

1-1 By: Holland, et al. (Senate Sponsor - Perry) H.B. No. 3376
1-2 (In the Senate - Received from the House May 10, 2017;
1-3 May 10, 2017, read first time and referred to Committee on
1-4 Transportation; May 17, 2017, reported favorably by the following
1-5 vote: Yeas 9, Nays 0; May 17, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	<u>Nichols</u>	X		
1-9	<u>Hall</u>	X		
1-10	<u>Creighton</u>	X		
1-11	<u>Garcia</u>	X		
1-12	<u>Hancock</u>	X		
1-13	<u>Hinojosa</u>	X		
1-14	<u>Kolkhorst</u>	X		
1-15	<u>Perry</u>	X		
1-16	<u>Rodríguez</u>	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to forms of notice that may be provided by the Department
1-20 of Public Safety during certain enforcement proceedings and
1-21 actions.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 521.2465, Transportation Code, is
1-24 amended by adding Subsection (a-1) to read as follows:

1-25 (a-1) The notice provided to the person by the department
1-26 under Subsection (a) may be provided by:

1-27 (1) first class mail; or

1-28 (2) e-mail if the person has provided an e-mail
1-29 address to the department and has elected to receive notice
1-30 electronically.

1-31 SECTION 2. Section 521.295, Transportation Code, is amended
1-32 to read as follows:

1-33 Sec. 521.295. NOTICE OF DEPARTMENT'S DETERMINATION. (a) If
1-34 the department suspends a person's license under Section 521.292 or
1-35 revokes a person's license under Section 521.294, the department
1-36 shall send a notice of suspension or revocation by:

1-37 (1) first class mail to the person's address in the
1-38 records of the department; or

1-39 (2) e-mail if the person has provided an e-mail
1-40 address to the department and has elected to receive notice
1-41 electronically.

1-42 (b) Notice is considered received on the fifth day after the
1-43 date the notice is sent ~~mailed~~.

1-44 SECTION 3. Section 521.344, Transportation Code, is amended
1-45 by amending Subsection (g) and adding Subsection (g-1) to read as
1-46 follows:

1-47 (g) A revocation, suspension, or prohibition order under
1-48 Subsection (e) or (f) remains in effect until the department
1-49 receives notice of successful completion of the educational
1-50 program. The director shall promptly send notice of a revocation or
1-51 prohibition order issued under Subsection (e) or (f) by:

1-52 (1) first class mail to the person at the person's most
1-53 recent address as shown in the records of the department; or

1-54 (2) e-mail if the person has provided an e-mail
1-55 address to the department and has elected to receive notice
1-56 electronically.

1-57 (g-1) The notice provided under Subsection (g) must include
1-58 the date of the revocation or prohibition order, the reason for the
1-59 revocation or prohibition, and a statement that the person has the
1-60 right to request in writing that a hearing be held on the revocation
1-61 or prohibition. Notice is considered received on the fifth day

2-1 after the date the notice is sent [~~mailed~~]. A revocation or
 2-2 prohibition under Subsection (e) or (f) takes effect on the 30th day
 2-3 after the date the notice is sent [~~mailed~~]. The person may request a
 2-4 hearing not later than the 20th day after the date the notice is
 2-5 sent [~~mailed~~]. If the department receives a request under this
 2-6 subsection, the department shall set the hearing for the earliest
 2-7 practical time and the revocation or prohibition does not take
 2-8 effect until resolution of the hearing.

2-9 SECTION 4. Section 521.457(d), Transportation Code, is
 2-10 amended to read as follows:

2-11 (d) Except as provided by Subsection (c), it is an
 2-12 affirmative defense to prosecution of an offense, other than an
 2-13 offense under Section 521.341, that the person did not receive
 2-14 actual notice of a cancellation, suspension, revocation, or
 2-15 prohibition order relating to the person's license. For purposes
 2-16 of this section, actual notice is presumed if the notice was sent
 2-17 [~~mailed~~] in accordance with law.

