

TRANSPORTATION CODE
TITLE 1. GENERAL PROVISIONS
CHAPTER 1. GENERAL PROVISIONS

Sec. 1.001. PURPOSE OF CODE. (a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in the law codified as Section 323.007, Government Code. The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the law encompassed by this code more accessible and understandable by:

- (1) rearranging the statutes into a more logical order;
- (2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;
- (3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and
- (4) restating the law in modern American English to the greatest extent possible.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 1.002. CONSTRUCTION OF CODE. Chapter 311, Government Code (Code Construction Act), applies to the construction of each provision in this code except as otherwise expressly provided by this code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 1.003. REFERENCE IN LAW TO STATUTE REVISED BY CODE. A reference in a law to a statute or a part of a statute revised by this code is considered to be a reference to the part of this code that revises that statute or part of that statute.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 1.004. DEFINITION. In this code, "Department of Public

Safety" means the Department of Public Safety of the State of Texas. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

TITLE 2. GENERAL PROVISIONS RELATING TO CARRIERS

CHAPTER 5. DUTIES AND LIABILITIES OF COMMON CARRIERS

Sec. 5.001. DUTIES, LIABILITIES, AND REMEDIES OF CARRIER. (a) Unless otherwise provided by this code or other law:

(1) the duties and liabilities of a carrier in this state and the remedies against the carrier are the same as prescribed by the common law; and

(2) a carrier for hire may not limit its common-law liability, unless the limitation is in conspicuous writing in a written arrangement for transportation, including a bill of lading or contract for transportation.

(b) This chapter does not prohibit a carrier from requiring notice to be given under Section 16.071, Civil Practice and Remedies Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.01(a), eff. Sept. 1, 1997.

Sec. 5.003. LIABILITY OF CARRIER OF HOUSEHOLD GOODS. (a) A carrier of household goods, as defined by 49 U.S.C. Section 10102, is not required to accept for transportation household goods unless the shipper or owner of the property or the agent of the shipper or owner declares in writing the reasonable value of the property.

(b) A carrier transporting property with a value declared under Subsection (a) is not liable in damages for an amount more than the declared value of the property lost, destroyed, or damaged.

(c) A shipper's declaration of value is not admissible evidence in a court action unless the carrier, when accepting the shipment, provides and maintains in an amount at least equal to the declared value of the property:

(1) insurance in a solvent company authorized to do business in this state; or

(2) bonds.

(d) The security requirement of Subsection (c) does not apply to steam or electric railroads.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.01(c), eff. Sept. 1, 1997.

Sec. 5.004. REQUIREMENT TO RECEIVE AND CARRY GOODS. (a) On the tender of the legal or customary rate for goods offered for transportation, a common carrier, other than a railroad, shall receive and transport the goods if in the order presented:

(1) the carrier has the capacity to safely carry the goods on the pending trip; and

(2) the goods are of the kind usually transported by the carrier and are offered at a reasonable time.

(b) A common carrier that violates Subsection (a) is liable:

(1) for damages to a person injured by the violation; and

(2) to the owner of the goods for a penalty of not less than \$5 or more than \$500.

(c) An action under Subsection (b) must be brought in the county in which the damages occur or the common carrier resides.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 5.005. BILL OF LADING OR RECEIPT; CONDITION OF TRANSPORTED GOODS. (a) A common carrier receiving goods for transportation shall, when requested, give the shipper a bill of lading or written receipt stating the quantity, character, order, and condition of the goods.

(b) A common carrier shall deliver to the consignee the goods listed on a bill of lading or receipt in an order and condition similar to the order and condition of the goods when the goods were accepted for transport, except for any unavoidable wear and tear or deterioration because of the transportation of the goods.

(c) A common carrier that violates Subsection (a) is liable to the owner of the goods for a penalty of not less than \$5 or more than \$500.

(d) An action under Subsection (c) must be brought in the county in which the damages occur or the carrier resides.

(e) A common carrier that violates Subsection (b) is liable for damages resulting from the violation as at common law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 5.006. LIABILITY AS WAREHOUSEMAN OR COMMON CARRIER. (a) A common carrier having a depot or warehouse is liable, as is a warehouseman at common law, for any goods stored at the depot or warehouse:

(1) before the trip begins; or
 (2) after the goods reach the destination if, after the carrier uses due diligence to notify the consignee, the consignee fails to take possession of the goods.

(b) A common carrier is liable as a common carrier from the beginning of the trip until the goods are delivered to the consignee at the point of destination.

(c) For purposes of this section, a trip begins when the bill of lading is signed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 5.007. PRIORITY OF SHIPMENT OF STORED GOODS. (a) A common carrier that receives goods for transportation in its warehouse or depot shall transport the goods in the order received.

(b) A common carrier that violates Subsection (a) is liable for any:

(1) loss occurring while the goods are in the warehouse or depot; and
 (2) damage resulting from the delay in transporting the goods.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 5.008. CARE OF LIVESTOCK. (a) Unless otherwise provided by special contract, a common carrier transporting livestock shall feed and water the animals until the animals are:

(1) delivered to the consignee; or
 (2) disposed of as provided by this title or other law.

(b) A common carrier that violates Subsection (a) is liable:

(1) for damages to a person injured by the violation; and
 (2) to the owner of the livestock for a penalty of not less than \$5 or more than \$500.

(c) An action by an owner under Subsection (b)(2) must be brought in any county in which the damages occur or the carrier resides.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 6. SALE OF UNCLAIMED GOODS

Sec. 6.001. SALE OF FREIGHT OR BAGGAGE. (a) A common carrier may sell at public auction freight or baggage that it conveyed to any point in this state if the owner, whether known or unknown, of the freight or baggage, within three months of the date of the conveyance, fails to claim it and pay any charges due at the office, depot, or warehouse closest or most convenient to the destination.

(b) Each article of freight or baggage must be offered separately as consigned or checked.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 6.002. NOTICE OF SALE OF FREIGHT OR BAGGAGE. (a) Before selling the freight or baggage at auction, the common carrier must provide notice 30 days before the sale.

(b) The notice must:

(1) contain the time and place of sale and a descriptive list of the freight or baggage to be sold, including the names, numbers, or marks found on the freight or baggage; and

(2) be posted in three public places in the county where the sale is to be held and on the door of the office, depot, or warehouse where the freight or baggage is stored.

(c) The notice must also be published in a newspaper for 30 days before the sale in the county of sale if a newspaper is published in the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 6.003. DISPOSITION OF PROCEEDS. (a) The common carrier shall:

(1) deduct charges due on freight or baggage, including the cost of storage and sale, from the proceeds of the sale; and

(2) hold the remainder subject to Subsection (b).

(b) The owner of the freight or baggage may recover from the common carrier the proceeds of the sale less any deductions under Subsection (a) if the owner or the owner's agent presents proof of ownership of the sold items to the carrier within five years after the date of the sale.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 6.004. SALE OF LIVESTOCK. (a) A common carrier may sell at public auction livestock that is unclaimed for 48 hours after arrival at its destination if the carrier gives five days' notice of the sale.

(b) The notice must contain the same information and be given in the same manner as the notice described by Sections 6.002(b) and (c).

(c) The common carrier shall dispose of proceeds of the sale in the same manner as provided by Section 6.003. In addition to the deductions allowed under that section, the carrier may deduct reasonable expenses for the keeping, feeding, and watering of the livestock from its arrival until its sale.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 6.005. SALE OF PERISHABLE PROPERTY. (a) A common carrier may sell at public auction perishable property that is unclaimed after arrival at its destination if:

- (1) the property is in danger of depreciation; and
- (2) the carrier gives five days' notice of the sale.

(b) The notice must contain the same information and be given in the same manner as the notice described by Sections 6.002(b) and (c).

(c) The common carrier shall dispose of the proceeds of the sale in the same manner as provided by Section 6.003.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 6.006. INFORMATION KEPT BY CARRIER. A common carrier

shall keep for each sale under this chapter:

- (1) an account of the sale;
- (2) expenses allocated to each article sold;
- (3) a copy of each notice of sale; and
- (4) a copy of the bill of sale.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 7. CONNECTING CARRIERS

Sec. 7.001. DEFINITIONS. In this chapter:

- (1) "Connecting carrier" means:
 - (A) an initial carrier; or
 - (B) each other common carrier that receives freight from another common carrier and recognizes or acts on a contract to transport the freight between points in this state.
- (2) "Freight" includes baggage and other property transported by a common carrier.
- (3) "Initial carrier" means a common carrier that contracts with a shipper of freight for delivery and initially transports the freight.
- (4) "Shipper" includes the owner or the consignee of the freight and the owner's or consignee's agent.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 7.002. DUTIES OF CONNECTING CARRIER. Each connecting carrier that transports freight is:

- (1) an agent of each other connecting carrier that transports the freight; and
- (2) considered to be under a contract with each other connecting carrier and the shipper to provide the safe and speedy transportation of the freight from its point of shipment to its destination.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 7.003. CONTRACT GOVERNING TRANSPORTATION. (a) Except as provided by Subsection (b), the contract establishing the rights,

duties, and liabilities of an initial carrier and the shipper applies to each subsequent connecting carrier.

(b) The contract between the initial carrier and the shipper does not apply to a connecting carrier that executes a new contract with the shipper supported by valuable consideration.

(c) For purposes of Subsection (b), valuable consideration does not include the transportation of a caretaker with the freight.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 7.004. PROOF OF STATUS AS CONNECTING CARRIER. Proof that a common carrier has received freight from another common carrier for transportation, including a bill of lading, waybill, receipt, check, or other instrument issued by a carrier, is prima facie evidence that the carrier is subject to the relations, duties, and liabilities imposed on connecting carriers under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 7.005. APPLICATION OF CHAPTER. (a) A provision in a contract that is contrary to this chapter is void.

(b) This chapter applies regardless of whether the route of freight is chosen by the shipper or by the initial carrier.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 7.006. RECOVERY OF DAMAGES. (a) A person who suffers damages because of injury to or loss of freight or delay in transporting freight may recover from the initial carrier or any connecting carrier that transported the freight.

(b) A common carrier held liable under Subsection (a) may, in a subsequent action, recover the amount of damages it was required to pay and is entitled to all costs of suit from the common carrier whose negligence caused the damages.

(c) To recover under Subsection (b), a common carrier must only:

(1) establish which other carrier or carriers caused the damage; and

(2) produce satisfactory evidence that the carrier seeking contribution has paid the judgment in the underlying suit.

(d) A law allowing the apportionment of damages is not applicable in a suit brought under Subsection (a) unless requested by the plaintiff. The law is applicable in a suit brought under Subsection (c).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 8. PROTECTING MOVEMENT OF COMMERCE

Sec. 8.001. ISSUANCE OF PROCLAMATION. (a) The governor shall issue a proclamation under this chapter, to prevent interference with commerce, if after investigation the governor determines that:

(1) the movement of commerce by a common carrier of this state or another state is interfered with in violation of Chapter 42, Penal Code; and

(2) local authorities failed to enforce the law.

(b) The proclamation must:

(1) state that the conditions described by Subsection (a) exist; and

(2) describe the territory affected by the proclamation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 8.002. EFFECT OF PROCLAMATION. (a) On the issuance of a proclamation under this chapter, the governor shall exercise complete police jurisdiction over the territory described by the proclamation. The exercise of police jurisdiction by the governor supersedes the police authority of a local authority.

(b) The governor may not disturb the exercise of police jurisdiction by a local authority outside the territory described by the proclamation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 8.003. ARRESTS. (a) After a proclamation issued under this chapter takes effect, only a peace officer acting under the authority of the governor may make an arrest in the territory

described by the proclamation.

(b) A person arrested in the territory described by the proclamation shall be delivered forthwith to the proper authority for trial.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 8.004. USE OF TEXAS RANGERS. (a) The governor may use the Texas Rangers to enforce this chapter.

(b) If a sufficient number of Texas Rangers are not available, the governor may employ other persons to serve as special rangers.

(c) A special ranger has the same authority as a Texas Ranger and shall be paid the same salary as a Texas Ranger. The salary of a special ranger shall be paid out of appropriations made to the executive office for the payment of rewards and the enforcement of the law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 8.005. EFFECT ON DECLARATION OF MARTIAL LAW. (a) A declaration of martial law is not required for the implementation of this chapter.

(b) This chapter does not limit the authority of the governor to declare martial law and call forth the militia to execute the law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 20. MISCELLANEOUS PROVISIONS

Sec. 20.001. CERTAIN CARRIERS EXEMPT FROM GROSS RECEIPTS TAXES. A motor bus carrier or motor carrier transporting persons or property for hire is exempt from any occupation tax measured by gross receipts imposed by any law of this state.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.02(b), eff. Sept. 1, 1997.

Sec. 20.002. SCHOOL FUND BENEFIT FEE ON DIESEL FUEL USED BY

CERTAIN MOTOR VEHICLES. (a) In this section, "commercial motor vehicle" has the meaning assigned by Section 548.001.

(b) This section applies to a person, other than a political subdivision, who:

(1) owns, controls, operates, or manages a commercial motor vehicle; and

(2) is exempt from the state diesel fuel tax under Section 162.204, Tax Code.

(c) A fee to benefit the available school fund is imposed on a person for the use of diesel fuel that is:

(1) delivered exclusively into the fuel supply tank of a commercial motor vehicle; and

(2) used exclusively to transport passengers for compensation or hire between points in this state on a fixed route or schedule.

(d) The fee imposed by this section is equal to 25 percent of the diesel fuel tax rate imposed under Section 162.202, Tax Code.

(e) The comptroller shall prescribe the method for collecting a fee imposed under this section and shall deposit revenue received from the fee to the credit of the available school fund.

Added by Acts 1999, 76th Leg., ch. 1054, Sec. 3, eff. Sept. 1, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1227 (S.B. 1495), Sec. 39, eff. September 1, 2009.

TITLE 3. AVIATION

CHAPTER 21. ADMINISTRATION OF AERONAUTICS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 21.001. DEFINITIONS. In this chapter:

(1) "Aeronautics" means:

(A) the art and science of flight of aircraft;

(B) aviation;

(C) the operation, navigation, piloting, maintenance, and construction of aircraft or component parts of aircraft;

(D) air navigation aids, including lighting, markings, and aircraft, ground, and related communications;

(E) air crew and air passenger facilities;

(F) airports and airstrips and their design,

construction, repair, maintenance, or improvement; and

(G) the dissemination of information and instruction concerning any of the matters in this subdivision.

(2) "Aircraft" means a device intended, used, or designed for flight in the air.

(3) "Commission" means the Texas Transportation Commission.

(4) "Department" means the Texas Department of Transportation.

(5) "Director" means the director of the Texas Department of Transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.002. AVIATION DIVISION. The powers and duties granted to the department by this chapter or by other law related to aviation shall be performed, under the direction of the commission, by the aviation division.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.003. AVIATION ADVISORY COMMITTEE. (a) The aviation advisory committee consists of six members appointed by the commission to advise the commission and the department on aviation matters.

(b) A committee member must have five years of successful experience as:

(1) an aircraft pilot;

(2) an aircraft facilities manager; or

(3) a fixed-base operator.

(c) A committee member serves at the pleasure of the commission.

(d) A committee member may not receive compensation for serving as a member but is entitled to reimbursement for reasonable expenses incurred in performing the member's duties.

(e) The commission may adopt rules to govern the operations of the committee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.005. SUIT AGAINST DEPARTMENT. (a) An interested party who is adversely affected by an act, decision, rate, charge, order, or rule adopted by the department and who fails to get relief from the department may file a petition against the department in a district court of Travis County, Texas.

(b) The petition must set forth the air carrier's or party's particular objections to the act, decision, rate, charge, order, or rule.

(c) The court shall give priority to an action described by Subsection (a) over all other causes on the docket of a different nature.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.006. SAFE AIRCRAFT OPERATION. (a) An aircraft operated in the state shall be operated safely.

(b) An aircraft is operated safely if the operation complies with the United States laws and regulations governing air traffic and aeronautical operation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. GENERAL POWERS AND DUTIES

Sec. 21.051. AERONAUTIC DEVELOPMENT. The department and the director shall encourage and assist the development of aeronautics in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.052. COOPERATION WITH OTHER ENTITIES IN AERONAUTIC DEVELOPMENT. The department and the director may:

- (1) cooperate with or assist the United States, a governmental subdivision of this state, or a person engaged in aeronautics or in the development of aeronautics; and
- (2) coordinate the aeronautical activities of entities described by Subdivision (1).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.053. GOVERNMENTAL SUBDIVISION COOPERATION IN AERONAUTIC DEVELOPMENT. A governmental subdivision may cooperate with the department in the development of aeronautics.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.054. AUTHORITY TO CONTRACT. (a) The department may contract as necessary or advisable to execute its powers under this chapter.

(b) The department may not enter an agreement that binds the state to make a payment that is not authorized by an appropriation from general revenues or from the aeronautics fund.

(c) Repealed by Acts 1999, 76th Leg., ch. 115, Sec. 1, eff. May 17, 1999.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 115, Sec. 1, eff. May 17, 1999.

Sec. 21.055. GRANT OR GIFT WITH PRESCRIBED PURPOSE. The department may accept from any person a grant or gift of money or property for which the person has prescribed a particular use for an aeronautical purpose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.056. RECORD OF GRANT OR GIFT. The department shall maintain in its office a record of money, property, or a grant given to the department under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.057. USE OF GRANT OR GIFT ACCORDING TO TERMS. The department shall use money, property, or a grant given to the department under this chapter according to the terms of the grant or gift.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.058. EXPENDITURE OF GRANTS OR GIFTS OF MONEY. The department may not spend a grant or money given to the department unless the expenditure is authorized by order of the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.059. GIFTS OF LAND. To develop aeronautics for the common good and safety of the residents of the state or to provide for catastrophe, disaster, or state or national emergency, the state or department may accept from any person a gift of any interest in real property that:

- (1) may be used as a navigational aid;
- (2) is on or adjacent to an airport or airstrip; or
- (3) may be used as an airport or airstrip.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.060. JURISDICTION, ADMINISTRATION, AND LEASING OF LAND, NAVIGATIONAL AIDS, OR FACILITIES. (a) The department has jurisdiction over and shall administer land given to the department.

(b) The department may:

- (1) exercise jurisdiction over and administer navigational aids or facilities given to the state or to the department; and
- (2) lease land, navigational aids, or facilities given to the state or to the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.061. FUNDING CONSTRUCTION OF FACILITIES AND IMPROVEMENTS. (a) The department may construct on land given to the department an improvement, facility, or navigational aid that the department determines is necessary or advisable.

(b) Money in the aeronautics fund may be used for a purpose described by Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.062. LEASE OF LAND OR IMPROVEMENT. (a) The department may lease land given to the department or an improvement on the land to any person if the department finds after investigation that:

(1) the lease is desirable or essential:

(A) to develop aeronautics for the common good and safety of the residents of this state; or

(B) to provide for catastrophe, disaster, or state or national emergency;

(2) the lessee is financially responsible; and

(3) the amount of periodic rental payments is at least equal to the amount that the department has spent for improvements on the land, amortized over the term of the lease.

(b) The department shall produce and maintain in the department's office a written statement of the findings required by Subsection (a).

(c) The department shall submit a lease entered into by the department to the attorney general for approval as to form before the lease becomes effective.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.063. TERMS OF LEASE OF LAND OR IMPROVEMENT. (a) A lease of land given to the department or a lease of an improvement on the land must provide that:

(1) the lessee shall maintain, in accordance with the standards the department prescribes, the land, premises, and improvements the department placed on the land;

(2) if the lease or a rule or order of the department that pertains to the lease is violated:

(A) the lease terminates immediately; and

(B) the lessee shall surrender the premises to the department without liability and without court action; and

(3) in time of national or state disaster, emergency, or catastrophe, the department may use, for the department or others, the land, premises, or improvements the department placed on the land as the governor or the department determines, without liability or

cost.

(b) The term of a lease of land given to the department or the lease of an improvement on the land may not exceed 20 years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.064. REPORTS AND INFORMATION. (a) The department may report to an appropriate agency of another state or of the United States that a proceeding has been instituted that charges a violation of this chapter or of a federal statute.

(b) The department on its own initiative or by request may issue to a state or municipal officer authorized by the department or by the United States to enforce a law relating to aeronautics a report about:

(1) a proceeding instituted that charges a violation of this chapter or of a federal statute;

(2) penalties; or

(3) other information.

(c) The department may receive a report of penalties or other information from an agency of another state or of the United States.

(d) The department may enter into a necessary agreement with the United States or an agency of another state governing the delivery, receipt, exchange, or use of a report or other information.

(e) The department shall submit an agreement entered into by the department under Subsection (d) to the attorney general for approval as to form.

(f) A report issued by the department is not evidence of a violation and may not be received as evidence by a court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.065. AERONAUTICAL EDUCATION PROGRAMS AND FLIGHT CLINICS. (a) The department may:

(1) organize and administer an aeronautical education program in colleges and schools of this state and for the public; and

(2) prepare and conduct one or more flight clinics for air crews.

(b) The department may charge for conducting a program or

clinic under Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.066. AERONAUTICAL PUBLICATIONS. (a) The department may issue aeronautical publications as required in the public interest.

(b) The department shall charge a fee sufficient to recover the cost of preparing and distributing a department publication that does not clearly promote public safety.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.067. TEXAS AIRPORT DIRECTORY. (a) The department may:

- (1) issue the Texas Airport Directory;
- (2) sell advertising in the directory; and
- (3) advertise the directory in other publications.

(b) The department may not charge a fee for furnishing the Texas Airport Directory.

(c) The department is not required to issue more than 110 percent of the number of Texas Airport Directories issued in the preceding state fiscal year.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 535 (H.B. 1605), Sec. 1, eff. September 1, 2015.

Sec. 21.068. ENGINEERING AND TECHNICAL SERVICES. (a) The department may provide engineering or technical services to any person in connection with aeronautical activities, including the planning, acquisition, construction, improvement, maintenance, or operation of an airport, air navigation facility, or other aeronautical activity, if providing the services is:

- (1) reasonably possible; and
- (2) in the interest of public safety and welfare.

(b) The department may charge for a service under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.069. STATE AIRPORT IN CENTRAL TEXAS. (a) The department, in consultation with the State Aircraft Pooling Board, shall establish a state airport in Central Texas that is open to the general public.

(b) In determining an appropriate location for the airport, the department shall consider:

(1) the convenience, comfort, and accommodation of air traffic flying into and departing from the Central Texas region, including persons traveling for business and commercial reasons, government officials, and tourists; and

(2) the safe operation of aircraft flying into and departing from the Central Texas region.

(c) In determining an appropriate location for the airport, the department may not consider:

(1) any property in a municipality without the approval of the governing body of the municipality;

(2) any property outside of a municipality without the approval of the commissioners court of the county in which the property is located; or

(3) the property in Austin, Texas, identified as Robert Mueller Airport.

(d) The commission may acquire by the exercise of eminent domain property that the commission considers necessary to enable the department to meet its responsibilities under this section.

(e) The department may utilize only federal matching funds, federal grants, in-kind contributions, private sector funds, nonprofit grants, and local government funding for the establishment of this facility.

(f) The department shall have all the powers necessary or appropriate to implement this section, including all the powers granted to a local government under Chapters 22, 23, and 25.

(g) Upon completion of the construction of the airport, the department shall contract with a private entity or a county or municipality for the long-term management, operation, and maintenance of the facility. Such contract shall comply with all applicable Federal Aviation Agency regulations relating to the management, operation, and maintenance of an airport.

Added by Acts 2001, 77th Leg., ch. 1118, Sec. 1, eff. Sept. 1, 2001.

Sec. 21.070. MARKING OF WIRELESS COMMUNICATION FACILITY. (a)
In this section:

(1) "Cultivated field" means any open space or pasture larger than five acres in which a plant or tree nursery is located or an agricultural crop, including cotton, corn, grain, grapes, beets, peanuts, and rice, but not including grass grown for hay, is grown on a continuing basis.

(2) "Wireless communication facility" has the meaning assigned by Section 25.001.

(b) Absence of plants, seedlings, or a crop on a temporary basis due to crop rotation or other farm management techniques does not remove an open area from the definition of "cultivated field."

(c) This section applies only to an antenna structure that is used to provide commercial wireless communications services and that is located in a cultivated field or within 100 feet of a cultivated field.

(d) A person who proposes to construct a wireless communication facility that is at least 100 feet but not more than 200 feet in height above ground level shall mark the highest guy wires on the facility, if any, with two warning spheres each.

Added by Acts 2003, 78th Leg., ch. 1222, Sec. 3, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.38, eff. April 1, 2009.

Sec. 21.071. PAINTING AND MARKING REQUIREMENTS FOR CERTAIN METEOROLOGICAL EVALUATION TOWERS; OFFENSE. (a) In this section, "meteorological evaluation tower" means a structure that:

- (1) is self-standing or supported by guy wires and anchors;
- (2) is not more than six feet in diameter at the base of the structure; and
- (3) has accessory facilities on which an antenna, sensor, camera, meteorological instrument, or other equipment is mounted for the purpose of documenting whether a site has sufficient wind resources for the operation of a wind turbine generator.

(b) For purposes of this section, "meteorological evaluation tower" does not include a structure that is located:

- (1) adjacent to a building, including a barn, or an electric utility substation; or
- (2) in the curtilage of a residence.

(c) A meteorological evaluation tower that is at least 50 feet but not more than 200 feet in height above ground level:

- (1) must be painted in equal alternating bands of aviation orange and white, beginning with orange at the top of the tower;
- (2) must have aviation orange marker balls installed and displayed in accordance with the standards contained in 76 Fed. Reg. 36983 (June 24, 2011) and Federal Aviation Administration Advisory Circular AC 70/7460-1K; and
- (3) may not be supported by guy wires unless the guy wires have a seven-foot-long safety sleeve at each anchor point that extends from the anchor point along each guy wire attached to the anchor point.

(d) A person who owns, operates, or erects a meteorological evaluation tower in violation of this section commits an offense. An offense under this subsection is a Class C misdemeanor, except that the offense is a Class B misdemeanor if it is shown on the trial of the offense that as a result of the commission of the offense a collision with the meteorological evaluation tower occurred causing bodily injury or death to another person.

(e) The department shall adopt rules to implement and administer this section, including rules requiring a person:

- (1) who owns, operates, or erects a meteorological evaluation tower to provide notice to the department of the existence of or intent to erect a meteorological evaluation tower; and
- (2) to register the meteorological evaluation tower with the department.

Added by Acts 2015, 84th Leg., R.S., Ch. 36 (S.B. 505), Sec. 1, eff. September 1, 2015.

SUBCHAPTER C. AVIATION FACILITIES DEVELOPMENT AND FINANCIAL ASSISTANCE

Sec. 21.101. FINANCIAL ASSISTANCE FOR CONSTRUCTION AND REPAIR OF AVIATION FACILITIES. (a) The department may loan or grant money

to a state agency with a governing board authorized to operate an airport or to a governmental entity in this state to establish, construct, reconstruct, enlarge, or repair an airport, airstrip, or air navigational facility if:

(1) the money has been appropriated to the department for that purpose; and

(2) providing the money will:

(A) best serve the public interest; and

(B) best discharge the governmental aeronautics function of the state or its political subdivisions.

(b) A loan or grant under this subchapter must be made under a contract.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.102. LOAN PREFERRED. The department shall:

(1) make a loan instead of a grant whenever feasible under this subchapter; and

(2) carefully consider making a loan instead of a grant for an improvement that produces revenue.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.103. COMMISSION VOTE REQUIRED FOR GRANT OR LOAN. Under this subchapter, the commission may not make:

(1) a grant unless two-thirds of the entire commission votes in favor of the grant; or

(2) a loan unless a majority of the entire commission votes in favor of the loan.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.104. REVOLVING LOAN FUND. The department shall:

(1) place the principal and interest derived from a loan in a revolving loan fund; and

(2) administer the fund for future loans and their administration.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.105. REQUIREMENTS FOR LOAN OR GRANT. (a) The commission may not approve a loan that bears interest of less than three percent annually or that has a term that exceeds 20 years.

(b) Before approving a loan or grant, the commission shall require that:

(1) the airport or facility remain in the control of each political subdivision involved for at least 20 years;

(2) the political subdivision disclose the source of all funds for the project and the political subdivision's ability to finance and operate the project;

(3) at least 10 percent of the total project cost be provided by sources other than the state; and

(4) the project be adequately planned.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.106. PRIORITIES FOR FINANCIAL ASSISTANCE. The commission, with the advice of the aviation advisory committee, shall establish and maintain a method for determining priorities among locations and projects eligible to receive state financial assistance for aviation facility development.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.107. AVIATION FACILITIES DEVELOPMENT PROGRAM. (a) The commission, with the advice of the aviation advisory committee, through the preparation and adoption of an aviation facilities development program, shall provide for a statewide airport system to serve the state's air transportation needs for the least practicable cost.

(b) The program must identify:

(1) the requirements for aviation facilities;

(2) the location of aviation facilities;

(3) the timing of aviation facilities;

(4) eligibility for funding; and

(5) the investment necessary for the program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.108. AVIATION FACILITIES CAPITAL IMPROVEMENT PROGRAM.

(a) The commission, with the advice of the aviation advisory committee, shall prepare a multiyear aviation facilities capital improvement program.

(b) The aviation facilities capital improvement program must:

(1) include the priorities determined under Section 21.106;
and

(2) have an estimated annual cost for the total program that is approximately equal to the revenue that is forecast to be available for aviation facilities development during the year.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.109. REVIEW AND REVISION OF AVIATION FACILITIES CAPITAL IMPROVEMENT PROGRAM. The commission, with the advice of the aviation advisory committee, shall:

(1) periodically review the capital improvement program to determine the need to:

(A) revise the system development criteria;

(B) add or delete aviation facility requirements;

(C) revise program priorities; and

(D) add, delete, or revise the scope of projects in the program; and

(2) revise the program at least annually.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.110. AVIATION FACILITIES CAPITAL IMPROVEMENT PROGRAM; BUDGET PREPARATION. The department shall consider the aviation facilities capital improvement program in preparing the department's biennial budget request to the legislature.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.111. PUBLIC HEARING. (a) The commission or the

commission's authorized representative shall hold a public hearing before approving any financial assistance under this subchapter, except as provided by Section 21.1115.

(b) The commission shall give each interested party an opportunity to be heard at the hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.03(a), eff. Sept. 1, 1997.

Sec. 21.1115. EMERGENCY LOAN OR GRANT. (a) In an emergency, the director or the director's designee may award a loan or grant without holding a public hearing under rules adopted by the commission.

(b) Before awarding a contract under this section, the director or the director's designee must certify in writing the fact and nature of the emergency that requires the award of the contract.

(c) Not later than the fifth working day after the date a contract is awarded under this section, the director shall notify in writing each member of the commission of the details of the emergency and the award.

(d) In this section, "emergency" means a situation or condition at a general aviation airport that requires immediate attention because of an existing unsafe condition that should be of sufficient concern to require a notice to airmen under FAA Order 7930.2E.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.03(b), eff. Sept. 1, 1997.

Sec. 21.112. EXPENDITURE OF AIR FACILITY CONSTRUCTION MONEY BY STATE GOVERNMENTAL ENTITIES. A governmental entity that receives money from the department to establish, construct, reconstruct, enlarge, or repair an airport, airstrip, or air navigational facility shall spend the money for those purposes and in conformity with commission rules.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.113. AIRPORT HAZARD ZONING ORDINANCE REQUIRED. The

department may not pay the final 10 percent of its share of project costs under a grant until the sponsor has enacted an airport hazard zoning ordinance or order under Chapter 241, Local Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.114. AGENT FOR FEDERAL FUNDS. (a) The department is the agent of the state and of each political subdivision of the state for the purpose of applying for, receiving, and disbursing federal funds for the benefit of a general aviation airport under federal law, including 49 U.S.C. Sections 2201-2227.

(b) This section does not apply to a reliever airport.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.115. FUNDING FOR CERTAIN COMMERCIAL SERVICE AIRPORTS. To the extent consistent with federal funding restrictions, a project involving a commercial service airport is eligible for financial assistance under this subchapter, including for inclusion in the aviation facilities capital improvement program, if the airport is located in a county along the Texas-Mexico border that has a population of less than 300,000.

Added by Acts 2013, 83rd Leg., R.S., Ch. 845 (H.B. 138), Sec. 1, eff. June 14, 2013.

SUBCHAPTER D. INVESTIGATION AND ENFORCEMENT

Sec. 21.151. INVESTIGATION, INQUIRY, OR HEARING. (a) The department may conduct an investigation, inquiry, or hearing concerning a matter covered by this chapter or a rule or order of the department.

(b) The hearing shall be open to the public.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.152. CONDUCT OF INVESTIGATION, INQUIRY, OR HEARING. A member of the commission, the director, or an officer or employee of

the department who has been designated by the commission to hold an investigation, inquiry, or hearing may:

- (1) administer an oath;
- (2) certify an official act;
- (3) issue a subpoena;
- (4) order the attendance and testimony of a witness; or
- (5) order the production of a paper, book, or document.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.153. NONCOMPLIANCE WITH SUBPOENA OR ORDER. (a) If a person fails to comply with a subpoena or order issued under Section 21.152, the department shall notify the attorney general.

(b) The attorney general may bring suit to enforce the subpoena or order in the name of the state in a district court of Travis County.

(c) If the court determines that noncompliance with the subpoena or order was not justified, the court shall order the person to comply with the requirements of the subpoena or order.

(d) Failure to obey the order of the court is punishable as contempt.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.154. CIVIL PENALTY. (a) A person, including an officer, agent, servant, or employee of a corporation, is liable for a civil penalty if the person:

- (1) violates this chapter;
- (2) violates an order, decision, rule, direction, demand, or requirement of the department adopted under this chapter; or
- (3) procures or aids a violation of this chapter.

(b) A penalty under this section may not exceed \$100 a day for each day of the violation.

(c) The attorney general or the county or district attorney in the county in which the violation occurs shall institute and conduct a suit for the penalty:

- (1) in the county in which the violation occurs; and
- (2) in the name of the state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.155. INJUNCTIVE RELIEF. (a) A district court of a county in which a violation of this chapter or a rule, order, or decree of the department under this chapter has occurred may restrain and enjoin the person who committed the violation from committing a further violation.

(b) The court may grant injunctive relief:

(1) in a suit for a civil penalty brought under this chapter; or

(2) on application of the department, the attorney general, a district or county attorney, or a competing air carrier even if a suit for a civil penalty has not been brought.

(c) The department, attorney general, or district or county attorney is not required to post a bond when seeking injunctive relief under this section.

(d) In this section, "air carrier" means a person who, wholly or partly in this state, owns, controls, operates, or manages an aircraft as a common carrier in the transportation of persons or property for compensation but does not include an air carrier who operates between a place in this state and a place outside this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.156. ENFORCEMENT OF CHAPTER. (a) The department may enforce this chapter by revoking or suspending a lease or permit.

(b) The department shall notify the attorney general of a violation of this chapter. The attorney general may bring suit to enforce this chapter in a district court of the defendant's county of residence.

(c) The court may enforce this chapter by injunction or other appropriate legal process.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 21.157. COOPERATION WITH UNITED STATES IN LAW ENFORCEMENT. The department shall work with agencies of the United States in

enforcing the statutes, directives, rules, and regulations of the United States.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 22. COUNTY AND MUNICIPAL AIRPORTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 22.001. DEFINITIONS. In this chapter:

(1) "Air navigation facility" means:

(A) a facility, other than one owned and operated by the United States, used in or available or designed for use in aid of air navigation, including a structure, mechanism, light, beacon, marker, communications system, or other instrumentality;

(B) a device used or useful as an aid in the safe landing, navigation, or takeoff of aircraft or the safe and efficient operation or maintenance of an airport; or

(C) a combination of those facilities or devices.

(2) "Airport" means:

(A) an area used or intended for use for the landing and takeoff of aircraft;

(B) an appurtenant area used or intended for use for an airport building or other airport facility or right-of-way; and

(C) an airport building or facility located on an appurtenant area.

(3) "Airport hazard" means a structure, object of natural growth, or use of land that:

(A) obstructs the airspace required for the flight of aircraft in landing at or taking off from an airport; or

(B) is hazardous to the landing or takeoff of aircraft at an airport.

(4) "Airport hazard area" means an area on which an airport hazard could exist.

(5) "Area" includes land or water.

(6) "Local government" means a county or municipality in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.002. PUBLIC PURPOSE; COUNTY OR MUNICIPAL PURPOSE. (a)

Subject to Chapter 101, Civil Practice and Remedies Code, the following functions are public and governmental functions, exercised for a public purpose, and matters of public necessity:

- (1) the acquisition of an interest in real property under this chapter;
- (2) the planning, acquisition, establishment, construction, improvement, equipping, maintenance, operation, regulation, protection, and policing of an airport or air navigation facility under this chapter, including the acquisition or elimination of an airport hazard;
- (3) the exercise of any other power granted by this chapter to local governments and other public agencies, to be severally or jointly exercised; and
- (4) the acquisition and use of property and privileges by or on behalf of a local government or other public agency in the manner and for the purposes described by this chapter.

(b) In the case of a county, a function described by Subsection (a) is a county function and purpose. In the case of a municipality, a function described by Subsection (a) is a municipal function and purpose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.003. INTERPRETATION AND CONSTRUCTION. This chapter shall be interpreted to make uniform as far as possible the laws and regulations of this state, other states, and the United States relating to local governmental airports.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. ESTABLISHMENT, ACQUISITION, OPERATION, MAINTENANCE, AND DISPOSAL OF AIRPORTS AND AIR NAVIGATION FACILITIES

Sec. 22.011. GENERAL POWERS REGARDING AIRPORTS AND AIR NAVIGATION FACILITIES. (a) A local government may plan, establish, construct, improve, equip, maintain, operate, regulate, protect, and police an airport or air navigation facility in or outside:

- (1) the territory of the local government; or
- (2) the territory of this state.

(b) The power granted under Subsection (a) includes:

(1) constructing, installing, equipping, maintaining, and operating at an airport a building or other facility, including a building or other facility for:

(A) the landing and takeoff of aircraft;

(B) cargo, freight, and mail handling, storage, and processing;

(C) the servicing or retrofitting of aircraft, aerospace aircraft, and other equipment and vehicles related to air transportation or aerospace flight; and

(D) the comfort and accommodation of air travelers, including a facility commonly found and provided at an airport; and

(2) buying and selling goods as an incident to the operation of the local government's airport.

(c) A local government, by eminent domain or any other method, may acquire an interest in property, including an easement in an airport hazard or land outside the boundaries of an airport or airport site:

(1) for a purpose described by Subsection (a); and

(2) as necessary to permit the safe and efficient operation of the airport or to prevent, eliminate, or mark an airport hazard.

(d) A local government may acquire an existing airport or air navigation facility but may not acquire or take over an airport or air navigation facility owned or controlled by another local government or public agency of this state or another state without the consent of the other local government or the public agency.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.012. FINANCING OF AIRPORT FACILITIES. Under Section 52-a, Article III, Texas Constitution, a local government may finance facilities to be located on airport property, other than those described by Section 22.011(b)(1), that the local government determines to be:

(1) beneficial to the operation or economic development of an airport; and

(2) for the public purpose of development and diversification of the economy.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.013. ESTABLISHMENT OF AIRPORTS ON PUBLIC WATERS. For the purposes of this chapter, a local government may:

(1) establish, acquire, or maintain, in or bordering the territory of the local government, an airport in, over, and on the public water of this state, submerged land under the public water of this state, or artificial or reclaimed land that before the artificial making or reclamation of that land was submerged under the public water of this state; and

(2) construct and maintain a terminal building, landing float, causeway, roadway, or bridge for an approach to or connection with an airport described by Subdivision (1) or a landing float or breakwater for the protection of an airport described by Subdivision (1).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.014. RULES AND JURISDICTION. (a) A local government may adopt ordinances, resolutions, rules, and orders necessary to manage, govern, and use an airport or air navigation facility under its control or an airport hazard area relating to the airport. This authority applies to an airport, air navigation facility, or airport hazard area in or outside the territory of the local government.

(b) An airport, air navigation facility, or airport hazard area that is controlled and operated by a local government and that is located outside the territory of the local government is, subject to federal and state law, under the jurisdiction and control of that local government. Another local government may not impose a license fee or occupation tax for operations on the airport, air navigation facility, or airport hazard area.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.015. ENFORCEMENT OF RULES. To enforce an ordinance, resolution, rule, or order adopted under Section 22.014(a), a local government, by ordinance or resolution as appropriate, may appoint airport guards or police, with full police powers, and establish a penalty for a violation of an ordinance, resolution, rule, or order, within the limits prescribed by law. A penalty is enforced in the same manner in which a penalty prescribed by other ordinances or

resolutions of the local government is enforced.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.016. RELATIONSHIP TO ZONING. This chapter does not:

(1) authorize a local government to adopt an ordinance, resolution, rule, or order that establishes zones or otherwise regulates the height of structures or natural growths in an area or in a manner other than as provided by Chapter 241, Local Government Code; or

(2) limit the power of a local government to regulate airport hazards by zoning.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.017. DELEGATION OF AUTHORITY TO OFFICER, BOARD, OR AGENCY. (a) The governing body of a local government by resolution may delegate to an officer, board, or other local governmental agency any power granted by this chapter to the local government or the governing body for planning, establishing, constructing, improving, equipping, maintaining, operating, regulating, protecting, and policing an airport or air navigation facility established, owned, or controlled or to be established, owned, or controlled by the local government. The resolution must prescribe the powers and duties of the officer, board, or other local governmental agency.

(b) Notwithstanding Subsection (a), the local government is responsible for the expenses of planning, establishing, constructing, improving, equipping, maintaining, operating, regulating, protecting, and policing the airport or other air navigation facility.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.018. DESIGNATION OF TEXAS DEPARTMENT OF TRANSPORTATION AS AGENT IN CONTRACTING AND SUPERVISING. (a) A local government or an owner of an eligible airport may designate the Texas Department of Transportation as its agent in contracting for and supervising the planning, acquiring, constructing, improving, equipping, maintaining, or operating of an airport or air navigation facility.

(b) A local government or an owner of an eligible airport may enter into an agreement with the department prescribing the terms of the agency relationship in accordance with the terms prescribed by the United States, if federal money is involved, and in accordance with the laws of this state.

(c) The department, in acting as the agent of a local government or an owner of an eligible airport under this section, shall make each contract in accordance with the law governing the making of contracts by or on behalf of the state.

(d) In this section, "eligible airport" means an airport eligible to receive grant funds under the airport improvement program established by 49 U.S.C. Section 47101 et seq.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 118 (H.B. [2314](#)), Sec. 1, eff. September 1, 2009.

Sec. 22.019. CONTRACTS. A local government may enter into a contract necessary to the execution of a power granted the local government and for a purpose provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.020. OPERATION OF AIRPORT BY ANOTHER. (a) A local government, by contract, lease, or other arrangement, on a consideration fixed by the local government and for a term not to exceed 40 years, may authorize a qualified person to operate, as the agent of the local government or otherwise, an airport owned or controlled by the local government.

(b) A local government may not authorize a person to:

(1) operate the airport except as a public airport; or
 (2) enter into a contract, lease, or other agreement in connection with the operation of the airport that the local government may not have made under Section 22.021.

(c) An arrangement made under this section must be made subject to the terms of a grant, loan, or agreement under Section 22.055.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.021. USE OF AIRPORT BY ANOTHER. (a) In operating an airport or air navigation facility that it owns, leases, or controls, a local government may enter into a contract, lease, or other arrangement for a term not exceeding 40 years with a person:

(1) granting the privilege of using or improving the airport or air navigation facility, a portion or facility of the airport or air navigation facility, or space in the airport or air navigation facility for commercial purposes;

(2) conferring the privilege of supplying goods, services, or facilities at the airport or air navigation facility; or

(3) making available services to be furnished by the local government or its agents at the airport or air navigation facility.

(b) In entering into the contract, lease, or other arrangement, the local government may establish the terms and fix the charges, rentals, or fees for the privileges or services. The charges, rentals, and fees must be reasonable and uniform for the same class of privilege or service and shall be established with due regard to the property and improvements used and the expenses of operation to the local government.

(c) An arrangement made under this section must be made subject to the terms of a grant, loan, or agreement under Section 22.055.

(d) The 40-year limit on the term of a contract, lease, or other arrangement provided by Subsection (a) does not apply to a contract, lease, or other arrangement under this section between a local government and this state, the United States, or an agency or instrumentality of this state or the United States.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 557, Sec. 1, eff. June 2, 1997.

Sec. 22.022. DURATION OF CERTAIN LEASES. (a) A lease of real property may not exceed 40 years if:

(1) the lease is made under Section 22.011(c) or (d), Section 22.020, or Section 22.021; and

(2) at the time of the execution of the lease, the property is used as nonaeronautical property and is located on an airport on which there are active federal governmental aircraft operations on

federal government property.

(b) A renewal or extension of a lease under Subsection (a) may not exceed 40 years. If the lease provides for more than one renewal or extension, the renewals or extensions may not in the aggregate exceed 40 years.

(c) This section does not prevent the parties to a lease from making a new lease to take effect after the expiration of the previous lease or after the expiration of the period covered by a renewal or extension of the previous lease.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.023. LIENS. A local government has a lien on personal property to enforce the payment of a charge for repairs or improvements to, or the storage or care of, the property if the property is made or furnished by the local government or its agents in connection with the operation of an airport or air navigation facility owned or operated by the local government. The lien is enforceable as provided by law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.024. DISPOSAL OF AIRPORT PROPERTY BY LOCAL GOVERNMENT.

(a) A local government may dispose of an airport or air navigation facility or other property, or a portion of or interest in property, acquired under this chapter in any manner, subject to the laws of this state or provisions of the charter of the local government governing the disposition of other property of the local government.

(b) A local government may dispose of the property to another local government or an agency of the state or federal government for use for aeronautical purposes, notwithstanding Subsection (a), in the manner and on the terms the governing body of the local government considers to be in the best interest of the local government.

(c) An arrangement made under this section is subject to the terms of a grant, loan, or agreement under Section 22.055.

(d) Notwithstanding Subsection (a), the competitive bidding requirements of Chapters 252 and 272, Local Government Code, do not apply to an exchange, sale, lease, or other disposition of land or other real property interest by a municipality if:

- (1) the land or other property interest is part of an air navigation facility that is a former military installation; and
- (2) the disposition:
 - (A) is part of a plan to redevelop the facility as an airport-related industrial park or community; and
 - (B) promotes the best interest of the municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 358, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1516, Sec. 3, eff. June 17, 2001.

Sec. 22.025. LIMITATION ON DESIGN AND OPERATION OF AIR NAVIGATION FACILITIES. An air navigation facility established or operated by a local government shall be supplementary to and coordinated in design and operation with those established and operated by the federal and state governments.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.026. NOISE ABATEMENT. (a) The governing body of a municipality that owns an airport and is a party to an executory grant agreement with the Federal Aviation Administration requiring the municipality to plan, design, and acquire land for a replacement airport shall:

- (1) comply with the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. Sec. 2101 et seq.);

- (2) provide adequate soundproofing and noise reduction devices for each public building within the 65 or higher average day-night sound level contour as determined by the governing body in accordance with Federal Aviation Administration Advisory Circulars; or

- (3) award a contract for land acquisition services for the purchase of real property required for the site of a replacement airport, complete a master plan for the replacement airport, and provide the replacement airport.

- (b) A court may grant appropriate relief to enforce this section in a suit brought by an affected person.

- (c) In this section:

- (1) "Public building" means a church, public or private

hospital, or building owned or leased by a governmental entity, including a public school.

(2) "Replacement airport" means a new airport that is planned, designed, and constructed to replace a municipal airport operating on August 28, 1989.

(d) Expired.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.027. MUNICIPAL PERMISSION FOR GROUND TRANSPORTATION; OFFENSE. (a) In this section, "ground transportation business" means the transportation by motor vehicle of persons or baggage for compensation, and includes transportation by a bus service.

(b) A person commits an offense if, within the boundaries of an airport operated by a home-rule municipality, the person:

(1) solicits ground transportation business without the permission of the municipality, if required; or

(2) engages in ground transportation business without the permission of the municipality, if required.

(c) An offense under this section is a Class B misdemeanor.

Added by Acts 2003, 78th Leg., ch. 95, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER C. AIRPORT FINANCING

Sec. 22.051. TAXATION. (a) The governing body of a local government may impose an annual property tax not to exceed five cents on each \$100 valuation to improve, operate, and maintain an airport or air navigation facility or for any other purpose authorized by this chapter.

(b) The tax authorized by Subsection (a) is in addition to other taxes that may be imposed for the interest and sinking fund of bonds, notes, or time warrants issued under authority of this chapter or any other statute authorizing a local government to issue bonds, notes, or warrants for airport purposes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.052. BONDS. (a) A local government may pay wholly or

partly from the proceeds of the sale of bonds the cost of planning, acquiring, establishing, constructing, improving, or equipping an airport or air navigation facility or the site of an air navigation facility or acquiring or eliminating airport hazards.

(b) For a purpose described by Subsection (a), a local government, in the manner provided by Subtitles A, C, D, and E, Title 9, Government Code, may:

(1) issue any form of secured or unsecured bonds, including general or special obligation bonds, revenue bonds, or refunding bonds; and

(2) impose taxes to provide for the interest and sinking funds of any bonds issued.

(c) In a suit, action, or proceeding involving the security, validity, or enforceability of a bond issued by a local government that states on its face that it was issued under this chapter and for a purpose authorized to be accomplished by this chapter, the bond is considered to have been issued under this chapter for that purpose.

(d) If the principal and interest of a bond issued by a local government under this chapter is payable solely from the revenue of an airport or air navigation facility, the bond must state so on its face.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.371, eff. Sept. 1, 2001.

Sec. 22.053. TIME WARRANTS. (a) The commissioners court of a county with a population of 14,300 to 14,500 may issue time warrants to:

(1) condemn or purchase land to be used and maintained as provided by Sections 22.011, 22.020, and 22.024; and

(2) improve and equip the land for the use provided by Sections 22.011, 22.020, and 22.024.

(b) The commissioners court of a county that issues time warrants under this section shall comply with:

(1) Subchapter C, Chapter 262, Local Government Code, regarding:

(A) notice to issue the time warrants; and

(B) the right to a referendum; and

(2) Chapter 1251, regarding the imposition of taxes for

payment of the time warrants.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 42, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 123, eff. September 1, 2011.

Sec. 22.054. APPLICATION OF AIRPORT REVENUE AND SALE PROCEEDS. A local government shall deposit the revenue received by the local government from the ownership, control, or operation of an airport or air navigation facility, including proceeds from the sale of an airport or a portion of an airport or of air navigation facility property, in a fund to be designated the "_____ Airport Fund." The revenue may be used by the local government only for the purposes authorized by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.055. FEDERAL AND STATE AID; OTHER GRANTS AND LOANS.

(a) A local government may accept, give a receipt for, disburse, and spend money from grants and loans for any of the purposes of this chapter. A local government must accept and spend federal money under this section on the terms prescribed by the United States and consistent with state law. A local government must accept and spend state money under this section on the terms prescribed by the state. Unless the agency from which the money is received prescribes otherwise, the chief financial officer of the local government shall deposit the money in separate funds designated according to the purposes for which the money is made available and shall keep it in trust for those purposes.

(b) A local government may designate the Texas Department of Transportation as its agent to accept, give a receipt for, and disburse money from grants and loans for any of the purposes of this chapter. The department shall accept and shall transfer or spend federal money accepted under this section on the terms prescribed by the United States. The department shall deposit money it receives under this subsection in the state treasury and, unless the agency from which the money is received prescribes otherwise, shall keep the

money in separate funds designated according to the purposes for which the money is made available, and the state shall hold the money in trust for those purposes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. JOINT OPERATIONS

Sec. 22.071. DEFINITIONS. In this subchapter:

(1) "Constituent agency" means a public agency that is a party to an agreement under Section 22.072 to act jointly under this subchapter.

(2) "Governing authority" means the governing body of a county or municipality or the head of a public agency other than a county or municipality.

(3) "Joint board" means a board created under Section 22.074.

(4) "Populous home-rule municipality" means a home-rule municipality with a population of more than 400,000.

(5) "Public agency" includes a local government, an agency of the state or of the United States, and a political subdivision or agency of another state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.072. JOINT-ACTION AGREEMENT. (a) Two or more public agencies may enter into an agreement with each other for joint action under this chapter. Concurrent action by ordinance, resolution, or otherwise of the governing authorities of the participating public agencies constitutes joint action.

(b) A joint-action agreement must specify:

(1) its duration;

(2) the proportionate interest each public agency has in the property, facilities, and privileges involved;

(3) the proportion each public agency pays of:

(A) the preliminary costs and costs of acquiring, establishing, constructing, improving, and equipping the airport, air navigation facility, or airport hazard area; and

(B) the costs of maintaining, operating, regulating, and protecting the airport, air navigation facility, or airport

hazard area; and

(4) any other terms required by this subchapter.

(c) A joint-action agreement may include:

(1) provisions for amending the agreement;

(2) conditions and methods of terminating the agreement;

(3) provisions for disposing of all or any of the property, facilities, and privileges jointly owned before or after all or part of the property, facilities, and privileges cease to be used for the purposes of this chapter or on termination of the agreement;

(4) provisions for distributing the proceeds received on disposal of the property, facilities, and privileges and any funds or other property jointly owned and undisposed of;

(5) provisions for assuming or paying any indebtedness arising from the joint venture that remains unpaid on the disposal of all assets or on termination of the agreement; and

(6) any other necessary or convenient provision.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.073. ADDITIONAL AUTHORIZATION. A power or privilege granted to a local government by this chapter may be exercised jointly with a public agency of another state or the United States to the extent permitted by the laws of that state or of the United States. A state agency, when acting jointly with a local government, may exercise a power or privilege granted to a local government by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.074. JOINT BOARD. (a) Public agencies acting jointly under this subchapter shall create a joint board consisting of members appointed by the governing authority of each participating public agency. Subject to Section 22.0745, the joint agreement shall provide for the number to be appointed and the members' terms and compensation, if any. The joint board shall organize, select officers for terms to be provided by the agreement, and adopt rules for its own procedures.

(b) A joint board may exercise on behalf of its constituent agencies all the powers of each with respect to an airport, air

navigation facility, or airport hazard area, subject to the limitations of Sections 22.079-22.082.

(c) A joint board may plan, acquire, establish, construct, improve, equip, maintain, operate, regulate, protect, and police an airport, air navigation facility, or airport hazard area jointly acquired, controlled, and operated. The joint board may also realign, alter, acquire, abandon, or close a portion of a roadway or alleyway without a showing of paramount importance if the portions to be realigned, altered, acquired, abandoned, or closed are in the geographic boundaries of the airport at the time of or after the realignment, alteration, acquisition, abandonment, or closing. A taking of a right-of-way that occurs in the exercise of this power shall be compensated at fair market value.

(d) If the constituent agencies of a joint board are populous home-rule municipalities, a power described by Subsection (c) is exclusively the power of the board regardless of whether all or part of the airport, air navigation facility, or airport hazard area is located in or outside the territory of any of the constituent agencies. Another local government or other political subdivision may not enact or enforce a zoning ordinance, subdivision regulation, construction code, or other ordinance purporting to regulate the use or development of property applicable in the geographic boundaries of the airport as it may be expanded.

(e) The powers exclusively given to a joint board under Subsection (d) do not affect the jurisdiction of a municipal court under Section 29.003, Government Code. The jurisdiction of a municipal court under that section does not authorize the officers or employees of a municipality that is not a constituent agency of the joint board to enter airport property to regulate, protect, or police the airport except as permitted by a valid interlocal agreement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 611, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 352, Sec. 1, eff. Sept. 1, 2001.

Sec. 22.0745. NONCONSTITUENT MUNICIPALITY REPRESENTATION ON JOINT BOARD. (a) In this section, "nonconstituent municipality" means a municipality that has territory within the boundaries of an airport that is governed by a joint board for which the constituent

agencies are populous home-rule municipalities.

(b) A joint board for which the constituent agencies are populous home-rule municipalities must include in its membership a nonvoting member jointly appointed by the airport's nonconstituent municipalities.

(c) A member appointed under Subsection (b) serves a one-year term. The nonconstituent municipalities by agreement shall establish an order under which members are appointed under Subsection (b) that ensures that each nonconstituent municipality has a representative on the joint board on a rotating basis.

(d) The member appointed under Subsection (b) is not entitled to:

(1) attend or participate in a meeting of the joint board that is a closed meeting under Chapter 551, Government Code; or

(2) inspect or copy information that is collected, assembled, or maintained by the joint board, if the information is confidential or excepted from public disclosure under Chapter 552, Government Code.

Added by Acts 2001, 77th Leg., ch. 352, Sec. 2, eff. Sept. 1, 2001.

Sec. 22.075. ACQUISITION OF PROPERTY BY POPULOUS HOME-RULE MUNICIPALITIES. (a) A joint board for which the constituent agencies are populous home-rule municipalities may not acquire in fee simple property in a municipality to enlarge an airport operated by the joint board, including property acquired for the runway protection zone and for mitigating the effects of additional airport noise caused by the enlargement of the airport, in more than an aggregate of 10 percent of that portion of the land area of the airport that is in the municipality unless the joint board has the consent of the municipality.

(b) Property acquired for the purpose of mitigating the effects of additional airport noise caused by the enlargement of the airport that is resold is not included as part of the limit prescribed by Subsection (a).

(c) A populous home-rule municipality may acquire property under Section 22.080(b) or Chapter 21, Property Code, for a purpose described by Subsection (a), except that the consent of the municipality in which the property is located is required for an

acquisition in excess of the limit prescribed by Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.076. TREATMENT OF HAZARDOUS WASTE PROHIBITED. (a) A joint board may not construct a facility to treat hazardous waste as defined by Section 361.003, Health and Safety Code, in an area that the joint board acquires and that is subject to the limitation prescribed by Section 22.075 without first obtaining the permission of the municipality in which the facility is to be located.

(b) This section does not prohibit any process or other activity related to the deicing of aircraft, transportation or storage of fuel, or cleanup or remediation of a spill or leak.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.077. CERTAIN ACTIVITIES NEAR AIRPORT BOUNDARIES PROHIBITED. (a) A joint board for which the constituent agencies are populous home-rule municipalities may not begin construction in a prohibited area of any of the following without receiving the approval of the municipality in which the facility or site is to be located:

- (1) a sewer and wastewater treatment plant;
- (2) an aboveground aviation fuel storage facility, not including pipelines for transporting fuel;
- (3) a sanitary landfill site;
- (4) a hazardous-waste disposal site; or
- (5) a facility designed primarily for aircraft engine testing.

(b) An area is a prohibited area for the purposes of construction of a facility or site described by Subsections (a)(1)-(4) if:

- (1) the area is within 1,000 feet of any part of the boundary of the airport as the boundary existed on the date the airport began operations; or
- (2) after the date the airport began operations the airport boundary is expanded under Section 22.075 to include contiguous property and the area is within 1,000 feet of any part of the boundary of the airport after that expansion.

(c) An area is a prohibited area for the purposes of construction of a facility or site described by Subsection (a)(5) if:

(1) the area is within 500 feet of any part of the boundary of the airport as the boundary existed on the date the airport began operations; or

(2) after the date the airport began operations the airport boundary is expanded under Section 22.075 by more than 500 feet to include contiguous property and the area is within 1,000 feet of any part of the boundary of the airport after that expansion.

(d) The construction of a deicing facility by the joint board does not require the approval of the local government in which the facility is to be located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.078. INTERGOVERNMENTAL AGREEMENT WITH POLITICAL SUBDIVISION. A joint board for which the constituent agencies are populous home-rule municipalities may make an intergovernmental agreement with a political subdivision of the state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.0781. REVENUE SHARING AGREEMENT WITH MUNICIPALITY. (a) A municipality, a joint board for which the constituent agencies are populous home-rule municipalities, and the constituent agencies may make an agreement under which a portion of the revenue derived from a tax or fee of the municipality imposed in the territory of the municipality for which the joint board has exclusive power under Section 22.074(d) may be transferred to the constituent agencies if under the agreement the joint board agrees to encourage development opportunities in the territory of the municipality that are feasible and consistent with the development policies of the joint board.

(b) A tax or fee that may be transferred under an agreement includes a sales and use tax, an ad valorem property tax, a mixed beverage tax, a fine, a franchise fee, a cost of court, and a hotel occupancy tax.

(c) The agreement may provide for the inclusion of revenue from a tax imposed under Chapter 334, Local Government Code, in the transfer only if the election approving that tax is held after the

date the agreement is made under this section. If any revenue from a tax imposed under Chapter 334, Local Government Code, is to be transferred, the municipality must provide general notice of that fact in the order calling the election and in the ballot proposition. The specifics of the transfer agreement are not required to be placed in the order or in the ballot proposition and only the municipality that will transfer its revenue is required to hold an election for the agreement to be effective. The ballot for an election held under this subsection shall be prepared to permit voting for or against the proposition: "Authorizing _____(insert name of municipality) to impose a _____(insert type of tax) tax at the rate of _____(insert the maximum rate of the tax) with the revenue to be shared with _____ (insert name of each constituent agency covered by the agreement) under a revenue sharing agreement."

(d) A constituent agency may use revenue received under an agreement under this section for one or more of the following:

(1) the acquisition, construction, improvement, and renovation of any public work, including land, buildings, materials, supplies, equipment, furnishings, and machinery;

(2) to secure and pledge in support of the payment of bonds or other obligations issued by or on behalf of the constituent agency after the effective date of the agreement for any purpose for which the constituent agency, or an entity created by the constituent agency to act on its behalf, may issue bonds or obligations; and

(3) to pay the cost of a credit agreement, as defined by Section 1371.001, Government Code.

(e) Notwithstanding any other law, a municipality may use revenue retained under an agreement for any governmental purpose.

(f) Notwithstanding any other provision of Chapter 334, Local Government Code, a tax imposed under Chapter 334 that is subject to an agreement under this section continues in effect until the governing body of the municipality that imposed the tax acts at its discretion to repeal the tax.

(g) To the extent of any conflict between this section and another provision of law, including a charter provision, this section controls.

Added by Acts 1999, 76th Leg., ch. 160, Sec. 1, eff. May 21, 1999.
Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.372, eff. Sept. 1, 2001.

Sec. 22.079. BUDGET. On or before December 1 of each year, the governing authority of each constituent agency of a joint board shall approve a budget determining the total expenditures to be made by the joint board for any purpose in the following calendar year.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.080. ACQUISITION AND DISPOSAL OF PROPERTY. (a) A joint board may not, without the consent of each governing authority of the board's constituent agencies:

(1) acquire an airport, air navigation facility, airport hazard, or property if the cost of the property exceeds the amount set by the joint agreement or allotted in the annual budget;

(2) dispose of an airport, air navigation facility, or real property under the jurisdiction of the board; or

(3) enter into a contract, lease, or other arrangement for the use and occupancy by another of airport property for a term of more than 40 years, including renewals or options to renew.

(b) Eminent domain proceedings under this subchapter may be instituted only by authority of the governing authorities of the constituent agencies of the joint board. Eminent domain proceedings must be instituted in the names of the constituent agencies jointly, and property acquired in eminent domain proceedings shall be held by the agencies as tenants in common until the agencies convey the property to the joint board.

(c) Except as provided by Subsection (a)(3), a joint board may, without the consent of the governing authorities of the board's constituent agencies, enter into a contract, lease, or other arrangement for the use and occupancy by another of airport property on the terms approved by the board, including the amounts of rental, revenue, and payments, the periods of years, and the options of renewal.

(d) The consent required by Subsection (a)(3) is unnecessary if each governing authority by resolution waives that requirement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.081. LICENSING OF VEHICLES FOR HIRE AND PASSENGER TRANSPORTATION SERVICES. (a) A joint board may license taxicabs transporting passengers to or from the airport and impose fees for issuing the licenses.

(b) A joint board for which the constituent agencies are populous home-rule municipalities may:

(1) license vehicles for hire, including taxicabs, and passenger transportation services providing services to or from the airport for compensation; and

(2) impose fees for issuing the licenses.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1149 (S.B. 530), Sec. 1, eff. June 19, 2015.

Sec. 22.0815. OFFENSE: UNAUTHORIZED GROUND TRANSPORTATION.

(a) In this section, "ground transportation business" means the transportation by motor vehicle of persons or baggage for compensation.

(b) A person commits an offense if, within the boundaries of an airport operated or controlled by a joint board for which the constituent agencies are populous home-rule municipalities, the person:

(1) solicits ground transportation business without the permission of the joint board, if required; or

(2) engages in ground transportation business without the permission of the joint board, if required.

(c) An offense under this section is a Class B misdemeanor.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 15.001, eff. September 1, 2007.

Sec. 22.082. RULES. A resolution, rule, or order of a joint board dealing with a subject authorized by Section 22.014 or 22.081 is effective only on approval of the governing authorities of the constituent agencies. On approval, a resolution, rule, or order of the joint board has the same effect in the territories or

jurisdictions involved as an ordinance, resolution, rule, or order of the public agency would have in its own territory or jurisdiction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.083. JOINT FUND. (a) Each constituent agency shall deposit in a joint fund created and maintained to provide the joint board with money for expenditures necessary to carry out this subchapter the agency's share of the fund as provided by the joint agreement.

(b) Federal, state, or other contributions or loans and the revenue obtained from the joint ownership, control, and operation of any airport or air navigation facility under the jurisdiction of the joint board shall be deposited to the credit of the joint fund.

(c) Disbursements from the fund shall be made by order of the joint board, subject to the limitations prescribed by Sections 22.079-22.082.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.084. AIRPORT REVENUE AND REVENUE BOND PROCEEDS; CONTRACTING OPPORTUNITIES FOR MINORITY- AND WOMEN-OWNED BUSINESSES. (a) If constituent agencies or a nonprofit corporation created under Section 22.152 issues revenue bonds to finance the construction or acquisition of a facility or other improvement at an airport, the proceeds of the bonds and any other airport income or revenue may be spent on projects for which the proceeds, income, or revenue may otherwise be spent. An agreement may be made to spend all or a portion of the proceeds, income, or revenue for the planning, construction, or acquisition of facilities authorized by Sections 22.011(a)-(c) and 22.012 without inviting, advertising for, or otherwise requiring competitive bids. A contract wholly or partly funded with proceeds, income, or revenue under this subsection shall be let in accordance with the joint board's rules and policies relating to creation of contracting opportunities for minority- and women-owned businesses.

(b) This section does not apply to a contract to be paid:

(1) from the proceeds of bonds unless the bonds from which the particular proceeds derive provide that they may not be repaid in

any circumstances from ad valorem taxes; or

- (2) wholly or partly from ad valorem taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.085. INSURANCE. (a) A joint board, through self-insurance, purchased insurance, or both, may insure the joint board and its contractors and subcontractors against liability arising from the acquisition, construction, or operation of the programs and facilities of the joint board for:

- (1) damages to the person or property of others;
- (2) workers' compensation; and
- (3) officers' and employees' liability.

(b) A joint board may use contracts and rating plans and may implement risk management programs designed to prevent accidents. In developing its insurance program, a joint board may consider the peculiar hazards, indemnity standards, and past prospective loss and expense experience of the joint board and of its contractors and subcontractors.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.086. ACCEPTANCE OF CREDIT CARDS. A joint board may:

- (1) accept credit cards in payment of fees for all or certain categories of services provided by or on behalf of the joint board in connection with its operation of an airport;

- (2) collect a fee for processing a payment by credit card;

and

- (3) collect a service charge from the person who owes the fee if the payment by credit card is not honored by the credit card company on which the funds are drawn.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.087. USE OF TERMINAL FACILITIES BY MANUFACTURERS AND CONCESSIONAIRES. A joint board may:

- (1) use the property, including terminal buildings, of a jointly owned airport to display, demonstrate, market, and sell

aircraft and aircraft-related, airport-related, and aviation-related property, including goods and equipment;

(2) lease to or permit the use of airport property by manufacturers, suppliers, concessionaires, and other providers of aircraft and aircraft-related, airport-related, and aviation-related property, including goods and equipment; and

(3) use the revenue of the airport and the proceeds of bonds authorized by this chapter or by any other law for a purpose described by Subdivision (1) or (2).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.088. EXPENDITURE OF BOND REVENUE BY JOINT BOARD WITHOUT COMPETITIVE BIDDING. (a) A joint board may spend or agree to spend the proceeds of revenue bonds under its control to acquire and install furniture, fixtures, and equipment to be used at an airport operated by the joint board without inviting, advertising for, or otherwise requiring competitive bids or requiring or obtaining a payment or performance bond.

(b) This section applies to furniture, fixtures, and equipment purchased by the joint board or a private entity that will lease the furniture, fixtures, and equipment in accordance with this section.

(c) The furniture, fixtures, and equipment must be, before the delivery of the bonds, the subject of a lease from the joint board to a private entity under the terms of which the lessee is:

(1) obligated to maintain the furniture, fixtures, and equipment solely at its expense; and

(2) unconditionally obligated throughout the term of the bonds to make payments of net rent in amounts and at times sufficient to provide for the timely payment of all principal, interest, redemption premiums, and other costs and expenses arising or to arise in connection with the payment of the bonds.

(d) This section does not apply to the expenditure of the proceeds of bonds:

(1) unless the bonds provide by their own terms that:

(A) they are payable solely from the net rents required by Subsection (c)(2); and

(B) they are not payable in any circumstances from tax revenue; or

(2) that provide for the creation of a contractual mortgage lien against real property owned by the public agencies creating the joint board.

(e) A joint board may adopt rules it finds to be in the public interest to govern the method and installation of the properties to which this section relates.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.089. AIRPORT REVENUE OF NONCONSTITUENT MUNICIPALITIES.

(a) In this section:

(1) "Airport revenue" means revenue that is not already pledged or dedicated for another purpose and is received by a nonconstituent municipality from:

(A) maintenance and operations ad valorem taxes imposed on real and personal property located within a revenue sharing area by the municipality;

(B) the sales and use tax imposed by the municipality under Chapter 321, Tax Code, derived only from the sale or use of taxable items in the revenue sharing area;

(C) franchise fees, right-of-way fees, and other compensation paid to the municipality by a utility for the use of the public right-of-way or other public property located within the revenue sharing area;

(D) money collected by the municipal court, including fines, fees, and court costs derived only from convictions for offenses that occur in the revenue sharing area;

(E) the mixed beverage taxes received by the municipality under Section 183.051, Tax Code, derived only from the sale, preparation, or service of a taxable item in the revenue sharing area;

(F) all other taxes attributable to the revenue sharing area and deposited to the credit of the municipality's general fund; and

(G) as agreed by the joint board and the nonconstituent municipality, from commercial development in an area of the municipality within the boundaries of the airport that is not a revenue sharing area.

(2) "Excess airport revenue" means that amount of airport

revenue received by a nonconstituent municipality in the municipality's fiscal year that exceeds the amount of airport revenue of the municipality in the later of:

(A) the municipality's fiscal year 2000; or

(B) the first fiscal year of the municipality in which the airport is fully operational.

(3) "Nonconstituent municipality" means a municipality:

(A) that has territory within the boundaries of an airport that is governed by a joint board for which the constituent agencies are populous home-rule municipalities; and

(B) that has not entered into an agreement under Section 22.0781 with the joint board.

(4) "Revenue sharing area" means the area of a nonconstituent municipality located within the boundaries of the airport that is not separated from the airport passenger terminal buildings by a controlled access highway, as defined by Section 203.001, that runs through the municipality.

(b) Not later than December 31 of each year, each nonconstituent municipality shall pay to the constituent agencies an amount equal to two-thirds of the nonconstituent municipality's excess airport revenues for the preceding fiscal year. The constituent agencies shall divide the payment according to their respective ownership interests in the airport to which the revenue was attributable.

(c) Each year, as part of its annual audit, each nonconstituent municipality shall retain an independent auditor to verify the nonconstituent municipality's excess airport revenue. The constituent agencies shall reimburse each nonconstituent municipality for two-thirds of the cost of the verification. The portion of the reimbursement to be paid by each constituent agency shall be based on the respective ownership interests in the airport to which the increased revenues were attributable. Once each calendar year, each constituent agency may audit a nonconstituent municipality's records relating to the excess airport revenue at the sole expense of the constituent agency.

(d) Each nonconstituent municipality shall determine the amount of the municipality's airport revenue according to available statistical data indicating the estimated or actual total revenue attributable to that portion of the municipality that lies within the boundaries of the airport.

Added by Acts 2001, 77th Leg., ch. 352, Sec. 3, eff. Sept. 1, 2001.

Text of section effective until August 31, 2021

Sec. 22.090. RETAIL DEVELOPMENT WITHIN AIRPORT BOUNDARIES IN NONCONSTITUENT MUNICIPALITY. (a) A person may not develop a retail establishment in an area of a nonconstituent municipality, as defined by Section 22.089, that is separated from the airport passenger terminal buildings by a controlled access highway, as defined by Section 203.001, without the consent of the joint board and the nonconstituent municipality. This subsection does not affect the powers of a joint board under Section 22.074.

(b) This section expires August 31, 2021.

Added by Acts 2001, 77th Leg., ch. 352, Sec. 3, eff. Sept. 1, 2001.

SUBCHAPTER E. NONPROFIT AIRPORT FACILITY FINANCING CORPORATIONS

Sec. 22.151. DEFINITIONS. The definitions in Subchapter D apply to this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.152. NONPROFIT AIRPORT FACILITY FINANCING CORPORATIONS.

(a) The public agencies, by concurrent order, ordinance, or resolution, may authorize the incorporation of a nonprofit airport facility financing corporation under this chapter to provide financing to pay the costs, including direct and indirect costs, capitalized interest, and reserves for the costs, of an airport facility authorized by Sections 22.011(a)-(c) and 22.012 and for other purposes set forth in the articles of incorporation.

(b) In fulfilling its purposes and performing its powers, duties, and operations, the corporation shall act on behalf of and as the duly constituted authority and instrumentality of the constituent agencies authorizing its creation for purposes of Section 103 of the Internal Revenue Code of 1986 (26 U.S.C. Section 103).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.153. APPROVAL OF ARTICLES OF INCORPORATION; APPOINTMENT OF BOARD OF DIRECTORS. (a) The concurrent order, ordinance, or resolution of the constituent agencies authorizing incorporation of the nonprofit airport facility financing corporation must approve the articles of incorporation for the corporation and any amendments to the articles of incorporation.

(b) The board of directors of the corporation may be selected and appointed in any manner specified in the articles of incorporation, including the selection and appointment of the board of directors by the joint board under whose authority the jointly owned airport is operated and supervised under this chapter and the joint agreement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.154. INCORPORATION. A nonprofit airport facility financing corporation may be incorporated under this chapter by filing its articles of incorporation with the secretary of state in the manner prescribed for the incorporation of nonprofit corporations under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes). On filing of the articles of incorporation, the secretary of state shall issue a certificate of incorporation showing that the corporation is incorporated under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.155. BYLAWS. The joint board under whose authority the jointly owned airport is operated shall approve or prescribe the bylaws of the corporation. The bylaws may prescribe the procedures to be followed in fulfilling the purposes of the corporation and in exercising its powers and may include any limitations on exercising those powers the joint board considers appropriate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.156. APPLICABLE LAWS. The corporation has the powers granted by this chapter, the Texas Non-Profit Corporation Act

(Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), and all other laws applicable to nonprofit corporations. The internal affairs of the corporation are governed by, the purposes and powers of the corporation are fulfilled and exercised in accordance with, and the corporation is subject to, the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), except as otherwise provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.157. BONDS. (a) A nonprofit airport facility financing corporation may provide financing for the purposes described by Section 22.152(a) by issuing bonds, notes, or other forms of obligations on behalf of the constituent agencies on terms the board of directors considers appropriate, consistent with the procedures and limitations set forth in the bylaws and subject only to the limitations in this subsection. The bonds, notes, or other obligations are payable only from:

(1) revenue, rents, income, or payments from one or more users of property of the jointly owned airport under a lease, loan, purchase, lease-purchase, or other agreement between the corporation and the user or users; and

(2) revenue of the airport that the joint board commits and pledges to the payment of the obligations under agreements between the joint board and the corporation as authorized by Subsection (b).

(b) A lease, loan, purchase, lease-purchase, or other agreement may be on terms the parties to the agreement determine appropriate. The joint board and the corporation may enter into agreements, including lease, lease-purchase, or other agreements, as they determine appropriate to accomplish financing under this section.

(c) Bonds, notes, or other obligations of the corporation must be submitted to the attorney general for review and approval. If the attorney general determines that the obligations are issued in accordance with this chapter, the attorney general shall approve them. On approval, the obligations are incontestable for any cause.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.158. EARNINGS. (a) No part of a nonprofit airport

facility financing corporation's net earnings remaining after payment of its expenses and other obligations may benefit an individual, private firm, or private corporation.

(b) If the board of directors determines that sufficient provision has been made for the full payment of the expenses, bonds, notes, and other obligations of the corporation, any net earnings of the corporation subsequently accruing shall be paid to the joint board for the benefit of the constituent agencies in their respective ownership shares of the airport in accordance with the joint agreement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 22.159. ALTERATION OR TERMINATION OF CORPORATION. The constituent agencies that authorize the incorporation of a nonprofit airport facility financing corporation may alter the structure, organization, programs, or activities of the corporation or may terminate and dissolve the corporation, subject only to any limitations provided by state law relating to the impairment of contracts entered into by the corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 22.901. DISPOSAL OF ABANDONED AIRCRAFT. (a) A local government that is unable to determine the ownership of an aircraft that has been located for more than 90 days at an airport owned by the local government may petition a district court for the county in which the aircraft is located to determine the ownership of the aircraft if:

(1) the local government has provided notice in the same manner as provided by Section 683.012 for notice of an abandoned motor vehicle; and

(2) the local government has contacted the Federal Aviation Administration in an attempt to identify the owner of the aircraft.

(b) On filing of a petition under Subsection (a), the court shall hold a hearing to determine the ownership status of the aircraft. The local government shall present the court with all evidence the local government has in its possession about the

ownership of the aircraft. If the evidence is sufficient to determine ownership of the aircraft, the court shall notify the owner of the aircraft.

(c) If the court is unable to make a determination under Subsection (b), the court shall require the local government to collect additional evidence about ownership or to provide notice in the manner that is most likely to reach the owner of the aircraft. Unless evidence is discovered that allows the court to determine the owner of the aircraft, the court may not take further action on making a determination of ownership until after the 60th day after the date of the hearing under Subsection (b).

(d) If the court cannot make a determination on the ownership of the aircraft after requiring the local government to take additional steps under Subsection (c), the court shall declare the aircraft as abandoned property, and the court shall give title to the aircraft to the local government. The local government shall dispose of the aircraft in the same manner the local government disposes of salvage or surplus property.

(e) If an owner of an aircraft fails to claim the aircraft within 60 days after the date notice is given under Subsection (b), the local government may petition the district court to declare the aircraft abandoned property under Subsection (d).

(f) A determination of ownership made by the court under this section does not affect the right of the local government to recover fees against the owner of the aircraft for storage or maintenance of the aircraft.

Added by Acts 1997, 75th Leg., ch. 432, Sec. 1, eff. May 29, 1997.

CHAPTER 23. AIRPORT SECURITY PERSONNEL

Sec. 23.001. ESTABLISHMENT OF AIRPORT SECURITY FORCE. The governing body of a political subdivision that operates an airport served by an air carrier certificated by the Civil Aeronautics Board or the United States Department of Transportation may establish an airport security force and employ airport security personnel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 23.002. COMMISSIONING OF EMPLOYEES AS PEACE OFFICERS. (a)

The governing body may commission an employee of an airport security force established under this chapter as a peace officer, subject to Subchapter C, Chapter 415, Government Code, if the employee gives an oath and a bond for the faithful performance of the employee's duties as required by the governing body.

- (b) The bond described by Subsection (a) must be:
- (1) made payable to the political subdivision;
 - (2) filed with the governing body; and
 - (3) approved by the governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 23.003. AUTHORITY OF EMPLOYEES COMMISSIONED AS PEACE OFFICERS. A peace officer commissioned under this chapter has the rights, privileges, and duties of a peace officer only while on property under the control of the airport or acting in the actual course and scope of the person's employment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 24. OPERATION OF AIRCRAFT

SUBCHAPTER A. FEDERAL REQUIREMENTS REGARDING AIRMAN CERTIFICATION

Sec. 24.001. DEFINITIONS. In this subchapter:

- (1) "Aircraft" means a device that is invented, used, or designated for air navigation or flight, other than a parachute or other device used primarily as safety equipment.
- (2) "Airman" means:
 - (A) a person, including the person in command of an aircraft or a pilot, mechanic, or member of the crew, who engages in the navigation of an aircraft while under way; or
 - (B) the person who is in charge of the inspection, overhaul, or repair of an aircraft.
- (3) "Airman certificate" means a certificate issued to an airman under 49 U.S.C. Section 1422.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 24.002. APPLICATION. This subchapter does not apply to an

aircraft owned by and used exclusively in the service of the federal or state government.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 24.003. OPERATION OF AIRCRAFT WITHOUT AIRMAN CERTIFICATE; OFFENSE. (a) A person commits an offense if the person:

(1) navigates an aircraft in this state without an airman certificate; or

(2) serves as an airman in connection with an aircraft flown or operated in this state without an airman certificate.

(b) An offense under Subsection (a) is a misdemeanor punishable by:

(1) a fine of not less than \$100 and not more than \$500;

(2) confinement in county jail for not less than 30 days and not more than six months; or

(3) both the fine and the confinement.

(c) It is a defense to prosecution under this section that the person could be prosecuted under the laws or regulations of the United States for the alleged violation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 24.004. INSPECTION OF AIRMAN CERTIFICATE. A person holding an airman certificate shall keep the certificate in the person's possession when the person is operating an aircraft within this state or serving in connection with an aircraft flown or operated in this state. The person shall present the certificate for inspection on the demand of:

(1) a passenger;

(2) a peace officer of this state; or

(3) an official, manager, or person in charge of an airport or landing field in this state on which the person lands an aircraft or performs a service.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 24.005. AIRCRAFT LICENSURE AND REGISTRATION. A person may

not navigate an aircraft in this state, whether for commercial, pleasure, or noncommercial purposes, unless the aircraft is licensed and registered in the manner provided by the Federal Aviation Administration.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. OTHER FEDERAL REQUIREMENTS REGARDING AIRCRAFT

Sec. 24.011. FAILURE TO REGISTER AIRCRAFT; OFFENSE. (a) A person commits an offense if the person operates or navigates an aircraft that the person knows is not properly registered under Federal Aviation Administration aircraft registration regulations, 14 C.F.R. Part 47, as those regulations existed on September 1, 1985.

(b) An offense under Subsection (a) is a felony of the third degree.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 24.012. AIRCRAFT IDENTIFICATION NUMBERS; OFFENSE. (a) The failure to have the aircraft identification numbers clearly displayed on an aircraft in compliance with federal aviation regulations is probable cause for a peace officer to further inspect the aircraft to determine the identity of the owner of the aircraft.

(b) A peace officer may inspect an aircraft under Subsection (a) if the aircraft is located on public property or on private property if the officer has the consent of the property owner.

(c) A person commits an offense if the person operates an aircraft that the person knows does not have aircraft identification numbers that comply with federal aviation regulations.

(d) An offense under Subsection (c) is a felony of the third degree.

(e) In this section, "federal aviation regulations" means the regulations adopted by the Federal Aviation Administration regarding identification and registration marking, 14 C.F.R. Part 45, as those regulations existed on September 1, 1985, except a regulation in existence on September 1, 1985, that is inconsistent with a regulation adopted after that date.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 24.013. AIRCRAFT FUEL CONTAINERS; OFFENSE. (a) A person commits an offense if the person operates or intends to operate an aircraft equipped with:

(1) a fuel container that the person knows does not conform to federal aviation regulations or that has not been approved by the Federal Aviation Administration by inspection or special permit; or

(2) a pipe, hose, or auxiliary pump that is used or intended for transferring fuel to the primary fuel system of an aircraft from a fuel container that the person knows does not conform to federal aviation regulations or that has not been approved by the Federal Aviation Administration by inspection or special permit.

(b) An offense under Subsection (a) is a felony of the third degree.

(c) A peace officer may seize an aircraft equipped with a fuel container that is the subject of an offense under Subsection (a).

(d) An aircraft seized under Subsection (c) may be forfeited to the Department of Public Safety in the same manner as property subject to forfeiture under Article 18.18, Code of Criminal Procedure.

(e) An aircraft forfeited under Subsection (d) is subject to Chapter 2205, Government Code.

(f) In this section:

(1) "Federal aviation regulations" means the following regulations adopted by the Federal Aviation Administration as those regulations existed on September 1, 1985, except a regulation in existence on September 1, 1985, that is inconsistent with a regulation adopted after that date:

(A) certification procedures for products and parts, 14 C.F.R. Part 21;

(B) maintenance, preventive maintenance, rebuilding, and alteration regulations, 14 C.F.R. Part 43; and

(C) general operating and flight rules, 14 C.F.R. Part 91.

(2) "Operate" means to use, cause to use, or authorize to use an aircraft for air navigation and includes:

(A) the piloting of an aircraft, with or without the right of legal control;

(B) the taxiing of an aircraft before takeoff or after

landing; and

(C) the postflight or preflight inspection or starting of the engine of an aircraft.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. USE OF PUBLIC ROADS BY AIRCRAFT

Sec. 24.021. TAKING OFF, LANDING, OR MANEUVERING AIRCRAFT ON HIGHWAYS, ROADS, OR STREETS; OFFENSE. (a) A person commits an offense if the person takes off, lands, or maneuvers an aircraft, whether heavier or lighter than air, on a public highway, road, or street except:

(1) when necessary to prevent serious injury to a person or property;

(2) during or within a reasonable time after an emergency; or

(3) as provided by Section 24.022.

(b) An offense under Subsection (a) is a misdemeanor punishable by a fine of not less than \$25 and not more than \$200.

(c) The procedure prescribed by Section 543.003 applies to a violation of this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.04, eff. Sept. 1, 1997.

Sec. 24.022. USE OF AIRCRAFT ON COUNTY ROADS. (a) A commissioners court of a county may enact ordinances to ensure the safe use of county roads by aircraft. An ordinance may:

(1) limit the kinds of aircraft that may use the roads;

(2) establish the procedure that a pilot shall follow before using a road, including requiring the pilot to furnish persons with flags at both ends of the road to be used; or

(3) establish other requirements considered necessary for the safe use of the roads by aircraft.

(b) A pilot who follows the ordinances adopted under Subsection (a):

(1) may land or take off in the aircraft on a county road; and

(2) is not subject to the traffic laws of this state during

the landing or takeoff.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 25. NOTICE OF CONSTRUCTION OF WIRELESS COMMUNICATION FACILITY

Sec. 25.001. DEFINITION. In this chapter, "wireless communication facility" means an equipment enclosure, antenna, antenna support structure, and any associated facility used for receiving or sending a radio frequency, microwave, or other signal for a commercial communications purpose.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.37, eff. April 1, 2009.

Sec. 25.002. NOTICE OF CONSTRUCTION. (a) A person proposing to construct a wireless communication facility that is taller than 100 feet shall, not later than the 30th day before the date the construction begins, mail a letter to:

(1) any airport located within three miles of the proposed facility location; and

(2) the Texas Agricultural Aviation Association.

(b) The letter must state:

(1) the legal description of the proposed site of construction, including a graphic depiction showing:

(A) the location, height, longitude, latitude, pad size, roadway access, and proposed use of the wireless communication facility; and

(B) the location of any guy wires;

(2) at a minimum, the name, phone number, electronic mail address, if any, and mailing address of the person proposing construction of the wireless communication facility; and

(3) a phone number that is operational 24 hours a day, seven days a week, for emergency purposes.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.37, eff. April 1, 2009.

Sec. 25.003. INAPPLICABILITY OF CHAPTER. This chapter does not apply to:

- (1) a structure the main purpose of which is to provide electric service;
- (2) a wireless communication facility:
 - (A) used by an entity only for internal communications;
 - (B) constructed by a municipality;
 - (C) used for emergency communications; or
 - (D) installed for colocation purposes;
- (3) a radio or television reception antenna;
- (4) a satellite or microwave parabolic antenna not used by a wireless communication service provider;
- (5) a receive-only antenna;
- (6) an antenna owned and operated by a federally licensed amateur radio station operator;
- (7) a cable television company facility;
- (8) a radio or television broadcasting facility; or
- (9) a colocation antenna.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.37, eff. April 1, 2009.

Sec. 25.004. EFFECT ON LOCAL ORDINANCES. This chapter does not preempt a local ordinance regulating a wireless communication facility.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.37, eff. April 1, 2009.

CHAPTER 26. AQUATIC AIRCRAFT

Sec. 26.001. DEFINITIONS. In this chapter:

- (1) "Aquatic aircraft" means a seaplane, floatplane, or similar aircraft that is capable of taking off and landing on water.
- (2) "Department" means the Texas Department of Transportation.

Added by Acts 1999, 76th Leg., ch. 820, Sec. 1, eff. Sept. 1, 1999.

Sec. 26.002. APPLICATION. This chapter applies to all navigable bodies of water of this state other than a navigable body of water that the federal government owns, controls, or has jurisdiction over.

Added by Acts 1999, 76th Leg., ch. 820, Sec. 1, eff. Sept. 1, 1999.

Sec. 26.003. REGULATION PROHIBITED. (a) Except as provided by Subsection (b), a governmental entity that owns, controls, or has jurisdiction over a navigable body of water may not in an area in which motorized boats are permitted:

(1) prohibit the takeoff, landing, or operation of an aquatic aircraft; or

(2) regulate or require a permit or fee for the operation of an aquatic aircraft.

(b) A governmental entity described by Subsection (a) may apply to the department to prohibit or limit the operation of aquatic aircraft on a navigable body of water. The department shall approve the prohibition or limitation if the department determines that safety concerns justify the prohibition or limitation. The prohibition or limitation may apply to the entire body of water or only to a specified area.

(c) In making a determination under Subsection (b), the department shall consider:

(1) the topography of the body of water or specified area;

(2) the depth of the water and any obstacles that are under the water;

(3) the amount of boat or individual traffic on the body of water or in the specified area;

(4) the interests of persons owning homes that are located on or around the body of water; and

(5) any other factors that relate to the safe operation of aquatic aircraft.

Added by Acts 1999, 76th Leg., ch. 820, Sec. 1, eff. Sept. 1, 1999.

Sec. 26.004. RULES. The department shall adopt rules to implement and administer this chapter, including rules specifying how notice shall be given of a prohibition or limitation approved under

this chapter.

Added by Acts 1999, 76th Leg., ch. 820, Sec. 1, eff. Sept. 1, 1999.

TITLE 4. NAVIGATION

SUBTITLE A. WATERWAYS AND PORTS

CHAPTER 51. TEXAS COASTAL WATERWAY ACT

Sec. 51.001. SHORT TITLE. This chapter may be cited as the Texas Coastal Waterway Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 51.002. DEFINITIONS. In this chapter:

(1) "Coastal marshes" means those soft, low-lying watery or wet lands and drainage areas in the coastal areas of the state that are of ecological significance to the environment and to the maintenance, preservation, and enhancement of wildlife and fisheries.

(2) "Coastal public land" means:

(A) the state-owned submerged land and the water overlying that land; and

(B) state-owned islands or portions of islands that may be affected by the ebb and flow of the tide.

(3) "Commission" means the Texas Transportation Commission.

(4) "Gulf Intracoastal Waterway" means the main channel, not including tributaries or branches, of the shallow draft navigation channel running from the Sabine River southward to the Brownsville Ship Channel near Port Isabel that is known as the Gulf Intracoastal Canal.

(5) "Department" means the Texas Department of Transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.06(a), eff. Sept. 1, 1997.

Sec. 51.003. PURPOSE. In recognition of the economic benefit to the state of the Gulf Coast Intracoastal Waterway, this state shall act as the nonfederal sponsor of the main channel of the Gulf Coast Intracoastal Waterway from the Sabine River to the Brownsville

Ship Channel in order to:

- (1) support the marine commerce and economy of this state by providing for the shallow draft navigation of the state's coastal waters in an environmentally sound manner;
 - (2) prevent waste of publicly and privately owned natural resources;
 - (3) prevent or minimize adverse impacts on the environment;
- and
- (4) maintain, preserve, and enhance wildlife and fisheries.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 191, Sec. 1, eff. Sept. 1, 2003.

Sec. 51.004. COOPERATION WITH OTHER ENTITIES. (a) The commission shall cooperate with the Department of the Army, other federal and state agencies, navigation districts, port authorities, counties, and other appropriate persons to determine the state's federal local sponsorship requirements relating to the Gulf Intracoastal Waterway, shall fulfill those requirements, and shall satisfy the responsibilities of the nonfederal sponsor as determined by federal law.

(b) The commission shall coordinate actions taken under this chapter that may have a significant environmental impact or effect on coastal public land, coastal marshes, wildlife, and fisheries with appropriate federal and state agencies that have environmental, wildlife, and fisheries responsibilities.

(c) Within its authority and available resources, an agency or political subdivision of the state shall assist the commission in performing its duties under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 51.005. LAND ACQUISITION. (a) The commission may acquire by gift, purchase, or condemnation property or an interest in property that the commission considers necessary to enable it to meet its responsibilities under this chapter, including, except as provided by Subsection (b)(3), easements and rights-of-way for dredge material disposal sites or channel alteration.

(b) The commission may not:

(1) acquire oil, gas, sulphur, or other minerals that may be recovered without using the surface of land acquired by the commission for exploration, drilling, or mining purposes;

(2) condemn any submerged public land under the jurisdiction of the School Land Board; or

(3) condemn private property along Reach 1, Reach 2, Reach 4, Reach 5, and Reach 6 of the Gulf Coast Intracoastal Waterway as defined by the Draft Laguna Madre GIWW Dredged Material Management Plan prepared by the Army Corps of Engineers and the Interagency Coordination Team dated October 11, 2002, for use as a disposal site for dredged material from the Laguna Madre unless the commission determines that:

(A) there is no state or federal land available that can be used for that purpose; and

(B) the state's failure to acquire the property will result in the closure of any segment of the Gulf Coast Intracoastal Waterway located in this state.

(c) An agency or political subdivision of the state may convey, without advertisement, title or rights and easements owned by the agency or political subdivision to any property the commission needs to meet its responsibilities under this chapter.

(d) Repealed by Acts 2003, 78th Leg., ch. 191, Sec. 4, eff. Sept. 1, 2003.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1457, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 191, Sec. 2, 4 eff. Sept. 1, 2003.

Sec. 51.006. HEARING REQUIRED BEFORE ACQUISITION OF PROPERTY.

(a) Before the commission approves or implements a plan or project to acquire property or an interest in property under Section 51.005 for a dredge material disposal site or for an alteration of the Gulf Intracoastal Waterway that requires the acquisition of additional property or an interest in property to meet its responsibilities under this chapter, the commission shall hold a public hearing to receive evidence and testimony concerning the desirability of the proposed dredge material disposal site or channel alteration.

(b) The commission shall publish notice of a plan or project and the date, time, and place of a hearing at least once a week for

three successive weeks before the hearing in a newspaper of general circulation that is published in the county seat of each county in which any part of a proposed dredge material disposal site or channel alteration is located.

(c) The commission may approve the plan or project and implement it and acquire additional property if the commission determines, after the public hearing, that the proposed plan or project can be accomplished without an unjustifiable waste of publicly or privately owned natural resources or a permanent and substantial adverse impact on the environment, wildlife, or fisheries.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 51.007. EVALUATION AND REPORT. (a) In cooperation with appropriate persons, the commission shall continually evaluate the impact of the Gulf Intracoastal Waterway on the state. The evaluation shall include:

- (1) an assessment of the importance of the Gulf Intracoastal Waterway that includes identification of its direct and indirect beneficiaries;
- (2) identification of principal problems and possible solutions to those problems that includes estimated costs, economic benefits, and environmental effects;
- (3) an evaluation of the need for significant modifications to the Gulf Intracoastal Waterway; and
- (4) specific recommendations for legislative action that the commission believes are in the best interest of the state in carrying out the state's duties under this chapter.

(b) The commission shall publish a report of its evaluation and present the report to each regular session of the legislature.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 51.008. SCHOOL LAND BOARD POWER. This chapter does not diminish the duty or power of the School Land Board to manage the coastal public land of the state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 51.009. BENEFICIAL USE OF DREDGE MATERIAL. (a) The commission, through the department, may enter into an agreement with the Department of the Army to participate in the cost of a project to beneficially use material dredged from the Gulf Intracoastal Waterway.

(b) The commission by rule shall establish eligibility criteria for a project to beneficially use the dredge material.

(c) In this section and Sections 51.010 and 51.011, beneficial use of dredge material means any productive and positive use of dredge material and includes broad use categories such as fish and wildlife habitat development, human recreation, and industrial and commercial uses.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.06(b), eff. Sept. 1, 1997.

Sec. 51.010. PROPERTY ACQUISITION. The commission, through the department, may acquire an interest in property required for a project to beneficially use dredge material in the manner provided by Section 51.005.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.06(b), eff. Sept. 1, 1997.

Sec. 51.011. HEARING REQUIRED BEFORE PARTICIPATION IN PROJECT.

(a) Before the department agrees to participate in the cost of a project to beneficially use dredge material that requires the acquisition of an interest in property, the commission shall hold a public hearing on the desirability of the project.

(b) The commission shall publish notice of the date, time, and place of the hearing at least once a week for three successive weeks before the hearing in a newspaper of general circulation published in the county seat of each county in which the project is located.

(c) The department may agree to participate in the cost of the project if the commission determines, after the public hearing, that the project can be accomplished without unjustifiable waste of publicly or privately owned natural resources or a permanent and

substantial adverse effect on the environment, wildlife, or fisheries.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.06(b), eff. Sept. 1, 1997.

