

By: Harper-Brown

H.B. No. 2185

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of commercial driver's license holders for dismissal of certain charges on completion of a driving safety course.

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

SECTION 1. Article 45.051(f), Code of Criminal Procedure, is amended to read as follows:

(f) This article does not apply to[+
[~~(1)~~] an offense to which Section 542.404, Transportation Code, applies[~~+~~ or
[~~(2)~~ a violation of a state law or local ordinance relating to motor vehicle control, other than a parking violation, committed by a person who:

[~~(A)~~ holds a commercial driver's license, or
[~~(B)~~ held a commercial driver's license when the offense was committed].

SECTION 2. Article 45.0511, Code of Criminal Procedure, is amended by amending Subsections (b), (c), and (c-1) and adding Subsection (v) to read as follows:

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

3 (2) the defendant:

4 (A) has not completed an approved driving safety
5 course or motorcycle operator training course, as appropriate,
6 within the 12 months preceding the date of the offense if the
7 defendant:

8 (i) does not hold a commercial driver's
9 license; or

10 (ii) did not hold a commercial driver's
11 license when the offense was committed; [or]

12 (B) does not have a valid Texas driver's license
13 or permit, is a member, or the spouse or dependent child of a
14 member, of the United States military forces serving on active
15 duty, and has not completed a driving safety course or motorcycle
16 operator training course, as appropriate, in another state within
17 the 12 months preceding the date of the offense; or

18 (C) has not completed an approved driving safety
19 course or motorcycle operator training course, as appropriate,
20 within the 48 months preceding the date of the offense if the
21 defendant:

22 (i) holds a commercial driver's license; or

23 (ii) held a commercial driver's license
24 when the offense was committed;

25 (3) the defendant enters a plea under Article 45.021
26 in person or in writing of no contest or guilty on or before the
27 answer date on the notice to appear and:

1 (A) presents in person or by counsel to the court
2 a request to take a course; or

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

6 (4) the defendant:

7 (A) has a valid Texas driver's license or permit,
8 including a commercial driver's license; or

9 (B) is a member, or the spouse or dependent child
10 of a member, of the United States military forces serving on active
11 duty;

12 (5) the defendant is charged with an offense to which
13 this article applies, other than speeding at a speed of:

14 (A) 95 miles per hour or more; or

15 (B) 25 miles per hour or more over the posted
16 speed limit; ~~and~~

17 (6) the defendant provides evidence of financial
18 responsibility as required by Chapter 601, Transportation Code; and

19 (7) the defendant was not operating a commercial motor
20 vehicle at the time of the alleged offense.

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

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

1 operator training course;

2 (2) unless the judge proceeds under Subsection (c-1),
3 the defendant's driving record as maintained by the Department of
4 Public Safety, if any, showing that the defendant had not completed
5 an approved driving safety course or motorcycle operator training
6 course, as applicable, within the:

7 (A) 12 months preceding the date of the offense
8 if the defendant:

9 (i) does not hold a commercial driver's
10 license; or

11 (ii) did not hold a commercial driver's
12 license when the offense was committed; or

13 (B) 48 months preceding the date of the offense
14 if the defendant:

15 (i) holds a commercial driver's license; or

16 (ii) held a commercial driver's license
17 when the offense was committed;

18 (3) an affidavit stating that the defendant was not
19 taking a driving safety course or motorcycle operator training
20 course, as applicable, under this article on the date the request to
21 take the course was made and had not completed such a course that is
22 not shown on the defendant's driving record within the:

23 (A) 12 months preceding the date of the offense
24 if the defendant:

25 (i) does not hold a commercial driver's
26 license; or

27 (ii) did not hold a commercial driver's

1 license when the offense was committed; or

2 (B) 48 months preceding the date of the offense
3 if the defendant:

4 (i) holds a commercial driver's license; or

5 (ii) held a commercial driver's license
6 when the offense was committed; and

7 (4) if the defendant does not have a valid Texas
8 driver's license or permit and is a member, or the spouse or
9 dependent child of a member, of the United States military forces
10 serving on active duty, an affidavit stating that the defendant was
11 not taking a driving safety course or motorcycle operator training
12 course, as appropriate, in another state on the date the request to
13 take the course was made and had not completed such a course within
14 the 12 months preceding the date of the offense.

15 (c-1) In this subsection, "TexasOnline" has the meaning
16 assigned by Section 2054.003, Government Code. As an alternative
17 to receiving the defendant's driving record under Subsection
18 (c)(2), the judge, at the time the defendant requests a driving
19 safety course or motorcycle operator training course dismissal
20 under this article, may require the defendant to pay a fee in an
21 amount equal to the sum of the amount of the fee established by
22 Section 521.048, Transportation Code, and the TexasOnline fee and,
23 using TexasOnline, may request the Texas Department of Public
24 Safety to provide the judge with a copy of the defendant's driving
25 record that shows the information described by Section 521.047(b),
26 Transportation Code. As soon as practicable and using TexasOnline,
27 the Texas Department of Public Safety shall provide the judge with

the requested copy of the defendant's driving record. The fee authorized by this subsection is in addition to any other fee required under this article. If the copy of the defendant's driving record provided to the judge under this subsection shows that 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 if the defendant does not hold a commercial driver's license or did not hold a commercial driver's license when the offense was committed or within the 48 months preceding the date of the offense if the defendant holds a commercial driver's license or held a commercial driver's license when the offense was committed, the judge shall allow the defendant to complete the appropriate course as provided by this article. The custodian of a municipal or county treasury who receives fees collected under this subsection shall keep a record of the fees and, without deduction or proration, forward the fees to the comptroller, with and in the manner required for other fees and costs received in connection with criminal cases. The comptroller shall credit fees received under this subsection to the Texas Department of Public Safety.

(v) In this section, "commercial motor vehicle" has the meaning assigned by Section 522.003, Transportation Code.

SECTION 3. Article 45.0511(s), Code of Criminal Procedure, is repealed.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is

1 governed by the law in effect on the date the offense was committed,
2 and the former law is continued in effect for that purpose. For the
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense occurred
5 before that date.

6 SECTION 5. This Act takes effect September 1, 2011.