REVISOR’S REPORT

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

VOLUME VIII

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

Austin, Texas
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Sec. 10. Chapter 502, 55th Legislature, Regular Session, 1957, as amended (Article 6701j, Vernon's Texas Civil Statutes), is repealed.

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CHAPTER 724. IMPLIED CONSENT

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 724.001. DEFINITIONS. In this chapter:

(1) "Alcohol concentration" has the meaning assigned by Section 49.01, Penal Code.
(2) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.
(3) "Dangerous drug" has the meaning assigned by Section 483.001, Health and Safety Code.
(4) "Department" means the Department of Public Safety.
(5) "Drug" has the meaning assigned by Section 481.002, Health and Safety Code.

(6) "Intoxicated" has the meaning assigned by Section 49.01, Penal Code.

(7) "License" has the meaning assigned by Section 521.001.

(8) "Operate" means to drive or be in actual control of a motor vehicle or watercraft.

(9) "Public place" has the meaning assigned by Section 1.07, Penal Code. (V.A.C.S. Art. 67011-5, Secs. 3(j)(1), (2), (3), (4), (5), (6); New.)

Source Law

(j) In this Act:

(1) "Alcohol concentration" has the meaning assigned by Section 49.01, Penal Code.

(2) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(3) "Dangerous drug" has the meaning assigned by Section 483.001, Health and Safety Code.

(4) "Drug" has the meaning assigned by Section 481.002, Health and Safety Code.

(5) "Intoxicated" has the meaning assigned by Section 49.01, Penal Code.

(6) "Public place" has the meaning assigned by Section 1.07, Penal Code.

Revisor's Note

(1) The definitions of "department," "license," and "operate" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

(2) The revised law omits Section 3(j)(8), V.A.C.S. Article 67011-5, as a general definition because that definition is used only in Section 724.035, and the substance of the definition is included there. The omitted provision reads:

(8) "Alcohol-related or drug-related enforcement contact" has the meaning assigned by Section 1, Article 6687b-1, Revised Statutes.
Revised Law

Sec. 724.002. APPLICABILITY. The provisions of this chapter that apply to suspension of a license for refusal to submit to the taking of a specimen (Sections 724.013, 724.015, and 724.048 and Subchapters C and D) apply only to a person arrested for an offense involving the operation of a motor vehicle. (V.A.C.S. Art. 67011-5, Sec. 2(j), as added by Ch. 900, Acts 73rd Leg., R.S., 1993.)

Source Law

(j) This section applies only to a person arrested for an offense involving the operation of a motor vehicle.

Revised Law

Sec. 724.003. RULEMAKING. The department and the State Office of Administrative Hearings shall adopt rules to administer this chapter. (V.A.C.S. Art. 67011-5, Sec. 4A.)

Source Law

Sec. 4A. The Department of Public Safety and the State Office of Administrative Hearings shall adopt rules to administer this Act.

[Sections 724.004-724.010 reserved for expansion]

Subchapter B. Taking and Analysis of Specimen

Revised Law

Sec. 724.011. CONSENT TO TAKING OF SPECIMEN. (a) If a person is arrested for an offense arising out of acts alleged to have been committed while the person was operating a motor vehicle in a public place, or a watercraft, while intoxicated, the person is considered to have consented, subject to this chapter, to submit to the taking of one or more specimens of the person's breath or blood for analysis to determine the alcohol concentration or the presence in the person's body of a controlled substance, drug, dangerous drug, or other substance.

(b) A person arrested for an offense described by Subsection 74C263 JD-D 3803
(a) may consent to submit to the taking of any other type of specimen to determine the person's alcohol concentration.

(V.A.C.S. Art. 67011-5, Sec. 1 (part).)

Source Law

Art. 67011-5
Sec. 1. Any person who operates a motor vehicle in a public place, or a watercraft, in this state shall be deemed to have given consent, subject to the provisions of this Act, to submit to the taking of one or more specimens of his breath or blood for the purpose of analysis to determine the alcohol concentration or the presence in his body of a controlled substance, drug, dangerous drug, or other substance, if arrested for any offense arising out of acts alleged to have been committed while a person was driving or in actual physical control of a motor vehicle or a watercraft while intoxicated. Any person so arrested may consent to the giving of any other type of specimen to determine his alcohol concentration.

Reviser's Note

Section 1, V.A.C.S. Article 67011-5, provides that a person who operates a motor vehicle in a public place or a watercraft is considered to have consented to submit to the taking of a breath or blood specimen but is not considered, solely on the basis of operation of a motor vehicle in a public place or a watercraft, to have consented to give any other type of specimen. The revised law omits the provision relating to implied consent to give other types of specimens as unnecessary because the implied consent established by this section applies by its terms only to breath and blood specimens. The omitted law reads:

Sec. 1. . . . but he shall not be deemed, solely on the basis of his operation of a motor vehicle in a public place, or a watercraft, in this state, to have given consent to give any type of specimen other than a specimen of his breath or blood.

Revised Law

Sec. 724.012. MANDATORY TAKING OF SPECIMEN. (a) A specimen of a person's breath or blood may be taken only if the person is
arrested and only at the request of a peace officer having reasonable grounds to believe the person while intoxicated was operating a motor vehicle in a public place, or a watercraft.

(b) A peace officer shall require the taking of a specimen of the person's breath or blood if:

(1) the officer arrests the person for an offense under Chapter 49, Penal Code, involving the operation of a motor vehicle or a watercraft;

(2) the person was the operator of a motor vehicle or a watercraft involved in an accident that the officer reasonably believes occurred as a result of the offense;

(3) at the time of the arrest the officer reasonably believes that a person has died or will die as a direct result of the accident; and

(4) the person refuses the officer's request to submit to the taking of a specimen voluntarily.

(c) The peace officer shall designate the type of specimen to be taken. (V.A.C.S. Art. 67011-5, Secs. 1 (part), 3(i); New.)

Source Law

Sec. 1. The specimen, or specimens, shall be taken at the request of a peace officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle in a public place, or a watercraft, in this state while intoxicated.

[Sec. 3]

(i) A peace officer shall require a person to give a specimen under Section 2 of this Act if:

(1) the officer arrests the person for an offense involving the operation of a motor vehicle or a watercraft under Chapter 49, Penal Code;

(2) the person was the operator of a motor vehicle or a watercraft involved in an accident that the officer reasonably believes occurred as a result of the offense;

(3) at the time of the arrest the officer reasonably believes that a person has died or will die as a direct result of the accident; and

(4) the person refuses the officer's request to voluntarily give a specimen.
Revisor's Note
The revised law adds a provision that the peace officer shall designate the type of specimen to be taken because it is clear from the parts of Section 2, V.A.C.S. Article 67011-5, codified in this code as Sections 724.013 and 724.015, that an officer has the duty to designate the type of specimen to be taken.

Revised Law
Sec. 724.013. PROHIBITION ON TAKING SPECIMEN IF PERSON REFUSES; EXCEPTION. Except as provided by Section 724.012(b), a specimen may not be taken if a person refuses to submit to the taking of a specimen designated by a peace officer. (V.A.C.S. Art. 67011-5, Sec. 2(a).)

Source Law
Sec. 2. (a) Except as provided by Subsection (i) of Section 3 of this Act, if a person under arrest refuses, upon the request of a peace officer, to give a specimen designated by the peace officer as provided in Section 1, none shall be taken.

Revised Law
Sec. 724.014. PERSON INCAPABLE OF REFUSAL. (a) A person who is dead, unconscious, or otherwise incapable of refusal is considered not to have withdrawn the consent provided by Section 724.011.

(b) If the person is dead, a specimen may be taken by:

(1) the county medical examiner or the examiner's designated agent; or

(2) a licensed mortician or a person authorized under Section 724.016 or 724.017 if there is not a county medical examiner for the county.

(c) If the person is alive but is incapable of refusal, a specimen may be taken by a person authorized under Section 724.016 or 724.017. (V.A.C.S. Art. 67011-5, Sec. 3(h) (part).)
Source Law

(h) Any person who is dead, unconscious, or otherwise in a condition rendering the person incapable of refusal, whether the person was arrested or not, shall be deemed not to have withdrawn the consent provided by Section 1 of this Act. If the person is dead, a specimen may be withdrawn by the county medical examiner or the examiner's designated agent or, if there is no county medical examiner for the county, by a licensed mortician or a person authorized as provided by Subsection (c) of this section. If the person is not dead but is incapable of refusal, a specimen may be withdrawn by a person authorized as provided by Subsection (c) of this section.

Revised Law

Sec. 724.015. INFORMATION PROVIDED BY OFFICER BEFORE REQUESTING SPECIMEN. Before requesting a person to submit to the taking of a specimen, the officer shall inform the person orally and in writing that:

(1) if the person refuses to submit to the taking of the specimen, that refusal may be admissible in a subsequent prosecution;

(2) if the person refuses to submit to the taking of the specimen, the person's license to operate a motor vehicle will be automatically suspended, whether or not the person is subsequently prosecuted as a result of the arrest, for:

(A) not less than 90 days if the person is 21 years of age or older; or

(B) one year if the person is younger than 21 years of age;

(3) if the person submits to the taking of a specimen designated by the officer and an analysis of the specimen shows the person had an alcohol concentration of a level specified by Chapter 49, Penal Code, the person's license to operate a motor vehicle will be automatically suspended for not less than 60 days, whether or not the person is subsequently prosecuted as a result of the arrest;

(4) if the officer determines that the person is a resident without a license to operate a motor vehicle in this
state, the department will deny to the person the issuance of a license, whether or not the person is subsequently prosecuted as a result of the arrest, if:

(A) the person refuses to submit to the taking of a specimen, in which case the denial is for:

(i) not less than 90 days if the person is 21 years of age or older; or

(ii) one year if the person is younger than 21 years of age; or

(B) a specimen designated by the officer is taken and an analysis of the specimen shows the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code, in which case the denial is for not less than 60 days; and

(5) the person has a right to a hearing on the suspension or denial if, not later than the 15th day after the date on which the person receives the notice of suspension or denial or on which the person is considered to have received the notice by mail as provided by law, the department receives, at its headquarters in Austin, a written demand, including a facsimile transmission, or a request in another form prescribed by the department for the hearing. (V.A.C.S. Art. 67011-5, Secs. 2(b), (c) (part).)

(b) Before requesting a person to give a specimen, the officer shall inform the person orally and in writing that if the person refuses to give the specimen, that refusal may be admissible in a subsequent prosecution, and that the person's license, permit, or privilege to operate a motor vehicle will be automatically suspended for not less than 90 days if the person is 21 years of age or older, or one year if the person is younger than 21 years of age, whether or not the person is subsequently prosecuted as a result of the arrest. The officer shall inform the person that if the person gives a specimen designated by the officer, and an analysis of the specimen shows the person had an alcohol concentration of a level specified in Article 67011-1, Revised Statutes, the person's license, permit, or privilege to operate a motor vehicle will be automatically suspended for not less than 60 days, whether or not the person is subsequently prosecuted as a result of the arrest. If
the officer determines that the person is a resident without a license or permit to operate a motor vehicle in this state, the officer shall inform the person that the Department of Public Safety shall deny to the person the issuance of a license or permit for a period of not less than 90 days if the person is 21 years of age or older, or one year if the person is younger than 21 years of age, if the person refuses to give the specimen, or for a period of not less than 60 days if the person gives a specimen designated by the officer, and an analysis of the specimen shows the person had an alcohol concentration of a level specified in Article 67011-1(a)(2)(B), Revised Statutes, whether or not the person is subsequently prosecuted as a result of the arrest. The officer shall inform the person that the person has a right to a hearing on suspension or denial if, not later than the 15th day after the date on which the person receives notice of suspension or denial or the person is presumed to have received notice of suspension or denial by mail as provided by law, the department receives, at its headquarters in Austin, a written demand, including facsimile transmissions, or a demand in another form prescribed by the department, that the hearing be held.

(c) The officer shall provide the person with a written statement containing the information required by Subsection (b) of this section. . . .

Revisor's Note

(1) Section 2(b), V.A.C.S. Article 67011-5, was amended by Chapters 790 and 886, Acts of the 73rd Legislature, Regular Session, 1993. The source law as set out above incorporates both amendments.

(2) Section 2(b), V.A.C.S. Article 67011-5, refers to Article 67011-1, Revised Statutes. That statute was codified in 1993, effective September 1, 1994, as Chapter 49, Penal Code. The revised law is drafted accordingly.

(3) Section 2(b), V.A.C.S. Article 67011-5, refers to Article 67011-1(a)(2)(B), Revised Statutes. That statute was codified in 1993, effective September 1, 1994, as Section 49.01(2)(B), Penal Code. The revised law is drafted accordingly.

Revised Law

Sec. 724.016. BREATH SPECIMEN. (a) A breath specimen taken at the request or order of a peace officer must be taken and analyzed under rules of the department by an individual possessing
a certificate issued by the department certifying that the individual is qualified to perform the analysis.

(b) The department may:

(1) adopt rules approving satisfactory analytical methods; and

(2) ascertain the qualifications of an individual to perform the analysis.

(c) The department may revoke a certificate for cause.

(V.A.C.S. Art. 67011-5, Secs. 3(b), (c) (part).)

Source Law

(b) Analysis of a specimen of the person's breath, to be considered valid under the provisions of this section, must be performed according to rules of the Texas Department of Public Safety and by an individual possessing a valid certificate issued by the Texas Department of Public Safety for this purpose. The Texas Department of Public Safety is authorized to establish rules approving satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analysis, and to issue certificates certifying such fact. These certificates shall be subject to termination or revocation, for cause, at the discretion of the Texas Department of Public Safety.

(c) ... Breath specimens taken at the request or order of a peace officer must be taken and analysis made under such conditions as may be prescribed by the Department of Public Safety, and by such persons as the Department of Public Safety has certified to be qualified.

Revisor's Note

(1) Section 3(b), V.A.C.S. Article 67011-5, provides that analysis of a specimen of a person's breath, "to be considered valid under the provisions of this section," must be performed according to rules of the Department of Public Safety by an individual possessing a certificate issued by the department. The revised law omits the quoted language as unnecessary because it is implemented by the use of the word "must."

(2) Section 3(b), V.A.C.S. Article 67011-5, refers to an individual possessing 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 3(b), V.A.C.S. Article 67011-5, authorizes the Department of Public Safety to adopt rules approving satisfactory "techniques or methods." The revised law omits as unnecessary "techniques" because the meaning of that term is included within the meaning of "methods."

(4) Section 3(b), V.A.C.S. Article 67011-5, provides that a certificate is subject to "termination or revocation" by the Department of Public Safety. The revised law omits as unnecessary "termination" because the meaning of that term is included within the meaning of "revocation."

Revised Law

Sec. 724.017. BLOOD SPECIMEN. (a) Only a physician, qualified technician, chemist, registered professional nurse, or licensed vocational nurse may take a blood specimen at the request or order of a peace officer under this chapter. The blood specimen must be taken in a sanitary place.

(b) The person who takes the blood specimen under this chapter, or the hospital where the blood specimen is taken, is not liable for damages arising from the request or order of the peace officer to take the blood specimen as provided by this chapter if the blood specimen was taken according to recognized medical procedures. This subsection does not relieve a person from liability for negligence in the taking of a blood specimen.

(c) In this section, "qualified technician" does not include emergency medical services personnel. (V.A.C.S. Art. 67011-5, Sec. 3(c) (part).)
(c) When a person gives a specimen of blood at the request or order of a peace officer under the provisions of this Act, only a physician, qualified technician, chemist, registered professional nurse, or licensed vocational nurse may withdraw a blood specimen for the purpose of determining the alcohol concentration or presence of a controlled substance, drug, dangerous drug, or other substance therein. For purposes of this subsection, "qualified technician" does not include emergency medical services personnel. The sample must be taken in a sanitary place. The person drawing the blood specimen at the request or order of a peace officer under the provisions of this Act, or the hospital where that person is taken for the purpose of securing the blood specimen, shall not be held liable for damages arising from the request or order of the peace officer to take the blood specimen as provided herein, provided the blood specimen was withdrawn according to recognized medical procedures, and provided further that the foregoing shall not relieve any such person from liability for negligence in the withdrawing of any blood specimen. . . .

Revisor's Note
Section 3(c), V.A.C.S. Article 67011-5, refers to a "sample" that must be taken in a sanitary place. The revised law substitutes the term "blood specimen" for "sample" because the former term is most often used in the source law.

Revised Law
Sec. 724.018. FURNISHING INFORMATION CONCERNING TEST RESULTS. On the request of a person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person's attorney. (V.A.C.S. Art. 67011-5, Sec. 3(e).)

Source Law
(e) Upon the request of a person who has given a specimen at the request of a peace officer, full information concerning the analytical results of the test or tests of the specimen shall be made available to him or his attorney.

Revised Law
Sec. 724.019. ADDITIONAL ANALYSIS BY REQUEST. (a) A person who submits to the taking of a specimen of breath, blood, urine, or
another bodily substance at the request or order of a peace officer 
may, on request and within a reasonable time not to exceed two 
hours after the arrest, have a physician, qualified technician, 
chemist, or registered professional nurse selected by the person 
take for analysis an additional specimen of the person’s blood. 

(b) The person shall be allowed a reasonable opportunity to 
contact a person specified by Subsection (a). 

(c) A peace officer or law enforcement agency is not 
required to transport for testing a person who requests that a 
long specimen be taken under this section. 

(d) The failure or inability to obtain an additional 
long specimen or analysis under this section does not preclude the 
admission of evidence relating to the analysis of the specimen 
taken at the request or order of the peace officer. 

(e) A peace officer, another person acting for or on behalf 
of the state, or a law enforcement agency is not liable for damages 
 arising from a person’s request to have a long specimen taken. 
(V.A.C.S. Art. 67011-5, Sec. 3(d), as added by Ch. 434, Acts 61st 
Leg., R.S., 1969.)

Source Law

(d) The person who gave a specimen of breath, 
long, urine, or other bodily substances in connection 
with this Act may, upon request and within a reasonable 
time not to exceed two hours after the arrest, have a 
physician, qualified technician, chemist, or registered 
professional nurse of his own choosing draw a specimen 
and have an analysis made of his blood in addition to 
any specimen taken and analyzed at the direction of a 
peace officer. Such person shall be allowed a 
reasonable opportunity to contact a person listed in 
this subsection who may draw blood, provided that a 
peace officer or law enforcement agency is not required 
to transport for such testing a person who has 
requested that a blood specimen be drawn under this 
subsection. The failure or inability to obtain an 
additional specimen or analysis by a person shall not 
preclude the admission of evidence relating to the 
analysis of the specimen taken at the direction of the 
peace officer under this Act. A peace officer, any 
other person acting for or on behalf of the state, or a 
law enforcement agency shall not be held liable for 
damages arising from the person’s request to have a 
long of his blood drawn under this subsection.
Reviser's Note
(End of Subchapter)

Section 3(d) as added by Chapter 963, Acts of the 71st Legislature, Regular Session, 1989, provides that the requirement for inspection under Section 3(c) does not apply when a specimen of blood is taken at the office or place of business of a licensee of the Texas State Board of Medical Examiners. The inspection requirement in Section 3(c) was repealed by Chapter 148, Acts of the 72nd Legislature, Regular Session, 1991. Accordingly, the revised law omits as unnecessary Section 3(d) as added by Chapter 963. The omitted law reads:

(d) The requirement for inspection under Subsection (c) of this section shall not apply or be required when a specimen of blood is taken at the office or place of business of a licensee of the Texas State Board of Medical Examiners.

[Sections 724.020-724.030 reserved for expansion]

SUBCHAPTER C. SUSPENSION OR DENIAL OF LICENSE ON REFUSAL OF SPECIMEN

Revised Law

Sec. 724.031. STATEMENT REQUESTED ON REFUSAL. If a person refuses the request of a peace officer to submit to the taking of a specimen, the peace officer shall request the person to sign a statement that:

(1) the officer requested that the person submit to the taking of a specimen;

(2) the person was informed of the consequences of not submitting to the taking of a specimen; and

(3) the person refused to submit to the taking of a specimen. (V.A.C.S. Art. 67011-5, Sec. 2(c) (part).)

Source Law

(c) ... If the person refuses the request of the officer to give a specimen, the officer shall request the person to sign a statement that the officer...
requested that he give a specimen, that he was informed of the consequences of not giving a specimen, and that he refused to give a specimen.

Revised Law

Sec. 724.032. ISSUANCE BY OFFICER OF NOTICE OF SUSPENSION OR DENIAL OF LICENSE; WRITTEN REFUSAL REPORT. (a) If a person refuses to submit to the taking of a specimen, whether expressly or because of an intentional failure of the person to give the specimen, the peace officer shall:

(1) serve notice of license suspension or denial on the person; and

(2) make a written report of the refusal to the director of the department.

(b) The director must approve the form of the refusal report. The report must:

(1) show the grounds for the officer's belief that the person had been operating a motor vehicle while intoxicated; and

(2) contain a copy of:

(A) the refusal statement requested under Section 724.031; or

(B) a statement signed by the officer that the person refused to:

(i) submit to the taking of the requested specimen; and

(ii) sign the requested statement under Section 724.031.

(c) The officer shall forward to the department a copy of the notice of suspension or denial and the refusal report not later than the fifth business day after the date of the arrest.

(d) The department shall develop forms for notices of suspension or denial that shall be used by all state and local law enforcement agencies. (V.A.C.S. Art. 67011-5, Secs. 2(d), (e), (f), (g).)
(d) If the person refuses to give a specimen, whether the refusal was express or the result of an intentional failure of the person to give a specimen as designated by the peace officer, the officer before whom the refusal was made shall serve notice of driver's license suspension or denial to the person and make a written report of the refusal to the Director of the Department of Public Safety.

(e) The director shall approve the form of the report. The report must show the grounds for the officer's belief that the person had been operating a motor vehicle while intoxicated. The report must also show that the person refused to give a specimen, as evidenced by:

1. a written refusal to give a specimen, signed by the person; or
2. a statement signed by the officer stating that the person refused to give a specimen and also refused to sign the statement requested by the officer under Subsection (c) of this section.

(f) A copy of the notice of suspension or denial and the refusal report under Subsection (e) of this section shall be forwarded by the officer to the department before the end of the fifth business day after the date of the arrest.

(g) The department shall develop forms for notices of suspension or denial that shall be used by all state and local law enforcement agencies.

Revisor's Note

Section 2(f), V.A.C.S. Article 67011-5, was amended by Chapters 82, 790, 796, and 900, Acts of the 73rd Legislature, Regular Session, 1993. In addition, Chapter 886, Acts of the 73rd Legislature, Regular Session, 1993, amended Section 2(f) and relettered the former Section 2(f) as Sections 2(i)-(m). Section 2(f) as set out in the source law is that subsection as amended by Chapter 886, Acts of the 73rd Legislature, Regular Session, 1993. The amendments to the former Section 2(f) effected by Chapters 82, 790, 796, and 900 are reflected in the codification in this chapter of Sections 2(i)-(m) as added by Chapter 886.

Revised Law

Sec. 724.033. ISSUANCE BY DEPARTMENT OF NOTICE OF SUSPENSION OR DENIAL OF LICENSE. (a) On receipt of a report of a peace officer under Section 724.032, if the officer did not serve notice
of suspension or denial of a license at the time of refusal to submit to the taking of a specimen, the department shall mail notice of suspension or denial, by certified mail, to the address of the person shown by the records of the department and to the address given in the peace officer's report, if different.

(b) Notice is considered received on the fifth day after the date it is mailed. (V.A.C.S. Art. 67011-5, Sec. 2(h) (part).)

Source Law

On receipt of a report of a peace officer under this section, if the officer did not serve notice of suspension or denial of driver's license at the time of refusal to give a specimen, the department shall issue notice to the person of driver's license suspension or prohibition. In the event the officer did not serve notice of suspension at the time of refusal, the department shall mail notice of suspension or prohibition, by certified mail, to the address of the person, as shown by the records of the department, and to the address given in the peace officer's report, if different. Notice is presumed received on the fifth day after the date it is mailed.

Revised Law

Sec. 724.034. CONTENTS OF NOTICE OF SUSPENSION OR DENIAL OF LICENSE. A notice of suspension or denial of a license must state:

1. the reason and statutory grounds for the action;
2. the effective date of the suspension or denial;
3. the right of the person to a hearing;
4. how to request a hearing; and
5. the date by which a request for a hearing must be received by the department. (V.A.C.S. Art. 67011-5, Sec. 2(h) (part).)

Source Law

A notice of suspension or prohibition must clearly state the reason and statutory grounds for and the effective date of the action, the right of the person to a hearing, how to request a hearing, and the period within which a request for a hearing must be received by the department.

Revised Law

Sec. 724.035. SUSPENSION OR DENIAL OF LICENSE. (a) If a
person refuses the request of a peace officer to submit to the taking of a specimen, the department shall:

1. suspend the person's license to operate a motor vehicle on a public highway for 90 days if the person is 21 years of age or older or one year if the person is younger than 21 years of age; or

2. if the person is a resident without a license, issue an order denying the issuance of a license to the person for 90 days if the person is 21 years of age or older or one year if the person is younger than 21 years of age.

(b) The period of suspension or denial is 180 days if the person's driving record shows one or more alcohol-related or drug-related enforcement contacts, as defined by Section 524.001, during the five years preceding the date of the person's arrest.

(c) The period of suspension or denial is one year if the person's driving record shows one or more alcohol-related or drug-related enforcement contacts, as defined by Section 524.001, during the five years preceding the date of the person's arrest.

(d) A suspension or denial takes effect on the 40th day after the date on which the person:

1. receives notice of suspension or denial under Section 724.032(a); or

2. is considered to have received notice of suspension or denial under Section 724.033. (V.A.C.S. Art. 67011-5, Sec. 2(i).)

Source Law

(i) If a person under arrest refuses on the request of a peace officer to give a specimen designated by the peace officer as provided in this Act, the person's license, permit, or privilege to operate a motor vehicle on a public highway shall be suspended for 90 days if the person is 21 years of age or older, or one year if the person is younger than 21 years of age, or, if the person is a resident without a permit to operate a motor vehicle in this state, the department shall issue an order prohibiting the person from obtaining a license or permit for 90 days if the person is 21 years of age or older, or one year if the person is younger than 21 years of age. The period of suspension or prohibition under this Act is 180 days if the person's driving record shows one or more previous...
alcohol-related or drug-related enforcement contacts, as defined in Section 1(2)(B) or (C), Article 6687b-1, Revised Statutes, during the five years immediately preceding the date of the person's arrest. The period of suspension or prohibition under this Act is one year if the person's driving record shows one or more previous alcohol-related or drug-related enforcement contacts, as defined in Section 1(2)(A), Article 6687b-1, Revised Statutes, during the five years immediately preceding the date of the person's arrest.

A suspension or prohibition under this section is effective on the 40th day after the date on which the person receives from an arresting officer notice of suspension or denial under Subsection (d) of this section or the 40th day after the date on which the person is considered to have received, from the department, notice of suspension or prohibition by mail under Subsection (h) of this section.

Revisor's Note

(1) Section 2(i), V.A.C.S. Article 67011-5, as set out in the source law reflects the amendment to that subsection effected by Chapter 886, Acts of the 73rd Legislature, Regular Session, 1993, as well as the amendments to Section 2(f), V.A.C.S. Article 67011-5, effected by Chapters 790 and 796, Acts of the 73rd Legislature, Regular Session, 1993. See the reviser's note under Section 724.032.

(2) Section 2(i), V.A.C.S. Article 67011-5, refers to Sections 1(2)(A), (B), and (C), Article 6687b-1, Revised Statutes. Those statutes are codified in this code as Section 524.001. The revised law is drafted accordingly.

Revisor's Note
(End of Subchapter)

(1) Section 2(t), V.A.C.S. Article 67011-5, provides that a written report submitted by an officer under Section 2(d) (codified in this code as Section 724.032(a)) is a governmental record under Section 37.10, Penal Code. The revised law omits this provision as unnecessary because Section 37.10, Penal Code, applies by its terms. The omitted law reads:

(t) A written report submitted by an officer under Subsection (d) of this

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section is a governmental record for the purposes of Section 37.10, Penal Code.

(2) Section 2(u), V.A.C.S. Article 67011-5, provides that a person whose license is suspended under that section (codified in this code as Section 724.035) or who is the subject of a prohibition order issued under that section is subject to Section 34, V.A.C.S. Article 6687b (codified in this code as Section 521.457). The revised law omits this provision as unnecessary because Section 34, V.A.C.S. Article 6687b, applies by its terms. The omitted law reads:

(u) A person whose license, permit, or privilege is suspended under this section, or who is the subject of a prohibition order issued under this section, is subject to Section 34, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).

[Sections 724.036-724.040 reserved for expansion]

SUBCHAPTER D. HEARING

Revised Law

Sec. 724.041. HEARING ON SUSPENSION OR DENIAL. (a) If, not later than the 15th day after the date on which the person receives notice of suspension or denial under Section 724.032(a) or is considered to have received notice under Section 724.033, the department receives at its headquarters in Austin, in writing, including a facsimile transmission, or by another manner prescribed by the department, a request that a hearing be held, the State Office of Administrative Hearings shall hold a hearing.

(b) A hearing shall be held not earlier than the 11th day after the date the person is notified, unless the parties agree to waive this requirement, but before the effective date of the notice of suspension or denial.

(c) A request for a hearing stays the suspension or denial until the date of the final decision of the administrative law judge.

(d) A hearing shall be held by an administrative law judge
employed by the State Office of Administrative Hearings.

(e) A hearing shall be held:

(1) at a location designated by the State Office of Administrative Hearings:

(A) in the county of arrest if the county has a population of 300,000 or more; or

(B) in the county in which the person was alleged to have committed the offense for which the person was arrested or not more than 75 miles from the county seat of the county of arrest if the population of the county of arrest is less than 300,000; or

(2) with the consent of the person requesting the hearing and the department, by telephone conference call.

(f) The State Office of Administrative Hearings shall provide for the stenographic or electronic recording of a hearing under this subchapter.

(g) An administrative hearing under this section is governed by Sections 524.040-524.044. (V.A.C.S. Art. 67011-5, Secs. 2(j), as added by Ch. 886, Acts 73rd Leg., R.S., 1993; 2(k), as added by Ch. 886, Acts 73rd Leg., R.S., 1993; 2(s).)

Source Law

(j) If, not later than the 15th day after the date on which the person receives notice of suspension or prohibition under Subsection (d) of this section or is presumed to have received notice by mail under Subsection (h) of this section, the department receives, at its headquarters in Austin, in writing or by another manner prescribed by the department, a demand that a hearing be held, the State Office of Administrative Hearings shall hold a hearing before the effective date of the notice of suspension or prohibition. A request for a hearing stays the suspension of a driver's license or the prohibition on obtaining a driver's license until the date of the final decision of the administrative law judge. For the purpose of a hearing, jurisdiction is vested in an administrative law judge employed by the chief administrative law judge of the State Office of Administrative Hearings. A hearing shall be held at a location designated by the State Office of Administrative Hearings in the county in which the person was alleged to have committed the offense for which the person was arrested or at a site designated by the State Office of Administrative Hearings no more than 75 miles from the county seat of the county of the arrest, except as provided by Subsection (k) of this

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section. Provided that in counties with a population
of 300,000 or more according to the most recent federal
census, hearings shall be held in the county of arrest,
unless held as provided in Subsection (k) of this
section. A hearing shall be held not earlier than 10
days after the date of notification to the person,
unless the parties agree to waive this requirement.
The State Office of Administrative Hearings shall
provide for the stenographic or electronic recording of
all hearings.
(k) With the consent of the person and the
department, the administrative law judge may conduct a
hearing under Subsection (b) of this section by
telephone conference call.
(s) Administrative hearings under this section
are governed by Subsections (f)-(k) and Subsection (p)
of Section 7, Article 6687b-1, Revised Statutes.

Revisor's Note
(1) Section 2(j), V.A.C.S. Article 67011-5, as
added by Chapter 886, Acts of the 73rd Legislature,
Regular Session, 1993, states that jurisdiction of a
hearing "is vested in an administrative law judge
employed by the chief administrative law judge of the
State Office of Administrative Hearings." The revised
law states that a hearing "shall be held by an
administrative law judge" because that is the more
common way of stating who has the authority to conduct
an administrative hearing. The revised law also omits
as unnecessary the reference to an administrative law
judge being employed by the chief administrative law
judge of the State Office of Administrative Hearings
because it is sufficient and more accurate to say that
the administrative law judge is employed by the State
Office of Administrative Hearings.
(2) Section 2(j), V.A.C.S. Article 67011-5,
refers to receipt of notice "in writing or by another
manner prescribed by the department." The revised law
refers to receipt of notice "in writing, including a
facsimile transmission, or by another manner prescribed
by the department" because Section 2(b), V.A.C.S.
Article 67011-5 (codified in this code as Section
makes it clear that a facsimile transmission is acceptable.

(3) Section 2(s), V.A.C.S. Article 67011-5, refers to Subsections (f)-(k) and Subsection (p) of Section 7, Article 6687b-1, Revised Statutes. Those statutes are codified in this code as Sections 524.040-524.044, and the revised law is drafted accordingly.

Revised Law
Sec. 724.042. ISSUES AT HEARING. The issues at a hearing under this subchapter are whether:

(1) reasonable suspicion or probable cause existed to stop or arrest the person;

(2) probable cause existed to believe that the person was operating a motor vehicle in a public place while intoxicated;

(3) the person was placed under arrest by the officer and was requested to submit to the taking of a specimen; and

(4) the person refused to submit to the taking of a specimen on request of the officer. (V.A.C.S. Art. 67011-5, Sec. 2(1).)

Source Law
(1) The issues at a hearing are:

(1) whether reasonable suspicion or probable cause existed to stop or arrest the person;

(2) whether probable cause existed that the person was driving or in actual physical control of a motor vehicle in a public place while intoxicated;

(3) whether the person was placed under arrest by the officer and was offered an opportunity to give a specimen under this Act; and

(4) whether the person refused to give a specimen on request of the officer.