Sec. 51.012. CONTRACTS WITH LANDOWNERS. The commission may contract with a landowner for the use of land as a disposal site for dredged material.

Added by Acts 2003, 78th Leg., ch. 191, Sec. 3, eff. Sept. 1, 2003.

Sec. 51.013. DREDGED MATERIAL DISPOSAL. (a) The department shall condemn land for disposal of dredged material for the Laguna Madre section of the Gulf Coast Intracoastal Waterway only in accordance with the Draft Laguna Madre GIWW Dredged Material Management Plan prepared by the Army Corps of Engineers and the Interagency Coordination Team dated October 11, 2002.

(b) On request by a political subdivision, the commission may enter into a contract with a political subdivision to dispose of dredged material from the Highland Bayou Diversionary Canal on Placement Area 58A of the Gulf Coast Intracoastal Waterway.

(c) The commission may not charge a fee for disposal under Subsection (b).

Added by Acts 2003, 78th Leg., ch. 191, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 242 (S.B. 2380), Sec. 1, eff. September 1, 2009.

Sec. 51.014. SUBSTANTIVE CHANGES TO DREDGED MATERIAL DISPOSAL PLAN. The department shall seek approval of the legislature for any substantive changes to dredged material disposal management made in the final Laguna Madre GIWW Dredged Material Management Plan once the plan is published.

Added by Acts 2003, 78th Leg., ch. 191, Sec. 3, eff. Sept. 1, 2003.

CHAPTER 52. TEXAS DEEPWATER PORT PROCEDURES ACT

Sec. 52.001. SHORT TITLE. This chapter may be cited as the Texas Deepwater Port Procedures Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.002. DEFINITIONS. In this chapter:

(1) "Adjacent coastal county" means a county bordering the Gulf of Mexico that has an onshore storage facility for a deepwater port for which an application has been filed.

(2) "Commissioner" means the commissioner of the General Land Office or the commissioner's designated representative.

(3) "Deepwater port" means a facility defined in Section 3(10), Deepwater Port Act of 1974 (33 U.S.C. Sec. 1502(10)), and includes an onshore storage tank facility and the pipelines located in this state that connect the onshore storage tank facility with an offshore facility of a deepwater port.

(4) "Person" means an individual, association, organization, trust, partnership, or corporation.

(5) "Secretary" means the United States secretary of transportation.

(6) "State or local agency" means a board, commission, department, office, agency, or political subdivision of the state or of a county or municipality, or another public body created by or under state law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.003. GENERAL ADMINISTRATION. (a) The governor shall approve or disapprove an application made to the secretary under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) to own, construct, or operate a deepwater port off the Texas Gulf Coast.

(b) The commissioner shall administer, implement, and coordinate the provisions of this chapter regarding a determination by state and local agencies of the application's compliance with state and local laws regarding environmental protection, land and water use, and coastal zone management.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.004. APPLICATION: GOVERNOR'S DUTIES. (a) On receipt of a copy of an application from the secretary, the governor shall immediately send a copy to the attorney general and the commissioner.

(b) If the governor determines that the application is substantially similar to an application previously reviewed under this chapter, the governor may approve or disapprove the application without further action under this chapter and notify the secretary of the action taken.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.005. APPLICATION TO BE FILED; FEE FOR DUPLICATION AND MAILING. (a) A copy of the application shall be filed in the General Land Office and in the office of the county judge of the adjacent coastal county.

(b) The public may inspect or duplicate the application during normal business hours. A reasonable fee may be charged for duplicating and mailing the application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.006. DUTIES OF ATTORNEY GENERAL AND COMMISSIONER; FEE FOR DUPLICATION AND MAILING. (a) Not later than the 30th day after the date of receiving a copy of the application from the governor, the attorney general shall send the governor and the commissioner a list of each state or local agency that the attorney general determines has jurisdiction to administer laws regarding environmental protection, land and water use, and coastal zone management in the area in which the deepwater port is located.

(b) On receipt of the list, the commissioner shall immediately send a copy of the application to each state and local agency.

(c) The applicant may be charged a reasonable fee to cover the cost of duplicating and mailing the application to the state and local agencies unless the applicant provides the necessary copies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.007. PUBLICATION OF NOTICE. Not later than the 15th day after the date of receiving a copy of the application from the governor, the commissioner shall publish notice of the application in:

- (1) the Texas Register;
- (2) the newspaper having the greatest general circulation in Travis County and in each of the five most populous counties in the state; and
- (3) a newspaper in the adjacent coastal county and in each county that adjoins the adjacent coastal county in which notice is not otherwise required to be published under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.008. REPORT BY AGENCIES. (a) Not later than the 60th day after the date of receiving a copy of the application from the commissioner, a state or local agency notified under Section 52.006 shall report in writing to the commissioner the agency's determination of whether the application complies with laws, including rules and regulations, administered by the agency.

(b) If an agency determines that the application does not comply with laws administered by that agency, the agency shall include in the report:

- (1) a detailed description of the manner in which the application does not comply; and
- (2) recommended changes that would enable the application to comply with those laws.

(c) The commissioner shall send a copy of the agency's report to the applicant.

(d) An applicant is entitled to:

- (1) respond in writing to the agency that issued the report; and
- (2) request and receive a public hearing before the commissioner on the provisions of the application that an agency has determined do not comply with laws administered by that agency.

(e) If an agency fails to file a report within the period prescribed by Subsection (a), the application is presumed to comply with the laws administered by that agency.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.009. HEARINGS. (a) The commissioner may hold a public hearing after receiving the reports required under Section 52.008.

(b) If the commissioner decides to hold a public hearing or if the applicant requests a hearing under Section 52.008(d)(2), the commissioner shall publish notice of the hearing in the publications described by Section 52.007.

(c) Notice of the hearing must:

- (1) describe the purpose of the hearing; and
- (2) provide the date, time, and place of the hearing.

(d) Notice of the hearing must be published and personal notice of the hearing, if any, must be given not later than the 10th day before the date set for the hearing.

(e) The commissioner may consolidate a hearing held under this section with the hearing that is required to be held in this state by the secretary under the Deepwater Port Act of 1974 (33 U.S.C. Sec. 1501 et seq.).

(f) A hearing held under this section must be concluded not later than the 120th day after the date the commissioner receives the application from the governor. The commissioner may hold a hearing after that date if:

- (1) the required federal hearing in this state has not been held; and
- (2) the commissioner decides to consolidate the hearings and gives notice of the decision.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.010. REPORT BY COMMISSIONER. (a) Notwithstanding Section 52.009(f), not later than the 150th day after the date of receiving a copy of the application from the governor, the commissioner shall send the governor:

- (1) a written report summarizing the reports submitted by state and local agencies under Section 52.008; and
- (2) a transcript of the testimony from each public hearing the commissioner held on the application, including each consolidated hearing.

(b) If the commissioner's report contains a determination by a

state or local agency that the application does not comply with a law relating to environmental protection, land and water use, or coastal zone management, the commissioner shall include in the report:

(1) the manner in which the application does not comply;
and

(2) recommended changes that would enable the application to comply with the law.

(c) If the commissioner fails to report to the governor within the period prescribed by Subsection (a), the application is presumed to comply with state and local law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.011. APPROVAL BY GOVERNOR. (a) On receipt of the commissioner's report and not later than 45 days after the last public hearing held by the secretary as required by Section 5(g) of the Deepwater Port Act of 1974 (33 U.S.C. Sec. 1504(g)), the governor shall notify the secretary whether the governor approves or disapproves an application.

(b) The governor may disapprove an application if the governor concludes the application does not comply with state law regarding environmental protection, land and water use, and coastal zone management.

(c) If the governor determines the application can be amended to comply with those state laws, the governor may approve the application and notify the secretary of:

(1) the manner in which the application does not comply;
and

(2) recommended changes that would enable the application to comply with those state laws.

(d) The governor shall send a copy of the notification to the secretary, the applicant, the commissioner, and each state and local agency that was notified under Section 52.006.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 52.012. EFFECT ON OTHER LAWS. This chapter does not affect the power or activities of a state or local agency and does not change or repeal the statutes regarding those agencies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 54. HARBOR AND PORT FACILITIES IN CERTAIN MUNICIPALITIES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 54.001. APPLICABILITY OF CHAPTER. This chapter applies only to a municipality that:

- (1) is located on:
 - (A) the Gulf of Mexico; or
 - (B) a channel, canal, bay, or inlet connected to that gulf; and
- (2) has a population of more than 5,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.002. DEFINITIONS. In this chapter:

- (1) "Board" means a board of trustees established under Section 54.051.
- (2) "Obligation" includes a bond.
- (3) "Port improvement or facility" means an improvement or facility necessary or convenient for the proper operation of a port or harbor of a municipality, including:
 - (A) land, an interest in land, or property;
 - (B) a wharf, pier, or dock;
 - (C) a roadway or belt railway;
 - (D) a warehouse, grain elevator, transport facility, handling facility, or storage facility;
 - (E) a ship repair facility, dumping facility, bunkering facility, floating plant or facility, lightering facility, towing facility, or other facility that a navigation district is authorized to provide;
 - (F) equipment and supplies; and
 - (G) any other structure, building, or facility necessary or convenient for the proper operation of a port or harbor of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.003. AUTHORITY REGARDING PORT IMPROVEMENTS AND

FACILITIES. (a) A municipality that owns and operates a port may construct, acquire, lease, improve, enlarge, extend, repair, maintain, replace, develop, or operate a port improvement or facility.

(b) A port improvement or facility may be constructed on land acquired by purchase, lease, or otherwise, and the land, interest in the land, or port improvement or facility may be conveyed by lease, sublease, or sale by installment or otherwise on the terms the municipality determines to be advantageous.

(c) Each power provided by this section is a public and governmental function, is exercised for a public purpose, and is a matter of public necessity.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.004. AUTHORITY TO IMPOSE TAX; ELECTION. (a) Notwithstanding any law or charter provision to the contrary, the governing body of a municipality may impose a tax at a rate not to exceed 10 cents on each \$100 of assessed valuation of property for the maintenance and operation of a port or harbor of the municipality.

(b) The tax may be imposed only if it has been approved by a majority of the qualified voters voting at an election held for that purpose.

(c) Section 41.001(a), Election Code, does not apply to the election.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.005. APPLICABILITY OF OTHER LAW. Except to the extent that it conflicts or is inconsistent with this chapter, Subchapter B, Chapter 1502, Government Code, applies to revenue obligations issued under this chapter, and a municipality to which this chapter applies has, with respect to a revenue obligation issued under this chapter, each power granted by that subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

SUBCHAPTER B. MANAGEMENT AND CONTROL OF PORT IMPROVEMENTS AND FACILITIES; BOARD OF TRUSTEES

Sec. 54.051. MANAGEMENT AND CONTROL BY GOVERNING BODY OR BOARD.

(a) An ordinance authorizing the issuance of obligations under this chapter may provide that while the principal of or interest on the obligations is outstanding, management and control of the port improvement or facility and of the income and revenue from the port improvement or facility, including the authority to set a charge, prepare a budget, and authorize an expenditure, is vested in:

- (1) the governing body of the municipality; or
- (2) the board of trustees named in the ordinance.

(b) A board may consist of not more than seven members, one of whom must be a member of the governing body of the municipality.

(c) Notwithstanding Subsection (a), if the municipality is operating under a home-rule charter that requires that the port improvement or facility be managed or controlled by a board of trustees, the charter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.052. ORGANIZATION AND DUTIES OF BOARD. (a) An ordinance under Section 54.051 that vests management and control of a port improvement or facility in a board must:

- (1) specify the board members' compensation;
- (2) specify the members' terms of office;
- (3) specify the members' powers and duties and the manner of exercising those powers and duties;
- (4) provide for the election or appointment of the members' successors; and
- (5) specify any other matter relating to the members' organization and duties.

(b) If the municipality is operating under a home-rule charter that contains a provision relating to a matter described by Subsection (a), each provision of the ordinance relating to that matter must be in accordance with and is governed by the charter.

(c) On any matter not covered by the ordinance or the municipal charter, the board is governed by the laws and rules governing the governing body of the municipality to the extent applicable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.053. CHARACTER OF BOARD; GENERAL POWERS. (a) A board is a body politic and corporate.

(b) A board may:

(1) manage, control, maintain, and operate each port improvement or facility constituting a port or harbor of the municipality;

(2) employ a general manager and any other officer, employee, or representative the board considers appropriate;

(3) notwithstanding any law or charter provision to the contrary:

(A) prepare and adopt a budget for the operation of a port or harbor of the municipality;

(B) set charges for a service or facility;

(C) authorize an expenditure; and

(D) manage and control the income and revenue of each port or harbor of the municipality;

(4) determine policies and adopt rules and procedures for the operation of each port or harbor of the municipality;

(5) acquire property or an interest in property for any purpose set forth in Section 54.003 in the manner provided by this chapter and construct a port improvement or facility on the property;

(6) contract in its own name, but not in the name of the municipality;

(7) sue and be sued in its own name;

(8) adopt, use, and alter a corporate seal;

(9) establish a port security force, employ public security officers licensed by the Texas Commission on Law Enforcement, and commission employees of the force as peace officers;

(10) own, establish, construct, improve, equip, maintain, operate, regulate, protect, or police any transportation facility and any necessary appurtenance to that facility;

(11) construct, lease, improve, enlarge, extend, repair, maintain, replace, develop, or operate a port improvement or facility;

(12) exercise all powers of a municipality relating to the creation of an economic development program under Chapter 380, Local Government Code, for the purpose of making grants and loans; and

(13) exercise any additional power granted by the ordinance

or charter.

(c) A board has the power to construct a port improvement or facility on land acquired by purchase, lease, or otherwise, and a board may convey by lease, sublease, or sale by installment or otherwise, on the terms the board determines to be advantageous, the land, interest in the land, or port improvement or facility.

(d) Each power provided by this section is a public and governmental function, is exercised for a public purpose, and is a matter of public necessity.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 169 (S.B. 1836), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.61, eff. May 18, 2013.

Sec. 54.054. COMPETITIVE BIDDING. (a) Except as otherwise provided by this chapter, the board may award a contract involving the expenditure of funds in excess of the amount applicable to an expenditure of funds by a municipality under Section 252.021(a), Local Government Code, only by competitive bidding.

(b) Competitive bidding is not required:

(1) for a contract or expenditure exempt from competitive bidding under Section 252.022, Local Government Code, or another applicable law;

(2) for a contract for:

(A) personal or professional services;

(B) a real estate transaction;

(C) operation of a port improvement or facility under a specific agreement for a limited term; or

(D) insurance; or

(3) if the board determines that the delay posed by the competitive bidding procedure would prevent or substantially impair the operation of a port.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 169 (S.B. 1836), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1044 (H.B. 4493), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1266 (H.B. 987), Sec. 14, eff. June 19, 2009.

Sec. 54.055. APPROVAL BY ORDINANCE REQUIRED FOR SALE OF REAL PROPERTY. Notwithstanding any other provision of this chapter, a board may sell real property only if the governing body of the municipality by ordinance approves the sale.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.056. BOARD ACT OR PROCEEDING PRESUMED VALID. (a) A governmental act or proceeding of a board is conclusively presumed, as of the date it occurred, to be valid and to have occurred in accordance with all applicable law if:

(1) the third anniversary of the effective date of the act or proceeding has expired; and

(2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before that third anniversary.

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred; or

(3) a matter that on the effective date of this section:

(A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(B) has been held invalid by a final judgment of a court.

Added by Acts 2007, 80th Leg., R.S., Ch. 169 (S.B. 1836), Sec. 3, eff. September 1, 2007.

SUBCHAPTER C. OBLIGATIONS

Sec. 54.101. DEFINITION. In this subchapter, "net revenue"

means the gross revenue derived from the operation of a port improvement or facility the net revenue of which is pledged to the payment of an obligation less:

- (1) the reasonable expenses of maintaining and operating the port improvement or facility, including necessary repair, maintenance, and insurance of the port improvement or facility; and
- (2) if the municipality pledging the net revenue is a home-rule municipality, any annual payment of the municipality provided for in the charter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.102. AUTHORITY OF MUNICIPALITY TO ISSUE OBLIGATIONS. The governing body of a municipality by ordinance may issue in the name of the municipality obligations payable from taxes, revenue, or both to provide money for a port improvement or facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.103. ELECTION. (a) Obligations payable from ad valorem taxes, other than refunding obligations, may be issued only if authorized by a majority of the qualified voters voting at an election held under Chapter 1251, Government Code.

(b) Notwithstanding any law or charter provision to the contrary, an election is not required to authorize the issuance under this chapter of obligations payable solely from revenue if:

- (1) the obligations are not:
 - (A) a debt of the municipality; or
 - (B) a pledge of the faith and credit of the municipality; and
- (2) the owner or holder of an obligation is not entitled to demand payment from money raised by taxation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.104. AUTHORITY OF BOARD TO ISSUE OBLIGATIONS. (a) A board by resolution may issue in the name of the board, with the consent of the governing body of the municipality:

(1) obligations payable from revenue in the manner provided by this chapter to provide money for a port improvement or facility or to refund previously issued obligations;

(2) expense warrants drawn against the revenue of the board to pay expenses during the fiscal year of the board in which the warrants are issued; or

(3) certificates of participation in contractual obligations to pay money.

(b) Notwithstanding any other provision of this chapter, a board may issue obligations only if the governing body of the municipality by ordinance approves the issuance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.105. LIMITATION ON AGGREGATE AMOUNT OF EXPENSE WARRANTS. The aggregate amount of expense warrants issued under Section 54.104(a)(2) that are outstanding at any time during a fiscal year may not exceed 50 percent of the difference between:

(1) the revenue of the board budgeted for that fiscal year; and

(2) the principal of and interest on board obligations other than expense warrants to be paid from the revenue of the board during that fiscal year.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.106. MATURITY OF OBLIGATION. An obligation issued under this chapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.107. SIGNATURES. (a) An obligation issued by a municipality under this chapter must be signed by the mayor or presiding officer of the municipality and countersigned by the municipal secretary or municipal clerk.

(b) An obligation authorized by a board under this subchapter must be signed by the presiding officer of the board and

countersigned by the secretary or assistant secretary.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.108. SALE OF OBLIGATIONS. (a) Obligations issued under this chapter shall be sold at a public or private sale under terms determined by the governing body or the board issuing the obligations to be the most advantageous and reasonably obtainable.

(b) Subsection (a) applies to obligations payable from revenue notwithstanding any restriction in a municipal charter to the contrary.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.109. CONTENTS OF ORDINANCE OR RESOLUTION AUTHORIZING ISSUANCE OF OBLIGATIONS PAYABLE FROM REVENUE. (a) The ordinance of the governing body of the municipality or the resolution of the board authorizing the issuance of obligations payable from revenue may:

(1) provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, reserve fund, or other fund;

(2) specify a depository for the money; and

(3) contain any additional covenant, as considered appropriate, with respect to the obligations, the pledged revenue, and the operation and maintenance of each port improvement or facility the net revenue of which is pledged, including provisions for:

(A) the lease of a port improvement or facility; and

(B) the use or pledge of money derived from that lease.

(b) The ordinance or resolution or another proceeding may:

(1) prohibit the further issuance of obligations payable from pledged revenue; or

(2) reserve the right to issue additional obligations to be secured by a pledge of and payable from the net revenue on a parity with, or subordinate to, the lien and pledge in support of the obligations being issued, subject to any condition provided by the ordinance, resolution, or other proceeding.

(c) The ordinance, resolution, or other proceeding may provide for an annual payment to the general fund of the municipality to be

made from revenue received from the operation of the port improvement or facility the net revenue of which is pledged. The amount of the payment may be specified in:

- (1) the ordinance, resolution, or proceeding; or
- (2) the charter of the municipality if the municipality is

a home-rule municipality.

(d) The ordinance, resolution, or other proceeding may provide that surplus net revenue received from the operation of the port improvement or facility the net revenue of which is pledged may be used for the payment of the principal of and interest on any obligation payable from taxes issued by the municipality under this chapter.

(e) The ordinance, resolution, or other proceeding may contain other provisions and covenants. If the municipality is a home-rule municipality, the provisions must be consistent with any charter provision relating to the port improvement or facility that is not inconsistent with this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.110. REVIEW AND APPROVAL OF CONTRACTS RELATING TO REVENUE OBLIGATIONS. (a) If revenue obligations issued under this chapter state that they are secured in whole or in part by a pledge of the proceeds from a contract, including a lease contract, a copy of the contract and of the proceedings authorizing the contract must be submitted to the attorney general with the record relating to the issuance of the obligations.

(b) The approval by the attorney general of the obligations is approval of the contract.

(c) After approval, the contract is incontestable except for forgery or fraud.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.111. SECURITY FOR AND PAYMENT OF OBLIGATIONS PAYABLE FROM REVENUE. (a) Obligations issued under this chapter and payable from revenue may be secured solely by and paid from a pledge of the net revenue derived from the operation of all or a designated part of a port improvement or facility then in existence or to be improved,

constructed, or acquired.

(b) While the principal of or interest on the obligations is outstanding, the issuer shall:

(1) impose and collect charges in an amount sufficient to pay:

(A) maintenance and operation expenses of the port improvement or facility the net revenue of which is pledged;

(B) the interest on the obligations as it accrues; and

(C) the principal of the obligations as the obligations mature; and

(2) make any other payment prescribed by the ordinance, resolution, or other proceeding authorizing or relating to the issuance of the obligations.

(c) Obligations payable from revenue may be secured:

(1) solely by a pledge of all or part of the revenue from any lease, sublease, sale, or contract of sale entered into by the municipality or board with respect to the port improvement or facility to be financed with the obligations; or

(2) as provided by Subdivision (1) and by a trust indenture and a mortgage or deed of trust lien on or security interest in the port improvement or facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.112. USE OF CERTAIN PROCEEDS. From the proceeds from the sale of obligations issued under this chapter, there may be appropriated or set aside:

(1) an amount for the payment of interest expected to accrue while a port improvement or facility is under construction;

(2) an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the obligations; and

(3) an amount required by the ordinance or resolution authorizing the issuance of the obligations to be deposited to the credit of a reserve fund or other fund specified by the ordinance or resolution.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.113. LEASE OR SALE OF PORT IMPROVEMENTS AND FACILITIES.

(a) In connection with the issuance of obligations payable from revenue, a municipality or board may lease, sublease, or sell to any person, firm, corporation, partnership, political subdivision of this state, or agency of the United States any port improvement or facility to be constructed or acquired with the proceeds of the obligations.

(b) A lease, sublease, or contract of sale may contain any provision the municipality or board determines advantageous, including, in the case of a lease, a provision for:

(1) the sale of a port improvement or facility at the termination of the lease; or

(2) the management and operation of a port improvement or facility by the lessee.

(c) A lease or contract of sale may provide that the lessee or purchaser of a port improvement or facility is unconditionally obligated to make payments for use or purchase of the port improvement or facility in amounts adequate to timely pay the principal of and interest and premium on the obligations issued to finance the construction or acquisition of the port improvement or facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.114. ENCUMBRANCE OF PORT IMPROVEMENTS OR FACILITIES FINANCED BY OBLIGATIONS PAYABLE FROM AD VALOREM TAXES. A municipality may not encumber a port improvement or facility financed by obligations payable from ad valorem taxes unless authorized at the election required by Section 54.103.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

SUBCHAPTER D. REFUNDING OBLIGATIONS

Sec. 54.151. APPLICABILITY OF LAW RELATING TO ORIGINAL OBLIGATIONS. The provisions of this chapter relating to original obligations apply to refunding obligations issued under this chapter to the extent the provisions can be made to apply.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.152. AUTHORITY TO ISSUE TAX REFUNDING OBLIGATIONS. The governing body of a municipality, under the procedures provided by this chapter, may issue tax obligations to refund outstanding tax obligations, including original or refunding obligations, issued by the municipality under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.153. AUTHORITY TO ISSUE REVENUE REFUNDING OBLIGATIONS. The governing body of a municipality or a board, under the procedures provided by this chapter, may issue obligations payable from revenue to refund outstanding obligations payable from revenue, including original or refunding obligations:

- (1) issued under this chapter;
- (2) issued for a purpose described by Section 54.003; or
- (3) payable from the revenue of a port improvement or facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.154. TERMS OF ISSUANCE OF REVENUE REFUNDING OBLIGATIONS. (a) Revenue refunding obligations may:

- (1) be combined with new or original revenue obligations into one series or issue;
- (2) be issued to refund obligations of more than one series or issue;
- (3) combine the pledges securing the obligations to be refunded to secure the revenue refunding obligations; or
- (4) be secured by a pledge of other or additional net revenue.

(b) A revenue refunding obligation may bear interest at a rate higher than that of the obligation to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.155. REGISTRATION OF REFUNDING OBLIGATIONS BY

COMPTROLLER. (a) Except as provided by Subsection (b), the comptroller shall register refunding obligations on surrender and cancellation of the obligations to be refunded.

(b) The comptroller shall register refunding obligations without the surrender and cancellation of the obligations to be refunded if the ordinance or resolution authorizing the issuance of the refunding obligations requires that:

- (1) the obligations be sold at public or private sale; and
- (2) the proceeds from the sale be deposited:
 - (A) in a place where the underlying obligations are payable; or
 - (B) with the comptroller.

(c) Refunding obligations to which Subsection (b) applies may be issued in an amount sufficient to pay the principal of and interest on the obligations to be refunded to the option or maturity date of the obligations.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

Sec. 54.156. ESCROW AGREEMENT. (a) The proceeds from revenue refunding obligations that are deposited as provided by Section 54.155(b)(2) shall be deposited under an escrow agreement so that the proceeds and interest earned from the investment of the proceeds will be available to pay the principal of and interest on the obligations to be refunded as each becomes due.

(b) The escrow agreement may provide that the proceeds may, until needed to pay principal and interest as each becomes due, be invested in direct obligations of the United States.

(c) Interest earned on an investment described by Subsection (b):

- (1) may be pledged to the payment of the principal of and interest on the obligations to be refunded or the refunding obligations; or
- (2) shall be considered as revenue of the applicable port improvement or facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 20, eff. Sept. 1, 1999.

CHAPTER 55. FUNDING OF PORT SECURITY, PROJECTS, AND STUDIES

Sec. 55.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Transportation Commission.

(2) "Committee" means the Port Authority Advisory Committee.

(3) "Department" means the Texas Department of Transportation.

(4) "Fund" means the port access account fund.

(5) "Port security, transportation, or facility project" means a project that is necessary or convenient for the proper operation of a maritime port and that will improve the security, movement, and intermodal transportation of cargo or passengers in commerce and trade.

Added by Acts 2001, 77th Leg., ch. 1268, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 18.02, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 480 (H.B. 699), Sec. 1, eff. September 1, 2011.

Sec. 55.002. PORT DEVELOPMENT FUNDING. (a) From money in the fund, the department shall fund:

(1) port security, transportation, or facility projects;
and

(2) maritime port studies.

(b) The commission by rule may establish matching fund requirements for receiving money from the fund.

(c) Port security, transportation, or facility projects eligible for funding under this chapter include:

(1) construction or improvement of transportation facilities within the jurisdiction of a maritime port;

(2) the dredging or deepening of channels, turning basins, or harbors;

(3) the construction or improvement of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, or any facilities necessary or useful in connection with maritime port transportation or economic development;

(4) the construction or improvement of facilities necessary or useful in providing maritime port security;

(5) the acquisition of container cranes or other mechanized equipment used in the movement of cargo or passengers in international commerce;

(6) the acquisition of land to be used for maritime port purposes;

(7) the acquisition, improvement, enlargement, or extension of existing maritime port facilities; and

(8) environmental protection projects that:

(A) are required as a condition of a state, federal, or local environmental permit or other form of approval;

(B) are necessary for the acquisition of spoil disposal sites and improvements to existing and future spoil sites; or

(C) result from the undertaking of eligible projects.

(d) The department, in consultation with the committee, shall review the list of projects recommended by the committee to evaluate the economic benefit of each project. The commission, after receiving recommendations from the committee and from the department, shall approve projects or studies for funding based on its review.

Text of subsection effective on approval by the voters of S.J.R. 1, 83rd Leg., 3rd C.S.

(e) The commission may use money from the Texas Mobility Fund to provide funding, including through a loan, for a port security project, a port transportation project, or a project eligible for funding under Subsection (c).

Added by Acts 2001, 77th Leg., ch. 1268, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 18.03, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 480 (H.B. 699), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., 3rd C.S., Ch. 1, Sec. 1.

Sec. 55.003. GIFTS AND GRANTS. The department may accept gifts, grants, and donations from any source for the purposes of this chapter.

Added by Acts 2001, 77th Leg., ch. 1268, Sec. 1, eff. Sept. 1, 2001.

Sec. 55.004. AUDIT. The department may subject a project that receives money under this chapter to a final audit.

Added by Acts 2001, 77th Leg., ch. 1268, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 18.04, eff. June 21, 2003.

Sec. 55.005. PORT ACCESS ACCOUNT FUND. (a) The port access account fund is an account in the general revenue fund.

(b) The following money shall be credited to the fund:

(1) money received from gifts, grants, and donations; and
(2) interest earned on deposits and investments of the fund.

(c) Money in the fund may be appropriated only to the department to perform the department's powers and duties concerning maritime port transportation and economic development under this chapter and to pay the department's expenses incurred under this chapter.

(d) The financial transactions of the fund are subject to audit by the state auditor.

Added by Acts 2001, 77th Leg., ch. 1268, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 480 (H.B. 699), Sec. 3, eff. September 1, 2011.

Sec. 55.006. PORT AUTHORITY ADVISORY COMMITTEE. (a) The committee consists of seven members appointed by the commission. The members shall be appointed as follows:

(1) one member from the Port of Houston Authority;
(2) three members who represent maritime ports on the upper Texas coast; and
(3) three members who represent maritime ports on the lower Texas coast.

(b) A committee member serves at the pleasure of the commission.

(c) The committee must meet at least semiannually.

(d) A member is not entitled to compensation for service on the committee but is entitled to reimbursement for reasonable expenses

the member incurs in performing committee duties.

(e) Section 2110.002, Government Code, does not apply to the committee.

Added by Acts 2001, 77th Leg., ch. 1268, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 18.05, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 480 (H.B. 699), Sec. 4, eff. September 1, 2011.

Sec. 55.007. DUTIES OF COMMITTEE. (a) The committee shall:

- (1) prepare a maritime port mission plan;
 - (2) review each project eligible to be funded under this chapter and make recommendations for approval or disapproval to the department;
 - (3) every two years prepare a report on Texas maritime ports, with a list of projects that have been recommended by the committee, including:
 - (A) the recommended funding level for each project; and
 - (B) if staged implementation of the project is appropriate, the funding requirements for each stage; and
 - (4) advise the commission and the department on matters relating to port authorities.
- (b) The committee shall update the report on Texas maritime ports and shall submit the report not later than December 1 of each even-numbered year to the commission for distribution to:
- (1) the governor;
 - (2) the lieutenant governor; and
 - (3) the speaker of the house of representatives.

Added by Acts 2001, 77th Leg., ch. 1268, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 18.06, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 480 (H.B. 699), Sec. 5, eff. September 1, 2011.

Sec. 55.008. CAPITAL PROGRAM. (a) The committee shall prepare

a two-year port capital program defining the goals and objectives of the committee concerning the development of maritime port facilities and an intermodal transportation system. The port capital program must include projects or studies submitted to the committee by any maritime port and recommendations for:

- (1) the construction of transportation facilities connecting any maritime port to another transportation mode; and
- (2) the efficient, cost-effective development of transportation facilities or maritime port facilities for the purpose of:
 - (A) enhancing international trade;
 - (B) enhancing security;
 - (C) promoting cargo flow;
 - (D) increasing cruise passenger movements;
 - (E) increasing maritime port revenues; and
 - (F) providing economic benefits to the state.

(b) The committee shall update the port capital program and shall submit the capital program not later than December 1 of each even-numbered year to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives; and
- (4) the commission.

Added by Acts 2001, 77th Leg., ch. 1268, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 18.07, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 480 (H.B. 699), Sec. 6, eff. September 1, 2011.

Sec. 55.009. RULES. The commission shall adopt rules to implement this chapter.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 18.08, eff. June 21, 2003.

CHAPTER 60. MISCELLANEOUS PROVISIONS

Sec. 60.001. THROWING BALLAST. (a) A master or officer in

charge of a vessel commits an offense if any part of the ballast of the vessel is thrown from the vessel into the sea within six miles of a bar or harbor in this state.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$200.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 19.001(a), eff. Sept. 1, 2001.

SUBTITLE B. PILOTS
CHAPTER 61. COMPULSORY PILOTAGE

Sec. 61.001. SHORT TITLE. This chapter may be cited as the Texas Compulsory Pilotage Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 61.002. DEFINITIONS. In this chapter:

(1) "Board" means the board of pilot commissioners for a port.

(2) "Consignee" means a person, including a master, owner, agent, subagent, firm, or corporation or any combination of those persons, who enters or clears a vessel at the office of the collector of customs.

(3) "Pilot" means a licensed state pilot or certified deputy pilot.

(4) "Pilot services" means acts of a pilot in piloting through navigable water in this state and ports in which the pilot is licensed or certified as a pilot.

(5) "Pilotage rate" means the remuneration a pilot may charge a vessel for the pilot's services.

(6) "Port" means a place in this state into which a vessel enters or from which a vessel departs. If the port connects to the Gulf of Mexico, "port" includes the waterway leading from the port to the Gulf of Mexico.

(7) "Vessel" means an oceangoing vessel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 61.003. DUTY TO ENGAGE PILOT. (a) A consignee having control of a vessel shall obtain a pilot to provide pilot services when the vessel is under way or otherwise moving on a river, bay, harbor, or port in this state unless the vessel is:

(1) documented as a United States vessel and licensed for and engaged in coastwise trade;

(2) a public vessel;

(3) of 20 gross tons or less;

(4) a motorboat registered in this state; or

(5) subject to Subsection (b), in distress or jeopardy.

(b) A consignee having control of a vessel that is in distress or jeopardy shall take on a pilot as soon as the pilot arrives at the vessel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 61.004. PAYMENT FOR PILOT. A consignee shall pay a pilot at the applicable pilotage rates.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 61.005. PILOT OPTIONAL. This chapter does not prohibit a consignee not required by Section 61.003 to engage a pilot from applying for, receiving, and paying for pilot services.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 61.006. BOARD JURISDICTION. A board has exclusive jurisdiction over piloting of vessels in this state between the Gulf of Mexico and the ports in the board's jurisdiction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 61.007. ATTORNEY GENERAL. The attorney general shall assist a board in the enforcement of this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 61.008. LIABILITY TO PILOT. (a) A person who pilots a vessel in violation of this chapter is liable for an amount equal to the applicable pilotage rate to the pilot who first demands the amount in writing.

(b) A pilot may bring an action to enforce this section in district court in the county in which the violation occurred.

(c) In an action under Subsection (b), the court shall add to the amount of any judgment in favor of a pilot court costs and reasonable attorney's fees incurred by the pilot in obtaining the judgment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 61.009. LIABILITY TO BOARD. (a) A vessel or the owner of a vessel that is piloted in violation of this chapter is liable to a board for \$5,000 for each violation.

(b) The board may bring an action to enforce this section in district court in the county in which the violation occurred.

(c) In an action under Subsection (b), the court shall add to the amount of any judgment in favor of the board court costs and reasonable attorney's fees incurred by the board in obtaining the judgment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 61.010. COOPERATION. A pilot providing pilot services shall, to the extent possible, cooperate with the master of the vessel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 61.011. CERTAIN UNITED STATES LICENSE REQUIRED; OFFENSE.

(a) A person may not act as a state-commissioned pilot of a vessel in any water in this state unless the person is licensed under Title 46, United States Code.

(b) A person commits an offense if the person violates this

section. An offense under this section is a Class A misdemeanor.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 62. NAVIGATION DISTRICT PILOT BOARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 62.001. DEFINITION. In this chapter, "navigation district" means a navigation district included in:

- (1) Subchapters C, D, E, F, G, and H, Chapter 60, Water Code;
- (2) Subchapter E, Chapter 61, Water Code; or
- (3) Sections 62.154 through 62.159, Water Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. PILOT BOARDS OF NAVIGATION DISTRICTS

Sec. 62.021. PILOT BOARD; COMMISSIONERS OF PILOTS. (a) The pilot board of a navigation district is composed of the district's navigation and canal commissioners.

- (b) A member of the pilot board is a commissioner of pilots.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.022. TERM OF OFFICE. The term of office of a commissioner of pilots coincides with the person's term as a navigation and canal commissioner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.023. DISQUALIFICATION. A person who is engaged directly or indirectly in a towing, pilot boat, or other business affected by or connected with the performance of the duties of a commissioner of pilots may not be a commissioner of pilots.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.024. JURISDICTION. The pilot board of a navigation district has exclusive jurisdiction over the pilotage of a vessel between the Gulf of Mexico and a port of the navigation district, including an intermediate stop or landing place on a navigable stream in the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.025. POWERS OF PILOT BOARDS. The pilot board of a navigation district may:

(1) appoint, suspend, or dismiss a branch or deputy pilot of a port in the district;

(2) establish pilotage rates for service in the board's jurisdiction; or

(3) adopt and enforce rules consistent with this chapter about the appointment, qualification, or regulation of branch or deputy pilots that are needed to govern those pilots and for the proper operation of the district's ports.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. REGULATION OF BRANCH AND DEPUTY PILOTS

Sec. 62.041. BRANCH OR DEPUTY PILOT QUALIFICATIONS. (a) The pilot board of a navigation district shall examine and determine the qualifications of each applicant for the position of branch or deputy pilot before appointing a branch or deputy pilot.

(b) The pilot board shall specify a period that an applicant must reside in this state immediately before the person's appointment. The period may not exceed two years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.042. OATH; BOND. (a) A branch pilot appointed under this chapter or the rules of the pilot board of a navigation district must take the official oath. The oath must be endorsed on the bond required by Subsection (b).

(b) The branch pilot must enter into a bond in the amount of \$5,000 with one or more good and sufficient sureties. The bond must

be:

- (1) payable to the governor;
- (2) conditioned on the faithful performance of the branch pilot's duties;
- (3) approved by the pilot board; and
- (4) deposited in the office of the secretary of state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.043. ISSUANCE OF BRANCH PILOT LICENSE. (a) On the filing of the bond and the taking of the oath required by Section 62.042, a commissioner of pilots shall certify to the governor that the branch pilot has qualified.

(b) On receiving the certificate, the governor shall issue to the branch pilot, in the name of the state and under the state seal, a commission to serve as a branch pilot in the jurisdiction of the pilot board of a navigation district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.044. TERM OF BRANCH PILOT LICENSE. (a) The term of a branch pilot commission is four years.

(b) If the pilot board of a navigation district dismisses a branch pilot from service, the branch pilot's commission expires.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.045. APPOINTMENT OF DEPUTY PILOTS. (a) A branch pilot may appoint two deputy pilots, subject to the examination by and approval of the pilot board of a navigation district.

(b) The branch pilot may appoint an additional deputy pilot if the pilot board considers the appointment advisable.

(c) The branch pilot is responsible for the acts of the deputy pilots.

(d) The branch pilot's own appointment under this chapter is forfeited if the branch pilot appoints a deputy pilot without the pilot board's approval.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.046. SUSPENSION OR DISMISSAL OF PILOTS. The pilot board of a navigation district may suspend or dismiss a branch or deputy pilot only for misconduct, inefficiency, or intoxication on duty and after a hearing on the accusation is held before the pilot board at which there is opportunity for testimony and defense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. PILOTAGE CHARGES AND LIABILITY

Sec. 62.061. DEFINITION. In this subchapter, "pilot" means a branch or deputy pilot appointed under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.062. PILOTAGE CHARGES INAPPLICABLE. Pilotage charges under this subchapter do not apply to a vessel of 20 tons or less or to a vessel that is excepted by a federal statute or regulation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.063. PILOTAGE CHARGES. (a) A pilotage rate charged by a pilot must be fair and just.

(b) A pilot shall furnish a schedule of pilotage rates that must be on file at all times in the office of the navigation district commissioners.

(c) Each time a change in the rates occurs, the pilot must file a revised schedule.

(d) A pilot shall strictly follow the schedule of rates on file in the commissioners' office.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.064. CONSIGNEE LIABILITY FOR PILOT SERVICES. The consignee of a vessel is liable to a pilot for the pilotage of the

vessel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.065. LIABILITY OF CERTAIN VESSELS DECLINING PILOT SERVICES. (a) A vessel that, without the aid of a pilot, enters any channel that is under the jurisdiction of a pilot board of a navigation district and declines pilot services offered by the pilot outside the bar, is liable for the payment of half pilotage to the first pilot whose services the vessel declined.

(b) The consignee of a vessel is responsible for pilot services offered and declined under Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.066. LIABILITY OF CERTAIN VESSELS TO OTHER PILOTS. (a) A vessel that goes out of a channel under the jurisdiction of a pilot board of a navigation district without the aid of a pilot is liable for the payment of half pilotage to:

(1) the pilot who brought the vessel into the channel; or

(2) the pilot who first offered the vessel services outside the bar, if the vessel did not employ a pilot to come in.

(b) The consignee of a vessel is responsible for pilot services offered under Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.067. UNAUTHORIZED PILOT LIABILITY. A person, other than a pilot, who pilots a vessel for which a pilot is required out of or into a port, channel, or waterway under the exclusive jurisdiction of the pilot board of a navigation district is liable to a pilot authorized to provide pilot services in the port, channel, or waterway who offers to pilot the vessel for a payment of \$50.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 62.068. RECOVERY OF PILOTAGE CHARGES. (a) A pilot may

recover in court compensation for pilotage or services offered.

(b) A pilot may bring suit to recover the payment under Section 62.067.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 63. PILOT BOARDS

SUBCHAPTER A. PILOT BOARDS AND COMMITTEES

Sec. 63.001. GOVERNOR TO APPOINT BOARDS. (a) The governor, with the consent of the senate, shall appoint a board of commissioners of pilots consisting of five persons of respectable standing for each port having a population and circumstances that warrant a pilot board.

(b) Each member of the board serves a term of two years.

(c) When the legislature is not in legislative session, the governor may:

(1) suspend any commissioner until the next legislative session; and

(2) fill any vacancy on the board until the next legislative session.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 63.002. DISQUALIFICATION OF BOARD MEMBER. A pilot board member may not have a direct or indirect pecuniary interest in a pilot boat or branch pilot in the business of the board's trust.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 63.003. POWERS AND DUTIES OF BOARD. (a) A pilot board shall:

(1) examine and determine the qualifications of each applicant for branch or deputy pilot;

(2) recommend meritorious applicants to the governor, if new appointments are proper;

(3) examine any cause of alleged or suspected misconduct or inefficiency in a branch or deputy pilot;

(4) keep a record of its proceedings;

(5) hear and determine all disputes that arise regarding pilots and pilotage;

(6) award to pilots compensation for injurious loss of time incurred in waiting on vessels or by being carried to sea on a vessel by default of the master or owner when the pilot might have been landed;

(7) award to pilots extra compensation for extra services to vessels in distress; and

(8) superintend and generally attend to all matters related to pilots and pilotage.

(b) A pilot board, after a hearing, may suspend a pilot for sufficient cause.

(c) A pilot board may examine and determine the qualifications of a branch or deputy pilot already appointed when the board is organized.

(d) A pilot board may restrict all deputy pilots from piloting over the bar vessels that have over a specified draught of water.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 63.004. PILOTAGE RATES AND RULES. A pilot board may adopt:

(1) pilotage rates;

(2) rules regarding the stations and times that pilots are required to be on duty and provisions for leave of absence;

(3) rules regarding the class, condition, number, and use of pilot boats; and

(4) other minor rules necessary for the government of pilots or for board proceedings.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 63.005. APPEAL OF BOARD DECISION. An appeal from any decision of a board may be taken to a court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. PROVISIONAL PILOT COMMITTEES

Sec. 63.021. GOVERNOR AUTHORIZES APPOINTMENT. (a) For a port having a population and circumstances that do not warrant the appointment of a pilot board in this chapter the governor may authorize the county judge of the county to appoint a provisional pilot committee of not less than three and not more than five persons of good character and maritime experience.

(b) In accordance with this chapter, the committee may:

- (1) adopt rates of pilotage and rules for governing pilots;
- (2) examine the qualifications of pilots and pilot applicants; and
- (3) investigate any case of a pilot charged with misconduct or inefficiency and suspend that pilot if sufficient cause is found.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. BRANCH PILOTS AND DEPUTY PILOTS

Sec. 63.041. APPOINTMENT OF BRANCH PILOTS. (a) The governor shall appoint at each port for which a pilot board or provisional pilot committee is established the number of branch pilots necessary from time to time.

(b) A branch pilot serves a term of four years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 63.042. APPOINTMENT OF DEPUTY PILOTS. (a) Each branch pilot may appoint two deputies, subject to examination and approval by the board.

(b) A branch pilot is responsible for the actions of the pilot's deputy pilots.

(c) A branch pilot who appoints a deputy pilot without the approval of the board forfeits the pilot's appointment as a branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 63.043. OATH; BOND. (a) Each branch pilot shall give a bond, payable to the governor, with two or more sufficient sureties.

(b) The bond must:

- (1) be in the amount of \$5,000;
 - (2) be conditioned on the faithful performance of the pilot's duties;
 - (3) be approved by the board for the port or, if there is not a board for the port, by the county judge of the county in which the port is located; and
 - (4) be sent to the governor.
- (c) A pilot shall take and sign the official oath. The oath shall be endorsed on the bond.
- (d) Before the bond is sent to the governor, the bond and oath shall be recorded in the office of the county clerk of the county in which the port is located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

- Sec. 63.044. RESIDENCE; PROBATIONARY TERM. (a) The board shall specify a term that a person must reside in this state to qualify the person to become a branch pilot for the ports or bays in the board's jurisdiction. The term may not exceed two years.
- (b) The board shall establish a term of probation that a person must serve as a deputy pilot before the person may exercise the functions of a branch pilot. The term may not exceed one year.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

- Sec. 63.045. MALFEASANCE; PENALTIES. (a) On proof that a branch or deputy pilot took charge of a vessel while intoxicated, the branch or deputy pilot shall:
- (1) for the first offense, be suspended for one month; and
 - (2) for the second offense, be dismissed and rendered incapable of serving as either a branch or deputy pilot.
- (b) A branch or deputy pilot who wilfully or negligently causes the wreck of a vessel shall be dismissed and disqualified from again serving as either a branch or deputy pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 63.046. SUSPENDED PILOT. A suspended pilot may not

exercise the duties of the pilot's office.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 63.047. REMOVAL OR REINSTATEMENT OF PILOT. The governor may:

- (1) remove a branch pilot; or
- (2) reinstate a branch pilot who has been suspended by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 64. RATES OF PILOTAGE

Sec. 64.001. DEFINITION. In this chapter, "consignee" includes:

- (1) the master;
- (2) the owner;
- (3) the agent;
- (4) the subagent; and
- (5) a person who enters or clears a vessel of the collector of customs.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 64.002. PILOTAGE RATE. The rate of pilotage that may be adopted under Sections 63.004 and 63.021 on a class of vessel may not, in a port of this state, exceed \$6.50 for each foot of water that the vessel draws when piloted. This section does not apply to the rate of pilotage established under:

- (1) Section 69.001 for:
 - (A) the public ports of Orange, Port Arthur, and Beaumont; and
 - (B) privately owned docks or terminals in Orange County or Jefferson County;
- (2) Chapter 62; or
- (3) Chapters 66-68.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 64.003. PILOTAGE LIABILITY. (a) A vessel that declines pilot services offered outside the bar and enters the port without the aid of a pilot is liable to the first pilot whose services the vessel declined for half pilotage.

(b) A vessel that, after being brought into port by a pilot, leaves port without employing a pilot is liable to the pilot who brought the vessel into port for the payment of half pilotage.

(c) A vessel that declines pilot services offered outside the bar, comes into port without the aid of a pilot, and leaves port without employing a pilot is liable to the pilot who first offered the pilot's services for the payment of half pilotage.

(d) A vessel that is not offered pilot services outside the bar and both enters and leaves the port without a pilot is not liable for the payment of half pilotage.

(e) At a port where vessels receive or discharge cargo at an anchorage outside the bar, a vessel:

(1) is liable for the payment of pilotage to the anchorage at the rate provided by Section 64.002; and

(2) is not liable for the payment of pilotage from the anchorage to the open sea.

(f) A vessel bound from the open sea to an anchorage outside the bar that, while under way, declines an offer of pilot services and afterward receives or discharges cargo at the anchorage is liable to the first pilot whose services the vessel declined for the payment of half pilotage to the anchorage at the rate provided by Section 64.002 but is not liable for pilotage from the anchorage to the open sea.

(g) The consignee of a vessel is responsible for the pilotage of the vessel. The liability of each consignee is joint and several.

(h) A pilot who takes charge of a vessel 20 miles outside the bar and brings the vessel to the bar is entitled to one-fourth pilotage for offshore service, in addition to what the pilot is entitled to recover for bringing the vessel in. If the vessel declines offshore service, the pilot is not entitled to offshore-service compensation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 64.004. SUIT TO RECOVER PILOT FEES. A pilot who serves or offers to serve a vessel may bring suit to recover pilot fees from a consignee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 64.005. EXEMPTIONS FROM PILOTAGE CHARGES. Except for actual service provided, a vessel of 20 tons or less is exempt from a charge for pilotage.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 64.006. UNAUTHORIZED PILOT; LIABILITY. (a) In addition to any other applicable remedy provided by law, a person who has not been appointed to be a branch or deputy pilot and who pilots a vessel out of or into a port after a branch or deputy pilot who is licensed to provide pilot services for the port offers to do so is liable to pay \$50 to the branch or deputy pilot.

(b) The branch or deputy pilot may bring suit to recover the money.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 65. PILOTS FOR MATAGORDA AND LAVACA BAYS

Sec. 65.001. PILOTS FOR MATAGORDA AND LAVACA BAYS. (a) The governor shall appoint at least two and not more than four competent pilots for Matagorda and Lavaca bays, from Pass Cavallo to Indianola and Lavaca.

(b) The term of office, method of qualification, powers, and privileges of a pilot appointed under this section are the same as those of a branch pilot, to the extent applicable.

(c) The county judge of Calhoun County must approve the bond of a pilot appointed under this section.

(d) Except to the extent that the rate of pilotage is set under other applicable law, the rate of pilotage for the bays is \$2.50 for each foot of water the vessel may draw when piloted.

(e) A vessel that may draw five feet or more is liable to pay one-half the pilotage prescribed by Subsection (d) to a licensed

pilot for the bays whose services are tendered and declined.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 65.002. PROVISIONS FOR BRANCH PILOTS APPLICABLE. The provisions of Chapter 62 relating to branch pilots at ports, to the extent applicable, apply to pilots appointed under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 65.003. LIABILITY OF PERSONS OTHER THAN LICENSED PILOTS OR DEPUTIES FOR PILOTAGE. (a) A person who is not a licensed pilot or deputy who pilots a vessel up or down the channel of Matagorda or Lavaca Bay is liable to a pilot who is licensed or commissioned for the bays for full pilotage for the vessel.

(b) A pilot may bring suit to recover pilotage under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 66. HOUSTON PILOTS LICENSING AND REGULATORY ACT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 66.001. SHORT TITLE. This chapter may be cited as the Houston Pilots Licensing and Regulatory Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.002. DEFINITIONS. In this chapter:

(1) "Board" means the board of pilot commissioners for Harris County ports.

(2) "Consignee" means a person, including a master, owner, agent, subagent, firm, or corporation or any combination of those persons, who enters or clears a vessel at the office of the collector of customs.

(3) "Harris County port" means a place in Harris County into which a vessel enters or from which a vessel departs and the waterway leading to that place from the Gulf of Mexico.

(4) "Pilot" means a person who is licensed as a branch pilot or certified as a deputy branch pilot under this chapter.

(5) "Pilotage rate" means the remuneration a pilot may lawfully charge a vessel for pilot services.

(6) "Pilot services" means acts of a pilot in conducting a vessel through the navigable water in this state and the ports in which the pilot is licensed or certified as a pilot.

(7) "Vessel" means an oceangoing, self-propelled vessel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.003. APPLICABILITY OF CHAPTER. This chapter applies only to a Harris County port.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

Sec. 66.011. BOARD. The board of pilot commissioners for the ports of Harris County is composed of the port commissioners of the Port of Houston Authority of Harris County, Texas.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.012. PROHIBITED INTEREST. A person may not be a member of the board if the person, directly or indirectly, is engaged in or has an interest in any pilot boat or in any other business affected by or connected with the performance of the person's duties as a pilot commissioner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.013. OATH. Before beginning service as a board member, each board member must take and sign, before a person authorized to administer oaths, an oath to faithfully and impartially discharge the duties of the office.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.014. TERM OF OFFICE. A board member serves a term of office that coincides with the member's term as a port commissioner. Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.015. JURISDICTION. The board has exclusive jurisdiction over the piloting of vessels in Harris County ports, including intermediate stops and landing places for vessels on navigable streams wholly or partially located in the board's jurisdiction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.016. ADMINISTRATION; RULES. (a) The board shall administer this chapter and may perform any act or function necessary to carry out its powers and duties under this chapter.

(b) The board may adopt rules to carry out this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.017. DUTIES. The board shall:

- (1) establish the number of pilots necessary to provide adequate pilot services for each Harris County port;
- (2) accept applications for pilot licenses and certificates and determine whether each applicant meets the qualifications for a pilot;
- (3) submit to the governor lists of applicants the board finds to be qualified for appointment as pilots;
- (4) establish pilotage rates;
- (5) approve the locations for pilot stations;
- (6) establish times during which pilot services will be available;
- (7) hear and determine complaints relating to the conduct of pilots;
- (8) recommend to the governor each pilot whose license or certificate should not be renewed or should be revoked;

(9) adopt rules and issue orders to pilots or vessels when necessary to secure efficient pilot services;

(10) institute investigations or hearings or both to consider casualties, accidents, or other actions that violate this chapter; and

(11) provide penalties to be imposed on a person who is not a pilot for a Harris County port who pilots a vessel into or out of the port if a pilot offered those services to the vessel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.018. UNFAIR DISCRIMINATION PROHIBITED. (a) In all its duties, including rulemaking, the board may not sanction discriminatory practices or discriminate against a pilot or pilot applicant because of race, religion, sex, ethnic origin, or national origin.

(b) A person seeking a remedy for a violation of this section must bring suit in a district court in Harris County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.019. OPEN MEETINGS LAW. Chapter 551, Government Code, applies to actions and proceedings under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.020. RULE OR RATE CHANGE. (a) The board shall give at least 10 days' notice as provided by this section before the board adopts a rule or changes a pilotage rate.

(b) The board shall post the notice and a copy of the proposed rule or change at the board office for public inspection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.021. CONTESTED CASE NOTICE. The board shall post in the board office for public inspection a notice that includes the same information as the notice given to the parties in each contested

case.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.022. JUDICIAL REVIEW. Proceedings for judicial review of a board decision shall be brought in a district court in Harris County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

Sec. 66.031. LICENSE OR CERTIFICATE REQUIRED. A person may not provide pilot services unless the person has a license or certificate issued under this chapter for the Harris County ports in which the pilot services are to be provided.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.032. EXEMPTIONS. The requirement to use a pilot does not apply to:

- (1) a vessel sailing under enrollment, or licensed or engaged in the coasting trade between Texas ports or between any Texas port and any other port of the United States; or
- (2) a vessel exempt under federal law from payment of state pilotage rates.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.033. QUALIFICATIONS FOR LICENSE. To be eligible for a license as a branch pilot, a person must:

- (1) be at least 25 years of age and less than 68 years of age;
- (2) be a United States citizen;
- (3) as of the date the license is issued, have resided continuously in this state for at least one year;
- (4) be licensed under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot

services;

(5) have at least three years' service as a deputy branch pilot or equivalent service piloting vessels of at least 5,000 gross tons within the board's jurisdiction;

(6) have commanded or controlled the navigation of vessels such as the person would pilot;

(7) have extensive experience in the docking and undocking of vessels;

(8) be in good mental and physical health;

(9) have good moral character; and

(10) possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 359, Sec. 1, eff. Sept. 1, 1997.

Sec. 66.034. QUALIFICATIONS FOR CERTIFICATE. To be eligible for a certificate as a deputy branch pilot, a person must:

(1) be at least 25 years of age;

(2) be a United States citizen;

(3) hold a license under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services;

(4) be in good mental and physical health;

(5) have good moral character; and

(6) possess the requisite skill to perform competently and safely the duties of a deputy branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.035. APPLICATION FOR LICENSE OR CERTIFICATE. To apply for a branch pilot's license or a deputy branch pilot's certificate, a person must give to the board a written application in the form and manner required by board rule.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.036. CONSIDERATION OF APPLICATION. (a) The board

shall carefully consider each application and shall conduct any investigation it considers necessary to determine whether an applicant is qualified for a license or certificate.

(b) As part of its consideration of applications for licenses and certificates, the board may develop and administer examinations to determine an applicant's knowledge of piloting, management of vessels, and the water in the board's jurisdiction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.037. BRANCH PILOT APPOINTMENT BY GOVERNOR. (a) On filing of the bond and oath required by Section 66.039, the board shall certify to the governor that a person licensed as a branch pilot has qualified.

(b) On receipt of the board's certification, the governor shall issue to the person, in the name of the state and under the state seal, a commission to serve as a branch pilot to and from Harris County ports.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.038. DEPUTY BRANCH PILOT APPOINTMENT BY BRANCH PILOT.

(a) Each branch pilot may appoint, subject to examination and approval by the board, two deputy branch pilots for whose acts the branch pilot is responsible.

(b) A branch pilot may appoint an additional deputy branch pilot if the board considers the appointment advisable.

(c) A branch pilot who appoints a deputy branch pilot without the approval of the board forfeits the pilot's appointment as a branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.039. OATH; BOND. (a) A person appointed as a pilot must take the official oath before entering service as a pilot. The oath shall be endorsed on the bond required by Subsection (b).

(b) Each pilot must execute a \$25,000 bond payable to the governor and conditioned on compliance with the laws, rules, and

orders relating to pilots and on the faithful performance of the pilot's duties.

(c) Each bond must be approved by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.040. TERMS OF LICENSES AND CERTIFICATES. (a) A branch pilot's license expires on the fourth anniversary of the date it is issued or renewed, provided that no pilot may furnish pilot services under authority of a license after the pilot's 68th birthday.

(b) A deputy branch pilot's certificate expires on the third anniversary of the date it is issued and may not be renewed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 359, Sec. 1, eff. Sept. 1, 1997.

Sec. 66.041. BRANCH PILOT'S LICENSE RENEWAL. (a) The governor shall renew a branch pilot's expiring license if the board recommends renewal.

(b) If a pilot applies in writing and qualifies, the board shall recommend renewal unless the board determines there is probable cause not to renew the license.

(c) Probable cause not to renew a license exists if the board finds that the license holder:

(1) does not possess a qualification required by this chapter for pilots; or

(2) has a disability that will affect the license holder's ability to serve as a pilot.

(d) If the board determines that it has probable cause not to renew a license, the board shall notify the license holder of that determination not later than the 60th day before the date the license expires. On request, the board shall provide a hearing after proper notice to consider whether the board has cause not to recommend renewal of the license.

(e) If the board finds at the conclusion of the hearing that the board lacks probable cause for nonrenewal of the license, the board shall recommend that the governor renew the license.

(f) The board shall issue a written order recommending that the governor not renew a license and the governor may not renew the

license if:

(1) the pilot does not contest the board's decision not to renew the license; or

(2) the board after a hearing finds that it has probable cause not to renew the license.

(g) The denial of renewal of a pilot's license does not prohibit the pilot from applying for a new license and being reappointed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.042. DEPUTY BRANCH PILOT. A person who has been issued a deputy branch pilot's certificate may not be issued a deputy branch pilot's certificate before the fifth anniversary of the date the person was previously issued a deputy branch pilot's certificate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.043. SUSPENSION OR REVOCATION OF BRANCH PILOT'S LICENSE. (a) On complaint or on its own motion, and after notice and hearing, the board may suspend a branch pilot's license for not more than six months or recommend that the governor revoke a branch pilot's license if the board finds that the pilot has:

(1) failed to demonstrate and maintain the qualifications for a license required by this chapter;

(2) used narcotics or other types of drugs, chemicals, or controlled substances as defined by law that impair the pilot's ability to perform the pilot's duties skillfully and efficiently;

(3) used alcohol to an extent that impairs the pilot's ability to perform the pilot's duties skillfully and efficiently;

(4) violated a provision of this chapter or rules adopted by the board under this chapter;

(5) made a material misstatement in the application for a license;

(6) obtained or attempted to obtain a license under this chapter by fraud or misrepresentation;

(7) intentionally failed to comply with an order of the board;

(8) charged a pilotage rate other than that approved by the

board;

(9) intentionally refused to pilot or neglected to board promptly a vessel when requested to do so by the master or person responsible for navigation of the vessel except when, in the judgment of the pilot, movement of the vessel constitutes a hazard to life or property or when pilotage charges that are due and owing are unpaid by the person ordering the pilot services;

(10) intentionally caused damage to a vessel;

(11) been absent from duty in violation of board rules and without authorization;

(12) aided or abetted another pilot in failing to perform the other pilot's duties; or

(13) been guilty of carelessness, neglect of duty, intentional unavailability for performance of duties, refusal to perform duties, misconduct, or incompetence while on duty.

(b) If the federal pilot's license of a pilot licensed under this chapter is suspended or revoked, the board, on a finding that it has good cause, shall suspend the license for the same period or revoke the license under this chapter.

(c) On determining that a license should be suspended or revoked, the board shall adopt a written order that states its findings and:

(1) suspends the license for a stated period; or

(2) recommends to the governor revocation of the license.

(d) The governor, on receipt of a board order recommending revocation of a license, shall revoke the license.

(e) A suspension of a license takes effect on adoption of the board's order. A revocation of a branch pilot's license takes effect on issuance of the governor's decision.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.044. SUSPENSION OR REVOCATION OF DEPUTY BRANCH PILOT'S CERTIFICATE. A deputy branch pilot's certificate may be suspended or revoked by the board in the same manner and for the same reasons as provided for the revocation or suspension of a branch pilot's license by Section 66.043.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.045. LIABILITY TO PILOT. (a) A person who is not a pilot and who, in violation of this chapter, pilots a vessel and the consignee of the vessel are liable to a pilot, on written demand, for the amount of the applicable pilotage rate.

(b) In an action to recover compensation under Subsection (a), the court may include in a judgment in favor of a pilot an award of court costs and reasonable attorney's fees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. PILOTAGE RATES

Sec. 66.061. PILOTAGE RATE CHANGE. The board may not change pilotage rates before the first anniversary of the preceding rate change.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.062. PILOTAGE RATE CHANGE APPLICATION. (a) An application for a change in pilotage rates may be submitted to the board by:

- (1) a pilot;
- (2) an association of pilots;
- (3) a consignee liable under Section 66.070 to pay pilotage rates; or
- (4) an association of consignees.

(b) The application must be written and must state specifically the changes requested.

(c) The board shall set a hearing date within two weeks of receipt of an application. The board shall hold the hearing not earlier than the 20th day and not later than the 40th day after the date the board sets the hearing date.

(d) An applicant shall give notice of the application and the hearing date, by certified mail to the last known address, to:

- (1) all pilots licensed or certified in the port;
- (2) all known pilots' associations; and
- (3) all steamship agencies and associations in the port.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.063. PILOT FINANCIAL REPORT. (a) Not later than the 10th day before the date set for a pilotage rate hearing, the pilots who are licensed or certified to serve the port for which the rates are being considered shall submit in writing to the board and to any party designated by the board complete accounts of:

(1) all amounts received from performing pilot services, organized by categories or classifications of rates, if rates are set in that manner;

(2) all earnings from capital assets devoted to providing pilot services;

(3) all expenses incurred in connection with activities for which amounts described by Subdivisions (1) and (2) were received and earned; and

(4) estimates of receipts and expenses anticipated to result from the requested changes in pilotage rates.

(b) The pilots shall provide the information for:

(1) the calendar or fiscal year preceding the date of the pilotage rate change application; and

(2) the subsequent period to within 60 days of the date of the application.

(c) The board may require an independent audit of financial information submitted under Subsection (a) by an accountant selected by the board. The board, as it considers fair and just, shall assess the costs of the audit against one or more of the applicants and objecting parties.

(d) The board may require relevant additional information it considers necessary to determine a proper pilotage rate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.064. FACTORS FOR BOARD CONSIDERATION. In establishing pilotage rates, the board shall consider factors relevant to determining reasonable and just pilotage rates, including:

(1) characteristics of vessels to be piloted;

(2) the average number of hours spent by a pilot performing:

(A) pilot services on board vessels; and

(B) all pilot services;

(3) costs to pilots to provide the required pilot services;

(4) the public interest in maintaining safe, efficient, and reliable pilot services;

(5) the average wages of masters of United States flag vessels that navigate in the board's jurisdiction and for which the pilotage rate is to be established;

(6) economic factors affecting the shipping industry in the area in which the port is located; and

(7) an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with their duties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.065. RATE DECISION. Not later than the 10th day after the date of the completion of a hearing on an application for a change in pilotage rates, the board shall issue a written decision that:

- (1) grants or denies the application in whole or in part;
- (2) states the reasons for the decision; and
- (3) states each new pilotage rate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.066. COSTS. The board, in a final order under this subchapter, may charge all or part of the costs of processing an application to the parties in the proceedings.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.067. APPEAL OF BOARD DECISION. Any party aggrieved by a board decision on pilotage rates, after exhausting all administrative remedies, may appeal the order to a court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.068. EMERGENCY PILOTAGE RATES. (a) The board may establish emergency pilotage rates for the period of an emergency,

not to exceed 30 days, if the board finds that:

- (1) a natural or man-made disaster has created a substantial hazard to piloting vessels into and out of a port; and
 - (2) the existence of the hazard overrides the necessity to comply with normal pilotage rate-setting procedures.
- (b) In adopting emergency pilotage rates, the board is not required to comply with the procedures in this chapter or in its rules relating to adoption of pilotage rates.
- (c) Emergency pilotage rates may not be appealed.
- (d) The board shall adopt rules to carry out this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.069. PILOT SERVICES REQUIRED. The consignee of a vessel under the consignee's control shall obtain pilot services for the vessel and shall pay the pilot who pilots the vessel into and out of the port area compensation according to the pilotage rates filed by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.070. PILOTAGE RATE LIABILITY. (a) A consignee who declines the services of a pilot offered outside the bar and enters the port without the aid of a pilot is liable for the payment of pilotage to the first pilot whose services were declined.

(b) A consignee is liable for the payment of pilotage to the pilot who brings a vessel in if the vessel goes out without employing a pilot.

(c) A consignee is liable for the payment of pilotage for a vessel that goes out without the aid of a pilot and that came in without the aid of a pilot to the pilot who first offered services before the vessel came in.

(d) A consignee is not liable for the payment of pilotage for a vessel going out without a pilot if the vessel came in without the aid of a pilot or came in without the offer of a pilot outside.

(e) Subsections (a)-(d) do not apply to a consignee exempt under this chapter from payment of pilotage rates.

(f) A pilot who charges a rate for pilot services different from the pilotage rates established under this chapter for the port

in which the pilot serves is liable to each person who was charged the different rate for double the amount of pilotage.

(g) A court may include in a judgment in favor of a person who files suit to collect an amount owed under this chapter an award to cover court costs and reasonable attorney's fees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.071. RECOVERY OF COMPENSATION. A pilot who offers pilot services to a vessel required under this chapter to obtain pilot services and whose services are refused is entitled to recover from the consignee the pilotage rate for the services.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. PILOT LIABILITY

Sec. 66.081. PURPOSE. The purpose of this subchapter is to:

- (1) in the public interest, stimulate and preserve maritime commerce on the pilotage grounds of this state by limiting and regulating the liability of pilots; and
- (2) maintain pilotage fees at reasonable amounts.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.082. PILOT LIABILITY. A pilot is not liable directly or as a member of an organization of pilots for any claim that:

- (1) arises from an act or omission of another pilot or organization of pilots; and
- (2) relates directly or indirectly to pilot services.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 66.083. PILOT LIABILITY LIMITED. (a) A pilot providing pilot services is not liable for more than \$1,000 for damage or loss caused by the pilot's error, omission, fault, or neglect in the performance of the pilot services, except as provided by Subsection (b).

(b) Subsection (a) does not apply to:

- (1) damage or loss that arises because of the wilful misconduct or gross negligence of the pilot;
- (2) liability for exemplary damages for gross negligence of the pilot and for which no other person is jointly or severally liable; or
- (3) an act or omission relating to the ownership and operation of a pilot boat unless the pilot boat is directly involved in pilot services other than the transportation of pilots.

(c) This section does not exempt a vessel or its owner or operator from liability for damage or loss caused by the vessel to a person or property on the grounds that:

- (1) the vessel was piloted by a pilot; or
- (2) the damage or loss was caused by the error, omission, fault, or neglect of a pilot.

(d) In an action brought against a pilot for an act or omission for which liability is limited as provided by this section and in which other claims are made or anticipated with respect to the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege pilot liability that exceeds \$1,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 67. GALVESTON COUNTY PILOTS LICENSING AND REGULATORY ACT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 67.001. SHORT TITLE. This chapter may be cited as the Galveston County Pilots Licensing and Regulatory Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.002. DEFINITIONS. In this chapter:

- (1) "Board" means the board of pilot commissioners for Galveston County ports.
- (2) "Consignee" means a person, including a master, owner, agent, subagent, firm, or corporation or any combination of those persons, who enters or clears a vessel at the office of the collector of customs.
- (3) "Galveston County port" means a place in Galveston

County into which a vessel enters or from which a vessel departs and the waterway leading to that place from the Gulf of Mexico.

(4) "Pilot" means a person who is licensed as a branch pilot or certified as a deputy branch pilot under this chapter.

(5) "Pilotage rate" means the remuneration a pilot may lawfully charge a vessel for pilot services.

(6) "Pilot services" means acts of a pilot in conducting a vessel through the navigable water in this state and the ports in which the pilot is licensed or certified as a pilot.

(7) "Vessel" means an oceangoing vessel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.003. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a Galveston County port.

(b) This chapter does not affect the existing laws for ports in other counties, and those laws do not apply to ports located in Galveston County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

Sec. 67.011. BOARD. The board of pilot commissioners for the ports of Galveston County is composed of five commissioners from Galveston County appointed by the governor with the advice and consent of the senate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.012. PROHIBITED INTEREST. A person may not be a member of the board if the person has a conflict of interest or a direct or indirect interest in any business affected by or connected with the performance of the person's duties as a pilot commissioner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.013. OATH. Before beginning service as a board member,

each board member must take and sign before a person authorized to administer oaths an oath to faithfully and impartially discharge the duties of the office.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.014. TERM OF OFFICE. (a) Board members serve staggered four-year terms of office.

(b) A member holds office until the member's successor is appointed and qualified.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.015. JURISDICTION. The board has exclusive jurisdiction over the piloting of vessels in Galveston County, including intermediate stops and landing places for vessels on navigable streams wholly or partially located in the board's jurisdiction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.016. ADMINISTRATION; RULES. (a) The board shall administer this chapter and may perform any act or function necessary to carry out its powers and duties under this chapter.

(b) The board may adopt rules to carry out this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.017. DUTIES. The board shall:

(1) recommend to the governor the number of pilots necessary to provide adequate pilot services for each Galveston County port;

(2) accept applications for pilot licenses and certificates and determine whether each applicant meets the qualifications for a pilot;

(3) provide names of all qualified applicants for certificates to each pilot association office of Galveston County;

- (4) submit to the governor the names of persons who have qualified under this chapter to be appointed as branch pilots;
- (5) establish pilotage rates;
- (6) approve any changes of the locations for pilot stations;
- (7) establish times during which pilot services will be available;
- (8) hear and determine complaints relating to the conduct of pilots;
- (9) make recommendations to the governor concerning any pilot whose license or certificate should not be renewed or should be revoked;
- (10) adopt rules and issue orders to pilots and vessels when necessary to secure efficient pilot services;
- (11) institute investigations or hearings or both to consider casualties, accidents, or other actions that violate this chapter;
- (12) provide penalties to be imposed on a person who is not a pilot for a Galveston County port and who pilots a vessel into or out of the port; and
- (13) approve a training program for deputy branch pilots.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.018. PILOT REVIEW BOARD. The board shall establish a pilot review board, consisting of two branch pilots and three members of the marine industry who reside in Galveston County, to hear and review complaints against pilots and to make recommendations to the board concerning the complaints.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.019. UNFAIR DISCRIMINATION PROHIBITED. (a) In all its duties, including rulemaking, the board may not sanction discriminatory practices or discriminate against a pilot or pilot applicant because of race, religion, sex, ethnic origin, or national origin.

(b) A person seeking a remedy for a violation of this section must bring suit in a district court in Galveston County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.020. OPEN MEETINGS LAW. Chapter 551, Government Code, applies to actions and proceedings under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.021. RULE OR RATE CHANGE. (a) The board shall give at least 10 days' notice as provided by this section before the board adopts a rule or changes a pilotage rate.

(b) The board shall mail the notice and a copy of the proposed rule or change by registered mail to:

(1) each pilot association office for Galveston County;
and

(2) all known consignees and all known associations of consignees operating in Galveston County.

(c) The board shall post a copy of the proposed rule or change at the county courthouse for public inspection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.022. JUDICIAL REVIEW. Proceedings for judicial review of a board decision shall be brought in a district court in Galveston County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

Sec. 67.031. LICENSE OR CERTIFICATE REQUIRED. A person may not provide pilot services unless the person has a license or certificate issued under this chapter for the Galveston County ports in which the pilot services are to be provided.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.032. EXEMPTION. The requirement to use a pilot does

not apply to a vessel exempt under federal law from payment of state pilotage rates.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.033. QUALIFICATIONS FOR LICENSE. To be eligible for a license as a branch pilot, a person must:

- (1) be at least 25 years of age;
- (2) be a United States citizen;
- (3) as of the date the license is issued, have resided continuously in this state for at least two years;
- (4) have at least two years' service as a deputy branch pilot and successfully complete the board-approved training program;
- (5) have controlled the navigation of vessels such as the person would pilot;
- (6) have extensive experience in the docking and undocking of vessels;
- (7) be in good mental and physical health;
- (8) have good moral character; and
- (9) possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.034. QUALIFICATIONS FOR CERTIFICATE. To be eligible for a certificate as a deputy branch pilot, a person must:

- (1) be at least 25 years of age;
- (2) be a United States citizen;
- (3) be appointed by a branch pilot;
- (4) be in good mental and physical health;
- (5) have good moral character; and
- (6) possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a deputy branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.035. APPLICATION FOR LICENSE OR CERTIFICATE. To apply for a branch pilot's license or a deputy branch pilot's certificate,

a person must give to the board a written application in the form and manner required by board rule.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.036. CONSIDERATION OF APPLICATION. As part of its consideration of applications for licenses and certificates, the board may examine and decide on the qualifications of an applicant for the position of branch pilot or deputy branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.037. BRANCH PILOT APPOINTMENT BY GOVERNOR. (a) On filing of the bond and oath required by Section 67.039, the board shall certify to the governor that a person licensed as a branch pilot has qualified.

(b) On receipt of the board's certification, the governor shall issue to the person, in the name of the state and under the state seal, a commission to serve as a branch pilot to and from Galveston County ports.

(c) The governor shall appoint the number of branch pilots necessary to provide adequate pilot services for each Galveston County port.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.038. DEPUTY BRANCH PILOT APPOINTMENT BY BRANCH PILOT. (a) Each branch pilot, subject to examination and approval of the board, may appoint two deputy branch pilots.

(b) A branch pilot may appoint an additional deputy branch pilot if the board considers the appointment advisable.

(c) A branch pilot who appoints a deputy branch pilot without the approval of the board forfeits the pilot's appointment as a branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.039. OATH; BOND. (a) A person appointed as a pilot must take the official oath before entering service as a pilot. The oath shall be endorsed on the bond required by Subsection (b).

(b) Each pilot must execute a \$25,000 bond payable to the governor and conditioned on compliance with the laws, rules, and orders relating to pilots and on the faithful performance of the pilot's duties.

(c) Each bond must be approved by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.040. TERMS OF LICENSES AND CERTIFICATES. (a) A branch pilot's license expires on the fourth anniversary of the date it is issued or renewed.

(b) A deputy branch pilot's certificate expires on the second anniversary of the date it is issued and may not be renewed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.041. BRANCH PILOT'S LICENSE RENEWAL. (a) The governor shall renew a branch pilot's expiring license if the board recommends renewal.

(b) If a pilot applies in writing and qualifies, the board shall recommend renewal unless the board determines there is probable cause not to renew the license.

(c) Probable cause not to renew a license exists if the board finds that the license holder:

(1) does not possess a qualification required by this chapter for pilots; or

(2) has a disability that will affect the license holder's ability to serve as a pilot.

(d) If the board determines that it has probable cause not to renew a license, the board shall notify the license holder not later than the 60th day before the date the license expires. On request, the board shall provide a hearing after proper notice to consider whether the board has cause not to recommend renewal of the license.

(e) If the board finds at the conclusion of the hearing that the board lacks probable cause for nonrenewal of the license, the board shall recommend that the governor renew the license.

(f) The board shall issue a written order recommending that the governor not renew a license and the governor may not renew the license if:

(1) the pilot does not contest the board's decision not to renew the license; or

(2) the board after a hearing finds that it has probable cause not to renew the license.

(g) The denial of renewal of a pilot's license does not prohibit the pilot from applying for a new license and being reappointed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.042. DEPUTY BRANCH PILOT. A person who has been issued a deputy branch pilot's certificate may not be issued a deputy branch pilot's certificate before the fifth anniversary of the date the person was previously issued a deputy branch pilot's certificate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.043. SUSPENSION OR REVOCATION OF BRANCH PILOT'S LICENSE. (a) On complaint or on its own motion, and after notice and hearing, the board may suspend a branch pilot's license for not more than six months or recommend that the governor revoke a branch pilot's license if the board finds that the pilot has:

(1) failed to demonstrate and maintain the qualifications for a license required by this chapter;

(2) used narcotics or other types of drugs, chemicals, or controlled substances as defined by law that impair the pilot's ability to perform the pilot's duties skillfully and efficiently;

(3) used alcohol to an extent that impairs the pilot's ability to perform the pilot's duties skillfully and efficiently;

(4) violated a provision of this chapter or rules adopted by the board under this chapter that were material to the performance of the pilot's duties at the time of the violation;

(5) made a material misstatement in the application for a license;

(6) obtained or attempted to obtain a license under this chapter by fraud or misrepresentation;

(7) charged a pilotage rate other than that approved by the board;

(8) intentionally refused to pilot a vessel when requested to do so by the master or person responsible for navigation of the vessel except when, in the judgment of the pilot, movement of the vessel would have constituted a hazard to life or property or when pilotage charges that are due and owing are unpaid by the person ordering the pilot services;

(9) been absent from duty in violation of board rules and without authorization;

(10) aided or abetted another pilot in failing to perform the other pilot's duties; or

(11) been guilty of carelessness, neglect of duty, intentional unavailability for normal performance of duties, refusal to perform duties, misconduct, or incompetence while on duty.

(b) On determining that a license should be suspended or revoked, the board shall adopt a written order that states its findings and:

(1) suspends the license for a stated period; or

(2) recommends to the governor revocation of the license.

(c) The governor, on receipt of a board order recommending revocation of a license, shall revoke the license. If the board's order is appealed, the governor may not revoke the license until the order is upheld on appeal.

(d) A suspension of a license on the recommendation of a pilot review board takes effect on adoption of the board's order. A revocation of a branch pilot's license takes effect on issuance of the governor's decision.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.044. SUSPENSION OR REVOCATION OF DEPUTY BRANCH PILOT'S CERTIFICATE. A deputy branch pilot certificate may be suspended or revoked by the board in the same manner and for the same reasons as provided for the suspension or revocation of a branch pilot's license by Section 67.043.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.045. LIABILITY TO PILOT. (a) A person who is not a pilot and who, in violation of this chapter, pilots a vessel and the consignee of the vessel are liable to a pilot, on written demand, for the amount of the applicable pilotage rate.

(b) In an action to recover compensation under Subsection (a), the court may include in a judgment in favor of a pilot an award of court costs and reasonable attorney's fees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. PILOTAGE RATES

Sec. 67.061. PILOTAGE RATE CHANGE. The board may not change pilotage rates before the first anniversary of the preceding rate change.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.062. PILOTAGE RATE CHANGE APPLICATION. (a) An application for a change in a pilotage rate may be filed with each commissioner of the board by:

- (1) one or more pilots; or
- (2) the owner, agent, or consignee of a vessel navigating to or from a Galveston County port.

(b) The application must contain:

- (1) a brief statement of the circumstances that warrant the change; and
- (2) a certification that the applicant has submitted copies of the application to all known pilots, consignees, and associations of consignees operating in Galveston County at the time of the application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.063. OBJECTION; HEARING. (a) If, not later than the 20th day after the date notice is sent, a commissioner receives a written objection to the application from any person who appears to have a legitimate interest in the application, the board shall hold a hearing as provided by this section.

(b) The board shall hold the hearing not later than the 20th day after the date the 20-day period provided by Subsection (a) expires.

(c) The board shall give notice of the hearing to:

- (1) each applicant;
- (2) each person objecting to the application; and
- (3) any other person the board determines is interested in the proceedings.

(d) The hearing shall be open to the public and held at a convenient public place in one of the ports that would be affected by the change. Each party who demonstrates a legitimate interest in the application is entitled to be heard, to present evidence, and, to the extent the board considers practical, to cross-examine testifying witnesses.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.064. BOARD ACTION ON APPLICATION. (a) If an objection to an application for a rate change is not received by any commissioner within the period provided by Section 67.063(a), the board shall act on the application without further proceedings.

(b) If a hearing is held as provided by Section 67.063, the board shall grant, deny, or modify the application after receipt of the evidence offered by the parties and arguments and briefs requested by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.065. PILOT FINANCIAL REPORT. (a) Not later than the 10th day before the date set for a pilotage rate hearing, the pilots who are licensed or certified to serve the port for which the rates are being considered shall submit in writing to the board and to any party designated by the board complete accounts of:

- (1) all amounts received from performing pilot services, organized by categories or classifications of rates, if rates are set in that manner;
- (2) all earnings from capital assets devoted to providing pilot services;
- (3) all expenses incurred in connection with activities for

which amounts described by Subdivisions (1) and (2) were received and earned; and

(4) estimates of receipts and expenses anticipated to result from the requested changes in pilotage rates.

(b) The pilots shall provide the information for:

(1) the calendar or fiscal year preceding the date of the pilotage rate change application; and

(2) the subsequent period to within 60 days of the date of the application.

(c) The board may require relevant additional information it considers necessary to determine a proper pilotage rate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.066. FACTORS FOR BOARD CONSIDERATION. In acting on a pilotage rate change application, the board shall consider:

(1) characteristics of vessels to be piloted;

(2) the average number of hours spent by a pilot in performing pilot services;

(3) costs to pilots to provide the required pilot services;

(4) the effect, including economic factors affecting the shipping industry in the area, that the granting, refusal, or modification of the application would have on Galveston County ports and the persons residing in the board's jurisdiction;

(5) an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with pilot duties; and

(6) the relationship between the pilotage rates in Galveston County ports and the rates applicable in other ports of this state and in competitive ports in other states.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.067. BOARD ACTION. (a) A board order granting, denying, or modifying an application for a rate change must state its effective date. The order is final, except as provided by Subsection (b).

(b) Any party aggrieved by the board's order may, after exhausting all administrative remedies, appeal the order to a court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.068. REPORTING AND STENOGRAPHIC COSTS. (a) The board may assess the actual costs the board considers fair and just for reporting and stenographic services necessarily incurred in connection with a hearing against one or more of the applicants and objecting parties.

(b) The board may require that an applicant or objecting party deposit an amount against those costs as a condition of presenting an application or objection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.069. ORDER FILED. (a) The board shall file a copy of its order with the county clerk.

(b) The board shall file the order not later than the 20th day after:

(1) the closing date of a hearing held as provided by Section 67.063(b); or

(2) if the hearing is not held, the expiration of the period provided by Section 67.063(a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.070. EMERGENCY PILOTAGE RATES. (a) The board may establish emergency pilotage rates for the period of an emergency, not to exceed 30 days, if the board finds that:

(1) a natural or man-made disaster has created a substantial hazard to piloting vessels into and out of a port; and

(2) the existence of the hazard overrides the necessity to comply with normal pilotage rate-setting procedures.

(b) In adopting emergency pilotage rates, the board is not required to comply with the procedures in this chapter or in its rules relating to adoption of pilotage rates.

(c) Emergency pilotage rates may not be appealed.

(d) The board shall adopt rules to carry out this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.071. PILOT SERVICES REQUIRED. The consignee of a vessel under the consignee's control shall obtain pilot services for the vessel and shall pay the pilot who pilots the vessel into and out of the port area compensation according to the pilotage rates filed by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.072. PILOTAGE RATE LIABILITY. (a) A pilot who charges a pilotage rate for pilot services different from the pilotage rates established under this chapter for the port in which the pilot serves is liable to each person who was charged the different rate for double the amount of pilotage.

(b) A court may include in a judgment in favor of a person who files suit to collect an amount owed under this chapter an award to cover court costs and reasonable attorney's fees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.073. RECOVERY OF COMPENSATION. A pilot who offers pilot services to a vessel required under this chapter to obtain pilot services and whose services are refused is entitled to recover from the consignee the pilotage rate for the service.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. PILOT LIABILITY

Sec. 67.081. PURPOSE. The purpose of this subchapter is to:

- (1) in the public interest, stimulate and preserve maritime commerce on the pilotage grounds of this state by limiting and regulating the liability of pilots; and
- (2) maintain pilotage fees at reasonable amounts.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.082. PILOT LIABILITY. A pilot is not liable directly or as a member of an organization of pilots for a claim that:

- (1) arises from an act or omission of another pilot or organization of pilots; and
- (2) relates directly or indirectly to pilot services.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 67.083. PILOT LIABILITY LIMITED. (a) A pilot providing pilot services is not liable for more than \$1,000 for damage or loss caused by the pilot's error, omission, fault, or neglect in the performance of the pilot services, except as provided by Subsection (b).

(b) Subsection (a) does not apply to:

- (1) damage or loss that arises because of the wilful misconduct or gross negligence of the pilot;
- (2) liability for exemplary damages for gross negligence of the pilot and for which no other person is jointly or severally liable; or
- (3) an act or omission relating to the ownership and operation of a pilot boat unless the pilot boat is directly involved in pilot services other than the transportation of pilots.

(c) This section does not exempt a vessel or its owner or operator from liability for damage or loss caused by the vessel to a person or property on the grounds that:

- (1) the vessel was piloted by a pilot; or
- (2) the damage or loss was caused by the error, omission, fault, or neglect of a pilot.

(d) In an action brought against a pilot for an act or omission for which liability is limited as provided by this section and in which other claims are made or anticipated with respect to the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege pilot liability that exceeds \$1,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 68. BRAZORIA COUNTY PILOTS LICENSING AND REGULATORY ACT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 68.001. SHORT TITLE. This chapter may be cited as the Brazoria County Pilots Licensing and Regulatory Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.002. DEFINITIONS. In this chapter:

(1) "Board" means the board of pilot commissioners for Brazoria County ports.

(2) "Brazoria County port" means a place in Brazoria County into which a vessel enters or from which a vessel departs and the waterway leading to that place from the Gulf of Mexico.

(3) "Consignee" means a person, including a master, owner, agent, subagent, firm, or corporation or any combination of those persons, who enters or clears a vessel at the office of the collector of customs.

(4) "Pilot" means a person who is licensed and commissioned as a branch pilot or certified as a deputy branch pilot under this chapter.

(5) "Pilotage rate" means the remuneration a pilot may lawfully charge a vessel for the pilot's services.

(6) "Pilot services" means acts of a pilot in conducting a vessel through the navigable water in this state and the ports in which the pilot is licensed or certified as a pilot.

(7) "Vessel" means an oceangoing vessel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.003. APPLICABILITY OF CHAPTER. (a) This chapter applies only to a Brazoria County port.

(b) This chapter does not affect laws relating to a port in another county and those laws do not apply to a Brazoria County port.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.004. VENUE. A suit to enforce a claim, right, or cause of action provided by this chapter shall be brought in Brazoria County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

Sec. 68.011. BOARD. The board of pilot commissioners for the ports of Brazoria County is composed of the navigation and canal commissioners of the Brazos River Harbor Navigation District of Brazoria County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.012. PROHIBITED INTEREST. A person may not be a member of the board if the person, directly or indirectly, is engaged in or has any interest in a pilot boat business, towing business, or other business affected by or connected with the performance of the person's duties as a pilot commissioner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.013. OATH. Before beginning service as a board member, each board member must take and sign, before a person authorized to administer oaths, an oath to faithfully and impartially discharge the duties of the office.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.014. TERM OF OFFICE. A board member serves a term of office that coincides with the member's term as a navigation and canal commissioner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.015. JURISDICTION. The board has exclusive jurisdiction over the piloting of vessels in Brazoria County ports, including intermediate stops and landing places for vessels on navigable streams wholly or partially located in the board's jurisdiction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.016. ADMINISTRATION; RULES. (a) The board shall administer this chapter and may perform any act or function necessary to carry out its powers and duties under this chapter.

(b) The board may adopt rules to carry out this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.017. DUTIES. The board shall:

(1) recommend to the governor the number of pilots necessary to provide adequate pilot services for each Brazoria County port;

(2) accept applications for pilot licenses and certificates and determine whether each applicant meets the qualifications for a pilot;

(3) provide the names of all qualified applicants for certificates to the Brazos Pilots Association;

(4) submit to the governor the names of persons who have qualified under this chapter to be commissioned as branch pilots;

(5) establish pilotage rates;

(6) approve the locations for pilot stations;

(7) establish times during which pilot services will be available;

(8) hear and determine complaints relating to the conduct of pilots;

(9) recommend to the governor each pilot whose license or certificate should not be renewed or should be revoked;

(10) adopt rules and issue orders to pilots or vessels when necessary to secure efficient pilot services;

(11) institute investigations or hearings or both to consider casualties, accidents, or other actions that violate this chapter;

(12) provide penalties to be imposed on a person who is not a pilot for a Brazoria County port who pilots a vessel into or out of the port; and

(13) approve a training program for deputy branch pilots.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.018. PILOT REVIEW BOARD. The board shall establish a pilot review board, consisting of two branch pilots and three members of the marine industry who reside in Brazoria County, to hear and review complaints against pilots and to make recommendations to the board concerning the complaints.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.019. UNFAIR DISCRIMINATION PROHIBITED. (a) In all its duties, including rulemaking, the board may not sanction discriminatory practices or discriminate against a pilot or applicant because of race, religion, sex, ethnic origin, or national origin.

(b) A person seeking a remedy for a violation of this section must bring suit in a district court in Brazoria County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.020. OPEN MEETINGS LAW. Chapter 551, Government Code, applies to actions and proceedings under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.021. RULE OR RATE CHANGE. (a) The board shall give at least 10 days' notice as provided by this section before the board adopts a rule or changes a pilotage rate.

(b) The board shall mail the notice and a copy of the proposed rule or change by registered mail to:

- (1) each Brazos Pilots Association office; and
- (2) all known consignees and all known associations of consignees operating in Brazoria County.

(c) The board shall post a copy of the proposed rule or change at the county courthouse for public inspection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.022. JUDICIAL REVIEW. Proceedings for judicial review of a board decision shall be brought in a district court in Brazoria County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

Sec. 68.031. LICENSE OR CERTIFICATE REQUIRED. A person may not provide pilot services unless the person has a license or certificate issued under this chapter for the Brazoria County ports in which the pilot services are to be provided.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.032. EXEMPTION. The requirement to use a pilot does not apply to a vessel exempt under federal law from payment of state pilotage rates.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.033. QUALIFICATIONS FOR LICENSE. To be eligible for a license as a branch pilot, a person must:

- (1) be at least 25 years of age and less than 68 years of age;
- (2) be a United States citizen;
- (3) as of the date the license is issued, have resided continuously in this state for at least two years;
- (4) have at least two years' service as a deputy branch pilot and have successfully completed the board-approved training program;
- (5) have controlled the navigation of vessels such as the person would pilot;
- (6) have extensive experience in the docking and undocking of vessels;
- (7) be licensed under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services;
- (8) be in good mental and physical health;

(9) have good moral character; and

(10) possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 359, Sec. 2, eff. Sept. 1, 1997.

Sec. 68.034. QUALIFICATIONS FOR CERTIFICATE. To be eligible for a certificate as a deputy branch pilot, a person must:

(1) be at least 25 years of age;

(2) be a United States citizen;

(3) be appointed by a branch pilot;

(4) be in good mental and physical health;

(5) have good moral character; and

(6) possess the requisite skill to perform competently and safely the duties of a deputy branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.035. APPLICATION FOR LICENSE OR CERTIFICATE. (a) To apply for a branch pilot's license or a deputy branch pilot's certificate, a person must give the board a written application in the form and manner required by board rule.

(b) The board may require an applicant to include with an application:

(1) a certification by a medical doctor, dated not earlier than the 15th day before the date of the application, stating that in the doctor's opinion the applicant on the date of the certification possesses the mental and physical health necessary to perform competently and safely the duties of a branch pilot or deputy branch pilot, as applicable; or

(2) a certification by a medical doctor, dated not earlier than the 15th day before the date the application is filed, certifying that the applicant's body on the date of the certification is free of evidence of the presence of illegal drugs or chemicals.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.036. CONSIDERATION OF APPLICATION. (a) The board shall carefully consider each application and shall conduct any investigation it considers necessary to determine whether an applicant is qualified for a license or certificate.

(b) As part of its consideration of applications for licenses and certificates, the board may develop and administer examinations to determine an applicant's knowledge of piloting, management of vessels, and the water in the board's jurisdiction.

(c) The board may not disapprove an application for certification as a deputy branch pilot made by a person who has a written recommendation for the certification from a branch pilot unless the board, after notice to the applicant, has provided the applicant a hearing on the applicant's qualifications.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.037. BRANCH PILOT APPOINTMENT BY GOVERNOR. (a) On filing of the bond and oath required by Section 68.039, the board shall certify to the governor that a person licensed as a branch pilot has qualified.

(b) On receipt of the board's certification, the governor shall issue to the person, in the name of the state and under the state seal, a commission to serve as a branch pilot to and from Brazoria County ports.

(c) The governor shall appoint the number of branch pilots necessary to provide adequate pilot services for each Brazoria County port.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.038. DEPUTY BRANCH PILOT APPOINTMENT BY BRANCH PILOT.

(a) Each branch pilot may appoint, subject to examination and approval by the board, two deputy branch pilots.

(b) A branch pilot may appoint an additional deputy branch pilot if the board considers the appointment advisable.

(c) The board may not approve an appointment if the appointee is related to the branch pilot within the second degree by affinity or within the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, unless each member of the

Brazos Pilots Association recommends the appointment in writing.

(d) A branch pilot who appoints a deputy branch pilot without the approval of the board forfeits the pilot's appointment as a branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.039. OATH; BOND. (a) A person appointed as a pilot must take the official oath before entering service as a pilot. The oath shall be endorsed on the bond required by Subsection (b).

(b) Each pilot must execute a \$25,000 bond payable to the governor and conditioned on compliance with the laws, rules, and orders relating to pilots and on the faithful performance of the pilot's duties.

(c) Each bond must be approved by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.040. TERMS OF LICENSES AND CERTIFICATES. (a) A branch pilot's license expires on the fourth anniversary of the date it is issued or renewed, provided that no pilot may furnish pilot services under authority of a license after the pilot's 68th birthday.

(b) A deputy branch pilot's certificate expires on the second anniversary of the date it is issued and may not be renewed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 359, Sec. 3, eff. Sept. 1, 1997.

Sec. 68.041. BRANCH PILOT'S LICENSE RENEWAL. (a) The governor shall renew a branch pilot's expiring license if the board recommends renewal.

(b) If a pilot applies in writing and qualifies, the board shall recommend renewal unless the board determines there is probable cause not to renew the license.

(c) Probable cause not to renew a license exists if the board finds that the license holder:

(1) does not possess a qualification required by this chapter for pilots; or

(2) has a disability that will affect the license holder's ability to serve as a pilot.

(d) If the board determines that it has probable cause not to renew a license, the board shall notify the license holder of that determination not later than the 60th day before the date the license expires. On request, the board shall provide a hearing after proper notice to consider whether the board has cause not to recommend renewal of the license.

(e) If the board finds at the conclusion of the hearing that the board lacks probable cause for nonrenewal of the license, the board shall recommend that the governor renew the license.

(f) The board shall issue a written order recommending that the governor not renew a license and the governor may not renew the license if:

(1) the pilot does not contest the board's decision not to renew the license; or

(2) the board after a hearing finds that it has probable cause not to renew the license.

(g) The denial of renewal of a pilot's license does not prohibit the pilot from applying for a new license and being reappointed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.042. DEPUTY BRANCH PILOT. A person who has been issued a deputy branch pilot's certificate may not be issued a deputy branch pilot's certificate before the fifth anniversary of the date the person was previously issued a deputy branch pilot's certificate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.043. HEALTH AND DRUG CERTIFICATION. (a) The board may require that certification under Section 68.035(b)(1) be executed annually.

