

Amend CSHB 3588 by adding the following ARTICLES and SECTIONS to read as follows and renumbering existing ARTICLES accordingly:

ARTICLE ____ . SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL
DISPOSITION OF CERTAIN OFFENSES

SECTION ____ .01. Article 45.051, Code of Criminal Procedure, is amended to read as follows:

Art. 45.051. SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL DISPOSITION. (a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs, the judge [~~justice~~] may, at the judge's discretion, defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days. An order of deferral under this subsection terminates any liability under a bail bond or an appearance bond given for the charge.

(b) During the deferral period, the judge [~~justice~~] may, at the judge's discretion, require the defendant to:

(1) post a bond in the amount of the fine assessed to secure payment of the fine;

(2) pay restitution to the victim of the offense in an amount not to exceed the fine assessed;

(3) submit to professional counseling;

(4) submit to diagnostic testing for alcohol or a controlled substance or drug;

(5) submit to a psychosocial assessment;

(6) participate in an alcohol or drug abuse treatment or education program;

(7) pay the costs of any diagnostic testing, psychosocial assessment, or participation in a treatment or education program either directly or through the court as court costs; [~~and~~]

(8) complete a driving safety course approved under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes) or another course as directed by the judge;

(9) present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the

judge under this article; and

(10) comply with any other reasonable condition.

(c) On determining that [~~At the conclusion of the deferral period, if~~] the defendant [~~presents satisfactory evidence that he~~] has complied with the requirements imposed by the judge under this article, the judge [~~justice~~] shall dismiss the complaint, and it shall be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction. [~~Otherwise, the justice may proceed with an adjudication of guilt. After an adjudication of guilt, the justice may reduce the fine assessed or may then impose the fine assessed, less any portion of the assessed fine that has been paid.~~] If the complaint is dismissed, a special expense not to exceed the amount of the fine assessed may be imposed. Other than an offense under Section 545.413, Transportation Code, this subsection does not apply to an offense involving the operation of a motor vehicle.

(c-1) This subsection applies only to an offense involving the operation of a motor vehicle, other than an offense under Section 545.413, Transportation Code. At the conclusion of the deferral period, if the defendant presents satisfactory evidence that the defendant has complied with the requirements imposed, the justice shall proceed with an adjudication of guilt but may not impose the fine assessed or a reduced fine.

(d) If by [~~at~~] the conclusion of the deferral period the defendant does not present satisfactory evidence that the defendant complied with the requirements imposed, the judge [~~justice~~] may impose the fine assessed or impose a lesser fine. The imposition of the fine or lesser fine constitutes a final conviction of the defendant.

(e) Records relating to a complaint dismissed as provided by this article may be expunged under Article 55.01 [~~of this code~~]. If a complaint is dismissed under this article, there is not a final conviction and the complaint may not be used against the person for any purpose.

(f) This article does not apply to:

(1) an offense to which Section 542.404 or 729.004(b), Transportation Code, applies; or

(2) a traffic offense committed by a person who holds a commercial driver's license.

SECTION __.02. Article 45.0511, Code of Criminal Procedure, is amended to read as follows:

Art. 45.0511. DRIVING SAFETY COURSE OR MOTORCYCLE OPERATOR COURSE DISMISSAL [~~DEFERRED DISPOSITION~~] PROCEDURES [~~APPLICABLE TO TRAFFIC OFFENSES~~]. (a) This article applies only to an alleged offense that:

(1) is within the jurisdiction of a justice court or a municipal court;

(2) involves [~~involving~~] the operation of a motor vehicle; and

(3) is [~~other than a commercial motor vehicle, as~~] defined by:

(A) Section 472.022 [~~522.003~~], Transportation Code;

(B) Subtitle C, Title 7, Transportation Code; or

(C) Section 729.001(a)(3), Transportation Code [~~and supplements Article 45.051~~].