Revised Law
Sec. 724.043. FINDINGS OF ADMINISTRATIVE LAW JUDGE. (a) If the administrative law judge finds in the affirmative on each issue under Section 724.042, the suspension order is sustained. If the person is a resident without a license, the department shall
continue to deny to the person the issuance of a license for the applicable period provided by Section 724.035.

(b) If the administrative law judge does not find in the affirmative on each issue under Section 724.042, the department shall reinstate the person's license or rescind any order denying the issuance of a license because of the person's refusal to submit to the taking of a specimen under Section 724.032(a). (V.A.C.S. Art. 67011-5, Sec. 2(m).)

Source Law

(m) If the administrative law judge finds in the affirmative as to all four issues, the suspension order shall be sustained. If the person is a resident without a license or permit to operate a motor vehicle in this State, the Department of Public Safety shall continue to deny to the person the issuance of a license or permit for the applicable period provided by this Act. If the administrative law judge does not find in the affirmative as to all four issues, the department shall reinstate any license, permit, or privilege to operate a motor vehicle and shall rescind any order prohibiting the issuance of a license or permit on the basis of the person's refusal to give a specimen under Subsection (d) of this section.

Revised Law

Sec. 724.044. WAIVER OF RIGHT TO HEARING. A person waives the right to a hearing under this subchapter and the department's suspension or denial is final and may not be appealed if the person:

(1) fails to request a hearing under Section 724.041;

or

(2) requests a hearing and fails to appear, without good cause. (V.A.C.S. Art. 67011-5, Secs. 2(o), (q).)

Source Law

(o) A person who requests a hearing and fails to appear, without good cause, waives the right to a hearing, and the department's determination is final.

(g) If a hearing under Subsection (j) of this section is not requested, the department's suspension or prohibition is final, and the person has no right to appeal the suspension or prohibition.
Revisor's Note

Section 2(f), V.A.C.S. Article 67011-5, as amended by Chapter 796, Acts of the 73rd Legislature, Regular Session, 1993, provides that if, after a hearing has been requested, the person or the person's agent fails to appear at a hearing, the Department of Public Safety shall suspend the person's license for 90 days.

Section 2(o), V.A.C.S. Article 67011-5, as added by Chapter 886, Acts of the 73rd Legislature, Regular Session, 1993, provides that a person who requests a hearing and fails to appear, without good cause, waives the right to a hearing, and the Department of Public Safety's determination is final.

The two provisions conflict because the suspension period is not 90 days in all cases. Under Section 724.035, the suspension period is one year if the person is younger than 21 years of age.

Rules of statutory construction provide that to the extent that multiple enactments of the same legislature conflict, the enactment latest in time prevails. The last legislative action on Chapter 796 was taken on May 26, 1993. The last legislative action on Chapter 886 was taken on May 29, 1993. Therefore, Chapter 886 controls over Chapter 796 to the extent of any conflict. Accordingly, the revised law follows Chapter 886 and omits the portion of Section 2(f), V.A.C.S. Article 67011-5, as amended by Chapter 796, referred to above. The omitted law reads:

(f) . . . If, after a hearing has been requested, the person or the person's agent fails to appear at a hearing under this subsection, the department shall suspend the person's license, permit, or resident or nonresident operating privilege for 90 days.
Sec. 724.045. PROHIBITION ON PROBATION OF SUSPENSION. A suspension under this chapter may not be probated. (V.A.C.S. Art. 67011-5, Secs. 2(k), as added by Ch. 900, Acts 73rd Leg., R.S., 1993, 2(n).)

(k) A suspension under this Act may not be probated.

(n) A suspension under this Act may not be probated.

Sec. 724.046. REINSTATEMENT OF LICENSE OR ISSUANCE OF NEW LICENSE. (a) A license suspended under this chapter may not be reinstated or a new license issued until the person whose license has been suspended pays to the department a fee of $100 in addition to any other fee required by law. A person subject to a denial order issued under this chapter may not obtain a license after the period of denial has ended until the person pays to the department a fee of $100 in addition to any other fee required by law.

(b) If a suspension or denial under this chapter is rescinded by the department, an administrative law judge, or a court, payment of the fee under this section is not required for reinstatement or issuance of a license. (V.A.C.S. Art. 67011-5, Secs. 2(v)(1), (2).)

(v)(1) A driver's license suspended under this Act may not be reinstated or a new license issued until the person whose driver's license has been suspended pays to the department a fee of $100 in addition to any other fee required by law. A person subject to a prohibition order issued under this Act may not obtain a driver's license after the period of prohibition has ended unless the person pays to the department a fee of $100 in addition to any other fee required by law.

(2) If a suspension or prohibition under this Act is rescinded by the department, an administrative law judge, or a court under this Act, payment of a fee under this subsection is not required for reinstatement or issuance of a driver's license.
Revisor's Note

(1) Section 2(v), V.A.C.S. Article 67011-5, governing reinstatement of licenses, was added by Chapter 886, Acts of the 73rd Legislature, Regular Session, 1993. Section 2(j), V.A.C.S. Article 67011-5, as added by Chapters 662 and 790, Acts of the 73rd Legislature, Regular Session, 1993, also governs reinstatement of licenses.

Section 2(v) as added by Chapter 886 conflicts with Section 2(j) as added by Chapters 662 and 790. Chapter 886 provides for payment of a fee of $100 and provides that the fee shall be deposited in the state treasury to the credit of the operator's and chauffeur's license fund and may be appropriated only to the department to administer V.A.C.S. Articles 67011-5 and 6687b-1. Section 2(j) as added by Chapters 662 and 790, on the other hand, provides for payment of a fee of $50 and provides that the fee shall be remitted to the comptroller for deposit in the general revenue fund.

Section 21, Chapter 886, provides that "Notwithstanding any other legislation enacted by the 73rd Legislature, Regular Session, the reinstatement fees provided for in this Act shall prevail with regard to any suspension imposed under this Act." Because Chapter 886 controls over Chapters 662 and 790 with regard to reinstatement fees, the revision follows Chapter 886. The omitted law reads:

(j) The Texas Department of Public Safety may not reinstate a license suspended under this section unless the person whose license was suspended makes application to the Texas Department of Public Safety for reinstatement of the person's license and pays to the Texas Department of Public Safety a reinstatement fee of $50. The Texas Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund.
(2) The revised law omits as unnecessary Section 2(v)(3), V.A.C.S. Article 67011-5, which provides that fees paid under that subsection shall be deposited in the state treasury to the credit of the operator's and chauffeur's license fund and may be appropriated only to the department to administer V.A.C.S. Articles 67011-5 and 6687b-1. Section 404.094(a), Government Code, requires all money collected or received by a state agency to be deposited in the state treasury. It is unnecessary to repeat that requirement in this chapter. Acting under authority of Section 403.094(a), Government Code, the comptroller abolished the operator's and chauffeur's license fund effective August 31, 1993. The revised law is drafted accordingly. The omitted law reads:

(3) Fees paid under this subsection shall be deposited in the state treasury to the credit of the operator's and chauffeur's license fund and may be appropriated only to the department to administer this Act and Article 6687b-1, Revised Statutes.

Revised Law
Sec. 724.047. APPEAL. Chapter 524 governs an appeal from an action of the department, following an administrative hearing under this chapter, in suspending or denying the issuance of a license. (V.A.C.S. Art. 67011-5, Sec. 4.)

Source Law
Sec. 4. Appeals from all actions of the department, following an administrative hearing under this Act, in suspending, denying, or refusing to issue a license shall be governed by Article 6687b-1, Revised Statutes.

Revisor's Note
Section 4, V.A.C.S. Article 67011-5, refers to Article 6687b-1, Revised Statutes. That statute is codified in this code as Chapter 524, and the revised
law is drafted accordingly.

Revised Law

Sec. 724.048. RELATIONSHIP OF ADMINISTRATIVE PROCEEDING TO CRIMINAL PROCEEDING. (a) The determination of the department or administrative law judge:

(1) is a civil matter;

(2) is independent of and is not an estoppel as to any matter in issue in an adjudication of a criminal charge arising from the occurrence that is the basis for the suspension or denial; and

(3) does not preclude litigation of the same or similar facts in a criminal prosecution.

(b) Except as provided by Subsection (c), the disposition of a criminal charge does not affect a license suspension or denial under this chapter and is not an estoppel as to any matter in issue in a suspension or denial proceeding under this chapter.

(c) If a criminal charge under Article 67011-1, Revised Statutes, as that law existed before September 1, 1994, Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994, or Chapter 49, Penal Code, results in an acquittal, a suspension under this chapter may not be imposed. If a suspension under this chapter has already been imposed, the department shall rescind the suspension and remove references to the suspension from the computerized driving record of the individual. (V.A.C.S. Art. 67011-5, Sec. 2(r).)

Source Law

(r) The determination of the department or administrative law judge is a civil matter, is independent of and is not an estoppel as to any matter in issue in an adjudication of a criminal charge arising from the occurrence that is the basis for the suspension or prohibition, and does not preclude litigation of the same or similar facts in a criminal prosecution. Except as provided by this subsection, the disposition of a criminal charge does not affect a driver's license suspension or prohibition under this Act and is not an estoppel as to any matter in issue in a suspension or prohibition proceeding under this Act. Provided, that if a criminal charge under Article 67011-1, Revised Statutes, or Section 19.05(a)(2),...
Penal Code, results in an acquittal, a suspension under this article shall not be imposed. If a suspension under this article has already been imposed, the department shall rescind the suspension and remove references to the suspension from the computerized driving record of the individual.

Revisor's Note

(1) Section 2(r), V.A.C.S. Article 67011-5, refers to Article 67011-1, Revised Statutes. That statute was codified in 1993, effective September 1, 1994, as Chapter 49, Penal Code. The revised law is drafted accordingly. However, because Section 2(r) also applies to a criminal charge under the former law, the revised law also refers to Article 67011-1, Revised Statutes, as that law existed before September 1, 1994.

(2) Section 2(r), V.A.C.S. Article 67011-5, refers to Section 19.05(a)(2), Penal Code. That statute was codified in 1993, effective September 1, 1994, as Section 49.08, Penal Code. Because the revised law refers to Chapter 49, Penal Code, for the reason stated in Revisor's Note (1), the revised law does not refer specifically to Section 49.08, Penal Code. However, because Section 2(r) also applies to a criminal charge under the former law, the revised law refers to Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994.

[Sections 724.049-724.060 reserved for expansion]

SUBCHAPTER E. ADMISSIBILITY OF EVIDENCE

Revised Law

Sec. 724.061. ADMISSIBILITY OF REFUSAL OF PERSON TO SUBMIT TO TAKING OF SPECIMEN. A person's refusal of a request by an officer to submit to the taking of a specimen of breath or blood, whether the refusal was express or the result of an intentional failure to give the specimen, may be introduced into evidence at the person's trial. (V.A.C.S. Art. 67011-5, Sec. 3(g).)
(g) If the person refuses a request by an officer to give a specimen of breath or blood, whether the refusal was express or the result of an intentional failure of the person to give the specimen, that fact may be introduced into evidence at the person's trial.

Sec. 724.062. ADMISSIBILITY OF REFUSAL OF REQUEST FOR ADDITIONAL TEST. The fact that a person's request to have an additional analysis under Section 724.019 is refused by the officer or another person acting for or on behalf of the state, that the person was not provided a reasonable opportunity to contact a person specified by Section 724.019(a) to take the specimen, or that reasonable access was not allowed to the arrested person may be introduced into evidence at the person's trial. (V.A.C.S. Art. 67011-5, Sec. 3(f).)

(f) If for any reason the person's request to have a chemical test is refused by the officer or any other person acting for or on behalf of the state, if the person was not provided a reasonable opportunity to contact a person listed in Subsection (d) of this section who may draw blood, or if reasonable access was not allowed to the arrested person for purposes of blood testing by a person listed in Subsection (d) of this section who may draw blood, such fact may be introduced into evidence on the trial of such person.

Section 3(f), V.A.C.S. Article 67011-5, applies where "for any reason" the person's request to have a chemical test is refused. The revised law omits as unnecessary "for any reason" because the expression does not add to the clear meaning of the law.

Sec. 724.063. ADMISSIBILITY OF ALCOHOL CONCENTRATION OR PRESENCE OF SUBSTANCE. Evidence of alcohol concentration or the presence of a controlled substance, drug, dangerous drug, or other substance obtained by an analysis authorized by this section is
admissible in a civil or criminal action. (V.A.C.S. Art. 67011-5, Sec. 3(h) (part).)

Source Law

(h) . . . Evidence of alcohol concentration or the presence of a controlled substance, drug, dangerous drug, or other substance obtained by an analysis authorized by this subsection is admissible in a civil or criminal action.

Revised Law

Sec. 724.064. ADMISSION IN CRIMINAL PROCEEDING OF SPECIMEN ANALYSIS. On the trial of a criminal proceeding arising out of an offense under Chapter 49, Penal Code, involving the operation of a motor vehicle or a watercraft, evidence of the alcohol concentration or presence of a controlled substance, drug, dangerous drug, or other substance as shown by analysis of a specimen of the person's blood, breath, or urine or any other bodily substance taken at the request or order of a peace officer is admissible. (V.A.C.S. Art. 67011-5, Sec. 3(a).)

Source Law

Sec. 3. (a) Upon the trial of any criminal action or proceeding arising out of an offense involving the operation of a motor vehicle or a watercraft under Chapter 49, Penal Code, evidence of the alcohol concentration or presence of a controlled substance, drug, dangerous drug, or other substance as shown by analysis of a specimen of the person's blood, breath, urine, or any other bodily substances taken at the request or order of a peace officer, shall be admissible.

Reviser's Note

Section 3(a), V.A.C.S. Article 67011-5, refers to a criminal "action or proceeding." The revised law omits as unnecessary "action" because the meaning of that term is included within the meaning of "proceeding."
(1) Section 2(p), V.A.C.S. Article 67011-5, requires the Department of Public Safety to reschedule a hearing if the person who requested the hearing requests a continuance. Section 2(s), V.A.C.S. Article 67011-5 (codified in this code as Section 724.041(g)), provides that administrative hearings are governed by Sections 7(f)-(k) and (p), V.A.C.S. Article 6687b-1 (codified in this code as Sections 524.040-524.044).

Section 7(f), V.A.C.S. Article 6687b-1, is identical to Section 2(p), V.A.C.S. Article 67011-5. Accordingly, the revised law omits as unnecessary Section 2(p), V.A.C.S. Article 67011-5. The omitted law reads:

(p) Notwithstanding the provisions of Subsection (j) of this section, if no later than five days before the date of a scheduled hearing the department has received a request for a continuance from the person who has requested a hearing, the department shall reschedule the hearing to a date no sooner than the fifth day after the date on which the department received the request for the continuance, unless otherwise agreed by both parties. A continuance under this section stays a suspension of a driver's license until the date of the final decision of the administrative law judge. A person who has requested a hearing under this article may obtain only one continuance under this subsection, unless a bona fide medical condition be shown which prevents the person from attending the hearing in which case one additional continuance may be granted for a period not to exceed 10 days.

(2) The revision omits Section 5, V.A.C.S. Article 67011-5, providing that the article is severable, because that provision duplicates Section 311.032, Government Code (Code Construction Act), applicable to the revised law, and Section 312.013, Government Code. These provisions state that a provision of a statute is severable from each other provision of the statute that can be given effect. Section 5 reads:
Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

CHAPTER 725. TRANSPORTATION OF LOOSE MATERIALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 725.001. DEFINITIONS. In this chapter:

(1) "Load" means a load of loose material.

(2) "Loose material" means material that can be blown or spilled from a vehicle because of movement or exposure to air, wind currents, or other weather. The term includes dirt, sand, gravel, and wood chips but excludes an agricultural product in its natural state.

(3) "Motor vehicle" has the meaning assigned by Section 621.001.

(4) "Public highway" includes a public road or street.

(5) "Semitrailer" has the meaning assigned by Section 621.001.

(6) "Trailer" has the meaning assigned by Section 621.001.

(7) "Vehicle" has the meaning assigned by Section 621.001. (V.A.C.S. Art. 6701d-11, Secs. 1(1), (2), (5), (6):
Art. 6701d-11
Sec. 1. The following words and phrases, when used in this Act, shall, for the purpose of this Act, have the meanings respectively ascribed to them in this section, as follows:

(1) "Vehicle." Every mechanical device, in, upon or by which any person or property is or may be transported or drawn upon a public highway, including motor vehicles, commercial motor vehicles, truck-tractors, trailers, and semi-trailers, severally, as hereinafter defined, but excepting devices moved by human power or used exclusively upon stationary rails or tracks.

(2) "Motor Vehicle." Every vehicle, as herein defined, which is self-propelled.

(5) "Trailer." Every vehicle without motive power designed or used for carrying property or passengers wholly on its own structure and to be drawn by a motor vehicle.

(6) "Semi-trailer." Every vehicle of the trailer type so designed or used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another motor vehicle.

As used in this section, "loose material" means dirt, sand, gravel, wood chips, or other material that is capable of blowing or spilling from a vehicle as a result of movement or exposure to air, wind currents, or weather, but shall not include agricultural products in their natural state.

(1) The definitions of "public highway" and "load" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

(2) The substance of the definitions of "vehicle," "motor vehicle," "trailer," and "semi-trailer" is contained in Section 621.001 of this revision, as the revised law for this section reflects.

Sec. 725.002. APPLICABILITY. This chapter applies to any motor vehicle, trailer, or semitrailer operated on a public highway except:
(1) a vehicle or construction or mining equipment that
is:

(A) moving between construction barricades on a
public works project; or

(B) crossing a public highway; or

(2) a vehicle that is operated at a speed less than 30
miles per hour. (V.A.C.S. Art. 6701d-11, Secs. 3A(a) (part), (j).)

Source Law

(a) [No person . . . shall . . . transport] in a
motor vehicle, commercial motor vehicle, truck-tractor,
trailer or semi-trailer, [loose material] . . . on or over the public roads, streets or highways of this
State . . . .

(j) Nothing in this Section 3A applies to:

(1) any vehicle or construction or mining
equipment which is moving between construction
barricades on a public works project, or merely
crossing a public road, street, or highway; or

(2) any vehicle while being operated at a
speed less than thirty (30) miles per hour.

Revisor's Note

(1) Section 3A(a), V.A.C.S. Article 6701d-11,
provides that Section 3A applies to a "motor vehicle,
commercial motor vehicle, truck-tractor, trailer or
semi-trailer." The revised law omits the reference to
a "commercial motor vehicle" and "truck-tractor"
because both are included within the meaning of "motor
vehicle" under Section 1, V.A.C.S. Article 6701d-11
(Section 621.001 of the revised law), which is made
applicable to this chapter by Section 725.001.

(2) Sections 3A(a) and (j), V.A.C.S. Article
6701d-11, refer to public roads, streets, or highways
of this state. The revised law omits the reference to
"public roads" and "streets" because these terms are
included within the meaning of "public highway" under
Section 725.001 of the revised law. The revised law
also omits the reference to highways "of this State"
because the legislature is authorized to regulate

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conduct occurring only in this state.

Revised Law

Sec. 725.003. OFFENSE; PENALTY. (a) A person or the person's agent or employee may not load or transport loose material in violation of this chapter.

(b) A person, excluding this state or a political subdivision of this state but including an agent or employee of this state or a political subdivision of this state, commits an offense if the person violates Subsection (a).

(c) An offense under this section is a misdemeanor punishable by a fine of:

(1) not less than $25 or more than $200 for a first conviction; and

(2) not less than $200 or more than $500 for a second or subsequent conviction. (V.A.C.S. Art. 6701d-11, Secs. 3A(a) (part), (k).)

Source Law

Sec. 3A. (a) No person, co-partnership, limited partnership, association, corporation, State, county, municipality, town, village, or any department or political subdivision thereof, their agents or employees, shall load or transport, cause to be loaded or transported, or aid or abet the loading or transporting, any loose material in violation of any requirement of this section.

(k) Any person, co-partnership, limited partnership, association, corporation, or any departmental head, agent or employee of the State or of any county, municipality, town, village, or any department or political subdivision thereof who fails to comply with the provisions of this section shall be guilty of a misdemeanor, and upon first conviction shall be fined a sum of not less than Twenty-five Dollars ($25) nor more than Two Hundred Dollars ($200), and on a second or a subsequent conviction a sum of not less than Two Hundred Dollars ($200) nor more than Five Hundred Dollars ($500).

Revisor's Note

(1) Section 3A(a), V.A.C.S. Article 6701d-11, provides that it is an offense to "load or transport, cause to be loaded or transported, or aid or abet the"
loading or transporting" of loose material. The revised law omits the reference to "causing" and "aiding or abetting" 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 "causing" and "aiding or abetting" as used in this subsection.

(2) Section 3A(a), V.A.C.S. Article 6701d-11, refers to a "co-partnership, limited partnership, association, corporation, State, county, municipality, town, village, or any department or political subdivision thereof," and Section 3A(k), V.A.C.S. Article 6701d-11, refers to a "co-partnership, limited partnership, association, [or] corporation." The revised law omits the reference to these entities as unnecessary because under Section 311.005(2), Government Code (Code Construction Act), which applies to the revised law, "person" is defined to include those entities.

(3) Section 3A(k), V.A.C.S. Article 6701d-11, refers to a "departmental head, agent or employee" of this state or a political subdivision of this state. The revised law omits the term "departmental head" because "departmental head" is included within the meaning of "agent or employee."

[Sections 725.004-725.020 reserved for expansion]

SUBCHAPTER B. REQUIREMENTS FOR TRANSPORTING LOOSE MATERIALS

Revised Law

Sec. 725.021. CONTAINING LOOSE MATERIALS. (a) A vehicle subject to this chapter shall be equipped and maintained as required by this section to prevent loose material from escaping by blowing or spilling.
(b) A vehicle bed carrying a load:

(1) may not have a hole, crack, or other opening through which loose material can escape; and

(2) shall be enclosed:

(A) on both sides by side panels;

(B) on the front by a panel or the vehicle cab; and

(C) on the rear by a tailgate or panel.

(c) The load shall be covered and the covering firmly secured at the front and back, unless the load:

(1) is completely enclosed by the load-carrying compartment; or

(2) does not blow or spill over the top of the load-carrying compartment.

(d) The tailgate of the vehicle shall be securely closed to prevent spillage during transportation. (V.A.C.S. Art. 6701d-11, Secs. 3A(c), (d), (f), (g), (i).)

Source Law

(c) The bed carrying the load must be completely enclosed on both sides by sideboards or side panels, on the front by a board or panel or by the cab of the vehicle, and on the rear by tailgate or board or panel, all of which must be so constructed as to prevent the escape of any part of the load because of blowing or spilling.

(d) The top of the load must be covered with a canvas, tarpaulin, or other covering firmly secured to the front and the back to prevent the escape of any part of the load because of blowing or spilling.

(f) The tailgate must be securely closed to prevent spillage during transportation, whether loaded or empty.

(g) The bed shall not have any holes, cracks, or openings through which loose material may escape.

(i) Subsection (d) of this section does not apply to any load-carrying compartment that completely encloses the load or to the transporting of any load of loose materials that are not blowing or spilling over the top of the load-carrying compartment.

Revisor's Note

(1) Section 3A(c), V.A.C.S. Article 6701d-11, provides that a vehicle bed shall be "completely"
enclosed on the sides, front, and rear. The revised law omits the reference to "completely" because this section does not actually require that the vehicle bed be "completely" enclosed (i.e., the top need not be enclosed pursuant to this section) as is the case in Subsection (i) (Subsection (c) of the revised law).

The requirement that the vehicle bed be enclosed on the side, front, and rear is sufficient to communicate the requirement of this section.

(2) Section 3A(c), V.A.C.S. Article 6701d-11, provides that the sides, front, and rear of the vehicle bed must be enclosed by a "board" or "panel." The revised law omits the reference to "board" because "board" is included within the meaning of "panel" in the context of this section.

Revised Law

Sec. 725.022. MAINTAINING NON-LOAD-CARRYING VEHICLE PARTS.

(a) Loose material that is spilled because of loading on a vehicle part that does not carry the load shall be removed before the vehicle is operated on a public highway.

(b) After the vehicle is unloaded and before the vehicle is operated on a public highway, residue of transported loose material on a vehicle part that does not carry the load shall be removed from the vehicle part. (V.A.C.S. Art. 6701d-11, Secs. 3A(e), (h).)

Source Law

(e) The excess spillage of loose material on the non-load-carrying parts of the vehicle occasioned by or from the act of loading shall be removed before the vehicle is operated over a public road, street, or highway of this State.

(h) The residue of the transported loose material shall be removed from the non-load carrying parts of the vehicle upon completion of unloading before the vehicle is operated over a public road, street, or highway of this State.
Revisor's Note

Sections 3A(e) and (h), V.A.C.S. Article 6701d-11, refer to a "public road" and "street . . . of this State." The revised law omits those terms for the reason stated in Revisor's Note (2) under Section 725.002.

CHAPTER 726. TESTING AND INSPECTION OF MOTOR VEHICLES BY CERTAIN MUNICIPALITIES

Sec. 726.001. APPLICABILITY

Sec. 726.002. TESTING AND INSPECTION OF MOTOR VEHICLES

Sec. 726.003. MOTOR VEHICLE TESTING STATIONS; TESTING AND INSPECTION FEE

Sec. 726.004. FINANCING OF MOTOR VEHICLE TESTING STATIONS

CHAPTER 726. TESTING AND INSPECTION OF MOTOR VEHICLES BY CERTAIN MUNICIPALITIES

Revised Law

Sec. 726.001. APPLICABILITY. (a) This chapter applies only to a municipality with a population of more than 290,000.

(b) This section or an ordinance adopted under it does not apply to a motor vehicle, trailer, or semitrailer operated under a certificate or permit from the Railroad Commission of Texas. (V.A.C.S. Art. 1175b, Secs. 1 (part), 5a.)

Source Law

Art. 1175b

Sec. 1. All cities and towns in the State of Texas, whether incorporated under general or special law, including home rule cities, having a population in excess of two hundred and ninety thousand (290,000) inhabitants, according to the last preceding or any future Federal Census, [shall have . . . the power and authority to pass an ordinance . . . .] Sec. 5a. Nothing herein or in any ordinance passed pursuant hereto shall apply to motor vehicles, trailers or semitrailers operated under a certificate or permit from the Railroad Commission of Texas.
Revisor's Note

(1) Section 1, V.A.C.S. Article 1175b, refers to "cities and towns." The revised law substitutes "municipality" for "cities" and "towns" because that is the term used in the Local Government Code.

(2) Section 1, V.A.C.S. Article 1175b, describes a population number that is to be determined according to the last preceding or any future federal census. The revised law omits the reference to the federal census because the reference is unnecessary. Section 311.05(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. 726.002. TESTING AND INSPECTION OF MOTOR VEHICLES. A municipality may adopt an ordinance:

(1) requiring each resident of the municipality, including a corporation having its principal office or place of business in the municipality, who owns a motor vehicle used for the transportation of persons or property and each person operating a motor vehicle on the public thoroughfares of the municipality to have each motor vehicle owned or operated, as appropriate, tested and inspected not more than four times in each calendar year;

(2) requiring each motor vehicle involved in an accident to be tested and inspected before it may be operated on the public thoroughfares of the municipality; or

(3) requiring that a motor vehicle operated on the public thoroughfares of the municipality be tested, inspected, and approved by the testing and inspecting authority. (V.A.C.S. Art. 1175b, Sec. 1 (part).)
Source Law

[Sec. 1. All cities and towns in the State of Texas, whether incorporated under general or special law, including home rule cities,] . . . shall have and they are hereby given the power and authority to pass an ordinance or ordinances;

(a) Requiring all residents of said city, including corporations having their principal office or place of business in said city, owning a motor vehicle used for the transportation of persons or property, or both, and all persons using the streets, alleys, or other public thoroughfares of said city upon which to operate a motor vehicle, to have each and every such motor vehicle tested and inspected and to comply with such requirements, as may be imposed by said ordinance, not more than four times in each calendar year;

(b) Requiring that other and additional tests and inspections may be required of all motor vehicles involved in any wreck, collision, or accident before the same may be operated on the streets, alleys, or other public thoroughfares of said city after said wreck, collision, or accident;

(c) Requiring as a condition precedent to the right to use the streets, alleys, or other public thoroughfares of said city that motor vehicles operated thereupon shall have been tested and inspected, shall have been approved by said testing and inspecting authorities, and shall have complied with all provisions of said ordinance; . . . .

Revisor's Note

(1) Section 1, V.A.C.S. Article 1175b, refers to "cities and towns." The revised law substitutes "municipality" for "cities" and "towns" for the reason stated in Revisor's Note (1) under Section 726.001.

(2) Section 1(b), V.A.C.S. Article 1175b, refers to a "wreck, collision, or accident." The references to "wreck" and "collision" are omitted from the revised law because "wreck" and "collision" are included within the meaning of "accident."

(3) Section 1(d), V.A.C.S. Article 1175b, provides that a municipality may adopt an ordinance providing a penalty, subject to the limitations of Article 1011, Revised Statutes (now Section 54.001, Local Government Code), for the violation of any of the terms of the ordinance. The revised law omits that provision as unnecessary because Section 54.001, Local Government Code, is sufficient authority for adoption.
of such an ordinance. The omitted law reads:

[Sec. 1. All cities and towns in the State of Texas, whether incorporated under general or special law, including home rule cities, . . . shall have and they are hereby given the power and authority to pass an ordinance or ordinances;]

(d) Providing a penalty subject to the limitations of Article 1011 of the Revised Civil Statutes of the State of Texas for the violation of any of the terms of said ordinance.

Revised Law

Sec. 726.003. MOTOR VEHICLE TESTING STATIONS; TESTING AND INSPECTION FEE. (a) A municipality may acquire, establish, improve, operate, and maintain motor vehicle testing stations and pay for the stations from fees charged for testing and inspecting motor vehicles.

(b) A municipality may impose a fee for the testing and inspecting of a motor vehicle. The fee may not exceed $1 a year. Fees collected under this subsection shall be placed in a separate fund from which may be paid the costs in connection with automotive and safety education programs and the acquisition, establishment, improvement, operation, and maintenance of the testing stations.

(V.A.C.S. Art. 1175b, Secs. 2, 3.)

Source Law

Sec. 2. Said cities shall be and they are hereby authorized to acquire, establish, erect, equip, improve, enlarge, repair, operate, and maintain motor vehicle testing stations and to pay for the same out of the fees charged for testing and inspecting said motor vehicles.

Sec. 3. Said cities shall have and they are hereby given power and authority to prescribe and collect a fee, not to exceed One Dollar ($1) per year per vehicle, for the testing and inspecting of each such motor vehicle. All fees so collected to be placed in a separate fund, out of which costs and expenses in connection with, or growing out of the acquisition, establishment, erection, equipping, improvement, enlargement, repairing, operating, and maintaining said testing stations, and automotive and Safety Education programs, may be paid.
Revisor's Note

(1) Sections 2 and 3, V.A.C.S. Article 1175b, refer to "cities." The revised law substitutes "municipality" for "cities" for the reason stated in Revisor's Note (1) under Section 726.001.

(2) Section 2, V.A.C.S. Article 1175b, refers to "establish," "erect," and "equip." Section 3, V.A.C.S. Article 1175b, refers to "establishment," "erection," and "equipping." The references to "erect" and "equip" are omitted from the revised law because "erect" and "equip" are included within the meaning of "establish." The references to "erection" and "equipping" are omitted from the revised law because "erection" and "equipping" are included within the meaning of "establishment."

(3) Section 2, V.A.C.S. Article 1175b, refers to "improve" and "enlarge." Section 3, V.A.C.S. Article 1175b, refers to "improvement" and "enlargement." The reference to "enlarge" is omitted from the revised law because "enlarge" is included within the meaning of "improve." The reference to "enlargement" is omitted from the revised law because "enlargement" is included within the meaning of "improvement."

(4) Section 2, V.A.C.S. Article 1175b, refers to "repair" and "maintain." Section 3, V.A.C.S. Article 1175b, refers to "repairing" and "maintaining." The reference to "repair" is omitted from the revised law because "repair" is included within the meaning of "maintain." The reference to "repairing" is omitted from the revised law because "repairing" is included within the meaning of "maintaining."

(5) Section 3, V.A.C.S. Article 1175b, refers to "costs and expenses." The reference to "expenses" is omitted from the revised law because "expenses" is
included within the meaning of "costs."

Revised Law

Sec. 726.004. FINANCING OF MOTOR VEHICLE TESTING STATIONS.

(a) A municipality may borrow money to finance all or part of the cost of the acquisition, establishment, improvement, or repair of motor vehicle testing stations and may pledge all or part of the fees or other receipts derived from the operation of the stations for payment of principal and interest on the loan.

(b) A municipality may encumber a testing station, including things acquired pertaining to the station, to secure the payment of funds to construct all or part of the station or to improve, operate, or maintain the station. An encumbrance is not a debt of the municipality but is solely a charge on the property encumbered and may not be considered in determining the power of the municipality to issue bonds. (V.A.C.S. Art. 1175b, Sec. 4.)

Source Law

Sec. 4. Said cities shall have and they are hereby given power and authority to pay for such testing stations and the equipping, maintaining, and operating thereof out of past or future earnings of said stations, and may mortgage and encumber said stations and everything pertaining thereto acquired, to secure the payment of funds to construct the same or any part thereof, or to erect, equip, improve, enlarge, repair, operate, or maintain said stations. No such mortgage or encumbrance shall ever be a debt of such city, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of such city to issue bonds for any purpose authorized by law. Said cities may borrow money and issue warrants to finance in whole or in part the cost of the acquisition, erection, equipping, improvement, enlargement, or repair of said stations and to pledge for the punctual payment of said warrants and interest thereon all or any part of the fees or other receipts derived from the operation of such stations.

Revisor's Note

(1) Section 4, V.A.C.S. Article 1175b, refers to "cities." The revised law substitutes "municipality" for "cities" for the reason stated in Revisor's Note (1) under Section 726.001.
(2) Section 4, V.A.C.S. Article 1175b, refers to "mortgage and encumber." The reference to "mortgage" is omitted from the revised law because "mortgage" is included within the meaning of "encumber."