(b) The board randomly from time to time may require a branch pilot or deputy branch pilot to provide the board with certification by a medical doctor that on the date of the certification the body of the pilot is free of evidence of the presence of illegal drugs or chemicals.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.044. SUSPENSION OR REVOCATION OF BRANCH PILOT'S LICENSE. (a) On complaint or on its own motion, and after notice and hearing, the board may suspend a branch pilot's license for not more than six months or recommend that the governor revoke a branch pilot's license if the board finds that the pilot has:

(1) failed to demonstrate and maintain the qualifications for a license required by this chapter;

(2) used narcotics or other types of drugs, chemicals, or controlled substances as defined by law that impair the pilot's ability to perform the pilot's duties skillfully and efficiently;

(3) used alcohol to an extent that impairs the pilot's ability to perform the pilot's duties skillfully and efficiently;

(4) violated a provision of this chapter or rules adopted by the board under this chapter that were material to the performance of the pilot's duties at the time of the violation;

(5) made a material misstatement in the application for a license;

(6) obtained or attempted to obtain a license under this chapter by fraud or misrepresentation;

(7) charged a pilotage rate other than that approved by the board;

(8) intentionally refused to pilot a vessel when requested to do so by the master or person responsible for navigation of the vessel except when, in the judgment of the pilot, movement of the vessel constitutes a hazard to life or property or when pilotage charges that are due and owing are unpaid by the person ordering the pilot services;

(9) been absent from duty in violation of board rules and without authorization;

(10) aided or abetted another pilot in failing to perform the other pilot's duties; or

(11) been guilty of carelessness, neglect of duty, intentional unavailability for normal performance of duties, refusal to perform duties, misconduct, or incompetence while on duty.

(b) On determining that a license should be suspended or revoked, the board shall adopt a written order that states its findings and:

- (1) suspends the license for a stated period; or
- (2) recommends to the governor revocation of the license.

(c) The governor, on receipt of a board order recommending revocation of a license, shall revoke the license. If the board's order is appealed, the governor may not revoke the license until the order is upheld on appeal.

(d) A suspension of a license on the recommendation of a pilot review board takes effect on adoption of the board's order. A revocation of a branch pilot's license takes effect on issuance of the governor's decision.

(e) The board shall immediately give notice to the Brazos Pilots Association, by certified mail, of a revocation or suspension under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.045. SUSPENSION OR REVOCATION OF DEPUTY BRANCH PILOT'S CERTIFICATE. A deputy branch pilot's certificate may be suspended or revoked by the board in the same manner and for the same reasons as provided for the suspension or revocation of a branch pilot's license by Section 68.044.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.046. LIABILITY TO PILOT. (a) A person who is not a pilot and who, in violation of this chapter, pilots a vessel and the consignee of the vessel are liable to a pilot, on written demand, for the amount of the applicable pilotage rate.

(b) In an action to recover compensation under Subsection (a), the court may include in a judgment in favor of a pilot an award of court costs and reasonable attorney's fees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. PILOTAGE RATES

Sec. 68.061. PILOTAGE RATE CHANGE. The board may not change pilotage rates before the first anniversary of the preceding rate change.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.062. PILOTAGE RATES. Each branch pilot member of the Brazos Pilots Association shall charge the pilotage rates set by the board for pilot services.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.063. PILOTAGE RATE CHANGE APPLICATION. (a) An application for a change in a pilotage rate may be filed with each commissioner of the board by:

- (1) one or more pilots; or
- (2) an owner, agent, or consignee.

(b) The application must contain:

- (1) a brief statement of the circumstances that warrant the change; and
- (2) a certification that the applicant has submitted copies of the application to all known pilots, consignees, and associations of consignees operating in Brazoria County at the time of the application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.064. OBJECTION; HEARING. (a) If, not later than the 20th day after the date notice of an application for a rate change is sent, a commissioner receives a written objection to the application from any person who appears to have a legitimate interest in the application, the board shall hold a hearing as provided by this section.

(b) The board shall hold the hearing not later than the 20th day after the date the 20-day period provided by Subsection (a) expires.

(c) The board shall give notice of the hearing to:

- (1) each applicant;
- (2) each person objecting to the application; and
- (3) any other person the board determines is interested in the proceedings.

(d) The hearing shall be open to the public and held at a

convenient public place in one of the ports that would be affected by the change. Each party who demonstrates a legitimate interest in the application is entitled to be heard, to present evidence, and, to the extent the board considers practical, to cross-examine testifying witnesses.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.065. BOARD ACTION ON APPLICATION. (a) If an objection to an application for a rate change is not received by any commissioner within the period provided by Section 68.064(a), the board shall act on the application without further proceedings.

(b) If a hearing is held as provided by Section 68.064, the board shall grant, deny, or modify the application after receipt of the evidence offered by the parties and arguments and briefs requested by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.066. PILOT FINANCIAL REPORT. (a) Not later than the 10th day before the date set for a pilotage rate hearing, the pilots who are licensed or certified to serve the port for which the rates are being considered shall submit in writing to the board and to any interested party designated by the board complete accounts of:

(1) all amounts received from performing pilot services, organized by categories or classifications of rates, if rates are set in that manner;

(2) all earnings from capital assets devoted to providing pilot services;

(3) all expenses incurred in connection with activities for which amounts described by Subdivisions (1) and (2) were received and earned; and

(4) estimates of receipts and expenses anticipated to result from the requested changes in pilotage rates.

(b) The pilots shall provide the information for:

(1) the calendar or fiscal year preceding the date of the pilotage rate change application; and

(2) the subsequent period to within 60 days of the date of the application.

(c) The board may require relevant additional information it considers necessary to determine a proper pilotage rate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.067. FACTORS FOR BOARD CONSIDERATION. In acting on a pilotage rate change application, the board shall consider:

- (1) characteristics of vessels to be piloted;
- (2) costs to pilots to provide the required pilot services;
- (3) the effect, including economic factors affecting the shipping industry in the area, that the granting, refusal, or modification of the application would have on Brazoria County ports and the persons residing in the board's jurisdiction;
- (4) an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with pilot duties;
- (5) the relationship between the pilotage rates in Brazoria County ports and the rates applicable in other ports of this state;
- (6) the average number of hours spent by a pilot performing:
 - (A) pilot services on board vessels; and
 - (B) all pilot services; and
- (7) the average wages of masters of United States flag vessels that navigate in the board's jurisdiction and for which the pilotage rate is to be established.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.068. BOARD ACTION. (a) A board order granting, denying, or modifying an application for a rate change must state its effective date. The order is final, except as provided by Subsection (b).

(b) Any party aggrieved by the board's order may, after exhausting all administrative remedies, appeal the order to a court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.069. REPORTING AND STENOGRAPHIC COSTS. (a) The board

may assess the actual costs the board considers fair and just for reporting and stenographic services necessarily incurred in connection with a hearing against one or more of the applicants and objecting parties.

(b) The board may require that an applicant or objecting party deposit an amount against those costs as a condition of presenting an application or objection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.070. ORDER FILED. (a) The board shall file a copy of its order with the county clerk.

(b) The board shall file the order not later than the 20th day after:

(1) the closing date of a hearing held as provided by Section 68.064(b); or

(2) if a hearing is not held, the expiration of the 20-day period provided by Section 68.064(a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.071. EMERGENCY PILOTAGE RATES. (a) The board may establish emergency pilotage rates for the period of an emergency, not to exceed 30 days, if the board finds that:

(1) a natural or man-made disaster has created a substantial hazard to piloting vessels into and out of a port; and

(2) the existence of the hazard overrides the necessity to comply with normal pilotage rate-setting procedures.

(b) In adopting emergency pilotage rates, the board is not required to comply with the procedures in this chapter or in its rules relating to adoption of pilotage rates.

(c) Emergency pilotage rates may not be appealed.

(d) The board shall adopt rules to carry out this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.072. PILOT SERVICES REQUIRED. The consignee of a vessel under the consignee's control shall obtain pilot services for

the vessel and shall pay the pilots who pilot the vessel into and out of the port area compensation according to the pilotage rates filed by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.073. PILOTAGE RATE LIABILITY. (a) A pilot who charges a rate for pilot services different from the pilotage rates established under this chapter for the port in which the pilot serves is liable to each person who was charged the different rate for double the amount of pilotage.

(b) A court may include in a judgment in favor of a person who files suit to collect an amount owed under this chapter an award to cover court costs and reasonable attorney's fees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.074. RECOVERY OF COMPENSATION. A pilot who offers pilot services to a vessel required under this chapter to obtain pilot services and whose services are refused is entitled to recover from the consignee the pilotage rate for the service.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. PILOT LIABILITY

Sec. 68.081. PURPOSE. The purpose of this subchapter is to:

- (1) in the public interest, stimulate and preserve maritime commerce on the pilotage grounds of this state by limiting and regulating the liability of pilots; and
- (2) maintain pilotage fees at reasonable amounts.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.082. PILOT LIABILITY. A pilot is not liable directly or as a member of an organization of pilots for a claim that:

- (1) arises from an act or omission of another pilot or organization of pilots; and

(2) relates directly or indirectly to pilot services.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.083. PILOT LIABILITY LIMITED. (a) A pilot providing pilot services is not liable for more than \$1,000 for damage or loss caused by the pilot's error, omission, fault, or neglect in the performance of the pilot services, except as provided by Subsection (b).

(b) Subsection (a) does not apply to:

- (1) damage or loss that arises because of the wilful misconduct or gross negligence of the pilot;
- (2) liability for exemplary damages for gross negligence of the pilot and for which no other person is jointly or severally liable; or
- (3) an act or omission relating to the ownership and operation of a pilot boat unless the pilot boat is directly involved in pilot services other than the transportation of pilots.

(c) This section does not exempt a vessel or its owner or operator from liability for damage or loss caused by the vessel to a person or property on the grounds that:

- (1) the vessel was piloted by a pilot; or
- (2) the damage or loss was caused by the error, omission, fault, or neglect of a pilot.

(d) In an action brought against a pilot for an act or omission for which liability is limited as provided by this section and in which other claims are made or anticipated with respect to the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege pilot liability that exceeds \$1,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. BRAZOS PILOTS ASSOCIATION

Sec. 68.091. PILOTS ASSOCIATION. The Brazos Pilots Association is a nonprofit association whose membership shall include and be limited to the licensed branch pilots for the Brazoria County ports.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.092. ASSOCIATION PURPOSES. The purposes of the Brazos Pilots Association are:

(1) the leasing, ownership, management, and operation of equipment and facilities suitable for use by member pilots individually and collectively in performing their individual and collective duties as branch pilots, including pilot boats, communication equipment, and pilot stations;

(2) administering the business of providing an efficient and safe pilot service in accordance with bylaws adopted by a majority vote of the members of the association;

(3) providing a pilots' retirement fund through membership participation; and

(4) maintaining continuous liaison with the board through its elected representatives.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.093. OFFICERS. (a) The membership of the Brazos Pilots Association shall elect members to serve as officers. The association's officers must include a president, vice president, and secretary-treasurer.

(b) The officers are elected by secret ballot and by a majority vote of those members casting ballots. Each member is entitled to one vote for each officer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.094. TERM OF OFFICE. Each association officer serves a one-year term, beginning on January 1, and continues to serve until a successor has been elected and qualified.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.095. PROPERTY. (a) The association may rent or own property, acquire property by gift, purchase, or exchange, and hold title to property that is appropriate for its use in carrying out the

purposes of the association under this chapter.

(b) The acquisition, sale, or disposal of permanent assets, as distinguished from consumable assets, must be authorized by resolution of the association. The resolution must be adopted in open meeting by a two-thirds vote of the membership after notice of the date, time, place, and purpose of the meeting.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.096. INDEPENDENT CONTRACTOR. Although each branch pilot is a member of the association, a branch pilot acts as an independent contractor in performing specific pilot services for a vessel owner or consignee. A branch pilot is solely responsible to each vessel owner or consignee for the manner in which the pilot services are performed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.097. FEE COLLECTION. (a) The association is delegated the authority to collect in its name on behalf of each branch pilot fees earned by the pilot for pilot services.

(b) The association shall issue appropriate receipts for the fees and make a full accounting for the fees in the manner provided by association bylaws.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.098. OPERATING BUDGET. In December of each year, the association shall adopt, by majority vote, a budget for its operations for the next calendar year. The operating budget may be amended at any regular or special meeting of the association.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.099. SERVICE FEES. Monthly, the association may retain from fees collected on behalf of each branch pilot, as consideration for services rendered, a pro rata share of 1/12th of the

association's necessary operating expenses according to its budget.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.100. FEE DISTRIBUTION. Not later than the 25th day of each month, the association shall distribute to each branch pilot, as provided by association bylaws, a share of the fees collected in the preceding calendar month after deducting:

(1) the pilot's share of expenses as provided by Section 68.099; and

(2) an amount the pilot has authorized deducted and contributed to the pilot's share of an employee welfare benefit plan or employees' pension benefit plan established and maintained by the association.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.101. ASSOCIATION SERVICES. The association shall provide for the use and benefit of each branch pilot member:

(1) real property and buildings suitable for use as a pilot station;

(2) appropriate communications facilities;

(3) pilot boats for transportation to and from vessels;

and

(4) other equipment and facilities authorized by majority vote of the members of the association.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.102. TRANSFER OF PROPERTY. The association may receive from Brazos Pilot Service, Inc., a conveyance of all real and personal property owned and held by that company if all shareholders of the company consent in writing to the transfer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.103. SHARE VALUATION. The value of all assets of the

association shall be determined by an appraisal made by one or more qualified appraisers designated by the association president. The value of each share is determined by dividing the total value of all assets of the association by the number of shares outstanding. The value of each share shall be used in a transaction that involves:

(1) the purchase of a share by a newly commissioned branch pilot;

(2) the sale of a share on retirement by a branch pilot;
or

(3) the purchase of a share by the association from the legal heirs of a deceased branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.104. TRANSFER OF SHARES. (a) The association shall issue one share to a branch pilot on the pilot's initial commissioning if the pilot pays the association a sum equal to the value of the share determined in the manner provided by this subchapter.

(b) The association shall purchase the share of a branch pilot who for any reason other than death ceases to render pilot services. The association shall purchase the share not later than the 30th day after the date of a request by the withdrawing pilot and on surrender of the share.

(c) Not later than the 30th day after providing the association with proof of identity of the legal representative of the estate of a deceased branch pilot, the legal representative shall tender and transfer to the association the deceased pilot's share. The association shall pay the estate the value of the share determined as provided by this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.105. FACILITIES FEE. (a) The association may charge a monthly fee for the use of its facilities to a newly commissioned branch pilot who does not tender payment for a share as required by Section 68.104(a) before rendering service as a branch pilot. The fee may be charged until the pilot pays for the share.

(b) The fee must be reasonable, uniform, and adequate to

provide the association the pro rata portion of a reasonable return on investment in the assets of the association.

(c) The association may deduct the fee from collections made by the association for pilot services rendered by the branch pilot.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.106. LIMITATION ON SHARE OWNERSHIP. (a) Shares of the association may be issued to and owned only by a branch pilot licensed under this chapter, except as provided by Subsection (b).

(b) On the death of a branch pilot licensed under this chapter, the ownership of the deceased pilot's share in the association may pass by will to the pilot's devisees or, if the pilot dies intestate, the interest passes under the laws of descent and distribution of this state for the purpose of liquidation, as provided by Section 68.104(c).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 68.107. RETIREMENT BENEFITS. (a) The association may act as an employer for the purpose of maintaining an employee welfare benefit plan or an employee pension benefit plan, as defined by 29 U.S.C. Section 1002, for the benefit of branch pilots licensed under this chapter.

(b) A benefit plan must be established and maintained in accordance with applicable law pertaining to benefit plans.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 69. JEFFERSON AND ORANGE COUNTY PILOTS LICENSING AND REGULATORY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 69.001. SHORT TITLE. This chapter may be cited as the Jefferson and Orange County Pilots Licensing and Regulatory Act.

Amended by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.002. DEFINITIONS. In this chapter:

(1) "Board" means the board of pilot commissioners described by Section 69.011.

(2) "Consignee" means a person, including a master, owner, agent, subagent, firm, or corporation or any combination of those persons, who enters or clears a vessel at the office of the collector of customs.

(3) "Jefferson or Orange County port" means a place in Jefferson or Orange County into which a vessel enters or from which a vessel departs and the waterway leading to that place from the Gulf of Mexico.

(4) "Pilot" means a person who is licensed as a branch pilot or certified as a deputy branch pilot under this chapter.

(5) "Pilotage rate" means the remuneration a pilot may lawfully charge a vessel for pilot services.

(6) "Pilot services" means acts of a pilot in conducting a vessel through navigable water in this state and the ports in which the pilot is licensed or certified as a pilot.

(7) "Vessel" means an oceangoing vessel.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.003. APPLICABILITY OF CHAPTER. This chapter applies only to a Jefferson or Orange County port.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

Sec. 69.011. COMPOSITION OF BOARD. (a) The board of pilot commissioners for all of the ports and private terminals located in Jefferson or Orange County, or both, is composed of five commissioners from Jefferson or Orange County appointed by the governor in the manner provided by Subchapter A, Chapter 63.

(b) The presiding officer of the board shall be selected by the members of the board.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.012. PROHIBITED INTEREST. A person may not be a member of the board if the person has a direct or indirect pecuniary interest in a pilot boat or branch pilot in the business of the board's trust.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.013. OATH. Before beginning service as a board member, each board member must take and sign before a person authorized to administer oaths an oath to faithfully and impartially discharge the duties of the office.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.014. TERMS OF OFFICE. (a) Board members serve staggered two-year terms of office.

(b) A member holds office until the member's successor is appointed and qualified.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.015. JURISDICTION OF BOARD. The board has exclusive jurisdiction over the pilot services provided in Jefferson or Orange County, including intermediate stops and landing places for vessels on navigable streams wholly or partially located in the board's jurisdiction.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.016. ADMINISTRATION; RULES. (a) The board shall administer this chapter and may perform any act or function necessary to carry out its powers and duties under this chapter.

(b) The board may adopt rules to carry out this chapter.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.017. DUTIES. (a) The board shall:

- (1) establish the number of pilots necessary to provide adequate pilot services for each Jefferson or Orange County port;
- (2) establish pilotage rates;
- (3) hear and determine complaints relating to the conduct of pilots;
- (4) make recommendations to the governor concerning any pilot whose license or certificate should not be renewed or should be revoked;
- (5) adopt rules and issue orders to pilots and vessels when necessary to secure efficient pilot services;
- (6) institute investigations or hearings or both to consider casualties, accidents, or other actions that violate this chapter;
- (7) provide penalties to be imposed on a person who is not a pilot for a Jefferson or Orange County port and who pilots a vessel into or out of the port if the person offered pilot services to the vessel;
- (8) establish times during which pilot services will be available;
- (9) accept applications for pilot licenses and certificates and determine whether each applicant meets the qualifications for a pilot;
- (10) submit to the governor the names of persons who have qualified under this chapter to be appointed as branch pilots; and
- (11) approve any changes of the locations of pilot stations.

(b) The board may:

- (1) recommend the number of deputy pilots each branch pilot may appoint under Section 69.038; and
- (2) make any other provision for proper, safe, and efficient pilotage under this chapter and for the efficient administration of this chapter.

(c) The board may assess against the users of pilot services:

- (1) the actual costs the board considers fair and just incurred in connection with hearings against any applicant or objecting party; and
- (2) other expenses that are necessary and proper to enable the board to effectively carry out the purposes and requirements of this chapter, including processing of applications for pilot licenses

and certificates, establishing pilotage, determining and approving the locations for pilot stations, establishing times during which pilot services will be available, hearing and ruling on complaints relating to the conduct of pilots, adopting rules and issuing orders to pilots or vessels when necessary to secure efficient pilot services, instituting investigations or hearings to consider casualties, accidents, or other actions that violate this chapter, making of any provision for proper, safe, and efficient pilotage, and funding general administrative expenses associated with the operation of the board.

(d) Assessments against the users of pilot services under Subsection (c) may not exceed \$100,000 in a fiscal year.

(e) Funds collected under this section may not be used for compensation to any member of the board.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.018. UNFAIR DISCRIMINATION PROHIBITED. (a) In all its duties, including rulemaking, the board may not sanction discriminatory practices or discriminate against a pilot or pilot applicant because of race, religion, sex, ethnic origin, or national origin.

(b) A person seeking a remedy for a violation of this section must bring suit in a district court in Jefferson County.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.019. OPEN MEETINGS LAW. Chapter 551, Government Code, applies to actions and proceedings under this chapter.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.020. RULE OR RATE CHANGE. (a) The board shall give at least 10 days' notice as provided by this section before the board adopts a rule or changes a pilotage rate.

(b) The board shall send the notice and a copy of the proposed rule or change by registered mail to the last known address of:

(1) all known pilots association offices;

- (2) all pilots licensed or certified in the port;
- (3) all steamship agencies and associations in the port;

and

(4) all known users of pilot services for the previous 12 months.

(c) The board shall post a copy of the proposed rule or change at the county courthouse of Jefferson County and of Orange County, as well as the subcourthouse in Port Arthur, for public inspection.

(d) The board shall publish a copy of the proposed rule or change in a newspaper of general circulation in Jefferson and Orange Counties.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.021. CONTESTED CASE NOTICE. The board shall give notice in each contested case to the persons and in the manner provided by Section 69.020(b) that includes the same information as the notice given to the parties in each contested case.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.022. JUDICIAL REVIEW. Proceedings for judicial review of a board decision shall be brought in a district court in Jefferson County.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.023. BUDGET; ANNUAL REPORT; AUDITS. (a) The board shall adopt a budget not later than the 45th day before the start of a fiscal year. The budget may be adopted only after a public meeting has been held to explain the budget.

(b) Accounts of the board are subject to audit by the state auditor.

(c) The board shall keep minutes of its meetings and other books and records that clearly reflect all acts and transactions of the board. The board shall open its records to examination by any person during regular business hours.

(d) Not later than the 30th day after the end of a fiscal year,

the board shall submit to the governor a report itemizing all income and expenditures and describing all activities of the board during the previous fiscal year.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.024. DEPOSITORY BANK; EXPENDITURE OF FUNDS. The board shall deposit all money received by the board under this chapter, including assessments and grants from governmental agencies, in a bank located in Jefferson or Orange County and selected by the board.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

SUBCHAPTER C. PILOT LICENSES AND CERTIFICATES

Sec. 69.031. LICENSES OR CERTIFICATE REQUIRED. A person may not provide pilot services unless the person has a license or certificate issued under this chapter for the Jefferson and Orange County ports in which the pilot services are to be provided.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.032. EXEMPTIONS. The requirement to use a pilot does not apply to:

- (1) a vessel sailing under enrollment, or licensed or engaged in the coasting trade between Texas ports or between any Texas port and any other port of the United States; or
- (2) a vessel exempt under federal law from payment of state pilotage rates.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.033. QUALIFICATIONS FOR LICENSE. To be eligible for a license as a branch pilot for the ports within the jurisdiction of the board, a person must:

- (1) be at least 25 years of age and younger than 68 years of age unless exempted under the provisions of Section 69.040(b);
- (2) be a United States citizen;

- (3) as of the date the license is issued, have resided continuously in this state for at least two years;
- (4) have at least one year's service as a deputy branch pilot or equivalent service piloting vessels of at least 5,000 gross tons within the board's jurisdiction;
- (5) have successfully completed the board-approved training program;
- (6) have commanded or controlled the navigation of vessels such as the person would pilot;
- (7) have extensive experience in the docking and undocking of vessels;
- (8) be in good mental and physical health;
- (9) have good moral character;
- (10) possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot; and
- (11) hold a license under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.034. QUALIFICATIONS FOR CERTIFICATE. To be eligible for a certificate as a deputy branch pilot, a person must:

- (1) be at least 25 years of age;
- (2) be a United States citizen;
- (3) hold a license under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services;
- (4) be in good mental and physical health;
- (5) have good moral character;
- (6) possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a deputy branch pilot; and
- (7) successfully complete the board-approved apprenticeship training program.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.035. APPLICATION FOR LICENSE OR CERTIFICATE. To apply

for a branch pilot's license or a deputy branch pilot's certificate, a person must give the board a written application in the form and manner required by board rule.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.036. CONSIDERATION OF APPLICATION. (a) The board shall carefully consider each application submitted under Section 69.035 and shall conduct any investigation it considers necessary to determine whether an applicant is qualified for a license or certificate.

(b) As part of its consideration under Subsection (a), the board may develop and administer standardized examinations to determine an applicant's knowledge of piloting, management of vessels, and the waterways in the board's jurisdiction.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.037. BRANCH PILOT APPOINTMENT BY GOVERNOR. (a) On filing of the bond and oath required by Section 69.039, the board shall certify to the governor that a person licensed as a branch pilot has qualified.

(b) On receipt of the board's certification, the governor shall issue to the person, in the name of the state and under the state seal, a commission to serve as a branch pilot to and from Jefferson and Orange County ports.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.038. DEPUTY BRANCH PILOT APPOINTMENT BY BRANCH PILOT. (a) Each branch pilot, subject to examination and approval of the board, may appoint two deputy branch pilots.

(b) A branch pilot may appoint an additional deputy branch pilot if the board considers the appointment advisable.

(c) A branch pilot who appoints a deputy branch pilot without the approval of the board forfeits the pilot's appointment as a branch pilot.

(d) A branch pilot who appoints a deputy branch pilot is

responsible for the actions of the deputy branch pilot.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.039. OATH AND BOND. (a) A person appointed as a pilot must take the official oath before entering service as a pilot. The oath shall be endorsed on the bond required by Subsection (b).

(b) Each pilot must execute a \$25,000 bond payable to the governor and conditioned on compliance with the laws, rules, and orders relating to pilots and on the faithful performance of the pilot's duties.

(c) Each bond must be approved by the board.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.040. TERMS OF LICENSES AND CERTIFICATES. (a) A branch pilot's license expires on the earlier of:

(1) the fourth anniversary of the date it is issued or renewed; or

(2) the license holder's 68th birthday.

(b) Subsection (a)(2) does not apply to a person who is a branch pilot serving a port covered under this chapter on the effective date of this chapter or who reaches his or her 68th birthday within one year after the effective date of this chapter.

(c) A deputy branch pilot's certificate expires on the second anniversary of the date it is issued and may not be renewed.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.041. BRANCH PILOT'S LICENSE RENEWAL. (a) The governor shall renew a branch pilot's expiring license if the board recommends renewal.

(b) If a pilot applies in writing and qualifies, the board shall recommend renewal unless the board determines there is probable cause not to renew the license.

(c) Probable cause not to renew a license exists if the board finds that the license holder:

(1) does not possess a qualification required by this

chapter for pilots; or

(2) has a disability that will affect the license holder's ability to serve as a pilot.

(d) If the board determines that it has probable cause not to renew a license, the board shall notify the license holder not later than the 60th day before the date the license expires. On request, the board shall provide a hearing after proper notice to consider whether the board has cause not to recommend renewal of the license.

(e) If the board finds at the conclusion of the hearing that the board lacks probable cause for nonrenewal of the license, the board shall recommend that the governor renew the license.

(f) The board shall issue a written order recommending that the governor not renew a license and the governor may not renew the license if:

(1) the pilot does not contest the board's decision not to renew the license; or

(2) the board after a hearing finds that it has probable cause not to renew the license.

(g) The denial of renewal of a pilot's license does not prohibit the pilot from applying for a new license and being reappointed.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.042. DEPUTY BRANCH PILOT. A person who has been issued a deputy branch pilot's certificate may not be issued a deputy branch pilot's certificate before the fifth anniversary of the date the person was previously issued a deputy branch pilot's certificate.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.043. SUSPENSION OR REVOCATION OF BRANCH PILOT'S LICENSE. (a) On complaint or on its own motion, and after notice and hearing, the board may suspend a branch pilot's license for not more than six months or recommend that the governor revoke a branch pilot's license if the board finds that the pilot has:

(1) failed to demonstrate and maintain the qualifications for a license required by this chapter;

(2) used narcotics or other types of drugs, chemicals, or

controlled substances as defined by law that impair the pilot's ability to perform the pilot's duties skillfully and efficiently;

(3) used alcohol to an extent that impairs the pilot's ability to perform the pilot's duties skillfully and efficiently;

(4) violated a provision of this chapter or rules adopted by the board under this chapter;

(5) made a material misstatement in the application for a license;

(6) obtained or attempted to obtain a license under this chapter by fraud or misrepresentation;

(7) charged a pilotage rate other than that approved by the board;

(8) intentionally refused to pilot a vessel when requested to do so by the master or person responsible for navigation of the vessel except when, in the judgment of the pilot, movement of the vessel would have constituted a hazard to life or property or when pilotage charges that are due and owing are unpaid by the person ordering the pilot services;

(9) been absent from duty in violation of board rules and without authorization;

(10) aided or abetted another pilot in failing to perform the other pilot's duties;

(11) been guilty of carelessness, neglect of duty, intentional unavailability for normal performance of duties, refusal to perform duties, misconduct, or incompetence while on duty;

(12) intentionally failed to comply with an order of the board; or

(13) intentionally caused damage to a vessel.

(b) On determining that a license should be suspended or revoked, the board shall adopt a written order that states its findings and:

(1) suspends the license for a stated period; or

(2) recommends to the governor revocation of the license.

(c) If the federal pilot's license of a pilot licensed under this chapter is suspended or revoked, the board, on a finding that it has good cause, shall suspend the license for the same period or revoke the license under this chapter.

(d) The governor, on receipt of a board order recommending revocation of a license, shall revoke the license.

(e) A suspension of a license on the recommendation of a pilot

review board takes effect on adoption of the board's order. A revocation of a branch pilot's license takes effect on issuance of the governor's decision.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.044. SUSPENSION OR REVOCATION OF DEPUTY BRANCH PILOT'S CERTIFICATE. A deputy branch pilot's certificate may be suspended or revoked by the board in the same manner and for the same reasons as provided for the suspension or revocation of a branch pilot's license by Section 69.043.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.045. LIABILITY TO PILOT. (a) A person who is not a pilot and who, in violation of this chapter, pilots a vessel and the consignee of the vessel are liable to a pilot, on written demand, for the amount of the applicable pilotage rate.

(b) In an action to recover compensation under Subsection (a), the court may include in a judgment in favor of a pilot an award of court costs and reasonable attorney's fees.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

SUBCHAPTER D. PILOTAGE RATES

Sec. 69.061. PILOTAGE RATE CHANGE. The board may not change pilotage rates before the first anniversary of the preceding rate change.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.062. PILOTAGE RATE CHANGE APPLICATION. (a) An application for a change in a pilotage rate may be filed with each commissioner of the board by:

- (1) a pilot;
- (2) an association of pilots;
- (3) a consignee liable under Section 69.070 to pay pilotage

rates;

(4) an association of consignees; or

(5) a party financially responsible for the payment of pilot services.

(b) The application must be written and must state specifically the changes requested.

(c) The board shall set a hearing date within two weeks of receipt of an application. The hearing may not be set for a day earlier than the 20th day or later than the 40th day after the date the board sets the hearing.

(d) An applicant shall give notice of the application and the hearing date, by certified mail to the last known address, to:

(1) all pilots licensed or certified in the port;

(2) all known pilots associations or consignees;

(3) all steamship agencies and associations in the port;

(4) each Jefferson and Orange County port; and

(5) all known users of pilot service within the past 12 months.

(e) The board may not increase pilotage rates for the public ports of Beaumont, Port Arthur, or Orange unless the affected board of commissioners approves the increase.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.063. PILOT FINANCIAL REPORT. (a) Not later than the 10th day before the date set for a pilotage rate hearing, the pilots who are licensed or certified to serve the port for which the rates are being considered shall submit in writing to the board and to any party designated by the board complete accounts of:

(1) all amounts received from performance of pilot services within the board's jurisdiction organized by categories or classifications of rates, if rates are set in that manner;

(2) all earnings from capital assets devoted to providing pilot service;

(3) all expenses incurred in connection with pilotage activities within the board's jurisdiction; and

(4) estimates of receipts and expenses anticipated to result from the requested changes in pilotage rates.

(b) The pilots shall provide the information for:

(1) the calendar or fiscal year preceding the date of the pilotage rate change application; and

(2) the subsequent period to within 60 days of the date of the application.

(c) The board may require an independent audit of financial information submitted under Subsection (a) by an accountant selected by the board. The board, as it considers fair and just, shall assess the costs of the audit against one or more of the applicants and objecting parties.

(d) The board may require relevant additional information it considers necessary to determine a proper pilotage rate.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.064. FACTORS FOR BOARD CONSIDERATION. In acting on a pilotage rate change application, the board shall consider:

(1) characteristics of vessels to be piloted;

(2) the public interest in maintaining safe, efficient, and reliable pilot services;

(3) the average number of hours spent by a pilot in performing all pilot services and pilot services onboard vessels;

(4) costs to pilots to provide the required pilot services;

(5) economic factors affecting the shipping industry in the area in which the port is located;

(6) the average wages of masters of United States flag vessels;

(7) an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with pilot duties; and

(8) the relationship between pilotage rates in Jefferson or Orange County ports and the rates applicable in other ports of this state and in competitive ports in other states bordering the Gulf of Mexico.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.065. RATE DECISION. Not later than the 10th day after the date of the completion of a hearing on an application for a change in pilotage rates, the board shall issue a written decision

that:

- (1) grants or denies the application wholly or partly;
- (2) states the reasons for the decision; and
- (3) states each new pilotage rate.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.066. COSTS. The board, in a final order under this subchapter, may charge all or part of the costs of processing an application to the parties in the proceedings.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.067. APPEAL OF BOARD DECISION. Any party aggrieved by a board decision on pilotage rates, after exhausting all administrative remedies, may appeal the order to a court.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.068. EMERGENCY PILOTAGE RATES. (a) The board may establish emergency pilotage rates for the period of an emergency, not to exceed 30 days, if the board finds that:

- (1) a natural or man-made disaster has created a substantial hazard to piloting vessels into and out of a port; and
- (2) the existence of the hazard overrides the necessity to comply with normal pilotage rate-setting procedures.

(b) In adopting emergency pilotage rates, the board is not required to comply with the procedures in this chapter and in its rules relating to the adoption of pilotage rates.

(c) Emergency pilotage rates may not be appealed.

(d) The board shall adopt rules to carry out this section.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.069. PILOT SERVICES REQUIRED. The consignee of a vessel under the consignee's control shall obtain pilot services for the vessel and shall pay the pilot who pilots the vessel into and out

of the port area compensation according to the pilotage rates filed by the board.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.070. PILOTAGE RATE LIABILITY. (a) A consignee who declines the services of a pilot offered outside the bar and enters the port without the aid of a pilot is liable for the payment of pilotage to the first pilot whose services were declined.

(b) A consignee is liable for the payment of pilotage to the pilot who brings a vessel in if the vessel goes out without employing a pilot.

(c) A consignee is liable for the payment of pilotage for a vessel that goes out without the aid of a pilot and that came in without the aid of a pilot to the pilot who first offered services before the vessel came in.

(d) A consignee is not liable for the payment of pilotage for a vessel going out without a pilot if the vessel came in without the aid of a pilot or came in without the offer of a pilot outside.

(e) Subsections (a)-(d) do not apply to a consignee exempt under this chapter from payment of pilotage rates.

(f) A pilot who charges a pilotage rate for pilot services different from the pilotage rates established under this chapter for the port in which the pilot serves is liable to each person who was charged the different rate for double the amount of pilotage.

(g) A court may include in a judgment in favor of a person who files suit to collect an amount owed under this chapter an award to cover court costs and reasonable attorney's fees.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.071. RECOVERY OF COMPENSATION. A pilot who offers pilot services to a vessel required under this chapter to obtain pilot services and whose services are refused is entitled to recover from the consignee the pilotage rate for the services.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

SUBCHAPTER E. PILOT LIABILITY

Sec. 69.081. PURPOSE. The purpose of this subchapter is to:

- (1) in the public interest, stimulate and preserve maritime commerce on the pilotage grounds of this state by limiting and regulating the liability of pilots; and
- (2) maintain pilotage fees at reasonable levels.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.082. PILOT LIABILITY. A pilot is not liable directly or as a member of an organization of pilots for a claim that:

- (1) arises from an act or omission of another pilot or organization of pilots; and
- (2) relates directly or indirectly to pilot services.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

Sec. 69.083. PILOT LIABILITY LIMITED. (a) A pilot providing pilot services is not liable for more than \$1,000 for damage or loss caused by the pilot's error, omission, fault, or neglect in the performance of the pilot services, except as provided by Subsection (b).

(b) Subsection (a) does not apply to:

- (1) damage or loss that arises because of the wilful misconduct or gross negligence of the pilot;
- (2) liability for exemplary damages for gross negligence of the pilot and for which no other person is jointly or severally liable; or
- (3) an act or omission related to the ownership and operation of a pilot boat unless the pilot boat is directly involved in pilot services other than the transportation of pilots.

(c) This section does not exempt the vessel or its owner or operator from liability for damage or loss caused by the vessel to a person or property on the grounds that:

- (1) the vessel was piloted by a pilot; or
- (2) the damage or loss was caused by the error, omission, fault, or neglect of a pilot.

(d) In an action brought against a pilot for an act or omission for which liability is limited as provided by this section and in

which other claims are made or anticipated with respect to the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege pilot liability that exceeds \$1,000.

Added by Acts 2003, 78th Leg., ch. 745, Sec. 1, eff. June 20, 2003.

CHAPTER 70. PORT OF CORPUS CHRISTI PILOTS LICENSING AND REGULATORY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 70.001. SHORT TITLE. This chapter may be cited as the Port of Corpus Christi Pilots Licensing and Regulatory Act.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.002. DEFINITIONS. In this chapter:

(1) "Board" means the board of pilot commissioners for the Port of Corpus Christi Authority.

(2) "Consignee" means a person, including a master, owner, agent, subagent, person, firm or corporation, or any combination of those persons, who enters or clears a vessel at the Office of United States Customs.

(3) "Port of Corpus Christi" means a place into which a vessel enters or from which a vessel departs and the waterway leading to that place from the Gulf of Mexico under the jurisdiction of the Port of Corpus Christi Authority.

(4) "Pilot" means a person who is licensed as a branch pilot or certified as a deputy branch pilot under this chapter.

(5) "Pilotage rate" means the remuneration a pilot may lawfully charge a vessel for pilot services.

(6) "Pilot services" means acts of a pilot in conducting a vessel through navigable water in this state and the ports in which the pilot is licensed or certified as a pilot.

(7) "Vessel" means an oceangoing vessel.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.003. APPLICATION OF ACT. (a) This chapter applies

only to the Port of Corpus Christi.

(b) This chapter does not affect the existing laws for ports in other counties, and those laws do not apply to the Port of Corpus Christi.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

SUBCHAPTER B. BOARD OF PILOT COMMISSIONERS

Sec. 70.011. COMPOSITION OF BOARD. The board of pilot commissioners for the Port of Corpus Christi is composed of the seven port commissioners for the Port of Corpus Christi Authority.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.012. PROHIBITED INTEREST. A person may not be a member of the board if the person has a conflict of interest or a direct or indirect interest in any business affected by or connected with the performance of the person's duties as a pilot commissioner.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.013. OATH. Before beginning service as a board member, each board member must take and sign before a person authorized to administer oaths an oath to faithfully and impartially discharge the duties of the office.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.014. TERM OF OFFICE. (a) The term of office of a commissioner of pilots coincides with a person's term as a port commissioner for the Port of Corpus Christi Authority.

(b) A member holds office until the member's successor is appointed and qualified.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.015. JURISDICTION. The board has exclusive jurisdiction over the piloting of vessels in the Port of Corpus Christi, including intermediate stops and landing places for vessels on navigable streams wholly or partially located in the board's jurisdiction.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.016. ADMINISTRATION AND RULES. (a) The board shall administer this chapter and may perform any act or function necessary to carry out its powers and duties under this chapter.

(b) The board may adopt rules to carry out this chapter.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.017. DUTIES. The board shall:

(1) recommend to the governor the number of pilots necessary to provide adequate pilot services for the Port of Corpus Christi;

(2) examine and determine the qualifications of each applicant for branch pilot;

(3) submit to the governor the names of persons who have qualified under this chapter to be appointed as branch pilots;

(4) establish pilotage rates;

(5) approve any changes of the locations of pilot stations;

(6) establish times during which pilot services will be available;

(7) hear and determine complaints relating to the conduct of pilots;

(8) make recommendations to the governor concerning any pilot whose license or certificate should not be renewed or should be revoked;

(9) adopt rules and issue orders to pilots and vessels when necessary to secure efficient pilot services; and

(10) institute investigations or hearings or both to consider casualties, accidents, or other actions that violate this chapter.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.018. PILOT REVIEW BOARD. The board shall establish a pilot review board consisting of two active state-commissioned pilots serving the Port of Corpus Christi, two members of the marine industry, and a chairperson, who, or whose designee, shall be the secretary of the board, to hear and review complaints against pilots and to make recommendations to the board concerning the complaints.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.019. UNFAIR DISCRIMINATION PROHIBITED. (a) In all its duties, including rulemaking, the board may not sanction discriminatory practices nor discriminate against a pilot or pilot applicant because of race, religion, sex, ethnic origin, or national origin.

(b) A person seeking a remedy for a violation of this section must bring suit in a district court in Nueces County.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.020. OPEN MEETINGS LAW. Chapter 551, Government Code, applies to actions and proceedings under this chapter.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.021. RULE OR RATE CHANGE. (a) The board shall give at least 10 days' notice as provided by this section before the board adopts a rule or changes a pilotage rate.

(b) The board shall mail the notice and a copy of the proposed rule or change by registered mail to:

(1) the designated office of the Aransas-Corpus Christi Pilots; and

(2) all known consignees and all known associations of consignees operating in Nueces County.

(c) The board shall post a copy of the proposed rule or change at the Nueces County courthouse for public inspection.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.022. JUDICIAL REVIEW. Proceedings for judicial review of a board decision shall be brought in a district court in Nueces County.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

SUBCHAPTER C. PILOTS' LICENSES OR CERTIFICATES

Sec. 70.031. LICENSES OR CERTIFICATE REQUIRED. A person may not provide pilot services unless the person has a license or certificate issued under this chapter for the Port of Corpus Christi.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.032. QUALIFICATIONS FOR LICENSE. To be eligible for a license as a branch pilot, a person must:

- (1) be at least 25 years of age;
- (2) be a United States citizen;
- (3) as of the date the license is issued, have resided continuously in the state for at least two years;
- (4) have at least two years' service as a deputy branch pilot under the supervision of a state-commissioned pilot serving the Port of Corpus Christi;
- (5) have controlled the navigation of vessels such as the person would pilot;
- (6) have extensive experience in the docking and undocking of vessels;
- (7) be in good mental and physical health;
- (8) have good moral character; and
- (9) possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.033. QUALIFICATIONS FOR CERTIFICATE. To be eligible for a certificate as a deputy branch pilot, a person must:

- (1) be at least 25 years of age;
- (2) be a United States citizen;
- (3) be appointed by a branch pilot;
- (4) be in good mental and physical health;
- (5) have good moral character; and
- (6) possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a deputy branch pilot.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.034. APPLICATION FOR LICENSE OR CERTIFICATE. To apply for a branch pilot's license or a deputy branch pilot's certificate, a person must give the board a written application in the form and manner required by board rule.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.035. CONSIDERATION OF APPLICATION. As part of its consideration of applications for licenses, the board may examine and decide on the qualifications of an applicant for the position of branch pilot.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.036. BRANCH PILOT APPOINTMENT BY GOVERNOR. (a) On filing of the bond and oath required by Section 70.038, the board shall certify to the governor that a person licensed as a branch pilot has qualified.

(b) On receipt of the board's certification, the governor shall issue to the person, in the name of the state and under the state seal, a commission to serve as a branch pilot to and from the Port of Corpus Christi.

(c) The governor shall appoint the number of branch pilots necessary to provide adequate pilot services for the Port of Corpus Christi.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.037. DEPUTY BRANCH PILOT APPOINTMENT BY BRANCH PILOT.

(a) Each branch pilot, subject to examination and approval of the board, may appoint two deputy branch pilots.

(b) A branch pilot may appoint an additional deputy branch pilot if the board considers the appointment advisable.

(c) A branch pilot who appoints a deputy branch pilot without the approval of the board forfeits the pilot's appointment as a branch pilot.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.038. OATH AND BOND. (a) A person appointed as a pilot must take the official oath before entering service as a pilot. The oath shall be endorsed on the bond required by Subsection (b).

(b) Each pilot must execute a \$25,000 bond payable to the governor and conditioned on compliance with the laws, rules, and orders relating to pilots and on the faithful performance of the pilot's duties.

(c) Each bond must be approved by the board.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.039. TERMS OF LICENSES AND CERTIFICATES. (a) A branch pilot's license expires on the fourth anniversary of the date it is issued or renewed.

(b) A deputy branch pilot's certificate expires on the second anniversary of the date it is issued and may not be renewed.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.040. BRANCH PILOT'S LICENSE RENEWAL. (a) The governor shall renew a branch pilot's expiring license if the board recommends renewal.

(b) If a pilot applies in writing and qualifies, the board shall recommend renewal unless the board determines there is probable cause not to renew the license.

(c) Probable cause not to renew a license exists if the board finds that the license holder:

(1) does not possess a qualification required by this chapter for pilots; or

(2) has a disability that will affect the license holder's ability to serve as a pilot.

(d) If the board determines that it has probable cause not to renew a license, the board shall notify the license holder not later than the 60th day before the date the license expires. On request, the board shall provide a hearing after proper notice to consider whether the board has cause not to recommend renewal of the license.

(e) If the board finds at the conclusion of the hearing that the board lacks probable cause for nonrenewal of the license, the board shall recommend that the governor renew the license.

(f) The board shall issue a written order recommending that the governor not renew a license and the governor may not renew the license if:

(1) the pilot does not contest the board's decision not to renew the license; or

(2) the board after a hearing finds that it has probable cause not to renew the license.

(g) The denial of renewal of a pilot's license does not prohibit the pilot from applying for a new license and being reappointed.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.041. DEPUTY BRANCH PILOT. A person who has been issued a deputy branch pilot's certificate may not be issued a deputy branch pilot's certificate before the fifth anniversary of the date the person was previously issued a deputy branch pilot's certificate.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.042. SUSPENSION OR REVOCATION OF BRANCH PILOT'S LICENSE. (a) On complaint or on its own motion, and after notice and hearing, the board may suspend a branch pilot's license for not more than six months or recommend that the governor revoke a branch pilot's license if the board finds that the pilot has:

(1) failed to demonstrate and maintain the qualifications for a license required by this chapter;

(2) used narcotics or other types of drugs, chemicals, or controlled substances as defined by law that impair the pilot's ability to perform his duties skillfully and efficiently;

(3) used alcohol to an extent that impairs the pilot's ability to perform his duties skillfully and efficiently;

(4) violated a provision of this chapter or rules adopted by the board under this chapter that were material to the performance of the pilot's duties at the time of the violation;

(5) made a material misstatement in the application for a license;

(6) obtained or attempted to obtain a license under this chapter by fraud or misrepresentation;

(7) charged a pilotage rate other than that approved by the board;

(8) intentionally refused to pilot a vessel when requested to do so by the master or person responsible for navigation of the vessel except when, in the judgment of the pilot, movement of the vessel would have constituted a hazard to life or property or when pilotage charges that are due and owing are unpaid by the person ordering the pilot services;

(9) been absent from duty in violation of board rules and without authorization;

(10) aided or abetted another pilot in failing to perform the other pilot's duties; or

(11) been guilty of carelessness, neglect of duty, intentional unavailability for normal performance of duties, refusal to perform duties, misconduct, or incompetence while on duty.

(b) On determining that a license should be suspended or revoked, the board shall adopt a written order that states its findings and:

(1) suspends the license for a stated period; or

(2) recommends to the governor revocation of the license.

(c) The governor, on receipt of a board order recommending revocation of a license, shall revoke the license. If the board's order is appealed, the governor may not revoke the license until the order is upheld on appeal.

(d) A suspension of a license on the recommendation of a pilot review board takes effect on adoption of the board's order. A revocation of a branch pilot's license takes effect on issuance of the governor's decision.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.043. SUSPENSION OR REVOCATION OF DEPUTY BRANCH PILOT'S CERTIFICATE. A deputy branch pilot certificate may be suspended or revoked by the board in the same manner and for the same reasons as provided for the suspension or revocation of a branch pilot's license by Section 70.042.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.044. LIABILITY TO PILOT. (a) A person who is not a pilot and who, in violation of this chapter, pilots a vessel and the consignee of the vessel are liable to the pilot, on written demand, for the amount of the applicable pilotage rate.

(b) In an action to recover compensation under Subsection (a), the court may include in a judgment in favor of a pilot an award of court costs and reasonable attorney's fees.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

SUBCHAPTER D. PILOTAGE RATES

Sec. 70.061. PILOTAGE RATE CHANGE. (a) The board may not change pilotage rates before the first anniversary of the preceding rate change.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.062. PILOTAGE RATE CHANGE APPLICATION. (a) An application for a change in a pilotage rate may be filed with each commissioner of the board by:

(1) one or more pilots; or
 (2) the owner, agent, or consignee of a vessel navigating to or from the Port of Corpus Christi.

(b) The application must contain:
 (1) a brief statement of the circumstances that warrant the change; and
 (2) a certification that the applicant has submitted copies

of the application to all known pilots, consignees, and associations of consignees operating in the Port of Corpus Christi at the time of the application.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.063. OBJECTION; HEARING. (a) If, not later than the 20th day after the date notice is sent, a commissioner receives a written objection to the application from any person who appears to have a legitimate interest in the application, the board shall hold a hearing as provided by this section.

(b) The board shall hold the hearing not later than the 20th day after the date the 20-day period provided by Subsection (a) expires.

(c) The board shall give notice of the hearing to:

(1) each applicant;

(2) each person objecting to the application; and

(3) any other person the board determines is interested in the proceedings.

(d) The hearing shall be open to the public and held at a convenient time and place in one of the ports that would be affected by the change. Each party who demonstrates a legitimate interest in the application is entitled to be heard, to present evidence, and, to the extent the board considers practical, to cross-examine testifying witnesses.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.064. BOARD ACTION ON APPLICATION. (a) If an objection to an application for a rate change is not received by any commissioner within the period provided by Section 70.063(a), the board shall act on the application without further proceedings.

(b) If a hearing is held as provided by Section 70.063, the board shall grant, deny, or modify the application after receipt of the evidence offered by the parties and arguments and briefs requested by the board.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.065. PILOT FINANCIAL REPORT. (a) Not later than the 10th day before the date set for a pilotage rate hearing, the pilots who are licensed or certified to serve the port for which the rates are being considered shall submit in writing to the board and to any party designated by the board complete accounts of:

- (1) all amounts received from performing pilot services within the board's jurisdiction;
- (2) all earnings from capital assets devoted to providing pilot services;
- (3) all expenses incurred in connection with pilotage activities for which amounts described were received and earned; and
- (4) estimates of receipts and expenses anticipated to result from the requested changes in pilotage rates.

(b) The pilots shall provide the information for:

- (1) the calendar or fiscal year preceding the date of the pilotage rate change application; and
- (2) the subsequent period to within 60 days of the date of the application.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.066. FACTORS FOR BOARD CONSIDERATION. In acting on a pilotage rate change application, the board shall consider:

- (1) characteristics of vessels to be piloted including but not limited to the size of the vessel and the degree of difficulty to maneuver;
- (2) costs to pilots to provide the required pilot services;
- (3) the effect, including economic factors affecting the shipping industry in the area, that the granting, refusal, or modification of the application would have on the Port of Corpus Christi and the persons residing in the board's jurisdiction;
- (4) an adequate and reasonable compensation for the pilots and a fair return on the equipment and vessels that the pilots employ in connection with pilot duties; and
- (5) the relationship between the pilotage rates in the Port of Corpus Christi and the rates applicable in other ports of this state and in competitive ports in other states.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.067. BOARD ACTION. (a) A board order granting, denying, or modifying an application for a rate change must state its effective date. The order is final, except as provided by Subsection (b).

(b) Any party aggrieved by the board's order may, after exhausting all administrative remedies, appeal the order to a court.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.068. REPORTING AND STENOGRAPHIC COSTS. (a) The board may assess the actual costs the board considers fair and just for reporting and stenographic services necessarily incurred in connection with a hearing against one or more of the applicants and objecting parties.

(b) The board may require that an applicant or objecting party deposit an amount against those costs as a condition of presenting an application or objection.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.069. ORDER FILED. (a) The board shall file a copy of its order with the Nueces County clerk.

(b) The board shall file the order not later than the 20th day after:

(1) the closing date of a hearing held as provided by Section 70.063(b); or

(2) if the hearing is not held, the expiration of the period provided by Section 70.063(a).

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.070. EMERGENCY PILOTAGE RATES. (a) The board may establish emergency pilotage rates for the period of an emergency, not to exceed 90 days, if the board finds that:

(1) a natural or man-made disaster has created a substantial hazard to piloting vessels into and out of a port; and

(2) the existence of the hazard overrides the necessity to comply with normal pilotage rate-setting procedures.

(b) In adopting emergency pilotage rates, the board is not required to comply with the procedures in this chapter or in its rules relating to the adoption of pilotage rates.

(c) Emergency pilotage rates may not be appealed.

(d) The board shall adopt rules to carry out this section.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.071. PILOT SERVICES REQUIRED. The consignee of a vessel under the consignee's control shall obtain pilot services for the vessel and shall pay the pilot who pilots the vessel into and out of the port area compensation according to the pilotage rates filed by the board.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.072. LIABILITY. (a) A pilot who charges a pilotage rate for pilot services different from the pilotage rates established under this chapter for the port in which the pilot serves is liable to each person who was charged the different rate for double the amount of pilotage.

(b) A court may include in a judgment in favor of a person who files suit to collect an amount owed under this chapter an award to cover court costs and reasonable attorney's fees.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

SUBCHAPTER E. PILOT LIABILITY

Sec. 70.081. PURPOSE. The purpose of this subchapter is to:

(1) in the public interest, stimulate and preserve maritime commerce on the pilotage grounds of this state by limiting and regulating the liability of pilots; and

(2) maintain pilotage fees at reasonable levels.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.082. PILOT LIABILITY. A pilot is not liable directly

or as a member of an organization of pilots for a claim that:

(1) arises from an act or omission of another pilot or organization of pilots; and

(2) relates directly or indirectly to pilot services.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

Sec. 70.083. PILOTS LIABILITY LIMITED. (a) A pilot providing pilot services is not liable for more than \$1,000 for damage or loss caused by the pilot's error, omission, fault, or neglect in the performance of the pilot services, except as provided by Subsection (b).

(b) Subsection (a) does not apply to:

(1) damage or loss that arises because of the wilful misconduct or gross negligence of the pilot;

(2) liability for exemplary damages for gross negligence of the pilot and for which no other person is jointly or severally liable; or

(3) an act or omission related to the ownership and operation of a pilot boat unless the pilot boat is directly involved in pilot services other than the transportation of pilots.

(c) This section does not exempt the vessel or its owner or operator from liability for damage or loss caused by the vessel to a person or property on the grounds that:

(1) the vessel was piloted by a pilot; or

(2) the damage or loss was caused by the error, omission, fault, or neglect of a pilot.

(d) In an action brought against a pilot for an act or omission for which liability is limited as provided by this section and in which other claims are made or anticipated with respect to the same act or omission, the court shall dismiss the proceedings as to the pilot to the extent the pleadings allege pilot liability that exceeds \$1,000.

Added by Acts 1997, 75th Leg., ch. 359, Sec. 4, eff. Sept. 1, 1997.

TITLE 5. RAILROADS
SUBTITLE A. GENERAL PROVISIONS
CHAPTER 81. GENERAL PROVISIONS

Sec. 81.001. DEFINITIONS. In this title:

- (1) "Commission" means the Texas Transportation Commission.
- (2) "Department" means the Texas Department of

Transportation.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.02, eff. April 1, 2011.

Sec. 81.002. APPLICABILITY. In this title, a reference to a railroad company includes:

- (1) a railroad incorporated before September 1, 2007, under former Title 112, Revised Statutes; or
- (2) any other legal entity operating a railroad, including an entity organized under the Texas Business Corporation Act or the Texas Corporation Law provisions of the Business Organizations Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.02, eff. April 1, 2011.

SUBTITLE B. STATE RAIL FACILITIES

CHAPTER 91. RAIL FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 91.001. DEFINITIONS. In this chapter:

- (1) "Commission" means the Texas Transportation Commission.
- (2) "Construction" includes design, planning, and preliminary studies.
- (3) "Department" means the Texas Department of Transportation.
- (4) "Maintenance facility" includes:
 - (A) a workshop;
 - (B) a service, storage, security, or personnel facility; and
 - (C) equipment for a facility described by Paragraph (A) or (B).
- (5) "Operation" includes policing.
- (6) "Rail facility" means real or personal property, or any interest in that property, that is determined to be necessary or convenient for the provision of a freight or passenger rail facility or system, including commuter rail, intercity rail, high-speed rail,

and tri-track. The term includes all property or interests necessary or convenient for the acquiring, providing, using, or equipping of a rail facility or system, including rights-of-way, trackwork, train controls, stations, and maintenance facilities.

(7) "Revenue" includes a charge, toll, rent, payment, user fee, franchise fee, license fee, fare, tariff, and other consideration:

(A) received in return for the use of:

(i) a rail facility; or

(ii) a service offered in connection with the operation of a rail facility; or

(B) resulting from a sale or conveyance of a rail facility.

(8) "Right-of-way" means a strip of land of a length and width determined by the commission to be required, necessary, or convenient for the provision of a rail facility or system and the space over, under, or on the land where trackwork is to be located.

(9) "Station" means a passenger or freight service building, terminal, station, ticketing facility, waiting area, platform, concession, elevator, escalator, facility for handicapped access, access road, parking facility for passengers, baggage handling facility, or local maintenance facility, together with any interest in real property necessary or convenient for those items.

(10) "Surplus revenue" means:

(A) revenue that exceeds the department's debt service requirements, coverage requirements of any bond indenture, costs of operation and maintenance, and cost of expansion or improvement of a rail facility or system; and

(B) reserves and reserve funds maintained by the department under this chapter.

(11) "Trackwork" means track, track beds, track bed preparation, ties, rail fasteners, slabs, rails, emergency crossovers, setout tracks, storage tracks, drains, fences, ballast, switches, bridges, and structures.

(12) "Train controls" includes:

(A) signals, lights, and other signaling;

(B) interlocking equipment;

(C) speed monitoring equipment;

(D) braking systems;

(E) central traffic control facilities; and

(F) communication systems.

(13) "Tri-track" means a triangular monorail beam guideway:

- (A) constructed at a grade above surface modes of transportation;
- (B) for use by dual-mode vehicles capable of using the guideway or a highway; and
- (C) with entrances accessible from and exits accessible to highways.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 1.01, eff. June 14, 2005.

Sec. 91.002. PUBLIC PURPOSE. The following functions are public and governmental functions, exercised for a public purpose, and matters of public necessity:

- (1) the acquisition, financing, construction, operation, and maintenance of a rail facility under this chapter;
- (2) the sale, lease, or license of a rail facility to a rail operator and other public or private persons under this chapter; and
- (3) the exercise of any other power granted under this chapter to the commission and the department.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.003. RULES. The commission may adopt rules and the department may adopt procedures and prescribe forms necessary to implement this chapter.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.004. GENERAL POWERS. (a) The department may:

- (1) plan and make policies for the location, construction,

maintenance, and operation of a rail facility or system in this state;

(2) acquire, finance, construct, maintain, and subject to Section 91.005, operate a passenger or freight rail facility, individually or as one or more systems;

(3) for the purpose of acquiring or financing a rail facility or system, accept a grant or loan from a:

(A) department or agency of the United States;

(B) department, agency, or political subdivision of this state; or

(C) public or private person;

(4) contract with a public or private person to finance, construct, maintain, or operate a rail facility under this chapter; or

(5) perform any act necessary to the full exercise of the department's powers under this chapter.

(b) Except as provided by Subsection (c), money appropriated or allocated by the United States for the construction and maintenance in this state of rail facilities owned by any public or private entity shall be administered by the commission and may be spent only under the supervision of the department.

(c) Subsection (b) does not apply to money appropriated or allocated:

(1) to a transit authority described by Chapter 451, a transportation authority described by Chapter 452 or 460, or a transit department described by Chapter 453; or

(2) for use by:

(A) a port authority or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution; or

(B) a district created under:

(i) Chapter 171;

(ii) Chapter 172 of this code or Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (former Article 6550c, Vernon's Texas Civil Statutes);

(iii) Chapter 173 of this code or former Article 6550c-1, Revised Statutes; or

(iv) Chapter 174 of this code or former Article 6550c-3, Revised Statutes.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 1.02, eff. June 14, 2005.

Acts 2009, 81st Leg., R.S., Ch. 16 (H.B. 2434), Sec. 1, eff. May 12, 2009.

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.02, eff. April 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.001, eff. September 1, 2011.

Sec. 91.005. RELIANCE ON PRIVATE ENTITIES. The department shall contract with a private entity to operate a railroad using facilities owned by the department and may not use department employees to operate a railroad. The department may maintain a railroad facility directly or through a private entity. The department may not own rolling stock.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.006. COOPERATION OF STATE AGENCIES AND POLITICAL SUBDIVISIONS. Within available resources, an agency or political subdivision of this state shall cooperate with and assist the department in exercising its powers and duties under this chapter.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.007. NOTIFICATION OF INTENT TO ABANDON OR DISCONTINUE SERVICE. On receipt of notice of intent to abandon or discontinue rail service served under 49 C.F.R. Section 1152.20, as amended, the department shall coordinate with the governing body of a municipality, county, or rural rail transportation district in which all or a segment of the line is located to determine whether:

(1) the department should acquire the rail facility to which the notice relates; or

(2) any other actions should be taken to provide for continued rail transportation service.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

SUBCHAPTER B. ACQUISITION AND DEVELOPMENT OF RAIL FACILITIES

Sec. 91.031. ESTABLISHMENT OF RAIL SYSTEMS. (a) If the commission determines that the provision of rail transportation services would be most efficiently and economically met by jointly operating two or more rail facilities as one operational and financial enterprise, it may create a system composed of those facilities.

(b) The commission may create more than one system and may combine two or more systems into one system.

(c) The department may finance, acquire, construct, and operate additional rail facilities as additions to and expansions of the system if the commission determines that the facility would most efficiently and economically be acquired and constructed if it were a part of the system and that the addition will benefit the system.

(d) The revenue of a system shall be accounted for separately and may not be commingled with the revenue of a rail facility that is not part of the system.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.032. ACQUISITION OF RAIL FACILITIES. (a) The commission may authorize the department to acquire an existing rail facility at a location and on a route the commission determines to be feasible and viable for rail transportation service.

(b) The department may enter into an agreement with the owner of an operating railroad for the acquisition or use of a rail facility on terms the department considers to be in the best interest of the state.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.033. ENVIRONMENTAL REVIEW. (a) The department shall conduct or approve all environmental evaluations or studies required for the construction, maintenance, or operation of a rail facility.

(b) The commission may adopt rules to allocate responsibility for conducting an environmental evaluation or study or preparing environmental documentation among entities involved in the construction, maintenance, or operation of a rail facility under this chapter.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.034. ENVIRONMENTAL MITIGATION. (a) The department may acquire, maintain, hold, restore, enhance, develop, or redevelop property for the purpose of mitigating a past, present, or future adverse environmental effect arising from the construction, maintenance, or operation of a rail facility without regard to whether the need for mitigation has already been established for a particular project.

(b) The department may contract with a governmental or private entity to maintain, control, hold, restore, enhance, develop, or redevelop property for the mitigation of a past, present, or future adverse environmental effect arising from the construction, maintenance, or operation of a rail facility without regard to whether the need for mitigation has already been established for a particular project.

(c) If authorized by the applicable regulatory authority, the department may pay an amount of money to an appropriate governmental or private entity instead of acquiring or managing property for the mitigation of a past, present, or future adverse environmental effect arising from construction, maintenance, or operation of a rail facility without regard to whether the need for mitigation has already been established for a particular project.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.035. USE OF FACILITIES BELONGING TO PUBLIC OR PRIVATE ENTITY. (a) The department, for the purpose of acquiring,

constructing, maintaining, and operating freight or passenger rail facilities and systems in this state, may:

(1) use a street, alley, road, highway, or other public way of a municipality, county, or other political subdivision with the consent of that political subdivision; and

(2) at the expense of the department, relocate, raise, reroute, or change the grade of the construction of a street, alley, highway, road, railroad, electric line and facility, telegraph and telephone property and facility, pipeline and facility, conduit and facility, and other properties, whether publicly or privately owned, as necessary or useful in the construction, maintenance, and operation of a rail facility or system.

(b) The department shall provide reasonable notice to the owner of the applicable facility of the need for the alteration under Subsection (a)(2) and allow that owner the opportunity to complete the alteration.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.036. EXPENDITURE OF FUNDS. Subject to Section 91.071(b), the department may receive, accept, and expend funds from this state, a federal agency, or other public or private source for:

(1) rail planning;

(2) studies to determine the viability of a rail facility for rail transportation service;

(3) studies to determine the necessity for the department's acquisition or construction of a rail facility; and

(4) the acquisition, construction, maintenance, or operation of a rail facility under this chapter, including the assessment and remediation of environmental contamination existing in or on a rail facility.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.0361. CERTAIN FREIGHT RAILROAD PROJECTS. (a) If sufficient funds from bonds sold to construct the Central Texas turnpike project or from the Texas mobility fund are available, the

department may, and is strongly encouraged to, use the funds for engineering, design, grading, and construction necessary to create a grade-separated freight rail line capable of being safely traveled by trains operating at not less than 80 miles per hour in or adjacent to the State Highway 130 corridor.

(b) The department may, and is strongly encouraged to, enter into negotiations with any Class I railroad concerning building and operating a freight railroad in or adjacent to the State Highway 130 corridor. The department may explore with any Class I railroad the possibility of operating the freight railroad line in or adjacent to the State Highway 130 corridor as a revenue-producing partnership that could benefit this state and the current holders of bonds used in the financing of State Highway 130.

(c) This section may not be construed to allow any delay in the current published schedule for the construction and completion of State Highway 130.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.037. CONTRACTS WITH GOVERNMENTAL ENTITIES. This chapter does not apply to real or personal property, facilities, funding, projects, operations, construction, or a project plan of a transportation authority created under Chapter 451, 452, or 460 unless the commission or its designee has signed a written agreement with the transportation authority specifying the terms and conditions under which the transportation authority may participate.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

SUBCHAPTER C. CONTRACTS

Sec. 91.051. AWARDING OF CONTRACTS. Except for a contract entered into under Section 91.052, 91.054, or 91.102, a contract made by the department for the construction, maintenance, or operation of a rail facility must be let by a competitive bidding procedure in which the contract is awarded to the lowest responsible bidder that complies with the department's criteria.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 1.03, eff. June 14, 2005.

Sec. 91.052. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE RAIL FACILITIES. The department may enter into an agreement with a public entity, including a political subdivision of this state, to permit the entity, independently or jointly with the department, to acquire, construct, maintain, or operate a rail facility or system.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.053. SMALL AND DISADVANTAGED BUSINESSES. (a) The department shall:

(1) set goals for the award of contracts to small and disadvantaged businesses and attempt to meet the goals;

(2) attempt to identify small and disadvantaged businesses that provide or have the potential to provide supplies, materials, equipment, or services to the department; and

(3) give small and disadvantaged businesses full access to the department's contract bidding process and other contracting processes, inform the businesses about those processes, offer the businesses assistance concerning those processes, and identify barriers to the businesses' participation in those processes.

(b) This section does not exempt the department from competitive bidding requirements imposed by other law.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.054. COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) To the extent and in the manner that the department may enter into a comprehensive development agreement under Chapter 223, the department may enter into a comprehensive development agreement under this chapter that provides for the financing, design, acquisition,

construction, maintenance, or operation of a rail facility or system. All provisions of Chapter 223 relating to comprehensive development agreements apply to comprehensive development agreements for facilities under this chapter, including provisions relating to the confidentiality of information. Claims arising under a comprehensive development agreement are subject to Section 201.112.

(b) The department may combine in a comprehensive development agreement under this chapter a rail facility or system and a toll project as defined by Section 201.001.

(c) The department may not enter into a comprehensive development agreement with a private entity under this chapter that provides for the lease or use of rights-of-way or related property by the private entity to construct, operate, or maintain a facility that is unrelated to the operation of the rail facility or system.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 1.04, eff. June 14, 2005.

SUBCHAPTER D. FINANCING OF RAIL FACILITIES

Sec. 91.071. FUNDING. (a) Except as provided in Subsection (b), the department may use any available funds to implement this chapter, including funds from the state infrastructure bank.

(b) Except for money received from the Texas economic development bank fund under Section 489.102, Government Code, and except as provided by Section 91.106(j), the department may not spend money from the general revenue fund to implement this chapter except pursuant to a line-item appropriation.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 5.01(a), eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 1.05, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1410 (H.B. 2660), Sec. 3, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 766 (H.B. 1750), Sec. 1, eff. June 17, 2011.

Sec. 91.072. FINANCING OF RAIL FACILITIES AND SYSTEMS. (a) The commission and the department have the same powers and duties relating to the financing of a rail facility or a system established under Section 91.031 as the commission and the department have under Subchapter E, Chapter 361, relating to the financing of a turnpike project, including the ability to deposit the proceeds of bonds or other obligations and to pledge, encumber, and expend such proceeds and revenues as provided in Chapter 361.

(b) The powers held by the commission and the department include the power to:

(1) authorize the issuance of bonds to pay all or part of the cost of acquiring, constructing, maintaining, or operating a rail facility or system;

(2) maintain separate accounts for bond proceeds and the revenues of a rail facility or system, and pledge those revenues and proceeds to the payment of bonds or other obligations issued or entered into with respect to the facility or system;

(3) impose fees, rents, and other charges for the use of a rail facility or system; and

(4) obtain from another source the fees and other revenue necessary to pay all or part of the principal and interest on bonds issued under this chapter.

(c) For purposes of this section, a reference in Subchapter E, Chapter 361 to:

(1) a turnpike project means a rail facility or system;
and

(2) revenue includes a fee, rent, or other usage charge established under this chapter or other money received under Sections 91.073 and 91.074.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.073. GRANTS AND LOANS. The department may apply for, accept, and expend money from grants, loans, or reimbursements for any purpose of this chapter, including paying for the cost of the acquisition, construction, maintenance, and operation of a rail facility or system.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21,

2003.

Sec. 91.074. REVENUE. (a) The department may require a person, including any public or private entity, to pay a fee as a condition of using any part of a rail facility or system. The department may not require a person to pay a fee in connection with the placement, maintenance, or other use of a public utility facility.

(b) The department shall establish and maintain rents or other compensation for the use of rail facilities or systems in an amount that is, together with other revenue of the department received under this chapter, sufficient to enable the department to comply with the requirements of Section 91.072.

(c) The department may contract with a person for the use of all or part of a rail facility or system or may lease or sell all or part of a rail facility or system, including all or any part of the right-of-way adjoining trackwork, for any purpose, including placing on the adjoining right-of-way a storage or transfer facility, warehouse, garage, parking facility, telecommunication line or facility, restaurant, or gas station. Any portion of a rail facility or system that is used or leased by a private person under this subsection for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.

(d) The department shall not unreasonably discriminate in deciding who may use any part of a rail facility or system.

(e) All revenue received by the department under this chapter:

- (1) shall be deposited to the credit of the state highway fund and may be used for any purpose authorized by this chapter; and
- (2) is exempt from the application of Section 403.095, Government Code.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 1.06, eff. June 14, 2005.

Sec. 91.075. PASS-THROUGH FARES. (a) In this section, "pass-through fare" means:

(1) a per passenger fee or a per passenger mile fee that is determined by the number of passengers using a passenger rail facility; or

(2) a fee that is determined based on the number of carloads or commodity tonnages shipped using a freight rail facility.

(b) The department may enter into an agreement with a public or private entity that provides for the payment of pass-through fares to the public or private entity as reimbursement for the acquisition, design, development, financing, construction, relocation, maintenance, or operation of a passenger rail facility or a freight rail facility by the entity.

(c) The department may use any available funds for the purpose of making a pass-through fare payment under this section, including funds from the state infrastructure bank.

(d) The commission may adopt rules necessary to implement this section. Rules adopted under this subsection may include criteria for:

(1) determining the amount of pass-through fares to be paid under this section; and

(2) allocating the risk that ridership on a passenger rail facility or carloads or commodity tonnages shipped on a freight rail facility will be higher or lower than the parties to an agreement under this section anticipated in entering into the agreement.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 1.07, eff. June 14, 2005.

SUBCHAPTER E. ACQUISITION AND DISPOSAL OF PROPERTY

Sec. 91.091. ACQUISITION OF REAL PROPERTY. (a) The commission may authorize the department to acquire in the name of the state a right-of-way, a property right, or other interest in real property determined to be necessary or convenient for the department's acquisition, construction, maintenance, or operation of rail facilities.

(b) The commission may authorize the department to acquire property by any method, including purchase and condemnation. Property may be purchased under any terms determined by the

department to be in the best interest of the state.

(c) Property may be purchased along alternative potential routes for a rail facility even if only one of those potential routes will ultimately be chosen as the final route.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.092. PROPERTY NECESSARY OR CONVENIENT FOR RAIL FACILITIES. Property necessary or convenient for the department's acquisition, construction, maintenance, or operation of rail facilities includes an interest in real property or a property right the commission determines is necessary or convenient to provide:

- (1) right-of-way for a location for:
 - (A) a rail facility; or
 - (B) the future expansion of a rail facility;
- (2) land for mitigation of adverse environmental effects;
- (3) buffer zones for scenic or safety purposes; and
- (4) revenue for use in acquiring, constructing,

maintaining, or operating a rail facility or system, including revenue received under a contract described by Section 91.074(c).

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.093. RIGHT OF ENTRY. (a) To acquire property necessary or convenient for a rail facility, the department may enter any premises or real property, including a body of water, to make a survey, geotechnical evaluation, sounding, or examination.

(b) An entry under Subsection (a) or (d) is not:

- (1) a trespass; or
- (2) an entry under a pending condemnation procedure.

(c) The department shall make reimbursements for actual damages that result from an entry under Subsection (a) or (d).

(d) To ensure the safety and convenience of the public, the department shall, when entering any real property, water, or premises on which is located a public utility facility:

(1) comply with applicable industry standard safety codes and practices; and

(2) notwithstanding Subsection (a), give the owner or operator of the public utility facility not less than 10 days' notice before entering the real property, water, or premises.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.094. CONVEYANCE OF PROPERTY BELONGING TO POLITICAL SUBDIVISION OR PUBLIC AGENCY. The governing body of a municipality, county, political subdivision, or public agency may, without advertisement, convey the title to or a right in property determined to be necessary or convenient by the department under this subchapter.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.095. DISPOSAL OF PROPERTY. The department may sell, convey, or otherwise dispose of any rights or other interests in real property acquired under this subchapter that the commission determines are no longer needed for department purposes.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

SUBCHAPTER F. OPERATION AND USE OF RAIL FACILITIES

Sec. 91.101. CONTRACTS FOR RAIL TRANSPORTATION SERVICES. The department may contract with a county or other political subdivision of the state for the department to provide rail transportation services on terms agreed to by the parties.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.102. CONTRACTS WITH RAIL OPERATORS. (a) The department may lease all or part of a rail facility or system to a rail operator. The department may contract with a rail operator for

the use or operation of all or part of a rail facility or system.

(b) The department shall encourage to the maximum extent practical the participation of private enterprise in the operation of rail facilities and systems.

(c) A lease agreement shall provide for the department's monitoring of a rail operator's service and performance.

(d) The department may enter into an agreement with a rail operator to sell all or any part of state-owned rail facilities on terms the department considers to be in the best interest of the state.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.103. JOINT USE OF RAIL FACILITIES. The department may:

(1) enter into an agreement with a rail operator, public utility, private utility, communication system, common carrier, or transportation system for the common use of its facilities, installations, or properties; and

(2) establish through routes, joint fares, and, subject to approval of a tariff-regulating body having jurisdiction, divisions of tariffs.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.104. ROUTINGS. The department may determine routings for rail facilities acquired, constructed, or operated by the department under this chapter.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.105. PLACEMENT OF UTILITY FACILITIES, LINES, AND EQUIPMENT. (a) A utility has the same right to place its facilities, lines, or equipment in, over, or across right-of-way that is part of a state-owned rail facility as the utility has with respect to the right-of-way of a state highway under Chapter 181,

Utilities Code. A utility shall notify the department of the utility's intention to exercise authority over right-of-way that is part of state-owned rail facilities.

(b) On receipt of notice under Subsection (a), the department may designate the location in the right-of-way where the utility may place its facilities, lines, or equipment.

(c) The department may require a utility to relocate the utility's facilities, lines, or equipment, at the utility's expense, to allow for the expansion or relocation of rail facilities owned by the state. A relocation under this subsection must be accomplished pursuant to Subsections (e)-(j). The department shall pay for the cost of the relocation. If a utility facility is replaced, the cost of replacement is limited to an amount equal to the cost of replacing the facility with a comparable facility, less the net salvage value of the replaced facility.

(d) A utility may use and operate a facility required to be relocated under this section at the new location for the same period and on the same terms as the utility had the right to do at the previous location of the facility.

(e) If the department determines that a public utility facility must be relocated, the utility and the department shall negotiate in good faith to establish reasonable terms and conditions concerning the responsibilities of the parties with regard to sharing of information about the project and the planning and implementation of any necessary relocation of a public utility facility.

(f) The department shall use its best efforts to provide an affected utility with plans and drawings of the project that are sufficient to enable the utility to develop plans for, and determine the cost of, the necessary relocation of the public utility facility. If the department and the affected utility enter into an agreement after negotiations under Subsection (e), the terms and conditions of the agreement govern the relocation of public utility facilities covered by the agreement.

(g) If the department and an affected utility do not enter into an agreement under Subsection (e), the department shall provide to the affected utility:

(1) written notice of the department's determination that the public utility facility must be removed;

(2) a final plan for relocation of the public utility facility; and

(3) reasonable terms and conditions for an agreement with the utility for the relocation of the public utility facility.

(h) Not later than the 90th day after the date a utility receives the notice from the department, including the plan and agreement terms and conditions under Subsection (g), the utility shall enter into an agreement with the department that provides for the relocation.

(i) If the utility fails to enter into an agreement within the 90-day period under Subsection (h), the department may relocate the public utility facility at the sole cost and expense of the utility less any reimbursement of costs that would have been payable to the utility under applicable law. A relocation by the department under this subsection shall be conducted in full compliance with applicable law, using standard equipment and construction practices compatible with the utility's existing facilities, and in a manner that minimizes disruption of utility service.

(j) The 90-day period under Subsection (h) may be extended:

(1) by mutual agreement between the department and the utility; or

(2) for any period during which the utility is negotiating in good faith with the department to relocate its facility.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 4.01, eff. June 21, 2003.

Sec. 91.106. OPERATIONS DURING CERTAIN EMERGENCIES. (a) In this section, "director" means the executive director of the department.

(b) The director may issue an order authorizing the department to lease rolling stock and to contract with a qualified person or rail operator to operate rolling stock if:

(1) the director determines that a natural or man-made condition exists that threatens a department rail facility or the provision of safe and efficient rail services using a department rail facility; and

(2) the condition threatens health, life, or property in the affected area.

(c) An order issued under Subsection (b) takes effect according to the order's terms, but the order may not take effect until

reasonable notice is given:

(1) in a newspaper of general circulation in the affected area;

(2) through television or radio serving the affected area;
or

(3) by circulating notices or posting signs at conspicuous places in the affected area.

(d) An order issued under Subsection (b) must expire not later than the 30th day after the date the order is issued.

(e) The director may amend, modify, or rescind an order issued under Subsection (b) while the order is effective.

(f) The director may issue one or more successive orders as necessary to protect health, life, or property in the affected area. Each successive order must expire not later than the 30th day after the date the successive order is issued.

(g) The department may not use department employees to operate rolling stock.

(h) The department may enter into a contract authorized by an order issued under Subsection (b) for a period not to exceed 90 days without using competitive bidding procedures otherwise required by law if the department attempts to negotiate with at least three qualified persons during the contracting process.

(i) Immediately after the department enters into a contract under this section, the department shall send a copy of the contract to the Legislative Budget Board. On request of the Legislative Budget Board, the department may send the copy in an electronic format.

(j) The department may use any available funds to implement this section, including:

(1) the undedicated portion of the state highway fund; and

(2) any money appropriated to the department from the general revenue fund, regardless of whether there is a line-item appropriation for such a purpose.

(k) The department shall attempt to recover any state funds used by the department to implement this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 766 (H.B. 1750), Sec. 2, eff. June 17, 2011.

SUBTITLE C. RAILROADS GENERALLY**CHAPTER 111. REGULATION BY TEXAS DEPARTMENT OF TRANSPORTATION****SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 111.001. DEFINITION OF PERSON. In this chapter:

- (1) "person" includes a corporation, as provided by Section 312.011, Government Code; and
- (2) the definition of "person" assigned by Section 311.005, Government Code, does not apply.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 111.002. POWER AND AUTHORITY. To the extent not preempted by federal law, the department:

- (1) has power and authority over:
 - (A) railroads, including suburban, belt, and terminal railroads;
 - (B) public wharves, docks, piers, elevators, warehouses, sheds, tracks, and other property used in connection with railroads; and
 - (C) persons, associations, and private or municipal corporations that own or operate a railroad, or a wharf, dock, pier, elevator, warehouse, shed, track, or other property used in connection with a railroad; and
- (2) shall govern and regulate those railroads, persons, associations, and corporations and prevent abuses in the conduct of their business.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 111.003. TRANSFER OF RAILROAD AUTHORITY. On October 1, 2005, all powers and duties of the Railroad Commission of Texas that related primarily to railroads and the regulation of railroads and that existed on that date were transferred to the department, as provided by Chapter 281, Acts of the 79th Legislature, Regular Session, 2005.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03,

eff. April 1, 2011.

Sec. 111.004. REFERENCE TO RAILROAD COMMISSION. Any reference in law to the Railroad Commission of Texas that relates primarily to railroads and the regulation of railroads means the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER B. REGULATION OF RAILROADS BY DEPARTMENT

Sec. 111.051. INSPECTION OF BOOKS AND PAPERS; PENALTY. (a) A member of the commission or a person authorized in writing by a member of the commission under the hand and seal of the department may at any time:

- (1) inspect the books and papers of a railroad company; and
- (2) examine under oath a railroad company officer, agent, or employee in relation to the business and affairs of the company.

(b) A railroad company that refuses to permit an examination of the company's books and papers under Subsection (a) is liable to the state, for each violation, for a penalty of not less than \$125 or more than \$500 for each day the company fails or refuses to permit the examination.

(c) An officer, agent, or employee of a railroad company who possesses or controls any book or paper of the company commits an offense if, after proper demand, the officer, agent, or employee fails or refuses to exhibit, to any member of the commission or any person authorized to investigate, the book or paper. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$125 or more than \$500.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 111.052. INFORMATION SOLICITED BY DEPARTMENT. (a) The department shall as often as necessary provide each railroad company a questionnaire designed to elicit all information concerning the railroad.

- (b) A railroad company receiving a questionnaire under

Subsection (a) shall properly fill out the questionnaire and answer each question fully and correctly. A railroad company that is unable to answer a question shall give satisfactory reason for the inability to answer.

(c) A railroad company shall return the completed questionnaire, sworn to by the proper officer of the company, to the department not later than the 30th day after the date the company received the questionnaire.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 111.053. REFUSAL TO ANSWER BY RAILROAD COMPANY OFFICER OR EMPLOYEE; CRIMINAL PENALTY. (a) An officer or employee of a railroad company commits an offense if the officer or employee:

(1) fails or refuses to fill out and return a questionnaire to the department as required by law;

(2) fails or refuses to answer any question in a questionnaire;

(3) gives a false answer to any question in a questionnaire if the answer to the question is within the officer's or employee's knowledge; or

(4) evades the answer to any question in a questionnaire.

(b) An offense under this section is a misdemeanor punishable by a fine of \$500 for each day that the officer or employee violates this section after the date the questionnaire is due to the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 111.054. REFUSAL TO ANSWER BY RAILROAD COMPANY; PENALTY.

(a) A railroad company is liable to the state for a penalty of \$500 if:

(1) an officer or employee of the company:

(A) fails or refuses to fill out and return a questionnaire under Section 111.052;

(B) fails or refuses to answer a question in a questionnaire under Section 111.052;

(C) gives a false answer to a question in a questionnaire under Section 111.052 and the fact inquired of is within the officer's or employee's knowledge; or

(D) evades the answer to such a question in a questionnaire under Section 111.052; and

(2) it appears that the officer or employee acted in obedience to the company's direction, permission, or request in the officer's or employee's failure, refusal, or evasion.

(b) The department may prescribe a system of bookkeeping to be observed by each railroad company that receives a questionnaire under Section 111.052, under the penalties of Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 111.055. WITNESSES. (a) This section applies only to the extent that it does not conflict with Chapter 2001, Government Code.

(b) In an examination or investigation under this chapter, the department may compel the attendance of witnesses and may issue subpoenas for witnesses in accordance with rules prescribed by the department. The officer to whom process is directed shall serve it.

(c) A witness who appears before the department by order of the department at a place outside the county where the witness resides is entitled to receive for the witness's attendance:

(1) \$1 for each day; and

(2) three cents for each mile the witness travels, by the nearest practical route, in going to and returning from that place.

(d) On the presentation of proper vouchers, sworn to by the witness and approved by the department, the comptroller shall pay the witness the amount to which the witness is entitled.

(e) A witness is not entitled to fees or mileage if, when summoned at the request of a railroad, the witness:

(1) is directly or indirectly interested in the railroad;

(2) is in any way interested in stock, a bond, a mortgage, or a security, or the earnings of the railroad; or

(3) was an officer, agent, or employee of the railroad.

(f) A witness furnished with free transportation may not receive pay for the distance the witness travels on the free transportation.

(g) The department may issue an attachment as in civil cases for a witness who fails or refuses to obey a subpoena and may compel the witness to appear before the department and testify on a matter as the department requires.

(h) If a witness, after being summoned, fails or refuses to attend or to answer a question asked of the witness that the witness would be required to answer if in court, the department may fine and imprison the witness for contempt in the same manner that a judge of the district court might do under similar circumstances.

(i) The claim that testimony might tend to incriminate the person giving the testimony does not excuse a witness from testifying, but the evidence or testimony may not be used against the witness in a criminal trial.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 111.056. DEPOSITIONS. (a) The department may in its discretion issue process to take the testimony of a witness by a written or oral deposition instead of compelling the personal attendance of the witness.

(b) An officer executing process issued under a provision of this subtitle or Subtitle D may charge a fee as determined by the department, not to exceed fees prescribed by law for similar services.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 111.057. PENALTY NOT OTHERWISE PROVIDED. A railway company doing business in this state is liable to the state for a penalty of not more than \$5,000 each time the railway company:

(1) violates any provision of this subtitle or Subtitle D or fails or refuses to perform any duty imposed upon it for which a penalty has not been provided by law; or

(2) fails, neglects, or refuses to obey any requirement, order, judgment, or decree of the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03,

eff. April 1, 2011.

Sec. 111.058. SUITS FOR PENALTY. (a) For a penalty provided under this chapter that is recoverable by the state, the attorney general, or an attorney acting under the direction of the attorney general, may bring suit in the name of the state in:

- (1) Travis County; or
- (2) any county in or through which the railroad runs.

(b) The attorney bringing a suit under this section is entitled to receive:

- (1) a fee to be paid by the state of \$50 for each penalty recovered and collected by the attorney; and
- (2) 10 percent of the amount collected.

(c) In all suits arising under this chapter or Section 112.003, the rules of evidence shall be the same as in ordinary civil actions, except as otherwise provided by this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER C. DEPARTMENT SAFETY REGULATION

Sec. 111.101. IMPLEMENTATION OF FEDERAL SAFETY LAWS; FEES. (a) The department may perform any act, adopt any rules, and issue any orders as permitted by the Federal Railroad Safety Act of 1970, originally codified as 45 U.S.C. Sections 421, 431 et seq. and recodified in 1994 as 49 U.S.C. Sections 20101-20117, 20131, 20133-20141, 20143, 21301, 21302, 21304, 21311, 24902, and 24905 and Sections 4(b)(1), (i), and (t) of Pub. L. No. 103-272.

(b) The department by rule shall:

- (1) adopt reasonable fees to be assessed annually against railroads operating within the state; and
- (2) establish the method by which the fees are calculated and assessed.

(c) The total amount of fees estimated to be collected by rules adopted by the department under this section may not exceed the amount estimated by the department to be necessary to recover the costs of administering the department's rail safety program.

(d) In adopting a fee structure, the department may consider

the gross ton miles for railroad operations within this state for each railroad operating in the state to provide for the equitable allocation among railroads of the cost of administering the department's rail safety program.

(e) A fee collected under this section shall be deposited to the credit of the general revenue fund to be used for the rail safety program.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 111.102. HAZARDOUS MATERIALS INSPECTIONS. (a) The department may enter private property on which a railroad facility that is connected to but not a part of a general railroad system of transportation is located at a reasonable time and in a reasonable manner to perform an inspection, investigation, or surveillance of facilities, equipment, records, and operations relating to the packaging, loading, or transportation of hazardous materials to determine whether the railroad facility complies with the applicable safety requirements of this chapter or a rule adopted under this chapter.

(b) In performing an inspection under this section, the department may not require a railroad facility owner or operator to alter or cease rail operations.

(c) Any inspection, investigation, or surveillance performed on the site of a manufacturing facility shall be performed in compliance with the safety rules of the facility, including a rule regarding security clearance at the front gate if appropriate.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 111.103. HIGH-SPEED RAIL SAFETY STANDARDS. (a) For the purposes of this section, "high-speed rail" means passenger rail service capable of operating at speeds greater than 185 miles per hour.

(b) On application by a railroad company, the department by rule may adopt safety standards for high-speed rail systems, including rolling stock, for that railroad company.

(c) In adopting safety standards under Subsection (b), the department:

(1) shall consider the safety records of high-speed rail systems, including rolling stock, operated in countries with a history of safe high-speed rail service; and

(2) may require the railroad company to construct grade separations or physical barriers to isolate the railroad company's high-speed rail systems from streets, roadways, or existing freight or passenger railroads.

(d) A railroad company is not required to submit an application to the department under Subsection (b) if the railroad company is operating under safety standards approved by the Federal Railroad Administration or another federal agency.

(e) The department by rule shall impose a reasonable fee on a railroad company that submits an application under Subsection (b) to recover costs incurred by the department in administering this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1047 (H.B. [3771](#)), Sec. 1, eff. September 1, 2011.

CHAPTER 112. POWERS AND DUTIES OF RAILROADS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 112.001. DEFINITION OF PERSON. In this chapter:

(1) "person" includes a corporation, as provided by Section 312.011, Government Code; and

(2) the definition of "person" assigned by Section 311.005, Government Code, does not apply.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. [1540](#)), Sec. 2.03, eff. April 1, 2011.

Sec. 112.002. GENERAL RIGHTS OF RAILROADS. (a) A railroad company has the right to succession.

(b) A railroad company may:

(1) sue, be sued, plead, and be impleaded in its corporate name;

(2) have and use a seal and alter the seal at will;

(3) receive and convey persons and property on its railway

by any mechanical power, including the use of steam;

(4) regulate the time and manner in which, and the compensation for which, passengers and property are transported, subject to the provisions of law;

(5) exercise the power of eminent domain for the purposes prescribed by this subtitle or Subtitle D;

(6) purchase, hold, and use all property as necessary for the construction and use of its railway, stations, and other accommodations necessary to accomplish company objectives, and convey that property when no longer required for railway use; and

(7) take, hold, and use property granted to the company to aid in the construction and use of its railway, and convey that property in a manner consistent with the terms of the grant when the property is no longer required for railway use.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.003. DAMAGES. A railroad subject to this subtitle or Subtitle D is liable to a person, firm, or corporation injured for the damages resulting from:

(1) a prohibited or unlawful act or thing that the railroad does or causes or permits to be done; or

(2) failure of the railroad to perform an act the railroad is required to perform under this subtitle or Subtitle D.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER B. ACQUISITION AND USE OF PROPERTY BY RAILROAD OR OF RAILROAD

Sec. 112.051. ENTRY ONTO PRIVATE PROPERTY. (a) A railroad company is entitled to make an examination and survey for the company's proposed railway, to be performed as necessary to select the most advantageous route for the proposed railway, and, subject to Subsection (c), may enter on the lands or waters of any person or corporation for that purpose.

(b) A railroad company is responsible for any damages arising from an examination or survey under this section.

(c) Except for the purposes of performing a lineal survey, a railroad company may not enter on private real property for the purpose of condemning the property or any material on the property for any purpose until the company agrees with and pays the owner of the property all damages that may be caused to the owner's property by the condemnation of the property and by the construction of the company's road.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.052. ACQUISITION OF PROPERTY FOR CHANGE, RELOCATION, OR ABANDONMENT OF RAILROAD LINE. (a) Subject to Subsection (b), a railroad company or a receiver of a railroad that changes, relocates, or abandons a line of railroad in this state may acquire by condemnation or otherwise land for:

- (1) right-of-way;
- (2) depot grounds;
- (3) shops;
- (4) roundhouses;
- (5) water supply sites;
- (6) sidings;
- (7) switches;
- (8) spurs; or
- (9) any other purpose connected with or necessary to the building or operating of the line of railroad, as changed, relocated, or abandoned.

(b) Property acquired under this section must be declared for and charged with public use.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.053. CONDEMNATION OF PROPERTY: WHEN RAILROAD COMPANY AND OWNER DISAGREE. (a) A railroad company may acquire property by condemnation if the company cannot agree with the owner for the purchase of the property and the property is required for any of the following purposes:

- (1) the incorporation of the railroad;

- (2) the transaction of company business;
- (3) depots, station buildings, and machine and repair shops;
- (4) the construction of reservoirs for the water supply;
- (5) the right-of-way, or new or additional right-of-way;
- (6) a change or relocation;
- (7) a roadbed;
- (8) the shortening of a line;
- (9) the reduction of grades;
- (10) the double tracking of the railroad or the construction and operation of tracks; or
- (11) any other purpose connected with or necessary to the building, operating, or running of the railroad.

(b) A railroad company may not, under this section, condemn property that is located more than two miles from the company's right-of-way.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.054. CONDEMNATION OF PROPERTY: CERTAIN TERMINAL SWITCHING RAILROADS. (a) This section applies only to the condemnation of property for a terminal switching railroad that:

- (1) handles fewer than 10,000 but more than 3,000 carloads a year; and
- (2) operates in a single county that:
 - (A) has a population of 110,000 or more;
 - (B) is not adjacent to the Texas border; and
 - (C) does not contain a portion of a national forest.

(b) The power to condemn property given to a railroad company under this subtitle or Subtitle D, including Section 112.052 or 112.053, does not apply to any property used for or designated under local zoning regulations for residential use unless the use of the condemned property is authorized under or in conformity with local zoning or development regulations.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.055. RIGHT-OF-WAY ACQUIRED BY CONDEMNATION. (a) A right-of-way that a railway company in this state acquires by condemnation does not include a fee simple estate in public or private land.

(b) A right-of-way that a railway company acquires by condemnation is not lost on forfeiture or expiration of the railway company's charter. The right-of-way remains subject to an extension of the charter or the grant of a new charter, and a new condemnation of the way is not required.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.056. CONDEMNATION OF PROPERTY FOR CERTAIN ROADS. (a) Subject to Subsection (b), a corporation created to build, maintain, and operate a line of railroads to a mine, gin, quarry, manufacturing plant, or mill may acquire by condemnation land necessary for the right-of-way for a road connecting the mine, gin, quarry, manufacturing plant, or mill to the nearest line of railroad.

(b) The corporation may condemn property under this section only if the corporation declares itself a common carrier and its railroads public highways, placing the road under the control of the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.057. CONSTRUCTION ON OR NEAR CERTAIN WATERWAYS OR ROADS. (a) A railroad company may construct the company's road across, along, or on any stream of water, water course, street, highway, turnpike, or canal where the route of the company's railway intersects or touches the stream, water course, street, highway, turnpike, or canal.

(b) The railroad company shall:

(1) restore the stream, water course, street, highway, turnpike, or canal to its former state or to a state in which its usefulness is not unnecessarily impaired; and

(2) keep the crossing in repair.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.058. INTERSECTION OF RAIL LINE AND ROAD OR STREET. Sections 112.051, 112.053, 112.054, 112.055, 112.057, 112.059, and 112.061 do not affect a law that requires a railroad company to provide a proper crossing at each intersection of a road or street.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.059. CROSSINGS OF PUBLIC ROADS. (a) Each railroad company in this state shall place and keep the portion of the company's roadbed and right-of-way over or across which a public county road runs in proper condition for the use of the traveling public.

(b) A railroad company is liable for a penalty of \$10 for each week the company does not comply with the requirements of this section if:

(1) the overseer of a public road gives written notice to the company's person responsible for maintaining the area where the work is needed; and

(2) the company fails to complete the work or repairs within 30 days after the date written notice is given under Subdivision (1).

(c) A county attorney, on the making of an affidavit of the facts by any person, shall immediately institute a suit against the railroad company to recover the penalty provided by this section. A county attorney's wilful failure or refusal to comply with this subsection is sufficient cause for the county attorney to be removed from office unless it is evident that the suit could not have been maintained.

(d) A proceeding under this section shall be conducted in the name of the county and in the same manner as a proceeding in a civil suit.

(e) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1141, Sec. 4(3), eff. June 19, 2015.

(f) If the county is cast in the suit, the county may not be

charged costs.

(g) A penalty collected under this section shall be deposited in the road and bridge fund of the county in which the suit is brought.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1141 (S.B. 287), Sec. 4(3), eff. June 19, 2015.

