official" is omitted from the revised law because its meaning is included in the definition provided for "inspection station" in Section 548.001 of this code.

Revised Law
Sec. 548.403. APPROVAL AND CERTIFICATION AS INSPECTION STATION. (a) The department may approve an application for certification as an inspection station only if:

(1) the location complies with department requirements; and

(2) the applicant complies with department rules.

(b) On approval of an application, the department shall issue to the applicant an inspection station certificate. The certificate is valid for each person in whose name the certificate is issued and for the transaction of business at the location designated in the certificate. A certificate is not assignable.

(c) An inspection station certificate shall be conspicuously displayed at the station for which the certificate was issued. (V.A.C.S. Art. 6701d, Sec. 141(a) (part).)
Only such locations which fulfill the Department's requirements and whose owners or proprietors comply with the Department regulations shall qualify and be appointed and issued a certificate. Upon approval of an application, the Department shall issue to the owner a certificate of appointment as an official inspection station for the place of business within the state set forth in the application.

Certificates of appointment shall not be assignable, and shall be valid for the owners in whose names issued and for the transaction of business at the place designated therein, and shall at all times be conspicuously displayed at the place for which issued.

Revisor's Note

(1) Section 141(a), V.A.C.S. Article 6701d, refers to the "Department's regulations." The revised law substitutes "rules" for "regulations" for consistency of terms and for the reason stated in Reviser's Note (2) to Section 548.101.

(2) Section 141(a), V.A.C.S. Article 6701d, refers to an "official inspection station." The word "official" is omitted from the revised law for the reason stated in the reviser's note to Section 548.402.

(3) Section 141(a), V.A.C.S. Article 6701d, states the department shall issue a certificate "for the place of business within the state set forth in the application." The revised law omits this language as unnecessary because other provisions of Section 141(a), which are codified in this code as Sections 548.402(c) and 548.403(b), specifically provide that a person must file an application for a certificate for each location and that a certificate is valid for the transaction of business at the place designated in the certificate.

Revised Law

Sec. 548.404. APPLICATION FOR CERTIFICATION AS INSPECTOR.

An application for certification as an inspector shall:
be made on a form prescribed and provided by the department; and

(2) state:

(A) the name of the applicant;
(B) the address of the applicant's residence and place of employment;
(C) the applicant's driver's license number; and
(D) other information required by the department. (V.A.C.S. Art. 6701d, Sec. 141(a) (part.).)

Source Law

(a) . . .
The application for certificate as an inspector will be made upon a form prescribed and furnished by the Department and shall set forth the name of the applicant, residence address, place of employment address, driver license number, and such other information as the Department may require. . . .

Revised Law

Sec. 548.405. CAUSE FOR DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATE. (a) The department may revoke or suspend the certificate of an inspection station or inspector if:

(1) the station or inspector conducts an inspection or issues a certificate:

(A) in violation of Section 548.004(c) or Section 548.104; or
(B) without complying with the requirements of this subchapter or of Subchapter H; or

(2) at the station, the inspector:

(A) commits an offense under Section 548.603; or
(B) falsely and fraudulently represents to a vehicle owner or operator that equipment required to be inspected must be repaired, adjusted, or replaced before the vehicle will pass inspection.

(b) The director may deny an application for certification, revoke or suspend the certificate of an inspection station or inspector, place on probation the holder of a suspended
1 certificate, or reprimand the certificate holder for any of the
2 following reasons:
3 (1) proof of unfitness of an applicant or certificate
4 holder under standards set out in this chapter or commission rules;
5 (2) material misrepresentation in an application or
6 other information filed under this chapter or commission rule;
7 (3) failure to maintain the qualifications for
8 certification;
9 (4) issuance of an inspection certificate without
10 being certified;
11 (5) issuance of an inspection certificate without
12 having made an inspection of the vehicle or without an adjustment,
13 correction, or repair having been made after an inspection
14 disclosed the necessity for the adjustment, correction, or repair;
15 (6) knowing or wilful issuance of an inspection
16 certificate for a vehicle without each required item of inspection
17 or with an item that was not in good condition and in compliance
18 with state law and commission rules;
19 (7) refusal to allow the owner of a vehicle to have a
20 required adjustment or correction made by a qualified person the
21 owner chooses;
22 (8) the charging of more than the authorized
23 inspection fee;
24 (9) an act or omission by the certificate holder or
25 the holder's agent, employee, or representative that would cause
26 denial, revocation, or suspension of a certificate to the
27 individual applicant or certificate holder; or
28 (10) wilful failure to comply with this chapter or a
29 rule adopted under this chapter. (V.A.C.S. Art. 6701d, Secs.
30 141(f) (part), (g) (part).)

Source Law

(f) The Director may deny an application for a
license, revoke or suspend an outstanding certificate
of any inspection station or the certificate of any
person to inspect vehicles, place on probation the
holder of the certificate that has been suspended, or
reprimand the holder of a certificate, in addition to action taken under Subsection (g) of this section, for any of the following reasons:

(1) issuing a certificate without required adjustments, corrections, or repairs having been made when an inspection disclosed the necessity for those adjustments, corrections, or repairs;

(2) refusing to allow the owner of the vehicle to have required corrections or adjustments made by any qualified person he may choose;

(3) issuing an inspection certificate without having made an inspection of the vehicle;

(4) knowingly or wilfully issuing an inspection certificate for a vehicle without the required items of inspection or with items which were not at the time of issuance in good condition and in conformity with the laws of this state or in compliance with rules of the Commission;

(5) charging more than the required inspection fee;

(6) issuing an inspection certificate without being certified to do so by the Department;

(7) proof of unfitness of applicant or licensee under standards set out in this Act or in Commission rules;

(8) material misrepresentation in any application or any other information filed under this Act or Commission rules;

(9) wilful failure to comply with this Act or any rule promulgated by the Commission under the provisions of this Act;

(10) failure to maintain the qualifications for a license; or

(11) any act or omission by the licensee, his agent, servant, employee, or person acting in a representative capacity for the licensee which act or omission would be cause to deny, revoke, or suspend a license to an individual licensee. . . .

(g) [No person who performs an inspection at a state-appointed inspection station may fraudulently represent to an applicant that a mechanism or item of equipment required to be inspected must be repaired, adjusted, or replaced before the vehicle will pass inspection when that is not the case.] The Department may cancel or suspend the certificate of appointment of any state-appointed inspection station or the certificate of the person performing the inspection if it finds, after notice and hearing, that a violation of this Section occurred at the inspection station.

Revisor's Note

(1) Sections 141(f) and (g), V.A.C.S. Article 6701d, refer to "the certificate of any person to inspect vehicles" and "the certificate of the person performing the inspection." The revised law substitutes "the certificate of an . . . inspector" to conform with the definition of "Inspector" in Section 548.001 of this code.
(2) Section 141(g), V.A.C.S. Article 6701d, provides "[t]he Department may cancel or suspend the certificate." The revised law replaces "cancel" with "revoke" for consistency of terms within related provisions.

(3) Section 141(g), V.A.C.S. Article 6701d, refers to a "state-appointed inspection station." The revised law omits "state-appointed" for the reason stated in Revisor's Note (2) to Section 548.005 of this code.

(4) Section 141(g), V.A.C.S. Article 6701d, authorizes revocation or suspension of a certificate if the department "finds, after notice and hearing," that a violation of the section occurred. This language is omitted from the revised law as duplicative because Chapter 2001, Government Code (Administrative Procedure Act), prescribes the procedures to be used by a state agency in revoking a license and specifically provides for notice, hearing, and agency determination.

(5) Section 141(g), V.A.C.S. Article 6701d, authorizes the revocation or suspension of a certificate for "a violation of this Section." The section that is the subject of the reference is codified in several different sections of this code. The revised law replaces the quoted phrase with language describing conduct for which revocation or suspension of a certificate is authorized and, if necessary, makes a specific reference to the relevant code section.

(6) Section 141(f), V.A.C.S. Article 6701d, refers to an "application for a license" and a "licensee." The revised law substitutes "application for certification" and "certificate holder" for consistency of terms within related provisions.
Section 141(f), V.A.C.S. Article 6701d, reads "in addition to action taken under Subsection (g) of this section." The revised law omits this phrase because an accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict. The general principle applies to this revision.

Revised Law

Sec. 548.406. CERTIFICATE HOLDER ON PROBATION MAY BE REQUIRED TO REPORT. The director may require the holder of a suspended certificate who is placed on probation to report regularly to the department on a matter that is the basis of the probation. (V.A.C.S. Art. 6701d, Sec. 141(f) (part).)

Source Law

(f) ... If the holder of a suspended certificate is placed on probation, the Director may require the holder of the certificate to report regularly to the Department on matters that are the basis of the probation.

Revised Law

Sec. 548.407. HEARING BEFORE DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATE. (a) Not earlier than the 31st day before the date an application for certification as an inspection station or inspector is denied or a certificate is revoked or suspended, the director shall notify the person, in writing, in person, or by certified mail to the last address given to the department by the person, of:

(1) the impending denial, revocation, or suspension;

(2) each reason for the action; and

(3) the right to an administrative hearing to determine whether the evidence warrants the action.

(b) To obtain an administrative hearing, a person must submit a written request for a hearing to the director not later
than the 20th day after the date notice is given in person or is deposited in the United States mail as provided by Subsection (a).

(c) If the director receives a timely request, the director shall provide the person with an opportunity for a hearing as soon as practicable. If the director does not receive a timely request, the director may act without a hearing.

(d) The hearing must be held not earlier than the 11th day after the date written notice of the hearing, including a copy of the charges, is given to the person by personal service or by certified mail to the last address given to the department by the person.

(e) The director or a person designated by the director shall conduct the hearing and may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, or documents. If the hearing is conducted by a person designated by the director, the director may take action under this section on a recommendation of the designated person.

(f) On the basis of the evidence submitted at the hearing, the director may deny the application or revoke or suspend the certificate. (V.A.C.S. Art. 6701d, Sec. 141(f) (part).)

Source Law

(f) . . .

When there is cause to deny an application for a certificate of any inspection station or the certificate of any person to inspect vehicles or revoke or suspend the outstanding certificate, the Director shall, in less than thirty (30) days before refusal, suspension, or revocation action is taken, notify the person, in writing, in person, or by certified mail at the last address supplied to the Department by the person, of the impending refusal, suspension, or revocation, the reasons for taking that action, and of his right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension, or revocation action proposed to be taken by the Director. If, within twenty (20) days after the personal notice of the notice is sent or notice has been deposited in the United States mail, the person has not made a written request to the Director for this administrative hearing, the Director, without a hearing, may suspend or revoke or refuse to issue any certificate. On receipt by the Director of a written request of the person within the twenty-day (20-day) period, an
opportunity for an administrative hearing shall be afforded as early as is practicable. In no case shall the hearing be held less than ten (10) days after written notification, including a copy of the charges, is given the person by personal service or by certified mail sent to the last address supplied to the Department by the applicant or certificate holder. The administrative hearing in these cases shall be before the Director or his designee. The Director or his designee shall conduct the administrative hearing and may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, or documents. On the basis of the evidence submitted at the hearing, the Director acting for himself or upon the recommendation of his designee may refuse the application or suspend or revoke the certificate.

Revisor's Note
(1) Section 141(f), V.A.C.S. Article 6701d, refers to a "person to inspect vehicles." The revised law substitutes "inspector" for the reason stated in Revisor's Note (1) to Section 548.405 of this code.
(2) The revised law substitutes "denial" and "deny" for "refusal" and "refuse," respectively, for consistency of terms within related provisions.

Revised Law
Sec. 548.408. JUDICIAL REVIEW OF ADMINISTRATIVE ACTION. (a) A person dissatisfied with the action of the director may appeal the action, without filing a motion for rehearing, by filing a petition in district court in the county where the person resides or in Travis County. The petition must be filed not later than the 30th day after the date the action is taken.
(b) The district or county attorney or the attorney general shall represent the director in the appeal.
(c) The court in which the appeal is filed shall:
(1) set the matter for hearing after 10 days' written notice to the director and the attorney representing the director; and
(2) determine whether an action of the director shall be suspended pending hearing and enter an order for the suspension.
(d) The court order takes effect when served on the
(e) The director shall provide a copy of the petition and court order to the attorney representing the director. (V.A.C.S. Art. 6701d, Sec. 141(f) (part).)

Source Law

(f) ... Any person dissatisfied with the action of the Director, without filing a motion for rehearing, may appeal the action of the Director by filing a petition within thirty (30) days after the action is taken in a district court in the county where the person resides or in a district court of Travis County, and the court is vested with jurisdiction, and it shall be the duty of the court to set the matter for hearing upon ten (10) days written notice to the Director and the attorney representing the Director. The court in which the petition of appeal is filed shall determine whether any action of the Director shall be suspended pending hearing and enter its order accordingly, which shall be operative when served upon the Director, and the Director shall provide the attorney representing the Director with a copy of the petition and order. The Director shall be represented in these appeals by the district or county attorney of the county, or the attorney general, or any of their assistants.

Revisor's Note

(1) Section 141(f), V.A.C.S. Article 6701d, states that "the court is vested with jurisdiction." The revised law omits the quoted language as unnecessary because the general laws of civil jurisdiction determine which courts have jurisdiction over a matter. For example, see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.

(2) Section 141(f), V.A.C.S. Article 6701d, refers to the district or county attorney "of the county." The quoted language is omitted from the revised law as unnecessary.

[Sections 548.409-548.500 reserved for expansion]
SUBCHAPTER H. INSPECTION AND CERTIFICATION FEES

Revised Law

Sec. 548.501. INSPECTION FEES GENERALLY. (a) Except as provided by Sections 548.503 and 548.504, the fee for inspection of a motor vehicle other than a moped is $10.50. The fee for inspection of a moped is $5.75. The fee for a verification form issued as required by Section 548.256 is $1.

(b) An inspection station shall pay to the department $5.50 of each fee for an inspection. The department may require the station to make an advance payment of $5.50 for each inspection certificate provided to the station. If advance payment is made:

(1) no further payment may be required on issuance of a certificate;

(2) the inspection station may waive the fee due from the owner of an inspected vehicle who is issued a certificate to which the advance payment applies;

(3) the department shall refund to the inspection station $5.50 for each unissued certificate that the station returns to the department in accordance with department rules; and

(4) the conservation commission shall pay to the department $2 for each unissued certificate that the station returns to the department. (V.A.C.S. Art. 6701d, Secs. 141(c), 142A(c)).

Source Law

[Sec. 141]

(c) The fee for compulsory inspection of a motor vehicle other than a moped, to be made under this Section, shall be Ten Dollars and Fifty Cents ($10.50). The fee for compulsory inspection of a moped, to be made under this Section, shall be Five Dollars and Seventy-five Cents ($5.75). Five Dollars and Fifty Cents ($5.50) of each fee shall be paid to the Department and shall, except as provided by Section 382.0622, Health and Safety Code, be deposited in the Motor Vehicle Inspection Fund for the purpose of paying the expense of the administration of this law, after the deduction of Two Dollars and Twenty-five Cents ($2.25) of each fee, which shall be deposited by the Department in the general revenue fund. The Department may require each official inspection station to make an advance payment of Five Dollars and Fifty Cents ($5.50) for each inspection certificate furnished to it. No
further payment to the Department shall be required upon issuance of the certificate. If such advance payment has been made, the Department shall refund to the inspection station the amount of Five Dollars and Fifty Cents ($5.50) for each unissued certificate which the inspection station returns to the Department in accordance with rules and regulations promulgated by the Department. The Texas Natural Resource Conservation Commission shall refund to the Department Two Dollars ($2.00) for each unused certificate returned to the Department by inspection stations licensed by the Department. An inspection station may waive the fee otherwise due from the owner of a vehicle inspected under this Section if the inspection station has rendered in advance to the Department the payment of Five Dollars and Fifty Cents ($5.50) for the certificate applied to a vehicle with respect to which the owner's fee has been so waived.

[Sec. 142A]
(c) The fee for issuance of an inspection certificate and advance payment to the Department for certificates issued under this section shall be as provided under Subsection (c), Section 141 of this Act and shall be placed in the Motor Vehicle Inspection Fund and used for the purposes prescribed by law. The inspection station shall charge in addition to the fee for compulsory inspection as provided by Subsection (c), Section 141 of this Act a fee of One Dollar ($1) for each verification form issued as required by this section.

Revisor's Note

(1) Section 141(c), V.A.C.S. Article 6701d, refers to "rules and regulations promulgated by the department." The revised law substitutes "department rules" and the reference to "regulations" is omitted from the revised law for the reason stated in Revisor's Note (2) to Section 548.101.