(3) Section 4, V.A.C.S. Article 1175b, refers to "construct," "erect," and "equip." That section also refers to "erection" and "equipping." The references to "erect" and "equip" are omitted from the revised law for the reason stated in Revisor's Note (2) under Section 726.003. The revised law substitutes "establishment" for "erection" and "equipping" for purposes of consistency with Sections 2 and 3, V.A.C.S. Article 1175b, codified in this code as Section 726.003.

(4) Section 4, V.A.C.S. Article 1175b, refers to "improve" and "enlarge." That section also refers to "improvement" and "enlargement." The references to "enlarge" and "enlargement" are omitted from the revised law for the reason stated in Revisor's Note (3) under Section 726.003.

(5) Section 4, V.A.C.S. Article 1175b, refers to "repair" and "maintain." The reference to "repair" is omitted from the revised law for the reason stated in Revisor's Note (4) under Section 726.003.

Revisor's Note
(End of Chapter)

(1) The revision omits Section 5, V.A.C.S. Article 1175b, providing that the article is severable, because that provision duplicates Section 311.032, Government Code (Code Construction Act), applicable to the revised law, and Section 312.013, Government Code. These provisions state that a provision of a statute is severable from each other provision of the statute that can be given effect. Section 5 reads:
Sec. 5. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act, or the application thereof to any person or circumstance, is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity or unconstitutionality.

(2) Section 6, V.A.C.S. Article 1175b, repeals all laws in conflict with that article. This revision omits this provision as unnecessary because, under general rules of statutory construction, a statute automatically has the effect of repealing prior conflicting enactments. The provision is, of course, ineffective to repeal subsequent legislation. The omitted provision reads:

Sec. 6. All laws and parts of laws in conflict herewith shall be and the same are hereby repealed to the extent of said conflict only.

(3) Numerous laws exist that apply only to counties or municipalities having a certain number of inhabitants. A law of this type uses a population bracket, that is, a minimum or maximum population figure, or both, to define the population range in which a county or municipality must fall to be covered by the law. Many of these bracket laws are unconstitutional because they violate Section 56, Article III, Texas Constitution, which prohibits the legislature from passing local laws regulating the affairs of counties or municipalities.

A law that uses a population bracket to limit its application to a class of counties or municipalities does not violate Section 56, Article III, if, after considering the subject of the law, one finds a reasonable justification for applying the law to that particular class of counties or municipalities and not to counties or municipalities outside the class.
Miller v. El Paso County, 150 S.W.2d 1000 (Tex. 1941);
Smith v. Decker, 312 S.W.2d 632 (Tex. 1958); Robinson v. Hill, 507 S.W.2d 521 (Tex. 1974).

As a general rule in this revision, no attempt is made to determine under Section 56, Article III, the constitutionality of any bracket law unless the population bracket used in the law no longer applies to any county or municipality. V.A.C.S. Article 1015f is a bracket law that under the 1990 census does not apply to any municipality.

Article 1015f was enacted in 1937 and applied at that time to a single municipality that fell within the population bracket by means of the 1930 census. By the 1940 census, however, that municipality did not fall within the bracket, and since that time only in the 1980 census did a municipality fall within the bracket, and that was not the same municipality as the one to which the article originally applied. Although at various times the legislature has enacted laws changing the population brackets of numerous laws so that after the federal census the laws would continue to apply to the municipalities for which the laws were designed, the legislature has not at any time amended the population bracket of Article 1015f. Consequently, it is safe to conclude that the article is deadwood.

Article 1015f is omitted from this revision because it no longer applies to any municipality and because, under the principles established by the Miller, Smith, and Robinson cases, it is an unconstitutional local law. Article 1015f reads:

Art. 1015f
Sec. 1. All Cities and Towns in the State of Texas, whether incorporated under General or Special Law, including Home Rule Cities, having a population in excess of 230,000 and not exceeding 232,000 inhabitants, according to the last preceding or any future Federal Census,
shall have and they are hereby given the
power and authority to pass an ordinance or
ordinances:

(a) Requiring all residents of
said City, including corporations having
their principal office or place of business
in said City, owning a motor vehicle used
for the transportation of persons or
property, to have each and every such motor
vehicle tested and inspected and to comply
with such requirements, as may be imposed
by said ordinance, not more than four times
in each calendar year;

(b) Requiring that other and
additional tests and inspections may be
required of all such motor vehicles
involved in any wreck, collision, or
accident before the same may be operated on
the streets, alleys, or other public
thoroughfares of said City after said
wreck, collision, or accident;

(c) Requiring as a condition
precedent to the right to use the streets,
alleys, or other public thoroughfares of
said City that such motor vehicles operated
thereupon shall have been tested and
inspected, shall have been approved by said
testing and inspecting authorities,
including the State Highway Patrol, and
shall have complied with all provisions of
said ordinance;

(d) Authorizing City Patrolmen
and State Highway Patrolmen in uniform to
stop without warrant such drivers of motor
vehicles as may fail to comply with said
ordinance and issue to the violators such
traffic violation tickets as may be
provided under said ordinance;

(e) Providing a penalty
subject to the limitations of Article 1011
of the Revised Civil Statutes of the State
of Texas for the violation of any of the
terms of said ordinance.

Sec. 2. Said Cities shall be and
they are hereby authorized to acquire,
establish, erect, equip, improve, enlarge,
repair, operate, and maintain motor vehicle
testing stations and to pay for the same
out of the fees charged for testing and
inspecting said motor vehicles.

Sec. 3. Said Cities shall have and
they are hereby given power and authority
to prescribe and collect a fee, not to
exceed One ($1.00) Dollar per year per
vehicle, for the testing and inspecting of
each such motor vehicle. All fees so
collected to be placed in a separate fund,
out of which costs and expenses in
connection with, or growing out of the
acquisition, establishment, erection,
equipping, improvement, enlargement,
repairing, operating, and maintaining said
testing stations, and automotive and Safety
Education programs, may be paid.

Sec. 4. Said Cities shall have and
they are hereby given power and authority
to pay for such testing stations and the
equipping, maintaining, and operating
thereof out of past or future earnings of said stations, and may mortgage and encumber said stations and everything pertaining thereto acquired, to secure the payment of funds to construct the same or any part thereof, or to erect, equip, improve, enlarge, repair, operate, or maintain said stations. No such mortgage or encumbrance shall ever be a debt of such City, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of such City to issue bonds for any purpose authorized by law. Said Cities may borrow money and issue warrants to finance in whole or in part the cost of the acquisition, erection, equipping, improvement, enlargement, or repair of said stations and to pledge for the punctual payment of said warrants and interest thereon all or any part of the fees or other receipts derived from the operation of such stations.

Sec. 5. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act, or the application thereof to any person or circumstance, is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity or unconstitutionality.

Sec. 5a. Nothing herein or in any ordinance passed pursuant hereto shall apply to motor vehicles, trailers, or semitrailers operated under a certificate or permit from the Railroad Commission of Texas.

CHAPTER 727. MODIFICATION OF, TAMPERING WITH, AND EQUIPMENT OF MOTOR VEHICLES

Sec. 727.001. MINIMUM ROAD CLEARANCE OF CERTAIN VEHICLES; OFFENSE. (a) A person commits an offense if the person operates
on a public roadway a passenger or commercial vehicle that has been modified from its original design or weighted so that the clearance between any part of the vehicle other than the wheels and the surface of the level roadway is less than the clearance between the roadway and the lowest part of the rim of any wheel in contact with the roadway.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed $50. (V.A.C.S. Art. 6696a.)

Source Law

Art. 6696a. It is unlawful to operate on any public roadway of this state any passenger vehicle or commercial vehicle which has been modified from the original design or weighted in any manner so that any portion of such vehicle other than the wheels has less clearance from the surface of the level roadway than the clearance between the roadway and the lowermost portion of any rim of any wheel in contact with such roadway. A person who violates any provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $50.

Revised Law

 Sec. 727.002. TAMPERING WITH ODOMETER; OFFENSE. (a) A person commits an offense if the person, with intent to defraud, disconnects or resets an odometer to reduce the number of miles indicated on the odometer.

(b) Except as provided by Subsection (c), an offense under this section is punishable by:

(1) confinement in the county jail for not more than two years;
(2) a fine not to exceed $1,000; or
(3) both the confinement and fine.

(c) If it is shown on the trial of an offense under this section that the person has previously been convicted of an offense under this section, the offense is punishable by:

(1) confinement in the county jail for not less than 30 days or more than two years; and
(2) a fine not to exceed $2,000.

(d) In this section, "odometer" means an instrument for
measuring and recording the distance a motor vehicle travels while in operation but does not include an auxiliary odometer designed to be reset by the operator to record mileage on trips. (V.A.C.S. Art. 6696b.)

Source Law

Art. 6696b
Sec. 1. It is unlawful for any person, with the intent to defraud, to disconnect, turn back or reset the odometer of a motor vehicle so as to reduce the number of miles indicated on the odometer gauge. The term "odometer" means an instrument for measuring and recording the actual distance a motor vehicle travels while in operation; but shall not include any auxiliary odometer designed to be reset by the operator of the motor vehicle for the purpose of recording mileage on trips.

Sec. 2. (a) For the first conviction of a violation of this Act, punishment shall be by imprisonment in the county jail for not exceeding two years, or by a fine not exceeding $1,000, or by both such fine and such imprisonment.

(b) If it be shown on the trial of a case involving a violation of this Act, that the defendant has been once before convicted of the same offense, he shall, on his second or subsequent conviction be punished by confinement in the county jail for not less than 30 days nor more than two years, and by a fine not exceeding $2,000.

Revisor's Note
Section 1, V.A.C.S. Article 6696b, provides that it is unlawful for a person to "turn back" or "reset" the odometer of a motor vehicle. The revised law omits "turn back" because that is included within the meaning of "reset."

Revised Law

Sec. 727.003. TIRE EQUIPMENT OF MOTOR VEHICLE, TRAILER, OR TRACTOR; OFFENSE. (a) A person commits an offense if the person operates or permits to be operated on a public highway a motor vehicle, trailer, semitrailer, or tractor equipped with:

(1) solid rubber tires less than one inch in thickness at any point from the surface to the rim; or

(2) pneumatic tires, one or more of which has been removed.
(b) An offense under this section is a misdemeanor punishable by a fine not to exceed $200. (V.A.C.S. Art. 6701d-10.)

Source Law

Art. 6701d-10. Whoever shall operate or permit to be operated upon a public highway a motor vehicle, trailer, semi-trailer or tractor equipped with solid rubber tires less than one inch in thickness at any point from the surface to the rim, or if equipped with pneumatic tires when one or more of such tires has been removed, shall be fined not exceeding two hundred dollars.

Revised Law

Sec. 727.004. RIM OR TIRE WIDTH; OFFENSE. (a) A person commits an offense if the person sells or offers for sale a road vehicle, including a wagon, that has a rim or tire width less than:

(1) three inches, if the vehicle has an intended carrying capacity of more than 2,000 pounds and not more than 4,500 pounds; or

(2) four inches, if the vehicle has an intended carrying capacity of more than 4,500 pounds.

(b) This section does not apply to an individual who sells or offers for sale a road vehicle purchased for the individual's use.

(c) An offense under this section is punishable by a fine of not less than $100 or more than $1,000. (V.A.C.S. Art. 6701 (part).)

Source Law

Art. 6701. No person, firm, association or corporation shall sell or offer for sale in this State any wagon or other road vehicle with an intended carrying capacity of more than two thousand pounds and not exceeding four thousand five hundred pounds which shall have a rim or tire on the wheels of same less than three inches in width; or any such wagon or other road vehicle with an intended carrying capacity of more than four thousand five hundred pounds which shall have a rim or tire on the wheels of same less than four inches in width. This article . . . but shall not apply to individuals selling or offering for sale road vehicles purchased for their individual use. Any firm, association or corporation violating the terms of this article shall be subject to a penalty of not less than one hundred nor more than one thousand dollars for each offense . . . .
Revisor's Note

(1) V.A.C.S. Article 6701 refers to a "person, firm, association or corporation." The revised law refers to a "person" because under Section 311.005(2), Government Code (Code Construction Act), applicable to the revised law, "person" includes "corporation, organization . . . association, and any other legal entity."

(2) V.A.C.S. Article 6701 provides in part that that article applies to all persons engaged in the sale of road vehicles, either at wholesale or retail. The revised law omits this provision as unnecessary because the article applies by its terms to any person engaged in the sale of a road vehicle, other than an individual engaged in the sale of a road vehicle purchased for the individual's use. The omitted law reads:

[This article] shall apply to all persons, firms, associations or corporations engaged in the sale of road vehicles, either at wholesale or retail . . . .

(3) The provision in V.A.C.S. Article 6701 requiring the penalty to be collected for the benefit of the county in which the violation occurs is omitted from the revised law as unnecessary. Article 13.18, Code of Criminal Procedure, provides the general rule that venue for the prosecution of an offense is the county in which the offense occurred. Article 103.004(a), Code of Criminal Procedure, requires an officer who collects a fine recovered in the name of the state under Title 2 of that code to immediately pay the money to the county treasurer of the county for which the money was collected. The omitted law reads:

[Any firm, association or corporation violating the terms of this article shall be subject to a penalty of not less than one hundred nor more than one thousand dollars for each offense,) to be collected for the benefit of the county in which such violation may occur.
CHAPTER 728. SALE OR TRANSFER OF MOTOR VEHICLES

AND MASTER KEYS

SUBCHAPTER A. SALE OF MOTOR VEHICLES ON CONSECUTIVE SATURDAY AND SUNDAY

Sec. 728.001. DEFINITIONS

Sec. 728.002. SALE OF MOTOR VEHICLES ON CONSECUTIVE SATURDAY AND SUNDAY PROHIBITED

Sec. 728.003. CIVIL PENALTY

Sec. 728.004. ENFORCEMENT; INJUNCTION

[Sections 728.005-728.010 reserved for expansion]

SUBCHAPTER B. SALE OF MASTER KEY FOR MOTOR VEHICLE IGNITONS

Sec. 728.011. SALE OF MASTER KEY FOR MOTOR VEHICLE IGNITONS

[Sections 728.012-728.020 reserved for expansion]

SUBCHAPTER C. TRANSFER OF OWNERSHIP OF CERTAIN EMERGENCY VEHICLES

Sec. 728.021. TRANSFER OF OWNERSHIP OF CERTAIN EMERGENCY VEHICLES; OFFENSE

CHAPTER 728. SALE OR TRANSFER OF MOTOR VEHICLES

AND MASTER KEYS

SUBCHAPTER A. SALE OF MOTOR VEHICLES ON CONSECUTIVE SATURDAY AND SUNDAY

Revised Law

Sec. 728.001. DEFINITIONS. In this subchapter:

(1) "Employer" means a person who:

(A) owns a facility that sells or offers for sale motor vehicles; or

(B) has the authority to determine the hours of operation of the facility.

(2) "Motor vehicle" means a self-propelled vehicle of two or more wheels designed to transport a person or property.

(V.A.C.S. Art. 6686-1, Sec. 1 (part).)
Art. 6686-1
Sec. 1. In this article:
(1) "Motor vehicle" means a self-propelled vehicle of two or more wheels designed to transport a person or property, whether or not it is required by law to have a certificate of title, and whether or not it may be driven legally on a public street or highway.
(3) "Employer" means a person who owns a facility that sells or offers for sale motor vehicles or a person who has the authority to determine the hours of operation of such facility.

Reviser's Note
(1) Section 1(1), V.A.C.S. Article 6686-1, defines "motor vehicle" as a self-propelled vehicle of two or more wheels designed to transport a person or property, "whether or not it is required by law to have a certificate of title, and whether or not it may be driven legally on a public street or highway." The revised law omits the quoted language as unnecessary because it does not add to the clear meaning of the law. The definition of motor vehicle includes a vehicle that is or is not required to have a certificate of title and that may or may not be driven on a public street or highway without an explicit statement to that effect.
(2) The revised law omits the definition of "person" contained in Section 1(2), V.A.C.S. Article 6686-1, because it is substantively identical to the definition provided by Section 311.005(2), Government Code (Code Construction Act), applicable to the revised law. The omitted law reads:

[Sec. 1. In this article:]
(2) "Person" means a natural person, firm, partnership, corporation, or other legal entity.

Revised Law
Sec. 728.002. SALE OF MOTOR VEHICLES ON CONSECUTIVE SATURDAY AND SUNDAY PROHIBITED. (a) A person may not, on consecutive days
of Saturday and Sunday:

(1) sell or offer for sale a motor vehicle; or

(2) compel an employee to sell or offer for sale a motor vehicle.

(b) Each day a motor vehicle is offered for sale is a separate violation. Each sale of a motor vehicle is a separate violation.

(c) This section does not prohibit the occasional sale of a motor vehicle by a person not in a business that includes the sale of motor vehicles. (V.A.C.S. Art. 6686-1, Secs. 2, 3.)

Source Law

Sec. 2. (a) No person may, on both the consecutive days of Saturday and Sunday, sell or offer for sale, or compel the person's employees to sell or offer for sale, a motor vehicle.

(b) Each day a motor vehicle is offered for sale is a separate violation of this Act. Each sale of a motor vehicle is a separate violation of this Act.

Sec. 3. This Act does not prohibit the occasional sale of a motor vehicle by a person not engaged in a business which includes the sale of motor vehicles.

Revised Law

Sec. 728.003. CIVIL PENALTY. (a) A person who violates Section 728.002 is subject to a civil penalty of:

(1) not more than $500 for a first violation;

(2) not less than $500 or more than $1,000 for a second violation; or

(3) not less than $1,000 or more than $5,000 for a third or subsequent violation.

(b) On a finding by the trier of fact that a person wilfully or with conscious indifference violated Section 728.002, the court may triple the penalty due under Subsection (a). (V.A.C.S. Art. 6686-1, Secs. 4(a), (c).)

Source Law

Sec. 4. (a) The penalty for the first violation of this Act is a civil fine not to exceed $500. The fine for the second violation of this Act is a civil fine not less than $500 and not more than $1,000. The penalty for the third and each subsequent violation of
this Act is a civil fine not less than $1,000 and not more than $5,000.

(c) On a finding by the trier of fact that a violation of this Act was committed wilfully or with conscious indifference to the provisions of law, the court may treble the fine otherwise due as penalty for the violation.

Revised Law

Sec. 728.004. ENFORCEMENT; INJUNCTION. (a) The attorney general or a district, county, or municipal attorney may enforce this subchapter and may bring an action in the county in which a violation is alleged.

(b) The operation of a business in violation of this subchapter is a public nuisance. Any person, including a district, county, or municipal attorney, may obtain an injunction restraining a violation of this subchapter. A person who obtains an injunction under this subsection may recover the person's costs, including court costs and reasonable attorney's fees.

(c) An employer is a necessary party to an action brought against its employee under this section. An employer is strictly liable for all amounts, including civil penalties, damages, costs, and attorney's fees, resulting from a violation of Section 728.002 by its employee. (V.A.C.S. Art. 6686-1, Secs. 4(b), (d), 5 (part).)

Source Law

[Sec. 4]

(b) The attorney general or a district, county, or city attorney may enforce this Act and may bring an action in a court of competent jurisdiction in the county in which a violation is alleged.

(d) An employer is a necessary party to an action brought against its employee alleging a violation of this Act by the employee. An employer is strictly liable to pay all sums, including civil fines, damages, costs, and attorney's fees levied as a result of a violation of this Act by its employee.

Sec. 5. ... the operation of any business whether by any individual, partnership, or corporation contrary to the provisions of this Act is declared to be a public nuisance, and any person or a city, county, or district attorney may apply to any court of competent jurisdiction for and may obtain an injunction restraining such violation of this Act. ... A person who successfully brings an action under this section to enjoin a violation of this Act may recover
his costs, including court costs and reasonable attorney's fees.

Revisor's Note
(1) Sections 4(b) and 5, V.A.C.S. Article 6686-1, refer to a "city" attorney. The revised law substitutes the term "municipal" for "city" because that is the term used in the Local Government Code.

(2) Sections 4(b) and 5, V.A.C.S. Article 6686-1, refer to an action brought "in a court of competent jurisdiction." The revised law omits the quoted language as unnecessary because an action may only be brought in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction over the matter. For example, see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.

(3) Section 5, V.A.C.S. Article 6686-1, states the purpose of the act. The revised law omits that language as unnecessary because a statement of purpose in a statute has no legal effect. The omitted language reads:

    The purpose of this Act being to promote
    the health, recreation, and welfare of the
    people of this state . . . .

(4) Section 5, V.A.C.S. Article 6686-1, authorizes a person to obtain an injunction restraining violation of that article and provides that the proceedings shall be guided by the rules of other injunction proceedings. The revised law omits as unnecessary the reference to the rules governing the proceedings. Injunctions are governed by Chapter 65, Civil Practice and Remedies Code, and Section 5, Part VI, Texas Rules of Civil Procedure. Proceedings under Section 5, V.A.C.S. Article 6686-1, are subject to those laws without an express statement to that effect.
The omitted law reads:

Such proceedings shall be guided by the rules of other injunction proceedings.

[Sections 728.005-728.010 reserved for expansion]

SUBCHAPTER B. SALE OF MASTER KEY FOR MOTOR VEHICLE IGNITIONS

Revised Law

Sec. 728.011. SALE OF MASTER KEY FOR MOTOR VEHICLE IGNITIONS. (a) A person commits an offense if the person sells or offers to sell a master key knowingly designed to fit the ignition switch on more than one motor vehicle.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $25 or more than $200.

(V.A.C.S. Art. 6687-12.)

Source Law

Art. 6687-12. No person may sell or offer to sell any motor vehicle master key knowingly designed to fit the ignition switch on more than one motor vehicle. A person who violates this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than $25 nor more than $200.

[Sections 728.012-728.020 reserved for expansion]

SUBCHAPTER C. TRANSFER OF OWNERSHIP OF CERTAIN EMERGENCY VEHICLES

Revised Law

Sec. 728.021. TRANSFER OF OWNERSHIP OF CERTAIN EMERGENCY VEHICLES; OFFENSE. (a) The owner of an authorized emergency vehicle that is used to transport sick or injured persons commits an offense if the owner transfers ownership of the vehicle without:

(1) removing from the vehicle any vehicle equipment, including a light, siren, or device, that under Subtitle C only an authorized emergency vehicle may be equipped with; and

(2) removing or obliterating any emblem or marking on the vehicle that identifies the vehicle as an authorized emergency vehicle.
(b) Subsection (a) does not apply if the owner of the vehicle transfers ownership of the vehicle to a person:

(1) who holds a license as an emergency medical services provider under Chapter 773, Health and Safety Code;

(2) who is in the business of buying and selling used vehicles in this state and who specializes in authorized emergency vehicles; or

(3) described by Section 541.201 or a similar person operating in a foreign country.

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

(d) In this section:

(1) "Authorized emergency vehicle" has the meaning assigned by Section 541.201.

(2) "Vehicle equipment" has the meaning assigned by Section 547.001. (V.A.C.S. Art. 6687-13.)

Source Law

Art. 6687-13
Sec. 1. In this Act:

(1) "Authorized emergency vehicle" has the meaning assigned by Section 2, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

(2) "Vehicle equipment" has the meaning assigned by Section 108, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

Sec. 2. The owner of an authorized emergency vehicle that is used to transport sick or injured persons may not transfer ownership of the vehicle, unless the owner of the vehicle:

(1) removes from the vehicle any vehicle equipment, including a light, siren, or device, that under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) only an authorized emergency vehicle may be equipped with; and

(2) removes or obliterates any emblem or marking on the vehicle that identifies the vehicle as an authorized emergency vehicle.

Sec. 3. Section 2 of this Act does not apply if the owner of the authorized emergency vehicle transfers ownership of the vehicle to:

(1) a person who holds a license as an emergency medical services provider under Chapter 773, Health and Safety Code;

(2) a person who is in the business of buying and selling used vehicles in this state and specializes in authorized emergency vehicles; or

(3) an entity described in Section 2(d), Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), or to similar entities operating in foreign countries.
Sec. 4. A person who violates Section 2 of this Act commits an offense. An offense under this section is a Class C misdemeanor.

Revisor's Note

(1) Section 1(1), V.A.C.S. Article 6687-13, refers to Section 2, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes). That statute is codified in this code as Section 541.201, and the revised law is drafted accordingly.

(2) Section 1(2), V.A.C.S. Article 6687-13, refers to Section 108, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes). That statute is codified in this code as Section 547.001, and the revised law is drafted accordingly.

(3) Section 2(1), V.A.C.S. Article 6687-13, refers to the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes). That statute is codified in this code as Subtitle C, and the revised law is drafted accordingly.

(4) Section 3(3), V.A.C.S. Article 6687-13, refers to Section 2(d), Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes). That statute is codified in this code as Section 541.201, and the revised law is drafted accordingly.

CHAPTER 729. OPERATION OF MOTOR VEHICLE BY MINOR

Sec. 729.001. OPERATION OF MOTOR VEHICLE BY MINOR IN VIOLATION OF TRAFFIC LAWS; OFFENSE ....................... 3864

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CHAPTER 729. OPERATION OF MOTORVEHICLE BY MINOR

Revised Law

Sec. 729.001. OPERATION OF MOTORVEHICLE BY MINOR IN VIOLATION OF TRAFFIC LAWS; OFFENSE. (a) A person who is at least 14 years of age but younger than 17 years of age commits an offense if the person operates a motor vehicle on a public road or highway, a street or alley in a municipality, or a public beach in violation of any traffic law of this state, including:

1. Chapter 502, other than Section 502.282, 502.408(b), 502.409(c), or 502.412;
2. Chapter 521;
3. Subtitle C;
4. Chapter 601;
5. Chapter 621;
6. Chapter 661; and
7. Chapter 681.

(b) In this section, "beach" means a beach bordering on the Gulf of Mexico that extends inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or the larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time immemorial as recognized by law or custom.

(c) An offense under this section is a misdemeanor punishable by a fine not to exceed $100. (V.A.C.S. Art. 67011-4, Sec. 1.)

Source Law

Art. 67011-4
Sec. 1. (a) Any minor who has passed his or her 14th birthday but has not reached his or her 17th birthday, and who drives or operates an automobile or any other motor vehicle on any public road or highway in this state or upon any street or alley within the limits of any city, town or village, or upon any public beach as defined by Section 17A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), in such way as to violate any traffic
law of this state, shall be guilty of a misdemeanor and
shall be punished by a fine of not more than One
Hundred Dollars ($100.00).

(b) As used in this section, the term "any
traffic law of this state" shall include the following
statutes:

(1) Chapter 88, General Laws, Acts of the
41st Legislature, 2nd Called Session, 1929 (Article
6675a-1 et seq., Vernon's Texas Civil Statutes);
(2) Chapter 338, Acts of the 64th
Legislature, Regular Session, 1975 (Article 6675a-5e.1,
Vernon's Texas Civil Statutes);
(3) Article 6675b-1, Revised Statutes;
(4) Article 6675b-2, Revised Statutes;
(5) Article 6675b-3, Revised Statutes;
(6) Article 6675b-4, Revised Statutes;
(7) Article 6675b-5, Revised Statutes;
(8) Article 6675b-6, Revised Statutes;
(9) Article 6675b-7, Revised Statutes;
(10) Chapter 173, Acts of the 47th
Legislature, Regular Session, 1941 (Article 6687b,
Vernon's Texas Civil Statutes);
(11) Chapter 329, Acts of the 60th
Legislature, Regular Session, 1967 (Article 6701c-3,
Vernon's Texas Civil Statutes);
(12) Uniform Act Regulating Traffic on
Highways (Article 6701d, Vernon's Texas Civil
Statutes);
(13) Chapter 42, General Laws, Acts of the
41st Legislature, 2nd Called Session, 1929 (Article
6701d-1, Vernon's Texas Civil Statutes); and
(14) Texas Motor Vehicle
Safety-Responsibility Act (Article 6701h, Vernon's
Texas Civil Statutes).

Reviser's Note
(1) Section 1(a), V.A.C.S. Article 67011-4,
refers to a person who "drives or operates an
automobile or any other motor vehicle." The revised
law omits "drives or" because "drives" is included
within the meaning of "operate," and omits "an
automobile" because "automobile" is included within the
meaning of "motor vehicle."

(2) Section 1(a), V.A.C.S. Article 67011-4,
refers to a "city, town or village." The revised law
substitutes the term "municipality" for "city, town or
village" because that is the term used in the Local
Government Code.

(3) Section 1(a), V.A.C.S. Article 67011-4,
refers to a "public beach" as defined by Section 17A,
Uniform Act Regulating Traffic on Highways (Article
6701d, Vernon's Texas Civil Statutes). That section is
not codified in this code and the revised law
substitutes the text of that definition.

(4) Section 1(b)(1), V.A.C.S. Article 67011-4,
refers to Chapter 88, General Laws, Acts of the 41st
Legislature, 2nd Called Session, 1929 (Article 6675a-1
et seq., Vernon's Texas Civil Statutes). Section
1(b)(2), V.A.C.S. Article 67011-4, refers to Chapter
338, Acts of the 64th Legislature, Regular Session,
1975 (Article 6675a-5e.1, Vernon's Texas Civil
Statutes). V.A.C.S. Articles 6675a-1 through 6675a-5d,
6675a-5e.3 through 6675a-6e, and 6675a-7 through
6675a-17A are codified in this code in Chapter 502.
V.A.C.S. Articles 6675a-5e through 6675a-5e.2 are
codified in this code in Chapters 502 and 681.
V.A.C.S. Article 6675a-6f is codified in this code as
Chapter 621. The revised law is drafted accordingly.

The revised law also includes references to those
statutes that are codified in Chapter 502 but are not
part of V.A.C.S. Article 6675a-1 et seq. and that
proscribe operating a motor vehicle under certain
conditions. Those statutes are V.A.C.S. Articles
6675b-4A (codified as Section 502.408(b)), 6675b-4B
(codified as Section 502.409(c)), 6695 (codified as
Section 502.412), and 6701c-2 (codified as Section
502.282).

(5) Section 1(b)(3), V.A.C.S. Article 67011-4,
refers to Article 6675b-1, Revised Statutes. Section
1(b)(4), V.A.C.S. Article 67011-4, refers to Article
6675b-2, Revised Statutes. Section 1(b)(5), V.A.C.S.
Article 67011-4, refers to Article 6675b-3, Revised
Statutes. Section 1(b)(8), V.A.C.S. Article 67011-4,
refers to Article 6675b-6, Revised Statutes. Section
1(b)(9), V.A.C.S. Article 67011-4, refers to Article
6675b-7, Revised Statutes. Those statutes are codified in this code in Chapter 502, and the revised law is drafted accordingly.

(6) Section 1(b)(6), V.A.C.S. Article 67011-4, refers to Article 6675b-4, Revised Statutes. That statute was repealed in 1991. In 1993, the legislature amended the Revised Statutes by adding a new Article 6675b-4. Because the statute referred to was repealed, the revised law omits the reference.

(7) Section 1(b)(7), V.A.C.S. Article 67011-4, refers to Article 6675b-5, Revised Statutes. That statute was repealed in 1991, and the revised law omits the reference.

(8) Section 1(b)(10), V.A.C.S. Article 67011-4, refers to Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes). That statute is codified in this code as Chapter 521, and the revised law is drafted accordingly.

(9) Section 1(b)(11), V.A.C.S. Article 67011-4, refers to Chapter 329, Acts of the 60th Legislature, Regular Session, 1967 (Article 6701c-3, Vernon's Texas Civil Statutes). That statute is codified in this code as Chapter 661, and the revised law is drafted accordingly.

(10) Section 1(b)(12), V.A.C.S. Article 67011-4, refers to the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes). That statute is codified in this title as Subtitle C, and the revised law is drafted accordingly.

(11) Section 1(b)(13), V.A.C.S. Article 67011-4, refers to Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon's Texas Civil Statutes). That statute...
is codified in this code as Chapter 621, and the revised law is drafted accordingly.

(12) Section 1(b)(14), V.A.C.S. Article 67011-4, refers to the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes). That statute is codified in this code as Chapter 601, and the revised law is drafted accordingly.

Revised Law

Sec. 729.002. OPERATION OF MOTOR VEHICLE BY MINOR WITHOUT LICENSE. (a) A person who is at least 14 years of age but younger than 17 years of age commits an offense if the person operates a motor vehicle without a driver's license authorizing the operation of a motor vehicle on a:

(1) public road or highway;
(2) street or alley in a municipality; or
(3) public beach as defined by Section 729.001.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed $100. (V.A.C.S. Art. 67011-4, Sec. 3.)

Source Law

Sec. 3. If any such minor shall drive any motor vehicle upon any public road or highway in this state or upon any street or alley within the limits of any corporate city, town or village, or upon any beach as defined in Chapter 430, Acts of the 51st Legislature, 1949, without having a valid driver's license authorizing such driving, such minor shall be guilty of a misdemeanor and shall be fined as set out in Section 1 hereof.

Revisor's Note

(1) Section 3, V.A.C.S. Article 67011-4, refers to a "city, town or village." The revised law substitutes the term "municipality" for "city, town or village" because that is the term used in the Local Government Code.

(2) Section 3, V.A.C.S. Article 67011-4, refers
to a "beach" as defined by Chapter 430, Acts of the 51st Legislature, Regular Session, 1949 (Article 827f, Vernon's Texas Penal Code). Chapter 399, Acts of the 63rd Legislature, Regular Session, 1973, transferred that statute to Article 5701d-21, Vernon's Texas Civil Statutes. That statute was repealed by Chapter 682, Acts of the 66th Legislature, Regular Session, 1979, which added Section 17A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), and provided a definition of the term "public beach," which is set out in Section 729.001 of this code.

(3) Section 3, V.A.C.S. Article 67011-4, refers to 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. For example, a document purporting to be a license is no longer a license if it is expired or is not a license if it is a forgery.