Sec. 112.060. CONVERSION OF PROPERTY IN CUSTODY OF RAILROAD COMPANY. (a) A railroad company in this state or a receiver of a railroad company in this state may not confiscate or otherwise convert to the company's or receiver's own use, in whole or in substantial part, a carload shipment of any article or commodity of freight traffic received by the company or receiver for transportation and delivery without the express consent of the owner or consignee of the shipment.

(b) An act of an agent, officer, or employee of a railroad company or receiver under this section that is within the apparent scope of the agent's, officer's, or employee's duties or authority with respect to the confiscation or conversion is considered to be an act of the company or receiver.

(c) This section does not apply to a conversion of freight that has been damaged or intermingled with other freight in wrecks, or to refused or unclaimed freight, that the railroad is unable to deliver.

(d) In addition to all other remedies or penalties that may be provided by law, a railroad company or receiver that violates this section is subject to:

(1) a penalty in favor of the state of not less than \$125 or more than \$500; and

(2) an additional penalty in favor of the owner or consignee of the converted shipment equal to twice the amount of the purchase price of the converted shipment.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.061. SUIT INVOLVING RAILROAD COMPANY PROPERTY. (a) If a railroad company is sued for property occupied by the company for railroad purposes or for damages to property occupied by the company for railroad purposes, the court in which the suit is pending may determine all matters in dispute between the parties, including the condemnation of the property, on petition or cross bill by the defendant requesting that remedy.

(b) A plea for condemnation under Subsection (a) is considered an admission of the plaintiff's title to the property.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.062. RAILROAD COMPANY PROPERTY SUBJECT TO EXECUTION; CHARACTERIZATION OF ROLLING STOCK. (a) All or any part of a railroad company's real and personal property is subject to execution and sale in the same manner as the property of individuals.

(b) No portion of a railroad company's real or personal property is exempt from execution and sale.

(c) The rolling stock and all other movable property belonging to a railroad company is considered personal property.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER C. SAFETY

Sec. 112.101. CATTLE GUARDS. (a) A railroad company whose railroad passes through a field or enclosure shall construct and keep in good repair a good and sufficient cattle guard or stop at each location the railroad enters the field or enclosure.

(b) If a field or enclosure through which a railway passes is enlarged or extended, or the owner of any land over which a railway runs clears and opens a field so as to include the track of a railway, the railroad company shall construct and keep in repair good and sufficient cattle guards or stops at the borders of the extended enclosures or fields or the new fields.

(c) A cattle guard or stop required by this section shall be constructed and kept in repair to protect the fields and enclosures from the depredations of stock of any kind.

(d) If a railroad company fails to construct and keep in repair a cattle guard or stop required by this section, the owner of the enclosure or field may:

(1) have the required cattle guards or stops constructed at the proper places and kept in repair; and

(2) recover from the company the costs of constructing or repairing the required cattle guards or stops, unless it is shown that the enlargement or extension was made capriciously and with intent to harass and molest the company.

(e) A railroad company that neglects to construct or keep in repair a proper cattle guard or stop as required by this section is liable to a party injured by the neglect for all damages that may result from the neglect. The injured party may seek to recover the damages by filing suit.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.102. LIABILITY FOR DEATH OR INJURY TO STOCK. (a) Subject to Subsection (b), a railroad company is liable to the owner for the value of all stock killed or injured by the company's locomotives and cars operating over the company's railways, regardless of whether the county or subdivision of a county in which the death or injury occurs has, under Subchapter B or D, Chapter 143, Agriculture Code, prohibited certain animals from running at large.

(b) A railroad company that fences its railway is liable only for injury to stock that results from a want of ordinary care.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.103. DUTY TO STOP AND RENDER AID; OFFENSE. (a) In this section, "operator" means the person assigned by a railroad company to be responsible for the operation of a train.

(b) An operator who is involved, while operating a locomotive, in an accident resulting in injury to or death of a person or damage to a vehicle that is driven or attended by a person shall immediately stop the locomotive at the scene of the accident.

(c) The operator shall render to a person injured in the

accident reasonable assistance, including transporting, or the making of arrangements for transporting, the person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary or if the injured person requests transportation.

(d) A person who violates this section commits an offense. An offense under this subsection is a Class C misdemeanor.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER D. LIABILITY FOR INJURIES TO EMPLOYEES

Sec. 112.151. APPLICABILITY OF SUBCHAPTER. Notwithstanding any other law, this subchapter does not apply to the portion of a person's, receiver's, or corporation's operations that:

(1) consists solely of the fabrication, manufacture, repair, or storage of rail rolling stock; or

(2) uses rail cars solely as a part of its own internal manufacturing or production process.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.152. LIABILITY GENERALLY FOR INJURY TO OR DEATH OF EMPLOYEE. (a) A corporation, receiver, or other person operating a railroad in this state is liable for damages to a person who, while employed by the railroad operator, is injured as a result of:

(1) the negligence of an officer, agent, or employee of the railroad operator; or

(2) any defect or insufficiency due to the railroad operator's negligence in its cars, engines, appliances, machinery, track, roadbed, works, boats, wharves, or other equipment.

(b) If an employee dies as a result of the negligence, defect, or insufficiency described by Subsection (a), the railroad operator is liable to the employee's personal representative for the benefit of the employee's surviving spouse and children and the employee's parents or, if the employee is not survived by a spouse, child, or parent, to the employee's next of kin who is dependent on the employee.

(c) Damages recovered under Subsection (b) are not liable for the debts of the deceased and shall be divided among the persons entitled to the benefit of the action who are living, in shares the fact finder considers proper.

(d) An action under Subsection (b) may be brought without administration by all parties entitled to damages under that subsection, or by any one or more of those parties, for the benefit of all of those parties. If all parties entitled to recover are not before the court, the action may proceed for the benefit of the parties who are before the court.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.153. CONTRIBUTORY NEGLIGENCE. (a) In an action under Section 112.152, the employee's contributory negligence is not a bar to recovery but the fact finder shall reduce the employee's damages in proportion to the amount of contributory negligence attributable to the employee.

(b) An employee may not be found contributorily negligent in a case in which the railroad operator's violation of a statute enacted for the safety of employees contributed to the employee's injury or death.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.154. ASSUMED RISK. (a) The plea of assumed risk is not available as a bar to recovery of damages in a suit brought in a court in this state against a corporation, receiver, or other person operating a railroad, interurban railway, or street railway in this state for the recovery of damages for the death of or personal injury to an employee caused by the wrong or negligence of the railroad or railway operator. An employee assumes the ordinary risk incident to the employee's employment but does not assume the risk resulting from any negligence of the employee's employer, regardless of whether the negligence is known to the employee.

(b) If in a suit described by Subsection (a) it is alleged and proven that the deceased or injured employee was negligent in

continuing in the service of the railroad or railway operator in view of the risk, dangers, and hazards of which the employee knew or must necessarily have known, in the ordinary performance of the employee's duties, that fact does not bar the employee's recovery, but is considered contributory negligence. If contributory negligence described by this subsection proximately caused or contributed to the cause of the death or injury, the damages recoverable by the employee or the employee's heirs or representatives shall be reduced only in proportion to the amount of negligence attributable to the employee.

(c) An employee of a railway company who is injured while engaged in the operation of a train in this state that is propelled by two or more engines is not considered to have assumed the risk of that injury if the injury is a result of the operation of two or more engines on the train rather than one.

(d) In an action against a railroad operator under Section 112.152, an employee may not be held to have assumed the risk of the employee's employment in a case in which the railroad operator's violation of a statute enacted for the safety of employees contributed to the employee's injury or death.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.155. CERTAIN PROVISIONS VOID. A provision of a contract, rule, or device the purpose of which is to exempt a railroad operator from liability under Section 112.152 is void to the extent of the purported exemption.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.156. LIABILITY OFFSET. In an action against a railroad operator under Section 112.152, the railroad operator may offset the railroad operator's liability by the amount of the railroad operator's contribution or payment to any insurance, relief benefit, or indemnity from which benefits have been paid to the injured employee or another person entitled to the benefits as a result of the injury or death that is the subject of the action.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.157. CONSTRUCTION OF CERTAIN SECTIONS. (a) Sections 112.152, 112.153, 112.154(d), 112.155, and 112.156 do not:

(1) limit the duty or liability of a railroad operator or impair the rights of an employee under the Revised Statutes of 1925; or

(2) affect a right of action under another law of this state.

(b) Except as provided by Section 112.151, a section listed in Subsection (a) controls over any other provision of the Revised Statutes of 1925 with which it conflicts.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 112.158. INJURY TO FELLOW SERVANT. (a) This section applies only to a corporation, receiver, or other person that controls or operates a railroad or street railway the line of which is located wholly or partly in this state.

(b) An entity described by Subsection (a) is liable for damages sustained by an employee of the entity while the employee is engaged in the work of operating the cars, locomotives, or trains of the entity as a result of the negligence of any other employee of the entity, regardless of whether the negligent employee and the employee who sustained the damages are considered fellow servants.

(c) Persons who are engaged in the common service of an entity described by Subsection (a) are considered fellow servants only if the persons are:

(1) employed in the same grade of employment;

(2) doing the same character of work or service; and

(3) working together at the same time and place and at the same piece of work for a common purpose.

(d) A person engaged in the service of an entity described by Subsection (a) is considered a vice principal of that entity if the person is entrusted by the entity with the authority of superintendence, control, or command of the other employees of the

entity, with the authority to direct any other employee in the performance of any duty of the employee.

(e) A vice principal of an entity described by Subsection (a) is not considered a fellow servant with other employees of the entity.

(f) A contract between an employer and employee that limits the employer's liability under this section in the event of the death of or injury to the employee or setting damages that may be recovered under this section is not valid or binding.

(g) This section does not impair or diminish the defense of contributory negligence if the injury of the employee is proximately caused by the employee's own contributory negligence.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBTITLE D. MISCELLANEOUS RAILROADS

CHAPTER 131. MISCELLANEOUS RAILWAYS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 131.001. DEFINITION OF PERSON. In this chapter:

(1) "person" includes a corporation, as provided by Section 312.011, Government Code; and

(2) the definition of "person" assigned by Section 311.005, Government Code, does not apply.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER B. ELECTRIC RAILWAYS

Sec. 131.011. DEFINITION. In this subchapter, "interurban electric railway company" means a corporation chartered under the laws of this state to conduct and operate an electric railway between two municipalities in this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.012. EMINENT DOMAIN. A corporation chartered for the

purpose of constructing, acquiring, maintaining, or operating lines of electric railway between municipalities in this state for the transportation of freight, passengers, or both freight and passengers may:

- (1) exercise the power of eminent domain with all the rights and powers granted by law to a railroad company; and
- (2) enter, condemn, and appropriate land, right-of-way, easements, or other property of any person or corporation to acquire:
 - (A) right-of-way on which to construct and operate lines of railway for the acquiring corporation; or
 - (B) sites for depots or power plants.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.013. RIGHT-OF-WAY. (a) A corporation described by Section 131.012 may:

- (1) lay out right-of-way not to exceed 200 feet in width for its railways;
- (2) construct its railways and appurtenances on that right-of-way; and
- (3) with compensation being made in accordance with law:
 - (A) take for the purpose of cuttings and embankments additional land necessary for the proper construction and security of its railways; and
 - (B) cut down any tree or remove any structure that may be in danger of falling on or obstructing its railway.

(b) The corporation may:

- (1) have an examination and survey of its proposed railway made as necessary to select the most advantageous route; and
- (2) for the purposes of Subdivision (1), enter on the land or water of any person or corporation, subject to responsibility for all damages that may be caused by the entrance, examination, or survey.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.014. CONSTRUCTION OF RAILWAY ALONG OR OVER WATERWAY OR

INFRASTRUCTURE. (a) A corporation described by Section 131.012 may construct its railway along, across, or over any stream, water course, bay, navigable water, arm of the sea, street, highway, steam railway, turnpike, or canal located in the route of its electric railway.

(b) The corporation may erect and operate a bridge, tram, trestle, or causeway, over, along, or across any stream, water course, bay, navigable water, arm of the sea, street, highway, turnpike, or canal described by Subsection (a).

(c) A bridge or other structure described by Subsection (b) may not be erected so as to unnecessarily or unreasonably prevent the navigation of the stream, water course, bay, arm of the sea, or navigable water.

(d) This section does not authorize the construction of an electric railway on or across a street, alley, square, or property of a municipality without the consent of the governing body of the municipality.

(e) Before constructing an electric railway along or on a highway, turnpike, or canal, an interurban electric railway company must obtain the consent of the authority having jurisdiction over the highway, turnpike, or canal.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.015. USE OF ELECTRIC STREET RAILWAY TRACKS. (a) An interurban electric railway company's power of eminent domain under this subchapter includes the power to condemn for its use and benefit easements and right-of-way to operate interurban cars along and on the track of an electric street railway company owning, controlling, or operating track on any public street or alley in a municipality for a purpose described by Subsection (b), subject to the consent, authority, and control of the governing body of the municipality.

(b) Condemnation under Subsection (a) may be used only to secure an entrance into and an outlet from a municipality on a route designated by the governing body of the municipality.

(c) In a proceeding to condemn an easement or right-of-way under this section, the court or the jury trying the case shall define and establish the terms on which the easement or right-of-way

may be used.

(d) A court rendering a judgment in a proceeding under this section may review and reform the terms of a grant and the provisions of the judgment on a subsequent application by a party to the original proceeding or a person claiming through or under a party to the original proceeding.

(e) The hearing on an application brought under Subsection (d) is in the nature of a retrial of the proceeding with respect to the terms on which the easement may be used except that the court may not declare the easement forfeited or impair the exercise of the easement.

(f) An application under Subsection (d) may not be made before the second anniversary of the date of the final judgment on the most recent application.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.016. TIME REQUIRED FOR CONSTRUCTION. The rights secured under this chapter by an interurban electric railway company are void unless the road to be constructed under the charter of the company is fully constructed from one municipality to another within 12 months of the date of the final judgment awarding the company an easement or right-of-way under Section 131.015.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.017. USE OF CONDEMNED TRACK. (a) Unless the company whose track is condemned under this subchapter consents, an interurban electric railway company exercising the powers granted under this chapter may not receive for transportation freight or passengers at any location on the condemned track destined to another location on the condemned track.

(b) A company that wilfully violates Subsection (a) forfeits the easement or right-of-way used to provide the transportation.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER C. MERGER OF INTERURBAN RAILWAY

Sec. 131.031. DEFINITION. In this subchapter, "interurban railway" means an electric or other interurban line of railway in this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.032. ACQUISITION OF RAILWAY PROPERTY AUTHORIZED. (a) A corporation organized under the laws of this state that is authorized to construct, acquire, and operate an interurban railway may:

(1) acquire, lease, or purchase the physical property, rights, and franchise of any other railway corporation with similar powers; or

(2) lease or purchase physical property, rights, and franchises of any suburban or street railway corporation the railway lines of which are to be operated in connection with the interurban railway.

(b) The owner of physical property or a right or franchise described by Subsection (a)(1) or (2) may sell or dispose of the property, right, or franchise to the corporation making an acquisition, lease, or purchase under Subsection (a).

(c) An acquisition or purchase under this section may be on the terms:

(1) agreed to by the board of directors of each corporation; and

(2) authorized or approved by a majority of the stockholders of each corporation.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.033. MUNICIPAL CONSENT REQUIRED. (a) Before selling property under this subchapter, a corporation that owns or operates a street car railway must obtain the consent of the governing body of the municipality in which the street car line is located.

(b) This subchapter does not affect a charter provision of a municipality that provides for the right of qualified voters of the municipality to vote on the granting or amending of franchise to a street or interurban railway.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.034. USE OF STREET RAILWAYS. A corporation authorized to construct, acquire, and operate an interurban railway and a corporation owning and operating a street railway may enter into a trackage or lease contract to allow for continuous passage into or through a municipality, subject to the consent of the governing body of the municipality.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.035. LIMITATION ON ACQUISITION. A corporation described by this subchapter may not:

(1) acquire, own, control, or operate a parallel or competing interurban line; or

(2) purchase, lease, acquire, own, or control, directly or indirectly, the shares or certificates of stock or bonds, a franchise or other right, or the physical property or any part of the property, of any corporation in violation of the law commonly known as the antitrust law.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER D. PROVISION OF UTILITIES

Sec. 131.061. INTERURBAN ELECTRIC RAILWAYS. An interurban electric railway company, as defined by Section 131.011, is entitled to produce, supply, and sell electric light and power to the public and to municipalities.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03,

eff. April 1, 2011.

Sec. 131.062. SUPPLY AND SALE OF ELECTRICITY BY STREET, SUBURBAN, OR BELT LINE RAILWAY. A corporation organized under the general laws of this state that owns or operates with electric power any street or suburban railway or belt line of railways in and near a municipality for the transportation of freight and passengers within this state may:

(1) supply and sell electric light and power to the public or a municipality;

(2) acquire or otherwise provide appliances necessary for an activity authorized by Subdivision (1); and

(3) in the manner provided by law, amend its articles of incorporation to expressly include the authority under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER E. REDUCED STREET RAILWAY FARES

Sec. 131.101. APPLICABILITY. This subchapter applies only to a person or corporation owning or operating a street railway in or on the public streets of a municipality with a population of 40,000 or more.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.102. CHILDREN YOUNGER THAN 13 YEARS OF AGE. (a) The owner or operator of a street railway shall transport a child younger than 13 years of age for half the fare regularly collected for the transportation of an adult.

(b) This section does not apply to the transportation of a child to or from a school or other institution of learning located one mile or more outside the corporate limits of the municipality in which the street car operates.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.103. STUDENTS. (a) The owner or operator of a street railway shall sell or provide for the sale of tickets for half of the regular fare collected for the transportation of adults to students younger than 18 years of age who attend academic, public, or private school in a grade not higher than the highest grade of the public high schools located in or adjacent to the municipality in which the railway is located.

(b) Tickets under this section must be sold in lots of 20, with each ticket valid for one trip over the railway lines.

(c) Tickets under this section are not required to be sold unless the student making the purchase presents the written certificate of the principal of the school the student attends stating that the student:

(1) is younger than 18 years of age; and

(2) is in regular attendance at a school in a grade that qualifies under Subsection (a).

(d) Tickets under this section are not required to be sold and may not be used except during the months when a school qualifying under Subsection (a) is in session.

(e) A student described by Subsection (a) shall be transported at half fare only when the student presents a ticket issued under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.104. CHILDREN YOUNGER THAN SIX YEARS OF AGE. The owner or operator of a street railway shall transport free of charge a child younger than six years of age when attended by a passenger who is at least six years of age.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.105. TRANSFER RIGHTS. The owner or operator of a street railway shall offer a passenger paying a reduced fare or no fare under this subchapter the same rights as to the use of transfers

issued by the owner or operator's line or other lines as offered to a passenger paying full fare.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 131.901. STREET AND SUBURBAN RAILWAYS. (a) Street and suburban railways engaged in the transportation of freight in and near a municipality are subject to the control of the department.

(b) A street railway company is not exempt from payment of assessments that may be imposed against it for street improvements.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.902. FREIGHT INTERURBAN RAILWAYS. (a) An entity incorporated as an electric, gas or gasoline, denatured alcohol, or naphtha interurban or motor railway that engages in transporting freight is subject to the control of the department.

(b) A corporation described by Subsection (a) is not exempt from payment of assessments that may be imposed against it for street improvements.

(c) An interurban railway described by Subsection (a):

(1) may exercise the same power of eminent domain as given by law to railroads;

(2) may exercise the power of eminent domain to acquire right-of-way on which to construct its railway lines and sites for depots and power plants;

(3) has the same rights, powers, and privileges as granted by law to an interurban electric railway company; and

(4) may acquire, hold, and operate other public utilities in and adjacent to a municipality in or through which the company operates.

(d) An interurban railway company described by Subsection (a) may not condemn property on which is located a cemetery unless it is affirmatively shown, and found by the court trying the condemnation suit, that:

(1) it is necessary to take the property; and

(2) no other route is possible or practicable.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.903. BUILDINGS AND OTHER FACILITIES: CERTAIN RAILWAYS. A corporation organized before September 1, 1925, under any law of this state, that operates a line of electric, gas or gasoline, denatured alcohol, or naphtha motor railway in and between municipalities in this state, may:

- (1) own and operate union depots and office buildings; and
- (2) acquire, hold, and operate electric light and power plants in and adjacent to a municipality in or through which the railway operates.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

Sec. 131.904. MOTOR BUS LINES. (a) This section applies only to a corporation authorized to operate a street or suburban railway or an interurban railway and to carry passengers for hire.

(b) Subject to the approval of the governing body of the municipality in which the corporation operates its railway, the corporation may:

- (1) substitute, wholly or partly, motor bus lines for its railway; and
- (2) maintain and operate automobile motor buses to carry passengers for hire on:
 - (A) public roads, streets, plazas, alleys, and highways within the corporate limits of a municipality under regulations prescribed by the municipality; and
 - (B) public roads and highways that are located outside the corporate limits of that municipality but within five miles of the corporate limits, under regulations prescribed by the commissioners court of the county.

(c) The substitution of motor buses or the discontinuance of a railway under this section does not impair any corporate power of a corporation incorporated before August 30, 1933, as a street or interurban railway with respect to the operation of other public

utilities authorized by a corporate charter or statute in effect on August 30, 1933.

(d) A corporation acting under this section must amend its charter and pay any fee provided by law for the filing of the amendment.

(e) This section may not be construed to impair the rights of a municipality under a franchise granted to a corporation or its predecessor before August 30, 1933.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.03, eff. April 1, 2011.

SUBTITLE I. SPECIAL DISTRICTS
CHAPTER 171. FREIGHT RAIL DISTRICTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 171.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Bonds" has the meaning assigned by Section 172.001.

(3) "District" means a freight rail district created under this chapter.

(4) "Rail facilities" has the meaning assigned by Section 172.001, except that the term includes property and interests necessary or convenient for the provision of a nonrural rail transportation system.

(5) "Revenue" has the meaning assigned by Section 172.001.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.03, eff. April 1, 2011.

Sec. 171.002. APPLICABILITY OF RURAL RAIL TRANSPORTATION DISTRICTS LAW. (a) Except as provided by this chapter, the provisions of Chapter 172 other than Section 172.003 apply to a district as if the district were created under that chapter.

(b) For purposes of applying Chapter 172 to a district created under this chapter, a reference to "rail facilities" in Chapter 172 means "rail facilities" as defined by Section 171.001.

(c) For purposes of applying Chapter 172 to a district created under this chapter, a reference in Chapter 172 to "eligible county" means a county that created the district.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.04, eff. April 1, 2011.

SUBCHAPTER B. CREATION; ADDITION OF COUNTY TO DISTRICT

Sec. 171.051. APPLICABILITY TO CERTAIN COUNTIES. A district may be created only in a county with a population of 3.3 million or more and counties adjacent to such a county.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.052. CREATION BY COUNTIES AND MUNICIPALITIES. (a) The governing body of one or more counties and the most populous municipality in the most populous county may by concurrent order or ordinance create a district. At the time of creation, a district must include:

- (1) a county with a population of 3.3 million or more; and
- (2) that municipality.

(b) The order or ordinance creating the district:

(1) must specify:

(A) the number of district directors and who appoints the directors; and

(B) the method of selecting the board's presiding officer; and

(2) may specify terms and conditions that are not expressly inconsistent with this chapter.

(c) If the most populous county in the district contains a countywide navigation district and the presiding officer of the navigation district is jointly appointed by that county and the most populous municipality in that county, the order or ordinance creating the district must specify that:

- (1) the presiding officer of the navigation district is a

director of the freight rail district; and

(2) at least one director must be jointly appointed by the mayors of the municipalities in the district, except for the mayor of the most populous municipality in the most populous county.

(d) The common law doctrine of incompatibility does not apply to a director serving under Subsection (c)(1) with regard to the director's service for the freight rail district or for the navigation district.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.053. INTERMUNICIPAL COMMUTER RAIL DISTRICT POWERS. The governing bodies of the county or counties and of the most populous municipality in the most populous county may provide that the district may exercise the powers of an intermunicipal commuter rail district created under Chapter 173 or former Article 6550c-1, Revised Statutes, including the powers related to a commuter rail facility and other types of passenger rail services, including intercity rail services, by specifying in the concurrent order or ordinance creating the district that those powers may be exercised by the district.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 33 (H.B. 2433), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.05, eff. April 1, 2011.

Sec. 171.054. DISTRICT TERRITORY. The district consists of the territory of:

- (1) each county that created the district;
- (2) each county added to the district under Section 171.055; and
- (3) the territory of the most populous municipality in the most populous county if that municipality's territory is located in more than one county.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 449 (S.B. 1578), Sec. 2, eff. June 17, 2011.

Sec. 171.055. ADDITION OF COUNTY TO DISTRICT. (a) A county may be added to a district if:

(1) the county is adjacent to a county with a population of 3.3 million or more that created the district; or

(2) the county:

(A) is adjacent to a county that is added to the district under Subdivision (1); and

(B) contains a navigation district.

(b) The following governing bodies must by joint resolution approve the addition of the county to the district:

(1) the commissioners court of the county to be added to the district;

(2) the commissioners court of each county in the district; and

(3) the governing body of the most populous municipality in the most populous county in the district.

(c) The resolution must include the number of directors the new county will have on the board.

(d) On adoption of the resolution by each commissioners court and the governing body of the municipality, the county is added to the district.

Added by Acts 2011, 82nd Leg., R.S., Ch. 449 (S.B. 1578), Sec. 3, eff. June 17, 2011.

SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 171.101. COMPOSITION OF BOARD; PRESIDING OFFICER. (a) The board consists of directors, including a presiding officer, as provided in the order or ordinance creating the district under Section 171.052(b).

(b) The board shall add directors for each county added to the district as provided in the joint resolution adding the county under

Section 171.055.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 449 (S.B. 1578), Sec. 4, eff. June 17, 2011.

Sec. 171.102. EX OFFICIO NONVOTING DIRECTOR; TEXAS TRANSPORTATION COMMISSION. The Texas Transportation Commission may appoint to the board a representative to serve as a nonvoting ex officio director.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.103. CONFLICT OF INTEREST. Chapter 171, Local Government Code, governs conflicts of interest for directors.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 171.151. REGIONAL MOBILITY AUTHORITY POWERS. A district may exercise the transportation project powers of a regional mobility authority under Chapter 370 for a transportation project that is a freight rail facility.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.152. GENERAL CONTRACT POWERS. A district may contract with any person, including:

- (1) a county or municipality, including a county or municipality that is a member of the district;
- (2) this state or any political subdivision of this state;
- (3) the United States; or

(4) a railroad.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 449 (S.B. 1578), Sec. 5, eff. June 17, 2011.

Sec. 171.153. EXERCISE OF POWERS IN OTHER COUNTIES. The commissioners court of a county that is not in the district may authorize the district to exercise its powers in that county if that county is adjacent to a county that is in the district.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.154. INTERMUNICIPAL COMMUTER RAIL POWERS. (a) The district may exercise the powers of an intermunicipal commuter rail district created under Chapter 173 or former Article 6550c-1, Revised Statutes, only if the concurrent order or ordinance creating the district specifies that the district may exercise those powers. The order or ordinance may not grant the district the power to impose a tax.

(b) In the event of a conflict between this chapter and a power granted by Chapter 173, this chapter controls. In the event of a conflict between Chapter 173 and Chapter 172, Chapter 172 controls over Chapter 173.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.06, eff. April 1, 2011.

Sec. 171.155. MUNICIPAL LIMIT ON DISTRICT'S POWER OF EMINENT DOMAIN. If the property to be condemned is located in the corporate limits of one or more municipalities, the district may exercise the power of eminent domain to condemn the property only if each

municipality in which the property is located consents to the exercise of that power.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

SUBCHAPTER E. RELATIONSHIP BETWEEN DISTRICT AND AFFECTED RAILROADS

Sec. 171.201. AGREEMENT WITH RAILROAD. (a) Before a district may undertake a freight or commuter rail project that materially affects the tracks, facilities, or other property of a railroad that owns track in the district, the district and railroad must enter into a written agreement regarding the scope, operational impact, financing, and other elements of the project. The district may not undertake the project unless the district and the railroad agree on these terms.

(b) The agreement may include provisions for the railroad's financial participation in the project according to the benefits the railroad derives from the project.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.202. PRESERVATION OF REGULATORY STRUCTURE AND OWNERSHIP RIGHTS. A district project may be conducted only in a manner that preserves the existing rail industry regulatory structure and railroad ownership rights.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.203. COMPETITIVE RELATIONSHIPS. The district may not undertake a project that changes the existing competitive relationships between and among railroads.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.204. SERVICE TO CUSTOMERS. The district may not undertake a project that negatively affects a railroad's present or future ability to provide consistent service to its customers.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.205. USE OF DISTRICT RAIL FACILITIES. This chapter does not prohibit the district from authorizing multiple freight railroads to operate on district rail facilities.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.206. LIMITATION ON EMINENT DOMAIN. The power of eminent domain may not be exercised under this chapter to condemn a right-of-way owned by a railroad.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.207. EXCEPTION; GRADE SEPARATION PROJECTS. This subchapter does not apply to a rail-roadway or rail-rail grade separation project.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

SUBCHAPTER F. FINANCIAL PROVISIONS

Sec. 171.251. PLEDGE OF REVENUE. A district may secure and pledge revenue derived from any source to secure the payment of district bonds.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.07, eff.

April 1, 2011.

Sec. 171.252. PURCHASE CONTRACTS. Subchapter O, Chapter 60, Water Code, as added by Chapter 307, Acts of the 78th Legislature, Regular Session, 2003, applies to the district as if the district were a navigation district under that subchapter. For the purposes of applying that subchapter to the district under this section, "commission" means the board.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.253. AD VALOREM AND SALES AND USE TAXES PROHIBITED. A district may not impose an ad valorem tax or a sales and use tax.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.254. FEES CHARGED TO RAILROADS. (a) A district may not impose a fee or other charge on a railroad unless the railroad agrees to the fee or other charge.

(b) This section does not prohibit a railroad from voluntarily contributing to the cost of rail facilities or prohibit the district from charging for the use of a rail facility by a railroad or other person.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.255. PORT TERMINAL RAILROAD ASSOCIATION RAIL FACILITIES. The district may not spend money, including money from state or federal grants, to purchase a rail facility operated by a port terminal railroad.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Sec. 171.256. LOCAL GOVERNMENT FINANCING. (a) Section 173.256(d), relating to the limit on payments made by a local government, does not apply to a district to which Section 171.053 applies.

(b) A district to which Section 171.053 applies may use money paid to the district by a local government outside the territory of the local government if the money is used for a public purpose of the local government.

(c) A district to which Section 171.053 applies may pledge money paid to the district by a local government to secure the payment of a district debt.

Added by Acts 2009, 81st Leg., R.S., Ch. 33 (H.B. 2433), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.002, eff. September 1, 2011.

SUBCHAPTER G. WITHDRAWAL; DISSOLUTION

Sec. 171.301. WITHDRAWAL. (a) A county or municipality that is a member of the district may petition the board for approval to withdraw from the district. The board may approve the petition only if:

(1) the district has no outstanding bonds; or

(2) the district has debt other than bonds and the board finds that the withdrawal of the county or municipality will not materially affect the ability of the district to repay the debt.

(b) If the board approves the petition, the county or municipality that withdrew from the district is not entitled to appoint directors to the board. The remaining counties or municipality by concurrent order or ordinance shall allocate among themselves the authority of the withdrawing county or municipality to appoint directors to the board.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 449 (S.B. 1578), Sec. 6, eff. June 17, 2011.

Sec. 171.302. DISSOLUTION. In addition to the dissolution procedures provided by Chapter 172, the board may dissolve a district if:

- (1) all district liabilities have been paid or adequate provision has been made for the payment of all liabilities;
- (2) the district is not a party to any lawsuits or adequate provision has been made for the satisfaction of any judgment or order that may be entered against the district in a lawsuit to which the district is a party; and
- (3) the district has commitments from other governmental entities to assume jurisdiction of all district rail facilities.

Added by Acts 2005, 79th Leg., Ch. 756 (H.B. 2958), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.08, eff. April 1, 2011.

CHAPTER 172. RURAL RAIL TRANSPORTATION DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 172.001. DEFINITIONS. In this chapter:

- (1) "Board" means a district's board of directors.
- (2) "Bonds" means:
 - (A) bonds;
 - (B) notes, including bond anticipation notes, revenue anticipation notes, and grant anticipation notes;
 - (C) warrants;
 - (D) certificates of obligation;
 - (E) interest-bearing contracts;
 - (F) interest-bearing leases of property;
 - (G) equipment trust certificates;
 - (H) commercial paper; and
 - (I) any obligation issued to refund any type of bond.
- (3) "Director" means a board member.
- (4) "District" means a rural rail transportation district created under this chapter or under Chapter 623, Acts of the 67th Legislature, Regular Session, 1981 (Article 6550c, Vernon's Texas Civil Statutes), as that chapter existed before April 1, 2011.
- (5) "Maintenance facility" includes a workshop, a service,

storage, security, or personnel facility, temporary or transient lodging for district employees, and equipment for any type of facility.

(6) "Maintenance and operating expenses" means all expenses of operating and maintaining a district and its rail facilities, including:

(A) all compensation, labor, materials, repairs, and extensions necessary, required, or convenient in the board's discretion to render efficient service or to maintain and operate the district; and

(B) taxes or other amounts paid, payable, or to be paid to the United States under Section 148(f), Internal Revenue Code of 1986, or any similar law.

(7) "Rail facilities" means:

(A) property, or an interest in that property, that the board determines is necessary or convenient to provide a rural rail transportation system; and

(B) property or an interest necessary or convenient to acquire, provide, construct, enlarge, remodel, renovate, improve, furnish, use, or equip the system, including:

(i) a right-of-way;

(ii) an earthwork or structure, including clearing and grubbing of right-of-way, demolition of a structure, relocation of utilities, a pipeline, or any other obstacle in a right-of-way, stripping and stockpiling, removal of subsoil for embankment or spoil, a borrow pit, dressing and seeding of a slope, construction of a culvert, a road crossing, a bridge, restoration of a roadway, drainage within a right-of-way or along a road network, and restoration of a hydrologic system;

(iii) trackwork;

(iv) a train control, including signalling, interlocking equipment, speed monitoring equipment, an emergency braking system, a central traffic control facility, and a communication system;

(v) a passenger or freight service building, terminal, or station, a ticketing facility, a waiting area, a platform, a concession, an elevator, an escalator, a facility for handicapped access, an access road, a parking facility for passengers, a baggage handling facility, a local maintenance facility, and offices for district purposes and includes an interest

in real property necessary or convenient for an item listed under this subparagraph;

- (vi) rolling stock; and
- (vii) a maintenance facility.

(8) "Revenue" means the income, receipts, and collections received by, to be received by, or pledged to the district from or by any source, except a restricted gift or a grant in aid of construction.

(9) "Right-of-way" means:

- (A) a right of passage over property;
- (B) a strip of land in length and width determined required, necessary, or convenient by the board over, on, or under which trackwork is or is to be constructed or acquired; or
- (C) a right of precedential passing.

(10) "Rolling stock" means a locomotive, an engine, a rail car, a repair construction car, or another car designed to operate on trackwork.

(11) "Trackwork" means track, a track bed, track bed preparation, a tie, a rail fastener, a slab, a rail, an emergency crossover, a setout track, storage track, and a switch.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.002. NATURE OF DISTRICT. (a) A district is a public body and a political subdivision of this state exercising public and essential governmental functions.

(b) A district, in the exercise of powers under this chapter, is performing only governmental functions and is a governmental unit under Chapter 101, Civil Practice and Remedies Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.003. FINDINGS. The legislature finds that:

- (1) the state contains many rural areas that are heavily dependent on agriculture for economic survival;
- (2) transportation of agricultural and industrial products is essential to the continued economic vitality of rural areas;

(3) the rail transportation systems in some rural areas are threatened by railroad bankruptcies and abandonment proceedings that would cause the cessation of rail services to the areas;

(4) it is in the interest of all citizens of the state that existing rail systems be maintained for the most efficient and economical movement of essential agricultural products from the areas of production to the local, national, and export markets;

(5) rural rail transportation districts are appropriate political subdivisions to provide for the continued operation of railroads, which are declared by Section 2, Article X, Texas Constitution, to be public highways;

(6) the creation, re-creation, financing, maintenance, and operation of rural rail transportation districts and facilities acquired by the districts under this chapter will help develop, maintain, and diversify the economy of the state, eliminate unemployment or underemployment, foster the growth of enterprises based on agriculture, and serve to develop and expand transportation and commerce within the state under the authority granted by Section 52-a, Article III, Texas Constitution; and

(7) financing by rural rail transportation districts for the purposes provided by this chapter is a lawful and valid public purpose.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER B. CREATION

Sec. 172.051. **APPLICABILITY.** A county is eligible to create a district as provided by this chapter only if a rail line is located in the county that:

(1) is being or has been abandoned through a bankruptcy court or Surface Transportation Board proceeding; or

(2) carries three million gross tons per mile per year or less.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.052. **CREATION OF DISTRICT BY MORE THAN ONE COUNTY.**

(a) The commissioners courts of two or more counties that are a contiguous area may by concurrent order:

- (1) create a district; or
- (2) provide for the re-creation of a district by the

addition of one or more counties.

(b) The district consists of the territory of each county whose commissioners court adopts the concurrent order.

(c) Each concurrent order must:

- (1) contain identical provisions for creation or re-creation;
- (2) be adopted at the time of the creation or re-creation;
- (3) declare the boundaries of the district as the boundaries of the counties included;
- (4) designate the district's name; and
- (5) designate the number of directors, which may not be less than four, and the manner of the directors' appointment by a commissioners court.

(d) The commissioners court of each county included in a district by order may provide for the district's dissolution if each commissioners court determines that the dissolution will not impair an obligation of any contract of the district. The dissolution order is effective only on the creation or re-creation of another district in which each county included in the dissolving district is included.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.053. CREATION OF DISTRICT BY ONE COUNTY. (a) The commissioners court of a county may by order create a district in that county to develop, finance, maintain, and operate a new rail system under this chapter and for other purposes of this chapter.

(b) The boundaries of a district created under this section are the boundaries of the county in which the district is created.

(c) At the time the district is created, the commissioners court shall:

- (1) designate the district's name; and
- (2) appoint at least four residents of the county to serve as directors.

(d) The commissioners court of the county by order may provide

for the district's dissolution if the commissioners court determines that the dissolution will not impair an obligation of any contract of the district. The dissolution order is effective only on the creation of another district in which the county is included.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.054. NOTICE OF CREATION. (a) The board of each newly created district shall provide notice to the Texas Transportation Institute of the district's creation.

(b) On being notified by the board, the Texas Transportation Institute shall make available to the board a guide to the services and information that the institute provides.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.055. AUTOMATIC ASSUMPTION OF CONTRACTUAL OBLIGATIONS AFTER CREATION BY CERTAIN DISTRICTS. A district created or re-created under Section 172.052 automatically assumes any obligation of a contract executed by the district or a predecessor district that is in force on the date of the creation or re-creation unless the contract expressly expires on the date of dissolution or re-creation of the district that executed the contract.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

Sec. 172.101. CONTROL OF DISTRICT. (a) The board is responsible for the management, operation, and control of the district.

(b) The right to control and regulate district affairs is vested exclusively in the board except as specifically otherwise provided by this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04,

eff. April 1, 2011.

Sec. 172.102. TERMS. (a) A director serves a two-year term.

(b) An initial director serves a term ending on the second anniversary of the date:

(1) the latest concurrent order creating or re-creating the district under Section 172.052 was adopted; or

(2) an order creating the district under Section 172.053 was adopted.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.103. QUALIFICATIONS FOR OFFICE. (a) To be eligible for appointment as a director, a person must be a resident of the county governed by the commissioners court that appoints the person.

(b) An elected officer of this state or a political subdivision of this state who is not prohibited by the Texas Constitution from serving on the board is eligible to serve on the board.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.104. VACANCY. The commissioners court that appointed a director who vacates the position shall appoint a director for the unexpired term.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.105. REMOVAL. (a) The commissioners court that appointed a director may remove the director from office for neglect of duty or malfeasance in office after:

(1) at least 10 days' written notice to the director; and

(2) a hearing before the commissioners court.

(b) At the hearing on the question of removal of a director, the director is entitled to be heard in person or through counsel.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.106. OFFICERS. The board shall select a president, vice president, treasurer, and secretary. The secretary is not required to be a director.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.107. MEETINGS; NOTICE. (a) The board shall hold at least one regular meeting each month to conduct district business.

(b) The president may call a special board meeting.

(c) Chapter 551, Government Code, applies to board meetings, except that notice of a board meeting shall be posted at the administrative office of the district and at the courthouse in the county in which that office is located.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.108. RULES FOR PROCEEDINGS. The board shall adopt rules for its proceedings.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.109. EMPLOYEES. The board may employ and compensate persons to carry out the powers and duties of the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.110. PECUNIARY INTEREST IN CERTAIN CONTRACTS PROHIBITED. A district employee may not have a direct or indirect pecuniary interest in any contract or agreement to which the district

is a party.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER D. GENERAL POWERS AND DUTIES

Sec. 172.151. GENERAL POWERS OF DISTRICT; GOVERNMENTAL FUNCTIONS. (a) A district has all powers necessary or convenient to carry out the purposes of this chapter.

(b) A district may generally perform all acts necessary for the full exercise of the district's powers.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.152. RULES. To protect the state's health, safety, and general welfare, a district may adopt rules to govern the operation of the district, its employees, the rail facilities, service provided by the district, and any other necessary matter concerning its purposes, including rules regarding health, safety, alcohol or beverage service, food service, or telephone or utility service.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.153. AGREEMENTS GENERALLY. A district may make contracts, leases, and agreements with the United States, this state and its agencies and political subdivisions, public or private corporations, and any other person.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE. A district may:

- (1) enter into agreements with a public utility, private

utility, communication system, common carrier, or transportation system for the joint use of its facilities, installations, or property inside or outside the district; and

(2) establish:

(A) through routes;

(B) joint fares; and

(C) divisions of tariffs, subject to approval of a tariff-regulating body that has jurisdiction.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.155. JOINT OWNERSHIP AGREEMENTS. A district may enter into a joint ownership agreement with any person.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.156. AWARDED CONSTRUCTION OR PURCHASE CONTRACTS. (a) A contract in the amount of more than \$15,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, or any other property except real property may be awarded only through competitive bidding after notice is published in a newspaper of general circulation in the district at least 15 days before the date set for receiving bids.

(b) A board may adopt rules governing the taking of bids and the awarding of contracts.

(c) This section does not apply to:

(1) personal or professional services; or

(2) the acquisition of an existing rail transportation system.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.157. EMINENT DOMAIN. (a) A district may exercise the power of eminent domain to acquire:

(1) land in fee simple; or

(2) any interest less than fee simple in, on, under, or above land, including an easement, right-of-way, or right of use of airspace or subsurface space.

(b) A district may not exercise the power of eminent domain in a manner that would unduly interfere with interstate commerce.

(c) An eminent domain proceeding brought by a district is governed by Chapter 21, Property Code, except to the extent inconsistent with this chapter.

(d) An eminent domain proceeding is begun by the board's adoption of a resolution declaring that the district's acquisition of the property or interest described in the resolution:

(1) is a public necessity; and

(2) is necessary and proper for the construction, extension, improvement, or development of rail facilities and is in the public interest.

(e) The resolution is conclusive evidence of the public necessity of the proposed acquisition and that the real property or interest in property is necessary for public use.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.1571. RESTORATION OF CERTAIN EXPIRED EMINENT DOMAIN AUTHORITY. (a) This section applies only to a district:

(1) whose authority to exercise the power of eminent domain under Section 172.157 expired under Section 2206.101(c), Government Code; and

(2) that is located in a county adjacent to a county in which there is located a port authority that has the authority to issue a permit for the movement of oversize or overweight vehicles under Subchapter O or P, Chapter 623.

(b) Notwithstanding the expiration of the district's authority as described by Subsection (a), the district, on and after September 1, 2015, may exercise the power of eminent domain in accordance with Section 172.157.

Added by Acts 2015, 84th Leg., R.S., Ch. 381 (H.B. 1422), Sec. 1, eff. September 1, 2015.

Sec. 172.158. DISPOSITION OF SURPLUS PROPERTY. (a) A district may sell, lease, convey, or otherwise dispose of any right, interest, or property not needed for or, in the case of a lease, not inconsistent with the efficient operation and maintenance of the system.

(b) A district may, on adoption of an order by the board, sell, lease, or otherwise dispose of surplus property not needed for district requirements or to carry out district powers under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.159. SUITS. (a) A district may:

- (1) sue and be sued;
- (2) institute and prosecute suits without giving security for costs; and
- (3) appeal from a judgment without giving a supersedeas or cost bond.

(b) An action at law or in equity against the district must be brought in the county in which the principal office of the district is located, except that a suit in eminent domain must be brought in the county in which the land is located.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.160. PERPETUAL SUCCESSION. A district has perpetual succession.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

**SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION,
CONSTRUCTION, AND OPERATION OF RAIL FACILITIES**

Sec. 172.201. GENERAL AUTHORITY OVER RAIL FACILITIES. A district may plan, acquire, construct, complete, develop, own, operate, and maintain rail facilities inside or outside the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.202. USE AND ALTERATION OF PROPERTY OF ANOTHER POLITICAL SUBDIVISION. For a purpose described by Section 172.201, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of rail facilities, and subject to a grant previously secured or with the consent of a municipality, county, or other political subdivision, a district may:

(1) use streets, alleys, roads, highways, and other public ways of the political subdivision; and

(2) relocate, raise, reroute, change the grade of, or alter, at the district's expense, the construction of a publicly owned or privately owned street, alley, highway, road, railroad, electric line or facility, telegraph or telephone property or facility, pipeline or facility, conduit or facility, and other property.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.203. RULES GOVERNING SYSTEM; ROUTINGS. A district by resolution may adopt rules governing the use, operation, and maintenance of the system and shall determine all routings and change them when the board considers it advisable.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.204. ACQUISITION OF PROPERTY. (a) A district may purchase, whenever the district considers the purchase expedient, land, property rights, right-of-way, franchises, easements, and other interests in land the district considers necessary to acquire, construct, or operate a rail facility on terms and at a price to which the district and the owner agree.

(b) The district may take title to the land or interest in the district's name.

(c) The governing body of a municipality, a county, any other

political subdivision, or a public agency may convey without advertisement the title or the rights and easements to property needed by the district for its purposes in connection with the acquisition, construction, or operation of rail facilities.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.205. POWERS RELATING TO DISTRICT PROPERTY. A district may acquire by grant, purchase, gift, devise, lease, or otherwise and may hold, use, sell, lease, or dispose of property, including a license, a patent, a right, or an interest, necessary, convenient, or useful for the full exercise of its powers under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.206. ACQUISITION OF ROLLING STOCK AND OTHER PROPERTY. A district may acquire rolling stock or other property, under a conditional sales contract, lease, equipment trust certificate, or other form of contract or trust agreement.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.207. COMPENSATION FOR USE OF SYSTEM FACILITIES. (a) A district shall establish and maintain reasonable and nondiscriminatory rents or other compensation for the use of the facilities of the system acquired, constructed, operated, regulated, or maintained by the district.

(b) Together with grants received by the district, the rents or other compensation must be sufficient to produce revenue adequate to:

(1) pay all expenses necessary for the operation and maintenance of the district's property and facilities;

(2) pay the principal of and interest on all bonds issued by the district payable wholly or partly from the revenue, as they become due and payable; and

(3) fulfill the terms of agreements made with the holders

of bonds or with any person on their behalf.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.208. OPERATION OR USE CONTRACTS. (a) A district may:

(1) lease all or part of the rail facilities to any operator; or
(2) contract for the use or operation of all or part of the rail facilities by any operator.

(b) To the maximum extent practicable, the district shall encourage the participation of private enterprise in the operation of rail facilities.

(c) The term of an operating contract under this section may not exceed 20 years. In this subsection, "operating contract" means a professional services contract executed by a district and another person under which the person agrees to provide all or part of the:

(1) rolling stock required for operation as a common carrier over all or a part of the rail facilities of the district; and

(2) personnel required for the operation of the rolling stock owned or leased by the district or for the operation of the rail facilities of the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH OTHER POLITICAL SUBDIVISIONS. A district may contract with a county or other political subdivision of this state for the district to provide rail transportation services to an area outside the district on terms to which the parties agree.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.210. ABANDONMENT OF RAIL LINE. (a) A district may not abandon a district rail line for which state money has been

loaned or granted unless the abandonment is approved by the commission as being consistent with the policies of this chapter.

(b) The commission by rule shall adopt procedures for applying for and obtaining approval for abandonment under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER F. FINANCIAL PROVISIONS

Sec. 172.251. FISCAL YEAR. (a) Unless the board changes the fiscal year, the district's fiscal year ends on September 30.

(b) The board may not change the fiscal year more than once in a three-year period.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.252. ANNUAL BUDGET. (a) Before beginning the operation of rail facilities, the board shall adopt an annual operating budget specifying the district's anticipated revenue and expenses for the remainder of the fiscal year. The district shall adopt an operating budget for each succeeding fiscal year.

(b) The board must hold a public hearing before adopting each budget except the initial budget. Notice of the hearing must be published at least seven days before the date of the hearing in a newspaper of general circulation in the district.

(c) A budget may be amended at any time if notice of the proposed amendment is given in the notice of meeting.

(d) An expenditure that is not budgeted may not be made.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.253. GRANTS AND LOANS. A district may accept a grant or loan from the United States, this state and its agencies and political subdivisions, public or private corporations, and any other person.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.254. DEPOSITORY. (a) The board by resolution shall name one or more banks for the deposit of district funds.

(b) District funds are public funds and may be invested in securities permitted by Chapter 2256, Government Code.

(c) To the extent district funds are not insured by the Federal Deposit Insurance Corporation or its successor, the funds shall be collateralized in the manner provided for county funds.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.255. APPLICABILITY OF PUBLIC PROPERTY FINANCING LAW; PROHIBITION ON AD VALOREM TAX. A district may use the procedures provided by Chapter 271, Local Government Code, to finance the district's rail facilities, except to the extent of a conflict with this chapter, and except that the district may not impose an ad valorem tax.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.256. NONNEGOTIABLE PURCHASE MONEY NOTES; BOND ANTICIPATION NOTES. (a) A district may:

(1) issue nonnegotiable purchase money notes, payable in installments and secured by the property being acquired or constructed, to acquire or construct rail facilities; or

(2) secure the obligation of the notes by a pledge or by issuing bonds, including bond anticipation notes.

(b) A district may covenant with the purchaser of bond anticipation notes that the proceeds of one or more particular series of bonds will be used for the ultimate payment of the purchase money notes or bond anticipation notes.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.257. TAX EXEMPTION. District property and revenue and the interest on bonds issued by the district are exempt from any tax imposed by this state or a political subdivision of this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER G. BONDS

Sec. 172.301. REVENUE BONDS. A district, by board resolution, may issue revenue bonds in amounts that the board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of its rail facilities.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.302. SECURITY FOR PAYMENT OF BONDS. (a) To secure payment of district bonds, the district may:

(1) encumber and pledge all or part of the revenue of its rail facilities; and

(2) encumber all or part of the property of the rail facilities and everything pertaining to them acquired or to be acquired.

(b) Unless prohibited by the resolution or indenture relating to outstanding bonds, a district may encumber separately any item of property.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.303. BONDS AS AUTHORIZED INVESTMENTS AND SECURITY FOR DEPOSITS OF PUBLIC FUNDS. (a) District bonds are legal and authorized investments for:

(1) a bank;

(2) a trust company;

- (3) a savings and loan association; and
- (4) an insurance company.

(b) The bonds are:

- (1) eligible to secure the deposit of public funds of this state or a municipality, a county, a school district, or any other political corporation or subdivision of this state; and
- (2) lawful and sufficient security for the deposit to the extent of the principal amount or market value of the bonds, whichever is less.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.304. APPLICABILITY OF PUBLIC IMPROVEMENT FINANCING LAW. For purposes of Chapter 1371, Government Code:

- (1) a district is an issuer; and
- (2) the acquisition, improvement, or repair of rail facilities by a district is an eligible project.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.305. LIMIT ON POWER. A revenue bond indenture may limit the exercise of the power granted by Section 172.002, 172.151, 172.152, 172.153, 172.154, 172.155, 172.157, 172.158, 172.159, 172.160, 172.201, 172.202, 172.203, 172.204, 172.205, 172.206, 172.207, 172.208, 172.209, 172.210, 172.251, 172.252, 172.253, 172.254, or 172.304. The limitation applies while any of the revenue bonds issued under the indenture are outstanding and unpaid.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 172.306. EXEMPTION FROM REVIEW OF NOTES BY ATTORNEY GENERAL. District notes authorized to be issued to an agency of the federal or state government, and related records, are not required to be submitted to the attorney general for examination under Chapter 1202, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

CHAPTER 173. INTERMUNICIPAL COMMUTER RAIL DISTRICTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 173.001. DEFINITION OF PERSON. In this chapter:

- (1) "person" includes a corporation, as provided by Section 312.011, Government Code; and
- (2) the definition of "person" assigned by Section 311.005, Government Code, does not apply.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.002. DEFINITIONS. In this chapter:

- (1) "Board" means a district's board of directors.
- (2) "Commuter rail facility" means any property necessary for the transportation of passengers and baggage between locations in a district. The term includes rolling stock, locomotives, stations, parking areas, and rail lines.
 - (2-a) "Commuter rail service" means the transportation of passengers and baggage by rail between locations in a district.
- (3) "Creating municipality" means a municipality described by Section 173.051(a).
- (4) "Director" means a board member.
- (5) "District" means an intermunicipal commuter rail district created under this chapter or under Article 6550c-1, Revised Statutes, as that article existed before April 1, 2011.
- (6) "District property" means property the district owns or leases under a long-term lease.
- (7) "System" means all of the commuter rail and intermodal facilities leased or owned by or operated on behalf of a district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1307 (H.B. 3030), Sec. 1, eff. September 1, 2011.

Sec. 173.003. LOCATION OF MUNICIPALITY IN COUNTY. For purposes of this chapter, a municipality is located in a county only if 90 percent or more of the population of the municipality resides in that county.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.004. NATURE OF DISTRICT. (a) A district is a public body and a political subdivision of this state exercising public and essential governmental functions.

(b) A district, in the exercise of powers under this chapter, is performing only governmental functions and is a governmental unit under Chapter 101, Civil Practice and Remedies Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.005. SUNSET PROVISION. A district is subject to review under Chapter 325, Government Code (Texas Sunset Act). A district shall be reviewed during the periods in which state agencies abolished in 2021 and every 12th year after that year are reviewed.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 938 (H.B. 3123), Sec. 1.03, eff. June 18, 2015.

SUBCHAPTER B. CREATION

Sec. 173.051. CREATION OF DISTRICT. (a) A district may be created to provide commuter rail service between two municipalities:

(1) each of which has a population of more than 450,000; and

(2) that are located not farther than 100 miles apart as determined by the department.

(b) The creating municipalities and the counties in which the creating municipalities are located may create a district on passage

of a resolution favoring creation by the governing body of each municipality or county.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.052. ADDITION OF POLITICAL SUBDIVISION OR OTHER PUBLIC ENTITY TO DISTRICT. The following political subdivisions and other public entities may become a part of a district with the approval of the governing body of the political subdivision or public entity:

(1) a county located adjacent to the county in which a creating municipality is located;

(2) a municipality with a population of more than 18,000 located in a county described by Subdivision (1); and

(3) a public entity located in a county that has become part of the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.003(a), eff. September 1, 2011.

SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

Sec. 173.101. CONTROL OF DISTRICT. A district is governed by a board of directors. The board is responsible for the management, operation, and control of the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.102. COMPOSITION OF BOARD; TERMS. (a) The board is composed of:

(1) two public directors appointed by the commission;

(2) one elected member of the governing body of each political subdivision that has become a part of the district under Subchapter B;

(3) one elected director appointed by the regional planning

organization of which a creating municipality is a part;

(4) one director appointed by each creating municipality to represent the business community of the municipality;

(5) one director appointed by each authority created under Chapter 451 that serves a creating municipality;

(6) one director appointed by each county in which a creating municipality is located to represent transportation providers that provide service to rural areas in the county;

(7) one member appointed by each public entity that has become a part of the district under Section 173.052; and

(8) one director appointed by all other directors to represent all municipalities in the district that do not otherwise have representation on the board who is an elected official of one of those municipalities.

(b) Each director serves a staggered two-year term, with as near as possible to half of the directors' terms expiring February 1 of each year. If one or more directors are added to the board, the directors other than the new directors shall determine the lengths of the new directors' terms so that one-half, or as near one-half as possible, of the directors serve terms expiring each year.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.004(a), eff. September 1, 2011.

Sec. 173.103. VACANCY. A vacancy on the board shall be filled in the same manner as the original appointment or election.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.104. PRESIDING OFFICER. (a) The directors shall elect one member as presiding officer.

(b) The presiding officer may select another director to preside in the absence of the presiding officer.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04,

eff. April 1, 2011.

Sec. 173.105. MEETINGS. The presiding officer shall call at least one meeting of the board each year and may hold other meetings as the presiding officer determines are appropriate.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.106. BOARD MEETINGS BY TELEPHONE OR VIDEOCONFERENCE.

(a) Chapter 551, Government Code, does not prohibit the board from holding an open or closed meeting by telephone conference call or videoconference.

(b) A meeting held by telephone conference call or videoconference need not have a quorum present at any one location.

(c) A telephone conference call or videoconference meeting is subject to the notice requirements applicable to other meetings.

(d) The notice of a telephone conference call or videoconference meeting must specify each location of the meeting where a director will participate and the physical location where the presiding officer of the board will preside. Each of those locations must be open to the public during the open portion of the meeting.

(e) Each part of a telephone conference call meeting that is required to be open to the public must be audible to the public at each meeting location specified in the notice of the meeting and shall be tape recorded. The district shall make the tape recording available to the public.

(f) Each part of a videoconference meeting that is required to be open to the public must:

(1) be visible and audible to the public at each meeting location specified in the notice of the meeting; and

(2) have two-way audio and video communications with each participant in the meeting during the entire meeting.

(g) Without regard to whether a director is participating in a meeting from a remote location by videoconference call, the board may allow a member of the public to testify at a meeting from a remote location by videoconference call. The board shall designate the location for public participation in the notice of the meeting.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.107. RULES FOR PROCEEDINGS. The board shall adopt rules for its proceedings.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.108. COMPENSATION; REIMBURSEMENT. A director is not entitled to compensation for serving as a director but is entitled to reimbursement for reasonable expenses incurred while serving as a director.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.109. EMPLOYEES. The board may employ and compensate persons to carry out the powers and duties of the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.110. EXECUTIVE COMMITTEE. The board shall appoint an executive committee.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.111. RETIREMENT BENEFITS. A district is eligible to participate in the Texas County and District Retirement System.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER D. GENERAL POWERS AND DUTIES

Sec. 173.151. GENERAL POWERS OF DISTRICT. (a) A district has all the powers necessary or convenient to carry out the purposes of this chapter.

(b) A district may generally perform all acts necessary for the full exercise of the district's powers.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.152. RULES. To protect district residents' health, safety, and general welfare, a district may adopt rules to govern the operation of the district, its employees, the system, service provided by the district, and any other necessary matter concerning its purposes, including rules regarding health, safety, alcohol or beverage service, food service, or telephone or utility service.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.153. AGREEMENTS GENERALLY. A district may make contracts, leases, and agreements with the United States, this state and its agencies and political subdivisions, public or private corporations, and any other person.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE. A district may:

(1) make agreements with a public utility, private utility, communication system, common carrier, state agency, or transportation system for the joint use of facilities, installations, or property inside or outside the district; and

(2) establish:

(A) through routes;

(B) joint fares; and

(C) divisions of tariffs, subject to approval of a

tariff-regulating body that has jurisdiction.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.155. JOINT OWNERSHIP AGREEMENTS. A district may make a joint ownership agreement with any person.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.156. EXCLUSIVE DEVELOPMENT AGREEMENTS. (a) A board may enter into an exclusive development agreement with a private entity.

(b) The exclusive development agreement:

(1) at a minimum must provide for the design and construction of a commuter rail facility or system; and

(2) may provide for the financing, acquisition, maintenance, or operation of a commuter rail facility or system.

(c) The board may adopt rules governing an agreement under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.157. INTERLOCAL AGREEMENTS WITH COMMISSION. The commission may enter into an interlocal agreement with a district under which the district may exercise a power or duty of the commission for the development and efficient operation of intermodal corridors in the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.158. AWARDED CONSTRUCTION OR PURCHASE CONTRACTS. (a) A contract in the amount of more than \$15,000 for the construction of improvements or the purchase of material, machinery, equipment,

supplies, or any other property except real property may be awarded only through competitive bidding after notice is published in a newspaper of general circulation in the district at least 15 days before the date set for receiving bids.

(b) A board may adopt rules governing the taking of bids and the awarding of contracts.

(c) This section does not apply to:

- (1) personal or professional services;
- (2) the acquisition of an existing rail transportation system;
- (3) a contract with a common carrier to construct lines and to operate commuter rail service on lines wholly or partly owned by the carrier; or
- (4) an agreement with a private entity under Section 173.156.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.159. EMINENT DOMAIN. (a) A district may exercise the power of eminent domain to acquire:

- (1) land in fee simple; or
- (2) any interest less than fee simple in, on, under, or above land, including an easement, right-of-way, or right of use of airspace or subsurface space.

(b) The power of eminent domain under this section does not apply to:

- (1) land under the jurisdiction of the department or a metropolitan transit authority; or
- (2) a rail line owned by a common carrier or municipality.

(c) To the extent possible, the district shall use existing rail or intermodal transportation corridors for the alignment of its system.

(d) An eminent domain proceeding is begun by the board's adoption of a resolution declaring that the district's acquisition of the property or interest described in the resolution:

- (1) is a public necessity; and
- (2) is necessary and proper for the construction, extension, improvement, or development of commuter rail facilities

and is in the public interest.

(e) The resolution is conclusive evidence of the public necessity of the proposed acquisition and that the real property or interest in property is necessary for public use.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.160. SUITS. (a) A district may:

- (1) sue and be sued;
- (2) institute and prosecute suits without giving security for costs; and
- (3) appeal from a judgment without giving a supersedeas or cost bond.

(b) An action at law or in equity against the district must be brought in the county in which a principal office of the district is located, except that a suit in eminent domain must be brought in the county in which the land is located.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.161. CHANGING NAME OF DISTRICT. The board shall adopt a name for the district and may by resolution change the name of the district.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.004(b), eff. September 1, 2011.

**SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION,
CONSTRUCTION, AND OPERATION OF COMMUTER RAIL FACILITIES**

Sec. 173.201. GENERAL AUTHORITY OVER COMMUTER RAIL FACILITIES. A district may acquire, construct, develop, own, operate, and maintain intermodal and commuter rail facilities, or intercity or other types of passenger rail services, inside, or connect political subdivisions in, the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04,

eff. April 1, 2011.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.005(a),
eff. September 1, 2011.

Sec. 173.202. POWERS RELATING TO DISTRICT PROPERTY. A district may acquire by grant, purchase, gift, devise, lease, or otherwise and may hold, use, sell, lease, or dispose of property, including a license, a patent, a right, or an interest, necessary, convenient, or useful for the full exercise of its powers under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04,
eff. April 1, 2011.

Sec. 173.203. USE AND ALTERATION OF PROPERTY OF ANOTHER POLITICAL SUBDIVISION. (a) For a purpose described by Section 173.201, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system, and with the consent of a municipality, county, or other political subdivision, a district may:

(1) use streets, alleys, roads, highways, and other public ways of the political subdivision; and

(2) relocate, raise, reroute, change the grade of, or alter, at the district's expense, the construction of a publicly owned or privately owned street, alley, highway, road, railroad, electric line or facility, telegraph or telephone property or facility, pipeline or facility, conduit or facility, and other property.

(b) A district may not use or alter:

(1) a road or highway in the state highway system without the permission of the commission; or

(2) a railroad without permission of the railroad.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04,
eff. April 1, 2011.

Sec. 173.204. RULES GOVERNING SYSTEM AND ROUTINGS. A district by resolution may adopt rules governing the use, operation, and

maintenance of the system and shall determine all routings and change them when the board considers it advisable.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.205. ACQUISITION OF PROPERTY. (a) A district may purchase any interest in real property to acquire, construct, or operate a commuter rail facility on terms and at a price to which the district and the owner agree.

(b) The governing body of a municipality, a county, any other political subdivision, or a public agency may convey the title or the rights and easements to property needed by the district for its purposes in connection with the acquisition, construction, or operation of the system.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.206. ACQUISITION OF ROLLING STOCK AND OTHER PROPERTY. A district may acquire rolling stock or other property under a conditional sales contract, lease, equipment trust certificate, or other form of contract or trust agreement.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.207. COMPENSATION FOR USE OF SYSTEM FACILITIES. (a) A district shall establish and maintain reasonable and nondiscriminatory rates or other compensation for the use of the facilities of the system acquired, constructed, operated, regulated, or maintained by the district.

(b) Together with grants received by the district, the rates or other compensation must be sufficient to produce revenue adequate to:

(1) pay all expenses necessary for the operation and maintenance of the district's property and facilities;

(2) pay the principal of and interest on all bonds issued by the district under this chapter payable wholly or partly from the

revenue, as they become due and payable; and

(3) fulfill the terms of agreements made with the holders of bonds or with any person on their behalf.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.208. OPERATION OR USE CONTRACTS. (a) A district may:

(1) lease all or part of the commuter rail facilities to any operator; or

(2) contract for the use or operation of all or part of the commuter rail facilities by any operator.

(b) To the maximum extent practicable, the district shall encourage the participation of private enterprise in the operation of commuter rail facilities.

(c) The term of an operating contract under this section may not exceed 20 years.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH OTHER POLITICAL SUBDIVISIONS. A district may contract with a county or other political subdivision of this state for the district to provide commuter rail transportation services to an area outside the district on terms to which the parties agree.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER F. FINANCIAL PROVISIONS

Sec. 173.251. FISCAL YEAR. Unless the board changes the fiscal year, the district's fiscal year ends on September 30.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.252. ANNUAL BUDGET. (a) Before beginning the operation of commuter rail facilities, the board shall adopt an annual operating budget specifying the district's anticipated revenue and expenses for the remainder of the fiscal year. The district shall adopt an operating budget for each succeeding fiscal year.

(b) The board must hold a public hearing before adopting each budget except the initial budget. Notice of the hearing must be published at least seven days before the date of the hearing in a newspaper of general circulation in the district.

(c) A budget may be amended at any time if notice of the proposed amendment is given in the notice of meeting.

(d) An expenditure that is not budgeted may not be made.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.253. GRANTS AND LOANS. A district may accept grants and loans from the United States, this state and its agencies and political subdivisions, public or private corporations, and other persons.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.254. DEPOSITORY. (a) The board by resolution shall name one or more banks for the deposit of district funds.

(b) District funds are public funds and may be invested in securities permitted by Chapter 2256, Government Code.

(c) To the extent district funds are not insured by the Federal Deposit Insurance Corporation or its successor, the funds shall be collateralized in the manner provided for county funds.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.255. PURCHASE OF ADDITIONAL INSURED PROVISIONS. A district may purchase an additional insured provision to any liability insurance contract.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.256. FINANCING OF CERTAIN TRANSPORTATION INFRASTRUCTURE. (a) This section applies only to a local government, other than a school district, that is a member of a district and that is authorized to impose ad valorem taxes on real property.

(b) A district may enter into an interlocal contract with one or more local government members for the financing of transportation infrastructure that is constructed or that is to be constructed in the territory of the local governments by the district.

(c) The agreement must include:

- (1) the duration of the agreement;
- (2) a description of each transportation infrastructure project or proposed project;
- (3) a map showing the location of each project; and
- (4) an estimate of the cost of each project.

(d) The agreement may establish one or more transportation infrastructure zones. The district and the local government may agree that, at one or more specified times, the local government will pay to the district an amount that is calculated on the basis of increased ad valorem tax collections in a zone that are attributable to increased values of property located in the zone resulting from an infrastructure project. Except as provided by Subsection (d-1), the amount may not exceed an amount that is equal to 30 percent of the increase in ad valorem tax collections for the specified period.

(d-1) A transportation infrastructure zone of a district established before January 1, 2005, may consist of a contiguous or noncontiguous geographic area in the territory of one or more local governments and must include a commuter rail facility or the site of a proposed commuter rail facility. The amount paid by a local government under Subsection (d) to a district established before January 1, 2005, may not exceed an amount that is equal to the increase in ad valorem tax collections in the zone for the specified period.

(e) Money received by the district under this section may be used:

- (1) to provide a local match for the acquisition of right-

of-way in the territory of the local government; or

(2) for design, construction, operation, or maintenance of transportation facilities in the territory of the local government.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1307 (H.B. 3030), Sec. 2, eff. September 1, 2011.

Sec. 173.257. TAX EXEMPTION. District property, material purchases, revenue, and income and the interest on bonds and notes issued by the district are exempt from any tax imposed by this state or a political subdivision of this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER G. BONDS

Sec. 173.301. REVENUE BONDS. A district may issue revenue bonds and notes in amounts that the board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of its commuter rail facilities.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.302. SECURITY FOR PAYMENT OF BONDS. (a) To secure payment of district bonds or notes, the district may:

(1) encumber and pledge all or part of the revenue of its commuter rail facilities; and

(2) encumber all or part of the property of the commuter rail facilities and everything pertaining to them acquired or to be acquired.

(b) Unless prohibited by the resolution or indenture relating to outstanding bonds or notes, a district may encumber separately any item of property.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.303. BONDS AS AUTHORIZED INVESTMENTS AND SECURITY FOR DEPOSITS OF PUBLIC FUNDS. (a) District bonds and notes are legal and authorized investments for:

- (1) a bank;
- (2) a trust company;
- (3) a savings and loan association; and
- (4) an insurance company.

(b) The bonds and notes are:

(1) eligible to secure the deposit of public funds of this state or a municipality, a county, a school district, or any other political corporation or subdivision of this state; and

(2) lawful and sufficient security for the deposit to the extent of the principal amount or market value of the bonds or notes, whichever is less.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.304. LIMIT ON POWER. (a) A revenue bond indenture may limit the exercise of a power granted by Section 173.004, 173.005, 173.111, 173.151, 173.152, 173.153, 173.154, 173.155, 173.157, 173.159, 173.160, 173.201, 173.202, 173.203, 173.204, 173.205, 173.206, 173.207, 173.208, 173.209, 173.251, 173.252, 173.253, 173.254, or 173.255.

(b) The limitation applies while any of the revenue bonds issued under the indenture are outstanding and unpaid.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.305. TAX INCREMENT FUND FOR TRANSPORTATION INFRASTRUCTURE ZONE IN CERTAIN DISTRICTS. A district established before January 1, 2005, that creates a transportation infrastructure zone shall establish a tax increment fund. In addition to the amount of tax increment deposited to the tax increment fund, all revenue

from the sale of tax increment bonds or notes under Section 173.306, revenue from the sale of any property acquired as part of a plan adopted to use tax increment financing, and other revenue to be used in implementing the plan shall be deposited in the tax increment fund for the zone.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1307 (H.B. 3030), Sec. 3, eff. September 1, 2011.

Sec. 173.306. TAX INCREMENT BONDS AND NOTES ISSUED BY LOCAL GOVERNMENT MEMBER IN CERTAIN DISTRICTS. (a) This section applies only to a district created before January 1, 2005.

(b) A local government member of a district creating a transportation infrastructure zone may issue tax increment bonds or notes, including refunding bonds, secured by revenue in the local government's tax increment fund. Proceeds of bonds issued under this section may be used to:

(1) pay project costs for the zone on behalf of which the bonds or notes were issued; or

(2) satisfy claims of holders of the bonds or notes.

(c) Tax increment bonds and notes are payable, as to both principal and interest, solely from the tax increment fund established for the transportation infrastructure zone. The local government may pledge irrevocably all or part of the fund for payment of tax increment bonds or notes. The part of the fund pledged in payment may be used only for the payment of the bonds or notes or interest on the bonds or notes until the bonds or notes have been fully paid. A holder of the bonds or notes or of coupons issued on the bonds has a lien against the fund for payment of the bonds or notes and interest on the bonds or notes and may protect or enforce the lien at law or in equity.

(d) A tax increment bond or note is not a general obligation of the local government issuing the bond or note. A tax increment bond or note does not give rise to a charge against the general credit or taxing powers of the local government and is not payable except as provided by this section.

(e) A local government's obligation to deposit sales and use taxes into the tax increment fund is not a general obligation of the local government. An obligation to make payments from sales and use

taxes does not give rise to a charge against the general credit or taxing powers of the local government and is not payable except as provided by this section. A tax increment bond or note issued under this section that pledges payments must state the restrictions of this section on its face.

(f) A tax increment bond or note may not be included in any computation of the debt of the issuing local government.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1307 (H.B. 3030), Sec. 3, eff. September 1, 2011.

SUBCHAPTER H. SALES AND USE TAXES

Sec. 173.351. TAX AUTHORIZED. A sales and use tax is imposed on items sold on district property.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.352. TAX RATE. The sales and use tax shall be imposed at the rate of the highest combination of local sales and use taxes imposed at the time of the district's creation in any local governmental jurisdiction that is part of the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.353. PREEMPTION OF OTHER SALES AND USE TAXES. The tax imposed under this subchapter preempts all other local sales and use taxes that would otherwise be imposed on district property.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.354. APPLICABILITY OF TAX CODE. Chapter 321, Tax Code, governs the computation, administration, governance, and use of the tax except as inconsistent with this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.355. NOTICE TO COMPTROLLER. (a) The district shall notify the comptroller in writing by United States registered or certified mail of the district's creation and of its intent to impose the sales and use tax under this chapter.

(b) The district shall provide to the comptroller all information required to implement the tax, including:

(1) an adequate map showing the property boundaries of the district;

(2) a certified copy of the resolution of the board adopting the tax; and

(3) certified copies of the resolutions of the governing bodies of the creating municipalities and of the commissioners courts of the counties in which the municipalities are located.

(c) Not later than the 30th day after the date the comptroller receives the notice, map, and other information, the comptroller shall inform the district whether the comptroller is prepared to administer the tax.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.356. NOTICE TO LOCAL GOVERNMENTS. At the same time the district notifies the comptroller under Section 173.355, the district shall:

(1) notify each affected local governmental jurisdiction of the district's creation; and

(2) provide each jurisdiction with an adequate map showing the property boundaries of the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.357. ACQUISITION OF ADDITIONAL TERRITORY SUBJECT TO TAX. (a) Not later than the 30th day after the date a district acquires additional territory, the district shall notify the

comptroller and each affected local governmental jurisdiction of the acquisition.

(b) The district must include with each notification:

(1) an adequate map showing the new property boundaries of the district; and

(2) the date the additional territory was acquired.

(c) Not later than the 30th day after the date the comptroller receives the notice under this section, the comptroller shall inform the district whether the comptroller is prepared to administer the tax in the additional territory.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.358. DUTY OF COMPTROLLER. The comptroller shall:

(1) administer, collect, and enforce a tax imposed under this chapter; and

(2) remit to a district the tax collected on the district's property.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 173.359. EFFECTIVE DATE OF TAX. A tax imposed under this chapter or the repeal of a tax imposed under this chapter takes effect on the first day of the first calendar quarter that begins after the expiration of the first complete calendar quarter that occurs after the date the comptroller receives a notice of the action as required by this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

CHAPTER 174. COMMUTER RAIL DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 174.001. DEFINITION OF PERSON. In this chapter:

(1) "person" includes a corporation, as provided by Section 312.011, Government Code; and

(2) the definition of "person" assigned by Section 311.005, Government Code, does not apply.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.002. DEFINITIONS. In this chapter:

(1) "Board" means a district's board of directors.

(2) "Commuter rail facility" means any property necessary for the transportation of passengers and baggage between locations in a district. The term includes rolling stock, locomotives, stations, parking areas, and rail lines.

(3) "Director" means a board member.

(4) "District" means a commuter rail district created under this chapter or under Article 6550c-3, Revised Statutes, as that article existed before April 1, 2011.

(5) "System" means all of the commuter rail and intermodal facilities leased or owned by or operated on behalf of a district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.003. NATURE OF DISTRICT. (a) A district is a public body and a political subdivision of this state exercising public and essential governmental functions.

(b) A district, in the exercise of powers under this chapter, is performing only governmental functions and is a governmental unit under Chapter 101, Civil Practice and Remedies Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.004. REQUIREMENT FOR SERVICE TO MUNICIPALITIES IN DISTRICT. A municipality located in a district that wishes to be served by commuter rail facilities of the district must pay for construction of a commuter rail station.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04,

eff. April 1, 2011.

SUBCHAPTER B. CREATION

Sec. 174.051. CREATION OF DISTRICT. (a) A district may be created to provide commuter rail service to counties along the Texas-Mexico border.

(b) The commissioners court of a county may create a commuter rail district on adoption of an order favoring the creation.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER C. BOARD OF DIRECTORS AND EMPLOYEES

Sec. 174.101. CONTROL OF DISTRICT. A district is governed by a board of directors. The board is responsible for the management, operation, and control of the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.102. COMPOSITION OF BOARD; TERMS. (a) The board is composed of five directors appointed as follows:

- (1) one director appointed by the county judge; and
- (2) one director appointed by each county commissioner.

(b) Each director serves a four-year term. The board may provide for the staggering of the terms of its directors.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.103. PRESIDING OFFICER. (a) The directors shall elect one director as presiding officer.

(b) The presiding officer may select another director to preside in the absence of the presiding officer.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.104. MEETINGS. The presiding officer shall call at least one meeting of the board each year and may call other meetings as the presiding officer determines are appropriate.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.105. RULES FOR PROCEEDINGS. The board shall adopt rules for its proceedings.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.106. COMPENSATION; REIMBURSEMENT. A director is not entitled to compensation for serving as a director but is entitled to reimbursement for reasonable expenses incurred while serving as a director.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.107. EMPLOYEES. The board may employ and compensate persons to carry out the powers and duties of the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.108. EXECUTIVE COMMITTEE. The board shall appoint an executive committee.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.109. RETIREMENT BENEFITS. A district is eligible to

participate in the Texas County and District Retirement System.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER D. GENERAL POWERS AND DUTIES

Sec. 174.151. GENERAL POWERS OF DISTRICT; GOVERNMENTAL FUNCTIONS. (a) A district has all the powers necessary or convenient to carry out the purposes of this chapter.

(b) A district may perform any act necessary for the full exercise of the district's powers.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.152. RULES. To protect the health, safety, and general welfare of district residents and people who use district services, a district may adopt rules to govern the operation of the district, its employees, the system, service provided by the district, and any other necessary matter concerning its purposes, including rules regarding health, safety, alcohol or beverage service, food service, or telephone or utility service.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.153. AGREEMENTS GENERALLY. A district may make contracts, leases, and agreements with the United States, this state and its agencies and political subdivisions, and other persons and entities.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.154. AGREEMENTS WITH OTHER ENTITIES FOR JOINT USE. A district may:

- (1) make agreements with a public utility, private utility,

communication system, common carrier, state agency, or transportation system for the joint use of facilities, installations, or property inside or outside the district; and

- (2) establish:
 - (A) through routes; and
 - (B) joint fares.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.155. JOINT OWNERSHIP AGREEMENTS. A district may enter into a joint ownership agreement with any person.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.156. INTERLOCAL AGREEMENTS WITH COMMISSION. The commission may enter into an interlocal agreement with the district under which the district may exercise a power or duty of the commission for the development and efficient operation of an intermodal corridor in the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.157. AWARDED CONSTRUCTION OR PURCHASE CONTRACTS. (a)

A contract in the amount of more than \$15,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, or any other property except real property may be awarded only through competitive bidding after notice is published in a newspaper of general circulation in the district at least 15 days before the date set for receiving bids.

(b) The board may adopt rules governing the taking of bids and the awarding of contracts.

(c) This section does not apply to:

- (1) personal or professional services;
- (2) the acquisition of an existing rail transportation system; or

(3) a contract with a common carrier to construct lines or to operate commuter rail service on lines wholly or partly owned by the carrier.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.158. EMINENT DOMAIN. (a) A district may exercise the power of eminent domain to acquire:

(1) real property in fee simple; or
(2) an interest in real property less than fee simple in, on, under, or above land, including an easement, right-of-way, or right of use of airspace or subsurface space.

(b) The power of eminent domain under this section does not apply to:

(1) land under the jurisdiction of the department; or
(2) a rail line owned by a common carrier or municipality.

(c) To the extent possible, the district shall use existing rail or intermodal transportation corridors for the alignment of its system.

(d) An eminent domain proceeding is begun by the board's adoption of a resolution declaring that the district's acquisition of the property or interest described in the resolution:

(1) is a public necessity; and
(2) is necessary and proper for the construction, extension, improvement, or development of commuter rail facilities and is in the public interest.

(e) The resolution is conclusive evidence of the public necessity of the proposed acquisition and that the real property or interest in property is necessary for public use.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.159. SUITS. (a) A district may:

(1) sue and be sued;
(2) institute and prosecute suits without giving security for costs; and
(3) appeal from a judgment without giving a supersedeas or

cost bond.

(b) An action at law or in equity against the district must be brought in the county in which a principal office of the district is located, except that a suit in eminent domain involving an interest in land must be brought in the county in which the land is located.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

**SUBCHAPTER E. POWERS AND DUTIES RELATING TO ACQUISITION,
CONSTRUCTION, AND OPERATION OF COMMUTER RAIL FACILITIES**

Sec. 174.201. GENERAL AUTHORITY OVER COMMUTER RAIL FACILITIES.

A district may acquire, construct, develop, own, operate, and maintain intermodal and commuter rail facilities to connect political subdivisions in the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.202. POWERS RELATING TO DISTRICT PROPERTY. A district may acquire by grant, purchase, gift, devise, lease, or otherwise and may hold, use, sell, lease, or dispose of property, including a license, a patent, a right, or an interest, necessary, convenient, or useful for the full exercise of its powers.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.203. USE AND ALTERATION OF PROPERTY OF ANOTHER POLITICAL SUBDIVISION. (a) For a purpose described by Section 174.201, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system, and with the consent of a municipality, county, or other political subdivision, a district may:

(1) use streets, alleys, roads, highways, and other public ways of the political subdivision; and

(2) relocate, raise, reroute, change the grade of, or alter, at the district's expense, the construction of a publicly

owned or privately owned street, alley, highway, road, railroad, electric line or facility, telegraph or telephone property or facility, pipeline or facility, conduit or facility, and other property.

(b) A district may not use or alter:

(1) a road or highway in the state highway system without the permission of the commission; or

(2) a railroad without permission of the railroad.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.204. RULES GOVERNING SYSTEM AND ROUTINGS. A district by resolution may adopt rules governing the use, operation, and maintenance of the system and may determine or change a routing as the board considers advisable.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.205. ACQUISITION OF PROPERTY. (a) A district may purchase any interest in real property to acquire, construct, or operate a commuter rail facility on terms and at a price to which the district and the owner agree.

(b) The governing body of a municipality, a county, any other political subdivision, or a public agency may convey the title or the rights and easements to property needed by the district for its purposes in connection with the acquisition, construction, or operation of the system.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.206. ACQUISITION OF ROLLING STOCK AND OTHER PROPERTY. A district may acquire rolling stock or other property under a conditional sales contract, lease, equipment trust certificate, or other form of contract or trust agreement.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.207. COMPENSATION FOR USE OF SYSTEM FACILITIES. (a) A district shall establish and maintain reasonable and nondiscriminatory rates or other compensation for the use of the facilities of the system acquired, constructed, operated, regulated, or maintained by the district.

(b) Together with grants received by the district, the rates or other compensation must be sufficient to produce revenue adequate to:

(1) pay all expenses necessary for the operation and maintenance of the district's property and facilities;

(2) pay the principal of and interest on bonds issued by the district payable wholly or partly from the revenue, as they become due and payable; and

(3) fulfill the terms of agreements made with the holders of bonds or with any person on their behalf.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.208. OPERATION OR USE CONTRACTS. (a) A district may:

(1) lease all or part of the commuter rail facilities to an operator; or

(2) contract for the use or operation of all or part of the commuter rail facilities by an operator.

(b) To the maximum extent practicable, the district shall encourage the participation of private enterprise in the operation of commuter rail facilities.

(c) The term of an operating contract under this section may not exceed 20 years.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.209. RAIL TRANSPORTATION SERVICES AGREEMENTS WITH OTHER POLITICAL SUBDIVISIONS. A district may contract with a county or other political subdivision of this state for the district to

provide commuter rail transportation services to an area outside the district on terms to which the parties agree.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER F. FINANCIAL PROVISIONS

Sec. 174.251. FISCAL YEAR. Unless the board changes the fiscal year, the district's fiscal year ends on September 30.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.252. ANNUAL BUDGET. (a) Before beginning the operation of commuter rail facilities, the board shall adopt an annual operating budget specifying the district's anticipated revenue and expenses for the remainder of the fiscal year. The district shall adopt an operating budget for each succeeding fiscal year.

(b) The board must hold a public hearing before adopting each budget except the initial budget. Notice of the hearing must be published at least seven days before the date of the hearing in a newspaper of general circulation in the district.

(c) A budget may be amended at any time if notice of the proposed amendment is given in the notice of the meeting at which the amendment will be considered.

(d) An expenditure that is not budgeted may not be made.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.253. GRANTS AND LOANS. A district may accept grants and loans from the United States, this state and its agencies and political subdivisions, and other persons and entities.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.254. DEPOSITORY. (a) The board by resolution shall name one or more banks for the deposit of district funds.

(b) District funds are public funds and may be invested in securities permitted by Chapter 2256, Government Code.

(c) To the extent district funds are not insured by the Federal Deposit Insurance Corporation or its successor, the funds shall be collateralized in the manner provided for county funds.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.255. PURCHASE OF ADDITIONAL INSURED PROVISIONS. A district may purchase an additional insured provision to any liability insurance contract.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.256. TAX EXEMPTION. District property, material purchases, revenue, and income and the interest on a bond or note issued by a district are exempt from any tax imposed by this state or a political subdivision of this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER G. BONDS

Sec. 174.301. REVENUE BONDS. A district may issue revenue bonds and notes in amounts that the board considers necessary or appropriate for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement, or extension of its commuter rail facilities.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.302. SECURITY FOR PAYMENT OF BONDS. (a) To secure

payment of district bonds or notes, the district may:

- (1) encumber and pledge all or part of the revenue of its commuter rail facilities; and
 - (2) encumber all or part of the property of the commuter rail facilities and everything pertaining to them that is acquired or to be acquired.
- (b) Unless prohibited by the resolution or indenture relating to outstanding bonds or notes, a district may encumber separately any item of property.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.303. BONDS AS AUTHORIZED INVESTMENTS AND SECURITY FOR DEPOSITS OF PUBLIC FUNDS. (a) District bonds and notes are legal and authorized investments for:

- (1) a bank;
- (2) a trust company;
- (3) a savings and loan association; and
- (4) an insurance company.

(b) The bonds and notes are:

- (1) eligible to secure the deposit of public funds of this state or a municipality, a county, a school district, or any other political corporation or subdivision of this state; and
- (2) lawful and sufficient security for the deposit to the extent of the principal amount or market value of the bonds or notes, whichever is less.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.304. LIMIT ON POWER. (a) A revenue bond indenture may limit the exercise of the power granted by Section 174.003, 174.109, 174.151, 174.152, 174.153, 174.154, 174.155, 174.156, 174.158, 174.159, 174.201, 174.202, 174.203, 174.204, 174.205, 174.206, 174.207, 174.208, 174.209, 174.251, 174.252, 174.253, 174.254, or 174.255.

(b) A limit applies while any of the revenue bonds issued under the indenture are outstanding and unpaid.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBCHAPTER H. TAXES

Sec. 174.351. TAX AUTHORIZED. A district may impose any kind of tax except an ad valorem property tax.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.352. IMPOSITION OF TAX. (a) A district may not impose a tax or increase the rate of an existing tax unless a proposition proposing the imposition or rate increase is approved by a majority of the votes received at an election held for that purpose.

(b) Each new tax or rate increase must be expressed in a separate proposition consisting of a brief statement of the nature of the proposed tax.

(c) The notice of the election must contain a statement of the base or rate of the proposed tax.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

Sec. 174.353. TAX RATE. (a) The board, subject to Section 174.352(a), may impose for a district a sales and use tax at the rate of:

- (1) one-quarter of one percent;
- (2) one-half of one percent;
- (3) three-quarters of one percent; or
- (4) one percent.

(b) A district may not adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by other political subdivisions of this state having territory in the district exceeds two percent in any location in the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04,

eff. April 1, 2011.

Sec. 174.354. EFFECTIVE DATE OF TAX. A district's sales and use tax takes effect on the first day of the second calendar quarter beginning after the election approving the tax.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.04, eff. April 1, 2011.

SUBTITLE Z. MISCELLANEOUS PROVISIONS

CHAPTER 191. STRUCTURES AND MATERIALS NEAR RAILROAD OR RAILWAY

Sec. 191.001. HEIGHT OF STRUCTURES OVER TRACKS. (a) In this section, "structure" includes a bridge, viaduct, overheadway, footbridge, or wire.

(b) The bottom of the lowest sill, girder, or crossbeam or the lowest downward projection of a structure built by the state, a county or municipality, or a railroad company or other corporation, firm, partnership, or individual over the tracks of a railway or railroad shall be placed at least 22 feet above the top of the rails of the tracks.

(c) A roof projection built from a loading platform along a railroad main track, siding track, spur, or switch shall be at least 22 feet above the rails of the track.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

Sec. 191.002. DISTANCE OF STRUCTURES AND MATERIALS FROM TRACKS.

(a) A loading platform, house, fence, or other structure built, and lumber, wood, or other material placed, along a railroad in this state, either on or near the right-of-way of a main line or on or near a spur, switch, or siding of the railroad, shall be built or placed so that the nearest edge of the platform, the wall of the building, or the material is at least 8-1/2 feet from the center of the main line, spur, switch, or siding.

(b) The edge of a roof projection from a loading platform along a railroad main track, siding track, spur, or switch shall be at least 8-1/2 feet horizontally from the center of the track.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

Sec. 191.003. EXCEPTION. Sections 191.001 and 191.002 do not apply to:

(1) a structure that had been built or was in the course of construction on June 18, 1925, or for the building of which material had been purchased on that date as provided by a prior contract or plan; or

(2) material that had been placed on June 18, 1925, or purchased for placing on that date as provided by a prior contract or plan.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

Sec. 191.004. RULES. The department shall adopt rules in accordance with this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

Sec. 191.005. WAIVER OF PROVISION. (a) On filing of an application and after notice to the attorney general, the department, for good cause shown, may by order permit a railroad company or other corporation, firm, partnership, or individual or a county or municipality to deviate from a provision of this chapter in accordance with the order.

(b) An action in accordance with an order issued under this section is not considered to violate this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

Sec. 191.006. CIVIL PENALTY. (a) The attorney general shall immediately bring an action against a railroad company or other corporation, firm, partnership, or individual who violates this

chapter to collect a civil penalty in an amount of not less than \$100 or more than \$1,000 for each violation. Each day that a violation continues is a separate violation.

(b) The attorney general may bring a single action for multiple violations by the same corporation, firm, partnership, or individual.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

CHAPTER 192. ENGINEER'S OPERATOR PERMIT AND TRAIN OPERATOR PERMIT

Sec. 192.001. ISSUANCE OF PERMIT. (a) A railroad company shall issue an engineer's operator permit to each person whom the company employs to operate or permits to operate a railroad locomotive in this state.

(b) A railroad company shall issue a train operator permit to each person:

(1) whom the company employs to operate or permits to operate a train in this state; and

(2) who has not been issued an engineer's operator permit.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

Sec. 192.002. PERMIT REQUIRED. (a) A person operating a railroad locomotive in this state shall have in the person's immediate possession an engineer's operator permit issued under this chapter.

(b) A person operating a train in this state, other than a person issued a permit under Section 192.001(a), shall have in the person's immediate possession a train operator permit issued under this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

Sec. 192.003. FORM OF PERMIT. A permit issued under this chapter must include the permit holder's name, address, physical description, photograph, and date of birth.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

Sec. 192.004. PROOF OF IDENTIFICATION. If a peace officer requires a person to show proof of identification in connection with the person's operation of a railroad locomotive or train, the person:

- (1) shall display the person's permit issued under this chapter; and
- (2) may not be required to display a driver's license issued under Chapter 521 or commercial driver's license issued under Chapter 522.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

Sec. 192.005. RECORD OF ACCIDENT OR VIOLATION. If a person operating a railroad locomotive or train is involved in an accident with another train or a motor vehicle or is arrested for violation of a law relating to the person's operation of a railroad locomotive or train:

- (1) the number of or other identifying information on the person's driver's license or commercial driver's license may not be included in any report of the accident or violation; and
- (2) the person's involvement in the accident or violation may not be recorded in the person's individual driving record maintained by the Department of Public Safety.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

CHAPTER 193. HAZARDOUS MATERIALS

Sec. 193.001. HAZARDOUS MATERIALS; PACKING AND TRANSPORTATION.

(a) Except as provided by Subsection (b), the department by rule may adopt any requirement that:

- (1) relates to the safe packing or transportation of hazardous materials; and
- (2) is consistent with Chapter 51, Title 49, United States Code, or regulations adopted under that law.

(b) The department may not adopt a requirement for the transportation of hazardous materials by vessel or by aircraft.

(c) The department may adopt any administrative rules necessary to implement this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

Sec. 193.002. HAZARDOUS MATERIALS; REPORTS. (a) In this section, "hazardous material" means any substance the transportation of which by railroad is included within the coverage of rail car placarding requirements of regulations adopted by the United States Department of Transportation and published in Title 49, Code of Federal Regulations.

(b) A railroad company that transports hazardous materials in or through this state shall file with the department a copy of each hazardous materials incident report that the company files with the United States Department of Transportation under 49 C.F.R. Section 171.16. The copy must be filed not later than the 15th day after the date the incident that forms the basis of the report is discovered.

(c) Not later than April 1 of each year, a railroad company that transports hazardous materials in or through the state shall provide to the department:

(1) a map depicting the location of each railroad main line and branch line that the company owns, leases, or operates in the state;

(2) a map delineating the geographical limits of the company operating divisions or districts and identifying the principal operating officer for the company in each operating division or district;

(3) a primary and secondary telephone number for the company dispatcher responsible for train operations in each operating division or district;

(4) a list of each type of hazardous material by hazard class and the quantity of the material transported over each railroad line owned, leased, or operated by the company during the preceding year; and

(5) the name and address of the company employee in charge of training persons to handle an incident related to hazardous

materials.

(d) For the purposes of Subsection (c)(4), "hazard class" means any one of the following, as defined by 49 C.F.R. Part 173, or, with respect to hazardous waste, listed as a substance subject to 40 C.F.R. Part 262:

- (1) radioactive material;
- (2) explosives, Class A;
- (3) explosives, Class B;
- (4) poison A;
- (5) poison B;
- (6) flammable gas;
- (7) nonflammable gas;
- (8) flammable liquid;
- (9) oxidizer;
- (10) flammable solid;
- (11) corrosive material;
- (12) combustible liquid;
- (13) etiologic agent;
- (14) other regulated material (ORM); or
- (15) hazardous waste.

(e) If a substance fits the definition of more than one hazard class, the substance must be classified in accordance with the sequence stated in 49 C.F.R. Section 173.2a.

(f) The department shall compile information submitted to the department under this section for distribution to local emergency management agencies located in jurisdictions containing reported railroad operations.

(g) At least once each year the Texas Division of Emergency Management shall distribute the information compiled by the department to the appropriate officials for inclusion in local emergency management plans established under Subchapter E, Chapter 418, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

CHAPTER 194. PROVISION OF UTILITIES BY CERTAIN RAILWAY CORPORATIONS

Sec. 194.001. EXTENSION OF UTILITY LINES. (a) This section applies only to a corporation organized under the laws of this state

that is authorized to:

(1) construct, acquire, and operate electric or other lines of railway in and between municipalities in this state; and

(2) acquire, hold, and operate other public utilities in and adjacent to the municipalities in or through which the corporation operates.

(b) A corporation described by Subsection (a) may extend its electric light, power, or gas lines to supply light, power, or gas, as appropriate, to the public residing beyond the territory adjacent to the municipalities in or through which the corporation operates.

(c) For the purpose of extending a line described by Subsection (b), the corporation has the same rights and powers of extension held by a public service corporation engaged in the supply and sale of electric light, power, or gas as provided by law.

(d) The authority granted under this section does not expressly or impliedly repeal any antitrust law of this state.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

Sec. 194.002. DISTRIBUTION OF GAS OR ELECTRICITY FOLLOWING ABANDONMENT OF STREET RAILWAY. (a) This section applies only to a private corporation that on April 26, 1937, was authorized by its charter and the statutes of this state to operate street and interurban railways and had the power to distribute and sell gas or electricity to the public.

(b) During the unexpired period of its corporate charter, a corporation that abandons or discontinues or has abandoned or discontinued the operation of its railways or motor buses substituted for the railways may continue to distribute and sell electricity or gas as authorized by its corporate charter and statutes in the same manner as if the abandonment or discontinuation had not occurred.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

CHAPTER 199. MISCELLANEOUS PROVISIONS

Sec. 199.001. AERIAL OR OTHER TRAMWAY TO MINE. (a) This section applies only to a person, firm, corporation, limited

partnership, joint stock association, or other association that owns, constructs, operates, or manages an aerial or other tramway in this state between a mine, smelter, or railway.

