

1-1 By: Harris S.B. No. 631
1-2 (In the Senate - Filed February 21, 2003; February 27, 2003,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 7, 2003, reported favorably, as amended, by the following
1-5 vote: Yeas 4, Nays 0; April 7, 2003, sent to printer.)

1-6 COMMITTEE AMENDMENT NO. 1 By: Ratliff

1-7
1-8 Amend S.B. No. 631 as follows:

1-9 (1) In SECTION 1 of the bill, amended Article 45.051, Code
1-10 of Criminal Procedure (page 2, lines 26-35), strike proposed
1-11 Subsections (f), (g), and (h) and substitute:

1-12 (f) This article does not apply to:

1-13 (1) an offense to which Section 542.404 or 729.004(b),
1-14 Transportation Code, applies; or

1-15 (2) a traffic offense committed by a person who holds a
1-16 commercial driver's license.

1-17 (2) In SECTION 2 of the bill, amended Article 45.0511, Code
1-18 of Criminal Procedure (page 5, lines 24-36), strike proposed
1-19 Subsections (s) and (t) and substitute:

1-20 (s) This article does not apply to an offense committed by a
1-21 person who holds a commercial driver's license ~~[Nothing in this~~
1-22 ~~article shall prevent a court from assessing a special expense for~~
1-23 ~~deferred disposition in the same manner as provided by Article~~
1-24 ~~45.051. For a deferred disposition under Subsection (b)(1), the~~
1-25 ~~court may only collect a fee of not more than \$10 in addition to any~~
1-26 ~~applicable court cost].~~

1-27 A BILL TO BE ENTITLED
1-28 AN ACT

1-29 relating to the suspension of sentence and the deferral of
1-30 adjudication in cases involving certain misdemeanor traffic
1-31 offenses.

1-32 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-33 SECTION 1. Article 45.051, Code of Criminal Procedure, is
1-34 amended to read as follows:

1-35 Art. 45.051. SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL
1-36 DISPOSITION. (a) On a plea of guilty or nolo contendere by a
1-37 defendant or on a finding of guilt in a misdemeanor case punishable
1-38 by fine only and payment of all court costs, the judge ~~[justice]~~
1-39 may, at the judge's discretion, defer further proceedings without
1-40 entering an adjudication of guilt and place the defendant on
1-41 probation for a period not to exceed 180 days.

1-42 (b) During the deferral period, the judge ~~[justice]~~ may, at
1-43 the judge's discretion, require the defendant to:

1-44 (1) post a bond in the amount of the fine assessed to
1-45 secure payment of the fine;

1-46 (2) pay restitution to the victim of the offense in an
1-47 amount not to exceed the fine assessed;

1-48 (3) submit to professional counseling;

1-49 (4) submit to diagnostic testing for alcohol or a
1-50 controlled substance or drug;

1-51 (5) submit to a psychosocial assessment;

1-52 (6) participate in an alcohol or drug abuse treatment
1-53 or education program;

1-54 (7) pay the costs of any diagnostic testing,
1-55 psychosocial assessment, or participation in a treatment or
1-56 education program either directly or through the court as court
1-57 costs; ~~and~~

1-58 (8) complete a driving safety course approved under
1-59 the Texas Driver and Traffic Safety Education Act (Article
1-60 4413(29c), Vernon's Texas Civil Statutes) or another course as
1-61 directed by the judge; and

1-62 (9) comply with any other reasonable condition.