Revised Law
Sec. 729.003. PROCEDURE AND JURISDICTION IN CASES INVOLVING MINORS. (a) A person may not plead guilty to an offense under Section 729.001 except in open court before a judge. A person may not be convicted of an offense or fined as provided by this chapter except in the presence of one or both parents or guardians having legal custody of the person. The court shall summon one or both parents or guardians to appear in court and shall require one or both of them to be present during all proceedings in the case. The court may waive the requirement of the presence of parents or guardians if, after diligent effort, the court cannot locate them or compel their presence.

(b) The provisions of the Code of Criminal Procedure relating to release of a defendant on bail apply to a person charged with a traffic offense under this chapter.
(c) A person detained for an offense under this chapter shall be detained in a facility that complies with Section 51.12, Family Code.

(d) A court shall report to the Department of Public Safety a person charged with a traffic offense under this chapter who does not appear before the court as required by law. The court also shall report to the department on final disposition of the case.

(e) A person may not be committed to a jail in default of payment of a fine imposed under this chapter, but the court imposing the fine shall report the default to the Department of Public Safety. The court also shall report to the department on final disposition of the case.

(f) The court may order a person convicted of an offense under this chapter to perform a specified number of hours of community service in lieu of a fine.

(g) An offense under this chapter is within the jurisdiction of the courts regularly empowered to try misdemeanors carrying the penalty provided by this chapter and is not within the jurisdiction of a juvenile court. This chapter does not otherwise affect the powers and duties of juvenile courts. (V.A.C.S. Art. 67011-4, Secs. 1a, 1b, 1c, 2, 4 (part).)

Source Law

Sec. 1a. No such minor may plead guilty to any offense described in Section 1 of this Act except in open court before the judge. No such minor shall be convicted of such an offense or fined as provided in this Act except in the presence of one or both parents or guardians having legal custody of the minor. The court shall cause one or both parents or guardians to be summoned to appear in court and shall require one or both of them to be present during all proceedings in the case. However, the court may waive the requirement of the presence of parents or guardians in any case in which, after diligent effort, the court is unable to locate them or to compel their presence.

Sec. 1b. (a) The provisions of the Code of Criminal Procedure relating to release of a defendant on bail apply to a defendant who is a minor charged with a traffic offense under this Act in the same manner as those provisions apply to an adult charged with those traffic offenses.

(b) A minor detained for an offense under this Act must be detained in a facility that meets the requirements of Section 51.12, Family Code.

Sec. 1c. A court shall report to the Department
offense under this Act who does not appear before the court as required by law. A court that has filed a report under this section shall report to the Department of Public Safety on final disposition of the case.

Sec. 2. (a) No such minor, after conviction or plea of guilty and imposition of fine, shall be committed to any jail in default of payment of the fine imposed, but the court imposing such fine shall report the default to the Department of Public Safety. A court that has filed a report under this section shall report to the Department of Public Safety on final disposition of the case.

(b) The court may order the minor to perform a specified number of hours of community service in lieu of a fine.

Sec. 4. The offenses created under this Act shall be under the jurisdiction of the courts regularly empowered to try misdemeanors carrying the penalty herein affixed, and shall not be under the jurisdiction of the Juvenile Courts; but nothing contained in this Act shall be construed to otherwise repeal or affect the statutes regulating the powers and duties of Juvenile Courts. . . .

Revisor's Note

(1) Section la, V.A.C.S. Article 67011-4, refers to "Section 1 of this Act," meaning Section 1, V.A.C.S. Article 67011-4. That statute is codified in this code as Section 729.001, and the revised law is drafted accordingly.

(2) The revised law omits as unnecessary the provision in Section 4, V.A.C.S. Article 67011-4, relating to the cumulative effect of that article. 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 omitted law reads:

... The provisions of this Act shall be cumulative of all other laws on this subject.

Revisor's Note

(End of Chapter)

Section 5 of V.A.C.S. Article 67011-4 repeals Chapter 436, Acts of the 51st Legislature, Regular Session, 1949. The reference is to an act relating to
the killing of quail in Wood County and appears to be
incorrect. The legislature appears to have intended to
refer to Chapter 436, Acts of the 52nd Legislature,
Regular Session, 1951 (Article 802d, Vernon's Texas
Penal Code), relating to reckless or intoxicated
driving by minors. That statute was transferred to
Article 67011-3, Vernon's Texas Civil Statutes, by
Chapter 399, Acts of the 63rd Legislature, Regular
Session, 1973. Article 67011-3 was repealed by Chapter
303, Acts of the 68th Legislature, Regular Session,
1983. In any event, the revised law omits the
provision as unnecessary because it is executed. The
omitted law reads:

Sec. 5. Chapter 436, Acts of the
51st Legislature, Regular Session, 1949, is
hereby repealed, but the repeal thereof
shall not exempt from punishment any person
who may have previously violated such
repealed law, and persons convicted of a
violation thereof shall be punished as
therein provided.

[Chapters 730-749 reserved for expansion]

CHAPTER 750. MISCELLANEOUS PROVISIONS

Sec. 750.001. CHILDREN STANDING IN SCHOOL BUS

Sec. 750.002. SPEED OF VEHICLE IN PARK IN COUNTY BORDERING

GULF OF MEXICO

CHAPTER 750. MISCELLANEOUS PROVISIONS

Revised Law

Sec. 750.001. CHILDREN STANDING IN SCHOOL BUS. The driver
of a school bus may not permit more than one child for each seat to
stand while the bus is traveling to or from the school being
served. (V.A.C.S. Art. 6701d-1.)

Source Law

Art. 6701d-1. It is further provided that it
shall be unlawful for any driver of any school bus to
permit more than one (1) child per seat to stand while
said bus is travelling to or from the school being
served.
Sec. 750.002. SPEED OF VEHICLE IN PARK IN COUNTY BORDERING GULF OF MEXICO. (a) A person commits an offense if the person drives a vehicle at a speed greater than 30 miles per hour within the boundaries of a county park located in a county that borders on the Gulf of Mexico, other than on a beach as that term is defined by Section 61.012, Natural Resources Code, in the park.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than $1 or more than $200.

(V.A.C.S. Art. 6701d-22.)

Art. 6701d-22
Sec. 1. No person shall drive a vehicle at a speed greater than thirty (30) miles per hour within the boundaries of any county park situated in a county that borders on the Gulf of Mexico.
Sec. 3. The provisions of this Act shall not apply to any beach, as that term is defined in Chapter 19 of the Acts of the Fifty-sixth Legislature, Second Called Session, 1959, whenever a beach is included within the boundaries of a county park situated in a county that borders on the Gulf of Mexico.
Sec. 4. Any person who violates any provision of this Act shall be fined not less than One Dollar ($1) nor more than Two Hundred Dollars ($200) for each offense.

Section 3, V.A.C.S. Article 6701d-22, refers to the definition of "beach" in Chapter 19, Acts of the 56th Legislature, 2nd Called Session, 1959 (Article 5415d, Vernon's Texas Civil Statutes). That statute was codified in 1977 as Section 61.012, Natural Resources Code. The revised law is drafted accordingly.

Reviser's Note
Subdivision 6, V.A.C.S. Article 1175, is omitted from the revised law. Subdivision 6, V.A.C.S. Article 1175, provides that a home-rule municipality may (1)
license vehicles using the public streets, (2) operate vehicles that use the public streets, and (3) control the operation of vehicles using the public streets, and in particular may (a) prescribe the speed of those vehicles, (b) prescribe the qualifications of operators of those vehicles, (c) prescribe the lighting on those vehicles at night, and (d) provide for the giving of a bond for the operation of those vehicles. The first part of Subdivision 6 is omitted because Section 5, Article XI, Texas Constitution, prohibits home-rule municipalities from enacting or enforcing ordinances that are inconsistent with the general laws of the state, and V.A.C.S. Article 6698, codified in this code as Section 6698, in part provides that except as to vehicles for hire, municipalities are without power to license motor vehicles. The second part of Subdivision 6, which states that home-rule municipalities have the power to operate vehicles that use the public streets, is omitted because under Section 5, Article XI, Texas Constitution, home-rule municipalities have full power of self-government and possess all powers not denied by the constitution and general laws. Because home-rule municipalities are neither constitutionally nor statutorily denied the power to operate motor vehicles that use the public streets, it is unnecessary to state specifically that home-rule municipalities have that power. The portion of the third part of Subdivision 6 that states generally that home-rule cities have the power to control the operation of vehicles using the public streets is omitted as unnecessary because it largely duplicates Section 542.201 of this code, which prohibits a municipality from enacting or enforcing traffic ordinances and regulations that are in conflict with Subtitle C of this title and expressly authorizes
a municipality to adopt additional traffic regulations that are not in conflict with that subtitle. In addition, it is unnecessary to specifically state that home-rule municipalities may control the operation of vehicles using the public streets because Section 54.004, Local Government Code, provides that home-rule municipalities may enforce ordinances necessary to protect health, life, and property and to preserve the good government, order, and security of the municipalities and their inhabitants, which would include ordinances by which the municipalities control the operation of vehicles operated on public streets. The portion of the third part of Subdivision 6 that states that home-rule municipalities have the power to prescribe the speed of vehicles using the public streets, is omitted as unnecessary. The power, and the procedures by which it may be implemented, are specifically provided by V.A.C.S. Article 6701d, codified in this title as Subtitle C. The portions of the third part of Subdivision 6 that state that home-rule municipalities have the powers to (1) prescribe the qualifications of the operators of vehicles using the public streets, (2) prescribe the lighting of those vehicles at night, and (3) provide for the giving of bond or other security for the operation of those vehicles, are omitted because Section 5, Article XI, Texas Constitution, prohibits home-rule municipalities from enacting or enforcing any ordinance that is inconsistent with the general laws of the state. As to the power to prescribe vehicular lighting, V.A.C.S. Article 6701d specifies the lighting equipment with which vehicles must be equipped and the times when that equipment must be used. Section 26, V.A.C.S. Article 6701d, expressly prohibits the
enactment or enforcement of any ordinance, rule, or regulation in conflict with that statute. The lighting requirements of V.A.C.S. Article 6701d are codified in this title by Chapter 547; Section 26, V.A.C.S. Article 6701d, is codified in this title as Section 542.201. Finally, as to the portion of the third part of Subdivision 6 that provides that home-rule municipalities may provide for the giving of bond or other security for the operation of vehicles using the public streets, the Texas Motor Vehicle Safety-Responsibility Act, V.A.C.S. Article 6701h, codified in this title as Chapter 601, establishes the requirement of security for the operation of motor vehicles in this state and specifies the acceptable forms and amounts of that security. That chapter clearly preempts municipalities from adopting regulations that relate to the giving of security for the operation of motor vehicles. As omitted, Subdivision 6, V.A.C.S. Article 1175, reads as follows:

Art. 1175
A home-rule municipality has the following powers:

6. To license, operate and control the operation of all character of vehicles using the public streets, including motorcycles, automobiles or like vehicles, and [to prescribe] the speed of the same, the qualification of the operator of the same, [and the lighting of the same by night and to provide for the giving bond or other security for the operation of the same.]
APPENDIX A

SECTION 2. CONFORMING AMENDMENT. Subchapter B, Chapter 18, Civil Practice and Remedies Code, is amended by adding Section 18.032 to read as follows:

Sec. 18.032. TRAFFIC CONTROL DEVICE PRESUMED TO BE LAWFUL.

(a) In a civil case, proof of the existence of a traffic control device on or alongside a public thoroughfare by a party is prima facie proof of all facts necessary to prove the proper and lawful installation of the device at that place, including proof of competent authority and an ordinance by a municipality or order by the commissioners court of a county.

(b) Proof of the existence of a one-way street sign is prima facie proof that the public thoroughfare on or alongside which the sign is placed was designated by proper and competent authority to be a one-way thoroughfare allowing traffic to go only in the direction indicated by the sign.

(c) In this section, "traffic control device" includes a control light, stop sign, and one-way street sign.

(d) Any party may rebut the prima facie proof established under this section. (V.A.C.S. Art. 6701d-3.)

Source Law

Art. 6701d-3. In any civil case in this State, proof by either party to the case of the existence of any traffic control device, including, but not limited to, control lights, stop signs, and one-way street signs, on or alongside any public thoroughfare shall constitute prima facie proof of all facts (including proof of competent authority and a duly enacted ordinance by municipalities or all duly promulgated orders by Commissioners Courts) necessary to prove the proper, lawful installation of such sign or device at that place. Such proof of the existence of any one-way street sign shall further constitute prima facie proof that the public thoroughfare on or alongside of which it was placed was duly designated by proper, competent authority to be a one-way public thoroughfare for traffic to go only in the direction indicated by the sign. The prima facie proof herein provided for may be rebutted by any party to the suit.
Revisor's Note

V.A.C.S. Article 6701d-3 refers to "duly enacted ordinances," "duly promulgated orders," and "duly designated . . . by authority." The references to "duly" and to "enacted" and "promulgated" are omitted from the revision of this article as unnecessary. An ordinance is not an ordinance and an order is not an order unless properly ("duly") adopted, and a designation would be invalid if not properly effected.

The purpose of this statute is to create a presumption that a sign has legal existence arising from a municipal ordinance or an order of a commissioners court. It is unnecessary to create a presumption that an ordinance or an order is valid.

SECTION 3. CONFORMING AMENDMENT. Subchapter D, Chapter 215, Government Code, is amended by adding Section 215.0735 to read as follows:

Sec. 215.0735. OPERATORS OF VEHICLES. The municipality may prescribe the qualifications of an operator of a vehicle that uses the public streets in the municipality. (V.A.C.S. Art. 1175, Subdiv. 6 (part)).

Source Law

[Art. 1175. A home-rule municipality has the following powers:]

6. To [license, operate and control the operation of all character of vehicles using the public streets, including motorcycles, automobiles or like vehicles, and] to prescribe . . . the qualification of the operator of the same . . .

SECTION 4. CONFORMING AMENDMENT. Subchapter A, Chapter 411, Government Code, is amended by adding Sections 411.0085 and 411.0086 to read as follows:

Sec. 411.0085. DRIVER'S LICENSE FACILITIES: PERSONNEL. The department may not assign more than 123 commissioned officers plus supervising personnel to driver's license facilities. (V.A.C.S. Art. 6687b, Sec. 4B(a)).

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Sec. 411.0086. DRIVER'S LICENSE FACILITIES PERSONNEL

REDUCTION SCHEDULE. The director shall develop a schedule that reduces the number of commissioned officers assigned to driver's license facilities. The schedule shall be implemented over a five-year period beginning September 1, 1991. A report that details the schedule shall be filed with the Legislative Budget Board. This subsection expires September 1, 1996. (V.A.C.S. Art. 6687b, Sec. 4B(b); New.)

Source Law

Sec. 4B. (a) The department may not assign a total of more than 123 commissioned officers plus supervising personnel to staff driver's license facilities.

(b) A schedule reducing the number of commissioned officers assigned to driver's license facilities shall be developed by the director in accordance with this section and shall be implemented over a five-year period beginning September 1, 1991. A report detailing the schedule shall be filed with the Legislative Budget Board.

Revisor's Note

Section 4B(b), V.A.C.S. Article 6687b, requires the director to implement the schedule for reducing commissioned personnel at driver's license facilities over a five-year period beginning September 1, 1991. The revised law provides for the expiration of this requirement on September 1, 1996, because on that date the provision will have been executed.

SECTION 5. CONFORMING AMENDMENT. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0175 to read as follows:

Sec. 411.0175. ACCIDENT REPORTS. The department shall:

(1) tabulate and analyze the motor vehicle accident reports it receives;

(2) annually or more frequently publish statistical information derived from the accident reports as to the number, cause, and location of highway accidents; and
(3) provide an abstract of the statistical information for each preceding biennium to the governor and the legislature, with its conclusions and findings and recommendations for decreasing highway accidents and increasing highway safety. (V.A.C.S. Arts. 6687b, Sec. 43; 6701d, Sec. 48.)

Source Law

[Art. 6687b]
Sec. 43. The Department shall receive accident reports required to be made by law and shall tabulate and analyze such reports and publish annually or at more frequent intervals, statistical information based thereon as to the number, cause, and location of highway accidents; and the Department shall biennially report to the Governor and the Legislature the abstract of such reports for the preceding biennium, with its conclusions and findings and recommendations for decreasing highway accidents and increasing safety upon the highways of Texas.

[Art. 6701d]
Sec. 48. The Department shall tabulate and may analyze all accident reports and shall publish annually, or at more frequent intervals, statistical information based thereon as to the number and circumstances of traffic accidents.

SECTION 6. CONFORMING AMENDMENT. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0201 to read as follows:

Sec. 411.0201. REPRODUCTION OF RECORDS. (a) Except as provided by Subsection (b), the department may photograph, microphotograph, or film any record in connection with the issuance of a driver's license or commercial driver's license and any record of any division of the department.

(b) None of the following may be photographed or filmed to dispose of the original record:

(1) an original fingerprint card;

(2) any evidence submitted in connection with a criminal case; or

(3) a confession or statement made by the defendant in a criminal case.

(c) The department may create original records in micrographic form on media, such as computer output microfilm.
(d) The department shall provide an adequate number of microfilm readers and printers to allow the public convenient and inexpensive access to records created under Subsection (a). The department shall index the records alphabetically, by number, by subject matter, or by other appropriate references and shall provide the index to the public to promote convenient access.

(e) A photograph, microphotograph, or film of a record reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A certified or authenticated copy of such a photograph, microphotograph, or film is admissible as evidence equally with the original photograph, microphotograph, or film.

(f) The director or an authorized representative may certify the authenticity of a photograph, microphotograph, or film of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, or film as provided by law.

(g) Certified records shall be furnished to any person who is authorized by law to receive them. (V.A.C.S. Art. 6663a, Secs. 1(b), (c) (part); 2; 2a (part).)

Source Law

[Sec. 1]

(b) The Texas Department of Public Safety is hereby authorized to photograph, microphotograph, or film all records in connection with the issuance of operators' licenses, chauffeurs' licenses, and commercial operators' licenses and all records of the various divisions of the Texas Department of Public Safety, with the exception that no original fingerprint card or any evidence submitted in connection with a criminal case or any confession or statement made by the defendant in a criminal case shall be photographed or filmed for the purpose of disposing of the original records.

(c) The authority granted by Subsections (a) and (b) of this section includes the authority to create original records in micrographic form on media such as computer output microfilm. The Texas Department of Public Safety shall provide microfilm readers and printers in adequate numbers to allow the public convenient and inexpensive access to records as provided by this section. The departments shall index the records alphabetically, by number, by subject matter, or by other appropriate referents and shall provide an index to the public to promote convenient access.
Sec. 2. Photographs or microphotographs or films of any record photographed, microphotographed or filmed, as herein provided, shall have the same force and effect as the originals thereof would have had, and shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. Duly certified or authenticated copies of such photographs or microphotographs or films shall be admitted in evidence equally with the original photographs or microphotographs or films.

Sec. 2a. The . . . Director of the Texas Department of Public Safety, or their duly authorized representatives are hereby authorized to certify to the authenticity of any photograph or microphotograph herein authorized and shall make such charges therefor as may be authorized by law. Such certified records shall be furnished to any person who is entitled to receive the same under the law.

Revisor's Note

(1) Section 1(b), V.A.C.S. Article 6663a, refers to "operators' licenses, chauffeurs' licenses, and commercial operators' licenses." The revised law substitutes the term "driver's licenses" for "operators' licenses" and "chauffeurs' licenses" because that is the term used in Chapter 521, Transportation Code. The revised law substitutes the term "commercial driver's licenses" for "commercial operators' licenses" because that is the term used in Chapter 522, Transportation Code (Commercial Driver's License Act).

(2) Section 2, V.A.C.S. Article 6663a, refers to a duly certified or authenticated copy. The revised law omits "duly" as unnecessary because the word does not add to the clear meaning of the law.

(3) Section 2a, V.A.C.S. Article 6663a, does not explicitly authorize the certification of the authenticity of a film. That appears to be an oversight and film has been added in the revised law.

SECTION 7. CONFORMING AMENDMENT. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0202 to read as
Sec. 411.0202. DISPOSAL OF RECORDS. (a) Unless otherwise required by law and subject to Chapter 441, the department may dispose of or destroy records that the department determines are not required for the performance of the department's duties and functions.

(b) The department may dispose of or destroy a defendant's original fingerprint card if:

(1) the department has on file and retains another original fingerprint card for the defendant; or

(2) the defendant has attained the age of 80.

(V.A.C.S. Art. 6663a, Secs. 1(e) (part), (f)).

Source Law

(e) Unless otherwise required by law, and subject to Chapter 441, Government Code, . . . the Texas Department of Public Safety may dispose of or destroy records that each agency determines are not required for the performance of the agency's duties and functions.

(f) The Texas Department of Public Safety may destroy or dispose of a defendant's original fingerprint card if:

(1) the department has another original fingerprint card for the defendant on file and retains that card; or

(2) the defendant is now 80 years of age or older.

SECTION 8. CONFORMING AMENDMENT. Section 411.088(b), Government Code, is repealed.

Revisor's Note

Section 411.088(b), Government Code, requires the Department of Public Safety to deposit fees collected under Section 411.088 of that code in the operator's and chauffeur's license fund.

Acting under authority of Section 403.094(a), Government Code, the comptroller abolished that fund, effective August 31, 1993. Money previously designated for deposit in the fund is now required to be deposited to the credit of the general revenue fund. It is,
however, unnecessary to state that requirement in Section 411.088(b). Section 404.094, Government Code (State Funds Reform Act), requires that, unless provided otherwise, all money, including the referenced fees, collected by a state agency be deposited in the treasury to the credit of the general revenue fund.

SECTION 9. CONFORMING AMENDMENT. Chapter 12, Health and Safety Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. MEDICAL ADVISORY BOARD

Revised Law
Sec. 12.091. DEFINITIONS. In this subchapter:

(1) "Medical standards division" means the Medical Standards on Motor Vehicle Operations Division of the department.

(2) "Panel" means a panel of the medical advisory board. (New.)

Revisor's Note
The definitions of "medical standards division" and "panel" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

Revised Law
Sec. 12.092. MEDICAL ADVISORY BOARD; BOARD MEMBERS.

(a) The commissioner shall appoint the medical advisory board members from:

(1) persons licensed to practice medicine in this state, including physicians who are board certified in internal medicine, psychiatry, neurology, physical medicine, or ophthalmology and who are jointly recommended by the Texas Department of Health and the Texas Medical Association; and

(2) persons licensed to practice optometry in this state who are jointly recommended by the department and the Texas
The medical advisory board shall assist the Department of Public Safety of the State of Texas in determining whether an applicant for a driver's license or a license holder is capable of safely operating a motor vehicle. (V.A.C.S. Art. 6687b, Secs. 21A(a), (b).)

Source Law

Sec. 21A. (a) A medical advisory board, hereinafter called the board, is established to assist the department in determining whether an applicant or a licensee is capable of safely operating a motor vehicle.

(b) The Commissioner of Health shall appoint the board from among the following:

(1) individuals who are licensed to practice medicine in the State of Texas, including physicians who are board certified in internal medicine, psychiatry, neurology, physical medicine, and ophthalmology, and who have been jointly recommended by the Texas Department of Health and the Texas Medical Association; and

(2) individuals who are licensed to practice optometry in the State of Texas and who have been jointly recommended by the Texas Department of Health and the Texas Optometric Association.

Revised Law

Sec. 12.093. ADMINISTRATION; RULES. (a) The medical advisory board is administratively attached to the medical standards division.

(b) The medical standards division:

(1) shall provide administrative support for the medical advisory board and panels of the medical advisory board; and

(2) may collect and maintain the individual medical records necessary for use by the medical advisory board and the panels under this section from a physician, hospital, or other health care provider. (V.A.C.S. Art. 6687b, Secs. 21A(c) (part), (e) (part).)

Source Law

(c) The board is administratively attached to the Medical Standards on Motor Vehicle Operations Division of the Texas Department of Health...
(e) The Medical Standards on Motor Vehicle Operations Division of the Texas Department of Health will provide administrative support for the board and panels of the board. The division may collect and maintain the individual medical records necessary for use by the board and the panels under this section from physicians, hospitals, and other health care providers.

Revised Law
Sec. 12.094. RULES RELATING TO MEDICAL ADVISORY BOARD

MEMBERS. (a) The board:

(1) may adopt rules to govern the activities of the medical advisory board;

(2) by rule may establish a reasonable fee to pay a member of the medical advisory board for the member's professional consultation services; and

(3) if appropriate, may authorize per diem and travel allowances for each meeting a member attends, not to exceed the amounts authorized for state employees by the General Appropriations Act.

(b) The fee under Subsection (a)(2) may not be less than $75 or more than $150 for each meeting that the member attends.

(V.A.C.S. Art. 6687b, Secs. 21A(c) (part), (g).)

Source Law

(c) [The board is administratively attached to the Medical Standards on Motor Vehicle Operations Division of the Texas Department of Health, and] the Texas Board of Health may adopt rules which are necessary to govern the conduct of its activities.

(g) The Texas Board of Health by rule may establish a reasonable fee to pay the members of the medical advisory board for their professional consultation services. The Texas Board of Health may set the fee for each member at not less than $75 and no more than $150 for each meeting the member attends. When appropriate, the Texas Board of Health may authorize per diem and travel allowances for each meeting the member attends. The per diem and travel allowance may not exceed the per diem and travel allowance authorized in the General Appropriations Act for state employees.

Revised Law
Sec. 12.095. BOARD PANELS; POWERS AND DUTIES. (a) If the
Department of Public Safety of the State of Texas requests an opinion or recommendation from the medical advisory board as to the ability of an applicant or license holder to operate a motor vehicle safely, the commissioner or a person designated by the commissioner shall convene a panel to consider the case or question submitted by that department.

(b) To take action as a panel, at least three members of the medical advisory board must be present.

(c) Each panel member shall prepare an individual independent written report for the Department of Public Safety of the State of Texas that states the member's opinion as to the ability of the applicant or license holder to operate a motor vehicle safely. In the report the panel member may also make recommendations relating to that department's subsequent action.

(d) In its deliberations, a panel may examine any medical record or report that contains material that may be relevant to the ability of the applicant or license holder to operate a motor vehicle safely.

(e) The panel may require the applicant or license holder to undergo a medical or other examination at the applicant's or holder's expense. A person who conducts an examination under this subsection may be compelled to testify before the panel and in any subsequent proceedings under Subchapter N, Chapter 521, Transportation Code, concerning the person's observations and findings. (V.A.C.S. Art. 6687b, Sec. 21A(d) (part).)

Source Law

(d) If the department requests opinions and recommendations from the board as to the ability of applicants or licensees to operate motor vehicles safely, the Commissioner of Health or the commissioner's designee shall convene a panel of the board to consider the cases or questions submitted by the department. To act, at least three members of the board must attend to form the panel. A panel member shall prepare an individual, independent written recommendation for the department stating his or her opinion as to the ability of the applicant or licensee to operate a motor vehicle safely. In the report he or she may also make recommendations relating to the department's subsequent actions.

(1) In its deliberations, the panel may
examine any medical records or reports which contain material which may be relevant to the ability of the applicant or licensee to operate a motor vehicle safely.

(2) The panel may require the applicant or licensee to undergo medical or other examinations, and the applicant or licensee must bear the expense of the examination or examinations. The person or persons conducting the examination or examinations may be compelled to testify before the panel and in any subsequent proceeding under Section 22 or Section 31 of this Act concerning his or her observations and findings.

Revisor's Note
Section 21A(d), V.A.C.S. Article 6687b, refers to "Section 22 or Section 31 of this Act," meaning Sections 22 and 31, V.A.C.S. Article 6687b, respectively. Those sections are revised in the Transportation Code as Subchapter N of Chapter 521, and the revised law is drafted accordingly.

Revised Law
Sec. 12.096. PHYSICIAN REPORT. (a) A physician licensed to practice medicine in this state may inform the Department of Public Safety of the State of Texas or the medical advisory board, orally or in writing, of the name, date of birth, and address of a patient older than 15 years of age whom the physician has diagnosed as having a disorder or disability specified in a rule of the Department of Public Safety of the State of Texas.

(b) The release of information under this section is an exception to the patient-physician privilege requirements imposed under Section 5.08, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes). (V.A.C.S. Art. 6687b, Sec. 21A(d) (part).)

Source Law
(3) A physician who is licensed to practice medicine in Texas may voluntarily inform the department or the board, orally or in writing, of the full name, date of birth, and address of a patient over the age of 15 years whom he or she has diagnosed as having a disorder or disability specified in the rules of the department. The release of such information by the physician to the board is an exception to the patient-physician privilege requirements of Section 5.08 of the Medical Practice Act (Article 4495b,
Revisor's Note

Section 21A(d), V.A.C.S. Article 6687b, provides that a physician "may voluntarily inform" the Department of Public Safety of the State of Texas of certain information. The revised law omits the reference to "voluntarily" because this is what is meant by the use of "may."

Revised Law

Sec. 12.097. CONFIDENTIALITY REQUIREMENTS. (a) All records, reports, and testimony relating to the medical condition of an applicant or license holder:

(1) are for the confidential use of the medical advisory board, a panel, or the Department of Public Safety of the State of Texas;

(2) are privileged information; and

(3) may not be disclosed to any person or used as evidence in a trial except as provided by Subsection (b).

(b) In a subsequent proceeding under Subchapter N, Chapter 521, Transportation Code, the medical standards division may provide a copy of the report of the medical advisory board or panel and a medical record or report relating to an applicant or license holder to:

(1) the Department of Public Safety of the State of Texas;

(2) the applicant or license holder; and

(3) the officer who presides at the hearing.

(V.A.C.S. Art. 6687b, Secs. 6(b) (part), 21A(e)(1), (2).)

Source Law

[Sec. 6]

(b) ... Information about the medical history of an applicant supplied to the Department] or a Medical Advisory Board [is for the confidential use of the Department] or the Board [and may not be divulged to any person or used as evidence in a legal proceeding except a proceeding under Section 22 or Section 31 of
(1) All records, reports, and testimony relating to the medical condition of an applicant or licensee are for the confidential use of the board, panels of the board, or the department and as such are privileged information. Such information may not be divulged to any person or used as evidence in any trial except as provided in Subdivision (2) of this subsection.

(2) In the event of a subsequent proceeding under Section 22 or Section 31 of this Act, the Medical Standards on Motor Vehicle Operations Division of the Texas Department of Health may provide copies of the board’s or panel’s report and the medical records or reports relating to an applicant or licensee to the department, the applicant or the licensee, or the officer who presides over the hearing.

Revisor’s Note

Section 21A(e)(2), V.A.C.S. Article 6687b, refers to "Section 22 or Section 31 of this Act," meaning Sections 22 and 31, V.A.C.S. Article 6687b, respectively. Those sections are revised in the Transportation Code as Subchapter N of Chapter 521, and the revised law is drafted accordingly.

Revised Law

Sec. 12.098. LIABILITY. A member of the medical advisory board, a member of a panel, a person who makes an examination for or on the recommendation of the medical advisory board, or a physician who reports to the medical advisory board or a panel under Section 12.096 is not liable for a professional opinion, recommendation, or report made under this subchapter. (V.A.C.S. Art. 6687b, Sec. 21A(f).)

Source Law

(f) Members of the board, members of a panel of the board, persons making examinations for or upon recommendation of the board, and physicians voluntarily reporting to the board or a panel of the board under Subdivision (3) of Subsection (d) of this section may not be held liable for their professional opinions, recommendations, and reports.

Revisor’s Note

(1) Section 21A(f), V.A.C.S. Article 6687b, refers to "Subdivision (3) of Subsection (d) of this
section." That subdivision has been codified in this 
revision as Section 12.096, and the revised law is 
drafted accordingly.

(2) Section 21A(f), V.A.C.S. Article 6687b, 
refers to a physician who "voluntarily" reports. The 
revised law omits the reference to "voluntarily" for 
the reason stated in the reviser's note under Section 
12.096 of this code.

SECTION 10. CONFORMING AMENDMENT. The headings to Title 9 
and to Subtitle A of Title 9, Local Government Code, are amended to 
read as follows:

TITLE 9. PUBLIC BUILDINGS AND GROUNDS

SUBTITLE A. MUNICIPAL PUBLIC BUILDINGS AND GROUNDS

SECTION 11. Subtitle A, Title 9, Local Government Code, is 
amended by adding Chapter 282 to read as follows:

CHAPTER 282. MUNICIPAL AUTHORITY OVER PUBLIC GROUNDS

Sec. 282.001. GENERAL AUTHORITY OF HOME-RULE MUNICIPALITY.

(a) A home-rule municipality has exclusive control over and under 
the public grounds of the municipality.

(b) The municipality may control, regulate, or remove an 
encroachment or obstruction on the public grounds of the 
municipality. (V.A.C.S. Art. 1175, Subdivs. 3 (part), 5 (part).)

Source Law

Art. 1175. A home-rule municipality has the 
following powers:

3. To have exclusive dominion, control, 
and jurisdiction in, over and under the public 
streets, avenues, alleys, highways and boulevards, and 
public grounds of such city . . . .

5. To control, regulate and remove all 
obstructions or other encroachments or encumbrances on 
any public [street, alley or] ground, and . . . .

Reviser's Note

(1) Subdivision 3 of V.A.C.S. Article 1175 
grants to a municipality "exclusive dominion, control, 
and jurisdiction" in relation to public grounds. The
references to "dominion" and "jurisdiction" are omitted from the revised law because those terms are included within the meaning of "control."

(2) Subdivision 5 of V.A.C.S. Article 1175 refers to a municipality's authority over "obstructions or other encroachments or encumbrances" on a public ground. The reference to "encumbrances" is omitted from the revised law because "encumbrances" is included within the meaning of "obstructions" or "encroachments."

Sec. 282.002. GENERAL AUTHORITY OF GENERAL-LAW MUNICIPALITY.

(a) A general-law municipality has exclusive control over the public grounds of the municipality.

(b) The municipality may abate or remove an encroachment or obstruction on the public grounds of the municipality. (V.A.C.S. Art. 1016 (part).)

Source Law

Art. 1016. Any city or town incorporated under the general laws of this State shall have the exclusive control and power over the [streets, alleys, and] public grounds [and highways] of the city or town, and to abate and remove encroachments or obstructions thereon; . . . .