(b) The judge [~~During the deferral period under Article 45.051, the justice~~]:

~~[(1)]~~ shall require the defendant to successfully complete a driving safety course approved by the Texas Education Agency or a course under the motorcycle operator training and safety program approved by the designated state agency under Chapter 662, Transportation Code, if:

(1) the defendant elects driving safety course or motorcycle operator training course dismissal under this article;

(2) [deferred disposition and] the defendant has not completed an approved driving safety course or motorcycle operator training course, as appropriate, within the [preceeding] 12 months preceding the date of the offense;

(3) [and

~~[(2) may require the defendant to successfully complete a driving safety course approved by the Texas Education Agency if the defendant has completed an approved driving safety course within the preceding 12 months.~~

~~[(c) Subsection (b)(1) applies only if:~~

~~[(1)] the defendant [~~person~~] enters a plea under Article 45.021 in person or in writing of no contest or guilty on or [and, before the answer date on the notice to appear and:~~

~~(A) presents in person or by counsel to the court a [~~an oral or written~~] request to take a course; or~~

~~(B) sends to the court by certified mail, return receipt requested, postmarked on or before the answer date on the notice to appear, a written request to take a course;~~

~~(4) [(2) the court enters judgment on the person's plea of no contest or guilty at the time the plea is made but defers imposition of the judgment for 180 days,~~

~~[(3)] the defendant [~~person~~] has a valid Texas driver's license or permit;~~

~~(5) [(4)] the defendant [~~person~~] is charged with an offense to which this article applies, other than speeding 25 miles per hour or more over the posted speed limit; and~~

~~(6) [(5)] the defendant [~~person~~] provides evidence of financial responsibility as required by Chapter 601, Transportation Code[+~~

~~[(6) the defendant's driving record as maintained by the Texas Department of Public Safety shows the defendant has not completed an approved driving safety course or motorcycle operator training course, as appropriate, within the 12 months preceding the date of the offense; and~~

~~[(7) the defendant files an affidavit with the court stating that the person is not taking a course under this section and has not completed a course that is not shown on the person's driving record within the 12 months preceding the date of the offense].~~

(c) The court shall enter judgment on the defendant's plea of no contest or guilty at the time the plea is made, defer imposition of the judgment, and allow the defendant 90 days to successfully complete the approved driving safety course or motorcycle operator training course and present to the court:

(1) a uniform certificate of completion of the driving safety course or a verification of completion of the motorcycle

operator training course;

(2) the defendant's driving record as maintained by the Department of Public Safety showing that the defendant had not completed an approved driving safety course or motorcycle operator training course, as applicable, within the 12 months preceding the date of the offense; and

(3) an affidavit stating that the defendant was not taking a driving safety course or motorcycle operator training course, as applicable, under this article on the date the request to take the course was made and had not completed such a course that is not shown on the defendant's driving record within the 12 months preceding the date of the offense.

(d) Notwithstanding Subsections (b)(2) and (3), ~~[Subsection (c)(1), on a written motion submitted to the court]~~ before the final disposition of the case, the court may grant a request to take a driving safety course or a motorcycle operator training course under this article.

(e) A request to take a driving safety course made at or before the time and at the place at which a defendant ~~[person]~~ is required to appear in court is an appearance in compliance with the defendant's ~~[person's]~~ promise to appear.

(f) In addition to court costs and fees authorized or imposed by a law of this state and applicable to the offense, the ~~[The]~~ court may:

(1) require a defendant ~~[person]~~ requesting a ~~[driving safety]~~ course under Subsection (b) to pay an administrative [a] fee set by the court to cover the cost of administering this article at an amount of not more than \$10; or

(2) require a defendant requesting a course under Subsection (d) to pay a fee set by the court at an amount not to exceed the maximum amount of the fine for the offense committed by the defendant~~[, including any other fee authorized by statute or municipal ordinance, to cover the cost of administering this article].~~

(g) A defendant ~~[person]~~ who requests but does not take a course is not entitled to a refund of the fee.

(h) Fees collected by a municipal court shall be deposited

in the municipal treasury. Fees collected by another court shall be deposited in the county treasury of the county in which the court is located.