(b) An entity described by Subsection (a) may hold and acquire by purchase or condemnation right-of-way. In the exercise of this right, the entity:

(1) is considered to be a common carrier;

(2) is subject to the jurisdiction and control of the department; and

(3) may exercise the power of eminent domain under which the entity may enter and condemn land, right-of-way, easements, or property of any person or corporation necessary for the construction, maintenance, or operation of the entity's aerial or other tramway.

(c) The power of eminent domain under Subsection (b) is exercised in the manner provided by law for the condemnation of land and acquisition of right-of-way by a railroad company.

Added by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.101, eff. September 1, 2011.

Sec. 199.002. RAILROAD FUNCTIONS AS PUBLIC AND GOVERNMENTAL FUNCTIONS. (a) In this section:

(1) "Railroad" means an enterprise created and operated to carry passengers, freight, or both on a fixed track. The term includes all real estate and interests in real estate, equipment, machinery, materials, structures, buildings, stations, facilities, and other improvements that are necessary to, or for the benefit of, the enterprise.

(2) "Municipality" means a home-rule municipality.

(b) The planning, acquisition, establishment, development, construction, enlarging, improvement, maintenance, equipping, operation, regulation, protection, policing, leasing, and alienation of a railroad or railroad facility by a municipality or other public agency, separately or jointly exercised:

(1) are declared to be public and governmental functions that are exercised for a public purpose and matters of public necessity; and

(2) in the case of a municipality, are declared to be municipal functions and purposes as well as public and governmental.

(c) All land and other property and privileges acquired and used by or on behalf of a municipality or other public agency for railroad purposes:

(1) are declared to be acquired for public and governmental purposes and as a matter of public necessity; and

(2) in the case of a municipality, are declared to be acquired for a municipal purpose.

(d) This section does not confer or convey governmental immunity or any other limitation of liability to any entity that is not a governmental entity, governmental authority, or public agency, or a subdivision of a governmental entity, governmental authority, or public agency.

Added by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. [1296](#)), Sec. 19.007(a), eff. September 1, 2015.

TITLE 6. ROADWAYS

SUBTITLE A. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 201. GENERAL PROVISIONS AND ADMINISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 201.001. DEFINITIONS. (a) In this title:

(1) "Commission" means the Texas Transportation Commission.

(2) "Department" means the Texas Department of Transportation.

(3) "Director" means the executive director of the Texas Department of Transportation.

(b) In this subtitle, "toll project" means one or more tolled lanes of a highway or an entire toll highway constructed, maintained, or operated as a part of the state highway system and any improvement, extension, or expansion to the highway, including:

(1) a facility to relieve traffic congestion and promote safety;

(2) a bridge, tunnel, overpass, underpass, interchange, entrance plaza, approach, toll booth, toll plaza, service road, ramp, or service center;

(3) an administration, storage, or other building, operations center, maintenance or other facility, equipment, or system the department considers necessary to operate the project;

(4) property rights, easements, and interests the

department acquires to construct, maintain, or operate the project;

(5) a parking area or structure, rest stop, park, and any other improvement or amenity the department considers necessary, useful, or beneficial for the operation and maintenance of the project; and

(6) a nontolled facility that is appurtenant to and necessary for the efficient operation and maintenance of the project, including a connector, service road, access road, ramp, interchange, bridge, or tunnel.

(c) In this chapter, "local transportation entity" means an entity that participates in the transportation planning process, including:

- (1) a regional tollway authority under Chapter 366;
- (2) a rapid transportation authority under Chapter 451;
- (3) a regional transportation authority under Chapter 452;
- (4) a rural transit district under Chapter 458;
- (5) a coordinated county transportation authority under

Chapter 460; or

(6) a metropolitan planning organization under Subchapter D, Chapter 472.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.01, eff. June 14, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 2, eff. September 1, 2011.

Sec. 201.002. OPERATING EXPENSES; USE OF STATE HIGHWAY FUND.

(a) The legislature has the responsibility to:

(1) appropriate money for the maintenance and operational expenses of the department;

(2) determine the number of employees of the department;

and

(3) set the amount of compensation of all employees of the department, including the director, and the members of the commission.

(b) The comptroller shall contract for equipment and supplies, including seals and number plates, required by law in the

administration of the registration of vehicles and in the operation of the department.

(c) All money authorized to be appropriated in accordance with this section for the operation of the department and the purchase of equipment shall be appropriated from the state highway fund. The commission shall use the amount remaining in the fund for the furtherance of public road construction and for establishing a system of state highways.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 3.01, eff. September 1, 2007.

Sec. 201.003. TITLE CHANGES. (a) A reference in law to the State Highway Department, Texas Highway Department, or State Department of Highways and Public Transportation means the Texas Department of Transportation.

(b) A reference in law to the State Highway Commission or State Highway and Public Transportation Commission means the Texas Transportation Commission.

(c) A reference in law to the State Highway Engineer or State Engineer-Director for Highways and Public Transportation means the director of the Texas Department of Transportation.

(d) A reference in law to the commissioner of transportation means the chair of the commission.

(e) A reference in law to a member of the commission means a commissioner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 140, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER B. TEXAS TRANSPORTATION COMMISSION

Sec. 201.051. COMMISSION. (a) The Texas Transportation Commission consists of five members appointed by the governor with the advice and consent of the senate.

(b) The members shall be appointed to reflect the diverse geographic regions and population groups of this state. One member must reside in a rural area and be a registered voter of a county

with a population of less than 150,000.

(b-1) A member of the commission may not accept a contribution to a campaign for election to an elected office. If a commissioner accepts a campaign contribution, the person is considered to have resigned from the office and the office immediately becomes vacant. The vacancy shall be filled in the manner provided by law.

(c) Each member of the commission must represent the general public.

(d) A person is not eligible to serve as a member of the commission if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization that is regulated by or receives funds from the department;

(2) directly or indirectly owns or controls more than 10 percent interest in a business entity or other organization that is regulated by or receives funds from the department;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or

(4) is registered, certified, or licensed by the department.

(e) Repealed by Acts 1997, 75th Leg., ch. 1171, Sec. 1.49, eff. Sept. 1, 1997.

(f) An officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising is not eligible to serve as a member of the commission.

(g) The spouse of an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, aviation, or outdoor advertising is not eligible to serve as a member of the commission.

(h) A person required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department is not eligible to serve as a member of the commission.

(i) Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointees and shall reflect the diversity of the population of

the state as a whole.

(j) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.02, 1.49, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 140, Sec. 2, eff. Sept. 1, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 3(a), eff. September 1, 2011.

Sec. 201.052. TERMS. Members of the commission serve staggered six-year terms, with the terms of either one or two members expiring February 1 of each odd-numbered year.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 140, Sec. 3, eff. Sept. 1, 2003.

Sec. 201.053. CHAIR OF THE COMMISSION. (a) The governor shall designate one commissioner as the chair of the commission, who shall serve as presiding officer of the commission.

(b) The chair shall:

(1) preside over commission meetings, make rulings on motions and points of order, and determine the order of business;

(2) represent the department in dealing with the governor;

(3) report to the commission the governor's suggestions for department operations;

(4) designate one or more employees of the department as a civil rights division of the department and receive regular reports from the division on the department's efforts to comply with civil rights legislation and administrative rules;

(5) create subcommittees, appoint commissioners to subcommittees, and receive the reports of subcommittees to the commission as a whole;

(6) appoint a commissioner to act in the chair's absence;

and

(7) serve as the departmental liaison with the governor and the Office of State-Federal Relations to maximize federal funding for transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 140, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 24, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 4, eff. September 1, 2011.

Sec. 201.054. COMMISSION MEETINGS. The commission shall hold regular meetings at least once a month and special meetings at the call of the chair. Commissioners shall attend the meetings of the commission. The chair shall oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each commissioner at least seven days before the meeting.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 140, Sec. 5, eff. Sept. 1, 2003.

Sec. 201.056. COMPENSATION. A member of the commission is entitled to compensation as provided by the General Appropriations Act. If compensation for members is not provided by that Act, each member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.057. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the commission if a commissioner:

(1) does not have at the time of taking office or maintain during service on the commission the qualifications required by Section 201.051;

(2) violates a prohibition provided by Section 201.051;

(3) cannot discharge the commissioner's duties for a

substantial part of the term for which the commissioner is appointed because of illness or disability; or

(4) is absent from more than half of the regularly scheduled commission meetings that the commissioner is eligible to attend during a calendar year, unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commissioner exists.

(c) If the director knows that a potential ground for removal exists, the director shall notify the chair of the commission of the ground, and the chair shall notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal relates to the chair, the director shall notify another commissioner, who shall notify the governor and the attorney general that a potential ground for removal exists.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.03, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 140, Sec. 7, eff. Sept. 1, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 5, eff. September 1, 2011.

Sec. 201.058. INFORMATION ON QUALIFICATIONS AND CONDUCT. The department shall provide to the members of the commission, as often as necessary, information concerning the members' qualifications for office and their responsibilities under applicable laws relating to standards of conduct for state officers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 6, eff. September 1, 2011.

Sec. 201.059. TRAINING ON DEPARTMENT AND CERTAIN LAWS RELATING TO DEPARTMENT. (a) To be eligible to take office as a member of the commission, a person appointed to the commission must complete at least one course of a training program that complies with this

section.

(b) The training program must provide information to the person regarding:

- (1) this subchapter;
- (2) the programs operated by the department;
- (3) the role and functions of the department;
- (4) the rules of the department with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the department;
- (6) the results of the most recent formal audit of the department;
- (7) the requirements of the:
 - (A) open meetings law, Chapter 551, Government Code;
 - (B) open records law, Chapter 552, Government Code;

and

- (C) administrative procedure law, Chapter 2001, Government Code;
- (8) the requirements of the conflict of interest laws and other laws relating to public officials; and
- (9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(c) A person appointed to the commission is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the commission.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.04, eff. Sept. 1, 1997.

SUBCHAPTER C. COMMISSION'S POWERS AND DUTIES

Sec. 201.101. RULES; RECORDS. The commission shall:

- (1) adopt rules for the operation of the department;
- (2) maintain a record of all proceedings and official orders; and
- (3) keep on file copies of all road plans, specifications, and estimates prepared by the department or under its direction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.102. SEPARATION OF RESPONSIBILITIES. The commission shall develop and implement policies that clearly separate the policy-making responsibilities of the commission and the management responsibilities of the director and staff of the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.05, eff. Sept. 1, 1997.

Sec. 201.103. COMPREHENSIVE SYSTEM OF HIGHWAYS AND ROADS. (a) The commission shall plan and make policies for the location, construction, and maintenance of a comprehensive system of state highways and public roads.

(b) The commission shall designate as part of the state highway system a highway that it determines is necessary for the proper development and operation of the system. The commission may remove a segment of the state highway system that it determines is not needed for the system. In planning and making policies, the commission shall consider, for incorporation into the state highway system, turnpikes that other governmental or private entities are authorized to construct.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312, Sec. 99(29), eff. September 1, 2013.

(d) The director, under the direction and with the approval of the commission, shall prepare a comprehensive plan providing a system of state highways.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 668, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(29), eff. September 1, 2013.

Sec. 201.104. DESIGNATION OF FARM-TO-MARKET ROADS. (a) The commission may designate any county road as a farm-to-market road for the purposes of construction, reconstruction, and maintenance only, if the commissioners court of the county in which the county road is located by order entered in its minutes waives any rights the county may have for state participation in any indebtedness incurred by the county in the construction of the road.

(b) The commission and the county commissioners court by contract may set forth the duties of the state in the construction, reconstruction, and maintenance of the county road in consideration for the county's, road district's, or defined road district's relinquishing all claims for state participation in any outstanding county or road district bond, warrant, or other evidence of indebtedness that is for the construction or improvement of the road and that was created before the road was designated by the commission.

(c) The assumption by the state of the obligation to construct and maintain a road designated under this section as a farm-to-market road is full and complete compensation for funds that were spent by the county, road district, or defined road district for the construction and maintenance of the road before its designation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.105. DEPARTMENT DISTRICTS. (a) The commission shall divide the state into not more than 25 districts for the purpose of the performance of the department's duties.

(b) In determining a district's boundaries, the commission shall consider all costs and benefits, including highway activity in and the number of employees required for the proposed district.

(c) Not more than one district office may be in a district.

(d) The commission shall determine the number of department offices necessary for maintenance and construction personnel in a district.

(e) The commission periodically shall review the necessity for the number of maintenance, construction, and support operations in each district. The commission shall include the findings of its review as a part of the department's budget request submitted to the Legislative Budget Board.

(f) The department is exempt from any law purporting to require the department to conform the provision of its services to service regions other than the districts established under this section.

(g) The commission may require by rule that any product or material that is approved for use in any one district may be approved for use by any other district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 1997, 75th Leg., ch. 1171, Sec. 1.35, eff. Sept. 1, 1997.

Sec. 201.1055. AGREEMENTS WITH PRIVATE ENTITIES. (a) Notwithstanding any other law, including Subchapter A, Chapter 2254, Government Code, Chapters 2165, 2166, and 2167, Government Code, and Sections 202.052, 202.053, 203.051, 203.052, and 223.001 of this code, the department and a private entity that offers the best value to the state may enter into an agreement for the:

(1) acquisition, design, construction, or renovation, including site development, of a building or other facility required to support department operations located on real property owned or acquired by the department; or

(2) acquisition from the private entity of real property, a building, or other facility required to support department operations that is constructed on the real property in exchange for department-owned real property, including any improvements.

(b) A project described by this section that is not wholly paid for by an exchange of department-owned real property may be financed in accordance with Section 1232.111, Government Code.

(c) Notwithstanding Section 202.024, the commission may authorize the executive director to execute a deed exchanging department-owned real property under Subsection (a)(2).

(d) The commission shall notify the Bond Review Board and Texas Public Finance Authority of the proposed transaction not less than 45 days before the date the commission signs an agreement under this section providing for the exchange of department-owned real property under Subsection (a)(2).

(e) An agreement under this section providing for the exchange of department-owned real property under Subsection (a)(2) that has an appraised value greater than the appraised value of real property and improvements acquired by the department under the agreement must require the private entity to compensate the department for the difference. Any compensation paid by a private entity must be deposited to the credit of the state highway fund and is exempt from the application of Section 403.095, Government Code.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 19.01, eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.02, eff. June 14, 2005.

Sec. 201.106. SETTLEMENT OF CLAIMS; PURCHASE OF LIABILITY INSURANCE. (a) This section applies to a claim against the department arising from the use, operation, or maintenance of equipment that is used or may be used in connection with the laying out, construction, or maintenance of the roads, highways, rest areas, or other public grounds in this state.

(b) The department may settle a claim described by Subsection (a) if:

(1) the department may be liable under Chapter 101, Civil Practice and Remedies Code;

(2) the director determines that a settlement is in the best interest of the department; and

(3) the department's liability under the terms of the settlement is less than \$10,000.

(c) Section 101.105, Civil Practice and Remedies Code, does not apply to a settlement under this section.

(d) Settlement of a claim under this section bars any action involving the same subject matter by the claimant against the department employees whose act or omission gave rise to the claim.

(e) The department may insure the officers and employees of the department for liability arising from a claim described by Subsection (a). Coverage under this subsection must be provided by the purchase of a policy of liability insurance from a reliable insurance company authorized to do business in this state. The form of the policy must be approved by the commissioner of insurance, and the coverage must be approved by the attorney general.

(f) This section is not a waiver of immunity of the state from liability for the torts or negligence of an officer or employee of this state.

(g) In this section, "equipment" includes an automobile, motor truck, trailer, aircraft, motor grader, roller, tractor, tractor power mower, and other power equipment.

(h) to (j) Deleted by Acts 1993, 73rd Leg., ch. 634, Sec. 7, eff. Sept. 1, 1993.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 2003, 78th Leg., ch. 59, Sec. 1, eff. May 15, 2003.

Sec. 201.1075. CHIEF FINANCIAL OFFICER. (a) The chief financial officer shall ensure that the department's financial activities are conducted in a transparent and reliable manner.

(b) The chief financial officer shall certify each month that any state highway construction and maintenance contracts to be awarded by the department during that month will not create state liability that exceeds the department's most recent cash flow forecast.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 7, eff. September 1, 2011.

Sec. 201.108. INTERNAL AUDITOR. (a) The commission shall appoint an internal auditor for the department.

(b) The auditor shall report directly to the commission on the conduct of department affairs.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.109. REVENUE ENHANCEMENT. (a) The commission shall:

- (1) enhance existing sources of revenue; and
- (2) create alternate sources of revenue.

(b) In carrying out this section, the commission shall provide for:

(1) maximizing the generation of revenue from existing assets of the department, including real estate;

(2) increasing the role of the private sector and public-private projects in the leasing of real estate and other assets in the development of highway projects;

(3) setting and attempting to meet annual revenue enhancement goals;

(4) reporting on the progress in meeting revenue enhancement goals in the department's annual report;

(5) contracting for an independent audit of the department's management and business operations in 2007 and each 12th year after 2007;

(6) developing a cost-benefit analysis between the use of local materials previously incorporated into roadways versus use of materials blended or transported from other sources; and

(7) increasing private investment in the transportation infrastructure, including the acquisition of causeways, bridges, tunnels, turnpikes, or other transportation facilities, in the border region, including the counties of Atascosa, Bandera, Bexar, Brewster, Brooks, Cameron, Crockett, Culberson, Dimmit, Duval, Edwards, El Paso, Frio, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Maverick, McMullen, Medina, Nueces, Pecos, Presidio, Real, Reeves, San Patricio, Starr, Sutton, Terrell, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.32, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1395, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1413, Sec. 1, eff. June 16, 2001.

Sec. 201.110. CONTRACT WITH ADJOINING STATE FOR IMPROVEMENT OF ROAD CROSSING STATES' BOUNDARY. (a) The commission, by the authority of the governor, may contract with an adjoining state to:

(1) provide for the improvement of a public road or highway that crosses the states' boundary; and

(2) establish respective responsibilities for the improvement.

(b) In a contract for an improvement of the state highway system that is subject to a contract under Subsection (a), the commission may provide for the improvement of a segment of a public road or highway located in the adjoining state if:

(1) the improvement of that segment is necessary for the health, safety, and welfare of the people of this state and for the effective improvement and operation of the state highway system;

(2) that segment is an extension or continuation of a segment of the state highway system;

(3) the contract under Subsection (a) is authorized and executed under the law of the adjoining state; and

(4) all costs associated with the improvement of that segment are the responsibility of the adjoining state.

(c) In this section, "improvement" includes construction, reconstruction, and maintenance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.111. RECOMMENDATION OF ENGINEER; DETERMINATION OF FITNESS. (a) On formal application by a county, road district of a county, or municipality, the commission may recommend for appointment a competent civil engineer who is a graduate of a first-class school of civil engineering and who is skilled in highway construction and maintenance.

(b) The commission shall adopt rules necessary to determine the qualifications of engineers who apply for highway construction work.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.112. CONTRACT CLAIMS. (a) The commission may by rule establish procedures for the informal resolution of a claim arising out of a contract described by:

- (1) Section 22.018;
- (2) Chapter 223;
- (3) Chapter 361;
- (4) Section 391.091; or
- (5) Chapter 2254, Government Code.

(b) If a person with a claim is dissatisfied with the department's resolution of the claim under the procedures authorized under Subsection (a), the person may request a formal administrative hearing to resolve the claim under Chapter 2001, Government Code.

(c) An administrative law judge's proposal for decision rendered under Chapter 2001, Government Code, shall be submitted to the director for adoption. Notwithstanding any law to the contrary, the director may change a finding of fact or conclusion of law made by the administrative law judge or may vacate or modify an order issued by the administrative law judge. The director shall provide a written statement containing the reason and legal basis for a change made under this subsection.

(d) The director's final order is subject to judicial review under Chapter 2001, Government Code, under the substantial evidence rule.

(e) This section does not waive state immunity from liability.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.36(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 312, Sec. 1, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 713, Sec. 3, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 20.001, eff. September 1, 2005.

Sec. 201.113. AGREEMENTS WITH REGIONAL TOLLWAY AUTHORITIES.

(a) Notwithstanding Sections 221.003 and 224.031, the commission and a regional tollway authority governed by Chapter 366 may enter into an agreement for the improvement by a regional tollway authority of portions of the state highway system.

(b) In this section, "improvement" means construction, reconstruction, maintenance, and the making of a necessary plan or survey before beginning construction, reconstruction, or maintenance and includes a project or activity appurtenant to a state highway, including drainage facilities, surveying, traffic counts, driveways, landscaping, lights, or guardrails.

(c) An agreement entered into under this section may provide that an improvement of a portion of the state highway system by a regional tollway authority is governed by the provisions of Chapter 366 applicable to the performance of the same function for a turnpike project under that chapter and the rules and procedures adopted by the regional tollway authority under that chapter, in lieu of the laws, rules, or procedures applicable to the department for the performance of the same function.

Added by Acts 1999, 76th Leg., ch. 576, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.03, eff. June 14, 2005.

Sec. 201.114. BORDER TRADE ADVISORY COMMITTEE. (a) In this section, "coordinator" means the border commerce coordinator designated under Section 772.010, Government Code.

(b) The coordinator shall serve on the Border Trade Advisory

Committee as presiding officer. The commission shall appoint the other members of the committee, which to the extent practicable must include:

(1) the presiding officers, or persons designated by the presiding officers, of the policy boards of metropolitan planning organizations wholly or partly in the department's Pharr, Laredo, Odessa, or El Paso transportation district;

(2) the person serving, or a person designated by the person serving, in the capacity of executive director of each entity governing a port of entry in this state;

(3) a representative each from at least two institutes or centers operated by a university in this state that conduct continuing research on transportation or trade issues; and

(4) the port director of the Port of Brownsville or the port director's designee.

(c) The commission shall establish the Border Trade Advisory Committee to define and develop a strategy and make recommendations to the commission and governor for addressing the highest priority border trade transportation challenges. In determining action to be taken on the recommendations, the commission shall consider the importance of trade with the United Mexican States, potential sources of infrastructure funding at border ports, including maritime ports, and the value of trade activity in the department's districts adjacent to the border with the United Mexican States.

(d) The commission may adopt rules governing the Border Trade Advisory Committee.

(e) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the Border Trade Advisory Committee.

Added by Acts 2001, 77th Leg., ch. 912, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 791 (S.B. 183), Sec. 1, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 178 (S.B. 816), Sec. 1, eff. September 1, 2011.

Sec. 201.115. BORROWING MONEY. (a) The commission may authorize the department to borrow money from any source to carry out the functions of the department.

(b) A loan under this section may be in the form of an agreement, note, contract, or other form as determined by the commission and may contain any provisions the commission considers appropriate, except:

(1) the term of the loan may not exceed two years;

(2) the amount of the loan, combined with any amounts outstanding on other loans under this section, may not exceed an amount that is two times the average monthly revenue deposited to the state highway fund for the 12 months preceding the month of the loan; and

(3) the loan may not create general obligation of the state and is payable only as authorized by legislative appropriation.

(c) If the department borrows money by the issuance of notes, the notes shall be considered a state security for purposes of Chapter 1231, Government Code.

(d) Notwithstanding Section 222.001, money in the state highway fund may be used to repay a loan under this section, if appropriated by the legislature for that purpose.

Added by Acts 2003, 78th Leg., ch. 1281, Sec. 1, eff. Sept. 13, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.04, eff. June 14, 2005.

Sec. 201.116. REPORT TO SECRETARY OF STATE. (a) In this section, "colonia" means a geographic area that:

(1) is an economically distressed area as defined by Section 17.921, Water Code;

(2) is located in a county any part of which is within 62 miles of an international border; and

(3) consists of 11 or more dwellings that are located in close proximity to each other in an area that may be described as a community or neighborhood.

(b) To assist the secretary of state in preparing the report required under Section 405.021, Government Code, the commission on a quarterly basis shall provide a report to the secretary of state detailing any projects funded by the department that serve colonias by providing paved roads or other assistance.

(c) The report must include:

- (1) a description of any relevant projects;
- (2) the location of each project;
- (3) the number of colonia residents served by each project;
- (4) the exact amount spent or the anticipated amount to be spent on each colonia served by each project;
- (5) a statement of whether each project is completed and, if not, the expected completion date of the project; and
- (6) any other information, as determined appropriate by the secretary of state.

(d) The commission shall require an applicant for funds administered by the commission to submit to the commission a colonia classification number, if one exists, for each colonia that may be served by the project proposed in the application. If a colonia does not have a classification number, the commission may contact the secretary of state or the secretary of state's representative to obtain the classification number. On request of the commission, the secretary of state or the secretary of state's representative shall assign a classification number to the colonia.

Added by Acts 2005, 79th Leg., Ch. 828 (S.B. 827), Sec. 6, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 341 (S.B. 99), Sec. 17, eff. June 15, 2007.

Sec. 201.117. ADVISORY COMMITTEES. (a) The commission may establish, as it considers necessary, advisory committees on any of the matters under its jurisdiction.

(b) The commission shall determine the purpose, duties, and membership of each advisory committee.

Added by Acts 2009, 81st Leg., R.S., Ch. 469 (S.B. 348), Sec. 1, eff. June 19, 2009.

Sec. 201.118. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) The commission shall develop and implement a policy to encourage the use of:

- (1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.

(b) The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The department shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 8, eff. September 1, 2011.

Sec. 201.119. LEGISLATIVE APPROPRIATIONS REQUEST. (a) Department staff shall deliver the department's legislative appropriations request to the commission in an open meeting not later than the 30th day before the date the department submits the legislative appropriations request to the Legislative Budget Board.

(b) The commission may adopt the legislative appropriations request in the meeting described by Subsection (a) or in a subsequent open meeting.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 8, eff. September 1, 2011.

SUBCHAPTER D. TEXAS DEPARTMENT OF TRANSPORTATION

Sec. 201.201. GOVERNANCE OF DEPARTMENT. The commission governs the Texas Department of Transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.202. DIVISIONS; DIVISION PERSONNEL. (a) The commission shall organize the department into divisions to accomplish

the department's functions and the duties assigned to it, including divisions for:

- (1) aviation;
- (2) highways and roads; and
- (3) public transportation.

(b) The person designated by the director to supervise the division responsible for highways and roads must be a registered professional engineer experienced and skilled in highway construction and maintenance.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 933, Sec. 2A.03, eff. September 1, 2009.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2A.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2A.03, eff. September 1, 2009.

Sec. 201.203. DEPARTMENT OFFICE. The department shall have its statewide headquarters office in Austin.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.07, eff. Sept. 1, 1997.

Sec. 201.2035. ACCOUNTING STRUCTURE. The department shall create and maintain an accounting structure for roadway and warehouse inventory of the department. The accounting structure must provide for the accounting for lost or destroyed materials.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.37, eff. Sept. 1, 1997.

Sec. 201.204. SUNSET PROVISION. The Texas Department of Transportation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2017.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.01, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., 1st C.S., Ch. 2 (S.B. 2), Sec. 1.11, eff. July 10, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 10, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1279 (H.B. 1675), Sec. 2.01, eff. June 14, 2013.

Sec. 201.2041. SUBMISSION OF FINANCIAL AUDIT TO SUNSET COMMISSION. (a) The department shall submit with its agency report under Section 325.007, Government Code, a complete and detailed financial audit conducted by an independent certified public accountant.

(b) Subsection (a) does not apply if the department is subject to sunset review during the previous two-year period.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 11, eff. September 1, 2011.

Sec. 201.205. PROTECTION AND USE OF INTELLECTUAL PROPERTY AND PUBLICATIONS. (a) The department may:

(1) apply for, register, secure, hold, and protect under the laws of the United States, any state, or any nation a patent, copyright, trademark, or other evidence of protection or exclusivity issued in or for an idea, publication, or other original innovation fixed in a tangible medium, including:

- (A) a literary work;
- (B) a logo;
- (C) a service mark;
- (D) a study;
- (E) a map or planning document;
- (F) an engineering, architectural, or graphic design;
- (G) a manual;
- (H) automated systems software;
- (I) an audiovisual work;
- (J) a sound recording; or

(K) travel literature, including a pamphlet, bulletin, book, map, periodical, or electronic information published or produced under Section 3, Chapter 193, Acts of the 56th Legislature, Regular Session, 1959 (Article 6144e, Vernon's Texas Civil Statutes);

(2) enter into a nonexclusive license agreement with a third party for the receipt of a fee, royalty, or other thing of monetary or nonmonetary value;

(3) waive or reduce the amount of a fee, royalty, or other thing of monetary or nonmonetary value to be assessed if the department determines that the waiver will:

(A) further the goals and missions of the department; and

(B) result in a net benefit to the state; and

(4) adopt and enforce rules necessary to implement this section.

(b) Money paid to the department under this section shall be deposited to the credit of the state highway fund.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.07(a), eff. Sept. 1, 1997.

Sec. 201.206. DONATIONS AND CONTRIBUTIONS. For the purpose of carrying out its functions and duties, the department may accept, from any source, a donation or contribution in any form, including realty, personalty, money, materials, or services.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.08, eff. Sept. 1, 1997.

Sec. 201.207. CROSS-BORDER TRANSPORTATION AND INFRASTRUCTURE MEETINGS. (a) The department shall initiate efforts to meet at least quarterly with the department's counterparts in those states of the United Mexican States that border this state to discuss issues relating to truck inspections and transportation and infrastructure involved in truck inspections and transportation.

(b) To assist the department in carrying out this section, the department shall contact the border commerce coordinator designated under Section 772.010, Government Code, and the mayors of each municipality in this state in which a port of entry for land traffic

is located.

(c) At least one department representative participating in a meeting under Subsection (a) must be proficient in Spanish.

(d) The department, in conjunction with the border commerce coordinator, shall develop short-range and long-range plans, including recommendations to increase bilateral relations with Mexico and expedite trade by mitigating delays in border crossing inspections for northbound truck traffic. In developing the plans, the department and coordinator shall consider information obtained from any meetings under Subsection (a). The department shall update the plan biennially.

Added by Acts 2001, 77th Leg., ch. 915, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 309 (S.B. 569), Sec. 1, eff. June 17, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 90, eff. September 1, 2013.

Sec. 201.208. PAYMENT OF FEES FOR DEPARTMENT GOODS AND SERVICES. (a) The commission may adopt rules regarding the method of payment of a fee for any goods sold or services provided by the department or for the administration of any department program.

(b) Goods sold and services provided include the sale of travel promotional materials and department publications and the issuance of licenses, permits, and registrations.

(c) The rules may:

(1) authorize the use of electronic funds transfer or a valid credit card issued by a financial institution chartered by a state or the United States or by a nationally recognized credit organization approved by the department; and

(2) require the payment of a discount or service charge for a credit card payment in addition to the fee.

(d) Revenue generated from payments of discount or service charges under Subsection (c) shall be deposited in the state highway fund.

Added by Acts 1999, 76th Leg., ch. 507, Sec. 1, eff. June 18, 1999;

Acts 1999, 76th Leg., ch. 918, Sec. 1, eff. June 18, 1999.

Sec. 201.209. AUTHORITY TO CONTRACT. (a) The department may enter into an interlocal contract with one or more local governments in accordance with Chapter 791, Government Code.

(b) The department by rule shall adopt policies and procedures consistent with applicable state procurement practices for soliciting and awarding the contracts under this section.

Added by Acts 2001, 77th Leg., ch. 869, Sec. 1, eff. June 14, 2001.

Sec. 201.210. LEGISLATIVE LOBBYING. (a) In addition to Section 556.006, Government Code, the commission or a department employee may not use money under the department's control or engage in an activity to influence the passage or defeat of legislation.

(b) Violation of Subsection (a) is grounds for dismissal of an employee.

(c) This section does not prohibit the commission or department employee from using state resources to:

(1) provide public information or information responsive to a request; or

(2) communicate with officers and employees of the federal government in pursuit of federal appropriations or programs.

(d) The department may not spend from funds appropriated to the department any money for the purpose of selecting, hiring, or retaining a person required to register under Chapter 305, Government Code, or the Lobbying Disclosure Act of 1995 (2 U.S.C. Section 1601 et seq.), unless that expenditure is allowed under state law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 12, eff. September 1, 2011.

Sec. 201.211. ETHICS AFFIRMATION AND HOTLINE. (a) A department employee shall annually affirm the employee's adherence to the ethics policy adopted under Section 572.051(c), Government Code.

(b) The department shall establish and operate a telephone hotline that enables a person to call the hotline number, anonymously or not anonymously, to report alleged fraud, waste, or abuse or an alleged violation of the ethics policy adopted under Section 572.051(c), Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 12, eff. September 1, 2011.

SUBCHAPTER E. DIRECTOR

Sec. 201.301. EXECUTIVE DIRECTOR. (a) The commission shall elect an executive director for the department. The director must be experienced and skilled in transportation planning and development and in organizational management.

(b) The director serves at the will of the commission.

(c) Repealed by Acts 2003, 78th Leg., ch. 285, Sec. 31(47).

(d) The director shall:

(1) serve the commission in an advisory capacity, without vote; and

(2) submit to the commission, quarterly, annually, and biennially, detailed reports of the progress of public road construction, detailed reports of public and mass transportation development, and detailed statements of expenditures.

(e) The director is entitled to actual expenses for and related to travel away from Austin in performance of the director's duties under the direction of the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 285, Sec. 31(47), eff. Sept. 1, 2003. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 776 (S.B. 970), Sec. 1, eff. June 19, 2009.

Sec. 201.302. STATE ROAD MAP. The director shall make, regularly revise, and keep in a form convenient for examination in the office of the department a complete road map of the state that shows road construction in the counties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.303. USE OF UNIVERSITY LABORATORIES FOR ANALYZING MATERIALS. The director may use laboratories maintained at Texas A&M University and The University of Texas to test and analyze road and bridge material. Persons in charge of the laboratories shall

cooperate with and assist the director with those tests and analyses.
Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. DEPARTMENT EMPLOYEES

Sec. 201.401. EMPLOYEE QUALIFICATIONS. (a) A person may not be an employee of the department who is employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if the person is:

(1) an officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance or outdoor advertising; or

(2) the spouse of an officer, manager, or paid consultant described by Subdivision (1).

(b) A person may not act as general counsel to the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department. A person who acts as general counsel to the department must be licensed as an attorney in this state.

(c) In this section, "Texas trade association" has the meaning assigned by Section 201.051.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 13(a), eff. September 1, 2011.

Sec. 201.402. EQUAL EMPLOYMENT OPPORTUNITY. (a) The director or the director's designee shall prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that comply with Chapter 21, Labor Code;

(2) a comprehensive analysis of the department work force that meets federal and state laws, rules, and regulations, and instructions directly adopted under those laws, rules, or regulations;

(3) procedures by which a determination can be made of significant underuse in the department work force of all persons for whom federal or state laws, rules, and regulations, and instructions directly adopted under those laws, rules, or regulations encourage a more equitable balance; and

(4) reasonable methods to appropriately address the areas of significant underuse.

(b) A policy statement prepared under Subsection (a) must cover an annual period, be updated at least annually, be reviewed by the Texas Commission on Human Rights for compliance with Subsection (a)(1), and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

(d) The department's designated equal employment opportunity officer shall report directly to the director.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.09, eff. Sept. 1, 1997.

Sec. 201.403. HIRING WOMEN AND MINORITIES. (a) To provide adequate numbers of women and minority applicants for all positions in the department, the department shall:

(1) open all positions compensated at or above the amount prescribed by the General Appropriations Act for salary group B17 of the position classification salary schedule to applicants from inside and outside the department;

(2) seek applicants from this state and, if sufficient numbers are not available from this state, from other states;

(3) coordinate recruiting efforts with college placement officers and college student organizations;

(4) develop an extensive cooperative education program with colleges; and

(5) ensure that employees are aware of continuing

educational opportunities and encourage employee participation in the programs.

(b) The department shall designate a central authority to set and monitor women and minority hiring goals. After consultation with appropriate persons in each division and regional office, the central authority shall set annual women and minority hiring goals in each division and regional office of the department and shall monitor progress toward those goals. The central authority shall provide recruiting and technical assistance to each division and regional office.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1083, Sec. 25(160), eff. June 17, 2011.

(d) In this section, "minority" includes African Americans, Hispanic Americans, Asian Americans, American Indians, Alaska natives, and Pacific Islanders.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 595 (H.B. 1814), Sec. 1, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1083 (S.B. 1179), Sec. 25(160), eff. June 17, 2011.

Sec. 201.404. EMPLOYEE PROGRAMS. (a) The director or the director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees in the department. The program shall require intra-agency posting of all positions concurrently with any public posting.

(b) The director or the director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for department employees must be based on the system established under this subsection.

(b-1) If an annual performance evaluation indicates unsatisfactory performance by an employee employed in a position at or above the level of district engineer or division or office director, the commission shall consider whether the employee should be terminated. The annual performance evaluation of a position described by this subsection must include an evaluation of an employee's:

(1) professionalism;
 (2) diligence; and
 (3) responsiveness to directives and requests from the commission and the legislature.

(b-2) If an annual performance evaluation indicates unsatisfactory performance by an employee employed in a position that is below the level of district engineer, the department shall consider whether the employee should be terminated. The department shall provide a report to the commission regarding employees whose performances were unsatisfactory but who were not terminated.

(c) The department shall provide to its employees, as often as necessary, information concerning the employees' qualifications for employment under this subchapter and their responsibilities under applicable laws relating to standards of conduct for state employees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.10, eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 14, eff. September 1, 2011.

Sec. 201.405. EXCHANGE OF ENGINEERS WITH MEXICO. (a) The commission may employ not more than five citizens of the United Mexican States who are student engineers or graduate engineers for a period of not more than six months and pay those employees for their services from the state highway fund if the United Mexican States employs an equal number of engineers of the department in similar work in the United Mexican States for similar periods and pays them for their services.

(b) The commission may grant leaves of absence to not more than five engineers of the department to accept employment with the United Mexican States as provided under Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.406. RELOCATION ASSISTANCE. (a) In addition to authority granted by other law, the department may reimburse transferred employees for expenses or costs related to selling existing housing and purchasing and financing comparable replacement

housing if the director determines that the transfer will enhance the department's ability to accomplish its goals and missions.

(b) For purposes of this section, the following expenses or costs related to the selling of existing housing and the leasing, purchasing, and financing of comparable replacement housing are reimbursable:

(1) any commissions and fees due to a broker or real estate agent;

(2) costs incurred as a purchaser to obtain a home loan, including loan application fees, credit report fees, and mortgage points;

(3) origination fees, title insurance, recording fees, and all other closing costs required to be paid by the employee;

(4) fees or charges, other than refundable deposits, necessary to establish telephone, gas, and electric service; and

(5) travel expenses incurred while looking for a new residence, reimbursed at the standard mileage rate, for travel to and from the new designated headquarters.

(c) Under this section, the department may not:

(1) provide reimbursement for more than five employees per fiscal year;

(2) pay a sum of more than \$15,000 to any employee;

(3) purchase or pay any part of the purchase price of any employee's home;

(4) provide reimbursement for the purchase or financing of a house if the employee did not own and occupy existing housing at the time of transfer; or

(5) provide reimbursement when the distance between the two designated headquarters of a transferred employee is less than 25 miles.

(d) The department may pay the reasonable, necessary, and resulting costs of moving the household goods and effects of a transferred employee if:

(1) the director determines that the transfer will enhance the department's ability to accomplish its goals and missions; and

(2) the distance between the two designated headquarters of a transferred employee is at least 25 miles.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.38, eff. Sept. 1, 1997.

SUBCHAPTER F-1. COMPLIANCE PROGRAM

Sec. 201.451. ESTABLISHMENT AND PURPOSE. The commission shall establish a compliance program, which must include a compliance office to oversee the program. The compliance office is responsible for:

- (1) acting to prevent and detect serious breaches of departmental policy, fraud, waste, and abuse of office, including any acts of criminal conduct within the department;
- (2) independently and objectively reviewing, investigating, delegating, and overseeing the investigation of:
 - (A) conduct described by Subdivision (1);
 - (B) criminal activity in the department;
 - (C) allegations of wrongdoing by department employees;
 - (D) crimes committed on department property; and
 - (E) serious breaches of department policy;
- (3) overseeing the operation of the telephone hotline established under Section 201.211;
- (4) ensuring that members of the commission and department employees receive appropriate ethics training; and
- (5) performing other duties assigned to the office by the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 15(a), eff. September 1, 2011.

Sec. 201.452. INVESTIGATION OVERSIGHT. (a) The compliance office has primary jurisdiction for oversight and coordination of all investigations occurring on department property or involving department employees.

(b) The compliance office shall coordinate and provide oversight for an investigation under this subchapter, but the compliance office is not required to conduct the investigation.

(c) The compliance office shall continually monitor an investigation conducted within the department, and shall report to the commission on the status of pending investigations.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 15(a), eff. September 1, 2011.

Sec. 201.453. INITIATION OF INVESTIGATIONS. The compliance office may only initiate an investigation based on:

- (1) authorization from the commission;
- (2) approval of the director of the compliance office;
- (3) approval of the executive director or deputy executive director of the department; or
- (4) commission rules.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 15(a), eff. September 1, 2011.

Sec. 201.454. REPORTS. (a) The compliance office shall report directly to the commission regarding performance of and activities related to investigations and provide the director with information regarding investigations as appropriate.

(b) The director of the compliance office shall present to the commission at each regularly scheduled commission meeting and at other appropriate times:

- (1) reports of investigations; and
- (2) a summary of information relating to investigations conducted under this subchapter that includes analysis of the number, type, and outcome of investigations, trends in investigations, and recommendations to avoid future complaints.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 15(a), eff. September 1, 2011.

Sec. 201.455. COOPERATION WITH LAW ENFORCEMENT OFFICIALS AND OTHER ENTITIES. (a) The director of the compliance office shall provide information and evidence relating to criminal acts to the state auditor's office and appropriate law enforcement officials.

(b) The director of the compliance office shall refer matters for further civil, criminal, and administrative action to appropriate administrative and prosecutorial agencies, including the attorney general.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec.

15(a), eff. September 1, 2011.

Sec. 201.456. AUTHORITY OF STATE AUDITOR. This subchapter or other law related to the operation of the department's compliance program does not preempt the authority of the state auditor to conduct an audit or investigation under Chapter 321, Government Code, or other law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 15(a), eff. September 1, 2011.

SUBCHAPTER G. RECORDS

Sec. 201.501. REPRODUCTION OF RECORDS. (a) The department may photograph, microphotograph, or film any record that pertains to department operations.

(b) The department may create original records in micrographic form on media, such as computer output microfilm.

(c) The department shall provide an adequate number of microfilm readers and printers to allow the public convenient and inexpensive access to records created under Subsection (a). The department shall index the records alphabetically, by number, by subject matter, or by other appropriate references and shall provide the index to the public to promote convenient access.

(d) A photograph, microphotograph, or film of a record reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A certified or authenticated copy of such a photograph, microphotograph, or film is admissible as evidence equally with the original photograph, microphotograph, or film.

(e) The director or an authorized representative may certify the authenticity of a photograph, microphotograph, or film of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, or film as provided by law.

(f) Certified records shall be furnished to any person who is authorized by law to receive them.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.502. RETENTION OF DEED. A deed that conveys any interest in real property to the state for a highway purpose shall be deposited and retained in the Austin office of the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.503. DISPOSAL OF RECORDS. Unless otherwise required by law, and subject to Chapter 441, Government Code, the department may dispose of or destroy a record that the department determines is not required for the performance of the department's duties and functions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER H. PLANS AND PROJECTS

Sec. 201.601. STATEWIDE TRANSPORTATION PLAN. (a) The department shall develop a statewide transportation plan covering a period of 24 years that contains all modes of transportation, including:

- (1) highways and turnpikes;
- (2) aviation;
- (3) mass transportation;
- (4) railroads and high-speed railroads; and
- (5) water traffic.

(a-1) The plan must:

- (1) contain specific, long-term transportation goals for the state and measurable targets for each goal;
- (2) identify priority corridors, projects, or areas of the state that are of particular concern to the department in meeting the goals established under Subdivision (1); and
- (3) contain a participation plan specifying methods for obtaining formal input on the goals and priorities identified under this subsection from:
 - (A) other state agencies;
 - (B) political subdivisions;
 - (C) local transportation entities; and
 - (D) the general public.

(b) As appropriate, the department and the entities listed in Subsection (a-1)(3) shall enter into a memorandum of understanding

relating to the planning of transportation services.

(c) The plan must include a component that is not financially constrained and identifies transportation improvements designed to relieve congestion. In developing this component of the plan, the department shall seek opinions and assistance from officials who have local responsibility for modes of transportation listed in Subsection (a).

(d) The department shall consider the goals and measurable targets established under Subsection (a-1)(1) in selecting transportation projects.

(e) The department annually shall provide to the lieutenant governor, the speaker of the house of representatives, and the chair of the standing committee of each house of the legislature with primary jurisdiction over transportation issues an analysis of the department's progress in attaining the goals under Subsection (a-1)(1). The department shall make the information under this subsection available on its Internet website.

(f) The department shall update the plan every four years or more frequently as necessary.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 19.01, eff. Sept. 1, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 16, eff. September 1, 2011.

Sec. 201.6011. INTERNATIONAL TRADE CORRIDOR PLAN. (a) To the extent possible, the department shall coordinate with appropriate entities to develop an integrated international trade corridor plan. The plan must:

(1) include strategies and projects to aid the exchange of international trade using the system of multiple transportation modes in this state;

(2) assign priorities based on the amount of international trade, measured by weight and value, using the transportation systems of this state, including:

- (A) border ports of entry;
- (B) commercial ports;
- (C) inland ports;

- (D) highways;
- (E) pipelines;
- (F) railroads; and
- (G) deepwater gulf ports; and

(3) address implementation of the recommendations of the Border Trade Advisory Committee under Section 201.114.

(b) The department shall update the plan biennially and report on the implementation of this section to the presiding officer of each house of the legislature no later than December 1 of each even-numbered year.

Added by Acts 2003, 78th Leg., ch. 312, Sec. 78(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 791 (S.B. 183), Sec. 2, eff. June 17, 2005.

Sec. 201.6012. COORDINATION OF STATEWIDE PASSENGER RAIL SYSTEM. To facilitate the development and interconnectivity of rail systems in this state, the department shall coordinate activities regarding the planning, construction, operation, and maintenance of a statewide passenger rail system. The department shall coordinate with other entities involved with passenger rail systems, including governmental entities, private entities, and nonprofit corporations.

Added by Acts 2009, 81st Leg., R.S., Ch. 801 (S.B. 1382), Sec. 1, eff. September 1, 2009.

Sec. 201.6013. LONG-TERM PLAN FOR STATEWIDE PASSENGER RAIL SYSTEM. The department shall prepare and update annually a long-term plan for a statewide passenger rail system. Information contained in the plan must include:

- (1) a description of existing and proposed passenger rail systems;
- (2) information regarding the status of passenger rail systems under construction;
- (3) an analysis of potential interconnectivity difficulties;
- (4) ridership projections for proposed passenger rail

projects; and

(5) ridership statistics for existing passenger rail systems.

Added by Acts 2009, 81st Leg., R.S., Ch. 801 (S.B. 1382), Sec. 1, eff. September 1, 2009.

Sec. 201.6015. INTEGRATION OF PLANS AND POLICY EFFORTS. In developing each of its transportation plans and policy efforts, the department must clearly reference the statewide transportation plan under Section 201.601 and specify how the plan or policy effort supports or otherwise relates to the specific goals under that section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 17, eff. September 1, 2011.

Sec. 201.602. PROJECT SELECTION HEARINGS. The commission annually shall hold hearings on its highway project selection process and the relative importance of the various criteria on which the commission bases its project selection decisions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.603. AGREEMENT WITH OTHER AGENCIES FOR ROADS. (a) On request of the Texas Department of Mental Health and Mental Retardation or the Texas Juvenile Justice Department, the department may enter into agreements with either department for the construction, maintenance, or repair of roads in an institution, hospital, or school under the control, management, or supervision of that department.

(b) The Texas Department of Mental Health and Mental Retardation or the Texas Juvenile Justice Department may reimburse the appropriate fund of the department for the cost of construction or maintenance performed under Subsection (a). Before a transfer of an amount under this subsection, the reimbursing agency shall notify in writing the comptroller of the amount to be transferred and the fund from which the amount is to be taken.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 146, eff. September 1, 2015.

Sec. 201.6035. AUTHORIZATION TO PARTICIPATE IN CERTAIN FEDERAL TRANSPORTATION PROGRAMS. (a) The department may assume responsibilities of the United States Department of Transportation with respect to duties under the National Environmental Policy Act of 1969 (42 U.S.C. Section 4321 et seq.) and with respect to duties under other federal environmental laws. The department may:

(1) assume responsibilities under 23 U.S.C. Sections 326 and 327; and

(2) enter into one or more agreements, including memoranda of understanding, with the United States secretary of transportation related to:

(A) designating categorical exclusions from federally required environmental assessments or impact statements for highway projects as provided by 23 U.S.C. Section 326; or

(B) the federal surface transportation project delivery program for the delivery of transportation projects, including highway, railroad, public transportation, and multimodal projects, as provided by 23 U.S.C. Section 327.

(b) The commission may adopt rules to implement this section and may adopt relevant federal environmental standards as the standards for this state for a program described by Subsection (a).

(c) Except as provided by Subsection (d), sovereign immunity to suit in federal court and from liability is waived and abolished with regard to the compliance, discharge, or enforcement of a responsibility assumed by the department under this section.

(d) Subsection (c) does not create liability for the department that exceeds the liability created under 23 U.S.C. Section 326(c)(3) or 327(d).

Added by Acts 2013, 83rd Leg., R.S., Ch. 86 (S.B. 466), Sec. 1, eff. May 18, 2013.

Sec. 201.604. ENVIRONMENTAL REVIEW. (a) The commission by

rule shall provide for the commission's environmental review of the department's transportation projects that are not subject to review under the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.). The rules must provide for:

- (1) public comment on the department's environmental reviews, including the types of projects for which public hearings are required, and a procedure for requesting a public hearing on an environmental review for which a public hearing is not required;
 - (2) the department's evaluation of direct and indirect effects of its projects;
 - (3) analysis of project alternatives; and
 - (4) a written report that briefly explains the department's decision on a project and that specifies the mitigation measures on environmental harm on which the project is conditioned.
- (b) An environmental review of a project must be conducted before the location or alignment of the project has been adopted.
- (c) The commission shall consider the results of its reviews in executing its duties.
- (d) The department shall coordinate with the Texas Natural Resource Conservation Commission and the Parks and Wildlife Department in preparing an environmental review. To give those agencies time to respond, the department shall submit the review of a project and the department's mitigation proposals on the project to them for comment before the 30th day preceding the date on which the department issues the written report explaining its decision on that project.
- (e) At least once during each five-year period, the commission, after a public hearing, shall review the rules relating to environmental reviews and make appropriate changes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.606. PROPERTY IN ENDANGERED SPECIES HABITAT. If the department acquires for a transportation project property that is a habitat of one or more species listed as endangered under the Endangered Species Act (16 U.S.C. Section 1531 et seq.) and that is within the boundaries of a regional habitat conservation plan, the department may participate in the regional habitat conservation plan. If the department does not comply with the regional habitat

conservation plan, it shall comply with the Endangered Species Act and the applicable requirements of the United States Fish and Wildlife Service.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.607. ENVIRONMENTAL, HISTORICAL, OR ARCHEOLOGICAL MEMORANDUM OF UNDERSTANDING. (a) Not later than January 1, 1997, and every fifth year after that date, the department and each state agency that is responsible for the protection of the natural environment or for the preservation of historical or archeological resources shall examine and revise their memorandum of understanding that:

(1) describes the responsibilities of each agency entering into the memorandum relating to the review of the potential environmental, historical, or archeological effect of a highway project;

(2) specifies the responsibilities of each agency entering into the memorandum relating to the review of a highway project;

(3) specifies the types of information the department must provide to the reviewing agency and the period during which the department must provide the information;

(4) specifies the period during which the reviewing agency must review the highway project and provide comments to the department, as negotiated by the department and the agency but which may not exceed 45 days after the date the agency receives a request for comments from the department;

(5) specifies that comments submitted to the department later than the period specified under Subdivision (4) will be considered by the department to the extent possible; and

(6) includes any other agreement necessary for the effective coordination of the review of the environmental, historical, or archeological effect of a highway project.

(b) The department and each agency by rule shall adopt all revisions to the memorandum.

(c) The department by rule shall establish procedures concerning coordination with agencies in carrying out responsibilities under agreements under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 18(a), eff. September 1, 2011.

Sec. 201.608. PROJECTS FOR TRAFFIC FROM INTERNATIONAL TRADE.

(a) The department annually shall review its proposed road projects to determine whether the projects are adequate to allow for the projected volume of highway traffic resulting from international trade over the five-year period following the date of the review.

(b) The department may reassign priorities to its projects in accordance with the results of its review.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312, Sec. 99(30), eff. September 1, 2013.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(30), eff. September 1, 2013.

Sec. 201.609. NOTICE TO LEGISLATORS OF COMPLETED PROJECTS. (a) Not later than the 10th day before the date on which a major road project is scheduled for completion, the department shall provide notice of the location and completion date of the road project to each member of the legislature who represents the county in which the road project is located and who wants to receive the notice.

(b) The department shall ask each legislator whether the legislator wants to receive notices under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.610. HIGHWAY SOUND BARRIERS. The department may erect a sound barrier to reduce the noise from a road or highway in the state highway system at any location the department determines is appropriate, including along the right-of-way of a railroad that runs

parallel or adjacent to a road or highway.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.39, eff. Sept. 1, 1997.

Sec. 201.611. COORDINATION OF FLOOD CONTROL. In the construction of its highway projects, the department shall coordinate with local flood control authorities to minimize the impact of flooding.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.40, eff. Sept. 1, 1997.

Sec. 201.612. APPROVAL BY COMMISSION OF BRIDGE OVER RIO GRANDE.

(a) A political subdivision or private entity authorized to construct or finance the construction of a bridge over the Rio Grande:

(1) must obtain approval from the commission and from the United States under Subchapter IV, Chapter 11, Title 33, United States Code, for the construction of the bridge; and

(2) shall submit to the commission a report that details the feasibility, location, economic effect, and environmental impact of the bridge and any other information the commission by rule may require.

(b) The department shall:

(1) to the maximum extent practicable, implement the approval process in the manner least burdensome to an applicant; and

(2) allow an applicant to concurrently seek approval from the commission and the United States under Subsection (a)(1).

(c) In determining whether to approve construction of the bridge, the commission shall consider:

(1) the financial resources available to the political subdivision or private entity for construction of the bridge;

(2) whether the revenue to be generated by the bridge is sufficient to finance the planning, design, construction, operation, and maintenance of the bridge;

(3) whether the construction of the bridge is consistent with the transportation plan adopted by the state and, if appropriate, by the metropolitan planning organization with

jurisdiction over the bridge;

(4) the potential effect of the bridge on:

(A) the economy of the region in which the bridge is to be located;

(B) the environment of the region in which the bridge is to be located;

(C) traffic congestion and mobility; and

(D) the free flow of trade between the United Mexican States and this state; and

(5) commitments from the appropriate jurisdictions of the United Mexican States to provide adequate approach roadways to the bridge.

(d) In determining whether to approve the construction of the bridge, the commission shall solicit the advice of:

(1) the Department of Public Safety;

(2) the Texas Natural Resource Conservation Commission;

(3) the Texas Historical Commission;

(4) the Department of Agriculture;

(5) the Texas Alcoholic Beverage Commission;

(6) the Texas Department of Commerce; and

(7) any other state agency the commission determines is appropriate.

(e) If the commission fails to make a determination before the 121st day after the date the commission receives a request for approval under Subsection (a), the request is considered approved.

(f) The commission may adopt rules to administer this section.

(g) If the commission does not approve construction of the bridge, the applicant shall withdraw the request for approval from the United States.

Added by Acts 1997, ch. 165, Sec. 30.08(a), eff. Sept. 1, 1997; Acts 1997, ch. 165, Sec. 30.08(a), eff. Sept. 1, 1997. Renumbered from Sec. 201.610 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(93), eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 576, Sec. 1, eff. June 20, 2003.

Sec. 201.613. ONE-STOP BORDER INSPECTION FACILITIES. (a) The department shall erect and maintain border inspection facilities along a major highway at or near a border crossing from Mexico in the

Pharr, Laredo, and El Paso districts for the inspection of motor vehicles for compliance with federal and state commercial motor vehicle regulations.

(b) If a facility that serves a bridge that had more than 900,000 commercial border crossings during the state fiscal year ending August 31, 2002, is to be located in a municipality or a municipality's extraterritorial jurisdiction, the municipality may choose the location of the facility within the municipality or the municipality's extraterritorial jurisdiction. The municipality shall choose a location before the later of the 180th day after:

(1) the date the department makes a request for a location;
or

(2) the effective date of the Act enacting this provision.

(c) One or more inspection facilities may be constructed in a municipality described by this section.

(d) In determining the location for a border inspection facility under Subsection (b), the municipality shall:

(1) obtain and pay for an independent study completed by a university that conducts transportation studies or any other entity that conducts transportation studies to identify commercial truck traffic patterns for the location at which the facility is to be located to ensure that the location has adequate capacity to conduct a sufficient number of meaningful vehicle safety inspections in compliance with 49 U.S.C. Section 13902;

(2) choose a location that does not impair the receipt of federal or state funds for implementation of this section;

(3) choose a location within one mile of an international border;

(4) choose a location within one mile of the U.S. Customs and Border Protection federal port of entry; and

(5) choose a location that provides a dedicated route for commercial vehicles coming from the federal port of entry to the state port of entry commercial vehicle inspection station.

(e) To the extent the department considers appropriate to expedite commerce, the department shall provide for implementation by the appropriate agencies of the use of Intelligent Transportation Systems for Commercial Vehicle Operations (ITS/CVO) in:

(1) any new commercial motor vehicle inspection facility constructed; and

(2) any existing facility to which this section applies.

(f) Implementation of systems under Subsection (e) must be based on the Texas ITS/CVO business plan prepared by the department, the Department of Public Safety, and the comptroller. The department shall coordinate with other state and federal transportation officials to develop interoperability standards for the systems.

(g) In implementing systems under Subsection (e) in the construction of a facility, the department to the greatest extent possible shall:

(1) enhance efficiency and reduce complexity for motor carriers by providing:

(A) a single point of contact between carriers and state and federal officials regulating the carriers; and

(B) a single point of information, available to wireless access, about federal and state regulatory and enforcement requirements;

(2) prevent duplication of state and federal procedures and locations for regulatory and enforcement activities, including consolidation of collection of applicable fees;

(3) link information systems of the department, the Department of Public Safety, the comptroller, and, to the extent possible, the United States Department of Transportation and other appropriate regulatory and enforcement entities; and

(4) take other necessary action to:

(A) facilitate the flow of commerce;

(B) assist federal interdiction efforts;

(C) protect the environment by reducing idling time of commercial motor vehicles at the facilities;

(D) prevent highway damage caused by overweight commercial motor vehicles; and

(E) seek federal funds to assist in the implementation of this section.

Added by Acts 1999, 76th Leg., ch. 1527, Sec. 1, eff. Aug. 30, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1275 (H.B. [3594](#)), Sec. 1, eff. June 15, 2007.

Sec. 201.614. SAFE ROUTES TO SCHOOL PROGRAM. (a) The department shall establish and administer a Safe Routes to School

Program to distribute money received under the Hazard Elimination Program (23 U.S.C. Section 152), as amended, to political subdivisions for projects to improve safety in and around school areas. Projects eligible to receive money under this program may include:

- (1) installation of new crosswalks and bike lanes;
- (2) construction of multiuse trails;
- (3) construction and replacement of sidewalks;
- (4) implementation of traffic-calming programs in neighborhoods around schools; and
- (5) construction of wide outside lanes to be used as bike routes.

(b) The department, in considering project proposals under this section, shall consider:

- (1) the demonstrated need of the applicant;
- (2) the potential of the proposal to reduce child injuries and fatalities;
- (3) the potential of the proposal to encourage walking and bicycling among students;
- (4) identification of safety hazards;
- (5) identification of current and potential walking and bicycling routes to school; and
- (6) support for the projects proposed by local school-based associations, traffic engineers, elected officials, law enforcement agencies, and school officials.

(c) The department may allocate money received by the department from the federal government under the Hazard Elimination Program (23 U.S.C. Section 152), as amended, to projects under this section.

(d) The department shall adopt rules to implement this section.

Added by Acts 2001, 77th Leg., ch. 1085, Sec. 3, eff. Sept. 1, 2001.

Sec. 201.615. DESIGN CONSIDERATIONS. (a) The department shall consider the following factors when developing transportation projects that involve the construction, reconstruction, rehabilitation, or resurfacing of a highway, other than a maintenance resurfacing project:

- (1) the extent to which the project promotes safety;

- (2) the durability of the project;
 - (3) the economy of maintenance of the project;
 - (4) the impact of the project on:
 - (A) the natural and artificial environment;
 - (B) the scenic and aesthetic character of the area in which the project is located;
 - (C) preservation efforts; and
 - (D) each affected local community and its economy;
 - (5) the access for other modes of transportation, including those that promote physically active communities; and
 - (6) except as provided by Subsection (c), the aesthetic character of the project, including input from each affected local community.
- (b) The commission shall adopt rules to implement this section.
- (c) Subsection (a)(6) does not apply to transportation projects that involve the rehabilitation or resurfacing of a bridge or highway.

Added by Acts 2001, 77th Leg., ch. 1264, Sec. 1, eff. Sept. 1, 2001.
 Renumbered from Transportation Code Sec. 201.614 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(125), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.05, eff. June 14, 2005.

Sec. 201.616. ANNUAL REPORT TO LEGISLATURE ON CERTAIN MATTERS.

- (a) Not later than December 1 of each year, the department shall submit a report to the legislature that details:
- (1) the expenditures made by the department in the preceding state fiscal year in connection with:
 - (A) the unified transportation program of the department;
 - (B) turnpike projects and toll roads of the department;
 and
 - (C) rail facilities described in Chapter 91;
 - (2) the amount of bonds or other public securities issued for transportation projects; and
 - (3) the direction of money by the department to a regional mobility authority in this state.

(b) The report must break down information under Subsection (a)(1)(A) by program category and department district. The report must break down information under Subsections (a)(1)(B) and (C) and Subsection (a)(3) by department district. The report must break down information under Subsection (a)(2) by department district and type of project.

(c) The report may be submitted in an electronic format.

Added by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 5.02, eff. Jan. 11, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. [1201](#)), Sec. 4, eff. June 17, 2011.

Sec. 201.617. MITIGATION OF ADVERSE ENVIRONMENTAL IMPACTS. (a) If authorized by an applicable regulatory authority, to mitigate an adverse environmental impact that is a direct result of the construction, improvement, or maintenance of a state highway or the construction, improvement, or maintenance of a facility used in connection with the construction, maintenance, or operation of a state highway, the department may:

(1) pay a fee to an appropriate public agency or private entity in lieu of acquiring or agreeing to manage property;

(2) transfer any interest in real property to an appropriate public agency or private entity, as authorized by the regulatory authority that requires the mitigation, with or without monetary consideration if the property is used or is proposed to be used for mitigation purposes; or

(3) contract with any public or private entity for the management of property owned by the department and used for mitigation purposes.

(a-1) Before the commission may acquire by purchase or condemnation real property to mitigate an adverse environmental impact that is a direct result of a state highway improvement project, the department shall, if authorized by an applicable regulatory authority, offer to purchase a conservation easement from the owner of the real property. If the landowner does not accept the offer to execute a conservation easement before the 61st day after the date the offer is made, the department may acquire the property

by purchase or condemnation.

(b) A contract under this section is not subject to Chapter 771, Government Code.

(c) In this section, "management" means administration, control, or maintenance that is required by an agency of the United States.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 922, Sec. 2, eff. June 14, 2001. Transferred from Transportation Code, Section 203.004 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.07, eff. June 14, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 738 (S.B. 448), Sec. 1, eff. June 19, 2009.

Sec. 201.618. HYDROGEN-FUELED VEHICLES AND REFUELING STATIONS.

(a) The department may seek funding from public and private sources to acquire and operate hydrogen-fueled vehicles and to establish and operate hydrogen refueling stations as provided by this section.

(b) If the department secures funding under Subsection (a), the department may establish and operate at least five hydrogen refueling stations. A refueling station established under this subsection must be located in an urbanized area along a major state highway and be accessible to the public.

(c) If the department secures funding under Subsection (a), the department may purchase to operate in an area in which a refueling station is established under Subsection (b) vehicles capable of operating using hydrogen, including, at a minimum:

(1) four vehicles with internal combustion engines that run on hydrogen; and

(2) three fuel-cell vehicles, one internal combustion engine bus that runs on hydrogen, or one fuel-cell bus.

(d) A vehicle purchased to meet the requirements of Subsection (c) may be used to satisfy the alternative fuels percentage requirement under Subchapter A, Chapter 2158, Government Code.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 259, Sec. 14(1), eff. June 17, 2011.

(f) The department shall:

(1) ensure that data on emissions from the vehicles and refueling stations purchased under this section and from the production of hydrogen for the vehicles and refueling stations are monitored and analyzed and compared with data on emissions from control vehicles with internal combustion engines that operate on fuels other than hydrogen; and

(2) report the results of the monitoring, analysis, and comparison to the Texas Commission on Environmental Quality.

(g) The department may charge the public a reasonable fee to use a hydrogen refueling station operated under Subsection (b). The amount of the fee shall be based on the department's estimate of the number of customers that will use the refueling stations and the direct and indirect costs that will be incurred by the department to operate the refueling stations. Fees collected by the department under this section shall be deposited in the state highway fund, may be appropriated only to the department to implement this section, and are exempt from the application of Section 403.095, Government Code.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 3.03, eff. June 14, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. 1201), Sec. 14(1), eff. June 17, 2011.

Sec. 201.619. COOPERATIVE PLANNING WITH COUNTIES. (a) In this section, "corridor" means a geographical band that follows a general directional flow connecting major sources of trips.

(b) The department and a county may enter into an agreement that identifies future transportation corridors within the county in accordance with this subsection. The corridors identified in the agreement must be derived from existing transportation plans adopted by the department or commission, the county, or a metropolitan planning organization.

(c) The department shall publish in the Texas Register and in a newspaper of general circulation in the county with which the department has entered into an agreement under Subsection (b) a notice that states that the department and the county have entered into the agreement and that copies of the agreement and all plans referred to by the agreement are available at one or more designated

department offices.

Added by Acts 2007, 80th Leg., R.S., Ch. 1040 (H.B. 1857), Sec. 1, eff. September 1, 2007.

Sec. 201.620. COORDINATION WITH METROPOLITAN PLANNING ORGANIZATIONS TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. The department shall collaborate with metropolitan planning organizations to develop mutually acceptable assumptions for the purposes of long-range federal and state funding forecasts and use those assumptions to guide long-term planning in the statewide transportation plan under Section 201.601.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 19, eff. September 1, 2011.

Sec. 201.621. MOTORCYCLIST SAFETY AND SHARE THE ROAD CAMPAIGN. From funds appropriated for that purpose, the department shall conduct a continuing public awareness campaign to promote motorcyclist safety and the concept of sharing the road with motorcyclists.

Added by Acts 2009, 81st Leg., R.S., Ch. 1391 (S.B. 1967), Sec. 1, eff. September 1, 2009.

Sec. 201.622. WILDFIRE EMERGENCY EVACUATION ROUTE. (a) Notwithstanding Section 418.018, Government Code, in a county with a population of less than 75,000 and with a verifiable history of wildfire, the department may designate an emergency evacuation route for use in the event of a wildfire emergency. The department may establish criteria to determine which areas of a county are subject to a potential wildfire emergency.

(b) The department may assist in the improvement of a designated wildfire emergency evacuation route.

(c) Criteria for determining a wildfire emergency evacuation route must provide for evacuation of commercial establishments such as motels, hotels, and other businesses with overnight accommodations.

(d) A wildfire emergency evacuation route designated under Subsection (a) may include federal or state highways or county roads.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 20, eff. September 1, 2011.

SUBCHAPTER I. FUNDS AND EXPENDITURES

Sec. 201.701. FUNDS FOR EMERGENCY MEDICAL SERVICES. (a) If the department receives state or federal highway safety funds that may be used for emergency medical services, the department shall:

(1) contract with the Texas Department of Health for the administration of the funds by the department of health; and

(2) designate a part of the funds to be used for improvement of emergency medical services.

(b) If an agency of the federal government formally notifies the department that a contract described by Subsection (a) violates federal law or would cause the loss of any federal highway safety funds, the department may not execute the contract or, if the contract has been executed, the contract is void.

(c) This section does not affect any responsibility of the department for oversight of state or federal highway safety funds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.702. DISADVANTAGED BUSINESS PROGRAM. (a) The department shall:

(1) set annual goals for the awarding of state or federally funded contracts, including construction, maintenance, supply, and service contracts, to disadvantaged businesses and shall attempt to meet the goals;

(2) assess the availability of disadvantaged businesses in this state;

(3) attempt to identify disadvantaged businesses in this state that provide or have the potential to provide supplies, materials, equipment, or services to the department;

(4) give disadvantaged businesses full access to the department's contract bidding process, inform the businesses about the process, offer the businesses assistance concerning the process, and identify barriers to the businesses' participation in the

process; and

(5) allocate the responsibility for performing the duties prescribed by this section among persons in the department's headquarters and regional offices.

(b) The goals under Subsection (a)(1) must approximate the federal requirement for federal money used for highway construction and maintenance consistent with other applicable state and federal law.

(c) The department's equal opportunity office shall participate in the development of requests for proposals and other departmental documents relating to the bidding process.

(d) This section does not exempt the department from competitive bidding requirements provided by other law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.703. EXPENDITURES FOR ROADS NOT ON THE HIGHWAY SYSTEM.

(a) The department in conjunction with the Federal Highway Administration may spend for the improvement of a road not in the state highway system money appropriated by the United States Congress and allocated by the United States secretary of transportation to the department for expenditure on the road. That federal money may be matched or supplemented by an amount of state money necessary for proper construction and performance of the work.

(b) State money may not be used exclusively for the construction of a road not in the state highway system.

(c) The expenditure of state money is limited to the cost of construction and engineering, overhead, and other costs on which the application of federal money is prohibited or impractical.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.704. CONTRACT FOR REPAIR OR MAINTENANCE OF EQUIPMENT.

(a) The department shall contract with a private entity for the repair or maintenance of highway equipment and passenger cars used by the department if the department determines that the private entity can:

(1) provide maintenance and repair services that are of sufficient quality and in sufficient quantity; and

(2) perform those services for a charge that is less than 90 percent of the total cost for the department to provide equivalent services.

(b) During a fiscal year the department shall spend for all contracts under this section not less than 35 percent of the total amount it spends for vehicle repair and maintenance in that year.

(c) In determining the total cost of providing maintenance and repair services for the purpose of Subsection (a)(2), the department shall consider direct and indirect costs of providing those services.

(d) In this section:

(1) "Highway equipment" means machinery or equipment, other than a passenger car, that is used by the department for the construction, reconstruction, maintenance, or repair of a road or highway.

(2) "Passenger car" has the meaning assigned that term by Section 502.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 600, Sec. 1, eff. June 18, 1999.

Sec. 201.706. LOCAL GOVERNMENT ASSISTANCE. From appropriated funds, the department shall assist counties with materials to repair and maintain county roads. The department shall:

(1) provide that the total annual value of assistance under this section is:

(A) at least \$12 million per year for fiscal years 1998 and 1999; and

(B) at least \$6 million per year for a fiscal year other than 1998 or 1999;

(2) make maximum usage of surplus materials on hand;

(3) develop rules and procedures to implement this section and to provide for the distribution of the assistance with preference given to counties with an above average number of overweight trucks receiving weight tolerance permits based on the previous year's permit totals; and

(4) undertake cooperative and joint procurement of road materials with counties under procedures of the comptroller.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.41, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.110, eff. September 1, 2007.

Sec. 201.707. AGREEMENTS FOR SERVICES ON REGIONAL TOLLWAY AUTHORITY PROJECTS. Notwithstanding Section 201.703(c), the department and a regional tollway authority governed by Chapter 366 may enter into an agreement for the provision by the department, for fair and reasonable compensation, of services on the regional tollway authority's turnpike projects, including but not limited to courtesy patrols.

Added by Acts 1999, 76th Leg., ch. 576, Sec. 2, eff. Sept. 1, 1999.

Sec. 201.710. PLANNING AND FUNDING OF PORTS OF ENTRY. (a) In this section:

(1) "Port of entry" means a place designated by executive order of the president of the United States, by order of the United States secretary of the treasury, or by Act of the United States Congress at which a customs officer is authorized to accept entries of merchandise to collect duties, and to enforce the various provisions of the customs and navigation laws.

(2) "Project related to a port of entry" means a transportation project on the state highway system related to access to a port of entry in this state.

(b) This section applies only to a port of entry on the border with the United Mexican States. This section does not apply to a port of entry at an airport.

(c) The department shall include projects related to ports of entry in its unified transportation program or any successor to that program.

(d) A metropolitan planning organization that has a port of entry within its jurisdiction shall include projects related to ports of entry in its transportation improvement plan.

(e) In allocating money to projects, the department shall fund projects related to ports of entry from money other than North American Free Trade Agreement discretionary funds.

Added by Acts 2001, 77th Leg., ch. 1226, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER I-1. ENVIRONMENTAL REVIEW PROCESS

Sec. 201.751. DEFINITIONS. In this subchapter:

- (1) "Day" means a calendar day.
- (2) "Federal Highway Administration" means the United States Department of Transportation Federal Highway Administration.
- (3) "Highway project" means a highway or related improvement that is:
 - (A) part of the state highway system; or
 - (B) not part of the state highway system but funded wholly or partly by federal money.
- (4) "Local government sponsor" means a political subdivision of the state that:
 - (A) elects to participate in the planning, development, design, funding, or financing of a highway project; and
 - (B) is a municipality or a county, a group of adjoining counties, a county acting under Chapter 284, a regional tollway authority operating under Chapter 366, a regional mobility authority operating under Chapter 370, a local government corporation, or a transportation corporation created under Chapter 431.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 21(a), eff. September 1, 2011.

Sec. 201.752. STANDARDS. (a) The commission by rule shall establish standards for processing an environmental review document for a highway project. The standards must increase efficiency, minimize delays, and encourage collaboration and cooperation by the department with a local government sponsor, with a goal of prompt approval of legally sufficient documents.

(b) The standards apply regardless of whether the environmental review document is prepared by the department or a local government sponsor. The standards apply to work performed by the sponsor and to the department's review process and environmental decision.

(c) The standards must address, for each type of environmental review document:

(1) the issues and subject matter to be included in the project scope prepared under Section 201.754;

(2) the required content of a draft environmental review document;

(3) the process to be followed in considering each type of environmental review document; and

(4) review deadlines, including the deadlines in Section 201.759.

(d) The standards must include a process for resolving disputes arising under this subchapter, provided that the dispute resolution process must be concluded not later than the 60th day after the date either party requests dispute resolution.

(e) For highway projects described in Section 201.753(a), the standards may provide a process and criteria for the prioritization of environmental review documents in the event the department makes a finding that it lacks adequate resources to timely process all documents it receives. Standards established pursuant to this subsection must provide for notification to a local government sponsor if processing of an environmental review document is to be delayed due to prioritization, and must ensure that the environmental review document for each highway project will be completed no later than one year prior to the date planned for publishing notice to let the construction contract for the project, as indicated in a document identifying the project under Section 201.753(a)(1) or a commission order under Section 201.753(a)(2).

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 21(a), eff. September 1, 2011.

Sec. 201.753. ENVIRONMENTAL REVIEW LIMITED TO CERTAIN PROJECTS.

(a) A local government sponsor or the department may prepare an environmental review document for a highway project only if the highway project is:

(1) identified in the financially constrained portion of the approved state transportation improvement program or the financially constrained portion of the approved unified transportation program; or

(2) identified by the commission as being eligible for participation under this subchapter.

(b) Notwithstanding Subsection (a), a local government sponsor may prepare an environmental review document for a highway project that is not identified by the commission or in a program described by Subsection (a) if the sponsor submits with its notice under Section 201.755 a fee in an amount established by commission rule, but not to exceed the actual cost of reviewing the environmental review document.

(c) A fee received by the department under Subsection (b) must be deposited in the state highway fund and used to pay costs incurred under this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 21(a), eff. September 1, 2011.

Sec. 201.754. SCOPE OF PROJECT. If an environmental review document is prepared by a local government sponsor, the local government sponsor must prepare a detailed scope of the project in collaboration with the department before the department may process the environmental review document.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 21(a), eff. September 1, 2011.

Sec. 201.755. NOTICE TO DEPARTMENT. (a) A local government sponsor may submit notice to the department proposing that the local

government sponsor prepare the environmental review document for a highway project.

(b) The notice must include:

- (1) the project scope prepared under Section 201.754; and
- (2) a request for classification of the project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 21(a), eff. September 1, 2011.

Sec. 201.756. LOCAL GOVERNMENT SPONSOR RESPONSIBILITIES. A local government sponsor that submits notice under Section 201.755 is responsible for preparing all materials for:

- (1) project scope determination;
- (2) environmental reports;
- (3) the environmental review document;
- (4) environmental permits and conditions;
- (5) coordination with resource agencies; and
- (6) public participation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 21(a), eff. September 1, 2011.

Sec. 201.757. DETERMINATION OF ADMINISTRATIVELY COMPLETE ENVIRONMENTAL REVIEW DOCUMENT. (a) A local government sponsor's submission of an environmental review document must include a statement from the local government sponsor that the document is administratively complete, ready for technical review, and compliant with all applicable requirements.

(b) Not later than the 20th day after the date the department receives a local government sponsor's environmental review document, the department shall either:

- (1) issue a letter confirming that the document is administratively complete and ready for technical review; or
- (2) decline to issue a letter confirming that the document is administratively complete and ready for technical review, in accordance with Section 201.758.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 21(a), eff. September 1, 2011.

Sec. 201.758. DEPARTMENT DECLINES TO CONFIRM THAT DOCUMENT IS ADMINISTRATIVELY COMPLETE. (a) The department may decline to issue a letter confirming that an environmental review document is administratively complete and ready for technical review only if the department sends a written response to the local government sponsor specifying in reasonable detail the basis for its conclusions, including a listing of any required information determined by the department to be missing from the document.

(b) If the department provides notice under Subsection (a), the department shall undertake all reasonable efforts to cooperate with the local government sponsor in a timely manner to ensure that the environmental review document is administratively complete.

(c) The local government sponsor may resubmit any environmental review document determined by the department under Section 201.757 not to be administratively complete, and the department shall issue a determination letter on the resubmitted document not later than the 20th day after the date the document is resubmitted.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 21(a), eff. September 1, 2011.

Sec. 201.759. REVIEW DEADLINES. (a) The following deadlines

must be included in the standards adopted under Section 201.752:

(1) the department shall issue a classification letter not later than the 30th day after the date the department receives notice from a local government sponsor under Section 201.755;

(2) for a project classified as a programmatic categorical exclusion, the environmental decision must be rendered not later than the 60th day after the date the supporting documentation is received by the department;

(3) for a project classified as a categorical exclusion, the environmental decision must be rendered not later than the 90th day after the date the supporting documentation is received by the department;

(4) for a project that requires the preparation of an environmental assessment:

(A) the department must provide all department comments on a draft environmental assessment not later than the 90th day after the date the draft is received by the department; and

(B) the department must render the environmental decision on the project not later than the 60th day after the later of:

(i) the date the revised environmental assessment is submitted to the department; or

(ii) the date the public involvement process concludes;

(5) the department must render the environmental decision on any reevaluation not later than the 120th day after the date the supporting documentation is received by the department; and

(6) for a project that requires the preparation of an environmental impact statement, the department shall render the environmental decision not later than the 120th day after the date the draft final environmental impact statement is submitted.

(b) Review deadlines under this section specify the date by which the department will render the environmental decision on a project or the time frames by which the department will make a recommendation to the Federal Highway Administration, as applicable.

(c) A deadline that falls on a weekend or official state holiday is considered to occur on the next business day.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 21(a), eff. September 1, 2011.

Sec. 201.760. SUSPENSION OF TIME PERIODS. The computation of review deadlines under Section 201.759 does not begin until an environmental review document is determined to be administratively complete, and is suspended during any period in which:

(1) the document that is the subject of the review is being revised by or on behalf of the local government sponsor in response to department comments;

(2) the highway project is the subject of additional work, including a change in design of the project, and during the identification and resolution of new significant issues; or

(3) the local government sponsor is preparing a response to any issue raised by legal counsel for the department concerning compliance with applicable law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 21(a), eff. September 1, 2011.

Sec. 201.761. AGREEMENT BETWEEN LOCAL GOVERNMENT SPONSOR AND DEPARTMENT. Notwithstanding any provision of this subchapter or any other law, a local government sponsor and the department may enter into an agreement that defines the relative roles and responsibilities of the parties in the preparation and review of environmental review documents for a specific project. For a project for which an environmental decision requires the approval of the Federal Highway Administration and to the extent otherwise permitted by law, the Federal Highway Administration may also be a party to an agreement between a local government sponsor and the department under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 2(a),

eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 21(a), eff. September 1, 2011.

Sec. 201.762. REPORTS TO COMMISSION AND LEGISLATURE. (a) Not later than June 30 and December 31 of each year, the department shall submit a report to the commission at a regularly scheduled commission meeting identifying projects being processed under the procedures of this subchapter and the status of each project, including:

- (1) how the project was classified for environmental review;
- (2) the current status of the environmental review;
- (3) the date on which the department is required to make an environmental decision under applicable deadlines;
- (4) an explanation of any delays; and
- (5) any deadline under Section 201.759 missed by the department.

(b) Not later than December 1 of each year, the department shall submit a report to the members of the standing legislative committees with primary jurisdiction over matters related to transportation regarding the implementation of this subchapter, including a status report for the preceding 12-month period that contains the information described in Subsection (a).

(c) The department shall post copies of the reports required under this section on its Internet website and shall provide a copy of the report required by Subsection (b) to each member of the legislature who has at least one project covered by the report in the member's district.

(d) The department shall make available on its Internet website and update regularly the status of projects being processed under this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 2(a), eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec.

21(a), eff. September 1, 2011.

SUBCHAPTER J. INFORMATION FURNISHED BY DEPARTMENT

Sec. 201.801. COMPLAINTS. (a) The department shall maintain a system to promptly and efficiently act on complaints filed with the department. The department shall maintain information about the parties to and the subject matter of a complaint and a summary of the results of the review or investigation of the complaint and the disposition of the complaint.

(b) The department shall make information available describing its procedures for complaint investigation and resolution.

(c) The department shall periodically notify the parties to the complaint of its status until final disposition unless the notice would jeopardize an undercover investigation.

(d) The commission shall adopt rules applicable to each division and district to establish a process to act on complaints filed with the department.

(e) The department shall develop a standard form for submitting a complaint and make the form available on its Internet website. The department shall establish a method to submit complaints electronically.

(f) The department shall develop a method for analyzing the sources and types of complaints and violations and establish categories for the complaints and violations. The department shall use the analysis to focus its information and education efforts on specific problem areas identified through the analysis.

(g) The department shall:

(1) compile:

(A) detailed statistics and analyze trends on complaint information, including:

(i) the nature of the complaints;

(ii) their disposition; and

(iii) the length of time to resolve complaints;

(B) complaint information on a district and a divisional basis; and

(C) the number of similar complaints filed, and the number of persons who filed each complaint; and

(2) report the information on a monthly basis to the division directors, office directors, and district engineers and on a

quarterly basis to the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.12, eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 22(a), eff. September 1, 2011.

Sec. 201.802. PUBLIC ACCESS TO COMMISSION AND TO DEPARTMENT PROGRAMS. (a) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and speak on any issue under the jurisdiction of the department.

(b) The director shall prepare and maintain a written plan that describes the manner in which a person who does not speak English or who has a physical, mental, or developmental disability is provided reasonable access to the department's programs.

(c) The department shall comply with each applicable law of the United States or this state that relates to program or facility accessibility.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.13, eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 23, eff. September 1, 2011.

Sec. 201.803. INFORMATION FOR ROAD CONSTRUCTION AND MAINTENANCE. (a) The department shall collect information and compile statistics about the mileage, character, and condition of public roads in each county and the cost of construction of the classes of roads in the county.

(b) The department shall investigate and determine the methods of road construction best adapted to different sections of the state.

(c) The department shall establish standards for the construction and maintenance of highways, bridges, and ferries, considering natural conditions and the character and adaptability of road building material in the counties of the state.

(d) The department may be consulted, at all reasonable times,

by county and municipal officials for any information or assistance the department can give concerning the highways in the county or municipality. The department shall provide the requested information.

(e) The department may request from county and municipal officials any information necessary for the performance of the department's duties under this section.

(f) Before any proceeds from the sale of bonds or other legal obligations issued by a county or a subdivision or defined district of a county are spent for road construction by the commissioners court of the county or under its direction, the commissioners court shall obtain from the department information and advice on the general plans and specifications for the road construction to be undertaken. On request of a county commissioners court, the department shall consider and advise the commissioners court on those plans and specifications.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.8035. INSPECTION OF COUNTY AND MUNICIPAL BRIDGES. (a) If the department inspects a bridge under the jurisdiction of a county or a municipality and determines that the bridge qualifies for a lower load rating under 23 C.F.R. Part 650, Subpart C, than is currently permitted, the department shall notify the commissioners court of the county or the governing body of the municipality.

(b) A commissioners court or governing body that is notified under Subsection (a) shall post notices on the road or highway approaching the bridge that state the maximum load permitted on the bridge. The notices must be posted at locations that enable affected drivers to detour to avoid the restricted bridge.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.09(a), eff. Sept. 1, 1997.

Sec. 201.804. SUBMISSION OF BRIDGE DESIGN PLANS TO DEPARTMENT. (a) This section applies to any governmental entity of this state that is authorized by law to construct or maintain a public road and that:

- (1) constructs or rehabilitates a bridge;

(2) proposes to assume responsibility for a bridge constructed or rehabilitated by another person; or

(3) issues a permit for the construction or rehabilitation of a bridge by another person.

(b) Before the 31st day after the date the construction or rehabilitation of the bridge is completed, the governmental entity shall submit to the department a copy of the final structural design plans for the bridge.

(c) The department shall use information submitted under Subsection (b) as necessary in seeking to comply with 23 C.F.R. Part 650, Subpart C.

Added by Acts 1999, 76th Leg., ch. 831, Sec. 1, eff. June 18, 1999.

Sec. 201.805. REPORTS AND INFORMATION. (a) The department shall annually publish in appropriate media and on the department's Internet website in a format that allows the information to be read into a commercially available electronic database a statistical comparison of department districts and the following information, calculated on a per capita basis considering the most recent census data and listed for each county and for the state for each fiscal year:

- (1) the number of square miles;
- (2) the number of vehicles registered;
- (3) the population;
- (4) daily vehicle miles;
- (5) the number of centerline miles and lane miles;
- (6) construction, maintenance, and contracted routine and preventive maintenance expenditures;
- (7) combined construction, maintenance, and contracted routine and preventive maintenance expenditures;
- (8) the number of district and division office construction and maintenance employees;
- (9) information regarding grant programs, including:
 - (A) Automobile Theft Prevention Authority grants;
 - (B) Routine Airport Maintenance Program grants;
 - (C) Public Transportation Grant Program grants;
 - (D) Medical Transportation Program grants; and
 - (E) aviation grants or aviation capital improvement

grants;

- (10) approved State Infrastructure Bank loans;
- (11) Texas Traffic Safety Program grants and expenditures;
- (12) the dollar amount of any pass-through toll agreements;
- (13) the percentage of highway construction projects

completed on time;

(14) the percentage of highway construction projects that cost:

- (A) more than the contract amount; and
- (B) less than the contract amount; and

(15) a description of real property acquired by the department through the exercise of eminent domain, including the acreage of the property and the location of the property.

(b) The department shall include information from all department contracts in the statistical comparison and information reports required under Subsection (a).

(c) The department shall annually publish in appropriate media and on the department's Internet website in a format that allows the information to be read into a commercially available electronic database the following information for each fiscal year:

(1) the amount of money in the Texas Mobility Fund itemized by the source of the money; and

(2) the amount of money received by the department:

- (A) itemized by the source of the money; and
- (B) compared to the amount of money appropriated by the legislature to the department in the General Appropriations Act.

(d) The department shall annually publish in appropriate media and on the department's Internet website in a format that allows the information to be read into a commercially available electronic database a list of each contract the department has with:

(1) a person required to register as a lobbyist under Chapter 305, Government Code;

(2) a public relations firm; or

(3) a government consultant.

Added by Acts 2007, 80th Leg., R.S., Ch. 494 (S.B. 255), Sec. 1, eff. September 1, 2007.

Sec. 201.806. ACCIDENT REPORTS. (a) The department shall:

(1) tabulate and analyze the vehicle accident reports it receives; and

(2) annually or more frequently publish statistical information derived from the accident reports as to the number, cause, and location of highway accidents, including information regarding the number of:

(A) accidents involving injury to, death of, or property damage to a bicyclist or pedestrian; and

(B) fatalities caused by a bridge collapse, as defined by Section 550.081.

(b) The department shall provide electronic access to the system containing the accident reports so that the Department of Public Safety can perform its duties, including the duty to make timely entries on driver records.

Added by Acts 2007, 80th Leg., R.S., Ch. 1407 (S.B. 766), Sec. 1, eff. September 1, 2007.

Renumbered from Transportation Code, Section 201.805 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(90), eff. September 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 522 (S.B. 1218), Sec. 1, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 91, eff. September 1, 2013.

Sec. 201.807. PROJECT INFORMATION REPORTING SYSTEM. (a) In this section, "department project" means a highway project under the jurisdiction of the department, including a grouped rehabilitation and preventive maintenance project, that:

(1) is being developed or is under construction; and

(2) is identified in the work program required under

Section 201.998.

(b) The department shall establish a project information reporting system that makes available in a central location on the department's Internet website easily accessible and searchable information regarding all of the department's transportation plans and programs, including the unified transportation program required by Section 201.991. The department shall post information on its

Internet website as required by this subsection as the information becomes available to the department and in a manner that is not cost prohibitive. The project information reporting system shall contain information about:

- (1) each department project, including:
 - (A) the status of the project;
 - (B) each source of funding for the project;
 - (C) benchmarks for evaluating the progress of the project;
 - (D) timelines for completing the project;
 - (E) a list of the department employees responsible for the project, including information to contact each person on that list; and
 - (F) the results of the annual review required under Subsection (e); and
 - (2) the department's funds, including each source for the department's funds, and the amount and general type or purpose of each expenditure as described in the comptroller's statewide accounting system, reported by each:
 - (A) department district;
 - (B) program funding category as required by Section 201.991(b)(2); and
 - (C) type of revenue, including revenue from a comprehensive development agreement or a toll project.
- (c) In developing the project information reporting system, the department shall collaborate with:
- (1) the legislature;
 - (2) local transportation entities; and
 - (3) members of the public.
- (d) The department shall make the statistical information provided under this section available on the department's Internet website in more than one downloadable electronic format.
- (e) As a component of the project information reporting system required by this section, the department shall conduct an annual review of the benchmarks and timelines of each project included in the department's transportation plans, including the unified transportation program, to determine the completion rates of the projects and whether the projects were completed on time.
- (f) The department shall update the information contained in the project information reporting system on a regular basis, as

specified by commission rule.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 24(a), eff. September 1, 2011.

Sec. 201.808. TRANSPORTATION EXPENDITURE PRIORITIES. (a) The department shall develop a process to identify and distinguish between the transportation projects that are required to maintain the state infrastructure and the transportation projects that would improve the state infrastructure in a manner consistent with the statewide transportation plan required by Section 201.601.

(b) The department shall establish a transportation expenditure reporting system that makes available in a central location on the department's Internet website easily accessible and searchable information regarding the priorities of transportation expenditures for the identified transportation projects.

(c) The department shall include in the transportation expenditure reporting system:

(1) reports prepared by the department or an institution of higher education that evaluate the effectiveness of the department's expenditures on transportation projects to achieve the transportation goal;

(2) information about the condition of the pavement for each highway under the jurisdiction of the department, including the percentage of pavement that the department determines to be in good or better condition;

(3) the condition of bridges, including information about bridge condition scores;

(4) information about peak-hour travel congestion in the eight largest metropolitan areas of the state; and

(5) information about the number of traffic fatalities per 100 million miles traveled.

(d) The department shall provide the information made available under Subsection (c) in a format that allows a person to conduct electronic searches for information regarding a specific county, highway under the jurisdiction of the department, or type of road.

(e) The department shall establish criteria to prioritize the transportation needs for the state that are consistent with the statewide transportation plan.

(f) Each department district shall enter information into the transportation expenditure reporting system, including information about:

(1) each district transportation project; and

(2) the category to which the project has been assigned and the priority of the project in the category under Section 201.995.

(g) The transportation expenditure reporting system shall allow a person to compare information produced by that system to information produced by the project information reporting system.

(h) To provide a means of verifying the accuracy of information being made available through the transportation expenditure reporting system, the department shall retain and archive appropriate documentation supporting the expenditure information or data summary that is detailed in the reporting system, by archiving copies of the original supporting documentation in a digital, electronic, or other appropriate format of storage or imaging that allows departmental management and retrieval of the records. Supporting documentation may include contract or transactional documents, letter agreements, invoices, statements, payment vouchers, requests for object of expenditure payments to be made by or on behalf of the department, and other items establishing the purpose and payment of the expenditure. The documentation shall be retained for the applicable period as set forth in rules for records retention and destruction promulgated by the Texas State Library and Archives Commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 24(a), eff. September 1, 2011.

Sec. 201.809. STATEWIDE TRANSPORTATION REPORT. (a) The department annually shall evaluate and publish a report about the status of each transportation goal for this state. The report must include:

(1) information about the progress of each long-term transportation goal that is identified by the statewide transportation plan;

(2) the status of each project identified as a major priority;

(3) a summary of the number of statewide project implementation benchmarks that have been completed; and

(4) information about the accuracy of previous department financial forecasts.

(b) The department shall disaggregate the information in the report by department district.

(c) The department shall provide a copy of the district report to each member of the legislature for each department district located in the member's legislative district, and at the request of a member, a department employee shall meet with the member to explain the report.

(d) The department shall provide a copy of each district report to the political subdivisions located in the department district that is the subject of the report, including:

- (1) a municipality;
- (2) a county; and
- (3) a local transportation entity.

(e) The commission by rule shall develop and implement a performance-based planning and programming process dedicated to providing the executive and legislative branches of government with indicators that quantify and qualify progress toward attaining all department goals and objectives established by the legislature and the commission.

(f) The commission by rule shall develop and implement performance metrics and performance measures as part of:

- (1) the review of strategic planning in the statewide transportation plan, rural transportation plans, and unified transportation program;
- (2) the evaluation of decision-making on projects selected for funding in the unified transportation program and statewide transportation improvement program; and
- (3) the evaluation of project delivery for projects in the department's letting schedule.

(g) The commission by rule shall adopt and shall periodically review performance metrics and measures to:

- (1) assess how well the transportation system is performing and operating in accordance with the requirements of 23 U.S.C. Section 134 or 135, as applicable;
- (2) provide the department, legislature, stakeholders, and public with information to support decisions in a manner that is accessible and understandable to the public;
- (3) assess the effectiveness and efficiency of

transportation projects and service;

(4) demonstrate transparency and accountability; and

(5) address other issues the commission considers

necessary.

(h) The requirement for the commission to develop and implement a performance-based planning and programming process does not replace or alter the requirement of the commission or department to comply with the budgetary performance measures for each biennium as established in the General Appropriations Act. The commission may not rely on the satisfaction of the requirement to report budgetary performance measures as satisfying the requirements imposed under this section.

(i) The commission shall develop and implement periodic reporting schedules for all performance metrics and measures required under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 24(a), eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 314 (H.B. 20), Sec. 1, eff. June 3, 2015.

Sec. 201.810. DEPARTMENT INFORMATION CONSOLIDATION. (a) To the extent practicable and to avoid duplication of reporting requirements, the department may combine the reports required under this subchapter with reports required under other provisions of this code.

(b) The department shall develop a central location on the department's Internet website that provides easily accessible and searchable information to the public contained in the reports required under this subchapter and other provisions of this code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 24(a), eff. September 1, 2011.

Sec. 201.811. PUBLIC INVOLVEMENT POLICY. (a) The department shall develop and implement a policy for public involvement that guides and encourages public involvement with the department. The policy must:

- (1) provide for the use of public involvement techniques that target different groups and individuals;
 - (2) encourage continuous contact between the department and persons outside the department throughout the transportation decision-making process;
 - (3) require the department to make efforts toward:
 - (A) clearly tying public involvement to decisions made by the department; and
 - (B) providing clear information to the public about specific outcomes of public input;
 - (4) apply to all public input with the department, including input:
 - (A) on statewide transportation policy-making;
 - (B) in connection with the environmental process relating to specific projects; and
 - (C) into the commission's rulemaking procedures; and
 - (5) require a person who makes or submits a public comment, at the time the comment is made or disclosed, to disclose in writing on a witness card whether the person:
 - (A) does business with the department;
 - (B) may benefit monetarily from a project; or
 - (C) is an employee of the department.
- (b) The department shall document the number of positive, negative, or neutral public comments received regarding all environmental impact statements as expressed by the public through the department's public involvement process. The department shall:
- (1) present this information to the commission in an open meeting; and
 - (2) report this information on the department's Internet website in a timely manner.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 24(a), eff. September 1, 2011.