Revisor's Note

(1) V.A.C.S. Article 1016 refers to a "city or town incorporated under the general laws of this State." The revised law substitutes the phrase "general-law municipality" to conform to the terminology used by the Local Government Code.

(2) V.A.C.S. Article 1016 refers to a municipality's "control and power" over public grounds. The reference to "power" is omitted from the revised law because "power" is included within the meaning of "control."

Sec. 282.003. AUTHORITY OF HOME-RULE MUNICIPALITY TO GRANT
FRANCHISE. (a) The governing body of a home-rule municipality by ordinance may grant to a person a franchise to use or occupy the public grounds of the municipality.

(b) The authority to grant a franchise to use or occupy the public grounds is the exclusive authority of the governing body, and the charter of the municipality may not grant the franchise.

(c) A franchise under this section:

(1) is subject to the same petition and election provisions that apply to a franchise under Subchapter D, Chapter 311, Transportation Code; and

(2) may not extend beyond the period set for its termination. (V.A.C.S. Art. 1181 (part).)

Source Law

Art. 1181. No charter or any amendment thereof framed or adopted under this charter, shall ever grant to any person, firm or corporation any right or franchise to use or occupy the [public streets, avenues, alleys or] grounds of any such city, but the governing authority of any such city shall have the exclusive power and authority to make any such grant of any such franchise or right to use and occupy the [public streets, avenues, alleys, and] grounds of the city. If, at any time, before any ordinance granting a franchise takes effect, a petition shall be submitted to the governing authority signed by 10 percent of the bona fide qualified voters of the city or, in a city having a population of more than 1.2 million according to the last federal census, signed by a lesser number of qualified voters if so provided by city charter, then the governing body shall submit the question of granting such franchise to a vote of the qualified voters of the city, at the next succeeding election date authorized by Section 9b, Texas Election Code, as amended (Article 2.01b, Vernon's Texas Election Code).

Reviser's Note

(1) V.A.C.S. Article 1181 refers to "such city."
The legislative history of this reference reveals that the reference relates to a home-rule municipality. The revised law is drafted to clarify this issue.

(2) The revised law requires a municipality to exercise its authority "by ordinance" because the other provisions of law revised by this section clarify that an ordinance is required.
(3) V.A.C.S. Article 1181 refers to the grant of a "franchise or right" to use or occupy grounds. The reference to "right" is omitted from the revised law because, in this context, "right" is included within the meaning of "franchise." Furthermore, the other provisions of law revised by this chapter use only "franchise," therefore "right" is omitted for reasons of uniformity.

(4) V.A.C.S. Article 1181 provides in part that, on receipt of a petition, a home-rule municipality shall hold a referendum election on the question of whether the municipality may grant a franchise to use public grounds of the municipality. Article 1181 also contains specific requirements relating to the petition and to the conduct of the election. Those requirements are revised in Subchapter D, Chapter 311, Transportation Code, and the revised law substitutes a reference to that subchapter for the specific requirements.

SECTION 12. CONFORMING AMENDMENT. Chapter 402, Local Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. CONSTRUCTION OF SANITARY SEWERS IN CERTAIN MUNICIPALITIES

Sec. 402.091. APPLICATION OF SUBCHAPTER TO CERTAIN MUNICIPALITIES. To exercise authority under this subchapter, a municipality must have:

(1) a population of less than 15,000;
(2) levied the maximum rate of tax allowed by law; and
(3) adopted Subchapters A through C, Chapter 312, Transportation Code.

Sec. 402.092. CONSTRUCTION OF SANITARY SEWERS. (a) The governing body of a municipality may order the construction and installation of sanitary sewers if it is presented with a petition
that is signed by at least two-thirds of the owners of property
abutting the proposed construction.

(b) A municipality's authority under this subchapter is
subject to the same provisions relating to assessments, hearings,
and other matters that apply to a highway improvement ordered under
Subchapters A through C, Chapter 312, Transportation Code.

(V.A.C.S. Arts. 1086 (part), 1087 (part).)

Source Law

Art. 1086. . . . and cities having a population
of less than fifteen thousand (15,000) inhabitants
according to the last preceding or any future Federal
census and which have levied the maximum rate of tax
permitted by law, shall have the power to construct and
install sanitary sewers and all of the provisions and
authority of this chapter pertaining to highway
improvement shall likewise apply to the construction
and installation of sanitary sewers. . . . Provided
that before any proposal to construct sanitary sewers
hereunder shall be put into effect the Governing Body
of any city shall be presented by a petition signed by
two-thirds (2/3) of the abutting property owners to be
affected requesting the Governing Body of the city to
make such improvements.

Art. 1087. The Governing Body of any city shall
have power . . . and in cities having a population of
less than fifteen thousand (15,000) inhabitants
according to the last preceding or any future Federal
census and which have levied the maximum rate of tax
permitted by law, to order the construction and
installation of sanitary sewers . . . .

Revisor's Note

(1) V.A.C.S. Articles 1086 and 1087 refer to
"cities." The revised law substitutes "municipality"
for "cities" because that is the term used in the Local
Government Code.

(2) V.A.C.S. Articles 1086 and 1087 describe a
population number that is to be determined according to
"the last preceding or any future Federal census." The
revised law omits the reference to the federal census
because the reference is 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.

SECTION 13. CONFORMING AMENDMENT. Subchapter C, Chapter 445, Local Government Code, is amended by adding Section 445.023 to read as follows:

Revised Law

Sec. 445.023. CONTRACTS WITH TRANSIT AUTHORITIES. (a) The commissioners court of a county may contract with a rapid transit authority operating under Chapter 451, Transportation Code, or a metropolitan transportation authority operating under Chapter 452 of that code for the authority to provide public transportation services to an unincorporated area of the county outside the boundaries of the authority.

(b) The county may impose taxes and pledge and encumber other receipts and revenue as may be required to make payments to the authority under the contract. (V.A.C.S. Art. 1118x, Sec. 15A; Art. 1118y, Sec. 21.)

Source Law

Sec. 15A. A commissioners court may contract with an authority for the authority to provide public transportation services to any unincorporated area outside the boundaries of the authority [for a term and on those conditions as are determined to be desirable by the commissioners court and the board]. The county may levy and collect taxes or pledge and encumber other receipts or revenues as may be required to make any payments to the authority under the provisions of the contract.

Sec. 21. A commissioners court may contract with an authority for the authority to provide public transportation services to any unincorporated area outside the boundaries of the authority for a term and on those conditions as are determined to be desirable by the commissioners court and the executive committee. The county may levy and collect taxes or pledge and encumber other receipts or revenues as may be required to make any payments to the authority under the provisions of the contract.

SECTION 14. CONFORMING AMENDMENT. Subchapter C, Chapter 445, Local Government Code, is amended by adding Section 445.024 to read as follows:
Sec. 445.024. REGULATION OF TRANSIT AUTHORITY PASSENGERS.

(a) The commissioners court of a county in which there is located a rapid transit authority operating under Chapter 451, Transportation Code, the principal municipality of which has a population of more than 1.2 million, may adopt an ordinance of the principal municipality relating to the conduct of persons:

(1) on board a transit vehicle;

(2) awaiting transportation on a transit vehicle at a bus stop or other place designated as a place of entry to or exit from a transit vehicle;

(3) in a facility, including a building, storage unit, or parking lot of the rapid transit authority; or

(4) in a transit route or other dedicated traffic lane over which a transit vehicle travels and that is specifically labeled or numbered for the purpose of picking up or discharging passengers at regularly scheduled stops or intervals.

(b) An order adopted under this section applies in all parts of the county.

(c) An offense defined by an order under this section is a Class C misdemeanor.

(d) In this section:

(1) "Principal municipality" has the meaning assigned by Section 451.001, Transportation Code.

(2) "Transit vehicle" means a vehicle operated by a rapid transit authority operating under Chapter 451, Transportation Code. (V.A.C.S. Art. 1118x-1.)

Source Law

Art. 1118x-1

Sec. 1. This article applies only to a county in which is located a part or all of a transit authority that is in a metropolitan area whose municipality of greatest population has a population of more than 1.2 million, according to the most recent federal census, and that is created, organized, and operating under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes).

Sec. 2. In this article:
(1) "Access point" means a bus stop or any other place designated as an entry or exit point to or from a vehicle operated by a public transit service.

(2) "Principal municipality" means the municipality with the greatest population in a county.

(3) "Public transit service" means a transit service established and operating under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1118x, Vernon's Texas Civil Statutes).

(4) "Transit facility" means a building, storage unit, parking lot, or other facility owned or operated by a public transit service.

(5) "Transit route" means a route or dedicated lane over which a transit vehicle travels that is specifically labeled or numbered for the purpose of picking up or discharging passengers at regularly scheduled stops and intervals.

Sec. 3. The commissioners court of a county by order may adopt an ordinance of the principal municipality in the county relating to the conduct of a person while riding a vehicle operated by a public transit service, while awaiting transportation on the vehicle at an access point, or while in a transit route or facility. An order adopted under this section applies in any part of the county.

Sec. 4. If an order under this article defines an offense, the offense is a Class C misdemeanor.

Revisor's Note

(1) Section 1, V.A.C.S. Article 1118x-1, refers to a metropolitan area whose municipality of greatest population has a certain population. Section 2 of that article defines and refers to a "principal municipality." The revised law refers to the definition of "principal municipality" in Section 451.001, Transportation Code, where Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973 (V.A.C.S. Article 1118x), is revised. That definition is the same as the definition and uses of the term in Article 1118x-1. The reference to "metropolitan area" is omitted because that term is included in the definition of "principal municipality" under Section 451.001.

(2) The definitions of "access point," "public transit service," "transit facility," and "transit route" contained in V.A.C.S. Article 1118x-1 are incorporated into revised provisions using those terms.
and are omitted as specifically defined terms.

SECTION 15. CONFORMING AMENDMENT. The Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes) is amended by adding Section 13A to read as follows:

Sec. 13A. MOTORCYCLE AND BICYCLE AWARENESS. (a) The agency by rule shall require that the curriculum of driver education courses and driving safety courses include information relating to motorcycle and bicycle awareness.

(b) The agency shall consult with the Department of Public Safety in developing rules under Subsection (a).

(c) In this section, "motorcycle" has the meaning assigned by Section 502.001, Transportation Code. (V.A.C.S. Art. 6701c-4a, Secs. 1, 4(b), (c).)

Source Law

Art. 6701c-4a
Sec. 1. In this Act, "motorcycle" has the meaning assigned by Section 1, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-1 et seq., Vernon's Texas Civil Statutes), and its subsequent amendments and includes a motorcycle equipped with a sidecar.

Sec. 4. . .
(b) The Central Education Agency shall adopt rules to require that after January 1, 1994, information relating to motorcycle and bicycle awareness be included in the curriculum of any driver education course or driving safety course that is governed by the agency.
(c) The Central Education Agency shall consult with the Department of Public Safety in developing rules under Subsection (b) of this section.

Revisor's Note

(1) Section 1, V.A.C.S. Article 6701c-4a, refers to Section 1, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-1 et seq., Vernon's Texas Civil Statutes), "and its subsequent amendments." That section is codified in the Transportation Code as Section 502.001, and the revised law is drafted accordingly. The reference to
subsequent amendments of that statute is omitted from
the revised law because Section 312.008, Government
Code, provides that unless expressly provided
otherwise, a reference to any portion of a statute
applies to all reenactments, revisions, or amendments
of the statute. That provision applies to the revised
law.

(2) Section 1, V.A.C.S. Article 6701c-4a,
provides that the term "motorcycle," "includes a
motorcycle equipped with a sidecar." The revised law
omits this provision as unnecessary. Section 502.001,
Transportation Code, defines the term so as to include
a motorcycle with a sidecar.

SECTION 16. CONFORMING AMENDMENT. Chapter 13, Title 112,
Revised Statutes, is amended by adding Article 6550d to read as
follows:

Art. 6550d. LIABILITY: PUBLIC TRANSPORTATION ENTITIES. A
transportation entity created under this title for the purpose of
providing public transportation as defined by Section 452.001,
Transportation Code, is a governmental unit as that term is defined
by the Texas Tort Claims Act (Chapter 101, Civil Practice and
Remedies Code), and all operations of the entity are essential
governmental functions and not proprietary functions for all
purposes, including the application of the Texas Tort Claims Act.
If an independent contractor of the entity is performing a function
of the entity or of a regional transportation authority operating
under Chapter 452, Transportation Code, the contractor is liable
for damages only to the extent that the entity or authority would
be liable if the entity or authority itself were performing the
function.

SECTION 17. CONFORMING AMENDMENT. Article 6559h-11, Revised
Statutes, is amended to read as follows:

Art. 6559h-11. FAILURE TO [RING-BELL-OR-BLOW-WHISTLE?] STOP
AT CROSSINGS[OTHER ORDINANCES]. (a) The [Any] engineer in [having]
1 charge of a locomotive engine when approaching a place where two lines of railway cross who shall, before reaching the [such] railway crossing bring the [such] engine to a full stop, except as provided by Subsection (b) of this section.

(b) Subsection (a) of this section does not apply at a railway crossing at which [or who shall fail to blow the whistle and ring the bell on such engine at the distance of at least eighty (80) rods from the place where the railroad shall cross any public road or street or who shall fail to keep said bell ringing until such engine shall have crossed said road or street or stopped shall be fined not less than Five ($5.00) Dollars nor more than One Hundred ($100.00) Dollars, provided that the full stop at such crossings may be discontinued when the railroads crossing each other shall put into full operation at such crossing] an interlocking switch and signal apparatus is installed, or [shall] have a flagger is present [flagman in attendance] at such crossings provided however that the governing bodies of every city or town having a population of five thousand (5,000) or more inhabitants according to the last Federal Census may regulate by ordinance the ringing of bells and blowing of whistles within their corporate limits and a compliance with said ordinance will be full compliance with the terms and provisions of this Act and a sufficient warning to the public at such crossings as such ordinance may affect.

(c) The engineer in charge of the locomotive engine commits an offense if the engineer violates Subsection (a) of this section.

(d) An offense under this section is a misdemeanor punishable by a fine not less than $5 or more than $100.

SECTION 18. CONFORMING AMENDMENT. Section 121.001(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) An acknowledgment or proof of a written instrument may be taken in this state by:

(1) a clerk of a district court;
(2) a judge or clerk of a county court; [or]
(3) a notary public; or
(4) a county tax assessor-collector or an employee of
the county tax assessor-collector if the instrument is required or
authorized to be filed in the office of the county tax
assessor-collector.

SECTION 19. CONFORMING AMENDMENT. Section 602.002,
Government Code, is amended to read as follows:
Sec. 602.002. OATH MADE IN TEXAS. An oath made in this
state may be administered and a certificate of the fact given by:
(1) a judge, clerk, or commissioner of a court of
record;
(2) a justice of the peace or a clerk of a justice
court;
(3) a notary public;
(4) a member of a board or commission created by a law
of this state, in a matter pertaining to a duty of the board or
commission;
(5) a person employed by the Texas Ethics Commission
who has a duty related to a report required by Title 15, Election
Code, in a matter pertaining to that duty;
(6) a county tax assessor-collector or an employee of
the county tax assessor-collector if the oath relates to a document
that is required or authorized to be filed in the office of the
county tax assessor-collector;
(7) the secretary of state;
(8) [ deleted ] the lieutenant governor;
(9) [ deleted ] the speaker of the house of representatives;
or
(10) [ deleted ] the governor.

SECTION 20. CONFORMING AMENDMENT. Subdivisions 3(b) and
(e), Section 6, Chapter 344, Acts of the 49th Legislature, Regular
Session, 1945 (Article 46c-6, Vernon's Texas Civil Statutes), are
amended to read as follows:
(b) No air carrier shall operate as such, after this Act goes into effect, without having first obtained from the department a certificate of public convenience and necessity or a certificate of operating authority; provided, however, that all operating rights and privileges granted to any air carrier by the department prior to the passage of this Act shall continue in effect, authorizing the same service under the same terms and conditions as previously granted by the department. Upon notice and hearing, certificates shall be subject to revocation or suspension for violation of the department's regulations, the provisions of this Act or the regulations or laws of the United States or any authorized agency or board thereof. Proceedings for the refusal, suspension, or revocation of a certificate are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). Any such certificates so revoked or suspended may be reinstated upon order of the department on its own motion or upon application of the air carrier, when the department finds reinstatement to be in the public interest. Prior to issuing or amending a certificate of public convenience and necessity or a certificate of operating authority, the department shall consider the encouragement and development of an intrastate air transportation system properly adapted to the present and future needs of the State of Texas, and in addition shall consider the financial responsibility of the air carrier, its proposed points of service or routes and rates or charges, the effect, if any, upon existing air carriers and CAB certificated carriers, and any other factors similarly related to the interest and safety of the public. Nothing in this Act affects any litigation pending on the effective date of this Act.

(e) If any air carrier, or other party in interest, be adversely affected by any decision, rate, charge, order, rule, act or regulation adopted by the department, that party, after failing to get relief from the department, may file a petition setting forth its particular objections to the action of the department—
In an appeal of a department action other than revocation or suspension of a certificate, the department action shall be sustained unless there is no substantial evidence to support it. An appeal of the revocation or suspension of a certificate shall be tried in the same manner as appeals from justice court to the county court. Appeals from any final judgment of the District Court may be taken by any party to the cause in the manner provided for in civil actions generally, but no appeal bond shall be required of the department.

SECTION 21. CONFORMING AMENDMENT. Sections 4.401, 4.402, 4.404, 4.411, 4.411A, 4.412, 4.416, 4.417, 4.419, 4.420, 4.421, 4.422, 4.423, 4.424, 4.429, 4.430, 4.433, 4.434, 4.437, 4.438, 4.438A, 4.441, 4.446, 4.449, 4.451, 4.452, 4.453, 4.454, 4.455, 4.457, and 5.001, County Road and Bridge Act (Article 6702-1, Vernon's Texas Civil Statutes), are transferred to Chapter 3, Title 22, Revised Statutes, redesignated as Article 726, Revised Statutes, and amended to read as follows:

ART. 726. PUBLIC ROAD BONDS

PART 1. GENERAL PROVISIONS

Sec. 1.001 [4.401]. INVESTMENT OF SINKING FUND. The commissioners court may invest sinking funds accumulated for the redemption and payment of any bonds issued by the county, political subdivision, road district, or defined district of the county in bonds of the United States, of Texas, or any county in this state, or any school district or road district of this state, or any incorporated city or town of this state, in bonds of the Federal Farm Loan Bank system, or in war-savings certificates or certificates of indebtedness issued by the secretary of the treasury of the United States. No bonds may be purchased that according to their terms mature at a date subsequent to the time of maturity of the bonds for the payment of which the sinking fund was
Sec. 1.002 [4.402]. INTEREST ON INVESTMENTS. All interest on the investments shall be applied to the sinking fund to which it belongs, and the use of the funds for any other purpose is considered a diversion of the funds and shall be punished as provided by Section 39.02 [39.0t], Penal Code.

Sec. 1.003 [4.404]. ELECTION FOR REPURCHASE AND CANCELLATION OF BONDS. (a) In the event unexpended and unpledged money realized from the sale of any road bonds voted or issued by any county, political subdivision, or defined district of the county remains to the credit of the county, political subdivision, or defined district voting or issuing the bonds, the commissioners court on petition of not less than 50 of the qualified voters of the governmental entity shall order an election to determine whether or not the road bonds to the extent of the unexpended and unpledged money remaining to the credit of the county, political subdivision, or defined district of the county shall be repurchased and on the repurchase, cancelled and revoked. The election shall be ordered, held, and conducted in the same manner and form as that at which the bonds were originally authorized.

(b) The result of the election, whether favorable to the repurchase, cancellation, and revocation of the bonds or not, shall be duly recorded by the commissioners court and the result entered in the records of the court. In the event the result of the election for the repurchase, cancellation, and revocation of the bonds shows that two-thirds of the qualified voters of the county, political subdivision, or defined district of the county voting at the election have voted for the repurchase, cancellation, and revocation of bonds, the commissioners court may advertise for and purchase the outstanding bonds from the holders and on completion of the purchase shall cancel and burn the bonds so purchased and forward to the comptroller of public accounts a certified copy of the minutes showing the purchase, destruction, and cancellation. The comptroller shall promptly cancel the registration of the bonds.
on the records of his office to the extent of the amount so
repurchased, cancelled, and destroyed.

(c) The expense of holding the election shall be paid out of
the general funds of the county.

(d) This section does not invalidate any bond election or
bonds that have been sold by the county, political subdivision, or
defined district.

PART 2. COUNTY AND DISTRICT BONDS

Sec. 2.001 [4-4+]. POWER TO ISSUE ROAD BONDS; SURPLUS IN
SINKING FUND. (a) In this part, "political subdivision" means any
commissioners precinct or any justice precinct of a county.

(b) Any county or any political subdivision of a county or
any road district may issue bonds, tax anticipation notes, bond
anticipation notes, or other obligations for the purpose of the
construction, acquisition by purchase, maintenance, and operation
of macadamized, graveled, or paved roads and turnpikes or in aid of
these purposes in any amount not to exceed one-fourth of the
assessed valuation of the real property of the county, political
subdivision, or road district and may levy and collect ad valorem
taxes to pay the interest on the bonds and provide a sinking fund
for the redemption of the bonds. The bonds shall be issued in the
manner provided in this part and as contemplated and authorized by
Article III, Section 52, of the Texas Constitution. In order to
determine one-fourth of the assessed valuation of the real
property, the assessed value of the property shall be the market
value recorded by the chief appraiser of the central appraisal
district.

(c) When the principal and all interest on the bonds are
fully paid, in the event there is any surplus remaining in the
sinking fund, the remaining surplus not used in the full payment of
the principal and interest on the bond or bonds may be used by the
county, political subdivision of the county, or any road district
for the purpose of the construction, maintenance, and operation of
macadamized, graveled, or paved roads and turnpikes or in the aid
of these purposes or for any other lawful permanent improvement as
may be determined by the commissioners court of any county or the
officials of any political subdivision of a county or the road
district.

Sec. 2.002 [4444]. BOND AND TAX ANTICIPATION NOTES.
(a) A county or any political subdivision or any road district may
declare an emergency in the matter of funds not being available to
pay principal of and interest on any bonds issued under this Act
payable in whole or in part from taxes or to meet any other needs
and may issue negotiable tax anticipation notes or negotiable bond
anticipation notes to borrow the money needed by the county,
political subdivision, or district. Bond anticipation notes and
tax anticipation notes may bear interest at any rate permitted by
law and shall mature within one year of their date.

(b) Tax anticipation notes may be issued for any purpose for
which the county, political subdivision, or district is authorized
to levy taxes, pursuant to Chapter 251, 252, 253, 254, 255, 256, or
257, Transportation Code [this--Act], and tax anticipation notes
shall be secured with the proceeds of taxes to be levied by the
district in the succeeding 12-month period. The court may covenant
with the purchasers of the notes that the court will levy a
sufficient tax to pay principal of and interest on the notes and
pay the costs of collecting the taxes.

(c) Bond anticipation notes may be issued for any purpose
for which bonds of the county, political subdivision, or district
may have previously been voted or may be issued for the purpose of
refunding previously issued bond anticipation notes. A county,
political subdivision, or district may covenant with the purchasers
of the bond anticipation notes that the county, political
subdivision, or district will use the proceeds of sale of any bonds
in the process of issuance for the purpose of refunding the bond
anticipation notes, in which case the court will be required to use
the proceeds received from sale of the bonds in the process of
issuance to pay principal, interest, or redemption price on the
bond anticipation notes.

Sec. 2.003 (4±4±2). BOND ELECTIONS. On the petition of the qualified voters of any county equivalent in number to one percent or more of the total votes cast in the county in the last preceding general election for governor, the commissioners court of the county at any regular or special session shall order an election to be held in the county to determine whether or not the bonds of the county shall be issued for the purpose of the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes or in aid of these purposes and whether or not taxes shall be levied on all taxable property of the county subject to taxation, for the purpose of paying the interest on the bonds and to provide a sinking fund for the redemption of the bonds at maturity. However, if the petition designates any particular road or roads, project or projects, or any portion or portions of a road or project, the petition shall be accompanied with a written estimate of the cost of the roads or projects prepared by the county engineer at county expense. In lieu of the petition process described in this section the commissioners court of a county may by majority vote order the election. The election order and notice of election shall state the purpose for which the bonds are to be issued, the amount of the bonds, the rate of interest, and the fact that ad valorem taxes are to be levied annually on all taxable property within the county sufficient to pay the bonds at maturity.

Sec. 2.004 (4±4±6). PETITION FOR ELECTION. (a) If any political subdivision or any road district desires to issue bonds, there shall be presented to the commissioners court of the county in which the subdivision or district is situated, a petition signed by 50 or a majority of the qualified voters of the subdivision or road district, or, in the alternative, signed by all of the property owners within the district as indicated by the county tax rolls, praying the court to order an election to determine whether or not the bonds of the subdivision or district shall be issued to an amount stated for the purpose of the construction, maintenance,
and operation of macadamized, graveled, or paved roads and
turnpikes or in aid of these purposes and whether taxes shall be
levied on all taxable property within the subdivision or district
in payment of the bonds.

(b) On presentation of the petition, the court to which it
is presented shall fix a time and place at which the petition shall
be heard, which date shall be not less than 15 nor more than 90
days after the date of the order. The clerk of the court shall
immediately issue a notice of the time and place of hearing. The
notice must inform all concerned persons of the time and place of
hearing and of their right to appear at the hearing and contend for
or protest the ordering of the bond election. The notice must
state the amount of bonds proposed to be issued and describe the
political subdivision or road district by its name or number; shall
include a description of the property comprising the road district
and its estimated acreage and boundaries as is reasonably
calculated to inform interested parties of the area comprising the
district; shall include a map or diagram of the area reasonably
calculated to show the boundaries of the district and the major
roadways in or adjacent to the district; and shall designate the
county officer or employee from whom further details may be
obtained. The clerk shall execute the notice in the manner
provided herein for notices of elections.

(c) The duties imposed by this subchapter on the clerk may
be performed by the clerk in person or by deputy as provided by law
for other similar duties.

Sec. 2.005 [4447]. HEARING AND DETERMINATION. At the time
and place set for the hearing of the petition or a subsequent date
as may then be fixed, the court shall proceed to hear the petition
and all matters in respect of the proposed bond election. Any
interested person may appear before the court in person or by
attorney and contend for or protest the calling of the proposed
bond election. The hearing may be adjourned from day to day and
from time to time as the court may consider necessary. If on the
hearing of the petition the court finds that the petition is signed
by the proper number of qualified persons as set out herein, that
due notice has been given, and that the proposed improvements would
be for the benefit of all taxable property situated in the
subdivision or road district, the court may issue and cause to be
entered of record in its minutes an order directing that an
election be held within and for the subdivision or road district at
a date to be fixed in the order for the purpose of determining the
questions mentioned in the petitions. However, the court may
change the amount of the bonds proposed to be issued, if on the
hearing the change is found necessary or desirable. The
proposition to be submitted at the election shall specify the
purpose for which the bonds are to be issued, the amount of the
bonds, the rate of interest, and the fact that ad valorem taxes are
to be levied annually on all taxable property within the district
or subdivision sufficient to pay the annual interest and provide a
sinking fund to pay the bonds at maturity. A proposition shall be
sufficient for all purposes under this article if it is in
the following form:

"Authorizing the (Name of district or subdivision) to issue
its bonds in the total sum of $________ and to levy annually ad
valorem taxes on all taxable property in the (subdivision or
district) to pay the interest on the bonds and create a sinking
fund to redeem the principal at maturity for the purposes of the
purchase or acquisition of roads and the construction, maintenance,
and operation of macadamized, graveled, or paved roads and
turnpikes or in aid of the purposes within or without the
boundaries of the (subdivision or district)."

Sec. 2.006 [4.4t9]. NOTICE OF ELECTION. (a) Notice shall
be given as provided by Chapter 4, Election Code. Notice as
permitted in this subsection shall not be a prerequisite to or
affect the validity of the election or hearing to which it relates.
If the proposed election is for a political subdivision or road
district, notice of the election shall be given by posting notices
in at least three public places in the subdivision or district and
at the courthouse door of the county.

(b) The court may, in addition to the required notices
herein, prescribe that any notices of hearings and elections for
subdivisions and districts be made by mail to each registered voter
in the subdivision or district, to each owner of property within
the subdivision or district as shown by the tax rolls of the
county, and to each person having an interest in property within
the subdivision or district as the same may be reasonably
ascertained. Notice given by mail in this manner shall be
effective when properly addressed and mailed.

Sec. 2.007 [4.4%9]. PLACE OF HOLDING ELECTION IN
SUBDIVISIONS. The commissioners court shall determine the time and
place or places of holding the election, and the date of the
election shall be an election date authorized by Section 41.001,
Election Code, and notice shall be given as provided by Chapter 4,
Election Code.

Sec. 2.008 [4.4%+]. MANNER OF HOLDING ELECTION. The manner
of holding the election and canvassing and making returns shall be
governed by the general laws of this state when not in conflict
with the provisions of this article [subchapter].

Sec. 2.009 [4.4%3]. ISSUANCE OF BONDS. If at the election
two-thirds of the voters voting at the election cast their ballots
in favor of the issuance of bonds, the commissioners court may
issue the bonds on the faith and credit of the county, political
subdivision, or road district as the case may be.

Sec. 2.010 [4.4%3]. MATURITY DATES AND INTEREST RATE. The
bonds shall mature not later than 30 years from their date, except
as otherwise provided in this article [subchapter]. They shall be
issued in denominations and made payable at times considered most
expedient by the commissioners court and shall bear interest not to
exceed the interest rate prescribed by Chapter 3, Acts of the 61st
Legislature, Regular Session, 1969, as amended (Article 717k-2,
Vernon's Texas Civil Statutes). The general laws relative to
county bonds not in conflict with this article [subchapter] shall apply to the issuance, approval, certification, registration, sale, and payment of the bonds provided for in this article [subchapter].

Sec. 2.011 [4-024]. SALE OF BONDS AND DISPOSITION OF PROCEEDS. After approval and registration as provided by law relative to other bonds, the bonds or bond anticipation notes shall continue in the custody and control of the commissioners court of the county in which they were issued until sold as provided by the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), either in whole or in parcels. That portion of the purchase money representing capitalized interest shall be placed in the county treasury of the county or of the political subdivision or road district, as the case may be, and shall be used to pay interest coming due on the bonds or bond anticipation notes, and the remainder of the funds, after the payment of the costs of issuance of the bonds or bond anticipation notes, shall be placed in the county treasury of the county to the credit of the available road fund of the county or of the political subdivision or road district of the county, as the case may be, to be used for the purposes for which the bonds were issued, including payment of costs of issuance, costs of surveying, costs of creation, costs of construction, acquisition, or purchase, and costs of operation and maintenance as may be approved by the court.

Sec. 2.012 [4-029]. DUTIES OF CUSTODIAN AND DEPOSITORY OF PROCEEDS. The county treasurer is custodian of all funds collected under this article and all taxes collected to pay the principal and interest on bonds issued under this article [subchapter] and shall deposit the funds [them] with the county depository in the same manner as county funds are deposited. The county treasurer shall promptly pay the interest and principal as it becomes due on the bonds out of the funds collected and deposited for that purpose.

Sec. 2.013 [4-030]. DISBURSEMENT OF PROCEEDS BY COUNTY TREASURER. The purchase money for the county bonds shall be paid out by the county treasurer on warrants drawn on the available road.
fund, issued by the county clerk, countersigned by the county
judge, on certified accounts approved by the commissioners court of
the county. The purchase money for the bonds issued on the faith
and credit of a political subdivision or road district shall be
paid out by the county treasurer on warrants drawn on the available
road fund thereof, issued by the county clerk, countersigned by the
county judge, and approved by the commissioners court.

Sec. 2.014 [4.433]. CLASSIFICATION OF COUNTY BONDS. When
the road bonds have been issued by a county as a whole, the bonds
shall be known and designated as "___________ County Road
Bonds," taking the name of the county issuing the bonds, and shall
express on their face that they are issued under authority of
Article III, Section 52, of the Texas Constitution, and laws
enacted pursuant to the constitution.

Sec. 2.015 [4.434]. CLASSIFICATION OF SUBDIVISION BONDS. If
the proposition to issue the road bonds of a political subdivision
or road district is adopted, the bonds shall express on their face:
The State of Texas, the name of the county, and the number or
corporate name of the subdivision or district issuing the bonds;
and they shall be designated as "Road Bonds," and shall express on
their face that they are issued under authority of Article III,
Section 52, of the Texas Constitution, and laws enacted pursuant to
the constitution.

Sec. 2.016 [4.437]. CERTAIN COUNTIES MAY AVAIL. Any county
operating under the provisions of special road tax law may take
advantage of any of the provisions of this article or Chapter 256
or 257, Transportation Code [subchapter].

Sec. 2.017 [4.438]. REFUNDING BONDS. The commissioners
courts may refund any road bonds issued by authority of any law
enacted pursuant to Article III, Section 52, of the Texas
Constitution, when the road bonds have been issued for and on
behalf of a political subdivision or defined district or
consolidated district in the county. The refunding bonds shall be
made to mature serially over a period not exceeding 40 years from
their date, as may be determined by the commissioners court, and they may be made to bear interest at the same or a lower rate than the original bonds that are being refunded. The commissioners court shall have authority to pass all appropriate orders to properly carry out the refunding. When providing for the refunding, the commissioners court shall provide for the levy of ad valorem taxes on all taxable property in the political subdivision or defined district or consolidated district as the case may be sufficient to pay the current interest on the refunding bonds and to pay the principal as it matures.

Sec. 2.018 [4-438A]. ALTERNATIVE REFUNDING BONDS; CERTIFICATES OF ASSESSMENT. (a) A road district may issue refunding bonds or certificates of assessment to refinance all or part of any outstanding bonded indebtedness of the district if:

(1) the district receives a petition that requests the issuance of the bonds or certificates and that is signed by persons who own taxable real property in the district that is valued, in total, at an amount equal to or more than 66 percent of the appraised value of all of the taxable real property in the district, as determined from the most recent certified property tax rolls of the appraisal district in which the property is located; and

(2) the district determines, after notice and public hearing in accordance with this section, that the property in the district will benefit from the refinancing.