(2) Section 141(c), V.A.C.S. Article 6701d, states that the conservation commission shall refund $2 to the department "for each unused certificate returned to the Department by inspection stations licensed by the Department." The revised law substitutes "unissued" for "unused" for consistency of terms within related provisions. The reference to "licensed by the Department" is omitted because its meaning is included in the definition provided for "inspection station" in Section 548.001 of this code.
(3) Section 141(c), V.A.C.S. Article 6701d, requires the department to deposit a certain amount of the inspection fee in the general revenue fund. The revised law omits the reference to the general revenue fund because Section 404.094, Government Code, requires all money received by a state agency, including this fee, to be deposited to the credit of the general revenue fund.

(4) Section 141(c), V.A.C.S. Article 6701d, requires a portion of each inspection fee paid to the department to be deposited "in the Motor Vehicle Inspection Fund for the purpose of paying the expense of the administration of this law." Section 142A(c), V.A.C.S. Article 6701d, provides that certain fees paid under that section to the Department of Public Safety are to be placed "in the Motor Vehicle Inspection Fund and used for the purposes prescribed by law." The revised law omits the references to the motor vehicle inspection fund because the comptroller of public accounts, acting under authority of Section 403.094(a), Government Code, abolished the motor vehicle inspection fund, effective August 31, 1993. The revised law also omits the references to the dedication of the money deposited in the fund. Section 403.094(h), Government Code, provides that all statutory dedications of revenue enacted before August 31, 1995, are void unless reenacted after September 1, 1991. The dedication in Section 141(c), V.A.C.S. Article 6701d, was enacted in 1979 and was not reenacted after September 1, 1991; the dedication in Section 142A(c) of that article was enacted in 1979 and was not reenacted after September 1, 1991. The revised law is drafted accordingly.
Sec. 548.502. INSPECTION BY POLITICAL SUBDIVISION OR STATE AGENCY. A political subdivision or state agency for which the department certifies an inspection station under Section 548.004:

(1) shall pay to the department an advance payment of $5.50 for each inspection certificate provided to it; and

(2) may not be required to pay the compulsory inspection fee. (V.A.C.S. Art. 6701d, Sec. 141(e) (part).)

Source Law

(e) . . . The political subdivisions and agencies may not be required to pay the compulsory inspection fee but shall pay to the Department an advance payment such as provided for in Subsection (c) of this section for each inspection certificate issued to it. The funds received by the Department shall be placed in the Motor Vehicle Inspection Fund and used for the purposes prescribed by law. . . .

Revisor's Note

(1) Section 141(e), V.A.C.S. Article 6701d, refers to "the political subdivisions and agencies." The revised law refers to "a political subdivision or state agency for which the department certifies an inspection station under Section 548.004" for clarification because the revised law divides Section 141(e), V.A.C.S. Article 6701d, into Section 548.004 of this code and this section.

(2) Section 141(e), V.A.C.S. Article 6701d, requires the department to deposit an advance payment in the motor vehicle inspection fund for use as prescribed by law. The revised law omits this requirement for the reason stated in Revisor's Note (4) to Section 548.501 of this code.

Revised Law

Sec. 548.503. INITIAL TWO-YEAR INSPECTION OF PASSENGER CAR OR LIGHT TRUCK. (a) The fee for inspection of a passenger car or light truck under Section 548.102 is $19.75.
(b) The department shall require an inspection station to make an advance payment of $14.75 for a certificate to be issued under this section. Additional payment may not be required of the station for the certificate. The inspection station may waive the fee due from the owner of the vehicle inspected. A refund for an unissued certificate shall be made in the same manner as provided for other certificate refunds. (V.A.C.S. Art. 6701d, Sec. 141(c-1) (part).)

Source Law

(c-1) [Notwithstanding . . . ] Subsection (c) of this Section . . . . The fee for compulsory inspection under this subsection is Nineteen Dollars and Seventy-Five Cents ($19.75). The Department shall require each official inspection station to make an advance payment of Fourteen Dollars and Seventy-Five Cents ($14.75) for a certificate to be issued under this subsection. The Department shall remit to the comptroller Three Dollars and Seventy-Five Cents ($3.75) of each fee for deposit to the credit of the undedicated portion of the General Revenue Fund, Four Dollars ($4.00) of each fee for deposit to the credit of an account in the General Revenue Fund to be used only for the air quality program of the Texas Natural Resource Conservation Commission, and the remainder of each fee for deposit to the credit of the Motor Vehicle Inspection Fund. No further payment may be required of a station for a certificate under this subsection. Refunds for unissued certificates shall be made in the same manner as provided for other certificate refunds. . . . An inspection station may waive the fee otherwise due from the owner of a vehicle inspected under this subsection.

Revisor's Note

(1) Section 141(c-1), V.A.C.S. Article 6701d, reads "Notwithstanding . . . Subsection (c) of this section. The revised law omits this phrase as unnecessary. Subsection (c) of Section 141 provides the generally required fee for compulsory inspection but does not conflict with a special fee for compulsory inspection of a particular vehicle.

(2) Section 141(c-1), V.A.C.S. Article 6701d, provides the fee for "compulsory inspection under this subsection." The word "compulsory" is omitted from the revised law as unnecessary. The reference to "this
subsection" is replaced with a reference to Section 548.102 to reflect where the provision is codified in this code.

(3) Section 141(c-1), V.A.C.S. Article 6701d, requires the department to deposit a certain amount of the inspection fee in the general revenue fund, with part of this amount to be used for an air quality program, and the remainder in the motor vehicle inspection fund. The revised law omits these provisions for the reasons stated in Revisor's Notes (3) and (4) to Section 548.501 of this code.

Revised Law

Sec. 548.504. INSPECTION OF COMMERCIAL MOTOR VEHICLE. (a) The fee for inspection of a commercial motor vehicle under the program established under Section 548.201 is $50.

(b) The inspection station shall pay to the department $10 of each fee for inspection of a commercial motor vehicle. The department may require the station to make an advance payment of $10 for a certificate to be issued under this section. If advance payment is made:

(1) no additional payment may be required of the station for the certificate; and

(2) a refund for an unissued certificate shall be made in the same manner as provided for other certificate refunds.

(V.A.C.S. Art. 6701d, Secs. 140A(e) (part), (f).)

Source Law

(e) . . . The fee for compulsory inspection of a commercial motor vehicle under the program established under this section is $50. Of each fee, $10 shall be paid to the department and shall, after the deduction of $2.50 of each fee, which shall be deposited by the department in the general revenue fund, be deposited in the motor vehicle inspection fund for the purpose of paying the expense of administration of this law.

(f) The department may require each official inspection station to make an advance payment of $10 for each certificate to be issued under this section, and the money so received shall, after the deduction of $2.50 of each fee, which shall be deposited by the
department in the general revenue fund, be deposited in
the motor vehicle inspection fund. No further payment
may be required of a station for a certificate under
this section. Refunds for unissued certificates shall
be made in the same manner as provided for other
certificate refunds.

Reviser's Note
(1) Section 140A(e), V.A.C.S. Article 6701d,
refers to the program "established under this section."
The relevant provision of Section 140A has been
codified in this code as Section 548.201, and the
revised law is drafted accordingly.

(2) Section 140A(e), V.A.C.S. Article 6701d,
requires the department to deposit a certain amount of
the inspection fee in the general revenue fund and the
remainder in the motor vehicle inspection fund to be
used to administer this chapter. The revised law omits
the reference to the general revenue fund for the
reason stated in Reviser's Note (3) to Section 548.501
of this code. The reference to the motor vehicle
inspection fund is omitted for the reason stated in
Reviser's Note (4) to Section 548.501 of this code. In
addition, the reference to the dedication of money
deposited in the motor vehicle inspection fund is
omitted. Section 403.094(h), Government Code, provides
that all statutory dedications of revenue enacted
before August 31, 1995, are void unless reenacted after
September 1, 1991. The dedication in Section 140A(e),
V.A.C.S. Article 6701d, was enacted in 1993 and was not
reenacted after September 1, 1991. The revised law is
drafted accordingly.

(3) Section 140A(f), V.A.C.S. Article 6701d,
requires the department to deposit a certain portion of
money received in the form of an advance payment in the
general revenue fund and the remainder in the motor
vehicle inspection fund. The reference to the general
revenue fund is omitted for the reason stated in
Reviser's Note (3) to Section 548.501 of this code.
The reference to the motor vehicle inspection fund is
omitted for the reason stated in Reviser's Note (4) to
Section 548.501 of this code.

Revised Law
Sec. 548.505. EMISSIONS-RELATED INSPECTION. (a) The
commission may by rule establish an inspection fee in addition to
the fee provided by Section 548.501 or 548.503 for a vehicle
inspected under Section 548.301(a).
(b) The additional fee may not exceed:
(1) $5 if only a parameter program is established; or
(2) $10 if a program other than the parameter program
is established under requirements of the United States.
(c) If an inspection under Section 548.501 or Section
548.503 is not performed when an inspection is performed under
Section 548.301(a), the only fee due is the fee authorized by this
section.
(d) The conservation commission shall:
(1) pay to the department an amount equal to the cost
of producing certificates provided to centralized reinspection
stations under Section 548.304;
(2) establish a reinspection fee; and
(3) implement procedures governing the tracking of
certificates and the refunding of the cost of unissued certificates
provided to reinspection stations. (V.A.C.S. Art. 6701d, Secs.
141(a-1) (part), 142(g).)

Source Law
[Sec. 141]
(a-1) The Texas Natural Resource
Conservation Commission shall pay to the Department an
amount equal to the cost of producing the certificates.
The Texas Natural Resource Conservation Commission
shall establish a reinspection fee and shall implement
procedures governing tracking of certificates and
refunding the cost of unused certificates issued to
reinspection facilities.
(g) The Public Safety Commission may establish by rule an inspection fee in addition to the fee for compulsory inspection as provided by Subsection (c) or (c-1) of Section 141 of this Act for those vehicles inspected pursuant to Subsection (d) of this section. The additional fee shall not exceed $5 if only a parameter program is established and may not exceed $10 if a program other than the parameter program is established under federal requirements. If a compulsory inspection under Subsection (c) or (c-1) of Section 141 of this Act is not performed at the time an inspection is performed under the program authorized by Subsection (d) of this section, the only fee payable at that time is the fee established pursuant to this subsection.

Revisor's Note

(1) Section 141(a-1), V.A.C.S. Article 6701d, provides that the conservation commission shall pay "an amount equal to the cost of producing the certificates." The revised law substitutes "an amount equal to the cost of producing certificates provided to centralized reinspection stations under Section 548.304" for clarification because the revised law divides Section 141(a-1) into Section 548.304 of this code and this section.

(2) Section 141(a-1), V.A.C.S. Article 6701d, reads "certificates issued to reinspection facilities." The revised law substitutes "provided" for "issued" and "stations" for "facilities" for consistency of terms within related provisions.

(3) Section 142(g), V.A.C.S. Article 6701d, reads "in addition to the fee for compulsory inspection as provided by Subsection (c) or (c-1) of Section 141 of this Act." The reference to compulsory inspection is omitted from the revised law because that is the only fee provided by the named subsections.

(4) Section 142(g), V.A.C.S. Article 6701d, refers to "Subsection (c) or (c-1) of Section 141 of this Act." Those provisions are codified in this code as Sections 548.501 and 548.503, respectively, and the
revised law is drafted accordingly.

(5) Section 142(g), V.A.C.S. Article 6701d, refers to "Subsection (d) of this section." That subsection is codified in this code as Section 548.301(a), and the revised law is drafted accordingly.

Revised Law

Sec. 548.506. FEE FOR CERTIFICATION AS INSPECTOR. An applicant for certification as an inspector must submit with the applicant's first application a fee of $10 for certification until August 31 of the even-numbered year following the date of certification. To be certified after August 31 of that year, the applicant must pay $10 as a certificate fee for each subsequent two-year period. (V.A.C.S. Art. 6701d, Sec. 141(a) (part).)

Source Law

(a) ... An applicant for appointment as an inspector shall submit with his first application a certificate fee of Ten Dollars ($10). An individual's first appointment as an inspector is effective until August 31 of the even-numbered year following the date of appointment. Thereafter, appointments as inspectors shall be made for two-year periods, and the certificate fee for each two-year period shall be Ten Dollars ($10). ...

Revised Law

Sec. 548.507. FEE FOR CERTIFICATION AS INSPECTION STATION. When an applicant for certification as an inspection station is notified that the application will be approved, the applicant shall pay a fee of $30 for certification until August 31 of the odd-numbered year after the date of appointment. To be certified after August 31 of that year, the applicant must pay a fee of $30 for certification for each subsequent two-year period. (V.A.C.S. Art. 6701d, Sec. 141(a) (part).)

Source Law

(a) ... Upon being advised that an application will be approved, an applicant for an appointment as an inspection station shall pay a fee of Thirty Dollars ($30) which shall constitute the certificate fee until
August 31 of the odd-numbered year following the date of appointment. Thereafter, appointments of stations shall be made for two-year periods and the certificate fee for each such period shall be Thirty Dollars ($30). All certificate fees shall be placed in a fund in the State Treasury to be known as the Motor Vehicle Inspection Fund and shall be used by the Department in the administration of this Act.

Revisor's Note

Section 141(a), V.A.C.S. Article 6701d, requires the department to deposit the certificate fee in the motor vehicle inspection fund to be used to administer this chapter. The revised law omits the reference to the fund for the reason stated in Revisor's Note (4) to Section 548.501 of this code. In addition, the reference to the dedication of money deposited in the motor vehicle inspection fund is omitted. Section 403.094(h), Government Code, provides that all statutory dedications of revenue enacted before August 31, 1995, are void unless reenacted after September 1, 1991. The dedication in Section 141(a), V.A.C.S. Article 6701d, was enacted in 1953 and was not reenacted after September 1, 1991. The revised law is drafted accordingly.

[Sections 548.508-548.600 reserved for expansion]

SUBCHAPTER I. VIOLATIONS AND OFFENSES

Revised Law

Sec. 548.601. OFFENSE GENERALLY. (a) A person who operates a motor vehicle in violation of this chapter or a rule adopted under this chapter commits an offense that is a misdemeanor.

(b) This section does not apply to operation of a vehicle that is:

(1) licensed in another state; and

(2) being temporarily and legally operated under a reciprocity agreement. (V.A.C.S. Art. 6701d, Sec. 140(g) (part).)
(g) Any person operating a motor vehicle on the highways of this State, other than a vehicle licensed in another State and being temporarily and legally operated under a valid reciprocity agreement, in violation of the provisions of this Act or any rule adopted under this Act or without displaying a valid inspection certificate or having equipment which does not comply with the provisions of Article XIV of this Act is guilty of a misdemeanor and on conviction shall be punished as provided in Section 143 of this Act. . . .

Revisor's Note

(1) Section 140(g), V.A.C.S. Article 6701d, refers to a person who operates a vehicle "on the highways of this State." The revised law omits the quoted phrase for the reasons stated in Reviser's Note (1) to Section 548.001 of this code.

(2) Section 140(g), V.A.C.S. Article 6701d, provides that it is a misdemeanor to operate a motor vehicle on a highway "without displaying a valid inspection certificate." The quoted phrase is omitted from the revised law as duplicative of Section 548.602 of this code.

(3) Section 140(g), V.A.C.S. Article 6701d, provides that it is a misdemeanor to operate a motor vehicle on a highway with "equipment which does not comply with the provisions of Article XIV of this Act." This phrase is omitted from the revised law as duplicative of Section 547.004.

(4) Section 140(g), V.A.C.S. Article 6701d, provides that a person violating that section "on conviction shall be punished as provided in Section 143 of this Act." This phrase is omitted from the revised law because Section 143(b), V.A.C.S. Article 6701d, revised in this code as Section 542.401, prescribes the penalty for a conviction under this subtitle.
Sec. 548.602. FAILURE TO DISPLAY INSPECTION CERTIFICATE.

(a) After the fifth day after the date of expiration of the period designated for inspection, a person may not operate:

(1) a motor vehicle registered in this state unless an inspection certificate is displayed on the vehicle; or

(2) a commercial motor vehicle registered in this state unless it is equipped as required by federal motor carrier safety regulations and displays an inspection certificate issued under the program established under Section 548.201.

(b) A peace officer who exhibits a badge or other sign of authority may stop a vehicle not displaying an inspection certificate on the windshield and require the owner or operator to produce an inspection certificate for the vehicle.

(c) It is a defense to prosecution under Subsection (a)(1) that an inspection certificate for the vehicle is in effect at the time of the arrest. (V.A.C.S. Art. 6701d, Secs. 140(e), 140A(c).)

