

By: Holland, et al.

H.B. No. 3376

A BILL TO BE ENTITLED

AN ACT

1
2 relating to forms of notice that may be provided by the Department
3 of Public Safety during certain enforcement proceedings and
4 actions.

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

6 SECTION 1. Section 521.2465, Transportation Code, is
7 amended by adding Subsection (a-1) to read as follows:

8 (a-1) The notice provided to the person by the department
9 under Subsection (a) may be provided by:

10 (1) first class mail; or

11 (2) e-mail if the person has provided an e-mail
12 address to the department and has elected to receive notice
13 electronically.

14 SECTION 2. Section 521.295, Transportation Code, is amended
15 to read as follows:

16 Sec. 521.295. NOTICE OF DEPARTMENT'S DETERMINATION. (a) If
17 the department suspends a person's license under Section 521.292 or
18 revokes a person's license under Section 521.294, the department
19 shall send a notice of suspension or revocation by:

20 (1) first class mail to the person's address in the
21 records of the department; or

22 (2) e-mail if the person has provided an e-mail
23 address to the department and has elected to receive notice
24 electronically.

1 (b) Notice is considered received on the fifth day after the
2 date the notice is sent [~~mailed~~].

3 SECTION 3. Section 521.344, Transportation Code, is amended
4 by amending Subsection (g) and adding Subsection (g-1) to read as
5 follows:

6 (g) A revocation, suspension, or prohibition order under
7 Subsection (e) or (f) remains in effect until the department
8 receives notice of successful completion of the educational
9 program. The director shall promptly send notice of a revocation or
10 prohibition order issued under Subsection (e) or (f) by:

11 (1) first class mail to the person at the person's most
12 recent address as shown in the records of the department; or

13 (2) e-mail if the person has provided an e-mail
14 address to the department and has elected to receive notice
15 electronically.

16 (g-1) The notice provided under Subsection (g) must include
17 the date of the revocation or prohibition order, the reason for the
18 revocation or prohibition, and a statement that the person has the
19 right to request in writing that a hearing be held on the revocation
20 or prohibition. Notice is considered received on the fifth day
21 after the date the notice is sent [~~mailed~~]. A revocation or
22 prohibition under Subsection (e) or (f) takes effect on the 30th day
23 after the date the notice is sent [~~mailed~~]. The person may request a
24 hearing not later than the 20th day after the date the notice is
25 sent [~~mailed~~]. If the department receives a request under this
26 subsection, the department shall set the hearing for the earliest
27 practical time and the revocation or prohibition does not take

1 effect until resolution of the hearing.

2 SECTION 4. Section 521.457(d), Transportation Code, is
3 amended to read as follows:

4 (d) Except as provided by Subsection (c), it is an
5 affirmative defense to prosecution of an offense, other than an
6 offense under Section 521.341, that the person did not receive
7 actual notice of a cancellation, suspension, revocation, or
8 prohibition order relating to the person's license. For purposes
9 of this section, actual notice is presumed if the notice was sent
10 ~~[mailed]~~ in accordance with law.

11 SECTION 5. Section 601.124, Transportation Code, is amended
12 by amending Subsection (d) and adding Subsection (e) to read as
13 follows:

14 (d) The department for cause may cancel a certificate of
15 self-insurance after a hearing. ~~[The self-insurer must receive at~~
16 ~~least five days' notice of the hearing.]~~ Cause includes failure to
17 pay a judgment before the 31st day after the date the judgment
18 becomes final.

19 (e) A self-insurer must receive at least five days' notice
20 of a hearing held under Subsection (d). The department shall send
21 notice of the hearing to the self-insurer by:

22 (1) first class mail; or

23 (2) e-mail if the self-insurer has provided an e-mail
24 address to the department and has elected to receive notice
25 electronically.

26 SECTION 6. Section 601.155, Transportation Code, is amended
27 to read as follows:

1 Sec. 601.155. NOTICE OF DETERMINATION. (a) The department
2 shall notify the affected person of a determination made under
3 Section 601.154 by:

- 4 (1) personal service;
5 (2) first class mail; or
6 (3) e-mail if the person has provided an e-mail
7 address to the department and has elected to receive notice
8 electronically.

9 (b) The notice must state that:

10 (1) the person's driver's license and vehicle
11 registration or the person's nonresident's operating privilege will
12 be suspended unless the person, not later than the 20th day after
13 the date the notice was personally served or sent [~~mailed~~],
14 establishes that:

15 (A) this subchapter does not apply to the person,
16 and the person has previously provided this information to the
17 department; or

18 (B) there is no reasonable probability that a
19 judgment will be rendered against the person as a result of the
20 accident; and

21 (2) the person is entitled to a hearing under this
22 subchapter if a written request for a hearing is delivered or mailed
23 to the department not later than the 20th day after the date the
24 notice was personally served or sent [~~mailed~~].

25 (c) Notice under this section that is mailed by first class
26 mail must be mailed to the person's last known address, as shown by
27 the department's records.

1 (d) For purposes of this section, notice is presumed to be
2 received if the notice was sent [~~mailed~~] to the person's last known
3 address or e-mail address, as shown by the department's records.