(i) If a defendant [~~person~~] requesting a [~~driving safety~~] course under this article fails to comply with Subsection (c) [~~furnish evidence of the successful completion of the course to the court~~], the court shall:

(1) notify the defendant [~~person~~] in writing, mailed to the address on file with the court or appearing on the notice to appear, of that failure; and

(2) require the defendant [~~person~~] to appear at the time and place stated in the notice to show cause why the evidence was not timely submitted to the court.

(j) If the defendant [~~A person who~~] fails to appear at the time and place stated in the notice under Subsection (i), or appears at the time and place stated in the notice but does not show good cause for the defendant's failure to comply with Subsection (c), the court shall enter an adjudication of guilt and impose sentence [~~commits a misdemeanor punishable as provided by Section 543.009, Transportation Code~~].

(k) On a defendant's [~~person's~~] showing of good cause for failure to furnish evidence to the court, the court may allow an extension of time during which the defendant [~~person~~] may present:

(1) a uniform certificate of course completion as evidence that the defendant [~~person~~] successfully completed the driving safety course; or

(2) a verification of course completion as evidence that the defendant successfully completed the motorcycle operator training course.

(1) When a defendant [~~person~~] complies with Subsection (c) [~~(b) and a uniform certificate of course completion is accepted by the court~~], the court shall:

(1) proceed with an adjudication of guilt, but may not impose the fine assessed or a reduced fine [~~remove the judgment and dismiss the charge~~];

(2) report the fact that the defendant [~~person~~] successfully completed a driving safety course or a motorcycle

operator training course and the date of completion to the Texas Department of Public Safety for inclusion in the person's driving record; and

(3) state in that ~~[this]~~ report whether the course was taken under ~~[the procedure provided by]~~ this article to provide information necessary to determine eligibility to take a subsequent course under Subsection (b).

(m) If the defendant is charged with more than one offense, the defendant may complete a driving safety course in connection with only one of the charges ~~[The court may dismiss only one charge for each completion of a course].~~

(n) ~~[A charge that is dismissed under this article may not be part of a person's driving record or used for any purpose.]~~

~~[(e)]~~ An insurer delivering or issuing for delivery a motor vehicle insurance policy in this state may not cancel or increase the premium charged an insured under the policy because the court proceeded with an adjudication of guilt under Subsection(1)(1) or because the insured completed a driving safety course or a motorcycle operator training course, ~~[or had a charge dismissed]~~ under this article.

(o) ~~[(p)]~~ The court shall advise a defendant ~~[person]~~ charged with a misdemeanor under Section 472.022, Transportation Code, Subtitle C, Title 7, Transportation Code, or Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle of the defendant's ~~[person's]~~ right under this article to successfully complete a driving safety course or, if the offense was committed while operating a motorcycle, a motorcycle operator training course. The right to complete a course does not apply to a defendant ~~[person]~~ charged with:

(1) a violation of Section 545.066, ~~[545.401, 545.421,]~~ 550.022, or 550.023, Transportation Code; or

(2) an offense to which ~~[serious traffic violation as defined by]~~ Section 542.404 or 729.004(b) ~~[522.003],~~ Transportation Code, applies.

(p) ~~[(q)]~~ A notice to appear issued for an offense to which this article applies must inform a defendant charged with an offense under Section 472.022, Transportation Code, an offense

under Subtitle C, Title 7, Transportation Code, or an offense under Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle of the defendant's right to complete a driving safety course or, if the offense was committed while operating a motorcycle, of the defendant's right to complete a motorcycle operator training course. The notice required by this subsection must read substantially as follows:

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

(g) If the notice required by Subsection (p) is not provided to the defendant charged with the offense, the defendant may continue to exercise the defendant's right to take a driving safety course or a motorcycle operator training course until the notice required by Subsection (p) is provided to the defendant or there is a final disposition of the case.

(r) This article does not apply to an offense committed by a person who holds a commercial driver's license.

(s) An order of deferral under Subsection (c) terminates any liability under a bail bond or appearance bond given for the charge. [Nothing in this article shall prevent a court from assessing a special expense for deferred disposition in the same manner as provided by Article 45.051. For a deferred disposition under Subsection (b)(1), the court may only collect a fee of not more than \$10 in addition to any applicable court cost.]

