

By: Driver

H.B. No. 1081

Substitute the following for H.B. No. 1081:

By: Frost

C.S.H.B. No. 1081

A BILL TO BE ENTITLED

AN ACT

relating to suspension or denial of a driver's license for failure to appear, pay a fine, or satisfy a judgment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 15.03, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

(b) A summons may be issued in any case where a warrant may be issued, and shall be in the same form as the warrant except that it shall summon the defendant to appear before a magistrate at a stated time and place. The summons shall be served upon a defendant by delivering a copy to him personally, or by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by mailing it to the defendant's last known address. If a defendant fails to appear in response to the summons, the magistrate may:

(1) issue a warrant; or

(2) issue an order suspending the defendant's driver's license or permit or denying issuance of a driver's license or permit to the defendant [shall be issued].

(c) The summons must contain the following warning:

FAILURE TO APPEAR ACCORDING TO THE

TERMS OF THIS SUMMONS MAY RESULT IN THE

ISSUANCE OF A WARRANT FOR YOUR ARREST OR

SUSPENSION OR DENIAL OF ISSUANCE OF YOUR
DRIVER'S LICENSE OR PERMIT.

(d) A magistrate who issues an order under Subsection (b)(2)
shall promptly notify the Department of Public Safety when the
defendant appears before the magistrate.

SECTION 2. Subchapter B, Chapter 45, Code of Criminal
Procedure, is amended by adding Article 45.0451 to read as follows:

Art. 45.0451. FAILURE TO APPEAR OR PAY FINE; JUSTICE OR
MUNICIPAL COURT. (a) A justice or municipal court, in addition to
or instead of any other action permitted by law, may order the
Department of Public Safety to suspend a person's driver's license
or permit or deny issuance of a driver's license or permit to a
person if the person fails to:

- (1) appear according to terms of release;
- (2) honor a summons issued by the court; or
- (3) satisfy a judgment of the court.

(b) Before issuing an order under Subsection (a), the court
shall issue a summons commanding the appearance of the person by
first class mail to the person's last known address filed with the
court. The summons must contain the following warning:

FAILURE TO APPEAR ACCORDING TO THE TERMS OF THIS
SUMMONS OR FAILURE TO PAY YOUR FINES MAY RESULT IN THE
SUSPENSION OR DENIAL OF ISSUANCE OF YOUR DRIVER'S
LICENSE OR PERMIT.

(c) On receipt of an order under Subsection (a), the
Department of Public Safety shall promptly send written notice of
the order by first class mail to the person's last known address in

1 the department's records. The notice is considered received not
2 later than the fifth day after the date it is mailed.

3 (d) A court that has issued an order under Subsection (a)
4 shall promptly notify the Department of Public Safety on final
5 disposition of the case or on receiving evidence that the judgment
6 has been satisfied to the satisfaction of the court.

7 SECTION 3. Section 521.3451, Transportation Code, is
8 amended to read as follows:

9 Sec. 521.3451. SUSPENSION OR DENIAL ON ORDER OF JUSTICE OR
10 MUNICIPAL COURT [~~FOR CONTEMPT OF COURT~~]; REINSTATEMENT. (a) The
11 department shall suspend or deny the issuance of a license or
12 instruction permit on receipt of an order to suspend or deny the
13 issuance of the license or permit from a justice or municipal court
14 under Article 15.03, 45.050, or 45.0451, Code of Criminal
15 Procedure.

16 (b) The department shall reinstate a license or permit
17 suspended or reconsider a license or permit denied under Subsection
18 (a) on receiving notice from the justice or municipal court that
19 ordered the suspension or denial that the person whose license or
20 permit was suspended or denied [~~contemnor~~] has fully complied with
21 the court's order, the terms of the appearance, or the terms of the
22 judgment, as applicable.

23 SECTION 4. Section 543.005, Transportation Code, is amended
24 to read as follows:

25 Sec. 543.005. PROMISE TO APPEAR; RELEASE. (a) To secure
26 release, the person arrested must make a written promise to appear
27 in court by signing the written notice prepared by the arresting

1 officer. The signature may be obtained on a duplicate form or on an
2 electronic device capable of creating a copy of the signed notice.
3 The arresting officer shall retain the paper or electronic original
4 of the notice and deliver the copy of the notice to the person
5 arrested. The officer shall then promptly release the person from
6 custody.

7 (b) In addition to other information required by statute,
8 the copy or the written notice to appear delivered to the person
9 arrested must contain the following warning:

10 FAILURE TO APPEAR BEFORE THE COURT DESIGNATED BY
11 THIS WRITTEN PROMISE TO APPEAR MAY RESULT IN THE
12 ISSUANCE OF A WARRANT FOR YOUR ARREST OR SUSPENSION OF
13 YOUR DRIVER'S LICENSE.

14 SECTION 5. The heading of Chapter 706, Transportation Code,
15 is amended to read as follows:

16 CHAPTER 706. SUSPENSION [~~DENIAL OF RENEWAL~~] OF LICENSE
17 FOR FAILURE TO APPEAR OR TO SATISFY JUDGMENT

18 SECTION 6. Chapter 706, Transportation Code, is amended by
19 adding Section 706.0011 to read as follows:

20 Sec. 706.0011. FEDERAL GOVERNMENT AS POLITICAL
21 SUBDIVISION. For the purposes of this chapter the federal
22 government is considered to be a political subdivision.