SUBCHAPTER K. ROAD AND HIGHWAY USE; SIGNS

Sec. 201.901. PROHIBITING USE OF HIGHWAY OR ROAD. (a) The commission may prohibit the use of any part of a highway or road under the control of the department by any vehicle that will unduly damage the highway or road when:

(1) because of wet weather or recent construction or repairs, the highway or road cannot be safely used without probable serious damage to it; or

(2) a bridge or culvert on the highway or road is unsafe.

(b) Before prohibiting the use of a highway or road under this section, the commission shall post notices that state the maximum load permitted and the time the use of the highway or road is prohibited. The notices must be posted at locations that enable drivers to detour to avoid the restricted highway or road.

(c) The commission may not prohibit the use of a highway or road under this section until a detour has been provided.

(d) If the owner or operator of a vehicle that is prohibited from using a highway or road under this section is aggrieved by the prohibition, the person may file with the county judge of the county in which the restricted highway or road is located a written complaint that sets forth the nature of the grievance. On the filing of the complaint the county judge immediately shall set the issue for a hearing to be held not later than the third day after the date on which the complaint is filed. The county judge shall give to the commission written notice of the day and purpose of each hearing.

(e) The county judge shall hear testimony offered by the parties. On conclusion of the hearing, the county judge shall sustain, revoke, or modify the commission's decision on the restriction. The county judge's judgment is final as to the issues raised.

(f) A person who violates a prohibition established under this section before or after it is approved by the county judge under Subsection (e) commits an offense. An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.902. ROAD USE BY BICYCLISTS. (a) The department shall designate:

(1) a statewide bicycle coordinator; and

(2) a bicycle coordinator in each regional office.

(b) A bicycle coordinator shall assist the department in developing rules and plans to enhance the use of the state highway system by bicyclists.

(c) The commission shall adopt rules relating to use of roads in the state highway system by bicyclists, including provisions for:

(1) the specific duties of the statewide bicycle coordinator and the regional bicycle coordinators;

(2) obtaining comments from bicyclists on:

(A) a highway project that might affect bicycle use;

(B) the use of a highway for bicycling events; and

(C) department policies affecting bicycle use of state highways;

(3) the consideration of acceptable national bicycle design, construction, and maintenance standards on a project in an area with significant bicycle use; and

(4) any other matter the commission determines necessary to enhance the use of the state highway system by bicyclists.

(d) A rule adopted under this section may not be inconsistent with Chapter 551.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.9025. TEXAS BICYCLE TOURISM TRAILS. (a) The Texas Department of Transportation Bicycle Advisory Committee shall advise and make recommendations to the commission on the development of bicycle tourism trails in this state. Recommendations on bicycle tourism trails developed under this section:

(1) shall be made in consultation with the Parks and Wildlife Commission and the Texas Economic Development and Tourism Office;

(2) shall reflect the geography, scenery, history, and cultural diversity of this state;

(3) shall maximize federal and private sources of funding for the designation, construction, improvement, maintenance, and signage of the trails and the promotion of bicycle tourism; and

(4) may include multiuse trails to accommodate equestrians, pedestrians, and other nonmotorized trail users when practicable.

(b) The department may contract with a statewide bicycle nonprofit organization for assistance in identifying, developing, promoting, or coordinating agreements and participation among political subdivisions of this state to advance bicycle tourism trails.

Added by Acts 2005, 79th Leg., Ch. 161 (S.B. 602), Sec. 1, eff. September 1, 2005.

Sec. 201.903. CLASSIFICATION, DESIGNATION, AND MARKING OF HIGHWAYS. (a) The department may classify, designate, and mark state highways in this state.

(b) The department may provide a uniform system of marking and signing state highways under the control of the state. The system must correlate with and, to the extent possible, conform to the system adopted in other states.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.904. SPEED SIGNS. The department shall erect and maintain on the highways and roads of this state appropriate signs that show the maximum lawful speed for commercial motor vehicles, truck tractors, truck trailers, truck semitrailers, and motor vehicles engaged in the business of transporting passengers for compensation or hire (buses).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.905. TRAFFIC SAFETY SIGNS. (a) The department may implement a traffic safety program that includes posting signs along the roadside at the 500 sites with the highest number of traffic fatalities. The signs shall be designed by the department and may contain the following information:

- (1) the number of fatalities that occurred at that location in the last 10 years;
- (2) the importance of driving safely and wearing seat belts;
- (3) the importance of not drinking and driving; and
- (4) any other information the department determines is necessary to promote safe driving.

(b) A program under this section may also include literature distributed to the public by the department.

Added by Acts 1997, 75th Leg., ch. 1214, Sec. 1, eff. Sept. 1, 1997.

Sec. 201.906. MULTIMODAL ROAD USE. (a) The department shall conduct a comprehensive analysis of the multimodal use of roads and highways in the state highway system. The analysis shall include the collection of data on users' concerns about road conditions and actual and potential use patterns of roads or highways.

(b) After the analysis required by Subsection (a) is completed, the department shall initiate and coordinate a campaign to help increase public awareness of traffic safety issues.

(c) The department shall initiate a program of continuing community involvement sessions to help other state agencies, local decision-makers, interest groups, and the general public improve the state's comprehensive transportation system to include all modes of transportation.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.14, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1171, Sec. 1.14, eff. Sept. 1, 1997. Renumbered from Sec. 201.905 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(94), eff. Sept. 1, 1999.

Sec. 201.907. CONTRACT FOR ENFORCEMENT. The department or a public or private entity contracted to operate a toll project may contract with an agency of this state or a local governmental entity for the services of peace officers employed by the agency or entity to enforce laws related to:

(1) the regulation and control of vehicular traffic on a state highway; and

(2) the payment of the proper toll on a toll project.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.09, eff. June 14, 2005.

Sec. 201.908. REMOVING OR COVERING SIGNS IN CONSTRUCTION OR MAINTENANCE WORK ZONE. (a) In this section, "construction or maintenance work zone" has the meaning assigned by Section 472.022.

(b) The department shall remove or cover or require the removal or covering of a sign that restricts the speed limit in a construction or maintenance work zone during any period when no

hazard exists that dictates the need for a restricted speed limit.

Added by Acts 2005, 79th Leg., Ch. 1086 (H.B. 1925), Sec. 1, eff. June 18, 2005.

Renumbered from Transportation Code, Section 201.907 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(91), eff. September 1, 2009.

Sec. 201.909. MEMORIAL SIGN PROGRAM. (a) In this section, "victim" means a person killed in a highway accident involving alcohol or a controlled substance, excluding an operator who was under the influence of alcohol or a controlled substance.

(b) The commission by rule shall establish and administer a memorial sign program to publicly memorialize the victims of alcohol or controlled substance-related vehicle accidents.

(c) A sign designed and posted under this section shall include:

- (1) the phrase "Please Don't Drink and Drive";
- (2) the phrase "In Memory Of" and the name of one or more victims in accordance with the commission rule; and
- (3) the date of the accident that resulted in the victim's death.

(c-1) The sign may include the names of more than one victim so long as the total length of the names does not exceed one line of text.

(d) A person may request that a sign be posted under this section by:

- (1) making an application to the department on a form prescribed by the department; and
- (2) submitting a fee to the department in an amount determined by the department to help defray the costs of posting the memorial sign.

(e) If the application meets the department's requirements and the applicant pays the memorial sign fee, the department shall erect a sign. A sign posted under this section may remain posted for two years. At the end of the two-year period the department may release the sign to the applicant. The department is not required to release a sign that has been damaged.

(f) A sign posted under this section that is damaged shall be

removed by the department. Except as provided in Subsection (g), the department may post a new sign if it has been less than two years from the posting of the original sign and a person:

(1) submits a written request to the department to replace the sign; and

(2) submits a replacement fee in the amount provided under Subsection (d)(2).

(g) During the two-year posting period the department shall replace a sign posted under this section that is damaged because of the department's negligence.

(h) The commission shall adopt rules to implement this section.

(i) This section does not authorize the department to remove an existing privately funded memorial that conforms to state law and department rules. A privately funded memorial may remain indefinitely as long as it conforms to state law and department rules.

Added by Acts 2007, 80th Leg., R.S., Ch. 907 (H.B. 2859), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 744 (S.B. 521), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 971 (H.B. 1486), Sec. 1, eff. June 17, 2011.

Sec. 201.910. MEMORIAL MARKERS FOR CERTAIN PEACE OFFICERS KILLED IN LINE OF DUTY. (a) The commission by rule shall authorize memorial markers honoring peace officers killed in the line of duty who are not Department of Public Safety troopers. The program established under this section shall be identical to the commission's existing program for memorial markers for honoring Department of Public Safety troopers.

(b) As used in this section, "peace officer" means a person who was:

(1) a law enforcement officer or peace officer for this state or a political subdivision of this state under Article 2.12, Code of Criminal Procedure, or other law; or

(2) a federal law enforcement officer or special agent performing duties in this state, including those officers under

Article 2.122, Code of Criminal Procedure.

Added by Acts 2009, 81st Leg., R.S., Ch. 564 (S.B. 2028), Sec. 1, eff. September 1, 2009.

Sec. 201.911. MEMORIAL SIGN PROGRAM FOR MOTORCYCLISTS. (a) In this section, "victim" means a person killed in a highway accident while operating or riding on a motorcycle.

(b) The commission by rule shall establish and administer a memorial sign program to publicly memorialize the victims of motorcycle accidents.

(c) A sign designed and posted under this section shall include:

- (1) a red cross;
- (2) the phrase "In Memory Of" and the name of one or more victims in accordance with the commission rule; and
- (3) the date of the accident that resulted in the victim's death.

(d) The sign may include the names of more than one victim if the total length of the names does not exceed one line of text.

(e) A person may request that a sign be posted under this section by:

- (1) making an application to the department on a form prescribed by the department; and
- (2) submitting a fee to the department in an amount determined by the department to cover the costs of posting the memorial sign.

(f) If the application meets the department's requirements and the applicant pays the memorial sign fee, the department shall erect a sign. A sign posted under this section may remain posted for one year. At the end of the one-year period, the department may release the sign to the applicant. The department is not required to release a sign that has been damaged.

(g) The department shall remove a sign posted under this section that is damaged. Except as provided by Subsection (h), the department may post a new sign if less than one year has passed from the posting of the original sign and a person:

- (1) submits a written request to the department to replace the sign; and

(2) submits a replacement fee in the amount provided by Subsection (e)(2).

(h) During the one-year posting period, the department shall replace a sign posted under this section if the sign is damaged because of the department's negligence.

(i) This section does not authorize the department to remove an existing privately funded memorial that conforms to state law and department rules. A privately funded memorial may remain indefinitely as long as the memorial conforms to state law and department rules.

(j) The commission shall adopt rules to implement this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1013 (H.B. 2469), Sec. 2, eff. June 17, 2011.

SUBCHAPTER L. ELECTRONIC ISSUANCE OF OUTDOOR ADVERTISING LICENSES

Sec. 201.931. DEFINITIONS. In this subchapter:

(1) "Digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

(2) "License" means a license or permit for outdoor advertising issued under Chapter 391 or 394.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.15, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.819, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2A.02, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 40, eff. September 1, 2013.

Sec. 201.932. APPLICATION FOR AND ISSUANCE OF LICENSE. (a) The commission may by rule provide for the filing of a license application and the issuance of a license by electronic means.

(b) The commission may limit applicant eligibility under Subsection (a) if the rules include reasonable eligibility criteria.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.15, eff. Sept. 1,

1997.

Sec. 201.933. DIGITAL SIGNATURE. (a) A license application received by the department is considered signed if a digital signature is transmitted with the application and intended by the applicant to authenticate the license in accordance with Subsection (b).

(b) The department may only accept a digital signature used to authenticate a license application under procedures that:

(1) comply with any applicable rules of another state agency having jurisdiction over department use or acceptance of a digital signature; and

(2) provide for consideration of factors that may affect a digital signature's reliability, including whether a digital signature is:

(A) unique to the person using it;

(B) capable of independent verification;

(C) under the sole control of the person using it; and

(D) transmitted in a manner that will make it

infeasible to change the data in the communication or digital signature without invalidating the digital signature.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.15, eff. Sept. 1, 1997.

Sec. 201.934. PAYMENT OF FEES. The commission may adopt rules regarding the method of payment of a fee for a license issued under this subchapter. The rules may authorize the use of electronic funds transfer or a valid credit card issued by a financial institution chartered by a state or the federal government or by a nationally recognized credit organization approved by the department. The rules may require the payment of a discount or service charge for a credit card payment in addition to the fee.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.15, eff. Sept. 1, 1997.

SUBCHAPTER M. OBLIGATIONS FOR CERTAIN HIGHWAY AND MOBILITY PROJECTS

Sec. 201.941. DEFINITIONS. In this subchapter:

(1) "Comptroller's certification" means:

(A) as to long-term obligations, the certification made under Section 201.943(e); and

(B) as to short-term obligations, the certification made under Section 201.943(f).

(2) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(3) "Fund" means the Texas Mobility Fund.

(4) "Long-term obligations" means an issue or series of obligations the latest scheduled maturity of which is more than five years.

(5) "Maximum obligation amount" means the maximum aggregate principal amount of long-term obligations and short-term obligations that the commission may issue from time to time after receipt of the applicable comptroller's certification.

(6) "Obligations" means bonds, notes, and other public securities.

(7) "Short-term obligations" means an issue or series of obligations the latest scheduled maturity of which is five years or less.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

Sec. 201.942. ADMINISTRATION OF FUND. The comptroller shall hold the fund, and the commission, through the department, shall manage, invest, use, and administer the fund as provided by this subchapter.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

Sec. 201.943. AUTHORITY TO ISSUE OBLIGATIONS; PURPOSES; LIMITATIONS. (a) Subject to Subsections (e), (f), (g), and (l), the commission by order or resolution may issue obligations in the name and on behalf of the state and the department and may enter into credit agreements related to the obligations. The obligations may be issued in multiple series and issues from time to time in an aggregate amount not exceeding the maximum obligation amount. The obligations may be issued on and may have the terms and provisions

the commission determines appropriate and in the interests of the state. The obligations may be issued as long-term obligations, short-term obligations, or both. The latest scheduled maturity of an issue or series of obligations may not exceed 30 years.

(b) Obligations must be secured by and payable from a pledge of and lien on all or part of the money in the fund. Obligations may be additionally secured by and payable from credit agreements. The commission may pay amounts due on the obligations from discretionary money available to it that is not dedicated to or appropriated for other specific purposes.

(c) The commission may create within the fund accounts, reserves, and subfunds for purposes the commission finds appropriate and necessary in connection with the issuance of obligations.

(d) Obligations may be issued for one or more of the following purposes:

(1) to pay all or part of the costs of constructing, reconstructing, acquiring, and expanding state highways, including any necessary design and acquisition of rights-of-way, in the manner and locations determined by the commission that, according to conclusive findings of the commission, have an expected useful life, without material repair, of not less than 10 years;

(2) to provide participation by the state in the payment of part of the costs of constructing and providing publicly owned toll roads and other public transportation projects that are determined by the commission to be in the best interests of the state in its major goal of improving the mobility of the residents of the state;

(3) to create debt service reserve accounts;

(4) to pay interest on obligations for a period of not longer than two years;

(5) to refund or cancel outstanding obligations; and

(6) to pay the commission's costs of issuance.

(e) Long-term obligations in the amount proposed to be issued by the commission may not be issued unless the comptroller projects in a comptroller's certification that the amount of money dedicated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-k(f), Article III, Texas Constitution, and the investment earnings on that money, during each year of the period during which the proposed obligations are scheduled to be outstanding will be equal to at least 110 percent of the requirements to pay the

principal of and interest on the proposed long-term obligations during that year.

(f) Short-term obligations in the amount proposed by the commission may not be issued unless the comptroller, in a comptroller's certification:

(1) assumes that the short-term obligations will be refunded and refinanced to mature over a 20-year period with level principal requirements and bearing interest at then current market rates, as determined by the comptroller; and

(2) projects that the amount of money dedicated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-k(f), Article III, Texas Constitution, and the investment earnings on that money, during each year of the assumed 20-year period will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed refunding obligations during that year.

(g) The commission may agree to further restrictions in connection with the issuance of obligations and may retain independent professional consultants to make projections in addition to, but not instead of, those of the comptroller if required as a prerequisite to the issuance of the obligations.

(h) The commission has all powers necessary or appropriate to carry out this subchapter and to implement Section 49-k, Article III, Texas Constitution, including the powers granted to other bond-issuing governmental agencies and units and to nonprofit corporations by Chapters 1201, 1207, and 1371, Government Code.

(i) As required by Section 49-k(h), Article III, Texas Constitution, proceedings authorizing obligations and related credit agreements to be issued and executed under this subchapter shall be submitted to the attorney general for approval as to their legality. If the attorney general finds that they will be issued in accordance with this subchapter and other applicable law, the attorney general shall approve them, and, after payment by the purchasers of the obligations in accordance with the terms of sale and after execution and delivery of the related credit agreements, the obligations and related credit agreements are incontestable for any cause.

(j) A comptroller's certification under this section must be based on economic data, forecasting methods, and projections that the comptroller determines are reliable.

(k) The holders of obligations and the counterparties to credit

agreements have the rights granted in Section 49-k(j), Article III, Texas Constitution.

(1) Except as otherwise provided by this subsection, obligations may not be issued under this section or Section 49-k, Article III, Texas Constitution, after January 1, 2015. The commission may issue obligations to refund:

(1) outstanding obligations to provide savings to the state; and

(2) outstanding variable rate obligations and may renew or replace credit agreements relating to the variable rate obligations.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.08, eff. June 14, 2005.

Acts 2015, 84th Leg., R.S., Ch. 387 (H.B. 122), Sec. 1, eff. June 10, 2015.

Sec. 201.944. PLEDGE OF STATE'S FULL FAITH AND CREDIT. (a) The commission may guarantee on behalf of the state the payment of any obligations and credit agreements issued under Section 201.943 by pledging the full faith and credit of the state to the payment of the obligations and credit agreements in the event the revenue and money dedicated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, and on deposit in the fund pursuant to Section 49-k(f), Article III, Texas Constitution, are insufficient for that purpose.

(b) The exercise of the authority granted by Subsection (a) does not modify or relieve the commission from complying with Section 201.943(e) or (f) and does not permit the issuance of aggregate obligations in an amount exceeding the maximum obligation amount.

(c) If the commission exercises the authority granted by Subsection (a), the constitutional appropriation contained in Section 49-k(g), Article III, Texas Constitution, shall be implemented and observed by all officers of the state during any period during which obligations and credit agreements are outstanding and unpaid.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

Sec. 201.945. DEDICATION OF REVENUE TO FUND. Annually, the

revenue of the state that is dedicated or appropriated to the fund pursuant to Section 49-k(e), Article III, Texas Constitution, shall be deposited to the fund in accordance with Section 49-k(f), Article III, Texas Constitution.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

Sec. 201.946. INVESTMENT AND USES OF MONEY IN FUND. (a) Money in the fund may be invested in the investments permitted by law for the investment of money on deposit in the state highway fund.

(b) As a part of its covenants and commitments made in connection with the issuance of obligations and the execution of credit agreements, the commission may limit the types of investments eligible for investment of money in the fund but may not expand the types of investments to include any investments that are not authorized by Subsection (a).

(c) Income received from the investment of money in the fund shall be deposited in the fund, subject to requirements that may be imposed by the proceedings authorizing obligations to protect the tax-exempt status of interest payable on the obligations under the Internal Revenue Code of 1986.

(d) To the extent money is on deposit in the fund in amounts that are in excess of the money required by the proceedings authorizing the obligations and credit agreements to be retained on deposit, the commission may use the money for any purpose for which obligations may be issued under this subchapter, other than for toll roads.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 387 (H.B. [122](#)), Sec. 2, eff. June 10, 2015.

Sec. 201.947. STRATEGIC PLAN. The commission may not issue obligations under this subchapter before the department has developed a strategic plan that outlines how the money will be used and the benefit the state will derive from use of money in the fund.

Added by Acts 2001, 77th Leg., ch. 1213, Sec. 1, eff. Nov. 6, 2001.

SUBCHAPTER N. HIGHWAY TAX AND REVENUE ANTICIPATION NOTES

Sec. 201.961. DEFINITIONS. In this subchapter:

- (1) "Committee" means the cash management committee described in Section 404.122, Government Code.
- (2) "Credit agreement" has the meaning assigned by Section 1208.001, Government Code.
- (3) "Notes" means tax and revenue anticipation notes issued under this subchapter. The term includes any obligation under a credit agreement.

Added by Acts 2003, 78th Leg., ch. 1281, Sec. 2, eff. Sept. 1, 2003.

Sec. 201.962. NOTES AUTHORIZED; COMMITTEE APPROVAL. (a) In anticipation of a temporary cash flow shortfall in the state highway fund during any fiscal year, the commission, subject to the approval of the committee, may issue, sell, and deliver tax and revenue anticipation notes on behalf of the state.

(b) Before issuing the notes, the commission shall submit to the committee a state highway fund cash flow shortfall forecast containing a detailed report of estimated revenue and expenditures. Based on the forecast, the committee may approve the issuance of notes in an amount not to exceed the maximum temporary cash flow shortfall forecast.

Added by Acts 2003, 78th Leg., ch. 1281, Sec. 2, eff. Sept. 1, 2003.

Sec. 201.963. ISSUANCE OF NOTES. (a) The commission, consistent with the committee's determination under Section 201.962, may issue, sell, and deliver the notes.

(b) Notes issued under this subchapter are not debts of the state and may be used only to make up a temporary shortfall in the state highway fund's cash flow. All notes must mature and be paid in full during the fiscal biennium in which they were issued.

(c) Except as otherwise provided by this subsection, the proceeds of the notes shall be deposited in a special fund in the state treasury known as the highway tax and revenue anticipation note fund. Notwithstanding any other provision of law, depository

interest shall be credited to the fund. The department shall transfer the net proceeds from the fund to the state highway fund as necessary to pay authorized expenditures. The comptroller may invest funds in the highway tax and revenue anticipation note fund as authorized under Section 404.024, Government Code. Proceeds of a credit agreement may be deposited as provided by the order authorizing the credit agreement.

(d) The commission may exercise the powers granted to the governing body of an issuer in connection with the issuance of obligations under Chapter 1371, Government Code, to the extent not inconsistent with this subchapter. The notes are not subject to review by the Bond Review Board but are subject to review and approval by the attorney general as provided by Chapter 1371, Government Code. On request, the comptroller may assist the commission with the issuance of notes under this subchapter.

(e) The commission is an authorized issuer under Chapter 1201, Government Code, and that chapter applies to notes authorized by this subchapter.

(f) Amounts in the highway tax and revenue anticipation note fund may be pledged to secure the payment of the notes and performance of obligations under credit agreements relating to the notes and may be used to pay issuance costs and required rebates to the federal government.

Added by Acts 2003, 78th Leg., ch. 1281, Sec. 2, eff. Sept. 1, 2003.

Sec. 201.964. FUND TRANSFERS; INTEREST; PAYMENT OF NOTES.

(a) The department periodically shall transfer cash received in the state highway fund to the highway tax and revenue anticipation note fund to ensure the timely payment of the notes.

(b) On payment of all outstanding notes, rebates to the federal government, and costs of issuance, the department shall transfer to the state highway fund any amounts remaining in the highway tax and revenue anticipation note fund. If amounts credited to the highway tax and revenue anticipation note fund are insufficient to pay principal, any premium, interest, issuance costs, and any required rebate to the federal government, amounts in the state highway fund are available for appropriation by the legislature to make those payments.

Added by Acts 2003, 78th Leg., ch. 1281, Sec. 2, eff. Sept. 1, 2003.

SUBCHAPTER O. RAIL RELOCATION AND IMPROVEMENT

Sec. 201.971. DEFINITIONS. In this subchapter:

(1) "Comptroller's certification" means:

(A) as to long-term obligations, the certification made under Section 201.973(e); and

(B) as to short-term obligations, the certification made under Section 201.973(f).

(2) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(3) "Fund" means the Texas rail relocation and improvement fund.

(4) "Long-term obligations" means an issue or series of obligations the latest scheduled maturity of which is more than five years.

(5) "Maximum obligation amount" means the maximum aggregate principal amount of long-term obligations and short-term obligations that the commission may issue from time to time after receipt of the applicable comptroller's certification.

(6) "Obligations" means bonds, notes, and other public securities.

(7) "Rail facility" means real or personal property, or any interest in that property, that is determined to be necessary or convenient for the provision of a freight or passenger rail facility, including commuter rail, intercity rail, and high-speed rail. The term includes all property or interests necessary or convenient for the acquiring, providing, using, or equipping of a rail facility or system, including rights-of-way, trackwork, train controls, stations, and maintenance facilities.

(8) "Short-term obligations" means an issue or series of obligations the latest scheduled maturity of which is five years or less.

(9) "Station" means a passenger or freight service building, terminal, station, ticketing facility, waiting area, platform, concession, elevator, escalator, facility for handicapped access, access road, parking facility for passengers, baggage handling facility, or local maintenance facility, together with any interest in real property necessary or convenient for those items.

Added by Acts 2005, 79th Leg., Ch. 1070 (H.B. 1546), Sec. 1, eff. November 8, 2005.

Sec. 201.972. ADMINISTRATION OF FUND. The comptroller shall hold the fund, and the commission, through the department, shall manage, invest, use, and administer the fund as provided by this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1070 (H.B. 1546), Sec. 1, eff. November 8, 2005.

Sec. 201.973. AUTHORITY TO ISSUE OBLIGATIONS; PURPOSES; LIMITATIONS. (a) Subject to Subsections (e), (f), and (g), the commission by order or resolution may issue obligations in the name and on behalf of the state and the department and may enter into credit agreements related to the obligations. The obligations may be issued in multiple series and issues from time to time in an aggregate amount not exceeding the maximum obligation amount. The obligations may be issued on and may have the terms and provisions the commission determines appropriate and in the interests of the state. The obligations may be issued as long-term obligations, short-term obligations, or both. The latest scheduled maturity of an issue or series of obligations may not exceed 30 years.

(b) Obligations must be secured by and payable from a pledge of and lien on all or part of the money in the fund, including the revenues of the state dedicated or appropriated for deposit to the fund. Obligations may be additionally secured by and payable from credit agreements. The commission may pay amounts due on the obligations from discretionary money available to it that is not dedicated to or appropriated for other specific purposes.

(c) The commission may create within the fund accounts, reserves, and subfunds for purposes the commission finds appropriate and necessary.

(c-1) If proceeds of obligations are to be used for a project located in the planning area of a metropolitan planning organization, the project must first be approved by the policy board of the metropolitan planning organization.

(d) Obligations may be issued for one or more of the following

purposes:

(1) to pay all or part of the costs of relocating, constructing, reconstructing, acquiring, improving, rehabilitating, or expanding rail facilities owned or to be owned by the department, including any necessary design, in the manner and locations determined by the commission that according to conclusive findings of the commission have an expected useful life, without material repair, of not less than 10 years;

(2) to provide participation by the state in the payment of part of the costs of relocating, constructing, reconstructing, acquiring, improving, rehabilitating, or expanding publicly or privately owned rail facilities, including any necessary design, if the commission determines that the project will be in the best interests of the state in its major goal of improving the mobility of the residents of the state and will:

- (A) relieve congestion on public highways;
- (B) enhance public safety;
- (C) improve air quality; or
- (D) expand economic opportunity;

(3) to create debt service reserve accounts;

(4) to pay interest on obligations for a period of not longer than two years;

(5) to refund or cancel outstanding obligations; and

(6) to pay the commission's costs of issuance.

(d-1) The fund may also be used to provide a method of financing the construction of railroad underpasses and overpasses, if the construction is part of the relocation of a rail facility.

(d-2) Proceeds of obligations may not be used to relocate an existing rail line unless the governing bodies of a majority of the total number of counties and municipalities in which the relocated rail line will be located have first approved the relocation.

(e) Long-term obligations in the amount proposed to be issued by the commission may not be issued unless the comptroller projects in a comptroller's certification that the amount of money dedicated to the fund pursuant to Section 49-o(d), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-o(e), Article III, Texas Constitution, and the investment earnings on that money, during each year of the period during which the proposed obligations are scheduled to be outstanding will be equal to at least 110 percent of the requirements to pay the

principal of and interest on the proposed long-term obligations during that year.

(f) Short-term obligations in the amount proposed by the commission may not be issued unless the comptroller, in a comptroller's certification:

(1) assumes that the short-term obligations will be refunded and refinanced to mature over a 20-year period with level debt service requirements and bearing interest at then current market rates, as determined by the comptroller; and

(2) projects that the amount of money dedicated to the fund pursuant to Section 49-o(d), Article III, Texas Constitution, and required to be on deposit in the fund pursuant to Section 49-o(e), Article III, Texas Constitution, and the investment earnings on that money, during each year of the assumed 20-year period will be equal to at least 110 percent of the requirements to pay the principal of and interest on the proposed refunding obligations during that year.

(g) The commission may agree to further restrictions in connection with the issuance of obligations and may retain independent professional consultants to make projections in addition to, but not instead of, those of the comptroller if required as a prerequisite to the issuance of the obligations.

(h) The commission has all powers necessary or appropriate to carry out this subchapter and to implement Section 49-o, Article III, Texas Constitution, including the powers granted to other bond-issuing governmental agencies and units and to nonprofit corporations by Chapters 1201, 1207, and 1371, Government Code.

(i) As required by Section 49-o(g), Article III, Texas Constitution, proceedings authorizing obligations and related credit agreements to be issued and executed under this subchapter shall be submitted to the attorney general for approval as to their legality. If the attorney general finds that they will be issued in accordance with this subchapter and other applicable law, the attorney general shall approve them, and, after payment by the purchasers of the obligations in accordance with the terms of sale and after execution and delivery of the related credit agreements, the obligations and related credit agreements are incontestable for any cause.

(j) A comptroller's certification under this section must be based on economic data, forecasting methods, and projections that the comptroller determines are reliable. In determining the principal and interest requirements on outstanding and proposed obligations,

and subject to the express limitations of this subchapter and Section 49-o, Article III, Texas Constitution, the comptroller shall rely on the assumptions included in the resolutions authorizing the obligations for the computation of debt service.

(k) The holders of obligations and the counterparties to credit agreements have the rights granted in Section 49-o(i), Article III, Texas Constitution.

Added by Acts 2005, 79th Leg., Ch. 1070 (H.B. 1546), Sec. 1, eff. November 8, 2005.

Sec. 201.974. PLEDGE OF STATE'S FULL FAITH AND CREDIT. (a) The commission may guarantee on behalf of the state the payment of any obligations and credit agreements issued under Section 201.973 by pledging the full faith and credit of the state to the payment of the obligations and credit agreements in the event the revenue and money dedicated to the fund pursuant to Section 49-o(d), Article III, Texas Constitution, and on deposit in the fund pursuant to Section 49-o(e), Article III, Texas Constitution, are insufficient for that purpose.

(b) The exercise of the authority granted by Subsection (a) does not modify or relieve the commission from complying with Section 201.973(e) or (f) and does not permit the issuance of aggregate obligations in an amount exceeding the maximum obligation amount.

(c) If the commission exercises the authority granted by Subsection (a), the constitutional appropriation contained in Section 49-o(f), Article III, Texas Constitution, shall be implemented and observed by all officers of the state during any period during which obligations and credit agreements are outstanding and unpaid.

Added by Acts 2005, 79th Leg., Ch. 1070 (H.B. 1546), Sec. 1, eff. November 8, 2005.

Sec. 201.975. DEDICATION OF REVENUE TO FUND. Annually, the revenue of the state that is dedicated or appropriated to the fund pursuant to Section 49-o(d), Article III, Texas Constitution, shall be deposited to the fund in accordance with Section 49-o(e), Article III, Texas Constitution.

Added by Acts 2005, 79th Leg., Ch. 1070 (H.B. 1546), Sec. 1, eff.

November 8, 2005.

Sec. 201.976. INVESTMENT AND USES OF MONEY IN FUND. (a) Money in the fund may be invested in the investments permitted by law for the investment of money on deposit in the state highway fund.

(b) As a part of its covenants and commitments made in connection with the issuance of obligations and the execution of credit agreements, the commission may limit the types of investments eligible for investment of money in the fund but may not expand the types of investments to include any investments that are not authorized by Subsection (a).

(c) Income received from the investment of money in the fund shall be deposited in the fund, subject to requirements that may be imposed by the proceedings authorizing obligations to protect the tax-exempt status of interest payable on the obligations under the Internal Revenue Code of 1986.

(d) To the extent money is on deposit in the fund in amounts that are in excess of the money required by the proceedings authorizing the obligations and credit agreements to be retained on deposit, the commission may use the money for any purpose for which obligations may be issued under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 1070 (H.B. 1546), Sec. 1, eff. November 8, 2005.

Sec. 201.977. STRATEGIC PLAN. The commission may not issue obligations under this subchapter before the department has developed a strategic plan that outlines how the money will be used and the benefit the state will derive from use of money in the fund.

Added by Acts 2005, 79th Leg., Ch. 1070 (H.B. 1546), Sec. 1, eff. November 8, 2005.

Sec. 201.978. ACQUISITION AND DISPOSAL OF PROPERTY. (a) The department may acquire by purchase property or an interest in property necessary or convenient for one or more of the purposes for which obligations may be issued under Section 201.973(d).

(b) Property acquired under Subsection (a) may be used for any

transportation purpose.

(c) Notwithstanding Chapter 202, the department may sell or lease property acquired under Subsection (a) that is no longer needed for a transportation purpose. Revenue from a sale or lease shall be deposited in the fund.

Added by Acts 2005, 79th Leg., Ch. 1070 (H.B. 1546), Sec. 1, eff. November 8, 2005.

Sec. 201.979. "WELCOME TO TEXAS" SIGNS. (a) The department shall erect a "Welcome to Texas" sign to designate the state boundary on an interstate, United States, or state highway entering the state.

(b) A "Welcome to Texas" sign erected by the department must include the following elements:

(1) a depiction of the state flag; and

(2) the phrase "Drive Friendly - The Texas Way."

(c) A "Welcome to Texas" sign may also include the phrase "Welcome to Texas - Proud Home of Presidents Lyndon B. Johnson, George H.W. Bush, and George W. Bush."

(d) Notwithstanding Subsection (c) above, if the president of the United States is a resident of Texas, a "Welcome to Texas" sign erected by the department shall include the phrase "Welcome to Texas - Proud Home of President [insert name of the president of the United States]."

Added by Acts 2009, 81st Leg., R.S., Ch. 1041 (H.B. 4465), Sec. 2, eff. September 1, 2010.

Sec. 201.980. TEXAS FLAGS AT INTERNATIONAL PORTS-OF-ENTRY. (a) The department shall erect and maintain a Texas flag to designate the state boundary at an appropriate location at or near each interstate, United States, or state highway originating at an official port-of-entry along an international border.

(b) A Texas flag flown under this section shall be visible from the international port-of-entry and must be equal in size or larger than the flag of any foreign nation flown at the port-of-entry operating on the other side of the international border.

(c) The department may contract with any governmental or private entity for the care and maintenance of any Texas flag flown

under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1041 (H.B. 4465), Sec. 3, eff. September 1, 2010.

SUBCHAPTER P. UNIFIED TRANSPORTATION PROGRAM

Sec. 201.9901. DEFINITIONS. In this subchapter:

(1) "Planning organization" means:

(A) a metropolitan planning organization; or

(B) for an area that is not within the boundaries of a metropolitan planning organization, the department district that serves the area.

(2) "Project" means a connectivity or new capacity roadway project in the region of a planning organization. The term does not include a safety project, bridge project, federal discretionary project, maintenance project, or preservation project.

(3) "Region" means the area for which a planning organization develops plans under this subchapter.

(4) "Transportation official" means an official in a political subdivision who has responsibility for planning and implementation of transportation projects.

Added by Acts 2015, 84th Leg., R.S., Ch. 314 (H.B. 20), Sec. 2, eff. June 3, 2015.

Sec. 201.991. UNIFIED TRANSPORTATION PROGRAM. (a) The department shall develop a unified transportation program covering a period of 10 years to guide the development of and authorize construction of transportation projects. The program must:

(1) annually identify target funding levels; and

(2) list all projects that the department intends to develop or begin construction of during the program period.

(b) The commission shall adopt rules that:

(1) specify the criteria for selecting projects to be included in the program;

(2) define program funding categories, including categories for safety, maintenance, and mobility; and

(3) define each phase of a major transportation project, including the planning, programming, implementation, and construction

phases.

(c) The department shall publish the entire unified transportation program and summary documents highlighting project benchmarks, priorities, and forecasts in appropriate media and on the department's Internet website in a format that is easily understandable by the public.

(d) In developing the rules required by this section, the commission shall collaborate with local transportation entities.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 25, eff. September 1, 2011.

Sec. 201.9911. PLANNING ORGANIZATION 10-YEAR PLAN. (a) Each planning organization shall develop a 10-year transportation plan for the use of the funding allocated to the region. The department shall assist the planning organizations by providing in a timely manner such information as is reasonably requested by the planning organizations.

(b) The first four years of the plan shall be developed to meet the transportation improvement plan requirements of 23 U.S.C. Section 134 or 135, as applicable.

(c) For an area that is not within the boundaries of a metropolitan planning organization, the department district shall develop the 10-year transportation plan with input from municipal and county elected officials and transportation officials in the region.

Added by Acts 2015, 84th Leg., R.S., Ch. 314 (H.B. 20), Sec. 3, eff. June 3, 2015.

Sec. 201.992. ANNUAL UPDATE TO UNIFIED TRANSPORTATION PROGRAM.

(a) The department shall annually update the unified transportation program.

(b) The annual update must include:

(1) the annual funding forecast required by Section 201.993;

(2) the list of major transportation projects required by Section 201.994(b); and

(3) the category to which the project has been assigned and the priority of the project in the category under Section 201.995.

(c) The department shall collaborate with local transportation entities to develop the annual update to the unified transportation program.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 25, eff. September 1, 2011.

Sec. 201.993. ANNUAL FUNDING AND CASH FLOW FORECASTS. (a) The department annually shall:

(1) develop and publish a forecast of all funds the department expects to receive, including funds from this state and the federal government; and

(2) use that forecast to guide planning for the unified transportation program.

(b) The department shall collaborate with local transportation entities to develop scenarios for the forecast required by Subsection (a) based on mutually acceptable funding assumptions.

(c) Not later than September 1 of each year, the department shall prepare and publish a cash flow forecast for a period of 20 years.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 25, eff. September 1, 2011.

Sec. 201.9932. PROJECT RECOMMENDATION CRITERIA. Each planning organization shall develop its own project recommendation criteria, which must include consideration of:

(1) projected improvements to congestion and safety;

(2) projected effects on economic development opportunities for residents of the region;

(3) available funding;

(4) effects on the environment, including air quality;

(5) socioeconomic effects, including disproportionately high and adverse health or environmental effects on minority or low-income neighborhoods; and

(6) any other factors deemed appropriate by the planning organization.

Added by Acts 2015, 84th Leg., R.S., Ch. 314 (H.B. 20), Sec. 4, eff.

June 3, 2015.

Sec. 201.994. MAJOR TRANSPORTATION PROJECTS. (a) The commission by rule shall:

(1) establish criteria for designating a project as a major transportation project;

(2) develop benchmarks for evaluating the progress of a major transportation project and timelines for implementation and construction of a major transportation project; and

(3) determine which critical benchmarks must be met before a major transportation project may enter the implementation phase of the unified transportation program.

(b) The department annually shall update the list of projects that are designated as major transportation projects.

(c) In adopting rules required by this section, the commission shall collaborate with local transportation entities.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 25, eff. September 1, 2011.

Sec. 201.995. PRIORITY PROJECTS IN PROGRAM CATEGORIES. (a) The commission by rule shall:

(1) establish categories in the unified transportation program;

(2) assign each project identified in the program to a category; and

(3) designate the priority ranking of each project within each category.

(b) The department shall collaborate with local transportation entities when assigning each project included in the unified transportation program to a category established under Subsection (a).

(c) The highest priority projects within an applicable category of the unified transportation program must be projects designated as major transportation projects.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 25, eff. September 1, 2011.

Sec. 201.996. FUNDING ALLOCATION. (a) For each funding category established under Section 201.991(b)(2), the commission by rule shall specify the formulas for allocating funds to districts and metropolitan planning organizations for:

(1) preventive maintenance and rehabilitation of the state highway system in all districts;

(2) mobility and added capacity projects in metropolitan and urban areas;

(3) mobility and added capacity projects on major state highways that provide statewide connectivity between urban areas and highway system corridors;

(4) congestion mitigation and air quality improvement projects in nonattainment areas;

(5) metropolitan mobility and added capacity projects within the boundaries of designated metropolitan planning areas of metropolitan planning organizations located in a transportation management area;

(6) transportation enhancements project funding; and

(7) projects eligible for federal or state funding, as determined by the applicable district engineer.

(b) Subject to applicable state and federal law, the commission shall determine the allocation of funds in all of the other categories established under Section 201.991(b)(2), including a category for projects of specific importance to the state, including projects that:

(1) promote economic opportunity;

(2) increase efficiency on military deployment routes or that retain military assets; and

(3) maintain the ability of appropriate entities to respond to emergencies.

(c) The commission shall update the formulas established under this section at least every four years.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 25, eff. September 1, 2011.

Sec. 201.997. FUND DISTRIBUTION. (a) The department shall allocate funds to the department districts based on the formulas adopted under Section 201.996.

(b) In distributing funds to department districts, the department may not exceed the cash flow forecast prepared and published under Section 201.993(c).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 25, eff. September 1, 2011.

Sec. 201.998. WORK PROGRAM. (a) Each department district shall develop a consistently formatted work program based on the unified transportation program covering a period of four years that contains all projects that the district proposes to implement during that period.

(b) The work program must contain:

(1) information regarding the progress of projects designated as major transportation projects, according to project implementation benchmarks and timelines established under Section 201.994; and

(2) a summary of the progress on other district projects.

(c) The department shall use the work program to:

(1) monitor the performance of the district; and

(2) evaluate the performance of district employees.

(d) The department shall publish the work program in appropriate media and on the department's Internet website.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 25, eff. September 1, 2011.

Sec. 201.9991. PRIORITIZATION AND APPROVAL OF PROJECTS BY COMMISSION. (a) The commission by rule shall prioritize and approve projects included in the statewide transportation plan under Section 201.601 in order to provide financial assistance under this chapter.

(b) The commission by rule shall establish a performance-based process for setting funding levels for the categories of projects in the department's unified transportation program.

(c) The commission by rule shall establish a scoring system for prioritizing projects for which financial assistance is sought from the commission by planning organizations. The criteria used to score projects must take into consideration the department's strategic goals as approved by the commission in accordance with the

requirements of 23 U.S.C. Section 134 or 135, as applicable. The system must account for the diverse needs of the state so as to fairly allocate funding to all regions of the state.

(d) The commission may make discretionary funding decisions for no more than 10 percent of the current biennial budget of the department.

Added by Acts 2015, 84th Leg., R.S., Ch. 314 (H.B. 20), Sec. 4, eff. June 3, 2015.

SUBCHAPTER Y. DEPARTMENT BUILDING NAMES

Sec. 201.2001. HONORABLE HILARY B. DORAN TRANSPORTATION BUILDING. The building in which, on June 1, 2009, is located the office of the area engineer for Val Verde County is designated as the Honorable Hilary B. Doran Transportation Building.

Added by Acts 2009, 81st Leg., R.S., Ch. 1023 (H.B. 4311), Sec. 1, eff. June 19, 2009.

Sec. 201.2002. EDMUND P. KUEMPEL REST AREAS. (a) The eastbound and westbound rest areas located on Interstate Highway 10 in Guadalupe County are designated as the Edmund P. Kuempel Rest Areas.

(b) The department shall design and construct markers at each rest area described by Subsection (a) indicating the designation of those rest areas as the Edmund P. Kuempel Rest Areas and any other appropriate information.

(c) The department shall erect markers at appropriate locations at the rest areas.

(d) Notwithstanding Subsections (b) and (c), the department is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 9, eff. September 1, 2011.

CHAPTER 202. CONTROL OF TRANSPORTATION ASSETS**SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 202.001. ADMINISTRATION. (a) The commission may maintain state highways.

(b) A county is:

(1) not liable for expenses associated with the maintenance of a state highway; and

(2) not responsible for the supervision of a state highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.002. FUNDS. (a) The commission shall use automobile registration fees in the state highway fund to maintain state highways and may not divert funds from automobile registration fees for another use.

(b) Notwithstanding Subsection (a), if the commission is without sufficient funds from other sources to match the federal aid for roads in the state, the commission may by resolution transfer a sufficient amount from the state highway fund to match the federal aid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. SALE, EXCHANGE, OR RETURN OF HIGHWAY PROPERTY

Sec. 202.021. REAL PROPERTY NO LONGER NEEDED. (a) The commission may recommend to the governor the sale or transfer of any interest in real property, including a highway right-of-way, that:

(1) was acquired for a highway purpose; and

(2) as determined by the commission, is no longer needed for a state highway purpose.

(b) Except as provided by Subsection (c), real property shall be transferred or sold with the following priorities:

(1) to a governmental entity with the authority to condemn the property; or

(2) to the general public.

(c) A highway right-of-way shall be transferred or sold with the following priorities:

(1) to a governmental entity with the authority to condemn the property;

(2) to abutting or adjoining landowners; or

(3) to the general public.

(d) The commission shall:

(1) determine the fair value of the state's interest in the real property; and

(2) if the value is \$10,000 or more, advise the governor of the value.

(e) The commission may waive payment for real property transferred to a governmental entity under this section if:

(1) the estimated cost of future maintenance on the property equals or exceeds the fair value of the property; or

(2) the property is a highway right-of-way and the governmental entity assumes or has assumed jurisdiction, control, and maintenance of the right-of-way for public road purposes.

(e-1) A grant transferring real property under Subsection (e)(2) must contain a reservation providing that if property described by that subsection ceases to be used for public road purposes, that real property shall immediately and automatically revert to this state.

(e-2) A municipality that received a grant of highway right-of-way from the department on June 12, 2013, that is subject to a reservation described by Subsection (e-1) and that is described by Section 2 of the Act enacting this subsection may, with the approval of its governing body after a public hearing, enter into an agreement with the department under which:

(1) the department agrees to:

(A) recommend to the governor that an instrument releasing the reservation be executed; and

(B) if executed, record the instrument in the deed records of the county in which the right-of-way is located; and

(2) the municipality, if the instrument releasing the reservation is executed, agrees to:

(A) transfer the right-of-way to one or more landowners in exchange for real property with a value that is equal to or greater than the value of the right-of-way and that is described by Section 2 of the Act enacting this subsection;

(B) use the acquired real property for public road purposes necessary to accomplish a portion of a transportation master

plan adopted by the municipality's governing body at a public meeting in February 2008; and

(C) execute and record in the deed records of the county in which the acquired real property is located a restrictive covenant that grants the real property to the state if the real property ceases to be used for public road purposes.

(f) Any revenue from the sale of property under this subchapter shall be deposited to the credit of the state highway fund.

(g) The governor may execute a deed conveying the state's interest in the property.

(h) If the commission determines that the value of the real property is less than \$10,000, it may authorize the executive director to execute a deed conveying the state's interest in the property without a recommendation to the governor.

(i) Notwithstanding Subsection (b), Tract 11, Block 49, of the Ysleta Grant located in El Paso County shall be sold to a federally recognized Indian tribe:

(1) whose reservation is located within counties of this state bordering the United Mexican States; and

(2) that is not subject to the federal Indian Gaming Regulatory Act.

(j) The standard for determination of the fair value of the state's interest in access rights to a highway right-of-way is the same legal standard that is applied by the commission in the:

(1) acquisition of access rights under Subchapter D, Chapter 203; and

(2) payment of damages in the exercise of the authority, under Subchapter C, Chapter 203, for impairment of highway access to or from real property where the real property adjoins the highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 668, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 763 (H.B. 3333), Sec. 1, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 81 (S.B. 18), Sec. 20, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 26, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 864 (H.B. 1738), Sec. 1, eff.

June 18, 2015.

Sec. 202.022. NOTICE OF SALE. Notice of a sale to the general public must be published in the English language:

(1) once a week for three consecutive weeks, with the final publication occurring not later than the 20th day before the date of the sale; and

(2) in a newspaper in the county where the property is located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.023. SALE OF REAL PROPERTY BY BID. (a) A sale to the general public of an interest in real property under this subchapter is by sealed bid and may not be for less than the value determined by the commission under Section 202.021.

(b) The commission may require that each bidder pay to the commission a bid deposit in an amount and form determined by the commission.

(c) The commission shall apply the bid deposit to the purchase price of the property for the bid accepted by the commission.

(d) If for any reason the bidder fails to complete the purchase before the 61st day after the date on which the bidder receives written notice that the state is ready to complete the sale, the bid deposit is forfeited.

(e) The state shall refund the bid deposit if the state is unable to complete the sale.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.024. EXCHANGE OF REAL PROPERTY. The governor, on the recommendation of the commission, may execute a deed exchanging an interest in real property acquired but not needed for a highway purpose as whole or partial consideration for another interest in real property needed for a state highway purpose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.025. EXECUTION OF DEED: METHOD. The governor, on the recommendation of the commission, may execute a deed relinquishing and conveying under this subchapter the state's interest in real property as follows:

(1) if the state's title was acquired by donation, convey to the grantor or the grantor's heirs or assigns;

(2) if the state's title was acquired by purchase by a county or municipality, convey to the county or municipality, or to the grantor or the grantor's heirs or assigns at the request of the county or municipality;

(3) if the interest conveyed to the state is only the right to use the property, convey to the owner of the fee in the property;

(4) if the interest in the property was acquired and held by a county or municipality in its own name for use by the state, quitclaim to the county or municipality any interest that might have accrued to the state by use of the property;

(5) if there is no record title to the property, quitclaim any interest that might have accrued to the state by use of the property to the county or municipality where the property is located or to abutting property owners at the request of the county or municipality; or

(6) if necessary to comply with a reversionary clause contained in the instrument that originally conveyed the interest to the state, quitclaim the state's interest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.026. RECONVEYANCE OF PROPERTY ACQUIRED FOR FREEWAY.

(a) The governor, on recommendation of the commission, may execute a deed reconveying the property to the grantor or the grantor's heirs or assigns, if, not later than 12 months after the date the property is acquired for use as an approach-way to an urban freeway, the commission determines that the property is not needed for a highway purpose because of relocation of the approach-way.

(b) The sale price for the property must be the same as the purchase price paid by or for the state plus six percent annual interest from the date the original purchase price was paid.

(c) When the commission determines that the property is not needed for a highway purpose, it shall send written notice to the

grantor, at the grantor's address at the time of acquisition.

(d) Not later than the second anniversary of the date the notice is mailed, the grantor or the grantor's heirs or assigns may request in writing that the state reconvey the property to them.

(e) If the commission does not receive a request to reconvey the property before the expiration of the period, the commission may dispose of the property at a public sale.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.027. REIMBURSEMENT TO COUNTY OR MUNICIPALITY. (a) If real property owned by the state and sold under this subchapter was acquired by a county or municipality and if a part of that acquisition cost was reimbursed to the county or municipality by the state, the department may pay the county or municipality a percentage of the proceeds of the sale that is equal to the percentage of the value or cost not reimbursed to the county or municipality at the time of the initial acquisition.

(b) Reimbursement under this section applies only to real property that the commission determines was never used for the purpose for which it was acquired.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.028. CORRECTION OF ERROR OR AMBIGUITY IN INSTRUMENT.

(a) The governor, on the recommendation of the commission, shall execute and deliver a quitclaim deed, correction deed, or other conveyance necessary to resolve an ambiguity or error in an instrument that conveyed an interest in real property to the state for a highway right-of-way.

(b) The ambiguity or error may be for any reason, including a metes and bounds description that is incomplete or incorrect.

(c) The ambiguity or error must be of sufficient consequence to raise doubt as to the location or extent of the interest conveyed, or must have resulted in the acquisition of real property or an interest in real property not intended to be included and not needed for a highway purpose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.029. RIGHTS OF PUBLIC UTILITY OR COMMON CARRIER.

Under this subchapter, if the state sells, conveys, or surrenders possession of real property that is being used by a public utility or common carrier having a right of eminent domain for right-of-way and easement purposes, the sale, conveyance, or surrender of possession of the real property is subject to the right and continued use of the public utility or common carrier.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.030. APPROVAL OF TRANSFERS. (a) The attorney general must approve a transfer or conveyance that is made under this subchapter if the value of the real property transferred or conveyed is \$10,000 or more.

(b) The state's right to full and exclusive right of possession of all retained rights-of-way may not be infringed or lessened in any way by a transfer or conveyance made under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 668, Sec. 3, eff. June 20, 2003.

Sec. 202.031. EXPENSES. (a) The person requesting the sale of an interest in property or the grantee in a deed issued under this subchapter shall pay expenses incurred by the department, including handling, appraising, or advertising the sale.

(b) The department may not process a request or deliver a deed until the expenses under Subsection (a) are paid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.032. RULES. The commission may adopt rules to implement this subchapter and to provide requestor refunds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.033. TRANSFER OF HISTORIC BRIDGE. (a) In this section, "historic bridge" means a bridge that is included on or eligible to be included on the National Register of Historic Places.

(b) The department may transfer ownership of a historic bridge scheduled for replacement to a governmental entity or a responsible private entity. The entity that accepts ownership of the bridge:

- (1) assumes all legal and financial responsibility for the bridge; and
- (2) must maintain and preserve the bridge and its historic features.

(c) The department may not transfer a bridge under this section unless it first reviews the proposed recipient's intended use of the bridge and determines that the bridge can be safely used for that purpose.

(d) The following laws do not apply to a transfer under this section:

- (1) Chapter 2175, Government Code;
- (2) Section 202.030(a); and
- (3) Section 202.031.

Added by Acts 2003, 78th Leg., ch. 668, Sec. 4, eff. June 20, 2003.

SUBCHAPTER C. LEASES, EASEMENTS, AND AGREEMENTS CONCERNING HIGHWAY PROPERTY

Sec. 202.051. DEFINITIONS. In this subchapter:

(1) "Highway asset" means an interest in real property that is held or controlled by the department for a highway or department purpose.

(2) "Rest area" means an area of public land designated by the department as a rest area, comfort station, picnic area, or roadside park.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.052. LEASE AUTHORITY. (a) The department may lease a highway asset, part of a right-of-way, or airspace above or underground space below a highway that is a part of the state highway system if the department determines that the interest to be leased will not be needed for a highway purpose during the term of the

lease.

(b) The lease may be for any purpose that is not inconsistent with applicable highway use.

(c) The department shall charge not less than fair market value for the highway asset, payable in cash, services, tangible or intangible property, or any combination of cash, services, or property.

(d) The department may authorize exceptions to the charges under Subsection (c) for:

(1) the lease of a highway asset to a public utility provider;

(2) a lease for a social, environmental, or economic mitigation purpose; or

(3) a lease to an institution of higher education for a purpose of the institution.

(e) In this section, "institution of higher education" has the meaning assigned by Section 61.003, Education Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.10(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1171, Sec. 1.19, eff. Sept. 1, 1997.

Sec. 202.053. LEASE OF HIGHWAY ASSETS: TERMS. (a) The department may determine all terms of the lease except:

(1) a tenant may not be required to post a bond or security for a lease in an amount in excess of six months' rental under the lease; and

(2) the lease must allow the tenant to mortgage or otherwise pledge or grant a security interest in the leasehold to secure financing for the acquisition of the leasehold and for the construction and operation of an improvement permitted under the lease.

(b) The department may not convey title to, or sever from the real property, any permanent improvement constructed on the area leased under this subchapter.

(c) The lease may:

(1) contain a provision for early termination, at the option of either party, with or without cause; and

(2) provide that the right of one party to terminate

without cause before the stated termination date may be conditioned on the payment of an amount negotiated by the parties and specified in the lease.

(d) In evaluating the consideration proposed by a tenant, the department may consider the value of any real property the tenant proposes to donate or convey for a highway purpose.

(e) Subject to rules of the commission to preserve safety and scenic beauty, a tenant may erect and maintain signs and other advertising displays relating to a business conducted on the leasehold.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.054. REVENUE FROM LEASES. The department shall deposit payments received under a lease under this subchapter to the credit of the state highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.055. LEASE OF REST AREAS. (a) The department may lease a rest area to a person engaging in sales, services, or other commercial activities that serve the needs of the traveling public.

(b) The department shall require the person to maintain the rest area in a proper manner and repair promptly any damage to the rest area caused by the person or a customer of the person, or pay to the state all expenses incurred by the department in repairing the damage.

(c) The department shall adopt rules to implement this section.

(d) Section 94.002, Human Resources Code, does not apply to a lease authorized under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.056. CERTAIN OIL AND GAS LEASES PROHIBITED. The commission may not enter into an oil and gas lease for real property owned by the state that was acquired to construct or maintain a highway, road, street, or alley.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.057. CONVEYANCE OF EASEMENT OR INTEREST FOR FLOOD CONTROL. (a) The commission may, on request of an officer of the United States or the county judge of an affected county, convey without monetary consideration to the United States, or to a county that has agreed to convey real property or an interest in real property to the United States under an Act of Congress, an easement or interest in that property if:

(1) the state acquired the property for use as a right-of-way for a state highway in a county that borders on the United Mexican States, or in a county adjacent to such a county; and

(2) the property is used or is proposed to be used by that county or the United States for the construction, operation, and maintenance of a system to control flood waters of a navigable stream of the state.

(b) If the state does not own fee simple title to the property, the commission may join and consent to an easement to be used for a flood control purpose if the owner of the fee has executed an easement.

(c) The commission may execute a necessary deed, conveyance, or agreement, to be signed by the chair of the commission as provided by commission order, for flood control purposes under this section.

(d) In lieu of the monetary consideration waived by Subsection (a), the commission may make a reservation or agreement for the construction, reconstruction, alteration, operation, or maintenance of a structure or facility used or projected to be used for a highway purpose on real property that is needed for a flood control purpose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 140, Sec. 8, eff. Sept. 1, 2003.

Sec. 202.058. AGREEMENT TO USE OR CULTIVATE RIGHT-OF-WAY. (a) The department may agree with the owner of real property abutting or adjoining property acquired by the department for the right-of-way of a road in the state highway system, allowing the owner to use or cultivate a portion of the right-of-way not required for immediate use by the department.

(b) An agreement must be in writing and may provide for:

- (1) use or cultivation of the property;
- (2) construction of improvements on the property;
- (3) placement of fences on the property; and
- (4) other matters.

(c) The director or the director's authorized representative and the owner of the property shall execute the agreement.

(d) The department may not execute an agreement that would impair or relinquish the state's right to use the property for a right-of-way purpose when the property is needed to construct or reconstruct the road for which it was acquired.

(e) Use by the owner of adjoining or abutting property under this section is not abandonment of the property by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.059. MOWING, BALING, SHREDDING, AND HOEING MATERIAL ON RIGHT-OF-WAY. (a) A department district engineer, on request of a person, may, but is not required to, permit the person to mow, bale, shred, or hoe material on the right-of-way of a portion of a state highway that is in the district supervised by that engineer.

(b) In a county with a population of more than 10,000, if the person requesting permission under Subsection (a) is not the owner of the real property adjacent to the right-of-way that is the subject of the request, the district engineer must first provide the owner of the property the option of mowing, baling, shredding, or hoeing material on the right-of-way before granting permission to another person.

(c) A person permitted to mow, bale, shred, or hoe the right-of-way may not receive compensation for the mowing, baling, shredding, or hoeing but is entitled to use or dispose of the hay or other material produced.

(d) The state, the department, and the district engineer are not liable for any property damage, personal injury, or death resulting from the performance of a service or agreement under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 919 (H.B. 463), Sec. 1, eff. June

18, 2015.

Sec. 202.060. LIVING LOGOS; PILOT PROJECT. (a) The commission may adopt rules implementing a pilot project for the leasing of state highway right-of-way, subject to any applicable federal regulation of outdoor advertising, as a location or locations for commercial advertising by means of a floral mosaic living logo.

(b) Rules adopted under this section shall:

(1) provide for the award of a lease in a manner that maximizes revenue to the state;

(2) regulate the content, composition, placement, installation, and maintenance of a floral mosaic living logo;

(3) set a bond for faithful performance of the lessee;

(4) provide for the public safety;

(5) ensure that installation and maintenance of a floral mosaic living logo will not interfere with access to, or be inconsistent with the use of, abutting property; and

(6) include such other matters as may be necessary to protect the integrity of the involved highway.

(c) A floral mosaic living logo installed or placed under this section may not contain a message, symbol, or trademark that resembles an official traffic-control device.

(d) This section applies to state highway right-of-way in a county with a population of 500,000 or more.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.16, eff. Sept. 1, 1997.

Sec. 202.061. ENVIRONMENTAL COVENANT. (a) The commission may enter into an environmental covenant for the purpose of subjecting real property in which the department has an ownership interest to a plan or the performance of work for environmental remediation if the plan or work performed is first approved by the Texas Commission on Environmental Quality or a federal agency with the authority to approve the plan or work under the applicable laws and regulations.

(b) The environmental covenant must:

(1) contain a legally sufficient description of the property subject to the covenant;

(2) describe the nature of the contamination on or under the property, including the contaminants, the source, if known, and the location and extent of the contamination; and

(3) describe the activity and use limitations on the property.

(c) The plan or performance of work for environmental remediation must:

(1) meet applicable state and federal standards for environmental remediation; and

(2) bring the property into compliance with zoning or land use controls imposed on the property by each applicable local government.

(d) For each property for which the commission may enter into an environmental covenant, the commission by order may authorize the executive director to execute an environmental covenant on behalf of the commission. Not less than 30 days before the date the commission considers a proposed order under this subsection, the commission must mail to each owner of a property interest in the applicable property, each adjacent landowner, and each applicable local government a notice that includes a clear and concise description of the proposal to enter into the environmental covenant and a statement of the manner in which written comments may be submitted to the commission.

Added by Acts 2009, 81st Leg., R.S., Ch. 743 (S.B. 480), Sec. 1, eff. September 1, 2009.

SUBCHAPTER D. RECLAIMED ASPHALT PAVEMENT

Sec. 202.081. DEFINITION. In this subchapter "reclaimed asphalt pavement" means hot mix asphalt pavement and any accompanying tack coat, seal coat, or chip seal removed as millings or broken pavement pieces from a road during construction, reconstruction, or repavement under the authority of the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 202.082. DISPOSAL OF ASPHALT. (a) The department shall dispose of all reclaimed asphalt pavement from a road in the state highway system in the most cost-effective and environmentally sensitive manner the department considers appropriate, giving

priority to political subdivisions of this state for the maintenance, development, and construction of public works projects.

(b) Disposal of reclaimed asphalt pavement under this section is not subject to:

(1) Chapter 2175, Government Code; or

(2) the statutory or regulatory authority of the comptroller formerly exercised by the General Services Commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.11(a), eff. Sept. 1, 1997. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.111, eff. September 1, 2007.

SUBCHAPTER E. TELECOMMUNICATIONS FACILITIES

Sec. 202.091. DEFINITION. In this subchapter, "telecommunications" means any transmission, emission, or reception of signs, signals, writings, images, or sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.20, eff. Sept. 1, 1997.

Sec. 202.092. USE OF DEPARTMENT FACILITIES. Notwithstanding any other law, a telecommunications provider may not place or maintain its facilities or otherwise use improvements, including structures, medians, conduits, or telecommunications equipment or lines, constructed or installed by the state as components of the state highway system except by a lease under Section 202.052 or an agreement under Section 202.093.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.20, eff. Sept. 1, 1997.

Sec. 202.093. AGREEMENT. (a) Notwithstanding any other law, the department may enter into an agreement with a telecommunications provider allowing the provider, for the provider's commercial purposes, to:

(1) place the provider's telecommunications facilities within the median of a divided state highway; or

(2) place lines within or otherwise use telecommunications facilities owned or installed by the state in or on the improved portion of a state highway, including a median, structures, equipment, conduits, or any other component of the highway facilities constructed or owned by the department.

(b) An agreement entered into under Subsection (a) may provide for compensation between the department and the telecommunications provider in the form of cash or the shared use of facilities.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.20, eff. Sept. 1, 1997.

Sec. 202.094. COMPETITIVE SEALED PROPOSAL. (a) Before entering into an agreement with a telecommunications provider under this subchapter, the department shall follow a procedure using competitive sealed proposals.

(b) The department shall solicit proposals by a request for proposals and shall publish notice of the request in at least two newspapers of general circulation and in the Texas Register.

(c) The proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. After a contract is awarded, all proposals that have been submitted shall be open for public inspection subject to Subchapter C, Chapter 552, Government Code.

(d) The department may discuss an acceptable or potentially acceptable proposal with an offeror to assess the offeror's ability to meet the solicitation requirements. After the submission of a proposal but before making an award, the department may permit the offeror to revise the proposal in order to obtain the best final offer. The department may not disclose any information derived from proposals submitted from competing offerors in conducting discussions under this section. The department shall provide each offeror with an equal opportunity for discussion and revision of proposals.

(e) The department shall make a written award of a contract to the offeror whose proposal is the most advantageous to the state, considering price and the evaluation factors in the request for proposals, except that if the department finds that none of the

offers is acceptable, it shall refuse all offers. The contract file must state in writing the basis on which the award is made.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.20, eff. Sept. 1, 1997.

Sec. 202.095. APPLICABILITY. (a) Subtitle D, Title 10, Government Code, does not apply to a procurement under this subchapter.

(b) This subchapter does not limit a telecommunications provider from placing lines or facilities in the unimproved portion of state highway right-of-way to the extent authorized by applicable law.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.20, eff. Sept. 1, 1997.

Sec. 202.096. REVENUE. The department shall deposit in the state highway fund any revenue received under this subchapter.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.20, eff. Sept. 1, 1997.

Sec. 202.097. RULEMAKING. The commission shall adopt rules for the implementation of this subchapter.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.20, eff. Sept. 1, 1997.

SUBCHAPTER F. ADVANCE ACQUISITION OF PROPERTY

Sec. 202.111. DEFINITION. In this subchapter, "advance acquisition" means an acquisition by the commission under Section 202.112.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 3.02, eff. Sept. 1, 2003.

Sec. 202.112. ADVANCE ACQUISITIONS. (a) The commission may purchase an option to acquire property for possible use in or in connection with a transportation facility before a final decision has been made as to whether the transportation facility will be located on that property.

(b) An advance acquisition shall be made by the commission using the procedures authorized under Subchapter D of Chapter 203 or other law authorizing the commission or the department to acquire real property or an interest in real property for a transportation facility. If the commission acquires real property or an interest in real property under Subchapter D of Chapter 203 or other law, the commission may make an advance acquisition in the manner provided by this subchapter.

(c) The commission may not make an advance acquisition by condemnation.

(d) An option to acquire property purchased under this section or Section 227.041 may not expire later than the fifth anniversary of the date the option was purchased and may be renewed for subsequent periods that expire not later than the fifth anniversary of the date the option was renewed, by agreement of the commission and the grantor of the option or the grantor's heirs or assigns.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 3.02, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.06, eff. June 14, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. 1201), Sec. 5, eff. June 17, 2011.

Sec. 202.113. DISPOSAL OF SURPLUS PROPERTY. The commission shall dispose of property acquired by advance acquisition that is not needed for a transportation facility in the manner provided by Subchapter B.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 3.02, eff. Sept. 1, 2003.

Sec. 202.114. MANAGEMENT. If requested by the department,

property acquired by advance acquisition may be managed by the General Land Office on behalf of the department as the department and the General Land Office may agree. Subchapter E, Chapter 31, Natural Resources Code, does not apply to property acquired under this subchapter.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 3.02, eff. Sept. 1, 2003.

CHAPTER 203. MODERNIZATION OF STATE HIGHWAYS; CONTROLLED ACCESS HIGHWAYS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 203.001. DEFINITIONS. In this chapter:

(1) "Controlled access highway" means a designated state highway to or from which access is denied or controlled, in whole or in part, from or to adjoining real property or an intersecting public or private way, without regard to whether the designated state highway is located in or outside a municipality.

(2) "Person" includes an individual, corporation, association, or firm.

(3) "Public or private way" includes a street, road, highway, or alley.

(4) "State agency" includes a department or agency of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.002. MODERN STATE HIGHWAY SYSTEM. To promote public safety, facilitate the movement of traffic, preserve the public's financial investment in highways, promote the national defense, and accomplish the purposes of this chapter, the commission may:

(1) lay out, construct, maintain, and operate a modern state highway system, with emphasis on the construction of controlled access highways;

(2) plan for future highways; and

(3) convert where necessary an existing street, road, or highway into a controlled access highway in accordance with modern standards of speed and safety.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 23.001, eff. September 1, 2009.

Sec. 203.003. JURISDICTION. (a) Subject to Section 203.021, the commission may lay out, construct, maintain, and operate a designated state highway, with control of access as necessary to facilitate the flow of traffic and promote the public safety and welfare, in any area of this state, whether in or outside a municipality, including a home-rule municipality.

(b) Subject to Section 203.021, the department and the commission may exercise any power granted by this chapter in a county or municipality without the consent of the county or municipality.

(c) The department's or the commission's exercise of a power under this chapter in a county or municipality removes the county's or municipality's exclusive jurisdiction over the specific public way affected by the exercise of power, to the extent the exercise of power affects the public way and its use.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. PUBLIC HEARINGS AND COMMENT

Sec. 203.021. PUBLIC HEARINGS. (a) For a highway project that bypasses or goes through a county or municipality, including a home-rule municipality, the commission shall hold at least one public hearing in the locality before an authorized representative of the commission.

(b) Notice of the hearing shall be by publication in the locality. The hearing shall be held not less than three or more than 10 days after the date of publication.

(c) At least seven days before the date of the public hearing, the department shall file with the governing body of the county or municipality the design and schematic layout of the project.

(d) A person interested in the development of the project is entitled to attend the hearing and discuss and inspect the design and schematic layout filed with the governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.022. RULES GOVERNING NOTICE AND COMMENT. (a) The department shall by rule provide owners of adjoining property and affected local governments and public officials with notice and an opportunity for comment on a state highway project that involves:

(1) the addition of one or more vehicular lanes to an existing highway; or

(2) the construction of a highway at a new location.

(b) The department shall by rule provide additional notice and opportunity for comment on a project described by Subsection (a) if conditions relating to land use, traffic volumes, and traffic patterns have changed significantly since the project was originally subject to public review and comment.

(c) The department shall by rule provide procedures for informing adjoining property owners and affected local governments and public officials of impending construction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. CONTROL OF ACCESS

Sec. 203.031. CONTROL OF ACCESS. (a) The commission, by order entered in its minutes, may:

(1) designate a state highway of the designated state highway system as a controlled access highway;

(2) deny access to or from a controlled access highway from or to adjoining public or private real property and from or to a public or private way intersecting the highway, except at specific locations designated by the commission;

(3) close a public or private way at or near its intersection with a controlled access highway;

(4) designate locations on a controlled access highway at which access to or from the highway is permitted and determine the type and extent of access permitted at each location;

(5) erect protective devices to preserve the integrity, utility, and use of the controlled access highway; and

(6) repeal an order entered under this section.

(a-1) In the exercise of its authority to manage access to or from a controlled access highway under Subsection (a)(2) or (4), the

commission by rule shall:

(1) require that a decision by a department district office denying a request for access to a specific location on a controlled access highway be in writing and include the reasons for the denial;

(2) provide procedures for appealing a denial under Subdivision (1), including procedures that:

(A) allow the applicant to appeal the denial to the department's design division before the 31st day after the date written notice of the denial is given to the applicant;

(B) provide that if an appeal under Paragraph (A) is not decided before the 91st day after the date the appeal was filed, the access applied for must be granted; and

(C) allow the applicant to appeal the decision of the design division to the director and, if the decision is affirmed, to a board of variance appointed by the director and composed of at least three persons who may not be below the level of department division director, office director, or district engineer and who were not involved in the original decision to deny access;

(3) provide that properly platted access points to or from a controlled access highway that are located on undeveloped property are subject to the access management standards in effect at the time the points were platted regardless of when the initial request for access was submitted to the department, but only if:

(A) development of the property begins and the request for access at the platted locations is submitted to the department before the fifth anniversary of the date the plat was recorded; and

(B) the design of the highway facility in the vicinity of the platted access points did not materially change after the date the plat was recorded so as to significantly impact traffic patterns to the extent that the platted access points present a threat to public safety;

(4) require that:

(A) owners of land adjacent to a proposed highway construction project be provided written notice of the project at least 60 days before the date construction begins if the project will permanently alter permitted access to or from a controlled access highway at the owners' existing locations; and

(B) the access described by Paragraph (A) be reinstated to the most practicable extent possible after due consideration of the impact on highway safety, mobility, and efficient operation of

any changed traffic patterns resulting from the construction;

(5) adopt criteria for determining when a variance to access management standards may be granted, including criteria that, in addition to highway safety, mobility, and efficient operation concerns, takes into consideration any of the following consequences resulting from denial of the owner's request for access to a specific location on a controlled access highway that may impact a property owner:

(A) denial of reasonable access to the property; and

(B) undue hardship on a business located on the property; and

(6) clarify that the remodeling or demolition and rebuilding of a business does not cause new access management standards to apply unless the department makes an affirmative finding in writing that the remodeled or rebuilt business will significantly impact traffic patterns to the extent that the current access location presents a threat to public safety.

(b) This section does not alter the rights of a person under another law of this state to compensation for damages caused by the exercise of the commission's powers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 817 (S.B. 1609), Sec. 1, eff. June 19, 2009.

Sec. 203.032. PRECEDENCE OF COMMISSION ORDER. (a) Except as provided by Subsection (b), an order of the commission under Section 203.031 supersedes a conflicting rule or ordinance of a state agency or subdivision of this state or any county or municipality, including a home-rule municipality.

(b) An order of the commission under Section 203.031(a)(2) or (4) does not supersede a conflicting rule or ordinance of a municipality, including a home-rule municipality, or a conflicting ordinance, resolution, or order of a county with a population of 3.3 million or more or a county adjacent to a county with a population of 3.3 million or more, unless the United States Department of Transportation Federal Highway Administration notifies the department that enforcement of the rule, ordinance, resolution, or order would

impair the ability of the state or the department to receive funds for highway construction or maintenance from the federal government.

(c) Subsection (b) does not apply when the department owns the access rights.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1174, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 318 (S.B. 637), Sec. 1, eff. June 17, 2005.

Sec. 203.033. INJUNCTION AGAINST DENIAL OF ACCESS. A court may not grant an injunction to prevent or stay a commission order of denial of previously existing access to a state highway unless an owner or lessee of real property that adjoins the part of the highway to which access is denied under the commission's order:

- (1) brings the suit at which the injunction is sought; and
- (2) has not released any claim for damages resulting from the denial of access or a condemnation suit has not been commenced to ascertain the damages.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.034. RIGHT TO ACCESS; DAMAGES FOR DENIAL OF ACCESS.

(a) An owner of real property adjoining a new controlled access highway location is not entitled to access to the new highway location as a matter of right.

(b) Denial of access to or from a new controlled access highway location is not a ground for special or exemplary damages unless:

- (1) in connection with the purchase or condemnation of the real property adjoining the new controlled access highway location and to be used in the new highway location, the commission specifically authorizes access to or from particular real property adjoining the new highway location; and
- (2) the commission denies highway access to or from the particular land where the real property adjoins the new highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. ACQUISITION OF PROPERTY

Sec. 203.051. ACQUISITION OF PROPERTY AUTHORIZED. (a) The commission may acquire by purchase, on terms and conditions the commission considers proper or by the exercise of eminent domain, in the name of the state:

- (1) an interest in real property;
- (2) any property rights, including:
 - (A) a right of ingress or egress; and
 - (B) a reservation right in real property that restricts or prohibits for not more than seven years the:
 - (i) addition of a new improvement on the real property;
 - (ii) addition to or modification of an existing improvement on the real property; or
 - (iii) subdivision of the real property; and
- (3) timber, earth, stone, gravel, or other material.

(b) Chapter 21, Property Code, applies to an acquisition by eminent domain.

(c) The department may condemn the fee or a lesser interest in the property.

(d) The department shall, in a statement or petition in condemnation, exclude from the interest to be condemned all the oil, gas, and sulphur that can be removed from beneath the real property. This exclusion shall be made without providing the owner of the oil, gas, or sulphur any right of ingress or egress to or from the surface of the land to explore, develop, drill, or mine the real property.

(e) Subsection (a) does not authorize the commission to condemn property that is used and dedicated for cemetery purposes under Subtitle C, Title 8, Health and Safety Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.052. COMMISSION DETERMINATION REQUIRED. (a) The commission may acquire an interest in real property, a property right, or a material under Section 203.051 only if the commission determines that the acquisition is necessary or convenient to a state highway to be constructed, reconstructed, maintained, widened, straightened, or extended.

(b) Property necessary or convenient to a state highway for

purposes of Subsection (a) includes an interest in real property, a property right, or a material that the commission determines is necessary or convenient to:

- (1) protect a state highway;
- (2) drain a state highway;
- (3) divert a stream, river, or other watercourse from the right-of-way of a state highway;
- (4) store materials or equipment for use or used in the construction or maintenance of a state highway;
- (5) construct or operate a warehouse or other facility used in connection with the construction, maintenance, or operation of a state highway;
- (6) lay out, construct, or maintain a roadside park;
- (7) lay out, construct, or maintain a parking lot that will contribute to maximum use of a state highway with the least possible congestion;
- (8) mitigate an adverse environmental effect that directly results from construction or maintenance of a state highway;
- (9) subject to Subsection (c), provide a location for an ancillary facility that is anticipated to generate revenue for use in the design, development, financing, construction, maintenance, or operation of a toll project, including a gas station, garage, store, hotel, restaurant, or other commercial facility;
- (10) construct or operate a toll booth, toll plaza, service center, or other facility used in connection with the construction, maintenance, or operation of a toll project; or
- (11) accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a state highway.

(c) The commission may not acquire property for an ancillary facility through the exercise of eminent domain, unless the acquisition of the property is for one of multiple ancillary facilities included in a comprehensive development plan approved by the county commissioners court of each county in which the property is located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.10, eff. June 14, 2005.

Acts 2005, 79th Leg., 2nd C.S., Ch. 1 (S.B. 7), Sec. 3, eff. November 18, 2005.

Sec. 203.0521. ACQUISITION OF REMAINDER. (a) If a proposed acquisition of a tract of real property under Section 203.052 would leave the owner of the property a remainder of the tract, the department may negotiate for and purchase the remainder or any part of a severed real property if the department and the owner agree on terms for the purchase. The department shall offer, except as provided by Subsection (f), to purchase a remainder if the department determines that:

(1) the remainder has little or no value or utility to the owner; or

(2) the entire tract could be acquired for substantially the same compensation as the partial tract.

(b) In acquiring real property under Section 203.051, if the acquisition severs an owner's real property, the department shall pay:

(1) the value of the property acquired; and

(2) the damages to the remainder of the owner's property caused by the severance, including damages caused by the inaccessibility of one tract from the other.

(b-1) If a portion of a tract or parcel of real property that, for the then current tax year was appraised for ad valorem tax purposes under a law enacted under Section 1-d or 1-d-1, Article VIII, Texas Constitution, and that is outside the municipal limits or the extraterritorial jurisdiction of a municipality with a population of 25,000 or more is condemned for state highway purposes, the special commissioners shall consider the loss of reasonable access to or from the remaining property in determining the damage to the property owner.

(c) Instead of a single fixed payment for real property purchased under Subsection (a) for a toll project, the department may agree to a payment to the owner in the form of:

(1) an intangible legal right to receive a percentage of identified revenue attributable to the applicable segment of the toll project; or

(2) a right to use, without charge, a segment or part of the toll project.

(d) A right to receive revenue under Subsection (c)(1) is subject to any pledge of the revenue under the terms of a trust agreement securing bonds issued for the applicable segment of the toll project.

(e) The department and its designated agents may enter the real property to conduct an appraisal, survey, or environmental investigation to determine whether the department will offer to acquire the real property.

(f) The department is not required under Subsection (a) to make an offer on a remainder if an appraisal or environmental investigation indicates the presence of hazardous materials or substances.

Added by Acts 1997, 75th Leg., ch. 224, Sec. 1, eff. May 23, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.11, eff. June 14, 2005.

Sec. 203.053. LOCATION OF PROPERTY ACQUIRED; PUBLIC PROPERTY.

(a) The authorization under this subchapter to purchase or exercise the power of eminent domain is not affected by the location of the real property, the location of the real property right, or the location of the material. This subsection applies without regard to whether the location is in or outside a municipality.

(b) Under this subchapter, the commission may purchase or condemn real property, property rights, and materials that belong to the public, whether under the jurisdiction of the state, a state agency, a county, a municipality, including a home-rule municipality, or an entity or subdivision of a county or municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.054. ATTORNEY GENERAL SHALL BRING SUIT. (a) Except as provided by Subsection (b), the attorney general, at the request of the commission, shall bring and prosecute a condemnation suit of the commission under this subchapter.

(b) At the request of the attorney general, the appropriate county or district attorney or criminal district attorney shall prosecute the suit.

(c) The suit shall be brought in the name of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.055. ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY.

(a) The governing body of a political subdivision or public agency that owns or is in charge of public real property may consent to the use of the property for highway purposes.

(b) The governing body of a political subdivision or public agency may, without advertisement, convey the title to or rights or easements in real property that the department needs for highway purposes.

(c) Notwithstanding any law to the contrary, at the request of the department, a political subdivision or a state agency may lease, lend, grant, or convey to the department real property, including a highway or real property currently devoted to public use, that may be necessary or appropriate to accomplish the department's purposes. The political subdivision or state agency may lease, lend, grant, or convey the property:

(1) on terms the subdivision or agency determines reasonable and fair; and

(2) without advertisement, court order, or other action or formality other than the regular and formal action of the subdivision or agency concerned.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.12, eff. June 14, 2005.

Sec. 203.056. CONSENT TO USE OF STATE PROPERTY. (a) The commission may use real property owned by the state, including submerged real property, that the commission could acquire under this subchapter for highway purposes.

(b) This section does not deprive the School Land Board of authority to execute a lease authorized by law for the development of oil, gas, or another mineral on state-owned real property adjoining a state highway or in a tidewater limit and for that purpose a lease executed by the School Land Board may provide for directional

drilling from real property adjoining a state highway or from a tidewater area.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.057. COOPERATION OF STATE AGENCY. (a) The commission shall advise and make arrangements with the state agency that has jurisdiction over the state-owned real property to accomplish the purpose of Section 203.056.

(b) The state agency shall cooperate with the department in connection with the use of real property under Section 203.056. If the agency is not expressly authorized to act through a designated representative, the agency may do whatever act is necessary under Section 203.056 by and through the presiding officer of its board, or its department head or executive director, as appropriate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.058. COMPENSATION FOR STATE AGENCY. (a) If the acquisition of real property, property rights, or material by the department from a state agency under this subchapter will deprive the agency of a thing of value to the agency in the exercise of its functions, adequate compensation for the real property, property rights, or material shall be made.

(b) The compensation shall be paid on vouchers drawn for this purpose payable to the state agency providing the real property, property rights, or material.

(c) A payment made to an agency furnishing real property, property rights, or material shall be credited to the appropriation item or account for that agency from which expenditures of that character were originally made.

(d) If an appropriation item or account as described by Subsection (c) does not exist, the payment shall be credited to the appropriate account of the state agency, as determined by the comptroller.

(e) If the department and the state agency are unable to agree on adequate compensation, the General Land Office shall determine the fair, equitable, and realistic compensation to be paid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.059. PURCHASE OF LEASE RIGHTS. (a) Before acquiring property under this subchapter, the department may purchase the right to lease the property to a third party.

(b) The department may make a purchase under Subsection (a) only if the department first determines that the owner is unable to lease or rent the property because of the impending acquisition by the department.

(c) The consideration for the purchase of a lease right under this section may not exceed the fair market rental value of the property as determined by the department and shall be credited against the total compensation due the owner when the department acquires the property.

(d) Payment under this section may be made in periodic increments until the property is acquired by the department. The aggregate total of payments before acquisition may not exceed the department's approved appraised value of the property.

(e) The department shall adopt rules to implement this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.060. PAYMENT PROCEDURE. The comptroller may issue a warrant on the appropriate account to pay for real property or an interest in real property when presented with a properly executed deed for the real property or interest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.061. PAYMENT PROCEDURE IF OWNER FAILS TO DELIVER EXECUTED DEED; ESCROW. (a) If the owner of property acquired by the department under this subchapter fails to deliver an executed deed before payment of consideration, the comptroller may issue a warrant on the appropriate account in payment of the consideration. The consideration shall be placed in escrow with a national or state bank that is:

- (1) authorized to do business in this state; and
- (2) located in the county of the residence of the owner or

the county in which the real property is located.

(b) If there is not a bank that satisfies the requirements of Subsection (a)(2), the consideration shall be placed in a national or state bank authorized to do business in this state in an adjoining county or the nearest available banking facility.

(c) Consideration placed in escrow under this section shall be delivered to the owner on receipt of the properly executed deed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.062. PAYMENT FOR REAL PROPERTY ACQUIRED BY EMINENT DOMAIN. (a) If the department acquires real property through the exercise of the power of eminent domain, the comptroller may issue a warrant as required by the judgment of the court.

(b) The comptroller may also issue a warrant to be deposited into the court as required by law to entitle the department to take possession of the property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.063. PAYMENT PROCEDURES IN ADDITION TO OTHER PROCEDURES AUTHORIZED BY LAW. The payment procedures specified by Sections 203.060, 203.061, and 203.062 are in addition to any other procedure or method authorized for the issuance of a warrant by the comptroller on request of the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.064. ACQUISITION OF FREEWAY BY GIFT OR DEVISE. (a) The commission may acquire by gift or devise a property necessary to lay out, construct, maintain, or operate a section of a state highway as a freeway.

(b) In this section, "freeway" means a state highway for which the right of access to or from adjoining real property has been acquired in whole or in part from the owners of the adjoining property by the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.065. ACQUISITION OF FREEWAY BY COUNTY COMMISSIONERS COURT. (a) A county commissioners court may acquire by gift, devise, purchase, or condemnation a property necessary to lay out, construct, maintain, or operate a section of a state highway as a freeway.

(b) In this section, "freeway" has the meaning assigned by Section 203.064(b).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.066. DECLARATION OF TAKING FOR TOLL PROJECT. (a) This section and Section 203.067 apply only to a taking for a toll project.

(b) The department may file a declaration of taking with the clerk of the court:

(1) in which the department files a condemnation petition under Chapter 21, Property Code; or

(2) to which the case is assigned.

(c) The department may file the declaration of taking concurrently with or subsequent to the petition but may not file the declaration after the special commissioners have made an award in the condemnation proceeding.

(d) The department may not file a declaration of taking before the completion of:

(1) all environmental documentation, including a final environmental impact statement or a record of decision, that is required by federal or state law;

(2) all public hearings and meetings, including those held in connection with the environmental process and under Sections 201.604 and 203.021, that are required by federal or state law;

(3) all notifications required by Section 203.022; and

(4) if the property contains a business, farm, or ranch, a written notification to the property owner that the occupants:

(A) will not be required to move before the 90th day after the date of the notice; and

(B) will receive, not later than the 30th day before the date by which the property must be vacated, a written notice

specifying the date by which the property must be vacated.

(e) The declaration of taking must include:

(1) a specific reference to the legislative authority for the condemnation;

(2) a description and plot plan of the real property to be condemned, including the following information if applicable:

(A) the municipality in which the property is located;

(B) the street address of the property; and

(C) the lot and block number of the property;

(3) a statement of the property interest to be condemned;

(4) the name and address of each property owner that the department can obtain after reasonable investigation and a description of the owner's interest in the property; and

(5) a statement that immediate possession of all or part of the property to be condemned is necessary for the timely construction of a toll project.

(f) A deposit to the registry of the court of an amount equal to the appraised value, as determined by the department, of the property to be condemned must accompany the declaration of taking.

(g) The date on which the declaration is filed is the date of taking for the purpose of assessing damages to which a property owner is entitled.

(h) The filing of a declaration of taking does not affect the special commissioners' hearing or any other proceeding under Chapter 21, Property Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 920, Sec. 9, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 18, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.18, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 1.02, eff. Jan. 11, 2004.

Transferred from Transportation Code, Section 361.137 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.13, eff. June 14, 2005.

Sec. 203.067. POSSESSION OF PROPERTY FOR TOLL PROJECT. (a) Immediately on the filing of a declaration of taking under Section 203.066, the department shall serve a copy of the declaration on each person possessing an interest in the condemned property by a method

prescribed by Section 21.016(d), Property Code. The department shall file evidence of the service with the clerk of the court. On filing of that evidence, the department may take possession of the property pending the litigation.

(b) If the condemned property is a homestead or a portion of a homestead as defined by Section 41.002, Property Code, the department may not take possession sooner than the 91st day after the date of service under Subsection (a).

(c) A property owner or tenant who refuses to vacate the property or yield possession is subject to forcible entry and detainer under Chapter 24, Property Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 312, Sec. 19, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.19, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 1.03, eff. Jan. 11, 2004. Transferred from Transportation Code, Section 361.138 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.13, eff. June 14, 2005.

Sec. 203.068. RIGHT OF ENTRY FOR TOLL PROJECT. (a) The department and its authorized agents may enter any real property, water, or premises in this state to make a survey, sounding, drilling, or examination it determines necessary or appropriate for the purposes of the development of a toll project.

(b) An entry under this section is not:

- (1) a trespass; or
- (2) an entry under a pending condemnation proceeding.

(c) The department shall make reimbursement for any actual damages to real property, water, or premises that result from an activity described by Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 312, Sec. 43, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.41, eff. June 21, 2003. Transferred from Transportation Code, Section 361.233 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.13, eff. June 14, 2005.

Sec. 203.069. COVENANTS, CONDITIONS, RESTRICTIONS, OR LIMITATIONS. Covenants, conditions, restrictions, or limitations affecting property acquired in any manner by the department are not binding against the department and do not impair the department's ability to use the property for a purpose authorized by this chapter. The beneficiaries of the covenants, conditions, restrictions, or limitations are not entitled to enjoin the department from using the property for a purpose authorized under this chapter, but this section does not affect the right of a person to seek damages to the person's property under Section 17, Article I, Texas Constitution.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.13, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 312, Sec. 21, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.21, eff. June 21, 2003.

Transferred from Transportation Code, Section 361.142 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.13, eff. June 14, 2005.

SUBCHAPTER E. RELOCATION OF UTILITY FACILITIES

Sec. 203.091. DEFINITION. In this subchapter, "utility" includes a publicly, privately, or cooperatively owned utility that provides telephone, telegraph, communications, electric, gas, heating, water, railroad, storm sewer, sanitary sewer, or pipeline service.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.092. REIMBURSEMENT FOR RELOCATION OF UTILITY FACILITIES. (a) A utility shall make a relocation of a utility facility at the expense of this state if relocation of the utility facility is required by improvement of:

- (1) a highway in this state established by appropriate authority as part of the National System of Interstate and Defense Highways and the relocation is eligible for federal participation;
- (2) any segment of the state highway system and the utility has a compensable property interest in the land occupied by the facility to be relocated; or
- (3) a segment of the state highway system that was

designated by the commission as a turnpike project or toll project before September 1, 2005.

(a-1) Notwithstanding Subsection (a)(3), the department and the utility shall share equally the cost of the relocation of a utility facility that is required by the improvement of a nontolled highway to add one or more tolled lanes.

(a-2) Notwithstanding Subsection (a)(3), the department and the utility shall share equally the cost of the relocation of a utility facility that is required by the improvement of a nontolled highway that has been converted to a turnpike project or toll project.

(a-3) Notwithstanding Subsection (a)(3), the department and the utility shall share equally the cost of the relocation of a utility facility that is required by the construction on a new location of a turnpike project or toll project or the expansion of such a turnpike project or toll project.

(b) By agreement with the utility the department may relocate the utility facility in accordance with this section.

(c) Subsection (a) includes a relocation for an extension of a highway in an urban area.

(d) The cost of relocation includes the entire amount paid by the utility properly attributable to the relocation less:

- (1) any increase in the value of the new facility;
- (2) the salvage value derived from the old facility; and
- (3) any other deduction established by regulations for federal cost participation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 876, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.14, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 121 (S.B. [1209](#)), Sec. 1, eff. May 17, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1017 (H.B. [2585](#)), Sec. 1, eff. June 14, 2013.

Sec. 203.0921. DEPARTMENT RELOCATION OF UTILITY FACILITIES FOR ESSENTIAL HIGHWAY IMPROVEMENT. (a) At the discretion of the department, the department may cause a utility to relocate a utility

facility, or make a relocation of a utility facility, not eligible for reimbursement under Section 203.092 at the expense of the state upon a finding of the commission that:

- (1) relocation of the utility facility is essential to the timely completion of a state highway improvement project;
- (2) continuous service to utility customers is essential to the public well-being or the local economy;
- (3) a short-term financial condition would prevent a utility from being able to pay the cost of relocation in full or in part at the time of relocation or, if paid at that time, would adversely affect the utility's ability to operate or provide essential services to its customers; and
- (4) the affected utility has been contacted by the department and such utility and the department have reached an agreement that:
 - (A) appropriate safeguards are in place to ensure that relocation work activities are conducted safely in full compliance with applicable law and utility construction standards;
 - (B) relocation work can be coordinated between the department and the utility in a manner that will ensure that any disruption of utility service is minimized;
 - (C) the contractor, and any subcontractors, selected for relocation work activities are qualified to perform such work activities; and
 - (D) there exists a factual basis for the commission findings required under Subdivision (3).

(b) A utility whose facilities are relocated under Subsection (a) shall reimburse the department for any amount expended or advanced by the department for the relocation. The utility shall enter into an agreement with the department providing for reimbursement. The agreement shall:

- (1) require reimbursement of the amount expended plus interest to the department within five years from the date of completion of the work;
- (2) provide for reimbursement by a lump-sum payment or by installments;
- (3) require payment of interest at a rate of six percent per annum from the date of completion through the date of final payment; and
- (4) contain other terms and conditions as may be mutually

agreed upon by the department and the utility.

(c) In the absence of an agreement required by Subsection (b), a utility shall reimburse the department the full cost of relocation within 30 days of the date of completion of the work.

(d) All funds received by the department under this section shall be deposited in the state treasury to the credit of the state highway fund.

Added by Acts 1997, 75th Leg., ch. 876, Sec. 2, eff. Sept. 1, 1997.

Sec. 203.093. REIMBURSEMENT FROM STATE HIGHWAY FUND. (a) Reimbursement of the cost of relocation of the utility facility, as required by Section 203.092, may be made from the state highway fund to the utility owning the facility.

(b) This section applies notwithstanding anything to the contrary contained in another law or in a permit, agreement, or franchise issued or entered into by a department, commission, or political subdivision of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 876, Sec. 3, eff. Sept. 1, 1997.

Sec. 203.0935. TIMELY AGREEMENT. (a) If the department determines that a facility of a utility must be relocated to accommodate an improvement to the state highway system, the utility and the department shall negotiate in good faith to establish reasonable terms and conditions concerning the responsibilities of the parties with regard to sharing of information about the highway improvement project and the planning and implementation of any necessary relocation of utility facilities.

(b) The department shall use its best efforts to provide an affected utility with plans and drawings of the highway improvement project that are sufficient to enable the utility to develop plans for, and determine the cost of, the necessary relocation of the facility of the utility. If the department and the affected utility enter into an agreement after negotiations under Subsection (a), the terms and conditions of the agreement shall govern the relocation of the utility's facility covered by the agreement.

(c) If the department and an affected utility do not enter into

an agreement under Subsection (a), the department shall provide to the affected utility:

(1) written notice of the department's determination that the utility facility must be removed;

(2) a final plan for relocation of the facility; and

(3) reasonable terms and conditions for an agreement with the utility for the relocation of the facility.

(d) Not later than the 90th day after the date that a utility receives the notice from the department, including the plan and agreement terms and conditions under Subsection (c), the utility shall enter into an agreement with the department that provides for the relocation.

(e) If the utility fails to enter into an agreement within the 90-day period under Subsection (d), the department may relocate the facility at the sole cost and expense of the utility less any reimbursement of costs that would have been payable to the utility under Section 203.092. A relocation by the department under this subsection shall be conducted in full compliance with applicable law, using standard equipment and construction practices compatible with the utility's existing facilities, and in a manner that minimizes disruption of utility service.

(f) The 90-day period under Subsection (d) may be extended:

(1) by mutual agreement between the department and the utility; or

(2) for any period of time during which the utility is negotiating in good faith with the department to relocate its facility.

Added by Acts 2003, 78th Leg., ch. 845, Sec. 1, eff. June 20, 2003.

Sec. 203.094. TIMELY RELOCATION. (a) A utility that is eligible for reimbursement under Section 203.092 or that is eligible for reimbursement under applicable law and the policies of the department for the cost of relocating facilities required by improvement of a segment of the state highway system not subject to Section 203.092 shall accomplish the relocation of the facility in a timely manner as specified in its relocation agreement with the department.

(b) The department may reduce the reimbursement to the utility

by 10 percent for each 30-day period or portion of a 30-day period by which the relocation exceeds the limit specified in the relocation agreement. If the department determines that a delay in relocation is the result of circumstances beyond the control of the utility, full reimbursement shall be paid.

(c) The time limit specified in the relocation agreement may not be less than 90 days.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.0941. UTILITY RELOCATION ELIGIBLE FOR FINANCIAL ASSISTANCE FROM WATER DEVELOPMENT BOARD. (a) The relocation of a utility facility required by improvement of any segment of the state highway system, for which a political subdivision receives financial assistance made available from either Subchapter D, F, G, or K, Chapter 17, Water Code, is not subject to the requirements of Sections 17.183(1)-(6), Water Code, if the political subdivision has agreed to allow the department to contract for the construction of the utility facility relocation.