SECTION ____ .03. Subsection (f), Section 472.022, Transportation Code, is amended to read as follows:

(f) Articles 45.051 and 45.0511 [~~Article 45.54~~], Code of Criminal Procedure, do [~~does~~] not apply to an offense under this section committed in a construction or maintenance work zone when workers are present.

SECTION ____ .04. The following laws are repealed:

- (1) Section 543.101, Transportation Code; and
- (2) Section 543.117, Transportation Code.

SECTION ____ .05. (a) This article takes effect September 1,

2003.

(b) Articles 45.051 and 45.0511, Code of Criminal Procedure, as amended by this article, apply only to an offense committed on or after September 1, 2003.

(c) An offense committed before September 1, 2003, is covered by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

ARTICLE ____ . DRIVER'S LICENSES

SECTION ____ .01. Section 521.292, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of Subsections (a)(3), (7), or (9), and (b), an adjudication of guilt under Article 45.051(c-1), Code of Criminal Procedure, is not a conviction.

ARTICLE ____ . COMMERCIAL DRIVER'S LICENSES

SECTION ____ .01. Section 522.003(25), Transportation Code, is amended to read as follows:

(25) "Serious traffic violation" means:

(A) a conviction arising from the driving of a [~~commercial~~] motor vehicle, other than a parking, vehicle weight, or vehicle defect violation, for:

(i) [~~(A)~~] excessive speeding, involving a single charge of driving 15 miles per hour or more above the posted speed limit;

(ii) [~~(B)~~] reckless driving, as defined by state or local law;

(iii) [~~(C)~~] a violation of a state or local law related to motor vehicle traffic control, including a law regulating the operation of vehicles on highways, arising in connection with a fatal accident;

(iv) [~~(D)~~] improper or erratic traffic lane change;

(v) [~~(E)~~] following the vehicle ahead too closely; or

(vi) [~~(F) operating~~] a [~~commercial motor vehicle in~~] violation of Section 522.011; or

(B) a violation of Section [or] 522.015.

SECTION ____ .02. Section 522.081, Transportation Code, is

amended to read as follows:

Sec. 522.081. DISQUALIFICATION. (a) This subsection applies ~~[only]~~ to a violation committed while operating any motor vehicle, including a commercial motor vehicle. A person who holds a commercial driver's license is disqualified from driving a commercial motor vehicle for:

(1) 60 days if convicted of:

(A) two serious traffic violations that occur within a three-year period; or

(B) one violation of a law that regulates the operation of a motor vehicle at a railroad grade crossing; or

(2) 120 days if convicted of:

(A) three serious traffic violations arising from separate incidents occurring within a three-year period; or

(B) two violations of a law that regulates the operation of a motor vehicle at a railroad grade crossing that occur within a three-year period~~[, or~~

~~[(3) one year if convicted of three violations of a law that regulates the operation of a motor vehicle at a railroad grade crossing that occur within a three-year period].~~

(b) This subsection applies to a violation committed while operating any motor vehicle, including a commercial motor vehicle, except as provided by this subsection. A person who holds a commercial driver's license is disqualified from driving a commercial motor vehicle for one year:

(1) if convicted of three violations of a law that regulates the operation of a motor vehicle at a railroad grade crossing that occur within a three-year period;

(2) on first conviction of:

(A) [(1)] driving a [commercial] motor vehicle under the influence of alcohol or a controlled substance, including a violation of Section 49.04 or 49.07, Penal Code;

(B) [(2) driving a commercial motor vehicle while the person's alcohol concentration was 0.04 or more;

[(3) intentionally] leaving the scene of an accident involving a [commercial] motor vehicle driven by the person;

(C) [(4)] using a [commercial] motor vehicle in

the commission of a felony, other than a felony described by Subsection (d)(2);

(D) [~~(5)~~ refusing to submit to a test to determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug while driving a commercial motor vehicle;

[~~(6)~~] causing the death of another person through the negligent or criminal operation of a [~~commercial~~] motor vehicle; or

(E) [~~(7)~~ driving a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled, or while the person is disqualified from driving a commercial motor vehicle, for an action or conduct that occurred while operating a commercial motor vehicle;

(3) for refusing to submit to a test under Chapter 724 to determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug while operating a motor vehicle in a public place; or

(4) if an analysis of the person's blood, breath, or urine under Chapter 724 determines that the person:

(A) had an alcohol concentration of 0.04 or more, or that a controlled substance or drug was present in the person's body, while operating a commercial motor vehicle in a public place; or

(B) had an alcohol concentration of 0.08 or more while operating a motor vehicle, other than a commercial motor vehicle, in a public place.