2-1 (c) ~~The [At the conclusion of the deferral period, if the]~~
 2-2 ~~defendant must present to the court [presents] satisfactory~~
 2-3 ~~evidence that the defendant [he] has complied with the requirements~~
 2-4 ~~imposed by[~~r~~] the judge under this article before the conclusion of~~
 2-5 ~~the deferral period. If satisfactory evidence is timely presented~~
 2-6 ~~to the court, the judge [justice] shall dismiss the complaint, and~~
 2-7 ~~it shall be clearly noted in the docket that the complaint is~~
 2-8 ~~dismissed and that there is not a final conviction. [Otherwise, the~~
 2-9 ~~justice may proceed with an adjudication of guilt. After an~~
 2-10 ~~adjudication of guilt, the justice may reduce the fine assessed or~~
 2-11 ~~may then impose the fine assessed, less any portion of the assessed~~
 2-12 ~~fine that has been paid.] If the complaint is dismissed, a special~~
 2-13 ~~expense not to exceed the amount of the fine assessed may be~~
 2-14 ~~imposed.~~

2-15 (d) If by [~~at~~] the conclusion of the deferral period the
 2-16 defendant does not present satisfactory evidence that the defendant
 2-17 complied with the requirements imposed, the judge [~~justice~~] may
 2-18 impose the fine assessed or impose a lesser fine. The imposition of
 2-19 the fine or lesser fine constitutes a final conviction of the
 2-20 defendant.

2-21 (e) Records relating to a complaint dismissed as provided by
 2-22 this article may be expunged under Article 55.01 [~~of this code~~]. If
 2-23 a complaint is dismissed under this article, there is not a final
 2-24 conviction and the complaint may not be used against the person for
 2-25 any purpose.

2-26 (f) This article does not apply to an offense to which
 2-27 Section 542.404 or 729.004(b), Transportation Code, applies.

2-28 (g) This article does not apply to a person who holds a
 2-29 commercial driver's license and commits:

2-30 (1) a serious traffic violation involving the
 2-31 operation of a motor vehicle or a commercial motor vehicle; or

2-32 (2) a drug or alcohol offense involving the operation
 2-33 of any motor vehicle.

2-34 (h) In this article, "serious traffic violation" has the
 2-35 meaning assigned by Section 522.003, Transportation Code.

2-36 SECTION 2. Article 45.0511, Code of Criminal Procedure, is
 2-37 amended to read as follows:

2-38 Art. 45.0511. DRIVING SAFETY COURSE OR MOTORCYCLE OPERATOR
 2-39 COURSE DISMISSAL [~~DEFERRED DISPOSITION~~] PROCEDURES [~~APPLICABLE TO~~
 2-40 TRAFFIC OFFENSES]. (a) This article applies only to an alleged
 2-41 offense that:

2-42 (1) is within the jurisdiction of a justice court or a
 2-43 municipal court;

2-44 (2) involves [~~involving~~] the operation of a motor
 2-45 vehicle; and

2-46 (3) is [~~other than a commercial motor vehicle, as]~~
 2-47 defined by:

2-48 (A) Section 472.022 [~~522.003~~], Transportation
 2-49 Code;

2-50 (B) Subtitle C, Title 7, Transportation Code; or
 2-51 (C) Section 729.001(a)(3), Transportation Code[~~r~~
 2-52 and supplements Article 45.051].

2-53 (b) The judge [~~During the deferral period under Article~~
 2-54 45.051, the justice:

2-55 [~~(1)~~] shall require the defendant to successfully
 2-56 complete a driving safety course approved by the Texas Education
 2-57 Agency or a course under the motorcycle operator training and
 2-58 safety program approved by the designated state agency under
 2-59 Chapter 662, Transportation Code, if:

2-60 (1) the defendant elects driving safety course or
 2-61 motorcycle operator training course dismissal under this article;

2-62 (2) [~~deferred disposition and~~] the defendant has not
 2-63 completed an approved driving safety course or motorcycle operator
 2-64 training course, as appropriate, within the [~~preceding~~] 12 months
 2-65 preceding the date of the offense;

2-66 (3) [~~and~~
 2-67 [~~(2)~~] may require the defendant to successfully
 2-68 complete a driving safety course approved by the Texas Education
 2-69 Agency if the defendant has completed an approved driving safety