Source Law

[Sec. 140]

(e) After the fifth (5th) day following the expiration of the period designated for the inspection, no person shall operate on the highways of this State any motor vehicle registered in this State unless a valid certificate of inspection is displayed thereon as required by this Section. Any peace officer who shall exhibit his badge or other signs of authority may stop any vehicle not displaying this inspection certificate on the windshield and require the owner or operator to produce an official inspection certificate for the Vehicle being operated. It is a defense to a prosecution under this section that a valid inspection certificate for the vehicle is in effect at the time of the arrest.

[Sec. 140A]

(c) After the fifth day following the expiration of the period designated for the inspection, a person may not operate a commercial motor vehicle registered in this state unless it is equipped as required by the federal safety regulations and displays a valid certificate of inspection issued under the program established under this section.

Revisor's Note

(1) Section 140(e), Article 6701d, refers to a
person who operates a vehicle "on the highways of this State." The quoted phrase is omitted from the revised law for the reason stated in Revisor's Note (1) to Section 548.001 of this code.

(2) Sections 140(e) and 140A(c), V.A.C.S. Article 6701d, refer to a valid certificate. The revised law omits "valid" as unnecessary because the word does not add to the clear meaning of the law. For example, a document purporting to be a certificate is no longer a certificate if it is expired and is not a certificate if it is a forgery.

(3) Section 140(e), V.A.C.S. Article 6701d, refers to prosecution "under this section." The revised law substitutes "under Subsection (a)(1)" to reflect where the provision is codified in this code.

(4) Section 140A(c), V.A.C.S. Article 6701d, refers to the program established "under this section." The revised law substitutes "under Section 548.201" to reflect where the provision is codified in this code.

Revised Law

Sec. 548.603. DISPLAY OF FICTITIOUS INSPECTION CERTIFICATE.

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

(1) displays or causes or permits to be displayed an inspection certificate knowing it to be fictitious, issued for another vehicle, or issued without the required inspection having been made; or

(2) transfers an inspection certificate from a windshield or location to another windshield or location.

(b) The owner of a vehicle commits an offense if the vehicle:

(1) is operated or parked on a public highway; and

(2) displays an inspection certificate in violation of Subsection (a).
1 (c) Except as provided by Subsection (d), an offense under
2 Subsection (a) is a misdemeanor punishable by a fine of not less
3 than $100 or more than $200.
4
5 (d) An offense under Subsection (a) is a Class B misdemeanor
6 if:
7
8 (1) the certificate is a motor vehicle emissions
9 inspection certificate; and
10
11 (2) the owner of the vehicle knows the certificate is
12 in violation of Subsection (a).
13
14 (e) A motor vehicle on which is displayed a vehicle
15 emissions inspection certificate in violation of Subsection (a) and
16 that is operated or parked on a public roadway may be impounded by
17 a peace officer or other authorized employee of this state or a
18 political subdivision of this state in which the vehicle is
19 operated or parked. (V.A.C.S. Art. 6701d, Secs. 141(d)(1) (part),
20 (2), (5).)
21
22 Source Law
23
24 (d)(1) . . . No person shall knowingly use an
25 imitation or counterfeit of an official inspection
26 certificate. . . .
27
28 (2) No person shall display or cause or
29 permit to be displayed any inspection certificate
30 knowing the same to be fictitious or issued for another
31 vehicle or issued without the required inspection
32 having been made. No person may transfer an inspection
33 certificate from one windshield or location to another
34 windshield or location.
35
36 (5)(A) The owner of a motor vehicle on
37 which is displayed an inspection certificate in
38 violation of Subdivision (2) of this subsection commits
39 an offense if the vehicle is operated or parked on a
40 public highway.
41
42 (B) Except as provided by Paragraph
43 (C) of this subdivision, an offense under this
44 subdivision is punishable by a fine of not less than
45 $100 or more than $200.
46
47 (C) An offense under this
48 subdivision is a Class B misdemeanor if the inspection
49 certificate is a vehicle emissions inspection
50 certificate and the certificate that the owner knows is
51 prohibited by Subdivision (2) of this subsection.
52
53 (D) A motor vehicle on which is
54 displayed a vehicle emissions inspection certificate in
55 violation of Subdivision (2) of this subsection and
56 that is operated or parked on a public roadway may be
57 impounded by a peace officer or other authorized
58 employee of the state or the political subdivision of
59 the state in which the vehicle is parked or operated.
Revisor's Note

Section 141(d)(1), V.A.C.S. Article 6701d, reads "[n]o person shall knowingly use an imitation or counterfeit of an official inspection certificate." This language is omitted from the revised law because its meaning is included within the meaning of the revised law provision that "a person commits an offense if the person . . . displays or causes or permits to be displayed an inspection certificate knowing it to be fictitious."

Revised Law

Sec. 548.604. PENALTY FOR CERTAIN VIOLATIONS. (a) A person commits an offense if the person operates or moves a motor vehicle, trailer, semitrailer, pole trailer, or mobile home, or a combination of those vehicles, that is:

(1) equipped in violation of this chapter or a rule adopted under this chapter; or

(2) in a mechanical condition that endangers a person, including the operator or an occupant, or property.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed $200. (V.A.C.S. Art. 6701d, Sec. 141(d)(4).)

Source Law

(4) A person who drives or moves on any highway any motor vehicle, trailer, semitrailer, pole trailer, mobile home, or combination thereof with any mechanism or equipment that is in violation of this Act or any rule adopted under this Act or is in such mechanical condition as to endanger the driver or other occupant or any person or property shall upon conviction be punished by a fine not exceeding Two Hundred Dollars ($200).

Revisor's Note

(1) Section 141(d)(4), V.A.C.S. Article 6701d, describes a person who "drives or moves" a vehicle. The revised law substitutes "operates" for "drives"
for consistency of terms within related provisions.

(2) Section 141(d)(4), V.A.C.S. Article 6701d, refers to a person who moves a vehicle "on any highway." The reference to a highway is omitted from the revised law for the reason stated in Reviser's Note (1) to Section 548.001 of this code.

Revised Law

Sec. 548.605. DISMISSAL OF CHARGE; ADMINISTRATIVE FEE. The court may:

(1) dismiss a charge of driving with an expired inspection certificate if the defendant remedies the defect within 10 working days; and

(2) assess an administrative fee not to exceed $10 when the charge of driving with an expired inspection certificate has been remedied. (V.A.C.S. Art. 6701d, Sec. 140(g) (part).)

Source Law

(g) . . . A judge, at his discretion, may dismiss the charge of driving with an expired vehicle inspection certificate if the defendant remedies this defect within 10 working days. Additionally, the judge, at his discretion, may assess an administrative fee not to exceed $10 when the charge of driving with an expired vehicle inspection certificate has been remedied.

Reviser's Note

Section 140(g), V.A.C.S. Article 6701d, refers to a "vehicle inspection certificate." The word "vehicle" is omitted from the revised law as unnecessary.

Reviser's Note
(End of Chapter)

(1) The revised law omits as unnecessary Section 141(b), V.A.C.S. Article 6701d, because it is duplicative of other provisions in this subtitle. For example, Section 542.301 of this code provides that a person commits an offense if the person violates this subtitle; Section 548.601 of this code provides that a
person commits an offense if the person operates a
motor vehicle in violation of this chapter or a rule
adopted under this chapter; and Section 548.104 of this
code prohibits an inspection station or inspector from
requiring a vehicle owner to have a vehicle part or
equipment not designated in Section 548.051 of this
code inspected as a prerequisite to issuance of an
inspection certificate. The omitted provision reads:

(b) Any owner of an official
inspection station who by himself, agent,
servant, or employee, violates any
provision of Section 140, 141, 142, or 142A
of this Act or any rule adopted under
Section 140A or Article XV of this Act, or
requires the repair of any mechanism or
equipment other than that set forth in the
uniform standards of safety items to be
inspected as established, commits an
offense.

(2) The revised law omits as unnecessary
Sections 142(c)(2) and (3), V.A.C.S. Article 6701d,
because those provisions are executed. The omitted
provisions read:

(2) The director shall
discontinue the use of supervisory
commissioned peace officers to administer
the motor vehicle inspection and
maintenance program established by this
article not later than September 1, 1995.

(3) The Department shall
reduce by September 1 of each year the
number of commissioned peace officers
assigned to administer the motor vehicle
inspection and maintenance program so that
by September 1, 1995, no more than 25
commissioned officers will be assigned to
the program.

CHAPTER 549. MOTOR CARRIER SAFETY STANDARDS

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CHAPTER 549. MOTOR CARRIER SAFETY STANDARDS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 549.001. DEFINITIONS. In this chapter:

(1) "Federal hazardous material regulation" means a federal regulation in 49 C.F.R. Parts 101-199.

(2) "Federal motor carrier safety regulation" means a federal regulation in 49 C.F.R. Part 386 or Parts 388-399.

(3) "Federal safety regulation" means a federal hazardous material regulation or a federal motor carrier safety regulation. (New.)
The definitions of "federal hazardous material regulation," "federal safety regulation," and "federal motor carrier safety regulation" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

Sec. 549.002. CONFLICTS OF LAW. (a) A federal motor carrier safety regulation prevails over a conflicting provision of this chapter or a rule adopted by the Public Safety Commission under this chapter.

(b) A motor carrier safety rule adopted under this chapter prevails over a conflicting rule adopted by a local government, authority, or state agency or officer, other than a conflicting rule adopted by the Railroad Commission of Texas under Chapter 113, Natural Resources Code. (V.A.C.S. Art. 6701d, Secs. 139(a)(8) (part), (d) (part).)

(a) . . .

(8) Where any conflict arises between this Act, or the state rules and regulations promulgated by the commission pursuant to it, and the Federal Motor Carrier Safety Regulations (49 C.F.R. Parts 386, 388-399), the federal regulations shall prevail . . . .

(d) [Any regulation relating to motor carrier safety adopted by a local government, authority, or state agency or officer] . . . . To the extent of any conflict between said regulations and those adopted by the Director under this section, other than regulations adopted by the Railroad Commission of Texas under Chapter 113, Natural Resources Code, regulations adopted by the Department shall control.

(1) Section 139(a)(8), V.A.C.S. Article 6701d, refers to a conflict between a provision of this "Act" or a rule adopted under the act and the federal motor carrier safety regulations. "Act" in this context
would generally mean Article 6701d. It appears clear, however, that "Act" as used in this subsection means "section" because Section 139 is the only part of Article 6701d that addresses motor carrier safety standards. Section 139 is codified as this chapter, and throughout this chapter the revised law reflects the appropriate reference.

(2) Section 139(a)(8), V.A.C.S. Article 6701d, refers to "rules and regulations" adopted by the commission (meaning the Public Safety Commission), and Section 139(d) refers to "regulations" adopted by the director (meaning the public safety director) and the department (meaning the Department of Public Safety). The reference to "regulations" is omitted from the revised law because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law and, accordingly, the term "rule" is used throughout this chapter.

(3) Section 139(d), V.A.C.S. Article 6701d, indicates that a motor carrier safety rule adopted by the Department of Public Safety prevails when a conflict occurs between a rule adopted by a local government, authority, or state agency or officer and a rule adopted by the public safety director. Section 139(a), as amended by Section 2, Chapter 377, Acts of the 70th Legislature, Regular Session, 1987, requires the public safety director to adopt rules regarding the safe operation of motor carriers and the safe transportation of hazardous materials. Section 139(a) was subsequently amended by Section 1, Chapter 1105, Acts of the 71st Legislature, Regular Session, 1989, which continued the requirement that the public safety director adopt rules regarding the transportation of
hazardous materials but required the Public Safety
Commission to adopt rules regarding the safe operation
of motor carriers. The subsequent enactment, however,
did not amend Section 139(d) regarding the conflict of
laws. Accordingly, that subsection refers to a motor
carrier safety rule adopted by the director and the
department rather than by the commission. The failure
to amend Subsection (d) was probably a legislative
oversight because the legislature showed no intention
in that act to render the conflict-of-laws provision in
Subsection (d) meaningless. The revised law is drafted
accordingly.

[Sections 549.003-549.100 reserved for expansion]

SUBCHAPTER B. ADOPTION OF RULES

Revised Law

Sec. 549.101. AUTHORITY TO ADOPT RULES. (a) The director
shall, after notice and a public hearing, adopt rules regulating
the safe transportation of hazardous materials.

(b) The Public Safety Commission:

(1) shall, after notice and a public hearing conducted
by the department, adopt rules regulating the safe operation of
motor carriers; but

(2) may not adopt or enforce a rule that requires a
more stringent standard than the federal motor carrier safety
regulations. (V.A.C.S. Art. 6701d, Secs. 139(a) (part), (a)(8)
(part).)

Source Law

Sec. 139. (a) The Director of the Texas
Department of Public Safety shall after notice and
public hearing adopt such regulations as may be deemed
necessary for the safe transportation of hazardous
materials. The Public Safety Commission shall, after
notice and public hearing conducted by the Texas
Department of Public Safety, adopt such regulations as
may be deemed necessary for the safe operation of motor
carriers. . . .

(8) . . . and nothing in this Act shall
empower the commission or its agents to promulgate or enforce rules or regulations that require more stringent standards than the Federal Motor Carrier Safety Regulations (49 C.F.R. Parts 386, 388-399). . . .

Revisor's Note

(1) Section 139(a), V.A.C.S. Article 6701d, refers to the "Director of the Texas Department of Public Safety" and the "Department of Public Safety." The revised law substitutes the terms "director" and "department" pursuant to the definitions contained in Section 541.002 of this code, which applies to this chapter.

(2) Section 139(a)(8), V.A.C.S. Article 6701d, refers to the legislature's intent to adopt "each and every exemption and exception" provided by the federal motor carrier safety regulations. This reference is omitted as nonsubstantive. The omitted law reads:

(8) . . . it being the intention of this legislature that each and every exemption and exception provided for by the federal regulations shall apply and are adopted in this Act.

Revised Law

Sec. 549.102. PURPOSE OF RULES; CONSISTENCY WITH FEDERAL REGULATIONS. (a) A rule adopted under this chapter must be consistent with federal regulations, including federal safety regulations.

(b) The director and the Public Safety Commission may adopt all or part of the federal safety regulations by reference.

(c) Rules adopted under this chapter must ensure that:

(1) a motor carrier's vehicle is safely maintained, equipped, loaded, and operated;

(2) the responsibilities imposed on a motor carrier's operator do not impair the operator's ability to safely operate the vehicle;

(3) the physical condition of a motor carrier's
operator enables the operator to safely operate the vehicle; and

(4) a motor carrier is able to pay or assure the payment of damages for liability for accidents arising from the motor carrier's ownership, maintenance, or use of a motor vehicle.

(d) A motor carrier safety rule adopted by a local government, authority, or state agency or officer must be consistent with corresponding federal regulations. (V.A.C.S. Art. 6701d, Secs. 139(a) (part), (a)(1), (d) (part).)

Source Law

(a) . . . Such regulations shall duplicate or be consistent with current federal regulations, including the Hazardous Materials Regulations (49 C.F.R. Parts 101-199), and the Federal Motor Carrier Safety Regulations (49 C.F.R. Parts 386 and 388-399). The Public Safety Commission and the Texas Department of Public Safety are hereby authorized to adopt all or any part of said regulations by reference and any such adoption shall be construed to incorporate amendments thereto as may be made from time to time. . . .

(1) The regulations must include provisions to ensure that:

(A) a motor carrier's vehicle is safely maintained, equipped, loaded, and operated;
(B) the responsibilities imposed on the driver of a motor carrier's vehicle do not impair the driver's ability to operate the vehicle safely;
(C) the physical condition of the driver of a motor carrier's vehicle is adequate to enable the driver to operate the vehicle safely; and
(D) a motor carrier is able to pay or assure the payment of damages for liability for accidents arising from the motor carrier's ownership, maintenance, or use of a motor vehicle.

(d) Any regulation relating to motor carrier safety adopted by a local government, authority, or state agency or officer, other than the Director, must be consistent with corresponding federal regulations. . . .

Reviser's Note

(1) Section 139(a), V.A.C.S. Article 6701d, states that rules adopted under Section 139 should "duplicate" or "be consistent with" federal regulations. The revised law omits the reference to "duplicate" because in the context of the law revised in this section, "duplicate" is included within the meaning of "be consistent with."
(2) Section 139(a), V.A.C.S. Article 6701d, provides that the Public Safety Commission and the Texas Department of Public Safety may adopt federal motor carrier safety rules and hazardous materials rules by reference. The revised law replaces the reference to the Texas Department of Public Safety with a reference to the public safety director because the department no longer adopts motor carrier safety rules. Section 2, Chapter 377, Acts of the 70th Legislature, Regular Session, 1987, amended Section 139(a) to require the public safety director to adopt motor carrier safety rules and hazardous materials rules. Subsection (a) was subsequently amended by Section 1, Chapter 1105, Acts of the 71st Legislature, Regular Session, 1989, to require the commission to adopt motor carrier safety rules and the public safety director to adopt hazardous materials rules. The revised law is drafted accordingly.