(b) The refunding bonds or certificates of assessment must be secured by a pledge of all or part of the funds received by the road district from an assessment made against all taxable real property in the district under this section.

(c) Refunding bonds or certificates of assessment issued under this section must mature not later than 30 years after the date they are issued. The bonds may be issued in accordance with Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), or Chapter 784, Acts
of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes), and certificates of assessment may be issued in accordance with either of those laws as if they were bonds.

(d) Before issuing refunding bonds or certificates of assessment under this section, the road district by order shall:

(1) determine, as appropriate, the amount necessary to pay all or part of the principal and interest of:

(A) the refunding bonds as they mature; or

(B) the outstanding bonded indebtedness of the district;

(2) prepare a plan considered equitable by the district for apportionment of that amount among the record owners of real property in the district that is based on the ratio that the appraised value of each lot or parcel of real property in the district bears to the total appraised value of real property in the district;

(3) give notice in accordance with Subsection (e) of this section of the issuance and purpose of the refunding bonds or certificates of assessment, the amount of the total assessment that would be pledged to repay the bonds or all or part of the outstanding bonded indebtedness of the district, and the plan for apportionment of that assessment; and

(4) hold a public hearing on the district's intention to issue the refunding bonds or certificates of assessment secured by the proposed assessment.

(e) Not later than the 30th day before the date of the hearing to consider the issuance of refunding bonds or certificates of assessment, notice of the date, time, place, and subject matter of the hearing must be published in a newspaper of general circulation in the county. Not later than the 14th day before the date of the hearing, the road district shall send by mail to each owner of real property in the district, as determined from the most recent certified property tax rolls of the appraisal district in
which the property is located, a notice of the date, time, place, and subject matter of the hearing and an estimated amount of the assessment to be apportioned to that owner's property. The failure of a property owner to receive notice of the hearing and of the estimated assessment does not affect the validity of the hearing or a subsequent assessment.

(f) The road district may continue the hearing from time to time. If, at the conclusion of the hearing, the district by order determines that the property in the district will benefit from refinancing under this section, the district may issue refunding bonds or certificates of assessment to pay all or part of the district bonded indebtedness and levy the assessments as special assessments on the property in the district. The district shall specify the method of payment and rate of interest of assessments, and the district may provide that assessments be paid in periodic installments in amounts necessary to pay the principal and interest of the refunding bonds or certificates of assessment, as appropriate, as they accrue.

(g) After determination of an assessment or reassessment under Subsection (j) of this section, a property owner may appeal the assessment or reassessment to the road district. The property owner must file a notice of appeal with the road district not later than the 30th day after the date that the assessment or reassessment is adopted. The road district shall set a date to hear the appeal. The property owner may appeal the road district's decision on the assessment or reassessment to a court of competent jurisdiction. The property owner must file notice of the appeal with the court of competent jurisdiction not later than the 30th day after the date of the road district's final decision with respect to the assessment or reassessment. Failure to file either of the notices in the time required by this subsection results in a loss of the right to appeal the assessment or reassessment.

(h) If an assessment or reassessment against a parcel of land is set aside by a court of competent jurisdiction, found
excessive by the road district, or determined to be invalid by the
district, the district may make a reassessment or new assessment of
the parcel.

(i) After notice and hearing in the manner required for
original assessments, the road district may make supplemental
assessments to correct omissions or mistakes in an assessment.

(j) After notice and hearing in the manner required for
original assessments, a road district may reassess property if:

(1) at the time bonds or certificates are issued under
this section, the property is exempt from taxation under Subchapter
B, Chapter 11, Tax Code, or appraised under Subchapter C, D, or E,
Chapter 23, Tax Code; and

(2) the property later loses its exemption or is not
eligible for appraisal under Subchapter C, D, or E, Chapter 23, Tax
Code.

(k) The road district shall reassess the property using the
property's market value for the year preceding the year in which
the bonds or certificates are issued. The road district shall
proportionately reduce the assessment of the other properties in
the district to reflect the value of the reassessed property, and,
if a property owner has paid his entire assessment in accordance
with Subsection (1) below, the road district shall refund to that
property owner the difference between his original assessment and
any reassessment.

(1) An assessment, a supplemental assessment, or a
reassessment and any interest, incurred expenses of collection, and
incurred reasonable attorney's fees are a first lien against the
assessed property until paid, and it is superior to all other liens
except ad valorem tax liens. The owner of assessed property is
personally liable for the payment of the assessment, a supplemental
assessment, or a reassessment and may pay at any time the entire
assessment, a supplemental assessment, or a reassessment, with
interest that has accrued on the assessment, a supplemental
assessment, or a reassessment, on any lot or parcel. The lien is
effective from the date the assessment, a supplemental assessment, or a reassessment is levied until the date the total assessment, a supplemental assessment, or a reassessment for that property is paid and the road district may enforce the lien in the same manner that the court enforces an ad valorem tax lien. A lien for a supplemental assessment or reassessment is effective whether or not the property has been released from any prior lien under this section. Liability for an assessment, a supplemental assessment, or a reassessment passes with the property on a transfer of ownership.

(m) The road district may issue and transfer, on terms and conditions determined by the district, a certificate of assessment for each assessed lot or parcel. Upon any supplemental assessment or reassessment, the road district shall provide a certificate of assessment reflecting any change in the value of the original assessment. A certificate must show the amount of the lien on the assessed property, the liability of the property owner for the lien, and the terms and conditions of transfer of the certificate. The certificate must state that the assessment was imposed, the certificate was issued in accordance with the requirements of this section, the certificate is not an obligation of a county in which the district is located, and the certificate is not secured by a pledge of the faith or credit of a county in which the district is located. A certificate is prima facie evidence of all of the matters shown on the certificate. The holder of the certificate may enforce the assessment in the same manner as the district may enforce assessments made under this section.

(n) For purposes of title insurance policies issued under the authority of Chapter 9, Insurance Code, the assessments and any interest, expenses, and attorney's fees provided by this section are considered taxes.

Sec. 2.019 [4+44+]. REFUNDING ROAD BONDS IN COUNTIES LANDS OF WHICH ARE PURCHASED FOR REFORESTATION. The commissioners court of any county in which the United States government has purchased
(or shall purchase) or has designated a purchase unit of at least 25 percent in area of the land in the county for reforestation and other purposes may, with the consent of the holders of at least 80 percent of the bonds described in this section, refund, under the provisions of existing law, the road bonds of the county or of any road district or political subdivision of the county, which bonds participate in the county and road district highway fund, into one or more series of refunding bonds. The court may provide that the eligibility of the bonds being refunded shall be distributed among the various series of refunding bonds in the amounts, or none, as may be agreed on. The eligibility, in dollars and cents, of bonds whose owners do not agree to the distribution shall not be affected.

Sec. 2.020 [4\-
446]. USE OF BOND PROCEEDS TO PAY CERTAIN INTERESTS. A county or a political subdivision or road district of a county may use bond proceeds to pay or establish a reasonable reserve to pay not more than three years' interest on the notes and bonds of the county, political subdivision, or road district, as provided in the bond orders or resolution.

Sec. 2.021 [4\-449]. USE OF PROCEEDS OUTSIDE DISTRICT. Any road district may use the proceeds of the bonds for the purpose of the construction, acquisition by purchase, maintenance and operation of macadamized, graveled, or paved roads and turnpikes, or in aid of these purposes for road improvements not located within the boundaries of the district, if the commissioners court finds that such improvements are reasonable, necessary, and beneficial to all of the taxable property within the district.

PART 3. COMPENSATION BONDS

Sec. 3.001 [4\-451]. COMPENSATION BOND ISSUE. (a) Whenever in any political subdivision or road district in any county bonds have been issued under the authority of any general or special law enacted pursuant to Article III, Section 52, of the Texas Constitution, and after the enactment bonds are voted by the entire county for the purposes authorized in this section, the political
subdivisions or road districts first issuing bonds may be fully and fairly compensated by the county in an amount equal in value to the amount of district bonds issued by the districts, which shall be done in the form and manner prescribed by this section.

(b) The commissioners court shall, on the presentation of a petition signed by 250 qualified voters of the county, whether residing in the road district or districts or not, order an election under this part to determine whether or not the bonds of the county shall be issued for road construction purposes as authorized by Subsections (d) and (e) of this section.

(c) The county bonds shall be issued in an amount as may be stated in the order of the commissioners court, but within the limitations of the constitutional and statutory provisions. At the election there shall also be submitted to the qualified voters of the county the question as to whether or not a tax shall be levied on the property of the county, subject to taxation, for the purpose of paying the interest on the bonds and to provide a sinking fund for the redemption of the bonds.

(d) When the road district or districts have by the requisite vote of the qualified voters authorized the issuance of bonds and the bonds have not been issued and sold or if sold and the proceeds have not been expended at the time the election is to be ordered for the entire county, then the proposed county bonds shall be issued for the following purpose: "The issuance of county bonds for the construction of district roads and the further construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid of these purposes, throughout the county." If the proposition to issue the county bonds for this purpose receives the necessary favorable vote and the bonds shall have been approved and issued, then so much of the bonds so issued by the county as may be necessary to fairly and fully compensate the road district or districts shall be set aside by the commissioners court for that purpose. In the event the district bonds have not been issued and sold, then so much of the
bonds so issued by the county as may be necessary to fairly and
fully compensate the road district or districts shall be set aside
for that purpose, and the bonds shall be sold and the proceeds
applied to the construction, maintenance, and operation of the
roads within and for the road district or districts as contemplated
by the election or elections held within and for the road district
or districts. The unsold district bonds shall then become totally
void, and it shall be the duty of the commissioners court of the
county to immediately cancel and destroy the unsold district bonds.
However, in the event the district bonds have been sold, then an
exchange of a like amount of the county bonds may be made with the
holder or holders of the district bonds as provided by Section
3.002(b) of this article [Subsection-tb]-of-Section-4-452--of--this
Act]. If the commissioners court should find that the exchange
cannot be made, then so much of the county bonds as may be
necessary shall be transferred and placed to the credit of the
interest and sinking fund account of the road district or districts
in conformity with the procedure prescribed by Section 3.002(c) of
this article [Subsection-(c)-of-Section-4-452].

(e) Where the road district or districts have issued bonds
for the construction of public roads and the proceeds derived from
the sale of the bonds have been applied to the construction of
roads within and for the districts, the district roads may be
merged into and become a part of the general county system of
public roads and the road district or districts shall be fully and
fairly compensated by the county in an amount equal in value to the
amount of bonds outstanding against the road district or districts
at the time the bonds are issued by the county, and the proposed
county bonds shall be issued for the following purpose: "The
issuance of county bonds for the purchase of district roads and the
further construction, maintenance, and operation of macadamized,
graveled, or paved roads and turnpikes, or in aid of these
purposes, throughout the county." In the event the proposition to
issue the county bonds receives the necessary favorable vote and
the bonds shall have been approved and issued, then so much of the
bonds so issued by the county as may be necessary for that purpose
shall be set aside and exchanged for a like amount of outstanding
district bonds, or the bonds may be transferred and placed to the
credit of the road district or districts for the purpose of paying
and retiring the district bonds as the bonds may mature.
Sec. 3.002 [4.452]. EXCHANGE OF BONDS. (a) If the
proposition to issue the county bonds receives the necessary
favorable vote and the bonds shall have been approved and issued,
the taxes previously levied and collected in any road district or
districts shall from that date be dispensed with as provided in
this section. The bonds so set apart by the commissioners court
shall be used exclusively for the purpose of constructing the roads
in the subdivisions or districts or for the purpose of purchasing
or taking over the improved roads in the subdivisions or districts
as the case may be. The exchange of the county bonds for the
outstanding district bonds shall be made in one of the methods
prescribed by this section.
(b) An exchange of the bonds may be made with the holder or
holders of any outstanding district bonds. The agreement for the
exchange shall be evidenced by order of the commissioners court
authorizing the exchange and by the written consent of the holder
or holders of the district bonds, properly signed and acknowledged,
as provided by law for the acknowledgment of written instruments.
The order of the commissioners court, written agreement properly
executed by the holder or holders of the district bonds, together
with the county bonds to be given in exchange, shall be presented
to and approved by the attorney general of the state and shall bear
his certificate of approval before the exchange is finally
consummated. When the exchange of county bonds for district bonds
is consummated, the commissioners court shall cancel and destroy
the district bonds, and then no tax shall ever be levied or
collected for the bonds under the original election in the
subdivisions or districts. The sinking funds then on hand to the
1 credit of the subdivisions or districts shall be passed to the
2 sinking fund account of the county.
3
4 (c) In the event the exchange of the county bonds for the
5 outstanding district bonds cannot be made as provided by Subsection
6 (b) of this section, the commissioners court at as early a date as
7 practicable shall deposit with the county treasurer for the credit
8 of the interest and sinking fund account of the road district or
9 districts an amount of county bonds equal in value to the amount of
10 outstanding district bonds. The order of the commissioners court
11 authorizing the deposit of county bonds for the credit of the
12 interest and sinking fund account of the road district or
13 districts, together with the county bonds so authorized to be
14 deposited, shall be presented to and approved by the attorney
15 general of the state and shall bear his certificate of approval
16 before the deposit of county bonds shall be made and credit passed
17 to the road district or districts. However, the county bonds
18 before deposited shall have printed or written across their face
19 the word "Nonnegotiable" and shall further recite that they are
20 deposited to the credit of the interest and sinking fund account of
21 the road district named in the bonds as a guarantee for the payment
22 of the outstanding district bonds that have not been exchanged.
23 The coupons annexed to the county bonds so deposited shall have
24 written or printed on them the word "Nonnegotiable." After the
25 county bonds shall have been deposited for the credit of the
26 interest and sinking fund accounts of the road district or
27 districts, the sinking fund then on hand to the credit of the road
28 district or districts shall be passed to the credit of the sinking
29 fund account of the county, and the commissioners court may no
30 longer levy and collect the taxes provided for under the original
31 election for the bonds in the road district or districts. In lieu
32 of the taxes, the court shall, from the taxes levied for the
33 purpose of providing the necessary interest on the county bonds,
34 pay annually the interest on the county bonds deposited for the
35 credit of the road district or districts, detaching the coupon for
the payment. The payment of interest shall be passed to the credit of the interest account of the road district or districts as the owner or owners of the county bonds, and the funds so realized by the road district or districts shall be used by the commissioners court for the purpose of paying the interest on the outstanding district bonds. The commissioners court shall set aside annually, from the taxes levied to provide the necessary sinking fund for the county bonds, the necessary sinking fund for the retirement of the county bonds. On maturity of the county bonds the commissioners court shall pay the bonds in full, and the payments shall be passed to the credit of the sinking fund of the road district or districts, and the funds so realized by the road district or districts shall be used by the commissioners court to pay in full all outstanding district bonds.

Sec. 3.003 [[4+458]. ISSUANCE, FORM, AND REQUISITES OF COMPENSATION BONDS. The county bonds issued for the purpose contemplated in Sections 3.001(d) and (e) of this article [Subsections--(d)--and--(e)--of-Section-4+458-of-this-Act] shall be issued in similar denominations, bearing the same rate of interest, having the same date or dates of maturity and with similar options of payment as the outstanding district bonds. It is the intent of this section that the county bonds shall in every respect be similar to the district bonds, except they shall be county obligations instead of district obligations, and shall be dated on a date after the date of the election at which they were authorized. The county bonds issued in excess of the amount required to exchange, offset, and retire the outstanding district bonds shall be issued and sold in the manner provided by law and may mature serially or otherwise at the discretion of the commissioners court and may run for a term not to exceed 40 years, and the bonds shall bear not more than the amount of interest prescribed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes). The proceeds from the bonds shall be credited to the

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available road fund of the county and shall be expended by the
commissioners court in constructing, maintaining, and operating
macadamized, graveled, or paved roads and turnpikes or in aid of
these purposes throughout the county. The issuance and sale of the
bonds authorized in this section and the levy and collection of
taxes for the bonds shall be conducted as required by law on other
county bonds, except as otherwise provided. The necessary expense
incident to the issuance of the bonds may be paid out of the
proceeds from the sale of the bonds.

Sec. 3.004 [4.454]. PREVIOUSLY CREATED DISTRICTS AND
SUBDIVISIONS. Where any road district created under the provisions
of this part includes within its limits any previously created road
district or any political subdivision or precinct having at the
time road bond debts outstanding, the included district or
subdivision shall be fully and fairly compensated by the new
district in an amount equal to the amount of the bonds outstanding
against the included subdivision or district, and that shall be
done in the form and manner prescribed for the issuance of county
bonds under Sections 3.001-3.003 of this article [4.451-through
4.453-of-this-Act]. However, the petition must be signed by 50 or
a majority of the qualified voters of the new district, and the
bonds proposed to be issued shall be for the purchase or
construction of roads in the included subdivisions or districts and
the further construction, maintenance, and operation of
macadamized, graveled, or paved roads and turnpikes or in aid of
these purposes.

Sec. 3.005 [4.455]. BOND ISSUE BY ROAD DISTRICT INCLUDING
PREVIOUSLY CREATED ROAD DISTRICT OR POLITICAL SUBDIVISION. Where
any road district includes within its limits a portion of any
previously created road district or portion of any political
subdivision or precinct, pursuant to authority of Section 257.023,
Transportation Code [Section-4.455-of-this-Act], and the previously
created road district, political subdivision, or precinct had road
bond debts outstanding, the newly created road district may issue
bonds for the purchase of the roads within the previously created
district, subdivision, or precinct and for further construction of
macadamized, graveled, or paved roads and turnpikes in the
subsequently created road district. The bonds shall be authorized
and issued in the form and manner prescribed in Sections
3.001-3.004 of this article [4.453—through—4.454—of—this—Act].
However, this section does not affect or impair the obligation or
indebtedness evidenced by the outstanding bonds of the previously
created district, subdivision, or precinct. The indebtedness
remains chargeable against the territory which voted the
indebtedness.

Sec. 3.006 [4.457]. COMMISSIONERS COURT AUTHORIZED TO LEVY
TAX TO PAY ROAD DISTRICT BONDS. Taxes in an amount sufficient to
pay the principal of and interest on the bonds now outstanding or
issued in the future shall be annually assessed and collected by
the county commissioners court of each county in which the
district, subdivision, or precinct is situated. Express authority
to do so is delegated and granted to the commissioners courts.

PART 4 [CHAPTER-5]. GENERAL PROVISION ON PUBLIC SECURITIES

Sec. 4.001 [5.991]. CONFLICT WITH OTHER PUBLIC SECURITIES
LAW. If this article [Act] conflicts with Chapter 3, Acts of the
61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's
Texas Civil Statutes), that chapter prevails to the extent of the
conflict.

SECTION 22. CONFORMING AMENDMENTS. (1) Section 5.02(b),
State Purchasing and General Services Act (Article 601b, Vernon's
Texas Civil Statutes), is amended to read as follows:

(b) The commission may call upon the Texas [State]
Department of [Highways—and—Public] Transportation to make
appropriate tests and analyses of the natural materials at the site
of each building constructed under the terms of this article to
insure that foundations of said buildings will be adequate for the
life of the buildings.

(2) Section 5.13(a), State Purchasing and General Services
Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Except as otherwise provided by this article, this article shall apply to all building construction projects as herein defined which may be undertaken by the state, with the following exceptions:

(1) all projects constructed by and for the Texas Department of Transportation;

(2) all projects constructed by and for state institutions of higher education;

(3) pens, sheds, and ancillary buildings constructed by and for the Texas Department of Agriculture for the processing of livestock prior to export;

(4) all projects of repair and rehabilitation, except major renovations, of buildings and grounds on the commission inventory;

(5) all projects constructed by the Parks and Wildlife Department; and

(6) repair and rehabilitation projects of any other using agency, provided all labor for such projects is provided by the regular maintenance forces of the using agency under specific legislative authorization, and provided further, that such projects do not require the advance preparation of working plans and/or drawings.

(3) Section 1, Chapter 589, Acts of the 64th Legislature, 1975 (Article 717n-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. Any county having a population in excess of 1.5 million, according to the most recent Federal Census, is authorized, subject to the limitations contained in this Act, to issue certificates of indebtedness:

(1) in the amount of not more than $2,000,000 for the purpose of constructing, enlarging, furnishing, equipping and repairing county buildings and other permanent improvements; and
(2) in the amount of not more than $3,500,000 for the purchase of right-of-way in participation with the Texas Department of Transportation in connection with designated state highways and for the construction of curbs, gutters and drainage facilities for such designated highways.

(3) If bonds are not issued under this Act by January 1, 1980, this Act will no longer be in effect.

(4) Section 8, Chapter 566, Acts of the 47th Legislature, Regular Session, 1941 (Article 802d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. If funding or refunding bonds are issued such city or town shall furnish to the Attorney General, at the time of submission of the bond transcript, a certificate of the necessity of such street improvement by the Texas Department of Transportation.

(5) Section 31, Chapter 231, General Laws, Acts of the 43rd Legislature, Regular Session, 1933 (Article 1187a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 31. The Texas Department of Transportation (the State Highway), with the approval of the Governor, may appropriate and apply any available revenues of such department to aid in the construction, operation and maintenance of any bridge or bridges acquired or constructed under the provisions of this Act, together with any approaches thereto, or the acquisition of any properties in connection with or in furtherance thereof.

(6) Article 1433, Revised Statutes, is amended to read as follows:

Art. 1433. Any water corporation shall have the power to sell and furnish such quantities of water as may be required by the city, town or village where located for public or private buildings or for other purposes; and such corporation shall have the power to lay pipes, mains and conductors for conducting water through the streets, alleys, lanes and squares of any such city, town or
village, with the consent of the governing body thereof, and under such regulations as it may prescribe. Such corporation is further authorized to lay its pipes, mains and conductors and other fixtures for conducting water through, under, along, across and over all public roads, streets and waters lying and situated outside the territorial limits of any such city, town, or village in such manner as not to incommode the public in the use of such roads, streets and waters. Any such corporation shall notify the Texas Transportation [State---Highway] Commission, or the Commissioners Court having jurisdiction, as the case may be, when it proposes to build lines along the right of way of any State Highway, or county road, outside the limits of an incorporated city or town, whereupon the Texas Transportation [Highway] Commission, or the Commissioners Court may, if it so desires, designate the place along the right of way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Texas Transportation [Highway] Commission or the Commissioners Court, as the case may be, may require any such corporation, at its own expense, to relocate its lines on a State Highway or county road outside the limits of an incorporated city or town, so as to permit the widening or changing of traffic lanes, by giving thirty (30) days written notice to such corporation and specifying the line or lines to be moved, and indicating the place on the new right of way where such line or lines may be placed. When deemed necessary to preserve the public health, any company or corporation chartered under the laws of this State for the purpose of constructing waterworks or furnishing water supply to any city or town, shall have the right of eminent domain to condemn private property necessary for the construction of supply reservoirs or standpipes for water work.

(7) Article 1433a, Revised Statutes, is amended to read as follows:

Art. 1433a. Any incorporated city or town, in addition to powers otherwise existing, is authorized to lay its pipes, mains
and conductors and other fixtures for conducting water through, under, along, across and over all public roads and waters lying and situated outside the territorial limits of such city or town in such manner as not to incommode the public in the use of such roads. Any such city or town shall notify the Texas Transportation [State--Highway] Commission, or the Commissioners Court having jurisdiction, as the case may be, when it proposes to build lines along the right of way of any State Highway, or county road, outside the limits of an incorporated city or town, whereupon the Texas Transportation [Highway] Commission, or the Commissioners Court may, if it so desires, designate the place along the right of way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Texas Transportation [Highway] Commission or the Commissioners Court, as the case may be, may require any such city or town, at its own expense, to relocate its lines on a State Highway or county road outside the limits of an incorporated city or town, so as to permit the widening or changing of traffic lanes, by giving thirty (30) days written notice to such city or town and specifying the line or lines to be moved, and indicating the place on the new right of way where such line or lines may be placed.

(8) Section 4, Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. Such Water Supply or Sewer Service Corporations shall have the right to purchase, own, hold and lease and otherwise acquire water wells, springs and other sources of water supply, to build, operate and maintain pipe lines for the transportation of water or wastewater, to build and operate plants and equipment necessary for the distribution of water or for the treatment and disposal of wastewater, and to sell water or to provide wastewater services to towns, cities and other political subdivisions of the State of Texas, to private corporations and to individuals. Such corporations shall have the right of eminent domain to acquire
sites for plants and facilities and to acquire rights-of-way and
shall have the right to use the rights-of-way of the public
highways of the State for the laying of pipelines under supervision
of the Texas Transportation [State--Highway] Commission. This
section shall only apply to a county with a population of less than
2 million.

(9) Sections 1 and 1a, Chapter 228, Acts of the 51st
Legislature, Regular Session, 1949 (Article 1436a, Vernon's Texas
Civil Statutes), are amended to read as follows:

Sec. 1. Corporations organized under the Electric
Cooperative Corporation Act of this State, and all other
corporations (including River Authorities created by the
Legislature of this State) engaged in the generation, transmission
and/or the distribution of electric energy in Texas and whose
operations are subject to the Judicial and Legislative processes of
this State, shall have the right to erect, construct, maintain and
operate lines over, under, across, upon and along any
State
highway
or county road in this State, except within the limits of an
incorporated city or town; and to maintain and operate existing
lines located on such highways and county roads; and to erect,
maintain and operate lines over, across and along the streets,
alley and other public property in any incorporated city or town
in this State, with the consent and under the direction of the
governing body of such city or town. Except as modified or changed
by ordinance or regulation in incorporated cities and towns, all
lines for the transmission and distribution of electric energy,
whether along highways or elsewhere, shall be constructed, operated
and maintained, as to clearances, in accordance with the National
Electrical Safety Code, as published in March, 1948, by the
National Bureau of Standards, Handbook 30, as revised by Handbook
81, published by the National Bureau of Standards in November,
1961, provided that lines along highways and county roads shall be
single pole construction, and provided that at any place where a
transmission line crosses a highway or road it shall be at least
twenty-two (22) feet above the surface of the traffic lane, and
further provided that all lines shall be at least twenty-two (22)
feet above the surface of any railroad track or railroad siding.
Any such corporation shall notify the Texas Transportation [State
Highway] Commission, or the Commissioners Court having
jurisdiction, as the case may be, when it proposes to build lines
along the right-of-way of any State highway, or county road,
outside the limits of an incorporated city or town, whereupon the
Texas Transportation [Highway] Commission, or the Commissioners
Court, may, if it so desires, designate the place along the
right-of-way where such lines shall be constructed. The public
agency having jurisdiction or control of a highway or county road,
that is, the Texas Transportation [Highway] Commission or the
Commissioners Court, as the case may be, may require any such
corporation, at its own expense, to re-locate its lines on a State
highway or county road outside the limits of an incorporated city
or town, so as to permit the widening of the right-of-way, changing
of traffic lanes, improvement of the road bed, or improvement of
drainage ditches located on such right-of-way by giving thirty (30)
days' written notice to such corporation and specifying the line or
lines to be moved, and indicating the place on the new right-of-way
where such line or lines may be placed. In the event a State
highway or county road on which lines have been built passes
through or into an unincorporated city or town, which thereafter
becomes an incorporated city or town, the corporation owning such
lines shall continue to have the right to build, maintain and
operate its lines along, across, upon and over the roads and
streets within the corporate limits of such city or town for a
period of ten (10) years from and after the date of such
incorporation, but thereafter only with the consent of the
governing body of such city or town, but this provision shall not
be construed as prohibiting such city or town from levying taxes
and such special charges for the use of the streets as are
authorized by Subchapter B, Chapter 182, Tax Code [Article-70697
Revised-Civil-Statutes-of-the-State-of-Texas]; and the governing body of such city or town may require any such corporation, at its own expense, to re-locate its poles and lines so as to permit the widening or straightening of streets, by giving to such corporation thirty (30) days' notice and specifying the new location for such poles and lines along the right-of-way of such street or streets.

Sec. 1a. Any incorporated city or town in this State which owns and operates an electric generating plant or operates transmission lines and/or distribution system or systems shall have the right to erect, construct, maintain and operate lines over, under, across, upon and along any state highway or county road in this State, except within the limits of another incorporated city or town; and to maintain and operate existing lines located on such highways and county roads; and to erect, maintain and operate lines over, across and along the streets, alleys and other public property in any other incorporated city or town in this State with the acquiescence or consent and under the regulations of the governing body of such city or town. Except as modified or changed by ordinance or regulation in incorporated cities and towns, all lines for the transmission and distribution of electric energy, whether along highways or elsewhere, shall be constructed, operated and maintained in accordance with the National Electrical Safety Code, as published in March, 1948, by the National Bureau of Standards, Handbook 30, as revised by Handbook 81, published by the National Bureau of Standards in November, 1961, provided that lines along highways and county roads shall be single pole construction, and provided that at any place where a transmission line crosses a highway or road it shall be at least twenty-two (22) feet above the surface of the traffic lane, and further provided that all lines shall be at least twenty-two (22) feet above the surface of any railroad track or railroad siding. Any such incorporated city or town authorized to build lines along highways and public roads under this Section shall notify the Texas Transportation [State Highway] Commission or the Commissioners Court having jurisdiction,
as the case may be, when it proposes to build lines along the right-of-way of any state highway, or county road, outside the limits of an incorporated city or town, whereupon the Texas Transportation [Highway] Commission, or the Commissioners Court, may, if it so desires, designate the place along the right-of-way where such lines shall be constructed. The public agency having jurisdiction or control of a highway or county road, that is, the Texas Transportation [Highway] Commission or the Commissioners Court, as the case may be, may require any such municipal corporation, at its own expense, to re-locate its lines on a State highway or county road outside the limits of an incorporated city or town, so as to permit the widening of the right-of-way, changing of traffic lanes, improvement of the road bed, or improvement of drainage ditches located on such right-of-way, by giving thirty (30) days' written notice to such municipal corporation owning such lines, and specifying the line or lines to be moved, and indicating the place on the new right-of-way where such line or lines may be placed. In the event a State highway or county road on which lines have been built passes through or into an unincorporated city or town, which thereafter becomes an incorporated city or town, the municipal corporation owning such lines shall continue to have the right to build, maintain and operate its lines along, across, upon and over the roads and streets within the corporate limits of such city or town for a period of ten (10) years from and after the date of such incorporation, but thereafter only with the consent of the governing body of such city or town; and the governing body of such city or town may require the municipal corporation owning such lines, at its own expense, to relocate its poles and lines so as to permit the widening or straightening of streets, by giving to the municipal corporation owning such lines thirty (30) days' notice and specifying the new location for such poles and lines along the right-of-way of such street or streets. Nothing herein shall be construed as granting the right to such municipal corporation to maintain existing lines in any area, which is included within the

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corporate limits of another city or town prior to the effective
date of this Act, without the consent of the governing body of such
other city or town.

Revisor's Note
Section 1, V.A.C.S. Article 1436a, refers to
Article 7060, Revised Civil Statutes. Article 7060
provided for a gross receipts tax for gas, electric
lights, electric power, or water. Article 7060 was
repealed by Chapter 1, Acts of the 56th Legislature,
3rd Called Session, 1959. The subject matter of
Article 7060 is covered by Subchapter B, Chapter 182,
Tax Code.

(10) Section 1, Chapter 470, Acts of the 52nd Legislature,
1951 (Article 1436b, Vernon's Texas Civil Statutes), is amended to
read as follows:

Sec. 1. Any person, firm or corporation or incorporated city
or town engaged in the business of transporting or distributing gas
for public consumption shall have the power to lay and maintain
pipes, mains, conductors and other facilities used for conducting
gas through, under, along, across and over all public highways,
public roads, public streets and alleys, and public waters within
this State; provided that within the corporate limits of an
incorporated city or incorporated town such right shall be
dependent upon the consent and subject to the direction of its
governing body. Any such person, firm or corporation or
incorporated city or town shall notify the Texas Transportation
[State--Highway] Commission or the Commissioners Court having
jurisdiction, as the case may be, when it proposes to lay any such
pipes, mains, conductors and other fixtures for conducting gas
within the right-of-way of any state highway or county road outside
the limits of an incorporated city or incorporated town, whereupon
the Texas Transportation [Highway] Commission or the Commissioners
Court, if it so desires, may designate the place upon the
right-of-way where the same shall be laid. The public agency
having jurisdiction or control of a highway or county road, that
is, the Texas Transportation [Highway] Commission or the
Commissioners Court, as the case may be, may require any such
person, firm or corporation or incorporated city or town at its own
expense to relocate its pipes, mains, conductors or other fixtures
for conducting gas on a state highway or county road outside the
limits of an incorporated city or incorporated town so as to permit
the widening or changing of traffic lanes, by giving thirty (30)
days written notice to such person, firm or corporation or
incorporated city or town and specifying the facility or facilities
to be moved and indicating the place on the new right-of-way where
such facility or facilities may be placed. Such person, firm or
corporation or incorporated city or town shall replace the grade
and surface of such road or highway at its own expense.

(11) Section 6.07(a), Texas Motor Vehicle Commission Code
(Article 4413(36), Vernon's Texas Civil Statutes), is amended to
read as follows:

(a) In addition to the other powers and duties provided for
in this Act, the Commission shall cause manufacturers, converters,
and distributors to perform the obligations imposed by this
section. For purposes of this section, the term "owner" means a
retail purchaser, lessor, lessee other than a sublessee, or the
person so designated on the certificate of title to a motor vehicle
issued by the Texas [State] Department of [Highways--and--Public]
Transportation, or an equivalent document issued by the duly
authorized agency of any other state, or any person to whom such
motor vehicle is legally transferred during the duration of a
manufacturer's or distributor's express warranty applicable to such
motor vehicle, and any other person entitled by the terms of the
manufacturer's, converter's, or distributor's express warranty to
enforce the obligations thereof.

(12) Section 17(s), Texas Pharmacy Act (Article 4542a-1,
Vernon's Texas Civil Statutes), is amended to read as follows:

(s) The board may lease or purchase vehicles for use in
official board business. The vehicles are exempt from bearing
state government identification. The vehicles may be registered
with the Texas [State] Department of [Highways--and---Public]
Transportation in an alias name for investigative personnel only.