3-1 ~~course within the preceding 12 months.~~

3-2 ~~[(c) Subsection (b)(1) applies only if:~~

3-3 ~~[(1)] the defendant [person] enters a plea under~~
 3-4 ~~Article 45.021 in person or in writing of no contest or guilty on or~~
 3-5 ~~[and,] before the answer date on the notice to appear and:~~

3-6 (A) ~~presents in person or by counsel to the court~~
 3-7 ~~a [an oral or written] request to take a course; or~~

3-8 (B) ~~sends to the court by certified mail, return~~
 3-9 ~~receipt requested, postmarked on or before the answer date on the~~
 3-10 ~~notice to appear, a written request to take a course;~~

3-11 ~~(4) [(2) the court enters judgment on the person's~~
 3-12 ~~plea of no contest or guilty at the time the plea is made but defers~~
 3-13 ~~imposition of the judgment for 180 days;~~

3-14 ~~[(3)] the defendant [person] has a valid Texas~~
 3-15 ~~driver's license or permit;~~

3-16 (5) ~~[(4)] the defendant [person] is charged with an~~
 3-17 ~~offense to which this article applies, other than speeding 25 miles~~
 3-18 ~~per hour or more over the posted speed limit; and~~

3-19 (6) ~~[(5)] the defendant [person] provides evidence of~~
 3-20 ~~financial responsibility as required by Chapter 601,~~
 3-21 ~~Transportation Code[+]~~

3-22 ~~[(6) the defendant's driving record as maintained by~~
 3-23 ~~the Texas Department of Public Safety shows the defendant has not~~
 3-24 ~~completed an approved driving safety course or motorcycle operator~~
 3-25 ~~training course, as appropriate, within the 12 months preceding the~~
 3-26 ~~date of the offense; and~~

3-27 ~~[(7) the defendant files an affidavit with the court~~
 3-28 ~~stating that the person is not taking a course under this section~~
 3-29 ~~and has not completed a course that is not shown on the person's~~
 3-30 ~~driving record within the 12 months preceding the date of the~~
 3-31 ~~offense].~~

3-32 (c) ~~The court shall enter judgment on the defendant's plea~~
 3-33 ~~of no contest or guilty at the time the plea is made, defer~~
 3-34 ~~imposition of the judgment, and allow the defendant 90 days to~~
 3-35 ~~successfully complete the approved driving safety course or~~
 3-36 ~~motorcycle operator training course and present to the court:~~

3-37 (1) ~~a uniform certificate of completion of the driving~~
 3-38 ~~safety course or a verification of completion of the motorcycle~~
 3-39 ~~operator training course;~~

3-40 (2) ~~the defendant's driving record as maintained by~~
 3-41 ~~the Department of Public Safety showing that the defendant had not~~
 3-42 ~~completed an approved driving safety course or motorcycle operator~~
 3-43 ~~training course, as applicable, within the 12 months preceding the~~
 3-44 ~~date of the offense; and~~

3-45 (3) ~~an affidavit stating that the defendant was not~~
 3-46 ~~taking a driving safety course or motorcycle operator training~~
 3-47 ~~course, as applicable, under this article on the date the request to~~
 3-48 ~~take the course was made and had not completed such a course that is~~
 3-49 ~~not shown on the defendant's driving record within the 12 months~~
 3-50 ~~preceding the date of the offense.~~

3-51 (d) ~~Notwithstanding Subsections (b)(2) and (3), [Subsection~~
 3-52 ~~(c)(1), on a written motion submitted to the court] before the final~~
 3-53 ~~disposition of the case, the court may grant a request to take a~~
 3-54 ~~driving safety course or a motorcycle operator training course~~
 3-55 ~~under this article.~~

3-56 (e) ~~A request to take a driving safety course made at or~~
 3-57 ~~before the time and at the place at which a defendant [person] is~~
 3-58 ~~required to appear in court is an appearance in compliance with the~~
 3-59 ~~defendant's [person's] promise to appear.~~