(3) Section 139(a), V.A.C.S. Article 6701d, indicates that the adoption of rules by reference "shall be construed to incorporate amendments thereto as may be made from time to time." The revised law omits the quoted language as unnecessary because Section 311.027, Government Code (Code Construction Act), provides that a reference to any portion of a statute or rule applies to all reenactments, revisions, and amendments of the statute or rule.

(4) Section 139(d), V.A.C.S. Article 6701d, provides that a motor carrier safety rule adopted by a local government, authority, or state agency or officer "other than the Director" must be consistent with corresponding federal regulations. Section 139(a) (Section 549.102(a) of the revised law), however, requires rules adopted under this chapter to be
consistent with federal regulations. Accordingly, the revised law eliminates the language excluding a rule adopted by the director from the requirement.

Revised Law

Sec. 549.103. APPLICABILITY OF RULES. (a) Notwithstanding an exemption provided in the federal safety regulations, other than an exemption relating to intracity or commercial zone operations provided in 49 C.F.R. Part 395, a rule adopted by the director under this chapter is uniformly applicable throughout this state.

(b) A rule adopted under this chapter applies to a vehicle that requires hazardous material placarding.

(c) A rule adopted under this chapter, other than a rule regulating hazardous materials, may not apply to a vehicle that is operated intrastate and that is:

(1) a farm vehicle with a gross weight rating of less than 48,000 pounds; or

(2) a vehicle other than a farm vehicle or a vehicle designed to transport 15 or more persons, including the operator, with a gross weight rating of 26,000 pounds or less.

(d) A rule adopted under this chapter may not apply to a vehicle that is operated intrastate and that is:

(1) a machine generally consisting of a mast, engine, draw works, and chassis permanently constructed or assembled to be used and used in oil or water well servicing or drilling;

(2) a mobile crane that is an unladen, self-propelled vehicle constructed as a machine to raise, shift, or lower weight; or

(3) a vehicle while transporting a seed cotton module.

(V.A.C.S. Art. 6701d, Secs. 139(a)(2), (4), (5), (6), (b).)

Source Law

[(a)]

... (2) Such regulations, except hazardous material regulations, whether adopted directly or by reference, shall not apply to farm vehicles operated intrastate with a gross weight rating of less than
48,000 pounds, nor to any other vehicle operated intrastate with a gross weight rating of 26,000 pounds or less, except vehicles designed to transport 15 or more passengers including the driver. Such regulations shall be applicable to vehicles requiring hazardous material placarding.

(4) Such regulations shall not apply to a vehicle operated intrastate and used in oil or water well servicing or oil or water well drilling and which is constructed as a machine consisting in general of a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for such purpose or purposes.

(5) Such regulations shall not apply to a mobile crane operated intrastate which is an unladen self-propelled vehicle constructed as a machine used to raise, shift, or lower weights.

(6) Such regulations shall not apply to a vehicle operated intrastate that is transporting a seed cotton module.

(b) Notwithstanding any exemptions found in the federal regulations other than those provided for intracity or commercial zone operations under 49 C.F.R. Part 395, regulations adopted by the Department under this section shall be applicable and uniform for all areas of the state.

Reviser's Note

(1) Section 139(a)(2), V.A.C.S. Article 6701d, refers to rules "adopted directly or by reference." Section 139(a) (Section 549.102 of the revised law) authorizes the adoption of rules under this chapter directly or by reference. Accordingly, the revised law simply refers to a "rule adopted under this chapter," which includes a rule "adopted directly or by reference."

(2) Section 139(b), V.A.C.S. Article 6701d, refers to rules adopted by the "Department." The revised law replaces the reference to the "Department" with a reference to the director for the reason stated in Reviser's Note (2) to Section 549.102 of this code.

Revised Law

Sec. 549.104. LIMITATIONS OF RULES. (a) A rule adopted under this chapter may not:

(1) prevent an intrastate operator from operating a
vehicle up to 12 hours following eight consecutive hours off;

(2) require a person to meet the medical standards
provided in the federal motor carrier safety regulations if the
person:

(A) was regularly employed in this state as a
commercial motor vehicle operator in intrastate commerce before
August 28, 1989; and

(B) is not transporting property that requires a
hazardous material placard; or

(3) require a person to maintain a government form,
separate company form, operator's record of duty status, or
operator's daily log for operations within a 150-mile radius of the
normal work-reporting location if a general record of an operator's
hours of service can be compiled from:

(A) business records maintained by the owner
that provide the date, time, and location of the delivery of a
product or service; or

(B) documents required to be maintained by law,
including delivery tickets or sales invoices, that provide the date
of delivery and the quantity of merchandise delivered.

(b) For purposes of Subsection (a)(3)(A), an owner's
business records generally include:

(1) the time an operator reports for duty each day;
(2) the number of hours an operator is on duty each
day;
(3) the time an operator is released from duty each
day; and
(4) an operator's signed statement in compliance with
49 C.F.R. Part 395.8(j)(2) of the federal motor carrier safety
regulations. (V.A.C.S. Art. 6701d, Secs. 139(a)(3), (7), (9).)

Source Law

(3) Such regulations shall not prevent
intrastate drivers from driving up to 12 hours
following eight consecutive hours off.

(7) The maintenance of any type of
government form, separate company form, driver's record of duty status, or a driver's daily log is not required within a 150-air-mile radius of the normal work reporting location:

(A) if the owner has another method by which he keeps, as a business record, date and time of delivery of product or service and location or delivery of product or service so that a general record of the driver's hours of service may be compiled; or

(B) if another law requires or specifies the maintenance of delivery tickets, sales invoices, or other documents which show the date of delivery and quantity of merchandise delivered so that a general record of the driver's hours of service may be compiled; and

(C) provided that the business records generally conform with the following:

(i) the time the driver reports for duty each day;

(ii) the total number of hours the driver is on duty each day;

(iii) the time the driver is released from duty each day; and

(iv) the total time for the preceding seven days in accordance with 49 C.F.R. Part 395.8(j)(2), Federal Motor Carrier Safety Regulations (49 C.F.R. Parts 386, 388-399) for drivers used for the first time or intermittently.

(9) A person who is regularly employed prior to the effective date of this Act as a commercial motor vehicle driver in Texas in intrastate commerce, not transporting property requiring a hazardous materials placard, is not required to meet the medical standards set forth in the Federal Motor Carrier Safety Regulations.
operator's signed statement" which, under 49 C.F.R.
Part 395.8(j)(2), requires an operator used for the
first time or intermittently to provide information
regarding the operator's total time on duty during the
preceding seven days.

[Sections 549.105-549.200 reserved for expansion]

SUBCHAPTER C. OTHER REQUIREMENTS

Sec. 549.201. INSURANCE. (a) A motor carrier subject to
this chapter shall:

(1) maintain liability and property damage insurance
covering each motor vehicle operated by the motor carrier; and

(2) file evidence of the insurance with the Railroad
Commission of Texas.

(b) The railroad commission:

(1) shall set the amount of insurance coverage
required;

(2) may establish a reasonable fee to offset the
administrative cost of filing the evidence of insurance;

(3) may adopt rules, after notice and a public
hearing, to ensure that motor carriers maintain evidence of
liability and property damage insurance; and

(4) may allow a motor carrier to meet its liability
and property damage insurance requirements through self-insurance
if the motor carrier:

(A) has adequate financial assets to assume
liability; and

(B) is in substantial compliance with motor
carrier safety rules adopted by the Public Safety Commission.

(V.A.C.S. Art. 6701d, Sec. 139(c).)

(c) Every motor carrier subject to this section
shall maintain liability and property damage insurance
covering each motor vehicle operated by the motor
carrier and file proof of that insurance with the Railroad Commission of Texas. The commission shall set the amount of necessary insurance, and may establish a reasonable fee necessary to offset the administrative costs for such filings. The commission, after notice and public hearing, may adopt regulations necessary to ensure that motor carriers maintain proof of liability and property damage insurance. The commission may allow a motor carrier to meet its liability and property damage insurance requirements through self-insurance if the motor carrier has adequate financial assets to assume liability and is in substantial compliance with all motor carrier safety regulations adopted by the Department.

Revisor's Note
Section 139(c), V.A.C.S. Article 6701d, refers to motor carrier safety rules adopted by the "Department."
The revised law replaces the reference to the department with a reference to the Public Safety Commission for the reason stated in Revisor's Note (2) to Section 549.102 of this code.

Revised Law
Sec. 549.202. REGISTRATION. The Texas Department of Transportation shall require a person to declare knowledge of applicable rules adopted under this chapter when the person registers or applies for a temporary permit for a motor vehicle that is subject to this chapter. (V.A.C.S. Art. 6701d, Sec. 139(e).)

Source Law
(e) The Texas Department of Highways and Public Transportation shall require, at the time of registration of any motor vehicle or application for a temporary permit for any motor vehicle subject to this section, each registrant to declare knowledge of the applicable provisions of any state motor carrier safety regulations or hazardous materials regulations, as adopted by the Department.

Revisor's Note
(1) Section 139(e), V.A.C.S. Article 6701d, refers to the "Texas Department of Highways and Public Transportation." The revised law substitutes "Texas
Department of Transportation" for "Texas Department of Highways and Public Transportation" for the reason stated in the revisor's note to Section 201.003 of this code.

(2) Section 139(e), V.A.C.S. Article 6701d, refers to motor carrier safety rules and hazardous materials rules "as adopted by the Department." The revised law omits the reference to the department and refers only to rules adopted under this chapter because the department no longer adopts motor carrier safety rules. Section 2, Chapter 377, Acts of the 70th Legislature, Regular Session, 1987, amended Section 139(a) to require the public safety director to adopt motor carrier safety rules and hazardous material rules, and added Subsection (e) to Section 139. Section 139(a) was subsequently amended by Section 1, Chapter 1105, Acts of the 71st Legislature, Regular Session, 1989, to require the "Commission" to adopt motor carrier safety rules and the public safety director to adopt only hazardous materials rules. The revised law is drafted accordingly.

[Sections 549.203-549.300 reserved for expansion]

SUBCHAPTER D. ADMINISTRATIVE ENFORCEMENT

Revised Law

Sec. 549.301. CERTIFICATION OF MUNICIPAL PEACE OFFICERS.

(a) The department shall establish procedures, including training, for the certification of municipal peace officers to enforce this chapter.

(b) A peace officer of a municipality having a population of 100,000 or more is eligible to apply for certification under this section.

(c) The department by rule shall establish reasonable fees sufficient to recover from a municipality the cost of certifying
its peace officers under this section. (V.A.C.S. Art. 6701d, Sec. 139(f) (part).)

Source Law

(f) Any peace officer of any city having a population of 100,000 or more, certified for this purpose by the Director. Such certification procedures including the proper training of said officers shall be determined by the Department. The Department by rule shall establish reasonable fees sufficient to recover from a city the costs of training and certifying peace officers of the city under this section.

Revisor's Note

(1) Section 139(f), V.A.C.S. Article 6701d, refers to a "city." The revised law substitutes the term "municipality" for "city" because that is the term used in the Local Government Code.

(2) Section 139(f), V.A.C.S. Article 6701d, refers to the cost of "training and certifying" peace officers. The reference to "training" is eliminated in the revised law as unnecessary because Section 139(f) indicates that certification procedures include training of officers.

Revised Law

Sec. 549.302. MUNICIPAL ENFORCEMENT REQUIREMENTS. (a) The department by rule may establish uniform standards for municipal enforcement of this chapter.

(b) A municipality that engages in enforcement under this chapter:

(1) shall pay all costs relating to the municipality's enforcement; and

(2) may not be considered, in the context of a federal grant related to this chapter:

(A) a party to a federal grant agreement; or

(B) a grantee under a federal grant to the department.
(c) Municipal enforcement under Section 549.303(b) is not considered departmental enforcement for purposes of maintaining levels of effort required by a federal grant. (V.A.C.S. Art. 6701d, Sec. 139(f) (part).)

Source Law

(f) ... The Department by rule may establish uniform standards for enforcement of this section and regulations adopted in accordance with this section by participating cities. ... A city engaging in enforcement measures under this section shall pay all costs relating to those measures and shall not be considered a party to any federal grant agreement, or a grantee under any federal grant to the Department, related to this section. Enforcement measures conducted by a city under this subsection shall not be considered enforcement measures of the Department for purposes of maintaining levels of effort required pursuant to any federal grant.

Reviser's Note

Section 139(f), V.A.C.S. Article 6701d, refers to a "city." The revised law substitutes the term "municipality" for "city" for the reason stated in Reviser's Note (1) to Section 549.301 of this code.

Revised Law

Sec. 549.303. DETENTION OF VEHICLES. (a) Any officer of the department may enter or detain on a highway a motor vehicle that is subject to this chapter.

(b) A peace officer who is certified under Section 549.301 may detain on a highway within the municipality a motor vehicle that is subject to this chapter. (V.A.C.S. Art. 6701d, Secs. 139(f) (part), (g)(1) (part).)

Source Law

(f) [Any peace officer] ... may detain any motor vehicle on any street or highway within such city subject to this section or to any regulation adopted in accordance with this section. ... .

(g)(1) Any officer of the Texas Department of Public Safety may enter or detain any motor vehicle on any street or highway subject to this section or to any regulation adopted by the Director in accordance with this section. ... .
Revisor's Note

(1) Sections 139(f) and (g)(1), V.A.C.S. Article 6701d, refer to a "street or highway." The reference to "street" is omitted from the revised law because "street" is included within the meaning of "highway" under Section 541.302 of this code, which applies to this chapter.

(2) Section 139(f), V.A.C.S. Article 6701d, refers to a "city." The revised law substitutes the term "municipality" for the reason stated in Revisor's Note (1) to Section 549.301 of this code.

(3) Sections 139(f) and (g)(1), V.A.C.S. Article 6701d, grant authority to detain a motor vehicle subject to this section "or to any regulation adopted...in accordance with this section." The quoted language is omitted from the revised law as superfluous because a regulation can apply only to a motor vehicle that is subject to this chapter.

Revised Law

Sec. 549.304. INSPECTION OF PREMISES. (a) An officer or employee of the department who has been certified for this purpose by the director may enter a motor carrier's premises to:

(1) inspect real property, including a building, or equipment; or

(2) copy or verify the correctness of documents, including records or reports, required to be kept or made by rules adopted under this chapter.

(b) The officer or employee may conduct the inspection:

(1) at a reasonable time;

(2) on stating the purpose of the inspection; and

(3) by presenting to the motor carrier:

(A) appropriate credentials; and

(B) a written statement from the department to
the motor carrier indicating the officer or employee's authority to inspect. (V.A.C.S. Art. 6701d, Sec. 139(g)(1) (part).)

Source Law

In addition, any officer or employee of the Texas Department of Public Safety certified for this purpose by the Director may enter the premises of a motor carrier to inspect lands, buildings, and equipment and copy or verify the correctness of any records, reports, or other documents required to be kept or made pursuant to the regulations adopted by the Director under this section. The Department may conduct the inspection at a reasonable time on stating the purpose and presenting to the motor carrier appropriate credentials and a written statement to the carrier from the Department of the officer's or employee's inspection authority.

Reviser's Note

Section 139(g)(1), V.A.C.S. Article 6701d, refers to rules "adopted by the Director." The revised law omits the reference to the "Director" and refers only to rules adopted under this chapter for the reason stated in Reviser's Note (2) to Section 549.202 of this code.

[Sections 549.305-549.400 reserved for expansion]
(h) A person commits an offense if the person violates, procures, or aids and abets the violation of any regulation adopted under this section. An offense under this section is a Class C misdemeanor.

Revisor's Note

Section 139(h), V.A.C.S. Article 6701d, refers to a person who "violates, procures, or aids and abets" the violation of a rule adopted under Section 139. The references to "procures" and "aids and abets" are omitted from the revised law as unnecessary because Sections 7.01 and 7.02, Penal Code, which apply to offenses defined by other laws, provide that a person is criminally responsible for conduct that would fall within the meaning of "procuring" or "aiding and abetting."

Revised Law

Sec. 549.402. CIVIL PENALTY. (a) A person who does not permit an inspection authorized by Section 549.304 is liable to the state for a civil penalty not to exceed $1,000.

(b) The attorney general may sue to collect the penalty in:

(1) the county in which the violation is alleged to have occurred; or

(2) Travis County.

(c) The penalty provided by this section is in addition to the penalty provided by Section 549.401. (V.A.C.S. Art. 6701d, Sec. 139(g)(3).)