4 SECTION 7. Section 601.156(c), Transportation Code, is
5 amended to read as follows:

6 (c) The department shall summon the person requesting the
7 hearing to appear at the hearing. Notice under this subsection:

8 (1) shall be:

9 (A) delivered through personal service;

10 (B) [~~or~~] mailed by first class mail to the
11 person's last known address, as shown by the department's records;
12 or

13 (C) sent by e-mail if the person has provided an
14 e-mail address to the department and has elected to receive notice
15 electronically; and

16 (2) [~~The notice~~] must include written charges issued
17 by the department.

18 SECTION 8. Section 601.159, Transportation Code, is amended
19 to read as follows:

20 Sec. 601.159. PROCEDURES FOR SUSPENSION OF DRIVER'S LICENSE
21 AND VEHICLE REGISTRATION OR PRIVILEGE. The department shall suspend
22 the driver's license and each vehicle registration of an owner or
23 operator or the nonresident's operating privilege of an owner or
24 operator unless:

25 (1) if a hearing is not requested, the person, not
26 later than the 20th day after the date the notice under Section
27 601.155 was personally served or sent [~~mailed~~]:

1 (A) delivers or mails to the department a written
2 request for a hearing;

3 (B) shows that this subchapter does not apply to
4 the person; or

5 (C) complies with Section 601.153; or

6 (2) the person complies with Section 601.153 not later
7 than the 20th day after:

8 (A) the date of the expiration of the period in
9 which an appeal may be brought, if the determination at a hearing is
10 rendered against the owner or operator and the owner or operator
11 does not appeal; or

12 (B) the date of a decision against the person
13 following the appeal.

14 SECTION 9. Section 601.161, Transportation Code, is amended
15 to read as follows:

16 Sec. 601.161. NOTICE OF SUSPENSION. Not later than the 11th
17 day before the effective date of a suspension under Section
18 601.159, the department shall send notice of the suspension to each
19 affected owner or operator. The department shall send the notice by
20 first class mail or by e-mail to any owner or operator who has
21 provided an e-mail address to the department and who has elected to
22 receive notice electronically. The notice must state the amount
23 required as security under Section 601.153 and the necessity for
24 the owner or operator to file evidence of financial responsibility
25 with the department.

26 SECTION 10. Section 601.232(a), Transportation Code, is
27 amended to read as follows:

1 (a) The department shall send [~~mail~~] in a timely manner a
2 notice to each person whose driver's license and vehicle
3 registrations are suspended under Section 601.231.

4 SECTION 11. Section 601.371(b), Transportation Code, is
5 amended to read as follows:

6 (b) It is an affirmative defense to prosecution under this
7 section that the person had not received notice of a suspension
8 order concerning the person's vehicle registration. For purposes
9 of this subsection, notice is presumed to be received if the notice
10 was sent [~~mailed~~] in accordance with this chapter to the last known
11 address or e-mail address of the person as shown by department
12 records.

13 SECTION 12. Section 601.372, Transportation Code, is
14 amended by amending Subsections (b) and (d) and adding Subsection
15 (b-1) to read as follows:

16 (b) The notice must be provided by:

17 (1) personal delivery to the person;

18 (2) [~~or by~~] deposit in the United States mail
19 addressed to the person at the last address supplied to the
20 department by the person; or

21 (3) e-mail if the person has provided an e-mail
22 address to the department and has elected to receive notice
23 electronically.

24 (b-1) Notice provided under Subsection (b) by mail or e-mail
25 is presumed to be received on the 10th day after the date the notice
26 is sent [~~mailed~~].

27 (d) Proof of the notice may be made by the certificate of a

1 department employee stating that:

2 (1) the notice was prepared in the regular course of
3 business and placed in the United States mail or sent by e-mail as
4 part of the regular organized activity of the department; or

5 (2) the employee delivered the notice in person.

6 SECTION 13. Section 708.055, Transportation Code, is
7 amended to read as follows:

8 Sec. 708.055. NOTICE OF ASSIGNMENT OF FIFTH POINT. The
9 department shall notify the holder of a driver's license of the
10 assignment of a fifth point on that license by:

11 (1) first class mail sent to the person's most recent
12 address as shown on the records of the department; or

13 (2) e-mail if the person has provided an e-mail
14 address to the department and has elected to receive notice
15 electronically.

16 SECTION 14. Section 708.151(a), Transportation Code, is
17 amended to read as follows:

18 (a) The department shall send notices as required by
19 Subsection (b) to the holder of a driver's license when a surcharge
20 is assessed on that license. Each notice must:

21 (1) be sent by:

22 (A) first class mail to the person's most recent
23 address as shown on the records of the department or to the person's
24 most recent forwarding address on record with the United States
25 Postal Service if it is different; or

26 (B) e-mail if the person has provided an e-mail
27 address to the department and has elected to receive notice

1 electronically;

2 (2) specify the date by which the surcharge must be
3 paid;

4 (3) state the total dollar amount of the surcharge
5 that must be paid, the number of monthly payments required under an
6 installment payment plan, and the minimum monthly payment required
7 for a person to enter and maintain an installment payment plan with
8 the department; and

9 (4) state the consequences of a failure to pay the
10 surcharge.

11 SECTION 15. This Act takes effect September 1, 2017.