3-60 (f) ~~In addition to court costs and fees authorized or~~
 3-61 ~~imposed by a law of this state and applicable to the offense, the~~
 3-62 ~~[The] court may:~~

3-63 (1) ~~require a defendant [person] requesting a [driving~~
 3-64 ~~safety] course under Subsection (b) to pay an administrative [a]~~
 3-65 ~~fee set by the court to cover the cost of administering this article~~
 3-66 ~~at an amount of not more than \$10; or~~

3-67 (2) ~~require a defendant requesting a course under~~
 3-68 ~~Subsection (d) to pay a fee set by the court at an amount not to~~
 3-69 ~~exceed the maximum amount of the fine for the offense committed by~~

4-1 the defendant ~~[, including any other fee authorized by statute or~~
 4-2 ~~municipal ordinance, to cover the cost of administering this~~
 4-3 ~~article]~~.

4-4 (g) A defendant [person] who requests but does not take a
 4-5 course is not entitled to a refund of the fee.

4-6 (h) Fees collected by a municipal court shall be deposited
 4-7 in the municipal treasury. Fees collected by another court shall be
 4-8 deposited in the county treasury of the county in which the court is
 4-9 located.

4-10 (i) If a defendant [person] requesting a ~~[driving safety]~~
 4-11 course under this article fails to comply with Subsection (c)
 4-12 ~~[furnish evidence of the successful completion of the course to the~~
 4-13 ~~court]~~, the court shall:

4-14 (1) notify the defendant [person] in writing, mailed
 4-15 to the address on file with the court or appearing on the notice to
 4-16 appear, of that failure; and

4-17 (2) require the defendant [person] to appear at the
 4-18 time and place stated in the notice to show cause why the evidence
 4-19 was not timely submitted to the court.

4-20 (j) If the defendant [A person who] fails to appear at the
 4-21 time and place stated in the notice under Subsection (i), or appears
 4-22 at the time and place stated in the notice but does not show good
 4-23 cause for the defendant's failure to comply with Subsection (c),
 4-24 the court shall enter an adjudication of guilt and impose sentence
 4-25 ~~[commits a misdemeanor punishable as provided by Section 543.009,~~
 4-26 ~~Transportation Code].~~

4-27 (k) On a defendant's [person's] showing of good cause for
 4-28 failure to furnish evidence to the court, the court may allow an
 4-29 extension of time during which the defendant [person] may present:

4-30 (1) a uniform certificate of course completion as
 4-31 evidence that the defendant [person] successfully completed the
 4-32 driving safety course; or

4-33 (2) a verification of course completion as evidence
 4-34 that the defendant successfully completed the motorcycle operator
 4-35 training course.

4-36 (1) When a defendant [person] complies with Subsection (c)
 4-37 ~~[(b) and a uniform certificate of course completion is accepted by~~
 4-38 ~~the court]~~, the court shall:

4-39 (1) remove the judgment and dismiss the charge;

4-40 (2) report the fact that the defendant [person]
 4-41 successfully completed a driving safety course or a motorcycle
 4-42 operator training course and the date of completion to the Texas
 4-43 Department of Public Safety for inclusion in the person's driving
 4-44 record; and

4-45 (3) state in that ~~[this]~~ report whether the course was
 4-46 taken under ~~[the procedure provided by]~~ this article to provide
 4-47 information necessary to determine eligibility to take a subsequent
 4-48 course under Subsection (b).

4-49 (m) The court may dismiss only one charge for each
 4-50 completion of a course.

4-51 (n) A charge that is dismissed under this article may not be
 4-52 part of a person's driving record or used for any purpose.

4-53 (o) An insurer delivering or issuing for delivery a motor
 4-54 vehicle insurance policy in this state may not cancel or increase
 4-55 the premium charged an insured under the policy because the insured
 4-56 completed a driving safety course or a motorcycle operator training
 4-57 course, or had a charge dismissed under this article.