Source Law

(3) In addition to the penalty provided by Subdivision (2) of this subsection, a person who fails to permit an inspection under this subsection is liable to the state in an amount not to exceed $1,000. The attorney general may bring suit to collect the penalty provided by this subdivision in a court in the county in which the violation is alleged to have occurred or in Travis County.

Revised Law

Sec. 549.403. ADMINISTRATIVE PENALTY. (a) A person who
violates this chapter or a rule adopted under this chapter is subject to an administrative penalty.

(b) The Railroad Commission of Texas shall:

(1) by rule set the penalty at an amount that does not exceed the maximum penalties provided for violations of federal safety regulations; and

(2) administer the penalty in the manner provided by Section 4(a)(12), Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes). (V.A.C.S. Art. 6701d, Sec. 139(j).)

Source Law

(j) A person who violates this section or a regulation adopted under this section is subject to an administrative penalty in an amount to be set by the Railroad Commission of Texas by rule. The amount may not exceed the maximum penalties provided for violations of current federal regulations and their subsequent amendments under the Hazardous Materials Regulations (49 C.F.R. Parts 101-199) and the Federal Motor Carrier Safety Regulations (49 C.F.R. Parts 386 and 388-399). The commission shall administer the penalty in the same manner as provided by Section 4(a)(12), Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes).

Revisor's Note

Section 139(j), V.A.C.S. Article 6701d, refers to penalties provided for violations of "current" federal regulations "and their subsequent amendments." The revised law omits the quoted language as unnecessary for the reason stated in Revisor's Note (3) to Section 549.102 of this code.

Revised Law

Sec. 549.404. SUIT FOR INJUNCTION. (a) The attorney general shall sue to enjoin a violation or a threatened violation of a rule adopted under this chapter if requested by the director or the Railroad Commission of Texas.

(b) The suit must be brought in the county in which the violation or threat is alleged to have occurred.
(c) The court may grant the director or the Railroad Commission of Texas, without bond or other undertaking:

(1) a prohibitory or mandatory injunction, including a temporary restraining order; or

(2) after notice and hearing, a temporary or permanent injunction. (V.A.C.S. Art. 6701d, Sec. 139(i).)

Source Law

(i) The attorney general on request of the Director or the Railroad Commission of Texas shall bring suit to enjoin a violation or a threat of violation of a regulation adopted under this section. The suit shall be brought in the county in which the violation or threat of violation occurs. The court may grant the Director or the Railroad Commission of Texas, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant, including temporary restraining orders, and after notice and hearing, temporary injunctions and permanent injunctions.

Revisor's Note

Section 139(i), V.A.C.S. Article 6701d, indicates that a suit must be brought in the county where the violation or threat of violation "occurs." The revised law provides that suit must be brought in the county in which the violation or threat of violation "is alleged to have occurred" in order to accurately reflect the circumstances at the time the suit is filed.

In addition, Section 139(i) indicates that a court may grant an injunction that "the facts may warrant." The quoted phrase is omitted from the revised law as unnecessary because a court is never authorized to grant an injunction that the facts do not warrant.

Revisor's Note
(End of Chapter)

(1) Section 139(a), V.A.C.S. Article 6701d, provides that rules consistent with the federal motor carrier safety regulations must be adopted by the
Public Safety Commission (pursuant to an amendment to Section 139 effective January 1, 1988), but that federal motor carrier safety regulations will not be enforced until adopted by the Public Safety Commission. The portion of Section 139(a) that indicates no enforcement until adoption is omitted as executed because the regulations have been adopted. The omitted law reads:

... Except for regulations relating to the safe transportation of hazardous material, such regulations shall not be enforced until adopted by the Public Safety Commission pursuant to this subsection.

(2) Section 139(k), V.A.C.S. Article 6701d, provides that a penalty recovered under this section shall be deposited to the credit of the "Motor Carrier Act enforcement fund." This section is omitted from the revised law because the comptroller, acting under authority of Section 403.094(a), Government Code, abolished the Motor Carrier Act enforcement fund. The omitted law reads:

(k) A penalty recovered in a suit or an administrative proceeding brought under this section shall be deposited to the credit of the Motor Carrier Act enforcement fund.

CHAPTER 550. ACCIDENTS AND ACCIDENT REPORTS

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CHAPTER 550. ACCIDENTS AND ACCIDENT REPORTS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 550.001. APPLICABILITY OF CHAPTER. This chapter

applies only to:

(1) a road owned and controlled by a water control and

improvement district;

(2) a private access way or parking area provided for

a client or patron by a business, other than a private residential

property, or the property of a garage or parking lot for which a

charge is made for storing or parking a motor vehicle; and

(3) a highway or other public place. (V.A.C.S.

Art. 6701d, Sec. 21, Subdiv. 2 (part) (as amended Chs. 83 and 741,

Acts 62nd Leg., R.S., 1971).)

Source Law

[Ch. 83]

[2. The provisions of Articles] IV . . . [of

74C263 JD-D 3211
[Ch. 741]  

[2. The provisions of Article] IV shall apply upon all roads owned and controlled by any water control and improvement district, whether or not a fee is charged for the use of the roads, and the provisions of Articles IV [and V shall apply upon streets, highways, or privately owned access ways or parking areas provided by business establishments, without charge, for the convenience of their customers, clients, or patrons but not upon privately owned residential property or the property of any garage or parking lot for which a charge is made for storage or parking of motor vehicles.]

Revisor's Note

(1) Subdivision 2, Section 21, V.A.C.S. Article 6701d, refers to "Article IV . . . of this Act," meaning Article IV of V.A.C.S. Article 6701d. Article IV, V.A.C.S. Article 6701d, is revised as this chapter, and the revised law is drafted accordingly.

(2) Subdivision 2, Section 21, V.A.C.S. Article 6701d, as amended by Chapter 741, Acts of the 62nd Legislature, Regular Session, 1971, states that Article IV, which is codified as this chapter, applies on "all roads owned and controlled by any water control and improvement district, whether or not a fee is charged for the use of the roads . . . ." The revised law omits "whether or not a fee is charged for the use of the roads" as unnecessary and because the phrase "roads owned and controlled by a water control and improvement district" includes all roads owned and controlled by such a district, regardless of whether a fee is charged for their use.

(3) Subdivision 2, Section 21, V.A.C.S. Article 6701d, as amended by Chapter 741, Acts of the 62nd Legislature, Regular Session, 1971, includes references to "streets, highways," and "parking areas provided by business establishments, without charge, for the convenience of their customers, clients, or patrons."
The revised law omits the reference to "street" because under Section 541.302 of this code, "street" and "highway" have the same meaning. The revised law omits "without charge" because Section 550.001(2) of this code expressly provides that Section 545.401 does not apply to a parking lot or garage for which a charge is made to park or store a vehicle. The revised law omits "customer" because "customer" is included within the meaning of "client or patron."

[Sections 550.002-550.020 reserved for expansion]

SUBCHAPTER B. DUTIES FOLLOWING ACCIDENT

Revised Law

Sec. 550.021. ACCIDENT INVOLVING PERSONAL INJURY OR DEATH.

(a) The operator of a vehicle involved in an accident resulting in injury to or death of a person shall:

(1) immediately stop the vehicle at the scene of the accident or as close to the scene as possible;

(2) immediately return to the scene of the accident if the vehicle is not stopped at the scene of the accident; and

(3) remain at the scene of the accident until the operator complies with the requirements of Section 550.023.

(b) An operator of a vehicle required to stop the vehicle by Subsection (a) shall do so without obstructing traffic more than is necessary.

(c) A person commits an offense if the person does not stop or does not comply with the requirements of this section. An offense under this section is punishable by:

(1) imprisonment in the institutional division of the Texas Department of Criminal Justice for not more than five years or confinement in the county jail for not more than one year;

(2) a fine not to exceed $5,000; or

(3) both the fine and the imprisonment or confinement.
Sec. 38. (a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 40. Every such stop shall be made without obstructing traffic more than is necessary.

(b) Any person failing to stop or to comply with said requirements under such circumstances shall upon conviction be punished by imprisonment in the penitentiary not to exceed five (5) years or in jail not exceeding one (1) year or by fine not exceeding Five Thousand ($5,000.00) Dollars, or by both such fine and imprisonment.

Revisor's Note

Section 38(b), V.A.C.S. Article 6701d, provides that a person convicted of an offense under that section shall be imprisoned in "the penitentiary." The revised law substitutes "the institutional division of the Texas Department of Criminal Justice" to conform to the changes in law made by Chapter 785, Acts of the 71st Legislature, Regular Session, 1989, transferring to that division the powers and duties that were previously those of the Texas Department of Corrections, the state agency with jurisdiction over the penitentiaries in the state.

Revised Law

Sec. 550.022. ACCIDENT INVOLVING DAMAGE TO VEHICLE. (a) Except as provided by Subsection (b), the operator of a vehicle involved in an accident resulting only in damage to a vehicle that is driven or attended by a person shall:

(1) immediately stop the vehicle at the scene of the accident or as close as possible to the scene of the accident without obstructing traffic more than is necessary;

(2) immediately return to the scene of the accident if the vehicle is not stopped at the scene of the accident; and
1 (3) remain at the scene of the accident until the
2 operator complies with the requirements of Section 550.023.
3 (b) If an accident occurs on a main lane, ramp, shoulder,
4 median, or adjacent area of a freeway in a metropolitan area and
5 each vehicle involved can be normally and safely driven, each
6 operator shall move the operator's vehicle as soon as possible to a
7 designated accident investigation site, if available, a location on
8 the frontage road, the nearest suitable cross street, or other
9 suitable location to complete the requirements of Section 550.023
10 and minimize interference with freeway traffic.
11 (c) A person commits an offense if the person does not stop
12 or does not comply with the requirements of this section. An
13 offense under this section is:
14 (1) a Class C misdemeanor, if the damage to all
15 vehicles is less than $200; or
16 (2) a Class B misdemeanor, if the damage to all
17 vehicles is $200 or more.
18 (d) In this section, a vehicle can be normally and safely
19 driven only if the vehicle:
20 (1) does not require towing; and
21 (2) can be operated under its own power and in its
22 usual manner, without additional damage or hazard to the vehicle,
23 other traffic, or the roadway. (V.A.C.S. Art. 6701d, Secs. 20I,
24 39.)

Source Law

Sec. 20I. "Normally and safely driven" means the
vehicle does not require towing and can be operated
under its own power in its customary manner, without
further damage or hazard to the vehicle, other traffic,
or the roadway.

Sec. 39. The driver of any vehicle involved in
an accident resulting only in damage to a vehicle which
is driven or attended by any person shall immediately
stop such vehicle at the scene of such accident or as
close thereto as possible without obstructing traffic
more than is necessary but shall forthwith return to
and in every event shall remain at the scene of such
accident until he has fulfilled the requirements of
Section 40. However, when an accident occurs on a main
lane, ramp, shoulder, median, or adjacent area of a
freeway in a metropolitan area and each vehicle
involved can be normally and safely driven, each driver shall move his vehicle as soon as possible off the freeway main lanes, ramps, shoulders, medians, and adjacent areas to a designated accident investigation site, if available, a location on the frontage road, the nearest suitable cross street, or other suitable location to complete the requirements of Section 40, so as to minimize interference with the freeway traffic. Any person failing to stop or to comply with said requirements shall be guilty of:

(1) a Class C misdemeanor, if the damage to all vehicles involved results in a pecuniary loss of less than $200; or

(2) a Class B misdemeanor, if the damage to all vehicles involved results in a pecuniary loss of $200 or more.

Revised Law

Sec. 550.023. DUTY TO GIVE INFORMATION AND RENDER AID. The operator of a vehicle involved in an accident resulting in the injury or death of a person or damage to a vehicle that is driven or attended by a person shall:

(1) give the operator's name and address, the registration number of the vehicle the operator was driving, and the name of the operator's motor vehicle liability insurer to any person injured or the operator or occupant of or person attending a vehicle involved in the collision;

(2) if requested and available, show the operator's driver's license to a person described by Subdivision (1); and

(3) provide any person injured in the accident reasonable assistance, including transporting or making arrangements for transporting the person to a physician or hospital for medical treatment if it is apparent that treatment is necessary, or if the injured person requests the transportation.

(V.A.C.S. Art. 6701d, Sec. 40.)

Source Law

Sec. 40. The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address, and the registration number of the vehicle he is driving and the name of his motor vehicle liability insurer, and shall upon request and if available exhibit his operator's, commercial operator's, or chauffeur's license to the person struck or the driver or occupant of or person attending any vehicle colliding with and shall render to any person injured

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in such accident reasonable assistance, including the
carrying, or the making of arrangements for the
carrying, of such person to a physician, surgeon, or
hospital for medical or surgical treatment if it is
apparent that such treatment is necessary or if such
carrying is requested by the injured person.

Revisor's Note

(1) Section 40, V.A.C.S. Article 6701d, requires
showing of an "operator's, commercial operator's, or
chauffeur's license." Chapter 345, Acts of the 68th
Legislature, Regular Session, 1983, amended the
driver's license law by replacing the terms "operator's
license," "commercial operator's license," and
"chauffeur's license" with the single term "driver's
license." The term includes a commercial driver's
license issued under V.A.C.S. Article 6687b-2, Revised
Statutes. The revised law is drafted accordingly.

(2) Section 40, V.A.C.S. Article 6701d, refers
to the transportation of an injured person to a
"physician" or "surgeon" and to a hospital for "medical
or surgical treatment." The revised law omits the
references to "surgeon" and "surgical treatment"
because the terms are included within the meanings of,
respectively, "physician" and "medical treatment."

Revised Law

Sec. 550.024. DUTY ON STRIKING UNATTENDED VEHICLE. (a) The
operator of a vehicle that collides with and damages an unattended
vehicle shall immediately stop and:

(1) locate the operator or owner of the unattended
vehicle and give that person the name and address of the operator
and the owner of the vehicle that struck the unattended vehicle; or

(2) leave in a conspicuous place in, or securely
attach in a plainly visible way to, the unattended vehicle a
written notice giving the name and address of the operator and the
owner of the vehicle that struck the unattended vehicle and a
statement of the circumstances of the collision.

(b) A person commits an offense if the person violates Subsection (a). An offense under this section is:

(1) a Class C misdemeanor, if the damage to all vehicles involved is less than $200; or

(2) a Class B misdemeanor, if the damage to all vehicles involved is $200 or more. (V.A.C.S. Art. 6701, Sec. 41.)

Source Law

Sec. 41. The driver of any vehicle which collides with and damages any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in, or securely attached to and plainly visible, the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof. A person commits an offense if the person fails to comply with this section. An offense under this section is:

(1) a Class C misdemeanor, if the damage to all vehicles involved results in a pecuniary loss of less than $200; or

(2) a Class B misdemeanor, if the damage to all vehicles involved results in a pecuniary loss of $200 or more.

Revised Law

Sec. 550.025. DUTY ON STRIKING FIXTURE OR HIGHWAY LANDSCAPING. (a) The operator of a vehicle involved in an accident resulting only in damage to a fixture or landscaping legally on or adjacent to a highway shall:

(1) take reasonable steps to locate and notify the owner or person in charge of the property of the accident and of the operator's name and address and the registration number of the vehicle the operator was driving;

(2) if requested and available, show the operator's driver's license to the owner or person in charge of the property; and

(3) report the accident if required by Section 550.061.
(b) A person commits an offense if the person violates Subsection (a). An offense under this section is:

1. a Class C misdemeanor, if the damage to all fixtures and landscaping is less than $200; or
2. a Class B misdemeanor, if the damage to all fixtures and landscaping is $200 or more. (V.A.C.S. Art. 6701d, Sec. 42.)

Source Law
Sec. 42. The driver of any vehicle involved in an accident resulting only in damage to fixtures or landscaping legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his driver's license, and shall make report of such accident when and as required in Section 44 hereof. A person commits an offense if the person fails to comply with this section. An offense under this section is:

1. a Class C misdemeanor, if the damage to fixtures or landscaping results in a pecuniary loss of less than $200; or
2. a Class B misdemeanor, if the damage to fixtures or landscaping results in a pecuniary loss of $200 or more.

Revised Law
Sec. 550.026. IMMEDIATE REPORT OF ACCIDENT. (a) The operator of a vehicle involved in an accident resulting in injury to or death of a person or damage to a vehicle to the extent that it cannot be normally and safely driven shall immediately by the quickest means of communication give notice of the accident to the:

1. local police department if the accident occurred in a municipality;
2. local police department or the sheriff's office if the accident occurred not more than 100 feet outside the limits of a municipality; or
3. sheriff's office or the nearest office of the department if the accident is not required to be reported under Subdivision (1) or (2).