(b) The department and the Texas Water Development Board may enter into a memorandum of understanding to facilitate administration of utility facility relocation that is required by state highway system improvement and that receives financial assistance from the Texas Water Development Board.

Added by Acts 1997, 75th Leg., ch. 876, Sec. 4, eff. Sept. 1, 1997.

Sec. 203.095. RULES. The department shall adopt rules to implement this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. USE OF CERTAIN PROPERTY

Sec. 203.111. LEASE FOR PARKING PURPOSES. (a) The commission may lease for parking purposes real property beneath an elevated section of a freeway located on real property for which the commission holds the title and property rights.

(b) Revenue from a lease under this section shall be used for

general governmental purposes.

(c) In this section, "freeway" has the meaning assigned by Section 203.064.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 203.112. PROHIBITION OR RESTRICTION OF FIREWORKS AT REST AREA. (a) In this section, "rest area" means public real property designated as a rest area, comfort station, picnic area, roadside park, or scenic overlook by the department.

(b) The commission by order shall prohibit or restrict the use of fireworks at a state highway rest area in the unincorporated area of a county if:

(1) the commissioners court of the county petitions the commission to adopt the order; and

(2) the county pays the department for the costs of designing, constructing, and erecting signs at the rest area giving notice of the order.

(c) After an order is adopted under Subsection (b), the department shall erect signs at the rest area giving notice of the order. If a sign is damaged or destroyed, the department shall replace the sign if the county:

(1) submits to the department a written request for replacement; and

(2) pays the department for the costs of constructing and replacing the sign.

(d) A person who knowingly or intentionally violates a prohibition or restriction established by an order adopted under this section commits an offense. An offense under this subsection is a Class C misdemeanor.

Added by Acts 2015, 84th Leg., R.S., Ch. 139 (S.B. 570), Sec. 2, eff. September 1, 2015.

CHAPTER 204. TRAVEL INFORMATION

Sec. 204.001. INFORMATION FOR PUBLIC; MAPS. (a) To provide information relating to highway construction, repair, and maintenance and to advertise and attract traffic to the highways of this state, the department may prepare and publish for distribution, in the

manner and form the department considers best, documents the department considers necessary and expedient to publicize and provide information concerning:

- (1) the highways of this state;
- (2) public parks, recreational areas, scenic areas, and other public places and objects of interest;
- (3) distances;
- (4) historical facts; and
- (5) other matters of interest and value to the public and highway users.

(b) The department periodically may prepare a map showing:

- (1) the highways of this state; and
- (2) municipalities and other places of interest served by those highways.

(c) The department may distribute the documents and maps in the manner and to the extent the department considers will best serve the motoring public and highway users.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 16.001(a), eff. Sept. 1, 2003.

Sec. 204.002. CHARGE FOR MATERIALS. (a) The department shall provide a single copy of a document or map distributed under Section 204.001 without charge.

(b) The department by rule may:

- (1) require payment for large quantities of the material;
- and

(2) authorize distribution without charge of multiple copies of the material if the distribution will maximize the department's resources available to advertise the highways of this state and promote travel to and within this state.

(c) Payment required under Subsection (b)(1) must be in an amount sufficient to recover the department's direct and indirect production costs. Money received by the department under this section shall be deposited to the credit of the state highway fund and used by the department to produce travel material. Section 403.095, Government Code, does not apply to money deposited under this subsection.

(d) If this section conflicts with a license agreement entered

into under Section 201.205, the license agreement prevails to the extent of that conflict.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 16.001(a), eff. Sept. 1, 2003.

Sec. 204.003. TRAVEL INFORMATION CENTERS. (a) The department shall maintain and operate travel information centers to provide highway information, travel guidance, and descriptive material designed to assist the traveling public and stimulate travel to and within this state.

(b) The department may:

(1) enter into an agreement with:

(A) another state agency for the operation of a travel information center; or

(B) a local government, including a commission created under Chapter 391, Local Government Code, for the operation of a travel information center that is located within the boundaries of the local government; and

(2) issue a request for proposals to private or nonprofit entities for the operation of a travel information center.

(c) The department may sell commercial advertising space at a travel information center if the advertising is not visible from the main traveled way of the highway. If the department sells commercial advertising space, the department shall set rates for the advertising and other services available at a travel information center at a level that generates receipts approximately sufficient to cover the cost of its travel and information operations.

(d) The department may not engage in an activity authorized under Subsection (c) or another provision of this chapter that would decrease the amount of federal highway funding available to the department.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 16.001(a), eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1185 (S.B. [1017](#)), Sec. 1, eff. June 14, 2013.

Sec. 204.004. PAYMENT OF COSTS. The department may pay from highway revenues the cost, including the administration and operation cost, of:

- (1) developing, publishing, and distributing material; and
- (2) maintaining and operating travel information centers.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 16.001(a), eff. Sept. 1, 2003.

Sec. 204.005. PURCHASE OF BROADCASTING AND PERIODICAL ADVERTISING. The department may purchase advertising space in a periodical of national circulation and time on a broadcasting facility from money appropriated from the general revenue fund and administered by the department for that specific purpose.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 16.001(a), eff. Sept. 1, 2003.

Sec. 204.006. CONTRACTS FOR ADVERTISING, MOVIES, AND PHOTOGRAPHS. (a) The department may enter into a contract with:

(1) a recognized and financially responsible advertising agency that has at least five years' experience handling similar accounts for the contracting of space in newspapers and periodicals for the publication of advertising information, historical facts, statistics, and pictures that will be useful and informative to persons outside this state; and

(2) motion picture producers and other persons for making movies or taking photographs in this state and for the showing of those movies and photographs.

(b) The department may join with another agency of this state in publishing informational publicity material under this section.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 16.001(a), eff. Sept. 1, 2003.

Sec. 204.007. PRIVATE CONTRIBUTIONS. (a) The department may accept a contribution from a private source for a purpose under Sections 204.001-204.006.

(b) The department may deposit the contribution in one or more banks and use the contribution at its discretion according to the contributor's wishes.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 16.001(a), eff. Sept. 1, 2003.

Sec. 204.008. PRODUCTION, MARKETING, AND DISTRIBUTION CONTRACTS. (a) The department may contract with a private entity to produce, market, and distribute material published under Sections 204.001-204.006 on the terms, including terms providing cost savings, the department considers beneficial to this state.

(b) A contract may:

(1) include cooperative strategies the department considers to provide cost benefits; and

(2) provide for acceptance of paid advertising in the material if the quality and quantity of the material are maintained.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 16.001(a), eff. Sept. 1, 2003.

Sec. 204.009. SALE OF PROMOTIONAL ITEMS, ADVERTISING, AND ACKNOWLEDGMENTS. (a) The department may sell promotional items such as calendars, books, prints, caps, light clothing, or other items approved by the commission that advertise the resources of this state.

(a-1) The department may enter into an agreement for the acknowledgment of donations if the acknowledgment does not contain comparative or qualitative descriptions of the donor's products, services, facilities, or companies.

(b) All proceeds from the sale of the items and advertising under this chapter and all donations acknowledged under this section shall be deposited to the credit of a separate account in the state highway fund. Money in the account is dedicated for the department's use in its travel and information operations.

(c) Section 403.095, Government Code, does not apply to money deposited under this section.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 16.001(a), eff. Sept.

1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1185 (S.B. 1017), Sec. 2, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1185 (S.B. 1017), Sec. 3, eff. June 14, 2013.

Sec. 204.010. TRAVEL MAGAZINE. (a) The department shall publish the official travel magazine of this state, "Texas Highways."

(b) The department shall set subscription rates and other charges for the magazine at a level that generates receipts approximately sufficient to cover the cost of producing and distributing the magazine.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 16.001(a), eff. Sept. 1, 2003.

Sec. 204.011. SUBSCRIBER OR PURCHASER INFORMATION. (a) Except as provided by this section or a rule adopted by the commission under this section, the department may not disclose to any person the name, address, telephone number, social security account number, driver's license number, bank account number, credit or debit card number, or charge account number of a person who:

- (1) is or has been a subscriber to "Texas Highways"; or
- (2) has purchased from the department a promotional item

described by Section 204.009.

(b) Chapter 552, Government Code, does not apply to subscriber or purchaser information described by Subsection (a).

(c) The commission by rule shall establish policies relating to:

- (1) the release of subscriber or purchaser information;
- (2) the use by the department of subscriber and purchaser information; and
- (3) the sale of a mailing list containing the names and addresses of subscribers or purchasers.

(d) The policies must:

- (1) include a method by which a subscriber or purchaser may require the department to exclude information about the person from a

mailing list that is sold; and

(2) provide that subscriber or purchaser information be disclosed to an agency of this state or the United States only if that agency certifies that the information is necessary for the performance of that agency's duties.

(e) The department is immune from civil or criminal liability if the department unintentionally violates this section or a rule adopted under this section.

(f) In this section, a reference to the department includes an officer, employee, or agent of the department.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 16.001(a), eff. Sept. 1, 2003.

SUBTITLE B. STATE HIGHWAY SYSTEM

CHAPTER 221. GENERAL PROVISIONS

Sec. 221.001. DEFINITIONS. In this subtitle:

(1) "Highway" includes a tolled or nontolled public road or part of a tolled or nontolled public road and a bridge, culvert, building, or other necessary structure related to a public road.

(2) "Improvement" includes construction, reconstruction, maintenance, and the making of a necessary plan or survey before beginning construction, reconstruction, or maintenance.

(3) "State highway system" means the highways in this state included in the plan providing for a system of state highways prepared by the director under Section 201.103.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.15, eff. June 14, 2005.

Sec. 221.002. AGREEMENTS WITH MUNICIPALITIES. The commission and the governing body of a municipality, including a home-rule municipality, may agree to:

(1) provide for the location, relocation, improvement, control, supervision, and regulation of a designated state highway in the municipality; and

(2) establish the respective liabilities and

responsibilities of the commission and the municipality under the agreement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 221.003. IMPROVEMENT OF STATE HIGHWAY SYSTEM. (a) Improvement of the state highway system with federal aid shall be made under the exclusive and direct control of the department and with appropriations made by the legislature out of the state highway fund.

(b) The department may improve the state highway system without federal aid either with or without county aid. Improvements made without federal aid must comply with Section 223.045.

(c) The department shall make or prepare any survey, plan, specifications, or estimate for an improvement of the state highway system if any part of the improvement will be made with federal aid.

(d) The commissioners court of a county may not directly control the making of an improvement of the state highway system unless the plan and specifications for the improvement have been approved by the director.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 222. FUNDING AND FEDERAL AID

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 222.001. USE OF STATE HIGHWAY FUND. (a) Money that is required to be used for public roadways by the Texas Constitution or federal law and that is deposited in the state treasury to the credit of the state highway fund, including money deposited to the credit of the state highway fund under Title 23, United States Code, may be used only:

(1) to improve the state highway system; or
(2) to mitigate adverse environmental effects that result directly from construction or maintenance of a state highway by the department.

(b) Notwithstanding Section 222.103, the department may not pledge or otherwise encumber money deposited in the state highway fund to:

(1) guarantee a loan obtained by a public or private entity

for costs associated with a toll facility of the public or private entity; or

(2) insure bonds issued by a public or private entity for costs associated with a toll facility of the public or private entity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 771 (S.B. 883), Sec. 1, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 314 (H.B. 20), Sec. 5, eff. June 3, 2015.

Sec. 222.002. USE OF STATE HIGHWAY FUND FOR DEPARTMENT FUNCTIONS. Money in the state highway fund that is not required to be spent for public roadways by the Texas Constitution or federal law may be used for any function performed by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 222.003. ISSUANCE OF BONDS SECURED BY STATE HIGHWAY FUND.

(a) The commission may issue bonds and other public securities secured by a pledge of and payable from revenue deposited to the credit of the state highway fund.

(b) The aggregate principal amount of the bonds and other public securities that are issued may not exceed \$6 billion. The commission may only issue bonds or other public securities in an aggregate principal amount of not more than \$1.5 billion each year.

(c) Proceeds from the sale of bonds and other public securities issued under this section shall be used to fund state highway improvement projects.

(d) Of the aggregate principal amount of bonds and other public securities that may be issued under this section, the commission shall issue bonds or other public securities in an aggregate principal amount of \$1.2 billion to fund projects that reduce accidents or correct or improve hazardous locations on the state highway system. The commission by rule shall prescribe criteria for selecting projects eligible for funding under this section. In establishing criteria for the projects, the commission shall consider

accident data, traffic volume, pavement geometry, and other conditions that can create or exacerbate hazardous roadway conditions.

(e) The proceeds of bonds and other public securities issued under this section may not be used for any purpose other than any costs related to the bonds and other public securities and the purposes for which revenues are dedicated under Section 7-a, Article VIII, Texas Constitution.

(f) The commission may enter into credit agreements, as defined by Chapter 1371, Government Code, relating to the bonds and other public securities authorized by this section. The agreements may be secured by and payable from the same sources as the bonds and other public securities.

(g) All laws affecting the issuance of bonds and other public securities by governmental entities, including Chapters 1201, 1202, 1204, 1207, 1231, and 1371, Government Code, apply to the issuing of bonds and other public securities and the entering into of credit agreements under this section.

(h) The proceeds of bonds and other public securities issued under this section may be used to:

- (1) finance other funds relating to the public security, including debt service reserve and contingency; and
- (2) pay the cost or expense of the issuance of the public security.

(i) Bonds and other public securities and credit agreements authorized by this section may not have a principal amount or terms that, at the time the bonds or other public securities are issued or the agreements entered into, are expected by the commission to cause annual expenditures with respect to the obligations to exceed 10 percent of the amount deposited to the credit of the state highway fund in the immediately preceding year.

(j) Bonds and other public securities issued under this section may be sold in such manner and subject to such terms and provisions as set forth in the order authorizing their issuance, and such bonds and other public securities must mature not later than 20 years after their dates of issuance, subject to any refundings or renewals.

(k) The comptroller shall withdraw from the state highway fund and forward at the direction of the commission to another person the amounts as determined by the commission to permit timely payment of:

- (1) the principal of and interest on the bonds and other

public securities that mature or become due; and

(2) any cost related to the bonds and other public securities that become due, including payments under credit agreements.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 5.01, eff. Sept. 13, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 14.01, eff. June 11, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. 1201), Sec. 6, eff. June 17, 2011.

Sec. 222.004. ISSUANCE OF GENERAL OBLIGATION BONDS FOR HIGHWAY IMPROVEMENT PROJECTS. (a) In this section:

(1) "Bonds" means bonds, notes, and other public securities.

(2) "Credit agreement" has the meaning assigned by Section 1371.001, Government Code.

(3) "Improvement" includes acquisition of the highway, construction, reconstruction, and major maintenance, including any necessary design, and the acquisition of rights-of-way.

(b) The commission by order or resolution may issue general obligation bonds for the purposes provided in this section. The aggregate principal amount of the bonds that are issued may not exceed the amount specified by Section 49-p(a), Article III, Texas Constitution.

(c) The commission may enter into credit agreements relating to the bonds. A credit agreement entered into under this section may be secured by and payable from the same sources as the bonds.

(d) The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the commission, and must mature not later than 30 years after their dates of issuance, subject to any refundings or renewals. The bonds may be issued in multiple series and issues from time to time and may have the provisions the commission determines appropriate and in the interest of the state.

(e) The commission has all powers necessary or appropriate to carry out this section and to implement Section 49-p, Article III,

Texas Constitution, including the powers granted to other bond-issuing governmental agencies and units and to nonprofit corporations by Chapters 1201, 1207, and 1371, Government Code.

(f) The bonds and the record of proceedings authorizing the bonds and any related credit agreements shall be submitted to the attorney general for approval as to their legality. If the attorney general finds that they will be issued in accordance with this section and other applicable law, the attorney general shall approve them and deliver them to the comptroller for registration. After approval by the attorney general, registration by the comptroller, and payment by the purchasers of the bonds in accordance with the terms of sale and after execution and delivery of the related credit agreements, the bonds and related credit agreements are incontestable for any cause.

(g) Bonds may be issued for one or more of the following purposes:

(1) to pay all or part of the costs of highway improvement projects; and

(2) to pay:

(A) the costs of administering projects authorized under this section;

(B) the cost or expense of the issuance of the bonds;
or

(C) all or part of a payment owed or to be owed under a credit agreement.

(h) The proceeds from the issuance and sale of the bonds may not be expended or used for the purposes authorized under this section unless those proceeds have been appropriated by the legislature.

(i) The comptroller shall pay the principal of the bonds as they mature and the interest as it becomes payable and shall pay any cost related to the bonds that becomes due, including payments under credit agreements.

Added by Acts 2009, 81st Leg., 1st C.S., Ch. 1 (H.B. 1), Sec. 1, eff. July 10, 2009.

Sec. 222.005. AUTHORIZATION TO PROVIDE ASSISTANCE TO EXPEDITE ENVIRONMENTAL REVIEW. (a) The department, a county, a regional

tollway authority operating under Chapter 366, or a regional mobility authority operating under Chapter 370 may enter into an agreement to provide funds to a state or federal agency to expedite the agency's performance of its duties related to the environmental review process for the applicable entity's transportation projects, including those listed in the applicable metropolitan planning organization's long-range transportation plan under 23 U.S.C. Section 134.

(b) Except as provided by Subsection (c), an agreement entered into under this section:

(1) may specify transportation projects the applicable entity considers to be priorities for review; and

(2) must require the agency receiving money to complete the environmental review in less time than is customary for the completion of environmental review by that agency.

(c) The department may enter into a separate agreement for a transportation project that the department determines has regional importance.

(d) An agreement entered into under this section does not diminish or modify the rights of the public regarding review and comment on transportation projects.

(e) An entity entering into an agreement under this section shall make the agreement available on the entity's Internet website.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 3, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 3, eff. June 17, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 27, eff. September 1, 2011.

Sec. 222.006. ENVIRONMENTAL REVIEW CERTIFICATION PROCESS. The department by rule shall establish a process to certify department district environmental specialists to work on all documents related to state and federal environmental review processes. The certification process must:

(1) be available to department employees; and

(2) require continuing education for recertification.

Added by Acts 2011, 82nd Leg., R.S., Ch. 943 (H.B. 630), Sec. 3, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1060 (S.B. 548), Sec. 3, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 27, eff. September 1, 2011.

SUBCHAPTER B. FEDERAL AID

Sec. 222.031. USE OF FEDERAL AID FOR ROAD CONSTRUCTION. Money appropriated by the United States for public road construction in this state may be spent only by and under the supervision of the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.12, eff. Sept. 1, 1997.

Sec. 222.032. USE OF FEDERAL AID FOR TOLL BRIDGE CONSTRUCTION.

(a) The department may:

(1) cooperate with the United States Secretary of Transportation in the construction of a toll bridge under 23 U.S.C. Section 129;

(2) spend state highway funds for the purpose described in Subdivision (1);

(3) impose tolls in accordance with 23 U.S.C. Section 129; and

(4) take other necessary or proper action to give effect to the purpose and intent of this section.

(b) The department shall impose tolls in accordance with this section with the goal that the tolls be eliminated, as contemplated or required by 23 U.S.C. Section 129.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 222.033. INTERSTATE TOLL BRIDGES. (a) Section 222.032 applies to a bridge over a stream forming the boundary of this state and an adjoining state.

(b) If the bridge is constructed jointly by this state and the adjoining state, the commission may cooperate with the appropriate authorities of the adjoining state in imposing tolls in accordance with this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 222.034. DISTRIBUTION OF FEDERAL FUNDS. (a) Federal aid for transportation purposes that is administered by the commission shall be distributed to the various parts of the state for a funding cycle through the selection of highway projects in the state in a manner that is consistent with federal formulas that determine the amount of federal aid for transportation purposes received by the state. A distribution under this subsection does not include deductions made for the state infrastructure bank or other federal funds reallocated by the federal government.

(b) The commission may vary from the distribution procedure provided by Subsection (a) if it issues a ruling or minute order identifying the variance and providing a particular justification for the variance.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.17, eff. Sept. 1, 1997.

See Subsec. (b) for effective date information.

Sec. 222.035. PRIVATE ACTIVITY BONDS. (a) In this section, "private activity bond" has the meaning assigned by Section 141(a), Internal Revenue Code of 1986.

(b) If the attorney general makes a determination that the United States Congress has enacted legislation amending the Internal Revenue Code of 1986 to include highway facilities or surface freight transfer facilities among the types of facilities for which private activity bonds may be used:

(1) the determination shall be published in the Texas Register; and

(2) Subsections (d), (e), (f), and (g) take effect on the 30th day after the date on which the attorney general's determination is published in the Texas Register.

(c) The attorney general shall monitor federal legislation for purposes of this section.

(d) The department shall establish and administer a program for private activity bonds issued for highway facilities or surface freight transfer facilities in this state.

(e) The program, at a minimum, must include a process by which the department and the Bond Review Board receive and evaluate applications for issuance of private activity bonds for highway facilities or surface freight transfer facilities.

(f) The department shall adopt rules to administer the program established under this section.

(g) To the extent that private activity bonds for highway facilities or surface freight transfer facilities are subject to the state ceiling under Section 146, Internal Revenue Code of 1986, the issuance of bonds for those facilities is governed by Chapter 1372, Government Code.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.16, eff. June 14, 2005.

SUBCHAPTER C. FUNDING FROM OTHER POLITICAL SUBDIVISIONS

Sec. 222.051. LOCAL FINANCING AND REIMBURSEMENT. (a) A governmental unit that has the authority to build roads may finance the construction of an approved project for the state highway system.

(b) If funds become available, the department may contract to reimburse the governmental unit that provided financing for the project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 222.052. LOCAL CONTRIBUTIONS. (a) The governing body of a political subdivision of this state may contribute funds to be spent by the commission in the development and construction of the public roads and state highway system within the political subdivision.

(b) The commission may accept a contribution made under Subsection (a).

(c) In this section, "political subdivision" includes a county or a political subdivision of a county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 222.053. RELIEF FROM LOCAL MATCHING FUNDS REQUIREMENT.

(a) In this section, "economically disadvantaged county" means a county that has, in comparison to other counties in the state:

- (1) below average per capita taxable property value;
- (2) below average per capita income; and
- (3) above average unemployment.

(b) Except as provided by Subsection (c), the commission may require, request, or accept from a political subdivision matching or other local funds, rights-of-way, utility adjustments, additional participation, planning, documents, or any other local incentives to make the most efficient use of its highway funding.

(c) In evaluating a proposal to construct, maintain, or extend a highway or for another type of highway project in a political subdivision that consists of all or a portion of an economically disadvantaged county, the commission:

(1) may not consider the absence or value of local incentives provided under Subsection (b) or the value of a benefit received by the state in an agreement under Section 791.031, Government Code, beyond the minimum required local matching funds; and

(2) shall adjust the minimum local matching funds requirement after evaluating the political subdivision's effort and ability to meet the requirement.

(d) In making an adjustment under Subsection (c)(2), the commission may use its in-kind resources and any other available resources to help satisfy a federal requirement.

(e) The commission shall report annually to the governor, the lieutenant governor, and the speaker of the house of representatives on the use of matching funds and local incentives and the ability of the commission to ensure that political subdivisions located in economically disadvantaged counties have equal ability to compete for highway funding with political subdivisions in counties that are not economically disadvantaged.

(f) The commission shall certify a county as an economically disadvantaged county on an annual basis as soon as possible after the comptroller reports on the economic indicators listed under Subsection (a). A county certified under this section is eligible for an adjustment under Subsection (c)(2).

(g) The commission shall determine whether to make an adjustment under Subsection (c)(2) at the time a political subdivision that consists of all or a portion of an economically

disadvantaged county submits a proposal to construct, maintain, or extend a highway or for another type of highway project.

(h) The commission may delegate any of its duties or powers under this section to the director or the director's designee.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.18, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 545 (H.B. 1107), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 809 (S.B. 573), Sec. 2, eff. September 1, 2005.

SUBCHAPTER D. STATE INFRASTRUCTURE BANK

Sec. 222.071. DEFINITIONS. In this subchapter:

- (1) "Bank" means the state infrastructure bank account.
- (2) "Construction" has the meaning assigned by 23 U.S.C.

Section 101.

(3) "Federal act" means Section 350 of the National Highway System Designation Act of 1995 (Pub. L. No. 104-59).

(4) "Federal-aid highway" has the meaning assigned by 23 U.S.C. Section 101.

(5) "Qualified project" includes:

- (A) the construction of a federal-aid highway;
- (B) a transit project under 49 U.S.C. Sections 5307, 5309, and 5311; or
- (C) for the expenditure of secondary funds, a project eligible for assistance under Title 23 or Title 49, United States Code.

(6) "Secondary funds" includes:

- (A) the repayment of a loan or other assistance that is provided with money deposited to the credit of the bank; and
- (B) investment income generated by secondary funds deposited to the credit of the bank.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997.

Sec. 222.072. STATE INFRASTRUCTURE BANK. (a) The state

infrastructure bank is an account in the state highway fund. The bank is administered by the commission.

(b) Federal funds received by the state under the federal act, matching state funds in an amount required by that act, proceeds from bonds issued under Section 222.075, secondary funds, other state funds deposited into the bank by order of the commission, and other money received by the state that is eligible for deposit in the bank may be deposited into the bank and used only for the purposes described in this subchapter.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1267 (H.B. 2134), Sec. 1, eff. June 18, 2005.

Sec. 222.073. PURPOSES OF INFRASTRUCTURE BANK. Notwithstanding Section 222.001, the commission shall use money deposited in the bank to:

(1) encourage public and private investment in transportation facilities both within and outside of the state highway system, including facilities that contribute to the multimodal and intermodal transportation capabilities of the state; and

(2) develop financing techniques designed to:

(A) expand the availability of funding for transportation projects and to reduce direct state costs;

(B) maximize private and local participation in financing projects; and

(C) improve the efficiency of the state transportation system.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1267 (H.B. 2134), Sec. 2, eff. June 18, 2005.

Sec. 222.074. FORM OF ASSISTANCE. (a) To further a purpose

described by Section 222.073, the commission may use money deposited to the credit of the bank to provide financial assistance to a public or private entity for a qualified project to:

- (1) extend credit by direct loan;
 - (2) provide credit enhancements;
 - (3) serve as a capital reserve for bond or debt instrument financing;
 - (4) subsidize interest rates;
 - (5) insure the issuance of a letter of credit or credit instrument;
 - (6) finance a purchase or lease agreement in connection with a transit project;
 - (7) provide security for bonds and other debt instruments;
- or

(8) provide methods of leveraging money that have been approved by the United States secretary of transportation and relate to the project for which the assistance is provided.

(b) Financial assistance to a private entity under Subsection (a) shall be limited to a qualified project that:

- (1) provides transportation services or facilities that provide a demonstrated public benefit; or
- (2) is constructed or operated in cooperation with a state agency or political subdivision in accordance with an agreement between that agency or political subdivision and the private entity.

(c) Financial assistance to a public or private entity under Subsection (a) shall be limited, as applicable, to a qualified project that is consistent with the transportation plan developed by the metropolitan planning organization.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1267 (H.B. [2134](#)), Sec. 3, eff. June 18, 2005.

Sec. 222.0745. INCURRENCE OF DEBT BY PUBLIC ENTITY. (a) A public entity in this state, including a municipality, county, district, authority, agency, department, board, or commission, that is authorized by law to construct, maintain, or finance a qualified

project may borrow money from the bank, including by direct loan, based on the credit of the public entity.

(b) Money borrowed under this section must be segregated from other funds under the control of the public entity and may only be used for purposes related to a qualified project.

(c) The authority granted by this section does not affect the ability of a public entity to incur debt using other statutorily authorized methods.

Added by Acts 2001, 77th Leg., ch. 4, Sec. 1, eff. April 9, 2001.

Sec. 222.075. REVENUE BONDS. (a) The commission may issue revenue bonds for the purpose of providing money for the bank.

(b) Except as provided by Subsection (c), the commission may issue revenue bonds or revenue refunding bonds under this section without complying with any other law applicable to the issuance of bonds.

(c) Notwithstanding any other provision of this section, the following laws apply to bonds issued by the commission:

(1) Chapters 1201, 1202, 1204, 1231, and 1371, Government Code; and

(2) Subchapters A-C, Chapter 1207, Government Code.

(d) The revenue bonds are special obligations of the commission payable only from income and receipts of the bank as the commission may designate. The income and receipts include principal of and interest paid and to be paid on acquired obligations, other designated obligations held by the bank, or income from accounts created within the bank.

(e) The revenue bonds do not constitute a debt of the state or a pledge of the faith and credit of the state.

(f) The commission may require participants to make charges, levy taxes, or otherwise provide for sufficient money to pay acquired obligations.

(g) Revenue bonds issued under this section shall be authorized by order of the commission and shall have the form and characteristics and bear the designations as are provided in the order.

(h) Revenue bonds shall:

(1) be dated;

- (2) bear interest at the rate or rates authorized by law;
 - (3) mature at the time or times, serially, as term, revenue bonds, or otherwise not more than 50 years after their dates;
 - (4) be called before stated maturity on the terms and at the prices, be in the denominations, be in the form, either coupon or registered, carry registration privileges as to principal only or as to both principal and interest and as to successive exchange of coupon for registered bonds or one denomination for bonds of other denominations, and successive exchange of registered revenue bonds for coupon revenue bonds, be executed in the manner, and be payable at the place or places inside or outside the state, as provided in the order;
 - (5) be issued in temporary or permanent form;
 - (6) be issued in one or more installments and from time to time as required and sold at a price or prices and under terms determined by the commission to be the most advantageous reasonably obtainable; and
 - (7) be issued on a parity with and be secured in the manner as other revenue bonds authorized to be issued by this section or be issued without parity and secured differently from other revenue bonds.
- (i) All proceedings relating to the issuance of revenue bonds issued under this section shall be submitted to the attorney general for examination. On determining that the revenue bonds have been authorized in accordance with law, the attorney general shall approve the revenue bonds, and the revenue bonds shall be registered by the comptroller. After the approval and registration, the revenue bonds are incontestable in any court or other forum for any reason and are valid and binding obligations in accordance with their terms for all purposes.
 - (j) The proceeds received from the sale of revenue bonds shall be deposited in the bank and invested in the manner provided for other funds deposited under this subchapter.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.373, eff. Sept. 1, 2001.

Sec. 222.076. SEPARATE SUBACCOUNTS. (a) The bank shall

consist of at least two separate subaccounts, a highway subaccount and a transit subaccount.

(b) In addition to the subaccounts under Subsection (a), the commission may create one or more subaccounts that are capitalized with state funds only. Subaccounts capitalized with state funds only are not subject to the federal act.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1267 (H.B. [2134](#)), Sec. 4, eff. June 18, 2005.

Sec. 222.077. REPAYMENT TERMS; DEPOSIT OF REPAYMENTS; INVESTMENT INCOME. (a) Any funds disbursed through the state infrastructure bank must be repaid on terms determined by the commission. The terms must comply with the federal act except for terms applicable to funds deposited in a subaccount described by Section 222.076(b).

(b) Notwithstanding any other law to the contrary:

(1) the repayment of a loan or other assistance provided with money deposited to the credit of a subaccount in the bank shall be deposited in that subaccount; and

(2) investment income generated by money deposited to the credit of a subaccount in the bank shall be:

(A) credited to that subaccount;

(B) available for use in providing financial assistance under this subchapter; and

(C) invested in United States Treasury securities, bank deposits, or other financing instruments approved by the United States secretary of transportation to earn interest and enhance the financing of projects assisted by the bank.

(c) The commission shall administer the bank in compliance with applicable requirements of the federal act and any applicable federal regulation or guideline.

(d) The commission by rule shall:

(1) implement this subchapter; and

(2) establish eligibility criteria for an entity applying for financial assistance from the bank.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.21, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1267 (H.B. 2134), Sec. 5, eff. June 18, 2005.

SUBCHAPTER E. TOLL FACILITIES

Sec. 222.1001. DEFINITION. In this subchapter, "transportation project" has the meaning assigned by Section 370.003.

Added by Acts 2013, 83rd Leg., R.S., Ch. 114 (S.B. 1110), Sec. 1, eff. September 1, 2013.

Sec. 222.101. EXPENDITURE OF MONEY. The department may spend money from any source for the construction, maintenance, and operation of toll facilities.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.01, eff. Sept. 1, 1997.

Sec. 222.103. COST PARTICIPATION. (a) The department may participate, by spending money from any available source, in the cost of the acquisition, construction, maintenance, or operation of a toll facility of a public or private entity on terms and conditions established by the commission. The commission:

(1) may require the repayment of any money spent by the department for the cost of a toll facility of a public entity; and

(2) shall require the repayment of any money spent by the department for the cost of a toll facility of a private entity.

(b) Money repaid as required by the commission shall be deposited to the credit of the fund from which the expenditure was made. Money deposited as required by this section is exempt from the application of Section 403.095, Government Code.

(c) A bond or other debt obligation issued by a public or private entity to finance the cost of a toll facility in which the department participates is an obligation of the issuing entity and is not an obligation of this state.

(d) On the request of a member of the legislature, the

department shall provide the member a status report on all highway construction projects, by legislative district, that are under contract or awaiting funding. The report shall include projects that would be funded in any manner by state, federal, or toll funds.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312, Sec. 99(31), eff. September 1, 2013.

(f) This section applies to any participation by the department in the cost of a project under Chapter 284, 361, or 366.

(g) The commission shall adopt rules to implement Subsection (a).

(h) Money granted by the department each fiscal year under this section may not exceed an amount that, together with the money granted for the preceding four fiscal years, results in an average annual expenditure of \$2 billion. This limitation does not apply to money required to be repaid.

(i), (j) Repealed by Acts 2003, 78th Leg., ch. 312, Sec. 77; Acts 2003, 78th Leg., ch. 1325, Sec. 15.74.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.01, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1237, Sec. 1, eff. Nov. 6, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 77, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.74, 19.02, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.17, eff. June 14, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(31), eff. September 1, 2013.

Sec. 222.104. PASS-THROUGH TOLLS. (a) In this section, "pass-through toll" means a per vehicle fee or a per vehicle mile fee that is determined by the number of vehicles using a highway.

(b) The department may enter into an agreement with a public or private entity that provides for the payment of pass-through tolls to the public or private entity as reimbursement for the design, development, financing, construction, maintenance, or operation of a toll or nontoll facility on the state highway system by the public or private entity.

(c) The department may enter into an agreement with a private

entity that provides for the payment of pass-through tolls to the department as reimbursement for the department's design, development, financing, construction, maintenance, or operation of a toll or nontoll facility on the state highway system that is financed by the department.

(d) The department and a regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 may enter into an agreement that provides for:

(1) the payment of pass-through tolls to the authority or county as compensation for the payment of all or a portion of the costs of maintaining a state highway or a portion of a state highway transferred to the authority or county after being converted to a toll facility that the department estimates it would have incurred if the highway had not been converted; or

(2) the payment by the authority or county of pass-through tolls to the department as reimbursement for all or a portion of the costs incurred by the department to design, develop, finance, construct, and maintain a state highway or a portion of a state highway transferred to the authority or county after being converted to a toll facility.

(e) The department may use any available funds for the purpose of making a pass-through toll payment under this section except funds derived from the issuance of bonds under Section 201.943.

Text of Subsec. (f) as added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.18

(f) A regional mobility authority, a regional tollway authority, or a county acting under Chapter 284 is authorized to secure and pay its obligations under an agreement under this section from any lawfully available funds.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 15.002, eff. September 1, 2007.

Text of Subsec. (g) as added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.18

(g) The commission may adopt rules necessary to implement this section. Rules adopted under this subsection may include criteria for:

(1) determining the amount of pass-through tolls to be paid under this section; and

(2) allocating the risk that traffic volume will be higher

or lower than the parties to an agreement under this section anticipated in entering the agreement.

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 15.002, eff. September 1, 2007.

Text of Subsec. (h) as added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.18

(h) Money repaid to the department under this section shall be deposited to the credit of the fund from which the money was originally provided and is exempt from the application of Section 403.095, Government Code.

Text of Subsec. (h) as added by Acts 2005, 79th Leg., Ch. 994 (H.B. 2139), Sec. 1

(h) An agreement under this section should prescribe the roles and responsibilities of the parties and establish time frames for any department reviews or approvals in a manner that will, to the maximum extent possible, expedite the development of the project.

(i) To the maximum extent permitted by law, the department may delegate the full responsibility for design, bidding, and construction, including oversight and inspection, to a municipality, county, regional mobility authority, or regional tollway authority with which the department enters into an agreement under this section.

(j) An agreement under this section must provide that the municipality, county, regional mobility authority, or regional tollway authority is required to meet state design criteria, construction specifications, and contract administration procedures unless the department grants an exception.

(k) An agreement under this section must prescribe the roles and responsibilities of the parties and establish time frames for any department reviews or approvals in a manner that will, to the maximum extent possible, expedite the development of the project.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 6.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.18, eff. June 14, 2005.

Acts 2005, 79th Leg., Ch. 994 (H.B. 2139), Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 15.002,

eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1320 (S.B. 1266), Sec. 1, eff. September 1, 2007.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 281 (H.B. 2702), Sec. 2.19

For text of section as added by Acts 2005, 79th Leg., R.S., Ch. 994 (H.B. 2139), Sec. 2, see other Sec. 222.1045.

Sec. 222.1045. CONTRACTS OF CERTAIN PUBLIC ENTITIES. (a) In this section, "public entity" means a municipality, county, regional mobility authority, or regional tollway authority.

(b) A public entity may contract with a private entity to act as the public entity's agent in:

(1) the design, financing, maintenance, operation, or construction, including oversight and inspection, of a toll or nontoll facility under Section 222.104(b); or

(2) the maintenance of a state highway or a portion of a state highway subject to an agreement under Section 222.104(d)(1).

(c) A public entity shall:

(1) select a private entity under Subsection (b) on the basis of the private entity's qualifications and experience; and

(2) enter into a project development agreement with the private entity.

(d) A private entity selected shall comply with Chapter 1001, Occupations Code, and all laws related to procuring engineering services and construction bidding that are applicable to the public entity that selected the private entity.

(e) A public entity may assign the public entity's right to payment of pass-through tolls under Section 222.104(b) or (d)(1) to the private entity.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.19, eff. June 14, 2005.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 994 (H.B. 2139), Sec. 2

For text of section as added by Acts 2005, 79th Leg., R.S., Ch. 281

(H.B. 2702), Sec. 2.19, see other Sec. 222.1045.

Sec. 222.1045. CONTRACTS OF CERTAIN PUBLIC ENTITIES. (a) In this section, "public entity" means a municipality, county, regional mobility authority, or a regional tollway authority.

(b) A public entity may contract with a private entity to act as the public entity's agent in:

(1) the design, financing, maintenance, operation, or construction, including oversight and inspection, of a toll or nontoll facility under Section 222.104(b); or

(2) the maintenance of a state highway or a portion of a state highway converted to a toll facility under Section 222.104(c).

(c) A public entity shall:

(1) select a private entity under Subsection (b) on the basis of the private entity's qualifications and experience; and

(2) enter into a project development agreement with the private entity.

(d) A private entity selected shall comply with Chapter 1001, Occupations Code, and all laws related to procuring engineering services and construction bidding that are applicable to the public entity that selected the private entity.

(e) A public entity may assign the public entity's right to payment of pass-through tolls under Section 222.104(b) or (c) to the private entity.

Added by Acts 2005, 79th Leg., Ch. 994 (H.B. 2139), Sec. 2, eff. June 18, 2005.

Sec. 222.105. PURPOSES. The purposes of Sections 222.106 and 222.107 are to:

(1) promote public safety;

(2) facilitate the improvement, development, or redevelopment of property;

(3) facilitate the movement of traffic; and

(4) enhance a local entity's ability to sponsor a transportation project.

Added by Acts 2007, 80th Leg., R.S., Ch. 1320 (S.B. 1266), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 475 (H.B. 563), Sec. 1, eff.

September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 114 (S.B. 1110), Sec. 2, eff. September 1, 2013.

Sec. 222.106. MUNICIPAL TRANSPORTATION REINVESTMENT ZONES. (a) In this section:

(1) the amount of a municipality's tax increment for a year is the amount of ad valorem taxes levied and collected by the municipality for that year on the captured appraised value of real property taxable by the municipality and located in a transportation reinvestment zone under this section;

(2) the captured appraised value of real property taxable by a municipality for a year is the total appraised value of all real property taxable by the municipality and located in a transportation reinvestment zone for that year less the tax increment base of the municipality; and

(3) the tax increment base of a municipality is the total appraised value of all real property taxable by the municipality and located in a transportation reinvestment zone for the year in which the zone was designated under this section.

(b) This section applies only to a municipality in which a transportation project is to be developed under Section 222.104 or 222.108.

(c) If the governing body determines an area to be unproductive and underdeveloped and that action under this section will further the purposes stated in Section 222.105, the governing body of the municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a transportation reinvestment zone to promote one or more transportation projects.

(d) The governing body must comply with all applicable laws in the application of this chapter.

(e) Not later than the 30th day before the date the governing body of the municipality proposes to adopt an ordinance designating an area as a transportation reinvestment zone under this section, the governing body must hold a public hearing on the designation of the zone and its benefits to the municipality and to property in the proposed zone. At the hearing an interested person may speak for or against the creation of the zone or its boundaries. Not later than the seventh day before the date of the hearing, notice of the hearing

and the intent to create the zone must be published in a newspaper having general circulation in the municipality.

(f) Compliance with the requirements of this section constitutes designation of an area as a transportation reinvestment zone without further hearings or other procedural requirements.

(g) The ordinance designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on passage of the ordinance and that the base year shall be the year of passage of the ordinance or some year in the future;

(3) assign a name to the zone for identification, with the first zone designated by a municipality designated as "Transportation Reinvestment Zone Number One, (City or Town, as applicable) of (name of municipality)," and subsequently designated zones assigned names in the same form, numbered consecutively in the order of their designation;

(4) designate the base year for purposes of establishing the tax increment base of the municipality;

(5) establish a tax increment account for the zone; and

(6) contain findings that promotion of the transportation project or projects will cultivate the improvement, development, or redevelopment of the zone.

(h) From taxes collected on property in a zone, the municipality shall pay into the tax increment account for the zone the tax increment produced by the municipality, less any amount allocated under previous agreements, including agreements under Chapter 380, Local Government Code, or Chapter 311, Tax Code.

(i) All or the portion specified by the municipality of the money deposited to a tax increment account must be used to fund the transportation project or projects for which the zone was designated, as well as aesthetic improvements within the zone. Any remaining money deposited to the tax increment account may be used for other purposes as determined by the municipality. A municipality may issue bonds to pay all or part of the cost of a transportation project and may pledge and assign all or a specified amount of money in the tax increment account to secure repayment of those bonds.

(i-1) The governing body of a municipality may contract with a

public or private entity to develop, redevelop, or improve a transportation project in a transportation reinvestment zone and may pledge and assign all or a specified amount of money in the tax increment account to that entity. After a pledge or assignment is made, the governing body of the municipality may not rescind its pledge or assignment until the contractual commitments that are the subject of the pledge or assignment have been satisfied.

(i-2) To accommodate changes in the limits of a project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the tax increment account has been assigned or pledged directly by the municipality or through another entity to secure bonds or other obligations issued to obtain funding or development of a project, and property may not be added to a designated zone unless the governing body of the municipality complies with Subsections (e) and (g).

(j) Except as provided by Subsections (i-1) and (k), a transportation reinvestment zone terminates on December 31 of the year in which the municipality completes:

(1) all contractual requirements that included the pledge or assignment of all or a portion of money deposited to a tax increment account; or

(2) the repayment of money owed under an agreement for development, redevelopment, or improvement of the project or projects for which the zone was designated.

(k) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the municipality has not entered into a contract described in Subsection (i-1) or otherwise not used the zone for the purpose for which it was designated.

(l) Any surplus remaining in a tax increment account on termination of a zone may be used for other purposes as determined by the municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 1320 (S.B. [1266](#)), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 475 (H.B. [563](#)), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 28, eff.

September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 114 (S.B. 1110), Sec. 3, eff. September 1, 2013.

Sec. 222.107. COUNTY TRANSPORTATION REINVESTMENT ZONES. (a)
In this section:

(1) the amount of a county's tax increment for a year is the amount of ad valorem taxes levied and collected by the county for that year on the captured appraised value of real property taxable by the county and located in a transportation reinvestment zone under this section;

(2) the captured appraised value of real property taxable by a county for a year is the total appraised value of all real property taxable by the county and located in a transportation reinvestment zone for that year less the tax increment base of the county; and

(3) the tax increment base of a county is the total appraised value of all real property taxable by the county and located in a transportation reinvestment zone for the year in which the zone was designated under this section.

(b) This section applies only to a county in which a transportation project is to be developed under Section 222.104 or 222.108.

(c) The commissioners court of the county, after determining that an area is unproductive and underdeveloped and that action under this section would further the purposes described by Section 222.105, by order or resolution may designate a contiguous geographic area in the jurisdiction of the county to be a transportation reinvestment zone to promote one or more transportation projects.

(d) The commissioners court must comply with all applicable laws in the application of this chapter.

(e) Not later than the 30th day before the date the commissioners court proposes to designate an area as a transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone, its benefits to the county and to property in the proposed zone, and the possible abatement of ad valorem taxes or the grant of other relief from ad valorem taxes imposed by the county on real property located in the zone. At the hearing an interested person may speak for or against

the designation of the zone, its boundaries, or the possible abatement of or the relief from county taxes on real property in the zone. Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

(f) The order or resolution designating an area as a transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution and that the base year shall be the year of passage of the order or resolution or some year in the future;

(3) assign a name to the zone for identification, with the first zone designated by a county designated as "Transportation Reinvestment Zone Number One, County of (name of county)," and subsequently designated zones assigned names in the same form numbered consecutively in the order of their designation;

(4) designate the base year for purposes of establishing the tax increment base of the county;

(5) establish an ad valorem tax increment account for the zone; and

(6) contain findings that promotion of the transportation project or projects will cultivate the improvement, development, or redevelopment of the zone.

(g) Compliance with the requirements of this section constitutes designation of an area as a transportation reinvestment zone without further hearings or other procedural requirements.

(h) The commissioners court may:

(1) from taxes collected on property in a zone, pay into a tax increment account for the zone an amount equal to the tax increment produced by the county less any amounts allocated under previous agreements, including agreements under Section 381.004, Local Government Code, or Chapter 312, Tax Code;

(2) by order or resolution enter into an agreement with the owner of any real property located in the transportation reinvestment zone to abate all or a portion of the ad valorem taxes or to grant other relief from the taxes imposed by the county on the owner's property in an amount not to exceed the amount calculated under

Subsection (a)(1) for that year;

(3) by order or resolution elect to abate all or a portion of the ad valorem taxes imposed by the county on all real property in a zone; or

(4) grant other relief from ad valorem taxes on property in a zone.

(h-1) All abatements or other relief granted by the commissioners court in a transportation reinvestment zone must be equal in rate. In any ad valorem tax year, the total amount of the taxes abated or the total amount of relief granted under this section may not exceed the amount calculated under Subsection (a)(1) for that year, less any amounts allocated under previous agreements, including agreements under Chapter 381, Local Government Code, or Chapter 312, Tax Code.

(h-2) To further the development of the transportation project or projects for which the transportation reinvestment zone was designated, a county may assess all or part of the cost of the transportation project or projects against property within the zone. The assessment against each property in the zone may be levied and payable in installments in the same manner as provided by Sections 372.016-372.018, Local Government Code, provided that the installments do not exceed the total amount of the tax abatement or other relief granted under Subsection (h). The county may elect to adopt and apply the provisions of Sections 372.015-372.020 and 372.023, Local Government Code, to the assessment of costs and Sections 372.024-372.030, Local Government Code, to the issuance of bonds by the county to pay the cost of a transportation project. The commissioners court of the county may contract with a public or private entity to develop, redevelop, or improve a transportation project in the transportation reinvestment zone, including aesthetic improvements, and may pledge and assign to that entity all or a specified amount of the revenue the county receives from the tax increment or the installment payments of the assessments for the payment of the costs of that transportation project. After a pledge or assignment is made, the commissioners court of the county may not rescind its pledge or assignment until the contractual commitments that are the subject of the pledge or assignment have been satisfied. Any amount received from the tax increment or the installment payments of the assessments not pledged or assigned in connection with a transportation project may be used for other purposes as

determined by the commissioners court.

(i) In the alternative, to assist the county in developing a transportation project, if authorized by the commission under Chapter 441, a road utility district may be formed under that chapter that has the same boundaries as a transportation reinvestment zone created under this section.

(i-1) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 114, Sec. 11, eff. September 1, 2013.

(j) In any ad valorem tax year, a road utility district formed as provided by Subsection (i) may impose taxes on property in the district at a rate that when applied to the property in the district would impose taxes in an amount equal to the amount of taxes abated by the commissioners court of the county under Subsection (h). Notwithstanding Section 441.192(a), an election is not required to approve the imposition of the taxes.

(k) A road utility district formed as provided by Subsection (i) may enter into an agreement to fund development of a project or to repay funds owed to the department. Any amount paid for this purpose is considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

(k-1) To accommodate changes in the limits of a project for which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the tax increment or assessment has been assigned or pledged directly by the county or through another entity to secure bonds or other obligations issued to obtain funding or development of a project, and property may not be added to a designated zone unless the commissioners court of the county complies with Subsections (e) and (f).

(l) Except as provided by Subsection (m), a transportation reinvestment zone, a tax abatement agreement entered into under Subsection (h), or an order or resolution on the abatement of taxes or the grant of relief from taxes under that subsection terminates on December 31 of the year in which the county completes:

- (1) all contractual requirements that included the pledge or assignment of all or a portion of:
 - (A) money deposited to a tax increment account; or
 - (B) the assessments collected under this section; or
- (2) the repayment of money owed under an agreement for the

development, redevelopment, or improvement of the project or projects for which the zone was designated.

(m) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the county has not used the zone for the purpose for which it was designated.

Added by Acts 2007, 80th Leg., R.S., Ch. 1320 (S.B. 1266), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 475 (H.B. 563), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 475 (H.B. 563), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 29, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 114 (S.B. 1110), Sec. 4, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 114 (S.B. 1110), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 114 (S.B. 1110), Sec. 6, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 114 (S.B. 1110), Sec. 7, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 114 (S.B. 1110), Sec. 11, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.001(a), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.001(b), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(43), eff. September 1, 2013.

Sec. 222.1071. COUNTY ENERGY TRANSPORTATION REINVESTMENT ZONES.

(a) A county shall determine the amount of the tax increment for a county energy transportation reinvestment zone in the same manner the county would determine the tax increment as provided in Section 222.107(a) for a county transportation reinvestment zone.

(b) A county, after determining that an area is affected

because of oil and gas exploration and production activities and would benefit from funding under Chapter 256, by order or resolution of the commissioners court:

(1) may designate a contiguous geographic area in the jurisdiction of the county to be a county energy transportation reinvestment zone to promote one or more transportation infrastructure projects, as that term is defined by Section 256.101, located in the zone; and

(2) may jointly administer a county energy transportation reinvestment zone with a contiguous county energy transportation reinvestment zone formed by another county.

(c) A commissioners court must:

(1) dedicate or pledge all of the captured appraised value of real property located in the county energy transportation reinvestment zone to transportation infrastructure projects; and

(2) comply with all applicable laws in the application of this chapter.

(d) Not later than the 30th day before the date a commissioners court proposes to designate an area as a county energy transportation reinvestment zone under this section, the commissioners court must hold a public hearing on the creation of the zone and its benefits to the county and to property in the proposed zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, the joint administration of a zone in another county, or the use of tax increment paid into the tax increment account.

(e) Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county.

(f) The order or resolution designating an area as a county energy transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution designating an area and that the base year shall be the year of passage of the order or resolution designating an area or some year in the future;

(3) establish an ad valorem tax increment account for the zone or provide for the establishment of a joint ad valorem tax

increment account, if applicable; and

(4) if two or more counties are designating a zone for the same transportation infrastructure project or projects, include a finding that:

(A) the project or projects will benefit the property and residents located in the zone;

(B) the creation of the zone will serve a public purpose of the county; and

(C) details the transportation infrastructure projects for which each county is responsible.

(g) Compliance with the requirements of this section constitutes designation of an area as a county energy transportation reinvestment zone without further hearings or other procedural requirements.

(h) The county may, from taxes collected on property in a zone, pay into a tax increment account for the zone or zones an amount equal to the tax increment produced by the county less any amounts allocated under previous agreements, including agreements under Section 381.004, Local Government Code, or Chapter 312, Tax Code.

(i) The county may:

(1) use money in the tax increment account to provide:

(A) matching funds under Section 256.105; and

(B) funding for one or more transportation infrastructure projects located in the zone;

(2) apply for grants under Subchapter C, Chapter 256, subject to Section 222.1072;

(3) use five percent of any grant distributed to the county under Subchapter C, Chapter 256, for the administration of a county energy transportation reinvestment zone, not to exceed \$250,000;

(4) enter into an agreement to provide for the joint administration of county energy transportation reinvestment zones if the commissioners court of the county has designated a county energy transportation reinvestment zone under this section for the same transportation infrastructure project or projects as another county commissioners court; and

(5) pledge money in the tax increment account to a road utility district formed as provided by Subsection (n).

(j) Tax increment paid into a tax increment account may not be pledged as security for bonded indebtedness.

(k) A county energy transportation reinvestment zone terminates

on December 31 of the 10th year after the year the zone was designated unless extended by an act of the county commissioners court that designated the zone. The extension may not exceed five years. On termination of the zone, any money remaining in the tax increment account must be transferred to the road and bridge fund described by Chapter 256 for the county that deposited the money into the tax increment account.

(l) The captured appraised value of real property located in a county energy transportation reinvestment zone shall be treated as provided by Section 26.03, Tax Code.

(m) The commissioners court of a county may enter into an agreement with the department to designate a county energy transportation reinvestment zone under this section for a specified transportation infrastructure project involving a state highway located in the proposed zone.

(n) In the alternative, to assist the county in developing a transportation infrastructure project, if authorized by the commission under Chapter 441, a road utility district may be formed under that chapter that has the same boundaries as a county energy transportation reinvestment zone created under this section. The road utility district may issue bonds to pay all or part of the cost of a transportation infrastructure project and may pledge and assign all or a specified amount of money in the tax increment account to secure those bonds if the county:

(1) collects a tax increment; and

(2) pledges all or a specified amount of the tax increment to the road utility district.

(o) A road utility district formed as provided by Subsection (n) may enter into an agreement to fund development of a transportation infrastructure project or to repay funds owed to the department. Any amount paid for this purpose is considered to be an operating expense of the district. Any taxes collected by the district that are not paid for this purpose may be used for any district purpose.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1372 (S.B. [1747](#)), Sec. 2, eff. September 1, 2013.

Sec. 222.1072. ADVISORY BOARD OF COUNTY ENERGY TRANSPORTATION

REINVESTMENT ZONE. (a) A county is eligible to apply for a grant under Subchapter C, Chapter 256, if the county creates an advisory board to advise the county on the establishment, administration, and expenditures of a county energy transportation reinvestment zone. The county commissioners court shall determine the terms and duties of the advisory board members.

(b) Except as provided by Subsection (c), the advisory board of a county energy transportation reinvestment zone consists of the following members appointed by the county judge and approved by the county commissioners court:

- (1) up to three oil and gas company representatives who perform company activities in the county and are local taxpayers; and
- (2) two public members.

(c) County energy transportation reinvestment zones that are jointly administered are advised by a single joint advisory board for the zones. A joint advisory board under this subsection consists of members appointed under Subsection (b) for each zone to be jointly administered.

(d) An advisory board member may not receive compensation for service on the board or reimbursement for expenses incurred in performing services as a member.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1372 (S.B. [1747](#)), Sec. 2, eff. September 1, 2013.

Sec. 222.1075. PORT AUTHORITY TRANSPORTATION REINVESTMENT ZONE.

(a) In this section:

(1) "Port authority" means a port authority or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(2) "Port commission" means the governing body of a port authority or navigation district.

(3) "Port project" means a project that is necessary or convenient for the proper operation of a maritime port or waterway and that will improve the security, movement, and intermodal transportation of cargo or passengers in commerce and trade, including dredging, disposal, and other projects.

(b) In this section:

- (1) the amount of a port authority's tax increment for a

year is the amount of ad valorem taxes levied and collected by the port authority or by the commissioners court on behalf of the port authority for that year on the captured appraised value of real property taxable by the port authority and located in a transportation reinvestment zone under this section;

(2) the captured appraised value of real property taxable by a port authority for a year is the total appraised value of all real property taxable by the port authority and located in a transportation reinvestment zone for that year less the tax increment base of the port authority; and

(3) the tax increment base of a port authority is the total appraised value of all real property taxable by the port authority and located in a transportation reinvestment zone for the year in which the zone was designated under this section.

(c) The port commission of the port authority, after determining that an area is unproductive or underdeveloped and that action under this section would improve the security, movement, and intermodal transportation of cargo or passengers in commerce and trade, by order or resolution may designate a contiguous geographic area in the jurisdiction of the port authority to be a transportation reinvestment zone to promote a port project and for the purpose of abating ad valorem taxes or granting other relief from taxes imposed by the county on real property located in the zone.

(d) The port commission must comply with all applicable laws in the application of this chapter.

(e) Not later than the 30th day before the date the port commission proposes to designate an area as a transportation reinvestment zone under this section, the port commission must hold a public hearing on the creation of the zone, its benefits to the port authority and to property in the proposed zone, and the abatement of ad valorem taxes or the grant of other relief from ad valorem taxes imposed by the port authority on real property located in the zone. At the hearing an interested person may speak for or against the designation of the zone, its boundaries, or the abatement of or other relief from port authority taxes on real property in the zone. Not later than the seventh day before the date of the hearing, notice of the hearing and the intent to create a zone must be published in a newspaper having general circulation in the county in which the zone is proposed to be located.

(f) The order or resolution designating an area as a

transportation reinvestment zone must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) provide that the zone takes effect immediately on adoption of the order or resolution and that the base year shall be the year of passage of the order or resolution or some year in the future;

(3) assign a name to the zone for identification, with the first zone designated by a county designated as "Transportation Reinvestment Zone Number One, (name of port authority)," and subsequently designated zones assigned names in the same form numbered consecutively in the order of their designation;

(4) designate the base year for purposes of establishing the tax increment base of the port authority;

(5) establish an ad valorem tax increment account for the zone; and

(6) contain findings that promotion of a port project will improve the security, movement, and intermodal transportation of cargo or passengers in commerce and trade.

(g) Compliance with the requirements of this section constitutes designation of an area as a transportation reinvestment zone without further hearings or other procedural requirements.

(h) The port commission may:

(1) from taxes collected on property in a zone, including maintenance and operation taxes, pay into a tax increment account for the zone an amount equal to the tax increment produced by the port authority less any amounts allocated under previous agreements, including agreements under Chapter 312, Tax Code;

(2) from a tax increment account for the zone, repay any loan or other debt incurred to finance a port project under this section;

(3) by order or resolution enter into an agreement with the owner of any real property located in the transportation reinvestment zone to abate all or a portion of the ad valorem taxes or to grant other relief from the taxes imposed by the port authority on the owner's property in an amount not to exceed the amount calculated under Subsection (b)(1) for that year;

(4) by order or resolution elect to abate all or a portion of the ad valorem taxes imposed by the port authority on all real

property in a zone; or

(5) grant other relief from ad valorem taxes on property in a zone.

(i) All abatements or other relief granted by the port commission in a transportation reinvestment zone must be equal in rate. In any ad valorem tax year, the total amount of the taxes abated or the total amount of other relief granted under this section may not exceed the amount calculated under Subsection (b)(1) for that year, less any amounts allocated under previous agreements, including agreements under Chapter 312, Tax Code.

(j) To further the development of the port project for which the transportation reinvestment zone was designated, a port authority may assess all or part of the cost of the port project against property within the zone. The assessment against each property in the zone may be levied and payable in installments in the same manner as provided for municipal and county public improvement districts under Sections 372.016-372.018, Local Government Code, provided that the installments do not exceed the total amount of the tax abatement or other relief granted under Subsection (h). The port authority has the powers provided to municipalities and counties under Sections 372.015-372.020 and 372.023, Local Government Code, for the assessment of costs and Sections 372.024-372.030, Local Government Code, for the issuance of bonds by the port authority to pay the cost of a port project. The port commission of the port authority may contract with a public or private entity to develop, redevelop, or improve a port project in the transportation reinvestment zone, including aesthetic improvements, and may pledge and assign to that entity all or a specified amount of the revenue the port authority receives from installment payments of the assessments for the payment of the costs of that port project. After a pledge or assignment is made, if the entity that received the pledge or assignment has itself pledged or assigned that amount to secure bonds or other obligations issued to obtain funding for the port project, the port commission of the port authority may not rescind its pledge or assignment until the bonds or other obligations secured by the pledge or assignment have been paid or discharged. Any amount received from installment payments of the assessments not pledged or assigned in connection with the port project may be used for other purposes associated with the port project or in the zone.

(k) To accommodate changes in the limits of the project for

which a reinvestment zone was designated, the boundaries of a zone may be amended at any time, except that property may not be removed or excluded from a designated zone if any part of the assessment has been assigned or pledged directly by the port authority or through another entity to secure bonds or other obligations issued to obtain funding of the project, and property may not be added to a designated zone unless the port commission of the port authority complies with Subsections (e) and (f).

(l) Except as provided by Subsection (m), a tax abatement agreement entered into under Subsection (h), or an order or resolution on the abatement of taxes or the grant of other relief from taxes under that subsection, terminates on December 31 of the year in which the port authority completes any contractual requirement that included the pledge or assignment of assessments collected under this section.

(m) A transportation reinvestment zone terminates on December 31 of the 10th year after the year the zone was designated, if before that date the port authority has not used the zone for the purpose for which it was designated.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1182 (S.B. 971), Sec. 1, eff. September 1, 2013.

Sec. 222.108. TRANSPORTATION REINVESTMENT ZONES FOR OTHER TRANSPORTATION PROJECTS. (a) A municipality or county may establish a transportation reinvestment zone for one or more transportation projects. If all or part of a transportation project is subject to oversight by the department, at the option of the governing body of the municipality or county, the department, to the extent permitted by law, shall delegate full responsibility for the development, design, letting of bids, and construction of the project, including project inspection, to the municipality or county. After assuming responsibility for a project under this subsection, a municipality or county shall enter into an agreement with the department that prescribes:

- (1) the development process;
- (2) the roles and responsibilities of the parties; and
- (3) the timelines for any required reviews or approvals.

(b) Any portion of a transportation project developed under

Subsection (a) that is on the state highway system or is located in the state highway right-of-way must comply with applicable state and federal requirements and criteria for project development, design, and construction, unless the department grants an exception to the municipality or county.

(c) The development, design, and construction plans and specifications for the portions of a project described by Subsection (b) must be reviewed and approved by the department under the agreement entered into under Subsection (a).

(d) In this section, "transportation project" includes:

- (1) transportation projects described by Section 370.003; and
- (2) port security, transportation, or facility projects described by Section 55.001(5).

Added by Acts 2011, 82nd Leg., R.S., Ch. 475 (H.B. 563), Sec. 5, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 114 (S.B. 1110), Sec. 8, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 114 (S.B. 1110), Sec. 11, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1182 (S.B. 971), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 17.001, eff. September 1, 2015.

Sec. 222.109. REDUCTION PROHIBITED. (a) A municipality or county may not be penalized with a reduction in traditional transportation funding because of the designation and use of a transportation reinvestment zone under this chapter. Any funding from the department committed to a project before the date that a transportation reinvestment zone is designated may not be reduced because the transportation reinvestment zone is designated in connection with that project.

(b) The department may not reduce any allocation of traditional transportation funding to any of its districts because a district contains a municipality or county that contains a transportation reinvestment zone designated under this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 475 (H.B. 563), Sec. 5, eff. September 1, 2011.

Sec. 222.110. SALES TAX INCREMENT. (a) In this section:

(1) "Sales tax base" for a transportation reinvestment zone means the amount of sales and use taxes imposed by a municipality under Section 321.101(a), Tax Code, or by a county under Chapter 323, Tax Code, as applicable, attributable to the zone for the year in which the zone was designated under this chapter.

(2) "Transportation reinvestment zone" includes a county energy transportation reinvestment zone.

(b) The governing body of a municipality or county may determine, in an ordinance or order designating an area as a transportation reinvestment zone or in an ordinance or order adopted subsequent to the designation of a zone, the portion or amount of tax increment generated from the sales and use taxes imposed by a municipality under Section 321.101(a), Tax Code, or by a county under Chapter 323, Tax Code, attributable to the zone, above the sales tax base, to be used as provided by Subsection (e). Nothing in this section requires a municipality or county to contribute sales tax increment under this subsection.

(c) A county that designates a portion or amount of sales tax increment under Subsection (b) must establish a tax increment account. A municipality or county shall deposit the designated portion or amount of tax increment under Subsection (b) to the entity's respective tax increment account.

(d) Before pledging or otherwise committing money in the tax increment account under Subsection (c), the governing body of a municipality or county may enter into an agreement, under Subchapter E, Chapter 271, Local Government Code, to authorize and direct the comptroller to:

(1) withhold from any payment to which the municipality or county may be entitled the amount of the payment into the tax increment account under Subsection (b);

(2) deposit that amount into the tax increment account; and

(3) continue withholding and making additional payments into the tax increment account until an amount sufficient to satisfy the amount due has been met.

(e) The sales and use taxes to be deposited into the tax

increment account under this section may be disbursed from the account only to:

(1) pay for projects authorized under Section 222.104 or 222.108; and

(2) notwithstanding Sections 321.506 and 323.505, Tax Code, satisfy claims of holders of tax increment bonds, notes, or other obligations issued or incurred for projects authorized under Section 222.104, 222.1071, or 222.108.

(f) The amount deposited by a county to a tax increment account under this section is not considered to be sales and use tax revenue for the purpose of property tax reduction and computation of the county tax rate under Section 26.041, Tax Code.

(g) Not later than the 30th day before the date the governing body of a municipality or county proposes to designate a portion or amount of sales tax increment under Subsection (b), the governing body shall hold a public hearing on the designation of the sales tax increment. At the hearing an interested person may speak for or against the designation of the sales tax increment. Not later than the seventh day before the date of the hearing, notice of the hearing must be published in a newspaper having general circulation in the county or municipality, as appropriate.

(h) The hearing required under Subsection (g) may be held in conjunction with a hearing held under Section 222.106(e), 222.107(e), or 222.1071(d) if the ordinance or order designating an area as a transportation reinvestment zone under Section 222.106, 222.107, or 222.1071 also designates a sales tax increment under Subsection (b).

(i) Notwithstanding Subsection (e), the sales and use taxes to be deposited into the tax increment account established by a county energy transportation reinvestment zone or zones under this section may be disbursed from the account only to provide:

(1) matching funds under Section 256.105; and

(2) funding for one or more transportation infrastructure projects located in a zone.

Added by Acts 2011, 82nd Leg., R.S., Ch. 475 (H.B. 563), Sec. 5, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 114 (S.B. 1110), Sec. 9, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1134 (H.B. 2300), Sec. 2, eff.

September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1372 (S.B. 1747), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 17.002, eff. September 1, 2015.

Sec. 222.111. TRANSPORTATION REINVESTMENT ZONES FOR PROJECTS LOCATED IN OTHER JURISDICTIONS. Notwithstanding any other law, the governing body of a county or municipality may designate a transportation reinvestment zone for a transportation project located outside the boundaries of the county or municipality if:

(1) the county or municipality finds that:

(A) the project will benefit the property and residents located in the zone; and

(B) the creation of the zone will serve a public purpose of that county or municipality;

(2) a zone has been designated for the same project by one or more counties or municipalities in whose boundaries the project is located; and

(3) an agreement for joint support of the designated zones is entered into under this section by:

(A) the county or municipality whose boundaries do not contain the project; and

(B) one or more of the counties or municipalities that have designated a zone for the project and in whose boundaries the project is located.

Added by Acts 2013, 83rd Leg., R.S., Ch. 114 (S.B. 1110), Sec. 10, eff. September 1, 2013.

CHAPTER 223. BIDS AND CONTRACTS FOR HIGHWAY PROJECTS

SUBCHAPTER A. COMPETITIVE BIDS

Sec. 223.001. CONTRACT REQUIRING COMPETITIVE BIDS. The department shall submit for competitive bids each contract for:

(1) the improvement of a highway that is part of the state highway system; or

(2) materials to be used in the construction or maintenance of that highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 223.002. NOTICE OF BIDS. The department shall give notice regarding the time and place at which bids on a contract will be opened and the contract awarded. The commission by rule shall determine the most effective method for providing the notice required by this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.13(a), eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 30, eff. September 1, 2011.

Sec. 223.003. NOTICE BY MAIL. (a) A person may apply to have the name of the person placed on a mailing list to receive notice of any proposed contracts.

(b) The department shall mail the notice to each person on that mailing list.

(c) The department may require each applicant to pay an annual subscription fee set by the department in an amount not to exceed the average annual costs of mailing notices to the applicant.

(d) The department shall deposit money received under this section to the credit of the state highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.13(b), eff. Sept. 1, 1997.

Sec. 223.004. FILING, OPENING, AND REJECTION OF BIDS. (a) Except as provided by Section 223.005, a bid submitted under this subchapter must be sealed and filed with the director or the director's designee in Austin and shall be opened at a public meeting by the director or the director's designee.

(b) All bidders may attend the opening and all bids shall be opened in their presence.

(c) The commission by rule may prescribe conditions under which a bid may be rejected by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.13(c), eff. Sept. 1, 1997.

Sec. 223.0041. AWARD OF CONTRACTS. (a) Except as provided by Section 223.005, all bids received and not rejected by the department shall be tabulated and forwarded to the commission.

(b) The commission may accept or reject the bids. Except as provided in Subsection (c), if the bids are accepted, the commission shall award the contract to the lowest bidder, subject to Section 223.045.

(c) For a maintenance contract involving an amount less than \$300,000, if the lowest bidder withdraws its bid prior to contract award or fails to execute the contract, the director may recommend to the commission that the contract be awarded to the second lowest bidder. The commission may award the maintenance contract to the second lowest bidder if the second lowest bidder agrees to accept the unit bid prices of the lowest bidder. The commission shall adopt rules governing the conditions under which the department will allow the withdrawal of the bid of the lowest bidder and consider awarding a maintenance contract to the second lowest bidder.

Added by Acts 1999, 76th Leg., ch. 82, Sec. 1, eff. Aug. 30, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 809 (S.B. 573), Sec. 1, eff. September 1, 2005.

Sec. 223.0042. CONTRACT INFORMATION ON INTERNET WEBSITE. The department shall make available on the department's Internet website a listing describing each contract awarded by the commission for a highway construction project. The listing must include for each project:

- (1) the funding program source contract awardee, including subcontractors and historically underutilized business and disadvantaged business enterprise participants and percentage of contract; and
- (2) each department transportation district in which the contract will be performed.

Added by Acts 2001, 77th Leg., ch. 271, Sec. 1, eff. Sept. 1, 2001.

Sec. 223.005. BIDS ON CONTRACTS INVOLVING LESS THAN \$300,000.

(a) The commission by rule may allow bids on a contract estimated by the department to involve an amount less than \$300,000 to be filed with the district engineer at the headquarters for the district in which the improvement is to be made and opened and read at a public meeting held by the district engineer or the district engineer's designee.

(b) The commission may delegate to the director or the director's designee the right to:

(1) accept or reject bids received, subject to Section 223.045; and

(2) award a contract to the lowest bidder.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.13(d), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 82, Sec. 2, eff. Aug. 30, 1999.

Sec. 223.006. CONTRACTOR'S BOND. A successful bidder under this subchapter shall post a bond in an amount provided by law conditioned on the faithful compliance with the bidder's bid and performance of the contract and made payable to the department for the use and benefit of the state highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 223.007. CONTRACTS. (a) The commission shall prescribe the form of the contract and may include any matter the commission considers advantageous to the state.

(b) Contract forms shall be uniform as near as possible.

(c) A contract must be:

(1) made in the name of the state;

(2) signed by the director or the director's designee;

(3) approved by at least two members of the commission or a designee under Section 2103.064(a), Government Code; and

(4) signed by the successful bidder.

(d) The commission may delegate its authority under Subsections (a) and (b) to the director, who may delegate the delegated authority

to an employee of the department who holds the rank of division director or higher.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.13(e), eff. Sept. 1, 1997.

Sec. 223.008. NO LIABILITY IN EXCESS OF AVAILABLE FUNDS. A contract may not be made under this subchapter that will create a liability on the state in excess of funds available for that purpose under Subchapter A, Chapter 222.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 223.009. PARTIAL PAYMENT. A contract may provide for partial payments to the contractor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 313 (H.B. [2075](#)), Sec. 1, eff. June 15, 2007.

Sec. 223.010. DEPOSIT AND INVESTMENT OF RETAINED AMOUNT. (a) The department may retain up to five percent of the contract price. The department may continue to retain the amount until the entire improvement has been completed and accepted or release the retained amount at any time before the improvement is accepted.

(b) At the request of the contractor and with the approval of the department and the comptroller, the amount retained may be deposited under a trust agreement with a state or national bank that has its main office or a branch office in this state and is selected by the contractor.

(c) The department shall provide a trust agreement that protects the interests of the state.

(d) The bank, acting as escrow agent and by instructions from the contractor, may reinvest the retained amount in a certificate of deposit issued by a state or national bank that has its main office or a branch office in this state, bank time deposit, or other similar investment prescribed by the trust agreement.

(e) Interest earned under the trust agreement shall be paid to the contractor unless specified otherwise under the trust agreement.

(f) The escrow agent is responsible for all investments and amounts resulting from the deposits of the retained amount until released from that responsibility under the trust agreement.

(g) The contractor shall pay all expenses incident to the deposit and all charges made by the escrow agent for custody of the securities and forwarding of interest on those securities. Those expenses or charges may not apply to the contract or to the state.

(h) Repealed by Acts 2007, 80th Leg., R.S., Ch. 313, Sec. 3, eff. June 15, 2007.

(i) Repealed by Acts 2007, 80th Leg., R.S., Ch. 313, Sec. 3, eff. June 15, 2007.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.01, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 344, Sec. 5.014, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 902, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1261, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(102), 21.002(19), eff. Sept. 1, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 313 (H.B. 2075), Sec. 2, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 313 (H.B. 2075), Sec. 3, eff. June 15, 2007.

Sec. 223.012. CONTRACTOR PERFORMANCE. (a) The department shall:

(1) develop a schedule for liquidated damages that accurately reflects the costs associated with project completion delays, including administrative and travel delays;

(2) review contractor bidding capacity to ensure that contractors meet each quality, safety, and timeliness standard established by the commission; and

(3) conduct a review to determine whether commission rules or state law should be changed to realize significant cost and time savings on state highway construction and maintenance projects.

(b) Not later than December 1, 1998, the department shall file a report with the governor, the lieutenant governor, and the speaker

of the house of representatives containing:

- (1) the results of the review conducted under Subsection (a)(3); and
- (2) recommendations on legislation the commission determines is necessary to realize significant cost and time savings on state highway construction and maintenance.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.22, eff. Sept. 1, 1997.

Sec. 223.013. ELECTRONIC BIDDING SYSTEM. (a) The department may establish an electronic bidding system for highway construction and maintenance contracts.

(b) The system must permit a qualified vendor to electronically submit a bid, including any contract, signature, or verification of a guaranty check by a financial institution.

(c) That part of Section 223.004(a) requiring a bid to be opened at a public hearing of the commission does not apply to an electronically submitted bid. A copy of each electronically submitted bid shall be publicly posted within 48 hours after bids are opened.

(d) After the electronic bidding system is established, the department shall take the actions necessary to recover the department's costs of manually processing bids from a person who does not submit an electronic bid.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.22, eff. Sept. 1, 1997.

Sec. 223.014. BID GUARANTY. (a) The commission by rule shall provide a method by which a bidder may submit a bid guaranty. A rule may authorize the use of an electronic funds transfer, a check, including an electronic check, a money order, an escrow account, a trust account, a credit card issued by a financial institution chartered by a state or the United States or by a nationally recognized credit organization approved by the department, or another method the commission determines to be suitable. The department may require the payment of a discount or service charge for the use of a credit card.

(b) The department may establish one or more escrow accounts in the state highway fund for the prepayment of bid guaranties. The bid guaranties and any fees the department establishes to administer this subsection shall be administered in accordance with an agreement approved by the department. Notwithstanding any other law and as specified in the agreement, any available accumulated interest and other income earned on money in an escrow account shall be paid to the bidder or credited to the escrow account.

(c) The department shall deposit each administrative fee and discount and service charge collected under this section to the credit of the state highway fund.

(d) The commission's rules may not prohibit a bidder from submitting a bid guaranty by use of a cashier's check, money order, or teller's check.

Added by Acts 2001, 77th Leg., ch. 55, Sec. 1, eff. May 8, 2001.

Sec. 223.015. DEPOSIT AND INVESTMENT OF BID GUARANTY. (a) The department may authorize the use of a trust account for the purpose of providing a required bid guaranty.

(b) The guaranty shall be deposited in accordance with a trust agreement with a state or nationally chartered financial institution that has its main office or a branch office in this state and that is selected by the bidder.

(c) The department shall prescribe a trust agreement that protects the interests of this state.

(d) Interest earned under the trust agreement shall be paid to the bidder unless specified otherwise in the trust agreement.

(e) The applicable financial institution is responsible for all amounts resulting from the deposit of the guaranty until released from that responsibility in accordance with the trust agreement.

(f) The bidder shall pay all expenses incident to the deposit and all charges imposed by the financial institution for custody of the guaranties and forwarding of interest on a bid guaranty. The expenses may not be included in the bid and are not otherwise the responsibility of the state.

(g) On the request of a bidder, the financial institution may reinvest the guaranty amounts in a certificate of deposit or another similar instrument prescribed by the trust agreement. The

certificate of deposit or other instrument must be issued by a state or nationally chartered financial institution that has its main office or a branch office in this state.

(h) On request, the financial institution shall certify and verify to the department the amount on deposit. The trust agreement must specify the method for providing the required information.

Added by Acts 2001, 77th Leg., ch. 55, Sec. 1, eff. May 8, 2001.

Sec. 223.016. FORM OF PROPOSAL GUARANTY. If the department by rule requires a proposal guaranty as a condition of bidding for a contract, the guaranty may be in the form of:

- (1) a cashier's check or money order drawn on a financial entity specified by the department; or
- (2) a bid bond issued by a surety authorized to do business in this state; or
- (3) any other method determined to be suitable by the department.

Added by Acts 2001, 77th Leg., ch. 833, Sec. 1, eff. Jan. 1, 2002.
Renumbered from Transportation Code Sec. 223.014 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(126), eff. Sept. 1, 2003.

SUBCHAPTER B. CONTRACT PROVISIONS

Sec. 223.041. ENGINEERING AND DESIGN CONTRACTS. (a) The department shall use private sector engineering-related services to assist in accomplishing its activities in providing transportation projects. For the purpose of this section, engineering-related services means engineering, land surveying, environmental, transportation feasibility and financial, architectural, real estate appraisal, and materials laboratory services. These engineering-related services are for highway improvements, right-of-way acquisition, and aviation improvements.

(b) The department, in setting a minimum level of expenditures in these engineering-related activities that will be paid to the private sector providers, shall provide that the expenditure level for a state fiscal year in all strategies paid to private sector providers for all department engineering-related services for transportation projects is not less than 35 percent of the total

funds appropriated in Strategy A.1.1. Plan/Design/Manage and Strategy A.1.2. of the General Appropriations Act for that state fiscal biennium. The department shall attempt to make expenditures for engineering-related services with private sector providers under this subsection with historically underutilized businesses, as defined by Section 2161.001, Government Code, in an amount consistent with the applicable provisions of the Government Code, any applicable state disparity study, and in accordance with the good-faith-effort procedures outlined in the rules adopted by the comptroller.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1122, Sec. 16, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1171, Sec. 1.23, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.20, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 937 (H.B. 3560), Sec. 1.112, eff. September 1, 2007.

Sec. 223.042. PRIVATIZATION OF MAINTENANCE CONTRACTS. (a) Of the amount spent in a fiscal year by the department for maintenance projects, the department shall spend not less than 50 percent through contracts awarded by competitive bids.

(b) Money spent for maintenance projects to which this section does not apply is included when computing the amount of expenditures for maintenance projects in a fiscal year.

(c) The department may award a contract under this section as a purchase of service under Subtitle D, Title 10, Government Code, if the department:

(1) estimates that the contract will involve an amount for which a formal solicitation process for the purchase of services is not required under rules relating to the delegation of purchasing authority to state agencies adopted by the comptroller under Subchapter C, Chapter 2155, Government Code; and

(2) determines that the competitive bidding procedure in this chapter is not practical.

(d) The department shall consider all of its direct and indirect costs in determining the cost of providing the services. The department shall use the cost accounting procedures and instructions

developed by the State Council on Competitive Government under Section 2162.102(c)(2), Government Code, in determining its cost. On request, the State Council on Competitive Government shall provide technical assistance to the department about the cost accounting procedures and instructions.

(e) Subsection (a) does not apply unless the department determines that a function of comparable quality and quantity can be purchased or performed at a savings by using private sector contracts.

(f) The department shall file a report with the Legislative Budget Board on September 1 of each fiscal year detailing the contracts awarded by the department under this section during the previous fiscal year.

(g) The commission shall adopt rules to administer this section.

(h) In this section, "maintenance project" means any routine or preventive maintenance activity. The term includes mowing, concrete removal and replacement, illumination maintenance, guardrail repair, fence repair, litter pick-up, herbicide spraying, pothole repair, silt and erosion control or repair, sign installation, highway overlaying, paint and bead striping, rest area maintenance, and installation of raised pavement markings.

(i) This section does not apply to the purchase of materials for maintenance projects.

(j) As an alternative to the requirements of Sections 2253.021(b) and (c), Government Code, the department may require that a performance or payment bond under a contract awarded under this section for a maintenance project:

(1) be in an amount equal to the greatest annual amount to be paid the contractor under the contract and remain in effect for one year from the day work is resumed after any default by the contractor; or

(2) be in an amount equal to the amount to be paid the contractor during the term of the bond and be for a term of two years, renewable annually in two-year increments.

(k) A claim against a performance or payment bond issued under this section must be filed against the bond in effect on the date the basis for the claim arose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 1997, 75th Leg., ch. 165, Sec. 17.19, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 28, Sec. 1, eff. May 12, 2003; Acts 2003, 78th Leg., ch. 274, Sec. 1, eff. June 18, 2003.

Reenacted and amended by Acts 2005, 79th Leg., Ch. 638 (H.B. 2659), Sec. 1, eff. June 17, 2005; Acts 2005 79th Leg., Ch 728, Sec. 20.002, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 849 (H.B. 3730), Sec. 1, eff. June 17, 2011.

Sec. 223.043. CITIZEN'S PREFERENCE IN EMPLOYMENT. In a contract for the construction, maintenance, or improvement of a designated state highway, the department may require that a citizen of the United States and of the county in which construction, maintenance, or improvement of the highway is being proposed shall be given preference in employment to perform manual labor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 223.044. INMATE LABOR OR LABOR OF PERSONS PLACED ON COMMUNITY SUPERVISION FOR IMPROVEMENT PROJECTS. (a) The commission may authorize the department to contract with a criminal justice agency or a private correctional facility for the provision of inmate labor or the labor of persons placed on community supervision for a state highway system improvement project.

(b) A contract with a criminal justice agency must be made in conformity with Chapter 771, Government Code.

(c) In this section, "criminal justice agency" includes:

- (1) the Texas Department of Criminal Justice;
- (2) a community supervision and corrections department established under Chapter 76, Government Code; and
- (3) a sheriff's department operating:
 - (A) a county farm or workhouse established under Article 43.10, Code of Criminal Procedure; or
 - (B) a county correctional center established under Section 351.181, Local Government Code.

(d) A contract with a private correctional facility under this section may not provide for the transfer of public funds to the

private correctional facility for the use of inmate labor.

(e) The commission may authorize the department to contract with the Texas Department of Criminal Justice for the provision of inmate labor or the labor of persons placed on community supervision for a brush control project, as defined by Section 203.001, Agriculture Code, on an area located on or adjacent to a state highway system improvement project.

(f) The State Soil and Water Conservation Board may also enter into a contract with the Texas Department of Criminal Justice for the provision of inmate labor or the labor of persons placed on community supervision to perform a brush control project described by Subsection (e) or under Chapter 203, Agriculture Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 795, Sec. 1, eff. June 17, 1997; Acts 1999, 76th Leg., ch. 484, Sec. 1 to 4, eff. Aug. 30, 1999.

Sec. 223.045. STEEL PREFERENCE PROVISIONS IN IMPROVEMENT CONTRACTS. A contract awarded by the department for the improvement of the state highway system without federal aid must contain the same preference provisions for steel and steel products that are required under federal law for an improvement made with federal aid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 223.046. USE OF FLY ASH AND BOTTOM ASH FOR ROAD CONSTRUCTION. Design standards, guidelines, and specifications of the department, a county, or a municipality shall require that contract specifications for a road construction project allow for the use of fly ash and bottom ash resulting from combustion of coal or other fossil fuels and used for paving, bridge construction, and other appropriate road construction unless that use is technically inappropriate according to sound engineering principles or increases the cost of that construction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 223.047. PREFERENCE FOR RUBBERIZED ASPHALT PAVING MADE

FROM SCRAP TIRES. (a) If the department, a county, or a municipality uses rubberized asphalt paving, the department, county, or municipality shall use scrap tires converted to rubberized asphalt paving by a facility in this state if available.

(b) In comparing bids submitted for road construction that require paving, the department, a county, or a municipality may give a preference to a bid that provides for using, as a part of the paving material, rubberized asphalt paving described by Subsection (a) if the cost of that paving material does not exceed by more than 15 percent the bid cost of alternative paving materials for the same job. The cost of the materials must be determined by a life-cycle cost benefit analysis.

(c) In this section:

(1) "Rubberized asphalt" means an asphalt material containing at least 15 percent by weight of a reacted whole scrap tire.

(2) "Scrap tire" means a tire that can no longer be used for its original intended purpose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 223.048. TIME OF PAYMENT. The department may not pay a contractor for highway improvement, construction, or maintenance before the 10th day of the month after the month in which the work is performed or the material is used. The department shall make payment as soon after that date as is practical.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 223.049. CONTRACT WITH LAND OWNER FOR IMPROVING ACCESS TO LAND. (a) The department may, without complying with the competitive bidding procedures of Subchapter A, contract with an owner of land, including a subdivision, adjacent to a highway that is part of the state highway system to construct an improvement on the highway right-of-way that is directly related to improving access to or from the owner's land.

(b) An owner that enters into a contract with the department under this section must:

(1) comply with applicable department design and

construction standards;

(2) comply with all laws, rules, regulations, and ordinances, including environmental requirements, that would be applicable if the department were performing the work;

(3) execute a performance and payment bond in accordance with Chapter 2253, Government Code; and

(4) make available for inspection by the department all books and other records in the possession of the owner that are related to the project.

(c) State and federal funds may not be used for the design, development, financing, or construction of a highway improvement under a contract described by this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 2.13, eff. September 1, 2011.

Sec. 223.050. PREFERENCE FOR CERTAIN PROVIDERS. (a) Except as provided by Subsection (d), in awarding a contract to a private sector provider, the department shall give preference to a private sector provider if:

(1) the preference serves to create a positive economic impact on job growth and job retention in this state;

(2) the transportation project for which the contract is being awarded is funded entirely from:

(A) state funds;

(B) local funds; or

(C) a combination of state and local funds; and

(3) the amount of the bid or proposal of the provider does not exceed an amount equal to 105 percent of the lowest bid or proposal received by the department for the transportation project.

(b) The department, in determining whether the preference under Subsection (a) serves to create a positive economic impact on job growth and job retention in this state, may consider a private sector provider's employment presence and business establishments in this state.

(c) This section does not apply to the procurement of professional services under Subchapter A, Chapter 2254, Government Code.

(d) The department may not give a preference under this section

if:

- (1) as a result of the preference, a private sector provider would not be awarded a contract; and
- (2) the principal place of business of the private sector provider described by Subdivision (1) is located in a state that:
 - (A) borders this state; and
 - (B) does not give a preference to private sector providers in a manner similar to this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1404 (H.B. 3648), Sec. 3, eff. June 14, 2013.

SUBCHAPTER C. EXPEDITED HIGHWAY IMPROVEMENT CONTRACTS

Sec. 223.101. DEFINITIONS. In this subchapter:

- (1) "Highway emergency" means a situation or condition of a designated state highway that:
 - (A) poses an imminent threat to life or property of travelers; or
 - (B) substantially disrupts the orderly flow of traffic and commerce.
- (2) "Highway improvement contract" means a contract awarded by the department for the construction, repair, or maintenance of a designated state highway or any part of that highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 223.102. AWARD OF EMERGENCY HIGHWAY IMPROVEMENT CONTRACT. As an alternative to the procedure provided by Subchapter A, in a highway emergency the department may award a highway improvement contract in accordance with rules adopted by the commission, which may include:

- (1) contractor eligibility;
- (2) notification of prospective bidders;
- (3) bidding requirements;
- (4) procedures for awarding the contract;
- (5) bonding or other requirements to ensure satisfactory performance by the contractor and the protection of claimants supplying labor and materials used in performance;
- (6) contract form and content; and

(7) provision for a waiver of or exception to a procedure or requirement adopted under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 223.103. CERTIFICATION OF EMERGENCY. (a) Before awarding a contract under this subchapter, the director or a person the director designates must certify in writing a description of the highway emergency.

(b) A person designated under Subsection (a) may not occupy a position below the level of deputy director.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 223.104. CONTRACT REQUIREMENTS. (a) A contract awarded under this subchapter must:

(1) be in the name of the state;

(2) be signed by the director or a person the director designates; and

(3) have attached a copy of the certification required by Section 223.103.

(b) A person designated under Subsection (a) may not occupy a position below the level of district engineer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 223.105. NOTIFICATION OF COMMISSION. Not later than the fifth working day after the date on which the contract is awarded, the director shall notify in writing each member of the commission of the details of the highway emergency and the award of the contract.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. CONTRACTS FOR ENVIRONMENTAL OR CULTURAL ASSESSMENT

Sec. 223.151. APPLICABILITY. This subchapter:

(1) applies to services of a technical expert, including an archeologist, biologist, geologist, or historian, to conduct an

environmental or cultural assessment required by state or federal law for a transportation project under the authority or jurisdiction of the department; and

(2) does not apply to services defined as engineering by the Texas Board of Professional Engineers under Chapter 1001, Occupations Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.15(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.820, eff. Sept. 1, 2003.

Sec. 223.152. DETERMINATION BY DEPARTMENT. The department may use competitive sealed proposals to obtain services under this subchapter if the department determines that competitive sealed bidding or informal competitive bidding is:

- (1) not practical; or
- (2) disadvantageous to the state.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.15(a), eff. Sept. 1, 1997.

Sec. 223.153. SOLICITATION OF PROPOSALS. The department shall solicit proposals under this subchapter using the procedure by which the department procures services under Subchapter A, Chapter 2254, Government Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.15(a), eff. Sept. 1, 1997.

Sec. 223.154. OPENING OF PROPOSALS; DISCLOSURE OF INFORMATION.

(a) The department:

(1) shall open each proposal received under this subchapter so as to avoid disclosure of contents to competing offerors during the process of negotiation; and

(2) may not disclose any information to an offeror that is derived from a proposal received from another offeror.

(b) After the award of a contract under this subchapter, each proposal submitted to the department is open for public inspection,

except as provided by Chapter 552, Government Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.15(a), eff. Sept. 1, 1997.

Sec. 223.155. DISCUSSIONS WITH OFFERORS. (a) As provided in a request for proposals and under rules adopted by the commission, the department may discuss an acceptable or potentially acceptable proposal with the offeror to assess that offeror's ability to meet each requirement of the solicitation.

(b) To obtain the best final offer, before the department awards a contract under this subchapter, the department may permit an offeror to revise the offeror's proposal.

(c) The department shall provide each offeror an equal opportunity to discuss and revise the offeror's proposal.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.15(a), eff. Sept. 1, 1997.

Sec. 223.156. AWARD OF CONTRACT. (a) Except as provided by Subsection (c), the department shall make a written award of a contract under this subchapter to the offeror whose proposal is the most advantageous to the state, considering price and the evaluation factors in the request for proposals.

(b) The contract file must state in writing the basis on which the award is made.

(c) If the department finds that none of the proposals is acceptable, the department shall reject all proposals.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.15(a), eff. Sept. 1, 1997.

Sec. 223.157. RULES. The department may adopt rules to implement this subchapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.15(a), eff. Sept. 1, 1997.

SUBCHAPTER E. COMPREHENSIVE DEVELOPMENT AGREEMENTS

Sec. 223.201. AUTHORITY. (a) Subject to Section 223.202, the department may enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a:

- (1) toll project;
- (2) state highway improvement project that includes both tolled and nontolled lanes and may include nontolled appurtenant facilities;
- (3) state highway improvement project in which the private entity has an interest in the project;
- (4) state highway improvement project financed wholly or partly with the proceeds of private activity bonds, as defined by Section 141(a), Internal Revenue Code of 1986; or
- (5) nontolled state highway improvement project authorized by the legislature.

(b) In this subchapter, "comprehensive development agreement" means an agreement that, at a minimum, provides for the design and construction, reconstruction, rehabilitation, expansion, or improvement of a project described in Subsection (a) and may also provide for the financing, acquisition, maintenance, or operation of a project described in Subsection (a).

(c) The department may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement.

(d) Money disbursed by the department under a comprehensive development agreement is not included in the amount:

- (1) required to be spent in a state fiscal biennium for engineering and design contracts under Section 223.041; or
- (2) appropriated in Strategy A.1.1. Plan/Design/Manage of the General Appropriations Act for that biennium for the purpose of making the computation under Section 223.041.

(e) The department may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.

(f) The department may enter into a comprehensive development agreement only for all or part of:

- (1) the State Highway 99 (Grand Parkway) project;
- (2) the Interstate Highway 35E managed lanes project in Dallas and Denton Counties from Interstate Highway 635 to U.S.

Highway 380;

(3) the Interstate Highway 35W project in Tarrant County from Interstate Highway 30 to State Highway 114;

(4) the State Highway 183 managed lanes project in Tarrant and Dallas Counties from State Highway 121 to Interstate Highway 35E;

(5) the Interstate Highway 35E/U.S. Highway 67 Southern Gateway project in Dallas County, including:

(A) Interstate Highway 35E from 8th Street to Interstate Highway 20; and

(B) U.S. Highway 67 from Interstate Highway 35E to Farm-to-Market Road 1382 (Belt Line Road);

(6) the State Highway 288 project from U.S. Highway 59 to south of State Highway 6 in Brazoria County and Harris County;

(7) the U.S. Highway 290 managed lanes project in Harris County from Interstate Highway 610 to State Highway 99;

(8) the Interstate Highway 820 project from State Highway 183 to Randol Mill Road;

(9) the State Highway 114 project in Dallas County from State Highway 121 to State Highway 183;

(10) the Loop 12 project in Dallas County from State Highway 183 to Interstate Highway 35E;

(11) the Loop 9 project in Dallas and Ellis Counties from Interstate Highway 20 to U.S. Highway 67; and

(12) the U.S. Highway 181 Harbor Bridge project in Nueces County between U.S. Highway 181 at Beach Avenue and Interstate Highway 37.

(g) The department may combine in a comprehensive development agreement under this subchapter:

(1) a toll project and a rail facility as defined by Section 91.001; or

(2) two or more projects described by Subsection (f).

(h) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1345, Sec. 99, eff. June 17, 2011.

(i) The authority to enter into a comprehensive development agreement expires:

(1) August 31, 2017, for a project described by Subsection (f), other than the State Highway 99 (Grand Parkway) project and the State Highway 183 managed lanes project; and

(2) August 31, 2015, for the State Highway 183 managed lanes project.

(j) Before the department may enter into a comprehensive development agreement under Subsection (f), the department must:

(1) for a project other than the State Highway 99 (Grand Parkway) project, obtain, not later than August 31, 2017, the appropriate environmental clearance:

(A) for the project; or

(B) for the initial or base scope of the project if the project agreement provides for the phased construction of the project; and

(2) present to the commission a full financial plan for the project, including costing methodology and cost proposals.

(k) Not later than December 1, 2014, the department shall provide a report to the commission on the status of a project described by Subsection (f). The report must include:

(1) the status of the project's environmental clearance;

(2) an explanation of any project delays; and

(3) if the procurement is not completed, the anticipated date for the completion of the procurement.

(l) In this section, "environmental clearance" means:

(1) a finding of no significant impact has been issued for the project or, as applicable, for the initial or base scope of the project; or

(2) for a project for which an environmental impact statement is prepared, a record of decision has been issued for that project or, as applicable, for the initial or base scope of the project.

(m) The department may not develop a project under this section as a project under Chapter 227.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.21, eff. June 14, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. [792](#)), Sec. 4.01, eff. June 11, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. [1201](#)), Sec. 7, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 31, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 99, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1234 (S.B. 1730), Sec. 1, eff. September 1, 2013.