2-18 SECTION 5. Section 601.124, Transportation Code, is amended
 2-19 by amending Subsection (d) and adding Subsection (e) to read as
 2-20 follows:

2-21 (d) The department for cause may cancel a certificate of
 2-22 self-insurance after a hearing. [~~The self-insurer must receive at~~
 2-23 ~~least five days' notice of the hearing.~~] Cause includes failure to
 2-24 pay a judgment before the 31st day after the date the judgment
 2-25 becomes final.

2-26 (e) A self-insurer must receive at least five days' notice
 2-27 of a hearing held under Subsection (d). The department shall send
 2-28 notice of the hearing to the self-insurer by:

2-29 (1) first class mail; or
 2-30 (2) e-mail if the self-insurer has provided an e-mail
 2-31 address to the department and has elected to receive notice
 2-32 electronically.

2-33 SECTION 6. Section 601.155, Transportation Code, is amended
 2-34 to read as follows:

2-35 Sec. 601.155. NOTICE OF DETERMINATION. (a) The department
 2-36 shall notify the affected person of a determination made under
 2-37 Section 601.154 by:

2-38 (1) personal service;
 2-39 (2) first class mail; or
 2-40 (3) e-mail if the person has provided an e-mail
 2-41 address to the department and has elected to receive notice
 2-42 electronically.

2-43 (b) The notice must state that:

2-44 (1) the person's driver's license and vehicle
 2-45 registration or the person's nonresident's operating privilege will
 2-46 be suspended unless the person, not later than the 20th day after
 2-47 the date the notice was personally served or sent [~~mailed~~],
 2-48 establishes that:

2-49 (A) this subchapter does not apply to the person,
 2-50 and the person has previously provided this information to the
 2-51 department; or

2-52 (B) there is no reasonable probability that a
 2-53 judgment will be rendered against the person as a result of the
 2-54 accident; and

2-55 (2) the person is entitled to a hearing under this
 2-56 subchapter if a written request for a hearing is delivered or mailed
 2-57 to the department not later than the 20th day after the date the
 2-58 notice was personally served or sent [~~mailed~~].

2-59 (c) Notice under this section that is mailed by first class
 2-60 mail must be mailed to the person's last known address, as shown by
 2-61 the department's records.

2-62 (d) For purposes of this section, notice is presumed to be
 2-63 received if the notice was sent [~~mailed~~] to the person's last known
 2-64 address or e-mail address, as shown by the department's records.

2-65 SECTION 7. Section 601.156(c), Transportation Code, is
 2-66 amended to read as follows:

2-67 (c) The department shall summon the person requesting the
 2-68 hearing to appear at the hearing. Notice under this subsection:

2-69 (1) shall be:

3-1 (A) delivered through personal service;
 3-2 (B) [~~or~~] mailed by first class mail to the
 3-3 person's last known address, as shown by the department's records;
 3-4 or
 3-5 (C) sent by e-mail if the person has provided an
 3-6 e-mail address to the department and has elected to receive notice
 3-7 electronically; and
 3-8 (2) [~~The notice~~] must include written charges issued
 3-9 by the department.

3-10 SECTION 8. Section 601.159, Transportation Code, is amended
 3-11 to read as follows:
 3-12 Sec. 601.159. PROCEDURES FOR SUSPENSION OF DRIVER'S LICENSE
 3-13 AND VEHICLE REGISTRATION OR PRIVILEGE. The department shall suspend
 3-14 the driver's license and each vehicle registration of an owner or
 3-15 operator or the nonresident's operating privilege of an owner or
 3-16 operator unless:
 3-17 (1) if a hearing is not requested, the person, not
 3-18 later than the 20th day after the date the notice under Section
 3-19 601.155 was personally served or sent [~~mailed~~]:
 3-20 (A) delivers or mails to the department a written
 3-21 request for a hearing;
 3-22 (B) shows that this subchapter does not apply to
 3-23 the person; or
 3-24 (C) complies with Section 601.153; or
 3-25 (2) the person complies with Section 601.153 not later
 3-26 than the 20th day after:
 3-27 (A) the date of the expiration of the period in
 3-28 which an appeal may be brought, if the determination at a hearing is
 3-29 rendered against the owner or operator and the owner or operator
 3-30 does not appeal; or
 3-31 (B) the date of a decision against the person
 3-32 following the appeal.