(b) If a section of road is within 100 feet of the limits of
more than one municipality, the municipalities may agree regarding
the maintenance of reports made under Subsection (a)(2). A county
may agree with municipalities in the county regarding the
maintenance of reports made under Subsection (a)(2). An agreement
under this subsection does not affect the duty to report an
accident under Subsection (a). (V.A.C.S. Art. 6701d, Sec. 43.)

Source Law
Sec. 43. (a) The driver of a vehicle involved
in an accident resulting in injury to or death of any
person or damage to any vehicle to the extent that it
cannot be normally and safely driven shall immediately
by the quickest means of communication give notice of
such accident to:
(1) the local police department if the
accident occurs within a municipality;
(2) the local police department or the
county sheriff if the accident occurs not more than 100
feet outside the limits of a municipality; or
(3) the office of the county sheriff or
the nearest office of the Department if the accident is
not required to be reported under Subdivision (1) or
(2) of this subsection.
(b) If a section of road is within 100 feet of
the limits of more than one municipality, the
municipalities may enter into an agreement regarding
the maintenance of reports made under Subsection (a)(2)
of this section. A county may enter into an agreement
with municipalities in the county regarding the
maintenance of reports made under Subsection (a)(2) of
this section. An agreement under this subsection may
not affect the duty to report placed on an individual
under Subsection (a) of this section.

[Sections 550.027-550.040 reserved for expansion]

SUBCHAPTER C. INVESTIGATION OF ACCIDENT

Revised Law
Sec. 550.041. INVESTIGATION BY PEACE OFFICER. (a) A peace
officer who is notified of a motor vehicle accident resulting in
injury to or death of a person or property damage to an apparent
extent of at least $500 may investigate the accident and file
justifiable charges relating to the accident without regard to
whether the accident occurred on property to which this chapter
applies.
(b) This section does not apply to:
(1) a privately owned residential parking area; or
(2) a privately owned parking lot where a fee is charged for parking or storing a vehicle.  (V.A.C.S.  Art. 6701d, Sec. 43A.)

Source Law

Sec. 43A. A peace officer notified of a motor vehicle accident resulting in injury to or death of any person or damage to the property of any one person to an apparent extent of Five Hundred Dollars ($500) or more may investigate the accident and file any justifiable charges relating thereto without regard to whether the accident occurred on a public street or highway or other public property, on a road owned and controlled by any water control and improvement district, whether or not a fee is charged for the use of the road, or on private property commonly used by the public such as supermarket or shopping center parking lots, parking areas provided by business establishments for the convenience of their customers, clients, or patrons, parking lots owned and operated by the State or any other parking area owned and operated for the convenience of, and commonly used by, the public. It is specifically provided, however, that this Section shall not apply to accidents occurring on privately owned residential parking areas or on privately owned parking lots where a fee is charged for the privilege of parking or storing a motor vehicle.

Revisor's Note

Section 43A, V.A.C.S. Article 6701d, provides that a peace officer may investigate an accident and file charges without regard to whether the accident occurred on . . . a public street or highway or other public property, on a road owned and controlled by any water control and improvement district, whether or not a fee is charged for the use of the road, or on private property commonly used by the public such as supermarket or shopping center parking lots, parking areas provided by business establishments for the convenience of their customers, clients, or patrons, parking lots owned and operated by the State or any other parking area owned and operated for the convenience of, and commonly used by, the public.

The revised law substitutes the phrase "property to which this chapter applies" because Section 550.001 of this code provides that this chapter is applicable to all of the properties listed specifically in Section 43A.
SUBCHAPTER D. WRITTEN ACCIDENT REPORT

Revised Law

Sec. 550.061. OPERATOR'S ACCIDENT REPORT. (a) The operator of a vehicle involved in an accident shall make a written report of the accident if the accident is not investigated by a law enforcement officer and the accident resulted in injury to or the death of a person or damage to the property of any one person to an apparent extent of $500 or more.

(b) The report required by Subsection (a) must be filed with the department not later than the 10th day after the date of the accident.

(c) A person commits an offense if the person does not file the report with the department as required by this section.

(d) Venue for the prosecution of an offense under this section is in the county in which the accident occurred.

(e) The department may require:

(1) the operator of a vehicle involved in an accident in which a report is required by this section to file a supplemental report if the department considers the original report insufficient; and

(2) a witness of an accident to make a report with the department. (V.A.C.S. Art. 6701d, Secs. 44(a), (b).)

Source Law

Sec. 44. (a) The driver of a vehicle involved in an accident not investigated by a law enforcement officer and resulting in injury to or death of any person, or damage to the property of any one person, including himself, to an apparent extent of at least Five Hundred Dollars ($500), shall within ten (10) days after such accident forward a written report of such accident to the Department. Any person who shall fail to make such a report shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 143. The venue for the prosecution of such offense shall be in the county where the accident occurred.

(b) The Department may require any driver of a vehicle involved in an accident of which report must be made as provided in this Section to file supplemental
reports whenever the original report is insufficient in the opinion of the Department and may require witnesses of accidents to render reports to the Department.

Revised Law
Sec. 550.062. OFFICER'S ACCIDENT REPORT. (a) A law enforcement officer who in the regular course of duty investigates a motor vehicle accident shall make a written report of the accident if the accident resulted in injury to or the death of a person or damage to the property of any one person to the apparent extent of $500 or more.

(b) The report required by Subsection (a) must be filed with the department not later than the 10th day after the date of the accident.

(c) This section applies without regard to whether the officer investigates the accident at the location of the accident and immediately after the accident or afterwards by interviewing those involved in the accident or witnesses to the accident. (V.A.C.S. Art. 6701d, Sec. 44(c).)

Source Law
(c) Every law enforcement officer, who, in the regular course of duty, investigates a motor vehicle accident resulting in injury to or death of any person, or damage to the property of any one person to an apparent extent of at least Five Hundred Dollars ($500), either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within ten (10) days after such accident, forward a written report of such accident to the Department.

Revised Law
Sec. 550.063. REPORT ON APPROPRIATE FORM. A person who is required to file a written accident report shall report on the appropriate form approved by the department and shall disclose all information required by the form unless the information is not available. (V.A.C.S. Art. 6701d, Sec. 45(b).)

Source Law
(b) Every accident report required to be made in writing shall be made on the appropriate form approved by the department and shall contain all of the
information required therein unless not available.

Revised Law
Sec. 550.064. ACCIDENT REPORT FORMS. (a) The department shall prepare and when requested supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals the accident report forms appropriate for the persons required to make a report and appropriate for the purposes to be served by those reports.

(b) An accident report form prepared by the department must:

1. require sufficiently detailed information to disclose the cause and conditions of and the persons and vehicles involved in an accident if the form is for the report to be made by a person involved in or investigating the accident;
2. include a way to designate and identify a peace officer, firefighter, or emergency medical services employee who during an emergency is involved in an accident while driving a law enforcement vehicle, fire department vehicle, or emergency medical services vehicle while performing the person's duties;
3. require a statement by a person described by Subdivision (2) as to the nature of the emergency; and
4. include a way to designate whether an individual involved in an accident wants to be contacted by a person seeking to obtain employment as a professional described by Section 38.12(b), Penal Code. (V.A.C.S. Art. 6701d, Sec. 45(a) (part)).

Source Law
Sec. 45. (a) The department shall prepare and upon request supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals, forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by person involved in accidents and by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, and the persons and vehicle involved. Also, the forms for the written reports shall include a means for designating and identifying peace officers, fire fighters, and emergency medical services employees who during an emergency are involved in accidents while driving law enforcement vehicles, fire department vehicles, or emergency medical services vehicles while performing the person's duties;
enforcement vehicles, fire department vehicles, or emergency medical services vehicles in pursuit of their duties. The forms shall also contain a statement by the peace officers, fire fighters, and emergency medical services employees describing the nature of the emergency. The forms must include a means of designating whether an individual involved in an accident does or does not desire to be contacted by persons seeking to obtain professional employment as a professional described by Section 38.12(b), Penal Code. . . .

**Revised Law**

Sec. 550.065. RELEASE OF ACCIDENT REPORTS. (a) An accident report prepared by a peace officer and submitted to the department after January 1, 1970, is a public record open for inspection.

(b) On written request and payment of the required fee, the department or a law enforcement agency shall provide a copy of a peace officer's report that may be released under this section.

(c) The fee for a copy of the peace officer's report is $4. The copy may be certified by the department or a law enforcement agency for an additional fee of $2. The department may issue a certification that no report is on file for a fee of $4. (V.A.C.S. Art. 6701d, Secs. 47(c), (d), (e).)

**Source Law**

(c) After the period provided by Subsection (b)(1) of this section, an accident report prepared by a peace officer and submitted to the Department after January 1, 1970, is a public record open for inspection.

(d) The Department or a law enforcement agency shall provide a copy or copies of any peace officer's report that may be released as provided by this section on written request and payment of a Four Dollar ($4) fee. Such copy may be certified by the Department or a law enforcement agency for an additional fee of Two Dollars ($2). In the event no report is on file the Department may certify such fact for a fee of Four Dollars ($4).

(e) All fees collected by the Department under this Section shall be placed in the Operators and Chauffeurs License Fund and are hereby appropriated to be used by the Department in the administration of this Act.

**Revisor's Note**

(1) The revised law omits Sections 47(a), (b), and (f), V.A.C.S. Article 6701d. Those sections were
held unconstitutional by the United States District
Court for the Southern District of Texas, Houston
Division, Moore v. Morales, et al., 843 F. Supp. 1124
(S.D. Tex. 1994) (state enjoined from enforcement of
law, no appeal filed). As omitted, Sections 47(a),
(b), and (f), V.A.C.S. Article 6701d, read as follows:

Sec. 47. (a) Except as provided by
Subsection (b) of this section, all
accident reports made as required by this
Act or Section 4, Texas Motor Vehicle
Safety-Responsibility Act (Article 6701h,
Vernon's Texas Civil Statutes), and its
subsequent amendments, by persons involved
in accidents, by garages, or by peace
officers shall be without prejudice to the
individual so reporting and shall be
privileged and for the confidential use of
the Department and agencies of the United
States, this state, or local governments of
this state having use for the records for
accident prevention purposes.

(b)(1) For a period of 180 days
after the date of an accident, the
Department or a law enforcement agency
employing a peace officer who made an
accident report is required to release a
copy of the report on request to:
(A) an agency described
by Subsection (a) of this section;
(B) the law enforcement
agency that employs the peace officer who
investigated the accident and forwarded the
report to the Department;
(C) a court in which a
case involving one of the persons involved
in the accident is pending pursuant to a
lawful subpoena;
(D) a driver, passenger,
or other person involved;
(E) the guardian or
conservator of a person involved;
(F) a parent of a person
involved who is a minor;
(G) an authorized
representative of a driver, passenger, or
other person involved;
(H) a representative of
the insurance company of a driver,
passenger, or other person involved;
(I) a representative of
a person killed or injured in the accident;
(J) an owner of property
damaged as a result of the accident or a
representative of the insurance company of
the owner;
(K) a person who may be
subject to civil liability as a result of
the accident;
(L) a member of a wire
service or press association, a
professional journalist, or an agent or
employee of a news medium;
(M) an attorney who represents an individual described by this subsection; 
(N) a person who employs or who is considering employing a driver involved; or 
(O) a representative of an insurance company that provides or that is considering providing coverage for a driver involved.  
(2) The Department or a law enforcement agency is authorized to request information on a written form to be determined by the Department or agency for the purpose of determining whether the person or entity requesting the information is eligible to receive such information as provided by Subdivision (1) of this subsection.  
(3) The Department or a law enforcement agency is prohibited from releasing a copy of the accident report before the expiration of the period specified by Subdivision (1) of this subsection, except as provided by that subdivision.  

(f) In this section:  
(1) "Magazine" means a publication containing news that: 
(A) is published and distributed periodically and has been for at least one year; 
(B) has a paid circulation; and 
(C) has been entered at a United States post office as second class matter.  
(2) "News" means written, oral, pictorial, electronic, or other information or communication, whether or not recorded, concerning local, national, or worldwide events or other matters of public concern.  
(3) "News agency" means a commercial organization that collects and supplies news to subscribing newspapers, magazines, and news broadcasters.  
(4) "News medium" means a newspaper, magazine, news agency, press association, wire service, radio station, television station, broadcasting network, or broadcast news service that has as one of its regular functions the processing and researching of news intended for dissemination to the public.  
(5) "Newspaper" means a publication that: 
(A) is printed and distributed ordinarily at least once a week and has been printed and distributed on that basis for at least one year; 
(B) contains news, editorials, features, advertising, or other matter regarded as being of current interest; 
(C) has a paid circulation; and
(D) has been entered at
a United States post office as second class
matter.

(6) "Press association" means
an association of newspapers or magazines,
or both, formed to gather and distribute
news to its members.

(7) "Professional journalist"
means an individual who is a regular
employee or is otherwise affiliated with a
news medium and who engages in gathering,
preparing, collecting, writing, editing,
filming, taping, or photographing news
intended for the medium, and includes an
individual engaged in analyzing, commenting
on, or broadcasting news by radio or
television transmission.

(8) "Wire service" means a
news agency that sends out syndicated news
copy by wire to subscribing newspapers,
magazines, or news broadcasters.

(2) Section 47(c), V.A.C.S. Article 6701d,
refers to "the period provided by Subsection (b)(1) of
this section." Because Subsection (b) of Section 47 is
unconstitutional, the revised law omits the reference
to Subdivision (1) of that subsection.

(3) Section 47(e), V.A.C.S. Article 6701d,
requires fees collected by the department under that
section to be deposited in the operators and chauffeurs
license fund and appropriates the fees for the
administration of Article 6701d. Reference to that
fund is omitted from the revised law. Acting under
authority of Section 403.094(a), Government Code, the
comptroller abolished the operators and chauffeurs
license fund, effective August 31, 1993. The revised
law omits the reference to the dedication of the fees
deposited in the fund. Section 403.094(h), Government
Code, provides that all statutory dedications of
revenue enacted before August 31, 1995, are void unless
reenacted after September 1, 1991. The dedication in
Section 47, V.A.C.S. Article 6701d, was enacted in 1969
and was not reenacted after September 1, 1991. The
reference to appropriating the fees is omitted from the
revised law because Section 6, Article VIII, Texas
Constitution, prohibits continuous appropriations by limiting the maximum duration of an appropriation to two years. The revised law is drafted accordingly.

Revised Law

Sec. 550.066. ADMISSIBILITY OF CERTAIN ACCIDENT REPORT INFORMATION. An individual's response to the information requested on an accident report form as provided by Section 550.064(b)(4) is not admissible evidence in a civil trial. (V.A.C.S. Art. 6701d, Sec. 45(a) (part).)

Source Law

(a) ... An individual's response as to whether the individual desires to be contacted is not admissible evidence in a civil trial.

Revised Law

Sec. 550.067. MUNICIPAL AUTHORITY TO REQUIRE ACCIDENT REPORTS. (a) A municipality by ordinance may require the operator of a vehicle involved in an accident to file with a designated municipal department:

(1) a report of the accident, if the accident results in injury to or the death of a person or the apparent total property damage is $25 or more; or

(2) a copy of a report required by this chapter to be filed with the department.

(b) A report filed under Subsection (a) is for the confidential use of the municipal department and subject to the provisions of Section 550.065.

(c) A municipality by ordinance may require the person in charge of a garage or repair shop where a motor vehicle is brought if the vehicle shows evidence of having been involved in an accident requiring a report to be filed under Section 550.061 or 550.062 or shows evidence of having been struck by a bullet to report to a department of the municipality within 24 hours after the garage or repair shop receives the motor vehicle, giving the
engine number, registration number, and the name and address of the owner or operator of the vehicle. (V.A.C.S. Art. 6701d, Sec. 49.)

Source Law

Sec. 49. (a) Any incorporated city, town, village, or other municipality may by ordinance require that the driver of a vehicle involved in an accident shall also file with a designated city department a report of such accident, except that no report may be required if there is no injury to or death of any person and the apparent total property damage is less than Twenty-five ($25.00) Dollars, or a copy of any report herein required to be filed with the department. All such reports shall be for the confidential use of the city department and subject to the provisions of Section 47 of this Act.

(b) Any incorporated city, town, village, or other municipality may by ordinance require the person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident of which report must be made as provided in Section 44, or struck by any bullet, to report to the department within 24 hours after such motor vehicle is received, giving the engine number, registration number, and the name and address of the owner or operator of such vehicle.

Revisor's Note

(1) Section 49, V.A.C.S. Article 6701d, refers to an "incorporated city, town, village, or other municipality." The revised law omits "incorporated" because under the Local Government Code all municipalities must be incorporated. The revised law also substitutes the term "municipality" for "city, town, [or] village" because that is the term used in the Local Government Code.