23 SECTION 7. Section 706.002, Transportation Code, is amended
24 by amending Subsection (a) and adding Subsection (c) to read as
25 follows:

26 (a) A political subdivision may contract with the
27 department to provide information necessary for the department to

1 suspend [~~deny renewal of~~] the driver's license of a person who fails
2 to appear for a complaint or citation or fails to pay or satisfy a
3 judgment ordering payment of a fine and cost in the manner ordered
4 by the court in a matter involving any offense that a court has
5 jurisdiction of under Chapter 4, Code of Criminal Procedure. The
6 contract may also apply to a failure to appear, honor a summons, or
7 satisfy a judgment as provided by Article 15.03(b) or 45.0451, Code
8 of Criminal Procedure, to the extent and in the manner determined by
9 the department.

10 (c) The department may agree to accept information from the
11 federal government necessary for the department to suspend the
12 driver's license of a person who fails to appear for a citation, or
13 fails to pay or satisfy a judgment ordering payment of a fine and
14 costs in the manner ordered by the court after issuance of a
15 citation, if the federal government agrees to establish and
16 maintain customer support services as directed by the department,
17 including a toll-free telephone service line to answer and resolve
18 questions from persons whose driver's licenses are suspended under
19 this chapter, and to comply with terms, policies, and rules adopted
20 by the department to administer this chapter.

21 SECTION 8. Section 706.003(b), Transportation Code, is
22 amended to read as follows:

23 (b) The warning under Subsection (a):

24 (1) is in addition to any other warning required by
25 law;

26 (2) must state in substance that if the person fails to
27 appear in court as provided by law for the prosecution of the

1 offense or if the person fails to pay or satisfy a judgment ordering
2 the payment of a fine and cost in the manner ordered by the court,
3 ~~[the person may be denied renewal of]~~ the person's driver's license
4 may be suspended; and

5 (3) may be printed on the same instrument as the
6 citation.

7 SECTION 9. The heading of Section 706.004, Transportation
8 Code, is amended to read as follows:

9 Sec. 706.004. SUSPENSION ~~[DENIAL OF RENEWAL]~~ OF DRIVER'S
10 LICENSE.

11 SECTION 10. Section 706.004(a), Transportation Code, is
12 amended to read as follows:

13 (a) If a political subdivision has contracted with the
14 department or the department has agreed to accept information from
15 the federal government, on receiving the necessary information from
16 the political subdivision the department may suspend ~~[deny renewal~~
17 ~~of]~~ the person's driver's license for failure to appear based on a
18 complaint or citation or failure to pay or satisfy a judgment
19 ordering the payment of a fine and cost in the manner ordered by the
20 court in a matter involving an offense described by Section
21 706.002(a).

22 SECTION 11. Section 706.005, Transportation Code, is
23 amended to read as follows:

24 Sec. 706.005. CLEARANCE NOTICE TO DEPARTMENT. (a) A
25 political subdivision shall notify the department that there is no
26 cause to continue the suspension ~~[to deny renewal]~~ of a person's
27 driver's license based on the person's previous failure to appear or

1 failure to pay or satisfy a judgment ordering the payment of a fine
2 and cost in the manner ordered by the court in a matter involving an
3 offense described by Section 706.002(a), on payment of a fee as
4 provided by Section 706.006 and:

5 (1) the perfection of an appeal of the case for which
6 the warrant of arrest was issued or judgment arose;

7 (2) the dismissal of the charge for which the warrant
8 of arrest was issued or judgment arose;

9 (3) the posting of bond or the giving of other security
10 to reinstate the charge for which the warrant was issued;

11 (4) the payment or discharge of the fine and cost owed
12 on an outstanding judgment of the court; or

13 (5) other suitable arrangement to pay the fine and
14 cost within the court's discretion.

15 (b) The department may not continue the suspension [~~to deny~~
16 ~~the renewal~~] of the person's driver's license under this chapter
17 after the department receives notice:

18 (1) under Subsection (a);

19 (2) that the person was acquitted of the charge on
20 which the person failed to appear; or

21 (3) from the political subdivision that the failure to
22 appear report or court order to pay a fine or cost relating to the
23 person:

24 (A) was sent to the department in error; or

25 (B) has been destroyed in accordance with the
26 political subdivision's records retention policy.

27 SECTION 12. Section 706.006(c), Transportation Code, is

1 amended to read as follows:

2 (c) The court or the department may suspend [~~deny renewal~~
3 ~~of~~] the driver's license of a person who does not pay a fee due under
4 this section until the fee is paid. The fee required by this
5 section is in addition to any other fee required by law.

6 SECTION 13. Section 706.009(a), Transportation Code, is
7 amended to read as follows:

8 (a) A vendor must establish and maintain customer support
9 services as directed by the department, including a toll-free
10 telephone service line to answer and resolve questions from persons
11 who have [~~are denied renewal of~~] a driver's license suspended under
12 this chapter.

13 SECTION 14. Section 706.011, Transportation Code, is
14 amended to read as follows:

15 Sec. 706.011. LIABILITY OF STATE OR POLITICAL SUBDIVISION.

16 (a) An action for damages may not be brought against the state or a
17 political subdivision based on an act or omission under this
18 chapter, including the suspension [~~denial of renewal~~] of a driver's
19 license.

20 (b) The state or a political subdivision may not be held
21 liable in damages based on an act or omission under this chapter,
22 including the suspension [~~denial of renewal~~] of a driver's license.

23 SECTION 15. (a) The change in law made by this Act applies
24 only to an offense committed on or after the effective date of this
25 Act. For the purposes of this section, an offense is committed
26 before the effective date of this Act if any element of the offense
27 occurs before that date.

1 (b) An offense committed before the effective date of this
2 Act is governed by the law in effect when the offense was committed,
3 and the former law is continued in effect for that purpose.

4 SECTION 16. This Act takes effect September 1, 2005.