4-58 (p) The court shall advise a defendant [person] charged with
 4-59 a misdemeanor under Section 472.022, Transportation Code, Subtitle
 4-60 C, Title 7, Transportation Code, or Section 729.001(a)(3),
 4-61 Transportation Code, committed while operating a motor vehicle of
 4-62 the defendant's [person's] right under this article to successfully
 4-63 complete a driving safety course or, if the offense was committed
 4-64 while operating a motorcycle, a motorcycle operator training
 4-65 course. The right to complete a course does not apply to a
 4-66 defendant [person] charged with:

4-67 (1) a violation of Section 545.066, ~~[545.401,~~
 4-68 ~~545.421,]~~ 550.022, or 550.023, Transportation Code;

4-69 (2) a ~~[or]~~ serious traffic violation; or

5-1 (3) an offense to which ~~[as defined by]~~ Section
5-2 542.404 or 729.004(b) ~~[522.003]~~, Transportation Code, applies.

5-3 (q) A notice to appear issued for an offense to which this
5-4 article applies must inform a defendant charged with an offense
5-5 under Section 472.022, Transportation Code, an offense under
5-6 Subtitle C, Title 7, Transportation Code, or an offense under
5-7 Section 729.001(a)(3), Transportation Code, committed while
5-8 operating a motor vehicle of the defendant's right to complete a
5-9 driving safety course or, if the offense was committed while
5-10 operating a motorcycle, of the defendant's right to complete a
5-11 motorcycle operator training course. The notice required by this
5-12 subsection must read substantially as follows:

5-13 "You may be able to require that this charge be dismissed by
5-14 successfully completing a driving safety course or a motorcycle
5-15 operator training course. You will lose that right if, on or before
5-16 your appearance date, you do not provide the court with notice of
5-17 your request to take the course."

5-18 (r) If the notice required by Subsection (q) is not provided
5-19 to the defendant charged with the offense, the defendant may
5-20 continue to exercise the defendant's right to take a driving safety
5-21 course or a motorcycle operator training course until the notice
5-22 required by Subsection (q) is provided to the defendant or there is
5-23 a final disposition of the case.

5-24 (s) This article does not apply to a person who holds a
5-25 commercial driver's license and commits:

5-26 (1) a serious traffic violation involving the
5-27 operation of a motor vehicle or a commercial motor vehicle; or

5-28 (2) a drug or alcohol offense involving the operation
5-29 of any motor vehicle.

5-30 (t) In this article, "serious traffic violation" has the
5-31 meaning assigned by Section 522.003, Transportation Code ~~[Nothing~~
5-32 ~~in this article shall prevent a court from assessing a special~~
5-33 ~~expense for deferred disposition in the same manner as provided by~~
5-34 ~~Article 45.051. For a deferred disposition under Subsection~~
5-35 ~~(b)(1), the court may only collect a fee of not more than \$10 in~~
5-36 ~~addition to any applicable court cost].~~

5-37 SECTION 3. Subsection (f), Section 472.022, Transportation
5-38 Code, is amended to read as follows:

5-39 (f) Articles 45.051 and 45.0511 ~~[Article 45.54]~~, Code of
5-40 Criminal Procedure, do ~~[does]~~ not apply to an offense under this
5-41 section committed in a construction or maintenance work zone when
5-42 workers are present.

5-43 SECTION 4. The following laws are repealed:

5-44 (1) Section 543.101, Transportation Code; and

5-45 (2) Section 543.117, Transportation Code.

5-46 SECTION 5. (a) This Act takes effect September 1, 2003.

5-47 (b) The change in law made by this Act applies only to an
5-48 offense committed on or after September 1, 2003.

5-49 (c) An offense committed before September 1, 2003, is
5-50 covered by the law in effect when the offense was committed, and the
5-51 former law is continued in effect for that purpose. For purposes of
5-52 this section, an offense was committed before September 1, 2003, if
5-53 any element of the offense was committed before that date.

5-54 * * * * *