(2) Section 49(a), V.A.C.S. Article 6701d, refers to "Section 47 of this Act," meaning Section 47, V.A.C.S. Article 6701d. Section 47 of V.A.C.S. Article 6701d is revised as Section 550.065 of this code and the revised law substitutes a reference to that revision.

(3) Section 49(b), V.A.C.S. Article 6701d, refers to "Section 44," meaning Section 44, V.A.C.S. Article 6701d. Section 44 of V.A.C.S. Article 6701d is
revised as Sections 550.061 and 550.062 of this code
and the revised law substitutes a reference to those
revisions.

[Sections 550.068-550.080 reserved for expansion]

SUBCHAPTER E. OTHER REPORTS

Revised Law

Sec. 550.081. CORONER'S REPORT. A coroner or other officer
performing similar functions shall, not later than the 10th day of
each month:

(1) report in writing to the department the death of a
person within the officer's jurisdiction during the preceding
calendar month as the result of a traffic accident; and

(2) include in the report the time, place, and
circumstances of the accident. (V.A.C.S. Art. 6701d, Sec. 46.)

Source Law

Sec. 46. Every coroner or other official
performing like functions shall on or before the tenth
(10th) day of each month report in writing to the
department the death of any person within his
jurisdiction during the preceding calendar month as the
result of a traffic accident giving the time and place
of the accident and the circumstances relating thereto.

CHAPTER 551. OPERATION OF BICYCLES, MOPEDS, AND PLAY VEHICLES

SUBCHAPTER A. APPLICATION OF CHAPTER

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CHAPTER 551. OPERATION OF BICYCLES, MOPEDS, AND PLAY VEHICLES

SUBCHAPTER A. APPLICATION OF CHAPTER

Revised Law

Sec. 551.001. PERSONS AFFECTED. This chapter applies only to a person operating a bicycle on:

(1) a highway; or

(2) a path set aside for the exclusive operation of bicycles. (V.A.C.S. Art. 6701d, Sec. 178(c).)

Source Law

(c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

Revisor's Note

Section 178(c), V.A.C.S. Article 6701d, indicates that regulations apply to persons operating bicycles on highways or bicycle paths "subject to those exceptions stated herein." The quoted language is omitted as unnecessary because a stated exception in a statute always applies.

Revised Law

Sec. 551.002. MOPED INCLUDED. A provision of this subtitle applicable to a bicycle also applies to a moped, other than a provision that by its nature cannot apply to a moped. (V.A.C.S. Art. 6701d, Sec. 178(d).)

Source Law

(d) All provisions of this Act applicable to bicycles also apply to motor-assisted bicycles unless because of their nature they can have no application to those vehicles.

Revisor's Note

Section 178(d), V.A.C.S. Article 6701d, makes bicycle regulations applicable to "motor-assisted
bicycles." The revised law substitutes "moped" for "motor-assisted bicycles." In 1983, the legislature changed the defined term in Article 6701d from "motor-assisted bicycle" to "moped" in addition to comprehensively amending several statutes to reflect this change in terminology. (Chapter 410, Acts of the 68th Legislature, Regular Session, 1983.) The revised law is drafted accordingly.

Reviser's Note (End of Subchapter)

Section 178(a), V.A.C.S. Article 6701d, provides that a violation of any provision of this chapter constitutes a misdemeanor. The revised law omits this provision as unnecessary because Section 542.301 of this subtitle includes a general penalty provision that provides a misdemeanor offense applicable to all violations of this subtitle. The omitted law reads:

Sec. 178. (a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this Article.

[Sections 551.003-551.100 reserved for expansion]

SUBCHAPTER B. REGULATION OF OPERATION

Revised Law

Sec. 551.101. RIGHTS AND DUTIES. (a) A person operating a bicycle has the rights and duties applicable to a driver operating a vehicle under this subtitle, unless:

(1) a provision of this chapter alters a right or duty; or

(2) a right or duty applicable to a driver operating a vehicle cannot by its nature apply to a person operating a bicycle.

(b) A parent of a child or a guardian of a ward may not knowingly permit the child or ward to violate this subtitle.

(V.A.C.S. Art. 6701d, Secs. 178(b), 179(a).)
[Sec. 178]

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this Act.

Sec. 179. (a) Every person riding a bicycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Act, except as to special regulations in this Article and except as to those provisions of this Act which by their nature can have no application.

Sec. 551.102. GENERAL OPERATION. (a) A person operating a bicycle shall ride only on or astride a permanent and regular seat attached to the bicycle.

(b) A person may not use a bicycle to carry more persons than the bicycle is designed or equipped to carry.

(c) A person operating a bicycle may not use the bicycle to carry an object that prevents the person from operating the bicycle with at least one hand on the handlebars of the bicycle.

(d) A person operating a bicycle, coaster, sled, or toy vehicle or using roller skates may not attach either the person or the bicycle, coaster, sled, toy vehicle, or roller skates to a streetcar or vehicle on a roadway. (V.A.C.S. Art. 6701d, Secs. 180, 181, 183.)

Sec. 180. (a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed or equipped.

Sec. 181. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any streetcar or vehicle upon a roadway.

Sec. 183. No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars.
Revisor's Note

Section 183, V.A.C.S. Article 6701d, refers to a person carrying "any package, bundle or article." The revised law substitutes the word "object," and this term includes a "package, bundle or article."

Revised Law

Sec. 551.103. OPERATION ON ROADWAY. (a) Except as provided by Subsection (b), a person operating a bicycle on a roadway who is moving slower than the other traffic on the roadway shall ride as near as practicable to the right curb or edge of the roadway, unless:

(1) the person is passing another vehicle moving in the same direction;

(2) the person is preparing to turn left at an intersection or onto a private road or driveway; or

(3) a condition on or of the roadway, including a fixed or moving object, parked or moving vehicle, pedestrian, animal, surface hazard, or substandard width lane, prevents the person from safely riding next to the right curb or edge of the roadway.

(b) A person operating a bicycle on a one-way roadway with two or more marked traffic lanes may ride as near as practicable to the left curb or edge of the roadway.

(c) Persons operating bicycles on a roadway may ride two abreast. Persons riding two abreast on a laned roadway shall ride in a single lane. Persons riding two abreast may not impede the normal and reasonable flow of traffic on the roadway. Persons may not ride more than two abreast unless they are riding on a part of a roadway set aside for the exclusive operation of bicycles.

(d) In this section, "substandard width lane" means a lane that is too narrow for a bicycle and a motor vehicle to safely travel in the lane side by side. (V.A.C.S. Art. 6701d, Sec. 182.)
Sec. 182. (a) Except as provided by Subsection (c) of this section, a person operating a bicycle upon a roadway at less than the speed of the other traffic on the roadway at that time shall ride as near as practicable to the right curb or edge of the roadway, except when:

1. the person is overtaking and passing another vehicle proceeding in the same direction;
2. the person is preparing for a left turn at an intersection or onto a private road or driveway; or
3. conditions on the roadway, including fixed or moving objects, parked or moving vehicles, pedestrians, animals, surface hazards, or substandard width lanes, make it unsafe to ride next to the right curb or edge of the roadway.

(b) For the purpose of Subsection (a) of this section, a substandard width lane is a lane that is too narrow for a bicycle and a motor vehicle to travel in the lane safely side by side.

(c) A person operating a bicycle on a one-way roadway with two or more marked traffic lanes may ride as near as practicable to the left curb or edge of the roadway.

(d) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or part of roadways set aside for the exclusive use of bicycles. Persons riding two abreast shall not impede the normal and reasonable flow of traffic on the roadway. If persons are riding two abreast on a laned roadway, they must ride in a single lane.

Reviser's Note

Section 182(a)(1), V.A.C.S. Article 6701d, refers to a person "overtaking and passing" another vehicle. The revised law omits the reference to "overtaking" because "overtaking" is included within the meaning of "passing."

Revised Law

Sec. 551.104. SAFETY EQUIPMENT. (a) A person may not operate a bicycle unless the bicycle is equipped with a brake capable of making a braked wheel skid on dry, level, clean pavement.

(b) A person may not operate a bicycle at nighttime unless the bicycle is equipped with:

1. a lamp on the front of the bicycle that emits a white light visible from a distance of at least 500 feet in front of the bicycle; and
(2) a red reflector on the rear of the bicycle that is:
(A) of a type approved by the department; and
(B) visible when directly in front of lawful upper beams of motor vehicle headlamps from all distances from 50 to 300 feet to the rear of the bicycle.
(c) In addition to the reflector required by Subsection (b), a person operating a bicycle at nighttime may use a lamp on the rear of the bicycle that emits a red light visible from a distance of 500 feet to the rear of the bicycle. (V.A.C.S. Art. 6701d, Sec. 184.)

Source Law
Sec. 184. (a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type approved by the Department which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.
(b) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

Revised Law
Sec. 551.105. COMPETITIVE RACING. (a) In this section, "bicycle" means a nonmotorized vehicle propelled by human power.
(b) A sponsoring organization may hold a competitive bicycle race on a public road only with the approval of the appropriate local law enforcement agencies.
(c) The local law enforcement agencies and the sponsoring organization may agree on safety regulations governing the movement of bicycles during a competitive race or during training for a competitive race, including the permission for bicycle operators to ride abreast. (V.A.C.S. Art. 6701d, Sec. 179(b).)
(b) However, organized, competitive bicycle races may be held on public roads, provided that the
sponsoring organization shall have obtained the approval of the appropriate local law enforcement
agencies. The sponsoring organization and the local law enforcement agency may establish by agreement
special regulations regarding the movement of bicycles during such races, or in training for races, including,
but not limited to, permission to ride abreast and other regulations to facilitate the safe conduct of
such races or training for races. "Bicycle" as used herein means a nonmotorized vehicle propelled by human
power.

Revisor's Note

Section 179(b), V.A.C.S. Article 6701d, refers to "including, but not limited to." "[B]ut not limited
to" is omitted as unnecessary because Section 311.005(13), Government Code (Code Construction Act),
and Section 312.011(19), Government Code, provide that "includes" and "including" are terms of enlargement and
not of limitation and do not create a presumption that components not expressed are excluded.

CHAPTER 552. PEDESTRIANS

Sec. 552.001. TRAFFIC CONTROL SIGNALS

Sec. 552.002. PEDESTRIAN RIGHT-OF-WAY IF CONTROL SIGNAL

PRESENT

Sec. 552.003. PEDESTRIAN RIGHT-OF-WAY AT CROSSWALK

Sec. 552.004. PEDESTRIAN TO KEEP TO RIGHT

Sec. 552.005. CROSSING AT POINT OTHER THAN CROSSWALK

Sec. 552.006. USE OF SIDEWALK

Sec. 552.007. SOLICITATION BY PEDESTRIANS

Sec. 552.008. DRIVERS TO EXERCISE DUE CARE

Sec. 552.009. ORDINANCES RELATING TO PEDESTRIANS

CHAPTER 552. PEDESTRIANS

Revised Law

Sec. 552.001. TRAFFIC CONTROL SIGNALS. (a) A traffic control signal displaying green, red, and yellow lights or lighted
arrows applies to a pedestrian as provided by this section unless
the pedestrian is otherwise directed by a special pedestrian
control signal.

(b) A pedestrian facing a green signal may proceed across a
roadway within a marked or unmarked crosswalk unless the sole green
signal is a turn arrow.

(c) A pedestrian facing a steady red signal alone or a
steady yellow signal may not enter a roadway. (V.A.C.S.
Art. 6701d, Sec. 33 (part).)

Source Law
Sec. 33. [Whenever traffic is controlled by
traffic-control signals exhibiting different colored
lights, or colored lighted arrows, successively one at
a time or in combination, only the colors Green, Red
and Yellow shall be used,] except for special
pedestrian signals carrying a word legend, and said
lights shall indicate and apply to . . . pedestrians as
follows:

1. [ (a)]
   3. Unless otherwise directed by a pedestrian
      control signal, as provided in Section 34, pedestrians,
      facing any green signal, except when the sole green
      signal is a turn arrow, may proceed across the roadway
      within any marked or unmarked crosswalk.

 (b)2
   2. Pedestrians facing a steady yellow signal,
      unless otherwise directed by a pedestrian control
      signal as provided in Section 34, are thereby advised
      that there is insufficient time to cross the roadway
      before a red indication is shown and no pedestrian
      shall then start to cross the roadway.

 (c)3
   2. Unless otherwise directed by a pedestrian
      control signal as provided in Section 34, pedestrians
      facing a steady red signal alone shall not enter the
      roadway.

Revisor's Note
Subsection (b)2, Section 33, V.A.C.S. Article
6701d, states that a pedestrian facing a steady yellow
light is "thereby advised that there is insufficient
time to cross the roadway before a red indication is
shown." The revised law omits the quoted language
because it is only advisory and is unnecessary to the
statement of the prohibition contained in that section.
Sec. 552.002. PEDESTRIAN RIGHT-OF-WAY IF CONTROL SIGNAL PRESENT. (a) A pedestrian control signal displaying "Walk," "Don't Walk," or "Wait" applies to a pedestrian as provided by this section.

(b) A pedestrian facing a "Walk" signal may proceed across a roadway in the direction of the signal, and the operator of a vehicle shall yield the right-of-way to the pedestrian.

(c) A pedestrian may not start to cross a roadway in the direction of a "Don't Walk" signal or a "Wait" signal. A pedestrian who has partially crossed while the "Walk" signal is displayed shall proceed to a sidewalk or safety island while the "Don't Walk" signal or "Wait" signal is displayed. (V.A.C.S. Art. 6701d, Sec. 34.)

Sec. 34. Whenever special pedestrian control signals exhibiting the words "Walk," "Don't Walk," or "Wait" are in place such signals shall indicate as follows:

(a) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(b) Don't Walk or Wait. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the "Walk" signal shall proceed to a sidewalk or safety island while the "Don't Walk" or "Wait" signal is showing.

Sec. 552.003. PEDESTRIAN RIGHT-OF-WAY AT CROSSWALK. (a) The operator of a vehicle shall yield the right-of-way to a pedestrian crossing a roadway in a crosswalk if:

(1) no traffic control signal is in place or in operation; and

(2) the pedestrian is:

(A) on the half of the roadway in which the vehicle is traveling; or

(B) approaching so closely from the opposite...
half of the roadway as to be in danger.

(b) Notwithstanding Subsection (a), a pedestrian may not suddenly leave a curb or other place of safety and proceed into a crosswalk in the path of a vehicle so close that it is impossible for the vehicle operator to yield.

(c) The operator of a vehicle approaching from the rear of a vehicle that is stopped at a crosswalk to permit a pedestrian to cross a roadway may not pass the stopped vehicle. (V.A.C.S. Art. 6701d, Sec. 77.)

Source Law

Sec. 77. (a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not apply under the conditions stated in Section 78(b).

(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

Revisor's Note

(1) Section 77(a), V.A.C.S. Article 6701d, requires a driver to yield the right-of-way, "slowing down or stopping if need be to so yield" to a pedestrian crossing the roadway within a crosswalk. This language is omitted from the revised law because yielding the right-of-way necessarily implies slowing down or stopping if necessary.

(2) Section 552.003(b) of the revised law adds the phrase "into a crosswalk" to make it clear that the provision is intended to be a rule of law controlling pedestrians' right-of-way in crosswalks. See Velasquez
(3) Section 77(a), V.A.C.S. Article 6701d, provides that "[t]his provision shall not apply under the conditions stated in Section 78(b)," referring to pedestrians crossing the roadway at locations where a pedestrian tunnel or overhead pedestrian crossing is provided. Because Section 78(b) makes it clear that it is a pedestrian's duty to yield the right-of-way under these conditions, the express limitation on Section 77(a) has been omitted as redundant.

(4) Section 77(b), V.A.C.S. Article 6701d, refers to a vehicle stopped at a "marked crosswalk or . . . unmarked crosswalk at an intersection." The revised law substitutes "crosswalk" because the omitted language is part of the definition of "crosswalk" under Section 541.302, and that definition applies here.

Revised Law

Sec. 552.004. PEDESTRIAN TO KEEP TO RIGHT. A pedestrian shall proceed on the right half of a crosswalk if possible. (V.A.C.S. Art. 6701d, Sec. 80.)

Source Law

Sec. 80. Pedestrians shall move, whenever possible upon the right half of crosswalks.

Revised Law

Sec. 552.005. CROSSING AT POINT OTHER THAN CROSSWALK. (a) A pedestrian shall yield the right-of-way to a vehicle on the highway if crossing a roadway at a place:

(1) other than in a marked crosswalk or in an unmarked crosswalk at an intersection; or

(2) where a pedestrian tunnel or overhead pedestrian crossing has been provided.