3-33 SECTION 9. Section 601.161, Transportation Code, is amended
 3-34 to read as follows:
 3-35 Sec. 601.161. NOTICE OF SUSPENSION. Not later than the 11th
 3-36 day before the effective date of a suspension under Section
 3-37 601.159, the department shall send notice of the suspension to each
 3-38 affected owner or operator. The department shall send the notice by
 3-39 first class mail or by e-mail to any owner or operator who has
 3-40 provided an e-mail address to the department and who has elected to
 3-41 receive notice electronically. The notice must state the amount
 3-42 required as security under Section 601.153 and the necessity for
 3-43 the owner or operator to file evidence of financial responsibility
 3-44 with the department.

3-45 SECTION 10. Section 601.232(a), Transportation Code, is
 3-46 amended to read as follows:
 3-47 (a) The department shall send [~~mail~~] in a timely manner a
 3-48 notice to each person whose driver's license and vehicle
 3-49 registrations are suspended under Section 601.231.

3-50 SECTION 11. Section 601.371(b), Transportation Code, is
 3-51 amended to read as follows:
 3-52 (b) It is an affirmative defense to prosecution under this
 3-53 section that the person had not received notice of a suspension
 3-54 order concerning the person's vehicle registration. For purposes
 3-55 of this subsection, notice is presumed to be received if the notice
 3-56 was sent [~~mailed~~] in accordance with this chapter to the last known
 3-57 address or e-mail address of the person as shown by department
 3-58 records.

3-59 SECTION 12. Section 601.372, Transportation Code, is
 3-60 amended by amending Subsections (b) and (d) and adding Subsection
 3-61 (b-1) to read as follows:
 3-62 (b) The notice must be provided by:
 3-63 (1) personal delivery to the person;
 3-64 (2) [~~or by~~] deposit in the United States mail
 3-65 addressed to the person at the last address supplied to the
 3-66 department by the person; or
 3-67 (3) e-mail if the person has provided an e-mail
 3-68 address to the department and has elected to receive notice
 3-69 electronically.

4-1 (b-1) Notice provided under Subsection (b) by mail or e-mail
4-2 is presumed to be received on the 10th day after the date the notice
4-3 is sent ~~[mailed]~~.

4-4 (d) Proof of the notice may be made by the certificate of a
4-5 department employee stating that:

4-6 (1) the notice was prepared in the regular course of
4-7 business and placed in the United States mail or sent by e-mail as
4-8 part of the regular organized activity of the department; or

4-9 (2) the employee delivered the notice in person.

4-10 SECTION 13. Section 708.055, Transportation Code, is
4-11 amended to read as follows:

4-12 Sec. 708.055. NOTICE OF ASSIGNMENT OF FIFTH POINT. The
4-13 department shall notify the holder of a driver's license of the
4-14 assignment of a fifth point on that license by:

4-15 (1) first class mail sent to the person's most recent
4-16 address as shown on the records of the department; or

4-17 (2) e-mail if the person has provided an e-mail
4-18 address to the department and has elected to receive notice
4-19 electronically.

4-20 SECTION 14. Section 708.151(a), Transportation Code, is
4-21 amended to read as follows:

4-22 (a) The department shall send notices as required by
4-23 Subsection (b) to the holder of a driver's license when a surcharge
4-24 is assessed on that license. Each notice must:

4-25 (1) be sent by:

4-26 (A) first class mail to the person's most recent
4-27 address as shown on the records of the department or to the person's
4-28 most recent forwarding address on record with the United States
4-29 Postal Service if it is different; or

4-30 (B) e-mail if the person has provided an e-mail
4-31 address to the department and has elected to receive notice
4-32 electronically;

4-33 (2) specify the date by which the surcharge must be
4-34 paid;

4-35 (3) state the total dollar amount of the surcharge
4-36 that must be paid, the number of monthly payments required under an
4-37 installment payment plan, and the minimum monthly payment required
4-38 for a person to enter and maintain an installment payment plan with
4-39 the department; and

4-40 (4) state the consequences of a failure to pay the
4-41 surcharge.

4-42 SECTION 15. This Act takes effect September 1, 2017.

4-43 * * * * *