(c) A person who holds a commercial driver's license is disqualified from operating a commercial motor vehicle for three years if:

(1) the person:

(A) is convicted of an offense [~~If a violation~~] listed in Subsection (b)(2) and the vehicle being operated by the person was transporting a hazardous material required to be placarded; or

(B) refuses to submit to a test under Chapter 724 to determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug while operating

a motor vehicle in a public place and the vehicle being operated by the person was transporting a hazardous material required to be placarded; or

(2) an analysis of the person's blood, breath, or urine under Chapter 724 determines that while transporting a hazardous material required to be placarded the person:

(A) while operating a commercial motor vehicle in a public place had an alcohol concentration of 0.04 or more, or a controlled substance or drug present in the person's body; or

(B) while operating a motor vehicle, other than a commercial motor vehicle, in a public place had an alcohol concentration of 0.08 or more [~~(b) occurred while the person was transporting a hazardous material required to be placarded, the person is disqualified for three years~~].

(d) A person is disqualified from driving a commercial motor vehicle for life:

(1) if the person [~~+~~
[~~(1)~~] is convicted [~~of~~] two or more times [~~violations~~]
of an offense specified by Subsection (b)(2) [~~(b)~~], or a combination of those offenses, arising from two or more separate incidents; [~~or~~]

(2) if the person uses a [~~commercial~~] motor vehicle in the commission of a felony involving:

(A) the manufacture, distribution, or dispensing of a controlled substance; or

(B) possession with intent to manufacture, distribute, or dispense a controlled substance; or

(3) for any combination of two or more of the following, arising from two or more separate incidents:

(A) a conviction of the person for an offense described by Subsection (b)(2);

(B) a refusal by the person described by Subsection (b)(3); and

(C) an analysis of the person's blood, breath, or urine described by Subsection (b)(4).

(e) A person may not be issued a commercial driver's license if, in connection with the person's operation of a commercial motor

vehicle, the person commits an offense or engages in conduct that would disqualify the holder of a commercial driver's license from operating a commercial motor vehicle, or is determined to have had an alcohol concentration of 0.04 or more or to have had a controlled substance or drug present in the person's body. The period of prohibition under this subsection is equal to the appropriate period of disqualification required by Subsections (a)-(d).

(f) In this section, "felony" means an offense under state or federal law that is punishable by death or imprisonment for a term of more than one year.

SECTION __.03. Section 522.087, Transportation Code, is amended to read as follows:

Sec. 522.087. PROCEDURES APPLICABLE TO DISQUALIFICATION.

(a) A person is automatically disqualified under Section 522.081(a)(1)(B), Section 522.081(b)(2) [~~522.081(b)(1), (3), (4), (6), or (7)~~], or Section 522.081(d)(2). An appeal may not be taken from the disqualification.

(b) Disqualifying a person under Section 522.081(a), other than under Subdivision (1)(B) of that subsection, Section 522.081(b)(1), or Section 522.081(d)(1) or (3) is subject to the notice and hearing procedures of Sections 521.295-521.303. An appeal of the disqualification is subject to Section 521.308.

SECTION __.04. (a) This article takes effect September 1, 2003.

(b) Sections 522.081 and 522.087, Transportation Code, as amended by this article, apply only to conduct that is engaged in or to an offense that is committed on or after the effective date of this article. Conduct that is engaged in or an offense committed before the effective date of this article is governed by Sections 522.081 and 522.087, Transportation Code, as those sections existed immediately before the effective date of this article, and the former law is continued in effect for that purpose.