(b) Between adjacent intersections at which traffic control
signals are in operation, a pedestrian may cross only in a marked crosswalk.

(c) A pedestrian may cross a roadway intersection diagonally only if and in the manner authorized by a traffic control device. (V.A.C.S. Art. 6701d, Sec. 78.)

Source Law

Sec. 78. (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the highway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

Revised Law

Sec. 552.006. USE OF SIDEWALK. (a) A pedestrian may not walk along and on a roadway if an adjacent sidewalk is provided.

(b) If a sidewalk is not provided, a pedestrian walking along and on a highway shall if possible walk on:

(1) the left side of the roadway; or

(2) the shoulder of the highway facing oncoming traffic.

(c) The operator of a vehicle emerging from or entering an alley, building, or private road or driveway shall yield the right-of-way to a pedestrian approaching on a sidewalk extending across the alley, building entrance or exit, road, or driveway. (V.A.C.S. Art. 6701d, Secs. 76(d), 81(a), (b).)

Source Law

[Sec. 76] (d) The driver of a vehicle emerging from or entering an alley, building, private road or driveway shall yield the right-of-way to any pedestrian approaching on any sidewalk extending across such...
alley, building entrance, road or driveway.

Sec. 81. (a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.
(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when possible walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

Revisor's Note
Section 81(b), V.A.C.S. Article 6701d, states that a "pedestrian walking along and upon a highway shall . . . walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction." "Roadway," as defined in Chapter 541 of this code, refers to that portion of a highway improved, designed, or ordinarily used for vehicular traffic, exclusive of the berm or shoulder. The revised law clarifies the meaning of the source law's reference to "shoulder."

Revised Law
Sec. 552.007. SOLICITATION BY PEDESTRIANS. (a) A person may not stand in a roadway to solicit a ride, contribution, employment, or business from an occupant of a vehicle, except that a person may stand in a roadway to solicit a charitable contribution if authorized to do so by the local authority having jurisdiction over the roadway.
(b) A person may not stand on or near a highway to solicit the watching or guarding of a vehicle parked or to be parked on the highway.
(c) In this section, "charitable contribution" means a contribution to an organization defined as charitable by the standards of the United States Internal Revenue Service. (V.A.C.S. Art. 6701d, Secs. 81(c), (d); Sec. 2(c), Ch. 342, Acts 71st Leg., R.S., 1989.)
[Sec. 81]  
(c) A person may not stand in a roadway for the purpose of soliciting a ride, contributions, employment or business from the occupant of any vehicle, except that a person may stand in a roadway to solicit charitable contributions if authorized to do so by the local authority having jurisdiction over the roadway.  
(d) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.  

[Acts 71st Leg.]  
(c) The definition of charitable organizations shall meet those established by the federal Internal Revenue Service.

Revisor's Note  
Section 81(d), V.A.C.S. Article 6701d, prohibits standing on or in proximity to a "street or highway." The word "street" is omitted from the revised law because "street" and "highway" are defined identically under Chapter 541 of this code.

Revised Law  
Sec. 552.008. DRIVERS TO EXERCISE DUE CARE. Notwithstanding another provision of this chapter, the operator of a vehicle shall:  
(1) exercise due care to avoid colliding with a pedestrian on a roadway;  
(2) give warning by sounding the horn when necessary; and  
(3) exercise proper precaution on observing a child or an obviously confused or incapacitated person on a roadway.  

(V.A.C.S. Art. 6701d, Sec. 79.)

Source Law  
Sec. 79. Notwithstanding other provisions of this Article every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person upon a roadway.
Revisor's Note

Section 79, V.A.C.S. Article 6701d, refers to provisions of this "Article," referring to Article IX of the Uniform Act Regulating Traffic on Highways. The revised law substitutes "chapter" because all provisions of Article IX are codified in this chapter.

Revised Law
Sec. 552.009. ORDINANCES RELATING TO PEDESTRIANS. A local authority may by ordinance:
(1) require pedestrians to comply strictly with the directions of an official traffic control signal; and
(2) prohibit pedestrians from crossing a roadway in a business district or a designated highway except in a crosswalk.
(V.A.C.S. Art. 6701d, Sec. 76(b).)

Source Law
(b) Local authorities are hereby empowered by ordinance to require that pedestrians shall strictly comply with the directions of any official traffic-control signal and may by ordinance prohibit pedestrians from crossing any roadway in a business district or any designated highways except in a crosswalk.

Revisor's Note
(End of Chapter)
Sections 76(a) and (c), V.A.C.S. Article 6701d, are deleted from the revised law as unnecessary. Section 79(a) provides that pedestrians are "subject to traffic-control signals at intersections as provided in Section 33 of this Act." The provision is unnecessary because the validity of Section 33, which is codified in this chapter, is assumed. Sections 79(a) and (c) state that at "all other places" pedestrians are accorded the rights and are subject to the restrictions stated in this "Article" or "chapter," respectively. The article to which Section 76(a) refers is Article IX, V.A.C.S. Article 6701d, pertaining to pedestrians'
rights and duties. The chapter to which Section 76(c) refers is Chapter 1A, Title 116, Revised Statutes, pertaining to traffic regulations. The statement made by each section is unnecessary because it is assumed that the provisions are valid and apply unless otherwise made inapplicable. The omitted sections read:

Sec. 76. (a) Pedestrians shall be subject to traffic-control signals at intersections as provided in Section 33 of this Act, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this Article.

(c) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

CHAPTER 553. ENACTMENT AND ENFORCEMENT OF CERTAIN TRAFFIC LAWS IN CERTAIN MUNICIPALITIES

Sec. 553.001. APPLICABILITY .............................. 3247
Sec. 553.002. TRAFFIC SIGNALS OR SIGNS IN MUNICIPALITY ...... 3248
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CHAPTER 553. ENACTMENT AND ENFORCEMENT OF CERTAIN TRAFFIC LAWS IN CERTAIN MUNICIPALITIES

Revised Law
Sec. 553.001. APPLICABILITY. This chapter applies only to a municipality with a population of less than 2,500 in a county with a population of 250,000 or more. (V.A.C.S. Art. 6701d, Secs. 158 (part), 164.)

Source Law

[Sec. 158] . . . city or town with a population of less than two thousand, five hundred (2,500) according to the last preceding Federal Census . . . .

Sec. 164. The provisions of the preceding Sections 158, 159, 160, 161, 162, and 163 of this Act shall not apply to cities and towns in counties of less than two hundred and fifty thousand (250,000) population according to the last Federal Census.
Revisor's Note

(1) Sections 158 and 164, V.A.C.S Article 6701d, refer to "city or town" or "cities and towns." The revised law substitutes the term "municipality" because that is the term used in the Local Government Code.

(2) Section 164, V.A.C.S. Article 6701d, and Section 158, V.A.C.S. Article 6701d, describe population numbers that are to be determined "according to the last Federal Census." The revised law omits references to the federal census because the references are unnecessary. Section 311.005(3), Government Code (Code Construction Act), and Section 312.011(20), Government Code, define "population" as population according to the most recent federal decennial census. That definition applies to the revised law.

Revised Law

Sec. 553.002. TRAFFIC SIGNALS OR SIGNS IN MUNICIPALITY. (a) A municipality may not enact an ordinance governing the erection or operation of a traffic signal or sign in the municipality on a state highway funded in whole or in part by the state without prior approval by the Texas Department of Transportation.

(b) A municipality intending to erect or operate a traffic signal or sign described by Subsection (a) must apply in writing to the Texas Department of Transportation. After the application is filed, the Texas Department of Transportation shall designate an employee to investigate the application and shall grant or refuse the application not later than the 90th day after the date of the designation.

(c) In granting an application, the Texas Department of Transportation:

(1) may prescribe the conditions under which the municipality may erect and operate the signal or sign and all other aspects of the signal or sign; and
(2) shall consider the convenience of the traveling public in raising speed limits in noncongested areas and the control of traffic for the protection of schoolchildren and other inhabitants of small communities where there are areas of congestion and cross-traffic. (V.A.C.S. Art. 6701d, Sec. 158 (part).)

Source Law
Sec. 158. No incorporated [city or town] . . . shall enact any ordinance for the erection or operation of any traffic signal or sign on any State Highway the cost of which has been paid, either in whole or in part, by the State of Texas, in any such city or town without prior approval thereof by the State Highway Department. Such city or town shall make written application to the State Highway Department for approval of such installation and operation, and upon the filing of any such application, the State Highway Department shall designate an employee to investigate such application, and within ninety (90) days thereafter, said Department shall grant or refuse such application. In granting any such application, the Highway Department may prescribe the conditions under which the signals or signs may be erected and operated, their location, size, shape, height, color, wording, timing, spacing, and all other aspects of such signals or signs, provided that the Highway Department shall consider not only the convenience of the traveling public in raising speed limits in noncongested areas, but also the proper control of traffic for the protection of the lives of school children and other inhabitants of small communities where there are areas of congestion and cross traffic.

Revisor's Note
(1) Section 158, V.A.C.S. Article 6701d, refers to "incorporated city or town." The revised law substitutes the term "municipality" for "city or town" because that is the term used in the Local Government Code. The revised law also omits "incorporated" as unnecessary because under the Local Government Code, the term "municipality" means one that is incorporated.

(2) Section 158, V.A.C.S. Article 6701d, refers to the "State Highway Department." The revised law substitutes "Texas Department of Transportation" for "State Highway Department" for the reason stated in the revisor's note under Section 201.003 of this code.
(3) Section 158, V.A.C.S. Article 6701d, gives the Texas Department of Transportation authority to "prescribe the conditions under which the signals or signs may be erected and operated, their location, size, shape, height, color, wording, timing, spacing, and all other aspects of such signals or signs." The revised law omits the specific reference to signs' and signals' "location, size, shape, height, color, wording, timing, [and] spacing" because the phrase "and all other aspects of such signals or signs" is inclusive of these terms.

Revised Law

Sec. 553.003. INJUNCTION AGAINST UNAUTHORIZED SIGNAL OR SIGN. (a) If a municipality erects or maintains a traffic signal or sign without meeting the requirements of this chapter, the district or county attorney of the county where the signal or sign is located shall bring a suit to enjoin the erection and maintenance of the signal or sign.

(b) If the district or county attorney does not institute a suit under Subsection (a) within 15 days after the date a request to do so is received from a resident of the state, any state resident may institute and prosecute the suit. (V.A.C.S. Art. 6701d, Sec. 160.)

Source Law

Sec. 160. If any such incorporated city or town shall erect or maintain any traffic signal or sign without having been duly authorized as provided herein, a suit to enjoin erection and maintenance of such signal or sign shall be prosecuted by the County or District Attorney of the county in which it is located, and if such attorneys shall fail to institute any such suit within fifteen (15) days after receipt of request therefor from any citizen of the State of Texas, then any citizen of the State may institute and prosecute the same.
Revisor's Note

(1) Section 160, V.A.C.S. Article 6701d, refers to "incorporated city or town." The revised law omits "incorporated" and substitutes the term "municipality" for "city or town" for the reasons stated in Revisor's Note (1) under Section 553.002 of this code.

(2) The revised law substitutes "resident" for "citizen" because, in the context of this section, "citizen" and "resident" are synonymous and "resident" is more commonly used.

Revisor's Note
(End of Chapter)

In 1947, the 50th Legislature adopted the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes). In 1953, the legislature amended the act by adding Sections 158-165. These sections relate to traffic signals, signs, and speed limits in towns or cities of less than 2,500 population in certain counties. The revised law omits Sections 159, 161, 162, 163, and 165 for the reasons stated below.

Section 159, which allows criminal prosecution of an officer who arrests the driver of a vehicle for failing to comply with an unauthorized signal or sign, was impliedly repealed by the enactment in 1973 of the offense of official oppression, Section 39.02 of the Penal Code, that proscribes the same conduct. (That provision is Section 39.03 of the Penal Code enacted in 1993.) The omitted provision reads:

Sec. 159. If any officer shall arrest or attempt to arrest or stop the driver of any vehicle for failing to comply with any unauthorized traffic signal or sign, knowing that such signal or sign has not been authorized, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than One Hundred Dollars ($100) and not more than Five Hundred Dollars ($500).
Section 161, which authorizes the State Highway Department (Texas Department of Transportation) to set speed limits on state highways within the limits of certain municipalities, was impliedly repealed by Section 167, V.A.C.S. Article 6701d (Section 545.353 of this code), which was enacted in 1963. The omitted provision reads:

Sec. 161. The State Highway Department may, upon its own initiative, or upon the application of any city or town or any citizen of the State of Texas, fix the speed limits on such State Highways within the limits of any incorporated city or town of less than two thousand, five hundred (2,500) population according to the last preceding Federal Census, higher or lower than the prima facie speed limits now otherwise established by law, in the same manner as provided in Section 158 hereof, provided that fixing of such speed limits shall be done in accordance with the provisions of Chapter 346 of the Acts of the Fifty-second Legislature, 1951, except where inconsistent herewith.

Section 162, which relates to actions that may be taken against an officer who arrests the driver of a motor vehicle for traveling at a speed that is permitted by the State Highway Department (Texas Department of Transportation), also was impliedly repealed by the enactment in 1973 of the offense of official oppression, Section 39.02 of the Penal Code (now Section 39.03 of the Penal Code). The omitted provision reads:

Sec. 162. If any officer shall arrest, or attempt to arrest, the operator of any motor vehicle for traveling at a rate of speed permitted by the State Highway Department on any State Highway within the limits of any such incorporated city or town, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than One Hundred Dollars ($100) and not more than Five Hundred Dollars ($500).

Section 163 authorizes the State Highway Department (Texas Department of Transportation) to remove or alter a traffic signal or sign erected before
the passage in 1953 of Sections 158-165 of V.A.C.S. Article 6701d. That provision has been executed. The omitted provision reads:

Sec. 163. The State Highway Department may, upon its own initiative, or upon the application of any incorporated city or town or any citizen of the State of Texas, order the removal or alteration of any traffic signal or sign erected prior to the passage of this Act.

Section 165 limits the applicability of Sections 158-165 to state highways. The revised law omits this section as unnecessary because there are no provisions of this chapter that apply to municipal streets. The omitted provision reads:

Sec. 165. Nothing in this Act shall be construed to take away from any incorporated city its authority and jurisdiction over its streets except to the extent provided herein in connection with State Highways only, the cost of which has been paid in whole or in part by the State.

[Chapters 554-599 reserved for expansion]

CHAPTER 600. MISCELLANEOUS PROVISIONS

Sec. 600.001. REMOVING MATERIAL FROM HIGHWAY

Sec. 600.002. IDENTIFICATION REQUIRED FOR VEHICLE NEAR MEXICAN BORDER

CHAPTER 600. MISCELLANEOUS PROVISIONS

Revised Law

Sec. 600.001. REMOVING MATERIAL FROM HIGHWAY. (a) A person who drops or permits to be dropped or thrown on a highway destructive or injurious material shall immediately remove the material or cause it to be removed.

(b) A person who removes a wrecked or damaged vehicle from a highway shall remove glass or another injurious substance dropped on the highway from the vehicle. (V.A.C.S. Art. 6701d, Sec. 103.)

Source Law

Sec. 103. (a) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately
remove the same or cause it to be removed.

(b) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

Revised Law

Sec. 600.002. IDENTIFICATION REQUIRED FOR VEHICLE NEAR MEXICAN BORDER. On demand of a peace officer within 250 feet of the Mexican border at a checkpoint authorized by Section 411.0095, Government Code, as added by Chapter 497, Acts of the 73rd Legislature, Regular Session, 1993, the driver of a vehicle shall produce a driver's license and proof of compliance with Chapter 601. (V.A.C.S. Art. 6701d, Sec. 107F.)

Source Law

Sec. 107F. On the demand of a peace officer within 250 feet of the Mexican border at a checkpoint authorized by Section 411.0095, Government Code, a driver of a vehicle shall produce a valid driver's license and proof of compliance with the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes).

Revisor's Note

(1) Section 107F, V.A.C.S. Article 6701d, refers to Section 411.0095, Government Code. The 73rd Legislature added to the Government Code two different sections numbered 411.0095. The revised law includes a citation to clarify which Section 411.0095 applies.

(2) Section 107F, V.A.C.S. Article 6701d, states that a person shall produce a valid driver's license. The revised law omits "valid" as unnecessary because the word does not add to the clear meaning of the law.

(3) Section 107F, V.A.C.S. Article 6701d, cites the Texas Motor Vehicle Safety-Responsibility Act as Article 6701h, Vernon's Texas Civil Statutes. That statute is codified in this code as Chapter 601, and the revised law is drafted accordingly.