(13) Section 18(f), Texas Manufactured Housing Standards Act
(Article 5221f, Vernon's Texas Civil Statutes), is amended to read
as follows:

(f) Notwithstanding any provisions of any other statute,
regulation, or ordinance to the contrary, a registered retailer or
installer is not required to secure any permit, certificate, or
license or pay any fee for the transportation of manufactured
housing to the place where it is to be installed except as required
by the department or by the Texas [State] Department of [Highways
and--Public] Transportation pursuant to Subchapter E, Chapter 623,
Transportation Code [Article---6701-1/27---Title---1167---Revised
Statutes]. The department shall cooperate with the Texas [State]
Department of [Highways-and--Public] Transportation by providing
current lists of registered manufactured housing manufacturers,
retailers, and installers.

(14) Sections 19(o) and (p), Texas Manufactured Housing
Standards Act (Article 5221f, Vernon's Texas Civil Statutes), are
amended to read as follows:

(o) A certificate of title to a manufactured home issued
pursuant to Chapter 501, Transportation Code [the-Certificate-of
Title--Act,--as--amended--{Article--6687-t7--Vernon's--Texas--Civil
Statutes}], before March 1, 1982, is subject to this article. A
lien registered or recorded with the Texas [State] Department of
[Highways-and-Public] Transportation before March 1, 1982, for the
purposes of this article is registered or recorded with the
department.

(p) Each month the Texas [State] Department of [Highways-and
Public] Transportation shall send the department either a copy of
each permit issued in the preceding month for the movement of
manufactured housing on the highways or a list of the permits

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issued and the information on the permits. The department shall
pay the reasonable cost of providing the copies or the list and
information.

(15) Sections 1 and 2, Chapter 306, Acts of the 57th
Legislature, Regular Session, 1961 (Article 5244a-3, Vernon's Texas
Civil Statutes), are amended to read as follows:

Sec. 1. CONVEYANCES AUTHORIZED. Whenever the State of Texas
shall be the owner of any land or interest in land, which land or
interest therein is under the control of the Texas [Highway]
Department of Transportation, and which land is used or proposed to
be used as a part of the site of a flood control, river and harbor
improvement, water conservation, or other civil works project
constructed or to be constructed by the United States of America or
an agency or instrumentality thereof, the Governor is hereby
authorized and empowered, upon the recommendation of the Texas
Transportation [State-Highway] Commission, or upon request by the
United States through its proper officers when supported by the
recommendation of the Texas Transportation [State---Highway]  
Commission, to convey to the United States of America or to any
political subdivision, agency or instrumentality of this State
which is cooperating with the United States in any such project,
without monetary consideration therefor, or for a consideration
determined by the Texas Transportation [State-Highway] Commission,
an easement or other interest in such land which may be necessary
for the construction, operation, and maintenance of such project.

Sec. 2. WHEN FEE TITLE IS NOT IN THE STATE. In the event
the fee simple title to such land is not vested in the State and
the owner of the fee has executed an easement to such lands for the
above purposes, the Governor is authorized and empowered upon the
recommendation of the Texas Transportation [State---Highway]  
Commission to join in and assent to such easement by the same
instrument or by separate instrument.

(16) Section 1, Chapter 101, Acts of the 50th Legislature,
1947 (Article 5421k, Vernon's Texas Civil Statutes), is amended to
read as follows:

Sec. 1. In order that the Texas Transportation [State Highway] Commission may have title to and control of the more or less submerged right of way necessary for the construction and maintenance of a proposed Causeway and its Approaches, across Nueces Bay and the Pass connecting Nueces Bay and Corpus Christi Bay in San Patricio and Nueces Counties, as described in Section 2 of this Act, and as shown on the right of way map on file in the Texas [State--Highway] Department of Transportation at Austin, Texas, and entitled, Control 101-5 & 6 in San Patricio and Nueces Counties, Causeway across Nueces Bay and the Pass connecting Nueces Bay with Corpus Christi Bay on Highway U.S. 181 from Beach Drive in Portland, San Patricio County, and North Beach in Corpus Christi, Nueces County, the State hereby conveys title to and control of the submerged right of ways described in Section 2 of this Act, and as shown on the right of way map above stated, but no part of this Act is to be construed so as to interfere nor conflict with the rights and authority of the Parks and Wildlife [State--Game,--Fish--and Oyster] Commission, except that the Texas Transportation [State Highway] Commission shall have the full right and authority to take and use, at any time and in any quantity desired, any and all materials within the limits of these tracts, and is exempted from the payment of any and all compensation for any and all materials taken therefrom.

(17) Section 1, Chapter 12, Acts of the 55th Legislature, Regular Session, 1957 (Article 5421k-2, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. In order that the Texas Transportation [State Highway] Commission may have title to and control of the more or less submerged right of way necessary for the construction, reconstruction and maintenance of the Causeway and its Approaches across Cayo del Oso in Nueces County, as described in Section 2 of this Act, and as shown on the right-of-way map on file in the Texas [State-Highway] Department of Transportation at Austin, Texas, and
entitled Project ARMR 5A(1) Control 617-1-1, State Highway No. 358, Nueces County, from U.S. Naval Air Base on Encinal Peninsula to Junction with State Highway No. 286, the State hereby conveys to the Texas Transportation [State-Highway] Commission title to and control of the submerged right of way described in Section 2 of this Act, and as shown on the right-of-way map above stated, but no part of this Act is to be construed so as to interfere nor conflict with the rights and authority of the Parks and Wildlife [State-Game and--Fish] Commission, except that the Texas Transportation [State Highway] Commission shall have the full right and authority to take and use, at any time and in any quantity desired, any and all materials within the limits of this tract, and is exempted from the payment of any and all materials taken therefrom; provided, however, that all mineral rights, together with the right to explore for and develop same by directional drilling are reserved to the State of Texas.

(18) Section 3, Chapter 193, Acts of the 56th Legislature, Regular Session, 1959 (Article 6144e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. DUTIES OF THE TEXAS [HIGHWAY] DEPARTMENT OF TRANSPORTATION. (a) For the purpose of dissemination of information relative to highway construction, repair, maintenance, and upkeep, and for the purpose of advertising the highways of this state and attracting traffic thereto, the Texas Department of Transportation is empowered to compile and publish, for free distribution, such pamphlets, bulletins, and documents as it will deem necessary and expedient for informational and publicity purposes concerning the highways of the state, and with respect to public parks, recreational grounds, scenic places, and other public places and scenic areas or objects of interest, data as to distances, historical facts, and other items or matters of interest and value to the general public and road users; and said Department is authorized and empowered to make or cause to be made from time to time a map or maps showing thereon the highways of the state and
the towns, cities, and other places of interest served and reached by said highways, and may cause to be printed, published, and prepared in such manner or form as the Department may deem best, all of such information and data and provide for the distribution and dissemination of the same in such manner and method and to such extent as in the opinion of the Department will best serve the motoring public and road users. The Department shall maintain and operate Travel Information Bureaus at the principal gateways to Texas for the purpose of providing road information, travel guidance, and various descriptive materials, pamphlets, and booklets designed to furnish aid and assistance to the traveling public and stimulate travel to and within Texas. The Texas [Highway] Department of Transportation is authorized and empowered to pay the cost of all administration, operation, and the cost of developing and publishing various material and the dissemination thereof, including the cost of operating Travel Information Bureaus from highway revenues. The [Texas-Highway] Department is further empowered to receive and administer a legislative appropriation from the general fund for the specific purpose of purchasing advertising space in periodicals of national circulation, and/or time on broadcasting facilities. The Department shall have the power to enter into contracts with a recognized and financially responsible advertising agency, having a minimum of five years of experience in handling accounts of similar scope, and for the contracting of space in magazines, papers, and periodicals for the publication of such advertising information, historical facts, statistics and pictures as will be useful and informative to persons, and corporations outside the State of Texas, and shall have the power to enter into contracts with motion picture producers and others for the taking of moving or still pictures in the state, and provide for the showing of the films when taken, and the Department may join with other governmental departments of the state in publishing such informational publicity matter.

(b) The Texas [Highway] Department of Transportation may
accept contributions for the above purposes from private sources, which funds may be deposited in a bank or banks to be used at the discretion of the Department in compliance with the wishes of the donor.

(c) The Texas [State] Department of [Highways-and-Public] Transportation may contract with private entities for the production, marketing, and distribution of pamphlets, bulletins, documents, and other travel materials published under Subsection (a) of this section on terms and conditions considered by the department to be beneficial to the state, including terms providing cost savings. A contract may include cooperative strategies considered by the department to be cost-beneficial and provide for the acceptance of paid advertising in the travel materials if the quality and quantity of the travel materials is maintained.

(d) The Texas [State] Department of [Highways-and-Public] Transportation may sell promotional items such as calendars, books, prints, caps, light clothing, or other items approved by the Texas [State-Highway-and-Public] Transportation Commission as advertising the resources of Texas. All proceeds from the sale of the items shall be deposited in the state treasury to the credit of the State Highway Fund for the use of the department in its travel and information operations.

(19) Sections 1(b), (f), (g), and (h), Chapter 506, Acts of the 57th Legislature, Regular Session, 1961 (Article 6687-2, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) A motor vehicle salvage dealer may not receive a motor vehicle described in Subsection (a) of this section, unless the dealer first obtains a certificate of authority, sales receipt, or transfer document under Chapter 683, Transportation Code [Sections 5.04—and—5.107—respectively;—Article-V, Section-17—Chapter-74—Acts-of—67th—Legislature—Regular—Session—1967—(Article 4477—9a—the—Vernon’s—Texas—Civil—Statutes)], or a Certificate of Title showing that there are no liens on the vehicle or that all recorded liens have been released. On receipt of a vehicle, a motor vehicle
salvage dealer shall immediately remove any unexpired license plates from the motor vehicle and place them in a secure, locked place. An inventory list of such plates showing the license number, the make, the motor number, and the vehicle identification number of the motor vehicle from which such plates were removed shall be maintained on forms to be furnished by the Texas Department of Transportation. Upon demand the Certificate of Title or authority, the sales receipt, or transfer document, the license plates, and inventory lists shall be surrendered to the Texas Department of Transportation for cancellation. It is further provided that all Certificates of Title covering such motor vehicles shall be surrendered to the Texas Department of Transportation for cancellation. It shall thereafter be the duty of the Texas Department of Transportation to furnish a signed receipt for the surrendered license plates and Certificates of Title.

(f) If a component part does not have a vehicle identification number or the vehicle identification number has been removed or the vehicle identification number of the vehicle from which the component part was removed is not available, a motor vehicle salvage dealer shall record the component part or component parts on an affidavit bill of sale. The form of the affidavit bill of sale shall be prescribed and made available by the Texas Department of Transportation.

(g) A motor vehicle salvage dealer shall keep a record required to be kept by this section on a form prescribed by the Texas Department of Transportation. The dealer shall maintain two copies of each record for one year after the date of sale or disposal of the item. On demand of a peace officer, the dealer shall give a copy of a record to the officer.

(h) The Texas Department of Transportation shall:
(1) prescribe the form to be used as required by Subsection (e) of this section; and

(2) make the form available to motor vehicle salvage dealers.

(20) Section 4(b), Chapter 948, Acts of the 71st Legislature, Regular Session, 1989 (Article 8613, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The Texas [State] Department of [Highways--and--Public] Transportation shall provide a notice setting forth the provisions of this Act to each disabled person who is issued a special device or disabled person identification card under Chapter 681, Transportation Code [3987-Acts-of-the-64th-Legislature--Regular Session,1975-(Article-6675e-Sess--Vernon's-Texas-Civil-Statutes)].

(21) Section 4(a), Chapter 556, Acts of the 68th Legislature, Regular Session, 1983 (Article 9021, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Before a person installs equipment within the right-of-way of a state highway or county road in an unincorporated area, the person must notify the Texas [State] Department of [Highways--and--Public] Transportation, if a state highway is involved, or the county commissioners court, if a county road is involved.

(22) Section 77.021(a), Agriculture Code, is amended to read as follows:

(a) The Fire Ant Advisory Board is created and is composed of:

(1) the commissioner of agriculture;

(2) the executive director of the Parks and Wildlife Department;

(3) the director [engineer-director] of the Texas [State] Department of [Highways-and-Public] Transportation;

(4) a representative of the farm and ranch industry, appointed by the commissioner of agriculture;

(5) a representative of the nursery industry,
appointed by the commissioner of agriculture;

(6) a representative of the utility industry, appointed by the governor;

(7) a representative of the insurance industry, appointed by the governor;

(8) a representative of the medical profession who is an expert in the toxicology related to fire ants, appointed by the governor; and

(9) a representative of the general public, appointed by the governor.

(23) Section 17.061(2), Civil Practice and Remedies Code, is amended to read as follows:

(2) "Chairman" means the chairman of the Texas State Highway-and-Public Transportation Commission.

(24) Section 17.062, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 17.062. SUBSTITUTED SERVICE ON CHAIRMAN OF TEXAS [STATE HIGHWAY-AND-PUBLIC] TRANSPORTATION COMMISSION. (a) The chairman of the Texas [State-Highway-and-Public] Transportation Commission is an agent for service of process on a person who is a nonresident or an agent of a nonresident in any suit against the person or agent that grows out of a collision or accident in which the person or his agent is involved while operating a motor vehicle in this state.

(b) Process may be served on the chairman in accordance with this section for a nonresident who was a resident at the time the cause of action accrued but has subsequently moved from the state.

(25) Section 59.04(c), Code of Criminal Procedure, is amended to read as follows:

(c) If the property is a motor vehicle, and if there is reasonable cause to believe that the vehicle has been registered under the laws of this state, the attorney representing the state shall ask the Texas [State] Department of [Highways-and-Public] Transportation to identify from its records the record owner of the
vehicle and any interest holder.

(26) Section 56.141(1), Education Code, is amended to read as follows:

1) "Department" means the Texas [State] Department of [Highways-and-Public] Transportation.

(27) Section 56.146(a), Education Code, is amended to read as follows:

(a) The Texas [State] Department of [Highways-and-Public] Transportation conditional grant account is established in the general revenue fund.

(28) Section 56.147(b), Education Code, is amended to read as follows:

(b) Conditional grants issued under this subchapter are payable from gifts, grants, and other funds appropriated from the Texas [State] Department of [Highways-and-Public] Transportation conditional grant account.

(29) Section 67.24, Education Code, is amended to read as follows:

Sec. 67.24. RESEARCH AND EXPERIMENTATION FOR TEXAS [HIGHWAY] DEPARTMENT OF TRANSPORTATION. The state comptroller of public accounts may draw proper warrants in favor of the university based on vouchers or claims submitted by the university through the Texas [State-Highway] Department of Transportation covering reasonable fees and charges for services rendered by members of the staff of the university system to the Texas [State-Highway] Department of Transportation and for equipment and materials necessary for research and experimentation in all phases of highway activity, economics, materials, specifications, design of roadways, construction, maintenance, pavement and structures, drainage, traffic control, safety, the economics of highway design and construction, and other fields of highway design, construction, maintenance, or operation, based on an agreement between the Texas [State-Highway] Department of Transportation and the university in accordance with the provisions of Texas Highway Department Minute
Order Number 52742, dated May 24, 1963; and the state treasurer shall pay warrants so issued against any funds appropriated by the legislature to the Texas Department of Transportation for the construction and maintenance of highways, roads, and bridges. The payments made to the university shall be credited and deposited to local institutional funds under its control.

(30) Section 67.53, Education Code, is amended to read as follows:

Sec. 67.53. VISITOR CENTER. The board may negotiate and contract with the Texas Department of Transportation and any other agency, department, or political subdivision of the state or any individual for the construction, maintenance, and operation of a visitor center and related facilities at McDonald Observatory at Mount Locke.

(31) Section 85.26(a), Education Code, is amended to read as follows:

(a) The board may execute leases and grant easements for rights-of-way for telephone, telegraph, electric transmission, and power lines, for oil pipelines, gas pipelines, sulphur pipelines, water pipelines and other electric lines and pipelines of any nature whatsoever, and for irrigation canals, and laterals, and may execute easements or leases for the erection and maintenance of electric substations, pumping stations, loading racks, tank farms, and other structures, and may execute easements for rights-of-way to the Texas Department of Transportation, to any county in the state, or to any corporation, group, organization, firm, or individual for highway or roadway purposes, on or across any lands belonging to the state and under the control of the board, if the board in its discretion deems it apparent that the interest of the state can best be served by the granting of the easements and leases.

(32) Section 85.29, Education Code, is amended to read as follows:

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Sec. 85.29. RESEARCH AND EXPERIMENTATION FOR TEXAS DEPARTMENT OF TRANSPORTATION. The state comptroller of public accounts may draw proper warrants in favor of any part of the university system based on vouchers or claims submitted by the system through the Texas Department of Transportation covering reasonable fees and charges for services rendered by members of the staff of the system to the Texas Department of Transportation and for equipment and materials necessary for research and experimentation in all phases of highway activity, economics, materials, specifications, design of roadways, construction, maintenance, pavement and structures, traffic control, safety, the economics of highway design and construction, and other fields of highway design, construction, maintenance, or operation, based on an agreement between the State Highway Department and the Texas Agricultural and Mechanical College System as passed by the State Highway Department on September 29, 1948, and recorded by the Texas Department of Transportation as Minute Order Number 25396; and the state treasurer shall pay warrants so issued against any funds appropriated by the legislature to the Texas Department of Transportation for the construction and maintenance of highways, roads, and bridges. The payments made to the system shall be credited and deposited to local institutional funds under its control.

(33) Section 403.017(b), Government Code, is amended to read as follows:

(b) A deed conveying land or an interest in land to the state for highway purposes shall be deposited in the Austin office of the Texas Department of Transportation.

(34) Section 411.010, Government Code, is amended to read as follows:

Sec. 411.010. ASSISTANCE OF STATE AGENCIES. The attorney general, the Texas Department of Transportation.
Transportation, the Texas Department of Health, and all other departments of state government shall cooperate with the department in the execution of this chapter and the enforcement of state laws concerning public safety and crime prevention and detection.

(35) Section 444.021, Government Code, is amended to read as follows:

Sec. 444.021. GENERAL DUTIES. The commission shall:

(1) foster the development of a receptive climate for the arts that will culturally enrich and benefit state citizens in their daily lives;

(2) make visits and vacations to the state more appealing to the world;

(3) attract, through appropriate programs of publicity and education, additional outstanding artists to become state residents;

(4) direct activities such as the sponsorship of lectures and exhibitions and the central compilation and dissemination of information on the progress of the arts in the state;

(5) provide advice to the General Services Commission, Texas Historical Commission, Texas State Library, Texas Tourist Development Agency, Texas Department of Transportation, and other state agencies to provide a concentrated state effort in encouraging and developing an appreciation for the arts in the state;

(6) provide advice relating to the creation, acquisition, construction, erection, or remodeling by the state of a work of art; and

(7) provide advice, on request of the governor, relating to the artistic character of buildings constructed, erected, or remodeled by the state.

(36) Section 481.172, Government Code, is amended to read as follows:

Sec. 481.172. DUTIES. The department shall:
(1) promote and advertise within the United States and
in foreign countries, by radio, television, newspaper, and other
means considered appropriate, tourism in this state by non-Texans,
including persons from foreign countries, and distribute
promotional materials through appropriate agencies, including the
United States Travel and Tourism Agency;
(2) encourage travel by Texans to this state's scenic,
historical, natural, agricultural, educational, recreational, and
other attractions;
(3) coordinate and stimulate orderly and accelerated
development of tourist attractions throughout this state;
(4) conduct a public relations campaign to create a
responsible and accurate national and international image of this
state;
(5) cooperate fully with the Parks and Wildlife
Department in all matters relating to promotion of tourism;
(6) cooperate with the Texas [State--Highway--and
Public] Transportation Commission in the administration of the
commission's collateral program of highway map distribution and
operation of travel information bureaus and other tourist-related
functions of the commission; and
(7) encourage communities, organizations, and
individuals in this state to cooperate with its program by their
activities and use of their own funds and collaborate with those
organizations and other governmental entities in the pursuit of the
objectives of this subchapter.

(37) Section 496.004(b), Government Code, is amended to read
as follows:

(b) The board may not grant or lease an easement unless the
board receives fair and adequate consideration. However, the board
may without consideration grant a state highway easement to the
Texas [State] Department of [Highways-and-Public] Transportation, a
roadway easement to a county for connecting roads between state
highways, easements to utility providers for utilities to serve
facilities of the department, and roadway easements to a city or a county to provide roadways for facilities of the department.

(38) Section 496.006(a), Government Code, is amended to read as follows:

(a) The board and the Texas [State--Highway--and--Public] Transportation Commission may enter into and perform an agreement or contract for the maintenance of a road in or adjacent to a unit of the institutional division.

(39) Section 497.092(a), Government Code, is amended to read as follows:

(a) The board and the Texas [State--Highway--and--Public] Transportation Commission may enter into and perform an agreement or contract for the use of inmate labor for a state highway improvement project.

(40) Section 771.003(b), Government Code, is amended to read as follows:

(b) A state agency may not construct a highway, road, building, or other structure for another agency under this chapter, except that the Texas [State] Department of [Highways-and-Public] Transportation may enter into an interagency agreement with a state college, university, or public junior college for the maintenance, improvement, relocation, or extension of existing on-campus streets, parking lots, and access-ways.

(41) Section 382.038(c), Health and Safety Code, is amended to read as follows:

(c) After consultation with the Texas [State] Department of [Highways-and-Public] Transportation, the board shall require state and local transportation planning entities designated by the board to prepare long-term projections of the combined impact of significant planned transportation system changes on emissions and air quality. The projections shall be prepared using air pollution estimation methodologies established jointly by the board and the Texas [State] Department of [Highways-and-Public] Transportation. This subsection does not restrict the Texas [State] Department of
Transportation’s function as the transportation planning body for the state or its role in identifying and initiating specific transportation-related projects in the state.

(42) Section 382.039(b), Health and Safety Code, is amended to read as follows:

(b) Participating agencies include the Texas Department of Transportation and metropolitan planning organizations designated by the governor.

(43) Section 79.001(10), Human Resources Code, is amended to read as follows:

(10) "City or state agency" means an employment commission, the Texas Department of Human Services, the Texas Department of Transportation, and any other agency that is funded or supported by the state or a city government.

(44) Section 122.002(a), Human Resources Code, is amended to read as follows:

(a) The Texas Committee on Purchases of Products and Services of Blind and Severely Disabled Persons is composed of the following members who are appointed by the governor with the advice and consent of the senate:

(1) a private citizen conversant with the problems incidental to the employment of blind persons;

(2) a private citizen conversant with the problems incidental to the employment of persons severely disabled by conditions other than blindness;

(3) a representative of a sheltered workshop for blind persons organized under state law;

(4) a representative of a sheltered workshop organized under state law to serve persons disabled by conditions other than blindness;

(5) a representative of the Texas Rehabilitation Commission;
(6) a representative of the General Services Commission; 
(7) a representative of the Texas Commission for the Blind; 
(8) a representative of the Texas Department of Mental Health and Mental Retardation; 
(9) a representative of private business who is knowledgeable in the activities and processes involved in the sale of goods or services to governmental entities; and 
(10) a representative of the Texas Transportation Commission.

(45) Section 43.032(a), Local Government Code, is amended to read as follows:

(a) The owners of an area located within the extraterritorial jurisdiction of a general-law municipality may petition for annexation to a contiguous home-rule municipality if:

(1) the area meets the criteria described by Section 43.028(a); 
(2) the area is located entirely in a county with a population of 140,000 or more; 
(3) a proposed right-of-way, as determined by the Texas Transportation Commission, of a farm-to-market road funded under Section 256.008, Transportation Code [Article 6702-47, --Vernon's Texas Civil Statutes], crosses the area; 
(4) the owner of the land on which the right-of-way is located in the area has donated or is legally committed to donate to the state or other governmental body having appropriate jurisdiction the right-of-way necessary to construct the farm-to-market road across the area; and 
(5) the petition is filed with the home-rule municipality before September 1, 1992.

(46) Sections 130.006, 130.007, 130.008, and 130.009, Local Government Code, are amended to read as follows:
Sec. 130.006. PROCEDURES FOR COLLECTION OF DISHONORED CHECKS AND INVOICES. A county tax assessor-collector may establish procedures for the collection of dishonored checks and credit card invoices. The procedures may include:

(1) official notification to the maker that the check or invoice has not been honored and that the receipt, registration, certificate, or other instrument issued on the receipt of the check or invoice is not valid until payment of the fee or tax is made;

(2) notification of the sheriff or other law enforcement officers that a check or credit card invoice has not been honored and that the receipt, registration, certificate, or other instrument held by the maker is not valid; and

(3) notification to the Texas [State] Department of [Highways--and--Public] Transportation, the comptroller of public accounts, or the Department of Public Safety that the receipt, registration, certificate, or other instrument held by the maker is not valid.

Sec. 130.007. REMISSION TO STATE NOT REQUIRED; STATE ASSISTANCE IN COLLECTION. (a) If a fee or tax is required to be remitted to the comptroller or the Texas [State] Department of [Highways--and--Public] Transportation and if payment was made to the county tax assessor-collector by a check that was not honored by the drawee bank or by a credit card invoice that was not honored by the credit card issuer, the amount of the fee or tax is not required to be remitted, but the assessor-collector shall notify the appropriate department of:

(1) the amount of the fee or tax;

(2) the type of fee or tax involved; and

(3) the name and address of the maker.

(b) The Texas [State] Department of [Highways--and--Public] Transportation and the comptroller shall assist the county tax assessor-collector in collecting the fee or tax and may cancel or revoke any receipt, registration, certificate, or other instrument issued in the name of the state conditioned on the payment of the
Sec. 130.008. LIABILITY OF TAX COLLECTOR FOR VIOLATIONS OF SUBCHAPTER. If the comptroller or the Texas Department of Highways-and-Public Transportation determines that the county tax assessor-collector has accepted payment for fees and taxes to be remitted to that department in violation of Section 130.004 or that more than two percent of the fees and taxes to be received from the assessor-collector are not remitted because of the acceptance of checks that are not honored by the drawee bank or of credit card invoices that are not honored by the credit card issuer, the department may notify the assessor-collector that the assessor-collector may not accept a check or credit card invoice for the payment of any fee or tax to be remitted to that department. A county tax assessor-collector who accepts a check or credit card invoice for the payment of a fee or tax, after notice that the assessor-collector may not receive a check or credit card invoice for the payment of fees or taxes to be remitted to a department, is liable to the state for the amount of the check or credit card invoice accepted.

Sec. 130.009. STATE RULES. The comptroller and the Texas Department of Highways-and-Public Transportation may make rules concerning the acceptance of checks or credit card invoices by a county tax assessor-collector and for the collection of dishonored checks or credit card invoices.

(a) If a municipality requires the relocation, reconstruction, or removal of a sign within its corporate limits or extraterritorial jurisdiction, the presiding officer of the governing body of the municipality shall appoint a municipal board on sign control. The board must be composed of:

(1) two real estate appraisers, each of whom must be a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established
code of ethics, educational program, and professional certification
program;

(2) one person engaged in the sign business in the
municipality;

(3) one employee of the Texas [State] Department of
[Highways-and-Public] Transportation who is familiar with real
estate valuations in eminent domain proceedings; and

(4) one architect or landscape architect licensed by
this state.

(48) Section 216.902, Local Government Code, is amended to
read as follows:

Sec. 216.902. REGULATION OF OUTDOOR SIGNS IN MUNICIPALITY'S
EXTRATERRITORIAL JURISDICTION. (a) A municipality may extend the
provisions of its outdoor sign regulatory ordinance and enforce the
ordinance within its area of extraterritorial jurisdiction as
defined by Chapter 42. However, any municipality, in lieu of the
regulatory ordinances, may allow the Texas [State-Highway-and
Public] Transportation Commission to regulate outdoor signs in the
municipality's extraterritorial jurisdiction by filing a written
notice with the commission.

(b) If a municipality extends its outdoor sign ordinance
within its area of extraterritorial jurisdiction, the municipal
ordinance supersedes the regulations imposed by or adopted under
Chapter 394, Transportation Code [Article-6674v-37-Vernon's-Texas
Civil-Statutes].

(c) The authority granted to a municipality by this section
to extend its outdoor sign ordinance does not apply to:

(1) on-premises signs in the extraterritorial
jurisdiction of municipalities in a county described by Chapter
394, Transportation Code [Section-i77-Article-27-Chapter-227-Acts
of-the-69th-Legislature,-Regular-Session,-1985--(Article--6674v-37
Vernon's--Texas-Civic-Statutes)], if the circumstances described by
that section occur;

(2) on-premises signs in a municipality's
extraterritorial jurisdiction in a county that borders a county described by that law; and

(3) on-premises signs in the extraterritorial jurisdiction of a municipality with a population of 1.5 million or more that are located in a county that is adjacent to the county in which the majority of the land of the municipality is located.

(49) Sections 31.155(a) and (b), Natural Resources Code, are amended to read as follows:

(a) The division is not responsible for maintaining the inventory records of the real property administered by the Texas [State] Department of [Highways-and-Public] Transportation, the Texas National Research Laboratory Commission, an institution of higher education, the Employees Retirement System of Texas, or the Teacher Retirement System of Texas. The agencies administering the property shall maintain those records.

(b) The Texas [State] Department of [Highways-and-Public] Transportation, or the Texas National Research Laboratory Commission, on the request of the division, shall submit its real property inventory records to the division. The real property inventory records of an institution of higher education, the Employees Retirement System of Texas, and the Teacher Retirement System of Texas, on the request of the division, shall be submitted to the division for information purposes only.

(50) Section 32.002(a), Natural Resources Code, is amended to read as follows:

(a) This chapter does not apply to:

(1) land dedicated by the constitution or a law of this state to The University of Texas System, land donated by a will or instrument in writing or otherwise to The University of Texas System, as trustee, for a scientific, educational, or other charitable or public purpose, or any other land under the control of the Board of Regents of The University of Texas System;

(2) land whose title is vested in the state for the use and benefit of any part of The Texas A&M University System or
land under the control of the Board of Regents of The Texas A&M University System;

(3) minerals subject to lease under Subchapter F, Chapter 52 of this code, commonly known as the Relinquishment Act, and Subchapters B and C, Chapter 53, of this code;

(4) oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley, which is located in a producing area, unless the oil or gas is leased for the specific purpose of drilling a horizontal well;

(5) oil and gas underlying land owned by the state that was acquired to construct or maintain a highway, road, street, or alley if the Texas [State--Highway--and--Public] Transportation Commission has determined that such right-of-way is no longer needed for use by citizens as a road pursuant to Section 202.021, Transportation Code [Chapter--99,--General--Laws,--Acts--of--the--42nd Legislature,--Regular--Session,--1931--{Article--6673a,--Vernon's--Texas Civil--Statutes}];

(6) land owned by the Texas Parks and Wildlife Department; or

(7) land owned by the Texas Board of Criminal Justice [Department--of--Corrections].

(51) Section 32.066(c), Natural Resources Code, is amended to read as follows:

(c) This section shall not apply to land owned by the Texas [State] Department of [Highways-and-Public] Transportation.

(52) Section 33.052(b), Natural Resources Code, is amended to read as follows:

(b) In developing the program, the land office shall act as the lead agency to coordinate and develop a long-term plan for the management of uses affecting coastal conservation areas, in cooperation with other state agencies that have duties relating to coastal matters, including the Parks and Wildlife Department, the attorney general's office, the Texas Natural Resource Conservation Department, and the Texas Transportation Commission. This plan shall include, but not be limited to, the establishment of guidelines for the use of coastal conservation areas, the development of land management strategies, and the implementation of conservation measures.
[Water] Commission, the Texas Water Development Board, the Texas [State] Department of [Highways-and-Public] Transportation, and the Railroad Commission of Texas. The plan shall implement the policies stated in Section 33.001 of this code and shall include the elements listed in Section 33.053 of this code.

(53) Section 40.303(b), Natural Resources Code, is amended to read as follows:

(b) Members of the council shall include the following persons or their designees:

(1) the governor, who serves as chairperson;
(2) the commissioner;
(3) the executive director of the Parks and Wildlife Department;
(4) a representative of the Railroad Commission of Texas;
(5) the commander of the United States Coast Guard for the area including the Texas coast, as a nonvoting member;
(6) the director of the division of emergency management in the office of the governor;
(7) the commissioner of the Texas Department of Health;
(8) the director of the Texas Department of [State Engineer-Director-for-Highways-and-Public] Transportation;
(9) the executive director of the Texas Natural Resource Conservation [Water] Commission; and
(10) the county judges of Cameron, Willacy, Kenedy, Kleberg, Nueces, San Patricio, Aransas, Calhoun, Jackson, Matagorda, Brazoria, Galveston, Harris, Jefferson, Orange, Chambers, and Refugio counties.

(54) Section 61.026(a), Natural Resources Code, is amended to read as follows:

(a) The land office in conjunction with the Texas [State] Department of [Highways-and-Public] Transportation shall design and produce a uniform bilingual beach access sign to be used by local
governments to designate access ways to and from public beaches.

(55) Section 61.251(c), Natural Resources Code, is amended to read as follows:

(c) The commissioner of the General Land Office or a representative appointed by the land commissioner, the [state engineer] director of the Texas [State] Department of [Highways-and Public] Transportation or a representative appointed by the [engineer] director, and one other person who is a citizen of the state and who is appointed by the governor with the advice and consent of the senate are entitled to serve on the committee as ex officio members.

(56) Section 133.003(11), Natural Resources Code, is amended to read as follows:

(11) "Guardrail" means a system of posts and metal rails as defined by the Texas [State] Department of [Highways-and Public] Transportation.

(57) Section 182.012(a), Natural Resources Code, is amended to read as follows:

(a) The council consists of the following ex officio members:

(1) the executive director of the Texas Historical Commission;

(2) the director and librarian of the Texas State Library;

(3) the executive director of the Texas Department of Commerce;

(4) the director of the Travel and Information Division of the Texas [State] Department of [Highways--and--Public] Transportation;

(5) the director of the Park Services Division of the Parks and Wildlife Department; and

(6) the chairman of the State Antiquities Committee.

(58) Section 182.017, Natural Resources Code, is amended to read as follows:
Sec. 182.017. USE AND PROVISION OF SERVICES OF CERTAIN AGENCIES. The council may use the services and facilities of the Texas Historical Commission, the Texas State Library and Archives Commission, the Texas Department of Commerce, the Texas [State] Department of [Highways-and-Public] Transportation, the Parks and Wildlife Department, and the State Antiquities Committee, and these services and facilities may be made available on request to the extent practicable without reimbursement for them.

(59) Section 182.041, Natural Resources Code, is amended to read as follows:

Sec. 182.041. COMMUNICATION BETWEEN AGENCIES. The council shall establish communication between the Texas Historical Commission, the Texas State Library and Archives Commission, the Texas Department of Commerce, the Texas [State] Department of [Highways-and-Public] Transportation, the Parks and Wildlife Department, and the State Antiquities Committee in order to coordinate the efforts of these agencies to develop and publicize the historical resources of this state.

(60) Section 191.011(a), Natural Resources Code, is amended to read as follows:

(a) There is created an Antiquities Committee, which is composed of nine members, including the Chairman of the Texas Historical Commission, the Director of the Parks and Wildlife Department, the Commissioner of the General Land Office, the State Archeologist, the Director [State-Engineer-Director] of the Texas [State] Department of [Highways-and-Public] Transportation, the Executive Director of the Texas Natural Resource Conservation [Wate] Commission, and the following citizen members: one professional archeologist from a recognized museum or institution of higher learning in Texas, one professional historian with expertise in Texas history and culture, and one professional museum director of a major, state-funded museum that has significant research facilities. Five members represent a quorum. At no time
1 shall any member be allowed to appoint or designate a proxy or
2 representative for the purposes of achieving a quorum or to cast a
3 vote on any matter pending before the committee.
4
5 (61) Section 13.012, Parks and Wildlife Code, is amended to
6 read as follows:
7 Sec. 13.012. ROADSIDE PARKS. An area under the control of
8 the department which is more suitable for use as a roadside park
9 than any other type of park may be transferred to the Texas [State
10 Highway] Department of Transportation for roadside park purposes
11 if the land meets the specifications of the Texas [State-Highway]
12 Department of Transportation.
13
14 (62) Section 13.013, Parks and Wildlife Code, is amended to
15 read as follows:
16 Sec. 13.013. CONSTRUCTION OF ROADS BY TEXAS [STATE-HIGHWAY]
17 DEPARTMENT OF TRANSPORTATION. (a) The department may contract
18 with the Texas Transportation [State-Highway] Commission for the
19 construction and paving of roads in and adjacent to state parks.
20 (b) Agreements under this section must be made in conformity
21 with the Interagency Cooperation Act.
22
23 (63) Section 13.014(c), Parks and Wildlife Code, is amended
24 to read as follows:
25 (c) The Texas Transportation [State-Highway] Commission
26 shall cooperate with the department, and the department shall
27 cooperate and match funds with any state or federal governmental
28 agency and shall sponsor any state or federal project.
29
30 (64) Section 14.002(b), Parks and Wildlife Code, is amended
31 to read as follows:
32 (b) The plan shall include:
33 (1) a definition of the term "wetlands" consistent to
34 the greatest extent practicable with the definition under
35 Subchapter J, Chapter 11, Water Code, and federal law;
36 (2) a policy framework for achieving a goal of no
37 overall net loss of state-owned coastal wetlands, which framework
38 shall include monitoring and enforcement of the no overall net loss
policy;

(3) provisions for an inventory of state-owned coastal wetlands to determine gains and losses in areal extent, wetland types, wetland function, and the causes of wetlands alterations;

(4) provisions for an inventory of sites for compensatory mitigation, enhancement, restoration, and acquisition priorities;

(5) clarification and unification of wetland mitigation policies within the department, the land office, and the Texas Natural Resource Conservation [Water] Commission, and other state agencies and subdivisions;

(6) development of guidelines and regulations for mitigation done in advance for losses due to possible future development and for which credit may be received when such future development occurs;

(7) evaluation of requirements of freshwater inflow to estuaries that affect state-owned coastal wetlands;

(8) preparations for a long-range navigational dredging and disposal plan, in consultation with the Texas [State] Department of [Highways---and---Public] Transportation, port authorities, and navigation districts, including the recommendations set out in the department's Texas Outdoor Recreation Plan;

(9) provisions for scientific studies examining the effects of boat traffic in sensitive coastal wetland areas and for education of the public with regard to the effects of boating in wetlands and proper nondamaging boating techniques;

(10) provisions to encourage the reduction of nonpoint source pollution of coastal wetlands, bays, and estuaries, in consultation with the Texas Natural Resource Conservation [Water] Commission, including the monitoring and adoption of nonpoint source pollution standards as they are developed by authorized state and federal agencies;

(11) development of a networking strategy to improve
coordination among existing federal and state agencies with respect
to coastal wetland permitting, review, and protection
responsibilities, including the assessment of current state agency
permitting and other processes concerning coastal wetlands;

(12) a public education program on wetlands with the
responsibility for the production of such material to be jointly
that of the land office and the department;

(13) participation in the establishment of a National
Wetlands Information Center by the federal government;

(14) evaluation of the feasibility and effect of
sediment bypassing from reservoirs to bays and estuaries;

(15) consideration of sea level rise as it relates to
coastal wetlands;

(16) provisions consistent with the department's Texas
Wetlands Plan;

(17) a plan to acquire coastal wetlands, following the
guidelines provided for in Subchapter G, Chapter 33, Natural
Resources Code; and

(18) any other matter affecting state-owned coastal
wetlands.

(65) Section 22.184(b), Parks and Wildlife Code, is amended
to read as follows:

(b) The department and the Texas Department of
Transportation [state-highway-department] may solicit and receive
gifts of labor and materials for the construction and improvement
of the fishing piers.

(66) Section 66.008, Parks and Wildlife Code, is amended to
read as follows:

Sec. 66.008. FISHING FROM BRIDGE. (a) No person may fish
from the deck or road surface of any bridge or causeway on a road
maintained by the Texas [State---Highway] Department of
Transportation.

(b) No person may deposit or leave any dead fish, crab, or
bait on the deck or road surface of any bridge or causeway on a
road maintained by the Texas [State-Highway] Department of Transportation.

(c) The Texas [State-Highway] Department of Transportation shall post appropriate signs on all bridges and causeways affected by this section.

(67) Section 86.013(c), Parks and Wildlife Code, is amended to read as follows:

(c) The Texas Transportation [State-Highway] Commission may receive a refund of the amount paid to the commission for the purchase of marl, sand, gravel, shell, or mudshell used by the transportation [highway] commission on public roads.

(68) Section 23.20(e), Tax Code, is amended to read as follows:

(e) The Texas Natural Resource Conservation [Water] Commission, a commissioners court, and the Texas [State-Highway-and-Public] Transportation Commission each, by rule, may ensure that a waiver under this section is properly and timely executed, and is irrevocable by the owner of the property to which the waiver applies or by any other related person receiving or proposing to receive, directly or indirectly, the proceeds of any bonds issued by or to be issued by the taxing unit. The rules of the Texas Natural Resource Conservation Commission [water--commission] apply to waivers applicable to taxing units that are conservation and reclamation districts subject to the jurisdiction of the commission. The rules of the commissioners court apply to waivers applicable to taxing units that are road districts created by the commissioners court. The rules of the Texas Transportation Commission [highway-and-public-transportation-commission] apply to waivers applicable to taxing units that are road utility districts subject to the jurisdiction of the commission.

(69) Section 113.011, Tax Code, is amended to read as follows:

Sec. 113.011. LIENS FILED WITH TEXAS [HIGHWAY] DEPARTMENT OF TRANSPORTATION. The comptroller shall furnish to the Texas [State]
Department of [Highways-and-Public] Transportation each release of a tax lien filed by the comptroller with that department.

(70) Section 152.042, Tax Code, is amended to read as follows:

Sec. 152.042. COLLECTION OF TAX ON METAL DEALER PLATES. A person required to pay the tax imposed by Section 152.027 [of this code] shall pay the tax to the Texas [State] Department of [Highways-and-Public] Transportation, and the department may not issue the metal dealer's plates until the tax is paid.

(71) Section 152.121(b), Tax Code, is amended to read as follows:

(b) Taxes on metal dealer plates collected by the Texas [State] Department of [Highways-and-Public] Transportation shall be deposited by the department in the state treasury in the same manner as are other taxes collected under this chapter.

(72) Sections 153.001(17) and (23), Tax Code, are amended to read as follows:

(17) "Liquefied gas tax decal user" means a person who owns or operates on the public highways of this state a motor vehicle:

(A) equipped with a liquefied gas carburetion system;

(B) required to be licensed by the Texas [State] Department of [Highways-and-Public] Transportation; and

(C) required to have a Texas certificate of inspection.

(23) "Registered gross weight" or "RGW" means the total weight of the vehicle and carrying capacity shown on the registration certificate issued by the Texas [State] Department of [Highways-and-Public] Transportation.

(73) Section 153.503, Tax Code, is amended to read as follows:

Sec. 153.503. ALLOCATION OF GASOLINE TAX. On or before the fifth workday after the end of each month, the comptroller, after
making all deductions for refund purposes and for the amounts allocated under Sections 153.502 and 153.5025, shall allocate the net remainder of the taxes collected under Subchapter B as follows:

(1) one-fourth of the tax shall be deposited to the credit of the available school fund;

(2) one-half of the tax shall be deposited to the credit of the state highway fund for the construction and maintenance of the state road system under existing law; and

(3) from the remaining one-fourth of the tax the comptroller shall:

(A) deposit to the credit of the county and road district highway fund all the remaining tax receipts until a total of $7,300,000 has been credited to the fund each fiscal year; and

(B) after the amount required to be deposited to the county and road district highway funds has been deposited, deposit to the credit of the state highway fund the remainder of the one-fourth of the tax, the amount to be provided on the basis of allocations made each month of the fiscal year, which sum shall be used by the Texas [State] Department of [Highways--and--Public] Transportation for the construction, improvement, and maintenance of farm-to-market roads.

(74) Section 26.033(b), Water Code, is amended to read as follows:

(b) The owner or operator of a municipal waste disposal system which attains an approved rating has the privilege of erecting signs of a design approved by the commission on highways approaching or inside the boundaries of the municipality, subject to reasonable restrictions and requirements which may be established by the Texas [State] Department of [Highways--and Public] Transportation.

(75) Section 26.264(f), Water Code, is amended to read as follows:

(f) The commission and the Texas [State] Department of
Transportation, in cooperation with the governor, the United States Coast Guard, and the Environmental Protection Agency, shall develop a contractual agreement whereby personnel, equipment, and materials in possession or under control of the Texas Department of Transportation may be diverted and utilized for spill and discharge cleanup as provided for in this subchapter. Under the agreement, the following conditions shall be met:

1. The commission and the Texas Department of Transportation shall develop and maintain written agreements and contracts on how such utilization will be effected, and designating agents for this purpose;
2. Personnel, equipment, and materials may be diverted only with the approval of the commission and the Texas Department of Transportation, acting through their designated agents, or by action of the governor;
3. All expenses and costs of acquisition of such equipment and materials or resulting from such cleanup activities shall be paid from the fund, subject to reimbursement as provided in this subchapter; and
4. Subsequent to such activities, a full report of all expenditures and significant actions shall be prepared and submitted to the governor and the Legislative Budget Board, and shall be reviewed by the commission.

Section 50.063, Water Code, is amended to read as follows:

Sec. 50.063. ACQUISITION OF LAND AND INTERESTS IN LAND. A district or a water supply corporation shall have the right to purchase, own, hold and lease, and otherwise acquire water wells, springs, and other sources of water supply, to build, operate, and maintain pipelines for the transportation of water or the collection of sewage, to build and operate plants and equipment necessary for the distribution of water or the collection or treatment of sewage, and to sell water to or collect and treat the
sewage of municipalities and other political subdivisions, corporations, and other persons. A district or a water supply corporation shall also have the power to purchase, own, hold, lease, or otherwise acquire land, facilities, equipment, and improvements necessary to provide flood control and drainage for such entities or individuals. A district or a water supply corporation shall have the right of eminent domain to acquire the fee simple to or an easement or other interest in land considered by the board of directors to be necessary for any of its projects, and shall have the right to use the rights-of-way of the public highways of the state for laying of pipelines under the supervision of the Texas [State-Highway-and-Public] Transportation Commission.

(77) Section 54.234, Water Code, is amended to read as follows:

Sec. 54.234. ACQUIRING ROAD UTILITY DISTRICT POWERS. Any district, which has the power to levy taxes, may, with the approval of the commission, petition the Texas [State-Highway-and-Public] Transportation Commission(7) to acquire the powers granted to road utility districts operating pursuant to Chapter 441, Transportation Code (Acts--of-the-68th-Legislature--2nd-Called-Session--1984 (Article--6674r--Vernon's--Texas--Civil--Statutes)), under the authority of Article III, Section 52, Texas Constitution. As soon as practicable after such petition has been filed with the Texas [State-Highway-and-Public] Transportation Commission, the Texas [State-Highway-and-Public] Transportation Commission shall conduct a hearing in accordance with Chapter 441, Transportation Code (Section--77--Chapter--137--Acts--of-the-68th-Legislature--2nd-Called-Session--1984 (Article--6674r--Vernon's--Texas--Civil--Statutes)), and shall issue an order in accordance with Chapter 441, Transportation Code (Section--87--Chapter--137--Acts--of--the--68th Legislature--2nd-Called--Session--1984 (Article--6674r--Vernon's Texas--Civil--Statutes)), either approving or denying such petition. Any district so petitioning the Texas [State-Highway-and-Public] Transportation Commission shall conform to the rules applicable to
the creation and administration of such districts as provided by
Chapter 441, Transportation Code [Acts of the 68th Legislature, 2nd
Called Session, 1984, Article 6674r-1, Vernon's Texas Civil
Statutes]. In the event of any conflict between the provisions of
the Water Code and the general laws of this state applicable to the
district and the provisions of Chapter 441, Transportation Code
[Acts of the 68th Legislature, 2nd Called Session, 1984,
Article 6674r-1, Vernon's Texas Civil Statutes], the provisions
of the Water Code and the general laws of this state applicable to
the district shall prevail.

SECTION 23. CONFORMING AMENDMENT. Article 1175, Revised
Statutes, is amended to read as follows:

Art. 1175. ENUMERATED POWERS. A home-rule municipality has
the following powers:

1. The power to issue bonds upon the credit of the
city for the purpose of making permanent public improvements or for
other public purposes in the amount and to the extent provided by
such charter, and consistent with the Constitution of this State;
provided, that said bonds shall have first been authorized by a
majority vote by the duly qualified property tax-paying voters
voting at an election held for that purpose. Thereafter all such
bonds shall be submitted to the Attorney General for his approval,
and the Comptroller for registration, as provided by law, provided
that any such bonds after approval, may be issued by the city,
either optional or serial or otherwise as may be deemed advisable
by the governing authority. Whenever any city has heretofore been
authorized, under any special charter, creating such city, to issue
any bonds by the terms of such charter, the provisions of this
chapter shall not be construed to interfere with the issuance of
any such bonds under the provisions of any charter under which such
bonds were authorized.

2. To prohibit the use of any street, alley, highway
or grounds of the city by any telegraph, telephone, electric light,
street railway, interurban railway, steam railway, gas company, or
any other character of public utility without first obtaining the
consent of the governing authorities expressed by ordinance and
upon paying such compensation as may be prescribed and upon such
condition as may be provided by any such ordinance. To determine,
fix and regulate the charges, fares or rates of any person, firm or
corporation enjoying or that may enjoy the franchise or exercising
any other public privilege in said city and to prescribe the kind
of service to be furnished by such person, firm or corporation, and
the manner in which it shall be rendered, and from time to time
alter or change such rules, regulations and compensation; provided
that in adopting such regulations and in fixing or changing such
compensation, or determining the reasonableness thereof, no stock
or bonds authorized or issued by any corporation enjoying the
franchise shall be considered unless proof that the same have been
actually issued by the corporation for money paid and used for the
development of the corporate property, labor done or property
actually received in accordance with the laws and Constitution of
this State applicable thereto. In order to ascertain all facts
necessary for a proper understanding of what is or should be a
reasonable rate or regulation, the governing authority shall have
full power to inspect the books and compel the attendance of
witnesses for such purpose.

[3r---To---have---exclusive---dominion---control---and
jurisdiction---in---and---under---the---public---streets---avenues---
alleys---highways---and---boulevards---and---public---grounds---of---such---city
and---to---provide---for---the---improvement---of---any---public---street---alleys---
highways---avenues---or---boulevards---by---paving---raising---grading---
filling---or---otherwise---improving---the---same---and---to---charge---the---cost---of
making---such---improvement---against---the---abutting---property---by---fixing---a
lien---against---the---same---and---a---personal---charge---against---the---owner
thereof---according---to---an---assessment---special---lied---therefor---in---an
amount---not---to---exceed---the---special---benefit---any---such---property---received
in---enhanced---value---by---reason---of---making---such---improvement---and---to
provide---for---the---issuance---of---assignable---certificates---covering---the
payments for said cost, provided that the charter shall apportion the cost to be paid by the property owners and the amount to be paid by the city, and provided further, that all street railways, steam railways, or other railways, shall pay the cost of improving the said street between the rails and tracks of any such railway companies and for two feet on each side thereof. The city shall have the power to provide for the construction and building of sidewalks and charge the entire cost of constructing said sidewalks including the curb against the owner of abutting property, and to make a special charge against the owner for such cost and to provide by special assessment a lien against such property for such cost; to have the power to provide for the improvement of any such sidewalk or the construction of any such curb by penal ordinance and to declare defective sidewalks to be a public nuisance; the power herein granted for making street improvements and assessing the cost by special assessment in the manner herein stated shall not be construed to prevent any city from adopting any other method or plan for the improvement of its streets, sidewalks, alleys, curbs, or boulevards as it may deem advisable by its charter.

(4) To open, extend, straighten, widen any public street, alley, avenue or boulevard and for such purpose to acquire the necessary lands and to appropriate the same under the power of eminent domain and to provide that the cost of improving any such street, alley, avenue or boulevard by opening, extending and widening the same shall be paid by the owners of property specially benefited whose property lies in the territory of such improvement and to provide that the cost shall be charged by special assessment and that a personal charge shall be made against any owner for the amount due by him and to provide for the appointment by the county judge or other officer exercising like or similar powers of three special commissioners for the purpose of condemning the said lands and for the purpose of apportioning the said cost, which apportionment of said cost shall be specially assessed by the
governing—authorities—against—owners—property—of—enhanced—such—portion—cost—may—have—cost—property—owners—property—shall—benevolent—special—commissioners—city—shall—pay—determined—special—commissioners—never—exceed—one-third—the—same—property—property—benefit—enhanced—value—territory—shall—be—liable—balance—may—be—apportioned—said—commissioners—city—may—issue—assignable—certificates—for—the—payment—any—cost—property—owners—may—provide—for—the—payment—in—deferred—payments—to—bear—interest—rate—may—be—prescribed—by—the—charter—not—to—exceed—eight—per—cent.—city—shall—adopt—other—method—the—opening—straightening—widening—extending—streets—herein—provided—for—be—deemed—advisable—and—charge—the—cost—same—the—property—the—owner—special—benefited—enhanced—lying—in—territory—same—improvement—that—the—charter—may—provide—the—authority—to—adopt—other—method—shall—include—the—manner—of—appointing—commissioners—the—manner—of—giving—notice—the—manner—fixing—assessments—providing—for—the—payment—any—improvement—

[5.—To control, regulate and remove—obstructions
or—encroachments—or—encumbrances—any—public—street—alley
or—ground—and—narrow—allevy—widen—or—straighten—any—such
streets—alleys—avenues—boulevards—and—to—vacate—and—abandon
and—close—such—streets—alleys—avenues—boulevards—and—to—regulate—and—control—the—moving—buildings—structures
over—and—upon—the—streets—avenues—city—

[6.—To license—operate—and—control—the—operation—of
all—character—vehicles—using—the—public—streets—including
motorcycles—automobiles—like—vehicles—and—to—prescribe—the
speed—of—the—same—the—qualification—operator—the—same—and—the—lighting—same—by—night—and—to—provide—for—the—giving
bond—or—other—security—for—the—operation—the—same—

[7.—To regulate—and—restrict—access—to—streets—
avenues, alleys, and boulevards in the municipality on which the
dwelling-of-a-former-president-of-the-United-States-is-located,
including-the-installation-and-maintenance-of-fences, gates, or
other-structures. The municipality may act alone or in conjunction
with another entity or person.

3. Provided that in all cities of over twenty-five thousand inhabitants, the governing body of such city, when the public service of such city may require the same, shall have the right and power to compel any street railway or other public utility corporation to extend its lines of service into any section of said city not to exceed two miles, all told, in any one year.

4. Whenever any city may determine to acquire any public utility using and occupying its streets, alleys, and avenues as hereinbefore provided, and it shall be necessary to condemn the said public utility, the city may obtain funds for the purpose of acquiring the said public utility and paying the compensation therefor, by issuing bonds, notes or other evidence of indebtedness and shall secure the same by fixing a lien upon the said properties constituting the said public utility so acquired by condemnation or purchase or otherwise; said security shall apply alone to said properties so pledged; and such further regulations may be provided by any charter for the proper financing or raising the revenue necessary for obtaining any public utilities and providing for the fixing of said security.

SECTION 24. REPEALER. (a) The following Acts and articles
as compiled in Vernon's Texas Civil Statutes are repealed:
Articles 46c-1, 46c-2, 46c-2A, 46c-3, 46c-6, Subdivs. 1, 2, 3(f),
4, 5, 6, 7, 8, 9, 10; 46c-8, 46c-8A, 46c-8B, 46d-1, 46d-2, 46d-3,
46d-4, 46d-5, 46d-6, 46d-7, 46d-8, 46d-9, 46d-10, 46d-11, 46d-12,
46d-13, 46d-14, 46d-15, 46d-16A, 46d-17, 46d-18, 46d-19, 46d-20,
46d-21, 46d-22, 46f-1, 46f-2, 46f-4, 46f-5, 46f-6, 46f-7, 46g, 46h,
46i-1, 46i-2, 46i-3, 46i-4, 46i-5, 46i-6, 46i-7, 46i-8, 46i-9, 882,
883, 883(a), 883b, 884, 885, 886, 887, 888, 889, 900, 901, 902,
Acts of the 73rd Legislature, 1993), 6675a-6, 6675a-6-1/2, 6675a-6a, 6675a-6b, 6675a-6c, 6675a-6d, 6675a-6e, 6675a-6f, 6675a-7, 6675a-8, 6675a-8a, 6675a-8c, 6675a-9, 6675a-9a, 6675a-9b, 6675a-10, 6675a-10a, 6675a-12, 6675a-12a, 6675a-12b, 6675a-13, 6675a-13-1/4, 6675a-13-1/2, 6675a-13a, 6675a-13b, 6675a-13c, 6675a-14, 6675a-15, 6675a-16, 6675a-16a, 6675a-17, 6675a-17a, 6675b-1, 6675b-2, 6675b-3, 6675b-4, 6675b-4A, 6675b-4B, 6675b-6, 6675b-7, 6684, 6685, 6686, 6686-1, 6687b, 6687b-1, 6687b-2, 6687c, 6687-1, 6687-3, 6687-4, 6687-5, 6687-6, 6687-8, 6687-11, 6687-12, 6687-13, 6694, 6694a, 6695, 6696, 6696a, 6696b, 6697a, 6698, 6701, 6701-1/2, 6701a, 6701a-1, 6701a-2, 6701a-3, 6701b-1, 6701c-1, 6701c-2, 6701c-3, 6701c-4, 6701c-4a, 6701c-5, 6701d, 6701d-1, 6701d-2, 6701d-3, 6701d-5, 6701d-6, 6701d-7, 6701d-9, 6701d-10, 6701d-11, 6701d-11a, 6701d-11b, 6701d-12, 6701d-12a, 6701d-13, 6701d-14, 6701d-16, 6701d-17, 6701d-18, 6701d-19a, 6701d-19b, 6701d-20, 6701d-22, 6701d-23, 6701d-24, 6701d-25, 6701d-27, 6701f, 6701g-2, 6701g-3, 6701h, 6701j-1, 6701l-4, 6701l-5, 6701l-6, 6701l-7, 6701m-1, 6701m-2, 6702-1, 6702-2, 6702-3 (as added by Chapters 891 and 1241, Acts of the 71st Legislature, Regular Session, 1989), 6711a, 6759, 6795a, 6795b, 6795b-1, 6795c, 6797a, 6797b, 6797c, 6798, 6799, 6799a, 6799b, 6800, 6801, 6802, 6803, 6804, 6805, 6806, 6807, 6808, 6809, 6810, 6811, 6812, 6812a, 6812f, 6812g, 6812h, 6812j, 8248, 8249, 8250, 8251, 8252, 8253, 8254, 8255, 8256, 8257, 8258, 8259, 8260, 8264, 8265, 8266, 8267, 8268, 8269, 8270, 8271, 8272, 8273, 8274, 8275, 8276, 8277, 8278, 8280a, 8280b, 8280c, 8280d, and 8280e.

(b) The following Acts are repealed:

(1) Section 3, Chapter 9, Acts of the 62nd Legislature, Regular Session, 1971;

(2) Section 2, Chapter 1059, Acts of the 70th Legislature, Regular Session, 1987;

(3) Section 2(c), Chapter 342, Acts of the 71st Legislature, Regular Session, 1989;

(4) Section 7, Chapter 482, Acts of the 71st
LEGISLATURE, Regular Session, 1989;
(5) Section 7, Chapter 586, Acts of the 73rd Legislature, 1993; and

SECTION 25. LEGISLATIVE INTENT OF NO SUBSTANTIVE CHANGE.
This Act is enacted under Section 43, Article III, Texas Constitution. This Act is intended as a recodification only, and no substantive change in law is intended by this Act.

SECTION 26. SAVING PROVISION. (a) For the purposes of Section 403.094, Government Code, the revision and codification by this Act of a statute relating to a fund in existence on or before August 31, 1993, does not re-create the fund and does not constitute the reenactment of a dedication of revenue.
(b) A fund or account, the existence of which is derived from a statute revised by this Act and which is abolished under Section 403.094, Government Code, before the effective date of this Act is not revived or re-created by this Act.
(c) The application of Sections 403.094 and 403.095, Government Code, to a fund or to the permissible uses of revenue or fund balances is not affected by this Act.
APPENDIX B

CHAPTER 311. CODE CONSTRUCTION ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 311.001. SHORT TITLE. This chapter may be cited as the Code Construction Act.

Sec. 311.002. APPLICATION. This chapter applies to:

(1) each code enacted by the 60th or a subsequent legislature as part of the state's continuing statutory revision program;

(2) each amendment, repeal, revision, and reenactment of a code or code provision by the 60th or a subsequent legislature;

(3) each repeal of a statute by a code; and

(4) each rule adopted under a code.

Sec. 311.003. RULES NOT EXCLUSIVE. The rules provided in this chapter are not exclusive but are meant to describe and clarify common situations in order to guide the preparation and construction of codes.

Sec. 311.004. CITATION OF CODES. A code may be cited by its name preceded by the specific part concerned. Examples of citations are:

(1) Title 1, Business & Commerce Code;

(2) Chapter 5, Business & Commerce Code;

(3) Section 9.304, Business & Commerce Code;

(4) Section 15.06(a), Business & Commerce Code; and

(5) Section 17.18(b)(1)(B)(ii), Business & Commerce Code.

Sec. 311.005. GENERAL DEFINITIONS. The following definitions apply unless the statute or context in which the word or phrase is used requires a different definition:

(1) "Oath" includes affirmation.

(2) "Person" includes corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal
"Population" means the population shown by the most recent federal decennial census.

"Property" means real and personal property.

"Rule" includes regulation.

"Signed" includes any symbol executed or adopted by a person with present intention to authenticate a writing.

"State," when referring to a part of the United States, includes any state, district, commonwealth, territory, and insular possession of the United States and any area subject to the legislative authority of the United States of America.

"Swear" includes affirm.

"United States" includes a department, bureau, or other agency of the United States of America.

"Week" means seven consecutive days.

"Written" includes any representation of words, letters, symbols, or figures.

"Year" means 12 consecutive months.

"Includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and use of the terms does not create a presumption that components not expressed are excluded.

Sec. 311.006. INTERNAL REFERENCES. In a code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of the code; and

(2) a reference to a subtitle, subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next larger unit of the code in which the reference appears.

SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES

Sec. 311.011. COMMON AND TECHNICAL USAGE OF WORDS.

(a) Words and phrases shall be read in context and construed according to the rules of grammar and common usage.
(b) Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

Sec. 311.012. TENSE, NUMBER, AND GENDER. (a) Words in the present tense include the future tense.
(b) The singular includes the plural and the plural includes the singular.
(c) Words of one gender include the other genders.

Sec. 311.013. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members fixed by statute.
(b) A quorum of a public body is a majority of the number of members fixed by statute.

Sec. 311.014. COMPUTATION OF TIME. (a) In computing a period of days, the first day is excluded and the last day is included.
(b) If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.
(c) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

Sec. 311.015. REFERENCE TO A SERIES. If a statute refers to a series of numbers or letters, the first and last numbers or letters are included.

SUBCHAPTER C. CONSTRUCTION OF STATUTES
Sec. 311.021. INTENTION IN ENACTMENT OF STATUTES. In enacting a statute, it is presumed that:
(1) compliance with the constitutions of this state and the United States is intended;
(2) the entire statute is intended to be effective;
(3) a just and reasonable result is intended;
(4) a result feasible of execution is intended; and
(5) public interest is favored over any private
interest.

Sec. 311.022. PROSPECTIVE OPERATION OF STATUTES. A statute
is presumed to be prospective in its operation unless expressly
made retrospective.

Sec. 311.023. STATUTE CONSTRUCTION AIDS. In construing a
statute, whether or not the statute is considered ambiguous on its
face, a court may consider among other matters the:
(1) object sought to be attained;
(2) circumstances under which the statute was enacted;
(3) legislative history;
(4) common law or former statutory provisions,
including laws on the same or similar subjects;
(5) consequences of a particular construction;
(6) administrative construction of the statute; and
(7) title (caption), preamble, and emergency
provision.

Sec. 311.024. HEADINGS. The heading of a title, subtitle,
chapter, subchapter, or section does not limit or expand the
meaning of a statute.

Sec. 311.025. IRRECONCILABLE STATUTES AND AMENDMENTS.
(a) Except as provided by Section 311.031(d), if statutes enacted
at the same or different sessions of the legislature are
irreconcilable, the statute latest in date of enactment prevails.
(b) Except as provided by Section 311.031(d), if amendments
to the same statute are enacted at the same session of the
legislature, one amendment without reference to another, the
amendments shall be harmonized, if possible, so that effect may be
given to each. If the amendments are irreconcilable, the latest in
date of enactment prevails.
(c) In determining whether amendments are irreconcilable,
text that is reenacted because of the requirement of Article III,
Section 36, of the Texas Constitution is not considered to be
irreconcilable with additions or omissions in the same text made by
another amendment. Unless clearly indicated to the contrary, an
amendment that reenacts text in compliance with that constitutional
requirement does not indicate legislative intent that the reenacted
text prevail over changes in the same text made by another
amendment, regardless of the relative dates of enactment.

Sec. 311.026. SPECIAL OR LOCAL PROVISION PREVAILS OVER
GENERAL. (a) If a general provision conflicts with a special or
local provision, the provisions shall be construed, if possible, so
that effect is given to both.
(b) If the conflict between the general provision and the
special or local provision is irreconcilable, the special or local
provision prevails as an exception to the general provision, unless
the general provision is the later enactment and the manifest
intent is that the general provision prevail.

Sec. 311.027. STATUTORY REFERENCES. Unless expressly
provided otherwise, a reference to any portion of a statute or rule
applies to all reenactments, revisions, or amendments of the
statute or rule.

Sec. 311.028. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A
uniform act included in a code shall be construed to effect its
general purpose to make uniform the law of those states that enact
it.

Sec. 311.029. ENROLLED BILL CONTROLS. If the language of
the enrolled bill version of a statute conflicts with the language
of any subsequent printing or reprinting of the statute, the
language of the enrolled bill version controls.

Sec. 311.030. REPEAL OF REPEALING STATUTE. The repeal of a
repealing statute does not revive the statute originally repealed
nor impair the effect of any saving provision in it.

Sec. 311.031. SAVING PROVISIONS. (a) Except as provided by
Subsection (b), the reenactment, revision, amendment, or repeal of
a statute does not affect:

(1) the prior operation of the statute or any prior action taken under it;

(2) any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under it;

(3) any violation of the statute or any penalty, forfeiture, or punishment incurred under the statute before its amendment or repeal; or

(4) any investigation, proceeding, or remedy concerning any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the statute had not been repealed or amended.

(b) If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment, revision, or amendment of a statute, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the statute as amended.

(c) The repeal of a statute by a code does not affect an amendment, revision, or reenactment of the statute by the same legislature that enacted the code. The amendment, revision, or reenactment is preserved and given effect as part of the code provision that revised the statute so amended, revised, or reenacted.

(d) If any provision of a code conflicts with a statute enacted by the same legislature that enacted the code, the statute controls.

Sec. 311.032. SEVERABILITY OF STATUTES. (a) If any statute contains a provision for severability, that provision prevails in interpreting that statute.

(b) If any statute contains a provision for nonseverability, that provision prevails in interpreting that statute.

(c) In a statute that does not contain a provision for
severability or nonseverability, if any provision of the statute or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the statute that can be given effect without the invalid provision or application, and to this end the provisions of the statute are severable.
## APPENDIX C

### DISPOSITION TABLE

### TRANSPORTATION CODE

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