Sec. 223.2011. LIMITED AUTHORITY FOR CERTAIN PROJECTS USING COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) Notwithstanding Sections 223.201(f) and 370.305(c), the department or an authority under Section 370.003 may enter into a comprehensive development agreement relating to improvements to, or construction of, all or part of:

(1) the Loop 1 (MoPac Improvement) project from Farm-to-Market Road 734 to Cesar Chavez Street;

(2) the U.S. 183 (Bergstrom Expressway) project from Springdale Road to Patton Avenue;

(3) a project consisting of the construction of:

(A) the Outer Parkway Project in Cameron County from U.S. Highway 77 to Farm-to-Market Road 1847; and

(B) the South Padre Island Second Access Causeway Project from State Highway 100 to Park Road 100;

(4) the Loop 49 project from Interstate 20 to U.S. Highway 69 (Lindale Relief Route) and from State Highway 110 to U.S. Highway 259 (Segments 6 and 7);

(5) the Loop 375 Border Highway West project in El Paso County from Race Track Drive to U.S. Highway 54;

(6) the Northeast Parkway project in El Paso County from Loop 375 east of the Railroad Drive overpass to the Texas-New Mexico border;

(7) the Loop 1604 project in Bexar County;

(8) the Hidalgo County Loop project; and

(9) the International Bridge Trade Corridor project.

(b) Before the department or an authority may enter into a comprehensive development agreement under this section, the department or the authority, as applicable, must meet the requirements under Section 223.201(j).

(c) Not later than December 1, 2014, the department or the authority, as applicable, shall provide a report to the commission on the status of a project described by Subsection (a). The report must include:

(1) the status of the project's environmental clearance;

(2) an explanation of any project delays; and

(3) if the procurement is not completed, the anticipated

date for the completion of the procurement.

(d) The department may not provide any financial assistance to an authority to pay for the costs of procuring an agreement under this section.

(e) In this section, "environmental clearance" means:

(1) a finding of no significant impact has been issued for the project or, as applicable, for the initial or base scope of the project; or

(2) for a project for which an environmental impact statement is prepared, a record of decision has been issued for that project or, as applicable, for the initial or base scope of the project.

(f) The authority to enter into a comprehensive development agreement under this section expires August 31, 2017.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 32, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1234 (S.B. 1730), Sec. 2, eff. September 1, 2013.

Sec. 223.2012. NORTH TARRANT EXPRESS PROJECT PROVISIONS. (a) In this section, the North Tarrant Express project is the project described by Section 223.201(f)(3) entered into on June 23, 2009.

(b) The comprehensive development agreement for the North Tarrant Express project may provide for negotiating and entering into facility agreements for future phases or segments of the project at the times that the department considers advantageous to the department.

(c) The department is not required to use any further competitive procurement process to enter into one or more related facility agreements with the developer or an entity controlled by, to be controlled by, or to be under common control with the developer under the comprehensive development agreement for the North Tarrant Express project.

(d) A facility agreement for the North Tarrant Express project must terminate on or before June 22, 2061. A facility agreement may not be extended or renewed beyond that date.

(e) The department may include or negotiate any matter in a

comprehensive development agreement for the North Tarrant Express project that the department considers advantageous to the department.

(f) The comprehensive development agreement for the North Tarrant Express project may provide the developer or an entity controlled by, to be controlled by, or to be under common control with the developer with a right of first negotiation under which the developer may elect to negotiate with the department and enter into one or more related facility agreements for future phases or segments of the project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 32, eff. June 17, 2011.

Sec. 223.2013. NO EFFECT ON DEPARTMENT OBLIGATIONS. Any authority for the department to enter into a comprehensive development agreement relating to improvements to Grand Parkway (State Highway 99) does not affect the obligation of the department to comply with the applicable requirements of an agreement entered into under Section 228.0111 in connection with the Grand Parkway project, including complying with the terms and conditions for the development, construction, and operation of the Grand Parkway that are prescribed in such an agreement.

Added by Acts 2011, 82nd Leg., R.S., Ch. 459 (S.B. [1719](#)), Sec. 1, eff. June 17, 2011.

Redesignated from Transportation Code, Section 223.2012 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 22.001(44), eff. September 1, 2013.

Sec. 223.202. LIMITATION ON DEPARTMENT FINANCIAL PARTICIPATION. The amount of money disbursed by the department from the state highway fund and the Texas mobility fund during a federal fiscal year to pay the costs under comprehensive development agreements may not exceed 40 percent of the obligation authority under the federal-aid highway program that is distributed to this state for that fiscal year.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.21, eff. June 14, 2005.

Sec. 223.203. PROCESS FOR ENTERING INTO COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) If the department enters into a comprehensive development agreement, the department shall use a competitive procurement process that provides the best value for the department. The department may accept unsolicited proposals for a proposed project or solicit proposals in accordance with this section.

(b) The department shall establish rules and procedures for accepting unsolicited proposals that require the private entity to include in the proposal:

(1) information regarding the proposed project location, scope, and limits;

(2) information regarding the private entity's qualifications, experience, technical competence, and capability to develop the project; and

(3) any other information the department considers relevant or necessary.

(c) The department shall publish a notice advertising a request for competing proposals and qualifications in the Texas Register that includes the criteria to be used to evaluate the proposals, the relative weight given to the criteria, and a deadline by which proposals must be received if:

(1) the department decides to issue a request for qualifications for a proposed project; or

(2) the department authorizes the further evaluation of an unsolicited proposal.

(d) A proposal submitted in response to a request published under Subsection (c) must contain, at a minimum, the information required by Subsections (b)(2) and (3).

(e) The department may interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). The department shall evaluate each proposal based on the criteria described in the request for competing proposals and qualifications and may qualify or shortlist private entities to submit detailed proposals under Subsection (f). The department must qualify or shortlist at least two private entities to submit detailed proposals for a project under Subsection (f) unless the department does not receive more than one proposal or one response to a request under

Subsection (c).

(e-1) Notwithstanding the requirements of this section, the department may prequalify a private entity to submit a detailed proposal to provide services under a design-build contract. The department is not required to publish a request under Subsection (c) for a design-build contract, and may enter into a design-build contract based solely on an evaluation of detailed proposals submitted in response to a request under Subsection (f) by prequalified private entities. The commission shall adopt rules establishing criteria for the prequalification of a private entity that include the precertification requirements applicable to providers of engineering services and the qualification requirements for bidders on highway construction contracts. Rules for design-build projects adopted pursuant to this subsection shall also provide for an expedited selection process that includes design innovation as a selection criterion.

(e-2) In this section, "design-build contract" means a comprehensive development agreement that includes the design and construction of a turnpike project, does not include the financing of a turnpike project, and may include the acquisition, maintenance, or operation of a turnpike project.

(f) The department shall issue a request for detailed proposals from all private entities qualified or shortlisted under Subsection (e) or prequalified under Subsection (e-1) if the department proceeds with the further evaluation of a proposed project. A request under this subsection may require additional information relating to:

- (1) the private entity's qualifications and demonstrated technical competence;
- (2) the feasibility of developing the project as proposed;
- (3) engineering or architectural designs;
- (4) the private entity's ability to meet schedules;
- (5) a financial plan, including costing methodology and cost proposals; or
- (6) any other information the department considers relevant or necessary.

(f-1) A private entity responding to a request for detailed proposals issued under Subsection (f) may submit alternative proposals based on comprehensive development agreements having different terms, with the alternative terms in multiples of 10 years, ranging from 10 years from the later of the date of final acceptance

of the project or the start of revenue operations by the private entity to 50 years from the later of the date of final acceptance of the project or the start of revenue operations by the private entity, not to exceed a total term of 52 years or any lesser term provided in a comprehensive development agreement.

(f-2) A private entity responding to a request for detailed proposals issued under Subsection (f) must identify:

(1) companies that will fill key project roles, including project management, lead design firm, quality control management, and quality assurance management; and

(2) entities that will serve as key task leaders for geotechnical, hydraulics and hydrology, structural, environmental, utility, and right-of-way issues.

(g) In issuing a request for detailed proposals under Subsection (f), the department may solicit input from entities qualified under Subsection (e) or any other person. The department may also solicit input regarding alternative technical concepts after issuing a request under Subsection (f). A technical solution presented with a proposal must be fully responsive to, and have demonstrated resources to be able to fulfill, all technical requirements for the project, including specified quality assurance and quality control program requirements, safety program requirements, and environmental program requirements. A proposal that includes a technical solution that does not meet those requirements is ineligible for further consideration.

(h) The department shall evaluate each proposal based on the criteria described in the request for detailed proposals and select the private entity whose proposal offers the apparent best value to the department.

(i) The department may enter into negotiations with the private entity whose proposal offers the apparent best value.

(j) If at any point in negotiations under Subsection (i) it appears to the department that the highest ranking proposal will not provide the department with the overall best value, the department may enter into negotiations with the private entity submitting the next highest ranking proposal.

(k) The department may withdraw a request for competing proposals and qualifications or a request for detailed proposals at any time. The department may then publish a new request for competing proposals and qualifications.

(1) The department may require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal.

(1-1) A private entity selected for a comprehensive development agreement may not make changes to the companies or entities identified under Subsection (f-2) unless the original company or entity:

(1) is no longer in business, is unable to fulfill its legal, financial, or business obligations, or can no longer meet the terms of the teaming agreement with the private entity;

(2) voluntarily removes itself from the team;

(3) fails to provide a sufficient number of qualified personnel to fulfill the duties identified during the proposal stage; or

(4) fails to negotiate in good faith in a timely manner in accordance with provisions established in the teaming agreement proposed for the project.

(1-2) If the private entity makes team changes in violation of Subsection (1-1), any cost savings resulting from the change accrue to the state and not to the private entity.

(m) The department may pay an unsuccessful private entity that submits a responsive proposal in response to a request for detailed proposals under Subsection (f) a stipulated amount in exchange for the work product contained in that proposal. A stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipulated amount under this section. After payment of the stipulated amount:

(1) the department owns with the unsuccessful proposer jointly the rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the project design; and

(2) the use by the unsuccessful proposer of any portion of the work product contained in the proposal is at the sole risk of the unsuccessful proposer and does not confer liability on the

department.

(n) The department may prescribe the general form of a comprehensive development agreement and may include any matter the department considers advantageous to the department. The department and the private entity shall finalize the specific terms of a comprehensive development agreement.

(o) Subchapter A of this chapter and Chapter 2254, Government Code, do not apply to a comprehensive development agreement entered into under this subchapter.

(p) All teaming agreements and subconsultant agreements must be executed and provided to the department before the execution of the comprehensive development agreement.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.21, eff. June 14, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 1.01, eff. June 11, 2007.

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 2.01, eff. June 11, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 33, eff. September 1, 2011.

Sec. 223.204. CONFIDENTIALITY OF INFORMATION. (a) To encourage private entities to submit proposals under this subchapter, the following information is confidential, is not subject to disclosure, inspection, or copying under Chapter 552, Government Code, and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for its release until a final contract for a proposed project is entered into:

(1) all or part of a proposal that is submitted by a private entity for a comprehensive development agreement, except information provided under Sections 223.203(b)(1) and (2), unless the private entity consents to the disclosure of the information;

(2) supplemental information or material submitted by a private entity in connection with a proposal for a comprehensive development agreement, unless the private entity consents to the disclosure of the information or material; and

(3) information created or collected by the department or

its agent during consideration of a proposal for a comprehensive development agreement.

(b) After the department completes its final ranking of proposals under Section 223.203(h), the final rankings of each proposal under each of the published criteria are not confidential.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.21, eff. June 14, 2005.

Sec. 223.205. PERFORMANCE AND PAYMENT SECURITY. (a) Notwithstanding Section 223.006 and the requirements of Subchapter B, Chapter 2253, Government Code, the department shall require a private entity entering into a comprehensive development agreement under this subchapter to provide a performance and payment bond or an alternative form of security in an amount sufficient to:

- (1) ensure the proper performance of the agreement; and
- (2) protect:
 - (A) the department; and
 - (B) payment bond beneficiaries who have a direct

contractual relationship with the private entity or a subcontractor of the private entity to supply labor or material.

(b) A performance and payment bond or alternative form of security shall be in an amount equal to the cost of constructing or maintaining the project.

(c) If the department determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), the department shall set the amount of the bonds or the alternative forms of security.

(d) A payment or performance bond or alternative form of security is not required for the portion of an agreement that includes only design or planning services, the performance of preliminary studies, or the acquisition of real property.

(e) The amount of the payment security must not be less than the amount of the performance security.

(f) In addition to or instead of a performance and payment bond, the department may require one or more of the following alternative forms of security:

- (1) a cashier's check drawn on a financial entity specified by the department;

(2) a United States bond or note;
(3) an irrevocable bank letter of credit; or
(4) any other form of security determined suitable by the department.

(g) The department by rule shall prescribe requirements for an alternative form of security provided under this section.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.21, eff. June 14, 2005.

Sec. 223.206. OWNERSHIP OF HIGHWAY. (a) A state highway or another facility described by Section 223.201(a) that is the subject of a comprehensive development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and shall be owned by the department.

(b) Notwithstanding Subsection (a), the department may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a project, including supplemental facilities. At the termination of the agreement, the highway or other facilities are to be in a state of proper maintenance as determined by the department and shall be returned to the department in satisfactory condition at no further cost.

(c) A highway asset or toll project that is used or leased by a private entity under Section 202.052 or 228.053 for a commercial purpose is not exempt from ad valorem taxation and is subject to local zoning regulations and building standards.

(d) The department may not enter into a comprehensive development agreement with a private entity under this subchapter that provides for the lease, license, or other use of rights-of-way or related property by the private entity for the purpose of constructing, operating, or maintaining an ancillary facility that is used for commercial purposes.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.21, eff. June 14, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. 1201), Sec. 8, eff. June 17, 2011.

Sec. 223.207. LIABILITY FOR PRIVATE OBLIGATIONS. The department may not incur a financial obligation for a private entity that designs, develops, finances, constructs, maintains, or operates a state highway or other facility under this subchapter. The state or a political subdivision of the state is not liable for any financial or other obligations of a project solely because a private entity constructs, finances, or operates any part of the project.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.21, eff. June 14, 2005.

Sec. 223.208. TERMS OF PRIVATE PARTICIPATION. (a) The department shall negotiate the terms of private participation under this subchapter, including:

- (1) methods to determine the applicable cost, profit, and project distribution among the private participants and the department;
- (2) reasonable methods to determine and classify toll rates and responsibility for the setting of tolls;
- (3) acceptable safety and policing standards; and
- (4) other applicable professional, consulting, construction, operation, and maintenance standards, expenses, and costs.

(b) A comprehensive development agreement entered into under this subchapter may include any provision that the department considers appropriate, including provisions:

- (1) providing for the purchase by the department, under terms and conditions agreed to by the parties, of the interest of a private participant in the comprehensive development agreement and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the comprehensive development agreement;
- (2) establishing the purchase price for the interest of a private participant in the comprehensive development agreement and related property, which price may be determined in accordance with the methodology established by the parties in the comprehensive development agreement;

(3) providing for the payment of obligations incurred pursuant to the comprehensive development agreement, including any obligation to pay the purchase price for the interest of a private participant in the comprehensive development agreement, from any lawfully available source, including securing such obligations by a pledge of revenues of the commission or the department derived from the applicable project, which pledge shall have such priority as the department may establish;

(4) permitting the private participant to pledge its rights under the comprehensive development agreement;

(5) concerning the private participant's right to operate and collect revenue from the project; and

(6) restricting the right of the commission or the department to terminate the private participant's right to operate and collect revenue from the project unless and until any applicable termination payments have been made.

(c) The department may enter into a comprehensive development agreement under this subchapter with a private participant only if the project is identified in the department's unified transportation program or is located on a transportation corridor identified in the statewide transportation plan.

(d) Section 223.207 does not apply to the obligations of the department under a comprehensive development agreement.

(e) Notwithstanding anything in Section 201.112 or other law to the contrary, and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an obligation of the commission or the department under a comprehensive development agreement entered into under this subchapter to make or secure payments to a person because of the termination of the agreement, including the purchase of the interest of a private participant or other investor in a project, may be enforced by mandamus against the commission, the department, and the comptroller in a district court of Travis County, and the sovereign immunity of the state is waived for that purpose. The district courts of Travis County shall have exclusive jurisdiction and venue over and to determine and adjudicate all issues necessary to adjudicate any action brought under this subsection. The remedy provided by this subsection is in addition to any legal and equitable remedies that may be available to a party to a comprehensive development agreement.

(f) A comprehensive development agreement entered into under

this subchapter and any obligations incurred, issued, or owed under the agreement does not constitute a state security under Chapter 1231, Government Code.

(g) If the department enters into a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project, the private participant shall submit to the department for approval:

(1) the methodology for:

- (A) the setting of tolls; and
- (B) increasing the amount of the tolls;

(2) a plan outlining methods the private participant will use to collect the tolls, including:

(A) any charge to be imposed as a penalty for late payment of a toll; and

(B) any charge to be imposed to recover the cost of collecting a delinquent toll; and

(3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll.

(h) A comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project may be for a term not longer than 50 years from the later of the date of final acceptance of the project or the start of revenue operations by the private participant, not to exceed a total term of 52 years. The comprehensive development agreement must contain an explicit mechanism for setting the price for the purchase by the department of the interest of the private participant in the comprehensive development agreement and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the agreement.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.21, eff. June 14, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. [792](#)), Sec. 1.02, eff. June 11, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. [1201](#)), Sec. 9, eff. June 17, 2011.

Sec. 223.209. RULES, PROCEDURES, AND GUIDELINES GOVERNING SELECTION AND NEGOTIATING PROCESS. (a) The commission shall adopt rules, procedures, and guidelines governing selection of a developer for a comprehensive development agreement and negotiations to promote fairness, obtain private participants in projects, and promote confidence among those participants. The rules must contain criteria relating to the qualifications of the participants and the award of the contracts.

(b) The department shall have up-to-date procedures for participation in negotiations under this subchapter.

(c) The department has exclusive judgment to determine the terms of an agreement.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.21, eff. June 14, 2005.

SUBCHAPTER F. DESIGN-BUILD CONTRACTS

Sec. 223.241. DEFINITIONS. In this subchapter:

(1) "Design-build contractor" means a partnership, corporation, or other legal entity or team that includes an engineering firm and a construction contractor qualified to engage in the construction of highway projects in this state.

(2) "Design-build method" means a project delivery method by which an entity contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.

(3) "Highway project" means:

(A) a single highway facility between two defined points in a corridor; or

(B) two or more contiguous highway facilities.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 34, eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 314 (H.B. 20), Sec. 6, eff. June 3, 2015.

Sec. 223.242. SCOPE OF AND LIMITATIONS ON CONTRACTS. (a) Notwithstanding the requirements of Subchapter A and Chapter 2254,

Government Code, the department may use the design-build method for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project.

(b) A design-build contract under this subchapter may not grant to a private entity:

- (1) a leasehold interest in the highway project; or
- (2) the right to operate or retain revenue from the operation of a toll project.

(b-1) A design-build contract under this subchapter may include a maintenance agreement requiring a design-build contractor to maintain a project for an initial term of not longer than five years. The maintenance agreement may authorize the department, in its sole discretion, to exercise options extending the term of the maintenance agreement for additional periods beyond the initial maintenance term with each additional period being not longer than five years. The department shall obtain pricing for the maintenance work for each maintenance term. The department may require separate pricing for the maintenance work to be performed for each year of a maintenance term.

(c) In using the design-build method and in entering into a contract for the services of a design-build contractor, the department and the design-build contractor shall follow the procedures and requirements of this subchapter.

(d) The department may enter into a design-build contract for a highway project with a construction cost estimate of \$150 million or more to the department.

(d-1) The department may not enter into more than three contracts under this section in each fiscal year.

(e) Money disbursed by the department to pay engineering costs for the design of a project incurred by the design-build contractor under a design-build contract may not be included in the amounts under Section 223.041:

- (1) required to be spent in a state fiscal biennium for engineering-related services; or
- (2) appropriated in Strategy A.1.1, Plan/Design/Manage or Strategy A.1.2, Contracted Planning and Design of the General Appropriations Act.

(f) The department shall not use the design-build method for the construction, expansion, extension, rehabilitation, alteration,

or repair of a highway project if the project is substantially designed, to the extent described by Section 223.246(a)(5), by the department or another entity other than the design-build contractor.

(g) The department shall not include more than one highway project in a design-build contract.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 34, eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 314 (H.B. 20), Sec. 7, eff. June 3, 2015.

Sec. 223.243. USE OF ENGINEER OR ENGINEERING FIRM. (a) To act as the department's representative, independent of a design-build contractor, for the procurement process and for the duration of the work on a highway project, the department shall select or designate:

(1) an engineer;

(2) a qualified firm, selected in accordance with Section 2254.004, Government Code, who is independent of the design-build contractor; or

(3) a general engineering consultant that was previously selected by the department and is selected or designated in accordance with Section 2254.004, Government Code.

(b) The selected or designated engineer or firm has full responsibility for complying with Chapter 1001, Occupations Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 34, eff. September 1, 2011.

Sec. 223.244. OTHER PROFESSIONAL SERVICES. (a) The department shall provide or contract for, independently of the design-build contractor, the following services as necessary for the acceptance of the highway project by the department:

(1) inspection services;

(2) construction materials engineering and testing; and

(3) verification testing services.

(b) The department shall ensure that the engineering services contracted for under this section are selected based on demonstrated competence and qualifications.

(c) This section does not preclude a design-build contractor from providing construction quality assurance and quality control under a design-build contract.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 34, eff. September 1, 2011.

Sec. 223.245. REQUEST FOR QUALIFICATIONS. (a) For any highway project to be delivered through the design-build method, the department must prepare and issue a request for qualifications. A request for qualifications must include:

- (1) information regarding the proposed project's location, scope, and limits;
- (2) information regarding funding that may be available for the project;
- (3) criteria that will be used to evaluate the qualifications statements, which must include a proposer's qualifications, experience, technical competence, and ability to develop the project;
- (4) the relative weight to be given to the criteria; and
- (5) the deadline by which qualifications statements must be received by the department.

(b) The department shall publish notice advertising the issuance of a request for qualifications in the Texas Register and on the department's Internet website.

(c) The department shall evaluate each qualifications statement received in response to a request for qualifications based on the criteria identified in the request. The department may interview responding proposers. Based on the department's evaluation of qualifications statements and interviews, if any, the department shall qualify or short-list proposers to submit proposals.

(d) The department shall qualify or short-list at least two private entities to submit proposals under Section 223.246, but may not qualify or short-list more private entities than the number of private entities designated on the request for qualifications.

(e) The department may withdraw a request for qualifications or request for proposals at any time.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 34, eff. September 1, 2011.

Sec. 223.246. REQUEST FOR PROPOSALS. (a) The department shall issue a request for proposals to proposers short-listed under Section 223.245. A request for proposals must include:

- (1) information on the overall project goals;
- (2) publicly available cost estimates for the design-build portion of the project;
- (3) materials specifications;
- (4) special material requirements;
- (5) a schematic design approximately 30 percent complete;
- (6) known utilities, provided that the department is not required to undertake an effort to locate utilities;
- (7) quality assurance and quality control requirements;
- (8) the location of relevant structures;
- (9) notice of any rules or goals adopted by the department relating to awarding contracts to disadvantaged business enterprises or small business enterprises;
- (10) available geotechnical or other information related to the project;
- (11) the status of any environmental review of the project;
- (12) detailed instructions for preparing the technical proposal required under Subsection (d), including a description of the form and level of completeness of drawings expected;
- (13) the relative weighting of the technical and cost proposals required under Subsection (d) and the formula by which the proposals will be evaluated and ranked; and
- (14) the criteria to be used in evaluating the technical proposals, and the relative weighting of those criteria.

(b) The formula used to evaluate proposals under Subsection (a)(13) must allocate at least 70 percent of the weighting to the cost proposal.

(c) A request for proposals must also include a general form of the design-build contract that the department proposes and that may be modified as a result of negotiations prior to contract execution.

(d) Each response to a request for proposals must include a sealed technical proposal and a separate sealed cost proposal submitted to the department by the date specified in the request for proposals.

(e) The technical proposal must address:

- (1) the proposer's qualifications and demonstrated technical competence, unless that information was submitted to the department and evaluated by the department under Section 223.245;
- (2) the feasibility of developing the project as proposed, including identification of anticipated problems;
- (3) the proposed solutions to anticipated problems;
- (4) the ability of the proposer to meet schedules;
- (5) the conceptual engineering design proposed; and
- (6) any other information requested by the department.

(f) The department may provide for the submission of alternative technical concepts by a proposer. If the department provides for the submission of alternative technical concepts, the department must prescribe a process for notifying a proposer whether the proposer's alternative technical concepts are approved for inclusion in a technical proposal.

(g) The cost proposal must include:

- (1) the cost of delivering the project; and
- (2) the estimated number of days required to complete the project.

(h) A response to a request for proposals shall be due not later than the 180th day after the final request for proposals is issued by the department. This subsection does not preclude the release by the department of a draft request for proposals for purposes of receiving input from short-listed proposers.

(i) The department shall first open, evaluate, and score each responsive technical proposal submitted on the basis of the criteria described in the request for proposals and assign points on the basis of the weighting specified in the request for proposals. The department may reject as nonresponsive any proposer that makes a significant change to the composition of its design-build team as initially submitted that was not approved by the department as provided in the request for proposals. The department shall subsequently open, evaluate, and score the cost proposals from proposers that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for proposals. The department shall rank the proposers in accordance with the formula provided in the request for proposals.

(j) If the department receives only one response to a request for proposals, an independent bid evaluation by the department must confirm and validate that:

(1) the project procurement delivered value for the public investment; and

(2) no anticompetitive practices were involved in the procurement.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 34, eff. September 1, 2011.

Sec. 223.247. NEGOTIATION. (a) After ranking the proposers under Section 223.246(i), the department shall first attempt to negotiate a contract with the highest-ranked proposer. The department may include in the negotiations alternative technical concepts proposed by other proposers, subject to Section 223.249.

(b) If the department is unable to negotiate a satisfactory contract with the highest-ranked proposer, the department shall, formally and in writing, end all negotiations with that proposer and proceed to negotiate with the next proposer in the order of the selection ranking until a contract is reached or negotiations with all ranked proposers end.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 34, eff. September 1, 2011.

Sec. 223.248. ASSUMPTION OF RISKS AND COSTS. (a) Except as provided by Subsection (b), the department shall assume:

(1) all risks and costs associated with:

(A) changes and modifications to the scope of the project requested by the department;

(B) unknown or differing conditions at the site of the project;

(C) applicable environmental clearance and other regulatory permitting necessary for the project; and

(D) natural disasters and other force majeure events; and

(2) all costs associated with property acquisition, other than costs associated with acquiring a temporary easement or work area used for staging or constructing the project.

(b) A design-build contractor may assume some or all of the risks or costs described by Subsection (a) if the terms of the

assumption are reflected in the final request for proposals, including all supplements to the request.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 34, eff. September 1, 2011.

Sec. 223.249. STIPEND AMOUNT FOR UNSUCCESSFUL PROPOSERS. (a) The department shall pay an unsuccessful proposer that submits a responsive proposal a stipend for the work product contained in the proposal that the department determines can be used by the department in the performance of the department's functions. The stipend must be a minimum of twenty-five hundredths of one percent of the contract amount and must be specified in the initial request for proposals, but may not exceed the value of the work product contained in the proposal that the department determines can be used by the department in the performance of the department's functions. If the department determines that the value of the work product is less than the stipend amount, the department shall provide the proposer with a detailed explanation of the valuation, including the methodology and assumptions used by the department in determining the value of the work product. After payment of the stipend, the department may make use of any work product contained in the unsuccessful proposal, including the techniques, methods, processes, and information contained in the proposal. The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipend under this subsection.

(b) In a request for proposals, the department shall provide for the payment of a partial stipend in the event that a procurement is terminated before the execution of a design-build contract.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 34, eff. September 1, 2011.

Sec. 223.250. PERFORMANCE OR PAYMENT BOND. (a) The department shall require a design-build contractor to provide:

- (1) a performance and payment bond;
- (2) an alternative form of security; or
- (3) a combination of the forms of security described by

Subdivisions (1) and (2).

(b) Except as provided by Subsection (c), a performance and payment bond, alternative form of security, or combination of the forms shall be in an amount equal to the cost of constructing or maintaining the project.

(c) If the department determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), the department shall set the amount of the security.

(d) A performance and payment bond is not required for the portion of a design-build contract under this section that includes design services only.

(e) The department may require one or more of the following alternative forms of security:

(1) a cashier's check drawn on a financial entity specified by the department;

(2) a United States bond or note;

(3) an irrevocable bank letter of credit provided by a bank meeting the requirements specified in the request for proposals; or

(4) any other form of security determined suitable by the department.

(f) Section 223.006 of this code and Chapter 2253, Government Code, do not apply to a bond or alternative form of security required under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 34, eff. September 1, 2011.

CHAPTER 224. ACQUISITION, CONSTRUCTION, AND MAINTENANCE

SUBCHAPTER A. ACQUISITION GENERALLY

Sec. 224.001. ACQUISITION BY DEPARTMENT. The department shall acquire by purchase, gift, or eminent domain any right-of-way necessary for the national system of interstate and defense highways.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.002. ACQUISITION BY COUNTY OR MUNICIPALITY GENERALLY.

(a) A county or municipality shall acquire, in the manner provided by law, the highway right-of-way that is requested by the department.

(b) Chapter 21, Property Code, governs the procedure for an

acquisition by eminent domain.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.003. ACQUISITION BY COMMISSIONERS COURT. (a) The commissioners court of a county may acquire by purchase or eminent domain any real property, including a right-of-way, or material, including timber, earth, stone, or gravel, that the commission determines is necessary or convenient to a state highway to be constructed, reconstructed, maintained, widened, straightened, or extended. Real property acquired for streambed diversion may not exceed 100 feet in width.

(b) The commission shall furnish to the commissioners court the plats or field notes of the real property and the description of any required materials. After receiving the plats, notes, or description, the commissioners court may make the acquisition in accordance with those documents.

(c) The acquisition is on behalf of the state with title to the State of Texas.

(d) The commissioners court may exercise the power of eminent domain within the limits of a municipality only with the prior consent of the municipality's governing body.

(e) The county may pay for the acquisition from the county road and bridge fund, a special road fund, or any other available county fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.004. STATE'S USE OF EMINENT DOMAIN. (a) If the commissioners court does not acquire a right-of-way under Section 224.003, the commission shall immediately serve the commissioners court with an order identifying the right-of-way by field notes and requesting the commissioners court to acquire the right-of-way.

(b) Not later than the 10th day after the date the order is served, the commission shall direct the attorney general to initiate eminent domain proceedings on behalf of the state to acquire the right-of-way.

(c) Venue is in the county in which the right-of-way is located. The district or county attorney for that county shall

initiate the eminent domain proceedings.

(d) Chapter 21, Property Code, governs the procedure for the eminent domain proceeding except that the county judge appoints the special commissioners.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.005. PARTICIPATION BY DEPARTMENT. (a) In the acquisition of a right-of-way requested by the department in cooperation with local officials for a highway designated by the commission as a United States highway or state highway, the department shall pay to the county or municipality not less than 90 percent of the value, as determined by the department, of the right-of-way or the net cost of the right-of-way, whichever amount is less.

(b) If the acquisition is by eminent domain, the participation by the department shall be based on the final judgment if the department has been notified in writing before the filing of the suit and given prompt notice as to all action taken in the suit. The department is entitled to become a party at any time for any purpose, including the right of appeal.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.006. PAYMENT TO COUNTY OR MUNICIPALITY. (a) On delivery to the department of acceptable instruments conveying to the state the requested right-of-way, the department shall prepare and transmit to the comptroller vouchers covering the payment to the county or municipality of the department's share of the cost of acquiring the right-of-way.

(b) The comptroller shall issue warrants on the appropriate account covering the state's obligation as evidenced by the vouchers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.007. PURCHASE OF LEASE RIGHTS. (a) Before acquiring property under this subchapter, the department may purchase the right to lease the property to a third party.

(b) The department may make a purchase under Subsection (a)

only if the department first determines that the owner is unable to lease or rent the property because of the impending acquisition by the department.

(c) The consideration for the purchase of a lease right under this section may not exceed the fair market rental value of the property as determined by the department and shall be credited against the total compensation due the owner when the department acquires the property.

(d) Payment under this section may be made in periodic increments until the property is acquired by the department. The aggregate total of payments before acquisition may not exceed the department's appraised value of the property.

(e) This section shall be implemented in accordance with applicable administrative rules and policies of the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.008. UTILITY RELOCATION COSTS. In the acquisition of a highway right-of-way by or for the department, the cost of relocating or adjusting utility facilities, which cost may be eligible under law, is a cost of the acquisition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. CONSTRUCTION AND MAINTENANCE GENERALLY

Sec. 224.031. DUTY OF DEPARTMENT. (a) The department has exclusive and direct control of all improvement of the state highway system.

(b) The department shall prepare and pay for surveys, plans, specifications, and estimates for all construction and improvement of the state highway system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.032. DUTY OF COMMISSION. (a) In the development and maintenance of the state highway system, the commission shall provide for the:

- (1) efficient maintenance of the system;

(2) construction, in cooperation with the United States to the extent of federal aid to the state, of durable highways of the greatest public necessity;

(3) construction of highways to perfect and extend a correlated system of state highways, independently from state funds; and

(4) construction of highways to provide access to significant new naval military facilities and to provide for the state highway system in impacted regions.

(b) Subsection (a) shall be implemented from funds available to the department except that Subsection (a)(4) shall be implemented only from the state highway fund.

(c) In this section, "significant new naval military facility" and "impacted region" have the meanings assigned by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985 (Article 689a-4d, Vernon's Texas Civil Statutes).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.033. COUNTY IMPROVEMENT OF STATE SYSTEM. (a) The commission may enter into an agreement with the commissioners court of a county for the improvement by the county of the state highway system.

(b) In this section, "improvement" means construction, reconstruction, maintenance, and the making of a necessary plan or survey before beginning construction, reconstruction, or maintenance and includes a project or activity appurtenant to a state highway and including drainage facilities, surveying, traffic counts, driveways, landscaping, signs, lights, or guardrails.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.26, eff. Sept. 1, 1997.

SUBCHAPTER C. CONTRACT WITH TRANSPORTATION CORPORATION

Sec. 224.061. DEFINITIONS. In this subchapter:

- (1) "Construction" includes improvement.
- (2) "Highway" includes an improvement to a highway.
- (3) "Improvement" includes landscaping.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.062. AUTHORITY TO CONTRACT. The commission may contract with a transportation corporation created by the commission under Chapter 431 for the purpose of acquiring highways to be constructed by the corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.063. SUFFICIENCY OF FUNDS. (a) Before contracting under this subchapter, the commission shall determine that it will have sufficient funds available in the year of acquisition to meet its financial obligations under the contract.

(b) Payment of any obligation in the contract is contingent on a legislative appropriation for that purpose in the year the obligation is due, and the contract must state that fact.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.064. TERMS AND CONDITIONS. (a) The commission shall determine the terms of a contract under this subchapter.

(b) The contract may not extend for a period of more than six years after the date of execution.

(c) The contract must provide that:

(1) the highway to be acquired is free of debts, liens, or other encumbrances at the time of acquisition;

(2) the highway to be constructed meets minimum design criteria prescribed by the commission;

(3) construction contracts are awarded through competitive bidding to the low bidder;

(4) priority of construction is assigned to particular highway segments;

(5) particular highway segments are opened to the public on completion of construction under right of entry even if consideration has not been paid by the commission; and

(6) the highway right-of-way is fully landscaped before acquisition by the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.065. CONSTRUCTION MANAGEMENT SERVICES. (a) The commission may contract with a transportation corporation constructing a highway for the commission to supervise the construction of the highway and provide construction management services for the corporation.

(b) The transportation corporation shall pay the commission for the supervision and management services at the time the services are provided.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.066. ADDITIONAL POWERS. In addition to the powers granted under this subchapter, the commission has any other power that is reasonable and necessary to allow it to contract with a transportation corporation for the construction of a highway as provided by this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. DETOUR ROADS

Sec. 224.091. DETOUR ROAD REQUIRED. (a) If construction on a part of the state highway system causes the closing of a road to traffic, the department shall select, improve, and maintain an all-weather detour road for the convenience of the public.

(b) A detour road shall be used and controlled under the same conditions and authority as that exercised over the state highway system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.092. DUTIES OF COMMISSION. The commission shall provide for the:

(1) equipment and maintenance of a detour road in a manner adequate for the convenience and safety of normal traffic using the road; and

(2) posting of necessary signs at each end of the detour road for the guidance and convenience of the public.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.093. DUTY OF COUNTY. A county shall cooperate with the commission as necessary to adequately provide for the traffic requirements of the public in the selection and maintenance of a detour road in the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. INTERSTATE BRIDGES

Sec. 224.121. CONDITION FOR IMPLEMENTATION. The department may implement this subchapter only if:

(1) another state has enacted a statute providing for the acquisition, construction, and maintenance of a bridge described by Section 224.122 and for the use of the bridge by the public without charge; and

(2) the bridge connects designated highways of this state and the other state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.122. INTERSTATE BRIDGE AUTHORIZED. The department may spend or allocate aid from any available money to acquire, construct, or maintain a bridge across a stream that is a boundary between this and another state in an amount not to exceed one-half of the amount necessary to acquire, construct, or maintain the bridge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 224.123. AUTHORITY TO CONTRACT. The department by the authority of the governor may agree with appropriate departments of an adjoining state and the United States to implement this subchapter for the purpose of furnishing substantial bridges across this state's boundaries for the use of the traveling public without charge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. CONGESTION MITIGATION PROJECTS AND FACILITIES

Sec. 224.151. DEFINITIONS. In this subchapter:

(1) "Congestion" means the level at which transportation system performance is no longer acceptable because of traffic interference. The level of acceptable system performance may vary by type of transportation facility, geographic location, or time of day.

(2) "Congestion mitigation" means projects and facilities used to reduce congestion by promoting the use of carpools and vanpools, improve air quality, conserve fuel, and enhance the use of existing highways and facilities on the state highway system.

(3) "High occupancy vehicle" means a bus or other motorized passenger vehicle such as a carpool or vanpool vehicle used for ridesharing purposes and occupied by a specified minimum number of persons.

(4) "High occupancy vehicle lane" means one or more lanes of a highway or an entire highway where high occupancy vehicles are given at all times, or at regularly scheduled times, a priority or preference over some or all other vehicles moving in the general stream of all highway traffic.

(5) "Motor vehicle" has the meaning assigned by Section 522.003.

(6) "Transportation corporation" means a transportation corporation created by the state under Chapter 431.

(7) "Exclusive lane" means a lane of a highway or segment of a highway the use of which is restricted to one or more designated classifications of motor vehicle.

(8) "Low-emissions vehicle" means a vehicle that meets emissions standards established by commission rule.

(9) "Restricted lane" includes:

- (A) a high occupancy vehicle lane;
- (B) a toll lane under Section 228.007; and
- (C) an exclusive lane.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.24, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1049, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.22, eff. June 14, 2005.

Sec. 224.152. PURPOSE. (a) Subject to the availability of state and federal funds, it is the intent of the legislature to further the purposes of the United States Congress as expressed in 23 U.S.C. Sections 134, 135, 146, and 149 and in Section 1012(b) of Pub. L. No. 102-240, as amended, to improve safety, conserve fuel, decrease traffic congestion during rush hours, improve air quality, develop innovative techniques to finance transportation projects, and enhance the use of existing highways and facilities.

(b) The legislature declares that it is necessary, to further the purposes described by Subsection (a), to provide for the participation of the department, including the expenditure of available funds by the department, in projects and facilities for the purpose of congestion mitigation.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.24, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1049, Sec. 2, eff. June 20, 2003.

Sec. 224.153. HIGH OCCUPANCY VEHICLE LANES AUTHORIZED. (a) The department may finance, designate, design, construct, operate, or maintain one or more lanes on a multi-lane highway facility as dedicated high occupancy vehicle lanes on the state highway system.

(b) The department may enter into an agreement with a transit authority under Chapter 451, 452, or 453, a regional mobility authority under Chapter 361, a coordinated county transportation authority under Chapter 460, a municipality, or a transportation corporation for the design, construction, operation, or maintenance of a high occupancy vehicle lane.

(c) The department may authorize a motorcycle or a low-emissions vehicle to use a high occupancy vehicle lane designated under this section regardless of the number of persons on the motorcycle or occupants in the vehicle.

Text of subsec. (d) as added by Acts 2003, 78th Leg., ch. 1049, Sec.

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(d) The department may not authorize the use of a high

occupancy vehicle lane designed, constructed, operated, or maintained under Subsection (b) by a motorcycle or a low-emissions vehicle that is not occupied by the required minimum number of persons if the use would impair the receipt of federal transit funds.

Text of subsec. (d) as added by Acts 2003, 78th Leg., ch. 1331, Sec.

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(d) The department may not authorize vehicles addressed in Subsection (c) to use a high occupancy vehicle lane if such use would violate federal transit or highway funding restrictions.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.24, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 967, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1331, Sec. 23, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1049, Sec. 3, eff. June 20, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 991 (H.B. 1986), Sec. 1, eff. September 1, 2005.

Sec. 224.1541. EXCLUSIVE LANES. (a) The commission by order may designate and the department may finance, design, construct, operate, or maintain one or more lanes of a state highway facility as exclusive lanes.

(b) The commission may designate a lane as an exclusive lane under Subsection (a) only if the commission determines that:

(1) there:

(A) are two or more lanes adjacent to the proposed exclusive lane for the use of vehicles other than vehicles for which the lane is restricted; or

(B) is a multilane facility adjacent to the proposed exclusive lane for the use of vehicles other than vehicles for which the lane is restricted; and

(2) the use or operation of the exclusive lane is likely to enhance safety, mobility, or air quality.

(c) The adjacent lanes or adjacent multilane facility under Subsection (b) may be designated as exclusive lanes or an exclusive lane facility for the use of vehicles that are prohibited from using the exclusive lane.

(d) The commission may authorize the operation of a vehicle that exceeds the weight limitations of Subchapter B, Chapter 621, or

the size limitations of Subchapter C, Chapter 621, on a lane designated as an exclusive lane under this section if supported by an engineering and traffic study that includes an analysis of the structural capacity of bridges and pavements, current and projected traffic patterns and volume, and potential effects on public safety. This subsection does not authorize the operation of a vehicle that exceeds a maximum axle weight authorized by Chapter 621, 622, or 623. This subsection does not apply to a roadway that is a part of the national system of interstate and defense highways.

Added by Acts 2003, 78th Leg., ch. 1049, Sec. 5, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. [1201](#)), Sec. 10, eff. June 17, 2011.

Sec. 224.1542. POLICE AND EMERGENCY VEHICLES. A restriction imposed on a restricted lane under this subchapter does not apply to a police vehicle or an authorized emergency vehicle as defined by Section 541.201.

Added by Acts 2003, 78th Leg., ch. 1049, Sec. 6, eff. June 20, 2003.

Sec. 224.1543. TRAFFIC CONTROL DEVICES. (a) The department shall erect and maintain official traffic control devices necessary to implement and ensure compliance with lane restrictions designated under this subchapter. The department, in a contract to operate a toll lane under this subchapter, may authorize the contracted entity to erect and maintain necessary official traffic control devices.

(b) Section 544.004 applies to a traffic control device erected under this section.

Added by Acts 2003, 78th Leg., ch. 1049, Sec. 6, eff. June 20, 2003.

Sec. 224.159. ADOPTION OF RULES; PRESCRIBE FORMS. The commission shall adopt rules and prescribe forms to administer this subchapter.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.24, eff. Sept. 1,

1997.

CHAPTER 225. STATE HIGHWAY NAMES

SUBCHAPTER A. STATE HIGHWAY NAMES IN GENERAL

Sec. 225.001. RESTRICTIONS ON NAMING HIGHWAY. (a) The commission may not designate a part of the highway system, including a bridge or street, by a name, including the name of a living individual or for an organization or event, or by a symbol other than the regular highway number.

(b) Except as otherwise provided by statute, a part of the highway system, including a bridge or street, may not be designated by a name.

(c) A part of the highway system, including a bridge or street, may be designated by the name of a person only if the person is deceased and was significant:

- (1) in the state's history; or
- (2) in the lives of the people of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1160 (H.B. 53), Sec. 1, eff. June 15, 2007.

Sec. 225.002. MEMORIAL DESIGNATION OF HIGHWAY BY LOCAL GOVERNMENT. (a) A local government may assign a memorial or other identifying designation to a part of the highway system.

(b) A part of the highway system assigned a designation under Subsection (a) may be marked only with the regular highway number.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 225.003. APPLICATION FOR AND SITE SELECTION OF MEMORIAL MARKER. (a) A local government planning a memorial designation must submit an application to the director completely describing:

- (1) the nature and objectives of the designation; and
- (2) any marker to be erected.

(b) A marker may not be erected earlier than the 91st day after the date the director approves an application to allow the department

to select and prepare a proper site.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 225.004. MEMORIAL MARKER. (a) A local government may purchase and furnish to the department a suitable locally identifying memorial marker.

(b) If the director approves the size and type of a marker, the department, on request, may erect the marker at a place most suitable to the department's maintenance operations.

(c) If two or more local governments cooperate in seeking a continuous memorial or other identifying designation, they may furnish to the department markers to be erected at each end of the designated limits and at intermediate sites so that markers are approximately 75 miles apart.

(d) The department shall maintain the grounds for a marker. The local government shall repair or replace a marker.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 225.005. DESIGNATION OF HISTORICAL ROUTE. (a) The department shall mark with a historical name a farm-to-market or ranch road that follows a historical route if:

(1) a county historical commission applies to the Texas Historical Commission and the department for the marking of the road; and

(2) the Texas Historical Commission certifies that the name has been in common usage in the area for at least 50 years.

(b) The evidence to support a certification under Subsection (a) must:

(1) be submitted by the county historical commission applying for the designation; and

(2) include an affidavit from each of at least five longtime residents of the area.

(c) The department shall prepare and install signs along the road that indicate the road's historical name. The county historical commission applying for the designation shall pay the cost of preparing the signs.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 225.006. EFFECT ON OTHER LAWS. This subchapter does not:

- (1) supersede or conflict with an existing statute regulating the marking of a road or street; or
- (2) void or supersede the authority of a local governmental agency to regulate and mark a road or street.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. SPECIFIC STATE HIGHWAY NAMES

Sec. 225.021. GENERAL PROVISIONS. (a) The department shall repair and replace each marker required by this subchapter and maintain the grounds for the marker.

(b) The department shall accept a grant or donation made to assist in financing the construction and maintenance of a marker.

(c) The department may not design, construct, or erect a marker under this subchapter unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(d) Money received under Subsection (b) shall be deposited to the credit of the state highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1160 (H.B. 53), Sec. 2, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 264 (H.B. 695), Sec. 1, eff. June 14, 2013.

Sec. 225.022. TEXAS VIETNAM VETERANS MEMORIAL HIGHWAY. (a) To honor the Texas citizens who served in the United States armed forces during the Vietnam War, the part of U.S. Highway 83 located in Texas is the Texas Vietnam Veterans Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Texas Vietnam Veterans Memorial Highway, and any other appropriate information.

(c) The department shall erect a memorial marker at each end of

the memorial highway and at intermediate sites along the highway that the department determines are appropriate. The intermediate sites may not be farther apart than 100 miles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 225.0225. PURPLE HEART TRAIL. (a) The following highways are designated as the Texas portion of the national Purple Heart Trail:

- (1) the part of Interstate Highway 35 located in Texas;
- (2) the part of Interstate Highway 40 located in Texas;
- (3) the part of Interstate Highway 37 from Interstate Highway 35 to U.S. Highway 77;
- (4) the part of U.S. Highway 77 from Interstate Highway 37 to State Highway 100;
- (5) State Highway 100;
- (6) Park Road 100; and
- (7) the part of U.S. Highway 83 Business in Hidalgo and Cameron Counties.

(b) The department shall design and construct markers indicating the highway number, the designation as the Purple Heart Trail, and any other appropriate information.

(c) The department shall erect a marker at locations along the trail that the department determines are appropriate.

(d) Notwithstanding Subsections (b) and (c), the department is required to design, construct, and erect the markers only to the extent that money is available for this purpose from donations received from local Purple Heart organizations.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund for dedication under this section.

Added by Acts 2005, 79th Leg., Ch. 323 (S.B. 678), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 443 (S.B. 1311), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 686 (H.B. 2424), Sec. 1, eff. September 1, 2013.

Sec. 225.023. NOLAN RYAN EXPRESSWAY. (a) The part of State Highway 288 between the Brazoria County line and Freeport is the Nolan Ryan Expressway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Nolan Ryan Expressway, and any other appropriate information.

(c) The department shall erect a memorial marker at each end of the memorial highway and at intermediate sites along the highway that the department determines are appropriate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 225.024. SAM HOUSTON PARKWAY. (a) Beltway 8 in Harris County is the Sam Houston Parkway.

(b) The department shall construct markers indicating the designation as the Sam Houston Parkway and other appropriate information.

(c) The department may design the markers in coordination with a local entity. The department has final authority to approve the design of the markers.

(d) The department shall erect a marker every five miles along the beltway except at sites where the department determines the placement of a marker is not feasible.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 225.025. SENATOR LLOYD BENTSEN HIGHWAY. (a) The part of U.S. Highway 59 from its intersection with Interstate Highway 45 to its intersection with Interstate Highway 35 is the Senator Lloyd Bentsen Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Senator Lloyd Bentsen Highway, and any other appropriate information.

(c) The department shall erect a memorial marker at each end of the memorial highway and at appropriate intermediate sites along the highway. The intermediate sites may not be farther apart than 100 miles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 225.026. FARM-TO-MARKET ROAD 390; SCENIC HIGHWAY. (a) Farm-to-Market Road 390 in Washington County is a scenic highway.

(b) The department shall design and construct markers indicating the highway number, the designation as a scenic highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the scenic highway and at intermediate sites along the highway that the department determines are appropriate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 225.027. 10TH MOUNTAIN DIVISION HIGHWAY. (a) The 10th Mountain Division Memorial Highway is:

(1) the part of U.S. Highway 290 from Interstate Highway 35 to State Highway 95;

(2) the part of State Highway 95 from U.S. Highway 290 to State Highway 71; and

(3) the part of State Highway 71 from State Highway 95 to Interstate Highway 35.

(b) The department shall design and construct memorial markers to be placed along the memorial highway indicating the highway number, the designation as the 10th Mountain Division Memorial Highway, and any other appropriate information.

(c) The department shall erect a memorial marker at each end of the memorial highway and at intermediate sites along the highway that the department determines are appropriate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 225.0274. 173D AIRBORNE BRIGADE MEMORIAL HIGHWAY. (a) State Highway 173 between its intersection with State Highway 16 near Kerrville and its intersection with State Highway 16 near Jourdanton is designated as the 173d Airborne Brigade Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the 173d Airborne Brigade Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the

highway and at appropriate intermediate sites along the highway.

Added by Acts 2003, 78th Leg., ch. 449, Sec. 1, eff. June 20, 2003.

Sec. 225.0275. 90TH INFANTRY DIVISION HIGHWAY. (a) The 90th Infantry Division Memorial Highway is the part of U.S. Highway 90 in Bexar County from Interstate Highway Loop 410 to Farm-to-Market Road 1518.

(b) The department shall design and construct memorial markers to be placed along the memorial highway indicating the highway number, the designation as the 90th Infantry Division Memorial Highway, and any other appropriate information.

(c) The department shall erect a memorial marker at each end of the memorial highway and at intermediate sites along the highway that the department determines are appropriate.

Added by Acts 2001, 77th Leg., ch. 1190, Sec. 1, eff. Sept. 1, 2001.

Sec. 225.0276. SECOND INDIAN HEAD DIVISION MEMORIAL HIGHWAY.

(a) Farm-to-Market Road 1535 between Fort Sam Houston and Camp Bullis is designated as the Second Indian Head Division Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Second Indian Head Division Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2003, 78th Leg., ch. 972, Sec. 1, eff. June 20, 2003.

Sec. 225.0277. 95TH DIVISION MEMORIAL HIGHWAY. (a) The portion of State Highway 71 between the eastern municipal boundary of Bastrop and its intersection with County Road 329 is designated as the 95th Division Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the highway number, the designation as the 95th Division Memorial Highway, and

any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2011, 82nd Leg., R.S., Ch. 406 (S.B. 743), Sec. 1, eff. September 1, 2011.

Sec. 225.028. PEARL HARBOR MEMORIAL HIGHWAY. (a) The part of U.S. Highway 290 between Johnson City and Interstate Highway 10 is the Pearl Harbor Memorial Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Pearl Harbor Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the memorial highway and at appropriate intermediate sites along the highway.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.16(a), eff. Sept. 1, 1997.

Sec. 225.0285. WORLD WAR II VETERANS MEMORIAL HIGHWAY. (a) The part of United States Highway 80 located in this state is designated as the World War II Veterans Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the World War II Veterans Memorial Highway, and any other appropriate information.

(c) Except as provided by Subsection (d), the department shall erect a marker at each end of the highway and at each county line crossed by the highway.

(d) The department is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 585 (H.B. 1645), Sec. 1, eff. September 1, 2005.

Sec. 225.0286. WORLD WAR II VETERANS 349TH REGT. 88TH INF. DIV. MEMORIAL HIGHWAY. (a) The portion of State Highway 83 in Hidalgo County between its intersection with North Inspiration Road and its intersection with South Stewart Road is designated as the World War II Veterans 349th Regt. 88th Inf. Div. Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the World War II Veterans 349th Regt. 88th Inf. Div. Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 637 (S.B. 1737), Sec. 1, eff. June 16, 2015.

Sec. 225.029. PRESIDENTIAL CORRIDOR. (a) In recognition of the connection between the Lyndon Baines Johnson Library in Austin and the George Herbert Walker Bush Library in College Station, the parts of U.S. Highway 290 from Interstate Highway 35 to State Highway 21 and State Highway 21 from U.S. Highway 290 to State Highway 6 are the Presidential Corridor. The designation is in addition to any other designation.

(b) The department shall design and construct markers indicating the highway number, the designation as the Presidential Corridor, and any other appropriate information.

(c) The department shall erect a marker at each end of the corridor and at appropriate intermediate sites along the corridor.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.16(a), eff. Sept. 1, 1997.

Sec. 225.030. HENRY G. "BUD" LEHMAN HIGHWAY. (a) The part of U.S. Highway 290 in Lee County is the Henry G. "Bud" Lehman Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Henry G. "Bud" Lehman Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.16(a), eff. Sept. 1, 1997.

Sec. 225.031. RAY C. STOKER, JR., HIGHWAY. (a) The parts of Farm-to-Market Road 503 from Valera to Farm-to-Market Road 1929 and Farm-to-Market Road 1929 from Farm-to-Market Road 503 to U.S. Highway 83 are the Ray C. Stoker, Jr., Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Ray C. Stoker, Jr., Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.16(a), eff. Sept. 1, 1997.

Sec. 225.032. S. M. WRIGHT FREEWAY. (a) In recognition of S. M. Wright's outstanding spiritual and civic contributions to the city of Dallas and the state, the parts of U.S. Highway 175 in Dallas County between Interstate Highway 45 and State Highway 310 and State Highway 310 between U.S. Highway 175 and State Loop 12 are the S. M. Wright Freeway. The designation is in addition to any other designation.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the S. M. Wright Freeway, and any other appropriate information.

(c) The department shall erect a marker at each end of the freeway and at appropriate intermediate sites along the freeway.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.16(a), eff. Sept. 1, 1997.

Sec. 225.033. PRESIDENT GEORGE BUSH HIGHWAY. (a) The part of U.S. Highway 190 in Dallas, Collin, and Denton counties is the President George Bush Highway. The designation is in addition to any other designation.

(b) The department shall design and construct markers indicating the highway number, the designation as the President

George Bush Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) If the Texas Turnpike Authority assumes jurisdiction over the highway, the authority has the powers and shall perform the duties of the department under this section and Section 225.021.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.16(a), eff. Sept. 1, 1997.

Sec. 225.0331. GEORGE W. BUSH EXPRESSWAY. (a) Notwithstanding Section 225.001(c), the portion of U.S. Highway 75 in Dallas County between its intersection with Knox Street/North Henderson Avenue and its intersection with Northwest Highway is designated as the George W. Bush Expressway. The designation is in addition to any other designation.

(b) Subject to Subsection (d), the department shall:

(1) design and construct markers indicating the designation as the George W. Bush Expressway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(c) The department shall accept a grant or donation made to assist in financing the construction and maintenance of a marker under this section.

(d) The department may not design, construct, or erect a marker under this section unless a grant or donation of funds is made to the department to cover the cost of the design, construction, and erection of the marker.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1088 (H.B. [3520](#)), Sec. 1, eff. September 1, 2013.

Sec. 225.034. TEXAS KOREAN WAR VETERANS MEMORIAL HIGHWAY. (a) State Highway 6 from the Red River in Hardeman County to its intersection with Interstate Highway 45 in Galveston County is designated as the Texas Korean War Veterans Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Texas Korean

War Veterans Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 1997, 75th Leg., ch. 32, Sec. 1, eff. May 5, 1997.

Sec. 225.0341. VETERANS OF THE KOREAN WAR MEMORIAL HIGHWAY.

(a) The following highways are collectively designated as the Veterans of the Korean War Memorial Highway:

(1) State Highway 359, between U.S. Highway 83 and State Highway 16;

(2) State Highway 16 between State Highway 359 and State Highway 285; and

(3) State Highway 285 between State Highway 16 and the eastern boundary of the city of Falfurrias.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct memorial markers indicating the highway number, the designation as the Veterans of the Korean War Memorial Highway, and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2011, 82nd Leg., R.S., Ch. 363 (S.B. 58), Sec. 1, eff. September 1, 2011.

Sec. 225.035. JOHN B. COLEMAN MEMORIAL HIGHWAY. (a) State Highway 35 in Harris County is designated as the John B. Coleman Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the John B. Coleman Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 1997, 75th Leg., ch. 547, Sec. 1, eff. Sept. 1, 1997.

Sec. 225.036. STEPHEN F. AUSTIN MEMORIAL HIGHWAY. (a) State Highway 35 in Matagorda and Brazoria counties is designated as the

Stephen F. Austin Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Stephen F. Austin Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 1997, 75th Leg., ch. 44, Sec. 1, eff. May 7, 1997.
Renumbered from Sec. 225.034 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(95), eff. Sept. 1, 1999.

Sec. 225.037. THE BISHOP ERNEST T. DIXON, JR., MEMORIAL PARKWAY. (a) United States Highway 87 from its intersection with Interstate Highway 410 in Bexar County to its intersection with Loop 1604 is designated as the Bishop Ernest T. Dixon, Jr., Memorial Parkway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Bishop Ernest T. Dixon, Jr., Memorial Parkway, and any other appropriate information.

(c) The department shall erect a memorial marker at each end of the parkway and at intermediate sites along the parkway that the department determines are appropriate.

Added by Acts 1997, 75th Leg., ch. 57, Sec. 1, eff. Sept. 1, 1997.
Renumbered from Sec. 225.034 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(96), eff. Sept. 1, 1999.

Sec. 225.038. PATRIOT PARKWAY. (a) To commemorate the achievements of veterans buried at the national cemetery in Dallas County, Spur 408 in Dallas County from Interstate Highway 20 to Loop 12 is designated as Patriot Parkway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as Patriot Parkway, and any other appropriate information.

(c) The department shall erect a memorial marker at each end of the memorial highway and at intermediate sites along the highway that the department determines are appropriate.

Added by Acts 1997, 75th Leg., ch. 190, Sec. 1, eff. May 21, 1997.
Renumbered from Sec. 225.034 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(97), eff. Sept. 1, 1999.

Sec. 225.039. CONGRESSMAN FRANK M. TEJEDA MEMORIAL HIGHWAY.

(a) United States Highway 281 from its intersection with Loop 410 in Bexar County to its intersection with the Atascosa-Bexar County Line is designated as the Congressman Frank M. Tejada Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Congressman Frank M. Tejada Memorial Highway, and any other appropriate information.

(c) The department shall erect a memorial marker at each end of the memorial highway and at intermediate sites along the highway that the department determines are appropriate.

Added by Acts 1997, 75th Leg., ch. 519, Sec. 1, eff. Sept. 1, 1997.
Renumbered from Sec. 225.034 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(98), eff. Sept. 1, 1999.

Sec. 225.0395. SENATOR JOHN TRAEGER MEMORIAL HIGHWAY. (a) State Highway 123 between Interstate Highway 10 and United States Highway 90A is designated as the Senator John Traeger Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Senator John Traeger Memorial Highway, and any other appropriate information.

(c) Except as provided by Subsection (d), the department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) The department is not required to design, construct, or erect a marker required by this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money collected under Section 225.021 for the purpose of implementing this section shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 525 (H.B. 874), Sec. 1, eff. June

17, 2005.

Sec. 225.040. LA ENTRADA AL PACIFICO CORRIDOR. (a) The following highways and any portion of a highway in a corridor on two miles of either side of the center line of the highway are designated as La Entrada al Pacifico Corridor:

(1) State Highway 349 from Lamesa to the point on that highway that is closest to 32 degrees, 7 minutes, north latitude, by 102 degrees, 6 minutes, west longitude;

(2) the segment or any roadway extending from the point described by Subdivision (1) to the point on Farm-to-Market Road 1788 closest to 32 degrees, 0 minutes, north latitude, by 102 degrees, 16 minutes, west longitude;

(3) Farm-to-Market Road 1788 from the point described by Subdivision (2) to its intersection with Interstate Highway 20;

(4) Interstate Highway 20 from its intersection with Farm-to-Market Road 1788 to its intersection with United States Highway 385;

(5) United States Highway 385 from Odessa to Fort Stockton, including those portions that parallel United States Highway 67 and Interstate Highway 10; and

(6) United States Highway 67 from Fort Stockton to Presidio, including those portions that parallel Interstate Highway 10 and United States Highway 90.

(b) The department shall design and construct commemorative markers to be placed along the corridor indicating the highway number, its designation as the future route of La Entrada al Pacifico Corridor, and any other appropriate information.

(c) The department shall erect a commemorative marker at each end of the memorial highway and at intermediate sites along the highway that the department determines are appropriate.

Added by Acts 1997, 75th Leg., ch. 595, Sec. 1, eff. June 9, 1997. Renumbered from Sec. 225.034 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(99), eff. Sept. 1, 1999. Renumbered from Sec. 225.034 and amended by Acts 1999, 76th Leg., ch. 594, Sec. 1, eff. Sept. 1, 1999.

Sec. 225.0401. EL CAMINO EAST/WEST CORRIDOR. (a) The parts of

State Highways 7, 21, and 103, United States Highway 290, and Interstate Highway 10 that create a route from the Pendleton Bridge in Sabine County to the El Paso-Hudspeth County line are designated as the El Camino East/West Corridor.

(b) The part of Interstate Highway 10 that follows the route of the El Camino Real de Tierra Adentro in El Paso County is designated as the El Camino Real de Tierra Adentro East/West Corridor.

(c) To the extent the El Camino East/West Commission reimburses the department for the department's costs, the department shall:

(1) design and construct markers in consultation with the El Camino East/West Commission to be placed along the corridor indicating the highway number, the appropriate designation, and any other appropriate information; and

(2) erect a marker at each end of the corridor and at appropriate intermediate sites along the corridor.

(d) Funds collected by the department under Subsection (c) shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 937 (H.B. 747), Sec. 1, eff. September 1, 2005.

Sec. 225.0402. PRESTON TRAIL HIGHWAY. (a) State Highway 289 is designated as the Preston Trail Highway.

(b) Subject to Section 225.021(c), the department shall design and construct markers indicating the highway number, the designation as the Preston Trail Highway, and any other appropriate information. The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2009, 81st Leg., R.S., Ch. 361 (H.B. 1272), Sec. 1, eff. June 19, 2009.

Sec. 225.041. FLOURNOY ROAD. (a) Farm-to-Market Road 1931 in Alice is designated as Flournoy Road.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as Flournoy Road, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 1999, 76th Leg., ch. 792, Sec. 1, eff. June 18, 1999.

Sec. 225.042. SAM WALDROP HIGHWAY INTERCHANGE. (a) The interchange of U.S. Highways 83 and 84 and Loop 322 in Abilene is designated as the Sam Waldrop Highway Interchange.

(b) The department shall design and construct memorial markers indicating the interchange number, the designation as the Sam Waldrop Interchange, and any other appropriate information.

(c) The department shall erect a marker at each end of the interchange and at appropriate intermediate sites along the interchange.

Added by Acts 1999, 76th Leg., ch. 1000, Sec. 1, eff. June 18, 1999. Renumbered from Sec. 225.041 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(103), eff. Sept. 1, 2001.

Sec. 225.043. CESAR CHAVEZ MEMORIAL HIGHWAY. (a) State Highway 44 in Nueces County and Jim Wells County outside the city limits of Corpus Christi and exclusive of the segments of State Highway 44 that lie within the city limits of Robstown, Banquete, Agua Dulce, and Alice is designated as the Cesar Chavez Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Cesar Chavez Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 1999, 76th Leg., ch. 1164, Sec. 1, eff. June 18, 1999. Renumbered from Sec. 225.041 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(104), eff. Sept. 1, 2001.

Text of section as added by Acts 2001, 77th Leg., ch. 163, Sec. 1

Sec. 225.044. ATLAS ICBM HIGHWAY. (a) Farm-to-Market Road 604 from State Highway 351 in Shackelford County to U.S. Highway 83 in Taylor County is designated as the Atlas ICBM Highway.

(b) The department shall design and construct markers

indicating the highway number, the designation as the Atlas ICBM Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2001, 77th Leg., ch. 163, Sec. 1, eff. May 18, 2001.

Sec. 225.045. SERGEANT JOE PARKS, JR. MEMORIAL HIGHWAY. Farm-to-Market Road 457, from mile marker #648 to #677, located in the County of Matagorda, is now named Sergeant Joe Parks, Jr. Memorial Highway.

Added by Acts 1999, 76th Leg., ch. 594, Sec. 2, eff. Sept. 1, 1999.

Sec. 225.046. TEXAS INDEPENDENCE HIGHWAY. (a) State Highway 225 between Loop 610 in Houston and State Highway 146 in La Porte is designated as the Texas Independence Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Texas Independence Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2001, 77th Leg., ch. 775, Sec. 1, eff. June 13, 2001.

Sec. 225.047. JUAN N. SEGUIN BOULEVARD. (a) Park Road 1836 between State Highway 134 and the San Jacinto Battleground is designated as the Juan N. Seguin Boulevard.

(b) The department shall design and construct memorial markers indicating the park road number, the designation as the Juan N. Seguin Boulevard, and any other appropriate information.

(c) The department shall erect a marker at each end of the boulevard and at appropriate intermediate sites along the boulevard.

Added by Acts 2001, 77th Leg., ch. 775, Sec. 1, eff. June 13, 2001.

Sec. 225.048. JUAN N. SEGUIN MEMORIAL INTERCHANGE. (a) The

interchange between State Highway 225 and Loop 610 in Houston is designated as the Juan N. Seguin Memorial Interchange.

(b) The department shall design and construct memorial markers indicating the interchange number, the designation as the Juan N. Seguin Memorial Interchange, and any other appropriate information.

(c) The department shall erect a marker at one or more sites on the interchange and approaching the interchange in each direction.

Added by Acts 2001, 77th Leg., ch. 775, Sec. 1, eff. June 13, 2001.

Sec. 225.049. PHANTOM WARRIORS HIGHWAY. (a) State Highway 195 from Interstate Highway 35 to the terminus of State Highway 195 in Killeen is designated as the Phantom Warriors Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Phantom Warriors Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at any appropriate intermediate sites along the highway.

(d) In this section, a reference to Interstate Highway 35 or to the terminus of State Highway 195 in Killeen means the interstate highway and terminus as they existed on January 1, 2003.

Added by Acts 2003, 78th Leg., ch. 807, Sec. 1, eff. Sept. 1, 2003.

Sec. 225.050. RALPH L. LOWE PARKWAY. (a) Farm-to-Market Road 528 in the city of Friendswood is designated as the Ralph L. Lowe Parkway.

(b) The department shall design and construct memorial markers indicating the designation as the Ralph L. Lowe Parkway and any other appropriate information.

(c) The department shall erect a marker at each end of the parkway and at appropriate intermediate sites along the parkway.

Added by Acts 2001, 77th Leg., ch. 1247, Sec. 1, eff. June 15, 2001. Renumbered from Transportation Code, Sec. 225.044 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(128), eff. Sept. 1, 2003.

Sec. 225.051. CESAR CHAVEZ BORDER HIGHWAY. (a) Loop 375

between Interstate Highway 10 and Santa Fe Street in El Paso County is designated as the Cesar Chavez Border Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Cesar Chavez Border Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2001, 77th Leg., ch. 517, Sec. 1, eff. June 11, 2001. Renumbered from Transportation Code, Sec. 225.046 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(129), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1160 (H.B. 53), Sec. 3, eff. June 15, 2007.

Sec. 225.052. BIG THICKET NATIONAL PRESERVE PARKWAY. (a) U.S. Highway 69 between Interstate Highway 10 in Beaumont and Loop 287 in Lufkin is designated as the Big Thicket National Preserve Parkway.

(b) The department shall design and construct markers indicating the designation as the Big Thicket National Preserve Parkway and any other appropriate information.

(c) The department shall erect a marker at each end of the parkway and at appropriate intermediate sites along the parkway.

Added by Acts 2001, 77th Leg., ch. 1098, Sec. 1, eff. June 15, 2001. Renumbered from Transportation Code, Sec. 225.046 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(130), eff. Sept. 1, 2003.

Sec. 225.053. CHARLES K. DEVALL MEMORIAL HIGHWAY. (a) The portion of United States Highway 259 Relief Route from 4/10 mile south of the northern Kilgore municipal boundary to 7/10 mile south of the southern Kilgore municipal boundary is designated as the Charles K. Devall Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Charles K. Devall Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) In this section, a reference to the Kilgore municipal

boundary means that boundary as it exists on January 1, 2001.

Added by Acts 2001, 77th Leg., ch. 1193, Sec. 1, eff. June 15, 2001.
Renumbered from Transportation Code, Sec. 225.046 by Acts 2003, 78th
Leg., ch. 1275, Sec. 2(131), eff. Sept. 1, 2003.

Sec. 225.054. TOM LANDRY HIGHWAY. (a) Interstate Highway 30 between Interstate 35E in Dallas and Interstate 35W in Fort Worth is designated as the Tom Landry Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Tom Landry Highway, and any other appropriate information. The department shall include a depiction of a fedora on each marker designed and constructed under this section.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2001, 77th Leg., ch. 206, Sec. 1, eff. May 21, 2001.
Renumbered from Transportation Code, Sec. 225.046 by Acts 2003, 78th
Leg., ch. 1275, Sec. 2(132), eff. Sept. 1, 2003.

Sec. 225.055. L. P. "PETE" GILVIN MEMORIAL HIGHWAY. (a) The portion of Business United States Highway 287 in the municipal boundaries of Amarillo is designated as the L. P. "Pete" Gilvin Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the L. P. "Pete" Gilvin Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) In this section, a reference to the municipal boundaries of Amarillo means those boundaries as they exist on May 1, 2001.

Added by Acts 2001, 77th Leg., ch. 1170, Sec. 1, eff. Sept. 1, 2001.
Renumbered from Transportation Code, Sec. 225.046 by Acts 2003, 78th
Leg., ch. 1275, Sec. 2(133), eff. Sept. 1, 2003.

Sec. 225.056. NASA PARKWAY. (a) The part of NASA Road 1 from

State Highway 146 to Interstate Highway 45 and the part of Farm-to-Market Road 528 from Interstate Highway 45 to State Highway 35 are designated the NASA Parkway.

(b) The department shall design and construct markers indicating the highway number, the designation as the NASA Parkway, and any other appropriate information.

(c) The department shall erect a marker at each end of the parkway and at appropriate intermediate sites along the parkway.

(d) This section does not affect the designation of part of Farm-to-Market Road 528 as the Ralph I. Lowe Parkway under this subchapter.

Added by Acts 2003, 78th Leg., ch. 45, Sec. 1, eff. Sept. 1, 2003. Renumbered from Transportation Code, Section 225.057 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(84), eff. September 1, 2005.

Sec. 225.057. QUEEN ISABELLA MEMORIAL BRIDGE. (a) The structure connecting State Highway 100 and Park Road 100 between the eastern municipal boundary of Port Isabel and the western boundary of Padre Island is designated as the Queen Isabella Memorial Bridge as a memorial to:

(1) the deceased: Julio Mireles, Robert Harris, Gaspar Saenz Hinojosa, Robin Leavell, Hector Martinez, Jr., Stvan Francisco Rivas, Barry Welch, and Chealsa Welch;

(2) the survivors: Bridgette Goza, Rene Mata, and Gustavo Morales, Jr.; and

(3) the heroes of that tragic event.

(b) The department shall design and construct memorial markers indicating the designation as the Queen Isabella Memorial Bridge and any other appropriate information.

(c) The department shall erect a marker at each end of the structure and at any appropriate intermediate sites along the structure.

(d) In this section, a reference to a Port Isabel municipal boundary means that boundary as it exists on January 1, 2003.

Added by Acts 2003, 78th Leg., ch. 798, Sec. 1, eff. June 20, 2003.

Sec. 225.058. CHISHOLM TRAIL PARKWAY. (a) State Highway 121 between Interstate Highway 30 in Tarrant County and United States Highway 67 in Johnson County is designated as the Chisholm Trail Parkway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Chisholm Trail Parkway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2003, 78th Leg., ch. 577, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 43 (H.B. 367), Sec. 1, eff. September 1, 2011.

Sec. 225.059. RONALD REAGAN MEMORIAL HIGHWAY. (a) Those portions of Interstate Highway 20 located between the Tarrant-Parker County Line and the eastern municipal boundary of Grand Prairie and between the Dallas-Kaufman County Line and the Texas-Louisiana border are designated as the Ronald Reagan Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Ronald Reagan Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) Notwithstanding Subsections (b) and (c), the department is required to design, construct, and erect the markers only to the extent that money is available for this purpose from a grant or donation of private funds.

(e) Funds collected under Section 225.021 for the purpose of implementing this section, shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 284 (H.B. 55), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 274 (H.B. 210), Sec. 1, eff. June 15, 2007.

Sec. 225.0591. RONALD REAGAN MEMORIAL HIGHWAY. (a) The part of U.S. Highway 290 in Harris County between the Harris County boundary with Waller County and Interstate Highway 610 is designated as the Ronald Reagan Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Ronald Reagan Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) The department is not required to design, construct, or erect a marker under this section unless the department receives a grant or donation to cover the cost of the design, construction, and erection.

(e) Funds collected under Section 225.021 for the purpose of implementing this section shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 286 (H.B. 540), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(68), eff. September 1, 2007.

Renumbered from Transportation Code, Section 225.059 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(94), eff. September 1, 2009.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(95), eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 419 (H.B. 3236), Sec. 1, eff. September 1, 2015.

Sec. 225.060. MARSHALL FORMBY MEMORIAL HIGHWAY. (a) Interstate Highway 27 between its intersection with United States Highway 84 in Lubbock and its intersection with Interstate Highway 40 in Amarillo is designated as the Marshall Formby Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Marshall Formby Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the

highway and at appropriate intermediate sites along the highway.

(d) Notwithstanding Subsections (b) and (c), the department is required to design, construct, and erect the markers only to the extent that money is available for this purpose from a grant or donation of private funds.

(e) Funds collected by the department under Section 225.021 for the purpose of implementing this section shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 851 (S.B. 921), Sec. 1, eff. September 1, 2005.

Renumbered from Transportation Code, Section 225.059 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(69), eff. September 1, 2007.

Sec. 225.061. SPEAKER JIMMY TURMAN ROAD. (a) Farm-to-Market Road 68 in Fannin County is designated as Speaker Jimmy Turman Road.

(b) The department shall design and construct markers indicating the road number, the designation as Speaker Jimmy Turman Road, and any other appropriate information.

(c) Except as provided by Subsection (d), the department shall erect a marker at each end of the road and at appropriate intermediate sites along the road.

(d) The department is not required to design, construct, or erect a marker required by this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 636 (H.B. 2647), Sec. 1, eff. June 17, 2005.

Sec. 225.062. AMERICAN LEGION MEMORIAL HIGHWAY. (a) U.S. Highway 281 is designated as the American Legion Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the American Legion Memorial Highway, and any other appropriate information. A marker erected under this section shall be of the same design as markers

previously erected designating U.S. Highway 281 as the American Legion Memorial Highway by order of the commission. The department may accept decals from the American Legion for the markers.

(c) Except as provided by Subsection (d), the department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) The department is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 1263 (H.B. 2071), Sec. 1, eff. September 1, 2005.

Renumbered from Transportation Code, Section 225.059 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(70), eff. September 1, 2007.

Sec. 225.063. STAFF SERGEANT HERBERT S. ROBERTSON, JR., MEMORIAL HIGHWAY. (a) Farm-to-Market Road 2065 from its intersection with State Highway 77 to its intersection with County Road 2466 is designated as the Staff Sergeant Herbert S. Robertson, Jr., Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Staff Sergeant Herbert S. Robertson, Jr., Memorial Highway, and any other appropriate information.

(c) Except as provided by Subsection (d), the department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) The department is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 1283 (H.B. 2422), Sec. 1, eff. September 1, 2005.

Renumbered from Transportation Code, Section 225.059 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(71), eff. September 1, 2007.

Sec. 225.064. MARGARET HUNT HILL BRIDGE. (a) The structure on Spur 366 located in the city of Dallas connecting the east and west levee of the Trinity River is designated as the Margaret Hunt Hill Bridge.

(b) The department shall design and construct markers indicating the highway number, the designation as the Margaret Hunt Hill Bridge, and any other appropriate information.

(c) Except as provided by Subsection (d), the department shall erect a marker at each end of the structure.

(d) The department is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 651 (H.B. 3041), Sec. 1, eff. September 1, 2005.

Renumbered from Transportation Code, Section 225.059 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(72), eff. September 1, 2007.

Sec. 225.065. RUSSELL H. PERRY MEMORIAL HIGHWAY. (a) Interstate Highway 345 located in Dallas between Interstate Highway 30 and Spur 366 is designated as the Russell H. Perry Memorial Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Russell H. Perry Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2007, 80th Leg., R.S., Ch. 1160 (H.B. 53), Sec. 4, eff. June 15, 2007.

Sec. 225.066. DR. MARTIN LUTHER KING, JR., FREEWAY. (a) The part of United States Highway 287 south of State Highway 180 to its intersection with Interstate Highway 820 in Tarrant County is designated as the Dr. Martin Luther King, Jr., Freeway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Dr. Martin Luther King, Jr., Freeway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) The department is not required to design, construct, or erect a marker under this section unless the department receives a grant or donation to cover the cost of the design, construction, and erection.

Added by Acts 2007, 80th Leg., R.S., Ch. 58 (H.B. 484), Sec. 1, eff. September 1, 2007.

Sec. 225.067. TOM RAMSAY HIGHWAY. (a) The portion of State Highway 37 located in Franklin County is designated as the Tom Ramsay Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Tom Ramsay Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2007, 80th Leg., R.S., Ch. 1160 (H.B. 53), Sec. 6, eff. June 15, 2007.

Sec. 225.068. JASON OLIFF MEMORIAL HIGHWAY. (a) The portion of Farm-to-Market Road 2004 located in Brazoria County is designated as the Jason Oliff Memorial Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Jason Oliff Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2007, 80th Leg., R.S., Ch. 1160 (H.B. 53), Sec. 7, eff.

June 15, 2007.

Sec. 225.069. PORTS-TO-PLAINS CORRIDOR. (a) The following highways are designated as the Ports-to-Plains Corridor:

(1) Interstate Highway 35 from the Mexican border at Laredo to its intersection with U.S. Highway 83;

(2) U.S. Highway 83 from its intersection with Interstate Highway 35 to its intersection with U.S. Highway 277 in Carrizo Springs;

(3) U.S. Highway 277 from its intersection with U.S. Highway 83 in Carrizo Springs to its intersection with U.S. Highway 87 in San Angelo;

(4) U.S. Highway 87 from its intersection with U.S. Highway 277 in San Angelo to Sterling City and on to Lamesa;

(5) State Highway 158 from its intersection with U.S. Highway 87 near Sterling City to its intersection with Interstate Highway 20 in Midland;

(6) Interstate Highway 20 from its intersection with State Highway 158 in Midland to its intersection with State Highway 349 in Midland;

(7) State Highway 349 from its intersection with Interstate Highway 20 in Midland to Lamesa;

(8) U.S. Highway 87 from Lamesa to its intersection with Interstate Highway 27 in Lubbock;

(9) Interstate Highway 27 from its intersection with U.S. Highway 87 in Lubbock to its intersection with U.S. Highway 287 in Amarillo; and

(10) U.S. Highway 287 from its intersection with Interstate Highway 27 in Amarillo to the Oklahoma state border.

(b) The department shall design and construct identifying markers indicating the highway number, the designation as the Ports-to-Plains Corridor, and any other appropriate information.

(c) Except as provided by Subsection (d), the department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) The department is not required to design, construct, or erect a marker required by this section unless a grant or donation is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money collected under Section 225.021 for the purpose of implementing this section shall be deposited to the credit of the state highway fund.

Added by Acts 2007, 80th Leg., R.S., Ch. 403 (S.B. 850), Sec. 1, eff. September 1, 2007.

Sec. 225.070. MARGARET MCDERMOTT BRIDGE. (a) The structure on Interstate 30 located in the city of Dallas connecting the east and west levee of the Trinity River is designated as the Margaret McDermott Bridge.

(b) The department shall design and construct markers indicating the highway number, the designation as the Margaret McDermott Bridge, and any other appropriate information.

(c) Except as provided by Subsection (d), the department shall erect a marker at each end of the structure.

(d) The department is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Added by Acts 2007, 80th Leg., R.S., Ch. 236 (H.B. 1947), Sec. 1, eff. September 1, 2007.

Sec. 225.071. SERGIO GONZALEZ, JR., AND ALFREDO GUTIERREZ, JR., M.D., LOOP. (a) Spur 239 in Val Verde County is designated as the Sergio Gonzalez, Jr., and Alfredo Gutierrez, Jr., M.D., Loop.

(b) The department shall design and construct markers to be placed along Loop 239 in Val Verde County indicating the highway number, the designation as the Sergio Gonzalez, Jr., and Alfredo Gutierrez, Jr., M.D., Loop, and any other appropriate information.

(c) The department shall erect a marker at each end of the loop and at intermediate sites along the loop that the department determines are appropriate.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 19.002(a), eff. Sept. 1, 2001.

Renumbered from Transportation Code, Section 225.044 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(92), eff. September 1, 2009.

Sec. 225.072. LOOP 79 IN VAL VERDE COUNTY. (a) In recognition of the cooperation between the department and Val Verde County, the designation of Loop 79 in Val Verde County shall be made by the Commissioners Court of Val Verde County.

(b) The department shall design and construct markers to be placed along Loop 79 in Val Verde County indicating the highway number, the designation of the loop, and any other appropriate information.

(c) The department shall erect a marker at each end of the loop and at intermediate sites along the loop that the department determines are appropriate.

Added by Acts 2009, 81st Leg., R.S., Ch. 1023 (H.B. 4311), Sec. 2, eff. June 19, 2009.

Sec. 225.073. PICKLE PARKWAY. (a) State Highway 130 between Interstate Highway 35 and State Highway 195 in Williamson County and Interstate Highway 10 in Guadalupe County is designated as the Pickle Parkway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Pickle Parkway, and any other appropriate information.

(c) The department shall erect a marker at each end of the turnpike and at appropriate intermediate sites along the turnpike.

(d) Notwithstanding Subsections (b) and (c), the department is not required to design, construct, or erect a marker under this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Added by Acts 2007, 80th Leg., R.S., Ch. 99 (H.B. 2296), Sec. 1, eff. May 15, 2007.

Renumbered from Transportation Code, Section 225.066 by Acts 2009,

81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(96), eff. September 1, 2009.

Sec. 225.074. VETERANS HIGHWAY. (a) Loop 534 between Interstate Highway 10 and State Highway 173 located in Kerrville is designated as the Veterans Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Veterans Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2007, 80th Leg., R.S., Ch. 1160 (H.B. 53), Sec. 5, eff. June 15, 2007.

Renumbered from Transportation Code, Section 225.066 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(97), eff. September 1, 2009.

Sec. 225.0741. VETERANS MEMORIAL HIGHWAY. (a) Spur 330 located in Harris County is designated as the Veterans Memorial Highway.

(b) The department shall design and construct memorial markers indicating the highway number, the designation as the Veterans Memorial Highway, and any other appropriate information.

(c) Except as provided by Subsection (d), the department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(d) The department is not required to design, construct, or erect a marker under this section unless a grant or donation of public funds, private funds, or both is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

Added by Acts 2005, 79th Leg., Ch. 546 (H.B. 1136), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 989 (H.B. 3844), Sec. 1, eff.

June 19, 2009.

Redesignated from Transportation Code, Section 225.059 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(59), eff. September 2, 2011.

Sec. 225.075. HONORABLE STILLMAN DUDLEY HARRISON HIGHWAY. The Texas Department of Transportation shall designate U.S. Highway 90, from the Blue Star rest area southeast of Sanderson to the Val Verde County line, as the Honorable Stillman Dudley Harrison Highway.

Added by Acts 2007, 80th Leg., R.S., Ch. 1160 (H.B. 53), Sec. 8, eff. June 15, 2007.

Renumbered from Transportation Code, Section 225.069 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(98), eff. September 1, 2009.

Sec. 225.076. DR. HECTOR P. GARCIA MEMORIAL HIGHWAY. (a) The portion of State Highway 286 between State Highway 357 and Interstate Highway 37 in Corpus Christi is designated as Dr. Hector P. Garcia Memorial Highway.

(b) The department shall design and construct markers indicating the highway number, the designation as the Dr. Hector P. Garcia Memorial Highway, and any other appropriate information.

(c) The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2007, 80th Leg., R.S., Ch. 1160 (H.B. 53), Sec. 9, eff. June 15, 2007.

Renumbered from Transportation Code, Section 225.070 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(99), eff. September 1, 2009.

Sec. 225.077. BILL SUMMERS INTERNATIONAL BOULEVARD. (a) Farm-to-Market Road 1015 between U.S. Highway 83 and the Progreso International Bridge is designated as the Bill Summers International Boulevard.

(b) Subject to Section 225.021(c), the department shall design and construct memorial markers indicating the highway number, the

designation as the Bill Summers International Boulevard, and any other appropriate information.

(c) The department shall erect a marker at each end of the boulevard and at appropriate intermediate sites along the boulevard.

(d) The requirement that a recognized individual be deceased under Section 225.001(c) does not apply to this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 563 (S.B. 1997), Sec. 2, eff. June 19, 2009.

Sec. 225.078. ARMY SPECIALIST WILLIAM JUSTIN BYLER MEMORIAL HIGHWAY. (a) State Highway 158 in Runnels County, between Farm Road 2887 and Ranch Road 2111, is designated as the Army Specialist William Justin Byler Memorial Highway.

(b) Subject to Section 225.021(c), the department shall design and construct memorial markers indicating the highway number, the designation as the Army Specialist William Justin Byler Memorial Highway, and any other appropriate information. The department shall erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2009, 81st Leg., R.S., Ch. 305 (H.B. 471), Sec. 1, eff. September 1, 2009.

Sec. 225.079. MARTIN LUTHER KING, JR., FREEWAY IN HUNT COUNTY. (a) The part of Interstate Highway 30 in the corporate limits of the city of Greenville is designated as the Martin Luther King, Jr., Freeway.

(b) Subject to Section 225.021(c), the department shall design and construct memorial markers indicating the freeway number, the designation as the Martin Luther King, Jr., Freeway, and any other appropriate information. The department shall erect a marker at each end of the freeway and at appropriate intermediate sites along the freeway.

Added by Acts 2009, 81st Leg., R.S., Ch. 204 (S.B. 337), Sec. 1, eff. September 1, 2009.

Sec. 225.080. TROOPER TODD DYLAN HOLMES MEMORIAL OVERPASS. (a) The structure on U.S. Highway 259 that passes over State Highway 155 in Upshur County is designated as the Trooper Todd Dylan Holmes Memorial Overpass.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the highway number, the designation as the Trooper Todd Dylan Holmes Memorial Overpass, and any other appropriate information; and

(2) erect a marker:

(A) at each end of the structure and at appropriate intermediate sites along the structure, including a site that is visible to a vehicle traveling on State Highway 155 as the vehicle travels under the structure; and

(B) on each side of State Highway 155 at a site that is visible to approaching vehicles.

Added by Acts 2009, 81st Leg., R.S., Ch. 437 (H.B. 2201), Sec. 1, eff. June 19, 2009.

Sec. 225.081. TROOPER SCOTT BURNS MEMORIAL HIGHWAY. (a) U.S. Highway 59 between the northern corporate limits of the City of Jefferson and the southern corporate limits of the City of Linden is designated as the Trooper Scott Burns Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the highway number, the designation as the Trooper Scott Burns Memorial Highway, and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2009, 81st Leg., R.S., Ch. 986 (H.B. 3800), Sec. 1, eff. September 1, 2009.

Text of section as added by Acts 2011, 82nd Leg., R.S., Ch. 42 (H.B. 314), Sec. 1

For text of section as added by Acts 2011, 82nd Leg., R.S., Ch. 45 (H.B. 1409), Sec. 1, see other Sec. 225.082.

Sec. 225.082. CORPORAL DAVID SLATON MEMORIAL HIGHWAY. (a) The

portion of U.S. Highway 81 from the Texas-Oklahoma border to the northern municipal boundary of Bowie is designated as the Corporal David Slaton Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the highway number, the designation as the Corporal David Slaton Memorial Highway, and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(c) In this section, a reference to the municipal boundary of Bowie means that boundary as it exists on September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 42 (H.B. 314), Sec. 1, eff. May 12, 2011.

Text of section as added by Acts 2011, 82nd Leg., R.S., Ch. 45 (H.B. 1409), Sec. 1

For text of section as added by Acts 2011, 82nd Leg., R.S., Ch. 42 (H.B. 314), Sec. 1, see other Sec. 225.082.

Sec. 225.082. VETERANS MEMORIAL PARKWAY. (a) State Highway 243 in Van Zandt County, between State Highway 198 and State Highway 64, is designated as the Veterans Memorial Parkway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct memorial markers indicating the highway number, the designation as the Veterans Memorial Parkway, and any other appropriate information; and

(2) erect a marker at each end of the parkway and at appropriate intermediate sites along the parkway.

Added by Acts 2011, 82nd Leg., R.S., Ch. 45 (H.B. 1409), Sec. 1, eff. September 1, 2011.

Sec. 225.083. TROOPER KURT DAVID KNAPP MEMORIAL HIGHWAY. (a) The portion of Interstate Highway 10 in Kendall County beginning with mile marker 522 and ending at mile marker 535 is designated as the Trooper Kurt David Knapp Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the highway

number, the designation as the Trooper Kurt David Knapp Memorial Highway, and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2011, 82nd Leg., R.S., Ch. 476 (H.B. 591), Sec. 1, eff. June 17, 2011.

Sec. 225.084. COLONEL BILL CARD BOULEVARD. (a) The portion of State Highway 499 from U.S. Highway 77 to County Road 106 is designated as the Colonel Bill Card Boulevard.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the highway number, the designation as the Colonel Bill Card Boulevard, and any other appropriate information; and

(2) erect a marker at each end of the boulevard and at appropriate intermediate sites along the boulevard.

Added by Acts 2011, 82nd Leg., R.S., Ch. 440 (S.B. 1248), Sec. 1, eff. June 17, 2011.

Sec. 225.085. CHIEF PETTY OFFICER (SOC) STEPHEN "MATT" MILLS BRIDGE. (a) The structure on Loop 150 located in the city of Bastrop connecting the east and west banks of the Colorado River is designated as the Chief Petty Officer (SOC) Stephen "Matt" Mills Bridge.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Chief Petty Officer (SOC) Stephen "Matt" Mills Bridge and any other appropriate information; and

(2) erect a marker at each end of the structure.

Added by Acts 2013, 83rd Leg., R.S., Ch. 381 (H.B. 3568), Sec. 1, eff. September 1, 2013.

Sec. 225.086. BLUE STAR MEMORIAL HIGHWAY. (a) U.S. Highway 80 in the town of Sunnyvale is designated as a Blue Star Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as a Blue Star Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2011, 82nd Leg., R.S., Ch. 830 (H.B. 3208), Sec. 1, eff. September 1, 2011.

Redesignated from Transportation Code, Section 225.082 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(46), eff. September 1, 2013.

Sec. 225.087. RUDY VILLARREAL ROAD. (a) The portion of Farm-to-Market Road 907 between U.S. Highway 281 and Owassa Road in Hidalgo County is designated as Rudy Villarreal Road.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the highway number, the designation as Rudy Villarreal Road, and any other appropriate information; and

(2) erect a marker at each end of the road and at appropriate intermediate sites along the road.

(c) The requirement that a recognized individual be deceased under Section 225.001 does not apply to this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1314 (H.B. 3841), Sec. 1, eff. June 17, 2011.

Redesignated from Transportation Code, Section 225.082 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(47), eff. September 1, 2013.

Sec. 225.088. IRVING DIAMOND INTERCHANGE. (a) The interchange in Irving between State Highway 183, State Highway 114, Loop 12/Interstate Highway 35E, Spur 482 and Trinity Parkway, and the Orange Line of the Dallas Area Rapid Transit Authority is designated as the Irving Diamond Interchange.

(b) The department shall design and construct markers indicating the interchange number, the designation as the Irving Diamond Interchange, and any other appropriate information.

(c) The department shall erect a marker at one or more sites on the interchange and approaching the interchange in each direction.

Added by Acts 2011, 82nd Leg., R.S., Ch. 652 (S.B. 1100), Sec. 1, eff. September 1, 2011.

Redesignated from Transportation Code, Section 225.083 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(48), eff. September 1, 2013.

Sec. 225.089. CPL. JASON K. LAFLEUR MEMORIAL HIGHWAY. (a) The portion of U.S. Highway 183 from State Highway 71 to the southern municipal boundary of Lockhart is designated as the Cpl. Jason K. LaFleur Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the highway number, the designation as the Cpl. Jason K. LaFleur Memorial Highway, and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

(c) In this section, a reference to the municipal boundary of Lockhart means that boundary as it exists on September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 859 (H.B. 3837), Sec. 1, eff. June 17, 2011.

Redesignated from Transportation Code, Section 225.084 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(49), eff. September 1, 2013.

Sec. 225.090. SERGEANT JAY M. HOSKINS MEMORIAL HIGHWAY. (a) The portion of U.S. Highway 271 from Loop 286 north to the Texas-Oklahoma border is designated as the Sergeant Jay M. Hoskins Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the highway number, the designation as the Sergeant Jay M. Hoskins Memorial Highway, and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1117 (S.B. 1925), Sec. 1, eff. June 17, 2011.

Redesignated from Transportation Code, Section 225.084 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(50), eff. September 1, 2013.

Sec. 225.091. SAM JOHNSON HIGHWAY. (a) Notwithstanding Section 225.001(c), the portion of U.S. Highway 75 in Collin County between its intersection with the President George Bush Highway and its intersection with U.S. Highway 380 is designated as the Sam Johnson Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

- (1) design and construct markers indicating the designation as the Sam Johnson Highway and any other appropriate information; and
- (2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2013, 83rd Leg., R.S., Ch. 929 (H.B. 1534), Sec. 1, eff. September 1, 2013.

Sec. 225.092. LT. GENERAL MARC CISNEROS HIGHWAY. (a) Notwithstanding Section 225.001(c), the portion of U.S. Highway 281 in Jim Wells County between its intersection with Farm-to-Market Road 716 and its intersection with County Road 422 is designated as the Lt. General Marc Cisneros Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

- (1) design and construct markers indicating the designation as the Lt. General Marc Cisneros Highway and any other appropriate information; and
- (2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2013, 83rd Leg., R.S., Ch. 929 (H.B. 1534), Sec. 1, eff. September 1, 2013.

Sec. 225.093. SERGEANT TRAVIS E. WATKINS MEMORIAL HIGHWAY. (a) The portion of U.S. Highway 80 from U.S. Highway 271 in Gregg County

to the eastern municipal boundary of Big Sandy in Upshur County is designated as the Sergeant Travis E. Watkins Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Sergeant Travis E. Watkins Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2013, 83rd Leg., R.S., Ch. 14 (S.B. 139), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 225.091 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(48), eff. September 1, 2015.

Sec. 225.094. OFFICER ANGEL DAVID GARCIA MEMORIAL INTERCHANGE.

(a) The interchange in El Paso between Interstate Highway 10 and Joe Battle Boulevard is designated as the Officer Angel David Garcia Memorial Interchange.

(b) The department shall design and construct markers indicating the designation as the Officer Angel David Garcia Memorial Interchange and any other appropriate information.

(c) The department shall erect a marker at one or more sites on the interchange and approaching the interchange in each direction.

Added by Acts 2013, 83rd Leg., R.S., Ch. 725 (H.B. 3946), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 225.091 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(49), eff. September 1, 2015.

Sec. 225.095. VETERANS MEMORIAL HIGHWAY IN KAUFMAN COUNTY. (a) The portion of U.S. Highway 175 in Kaufman County is designated as the Veterans Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Veterans Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2013, 83rd Leg., R.S., Ch. 922 (H.B. 1458), Sec. 1, eff. June 14, 2013.

Sec. 225.096. TROOPER BOBBY STEVE BOOTH MEMORIAL HIGHWAY. (a) The portion of U.S. Highway 287 between the northern corporate limits of the City of Stratford and the Texas-Oklahoma border is designated as the Trooper Bobby Steve Booth Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Trooper Bobby Steve Booth Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2013, 83rd Leg., R.S., Ch. 177 (H.B. 1238), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 225.091 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(50), eff. September 1, 2015.

Sec. 225.097. ARMY STAFF SERGEANT CHAUNCY MAYS MEMORIAL HIGHWAY. (a) Notwithstanding Section 225.001(c), the portion of Farm-to-Market Road 2348 in Titus County between its intersection with U.S. Highway 67 and its intersection with State Highway 49 is designated as the Army Staff Sergeant Chauncy Mays Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Army Staff Sergeant Chauncy Mays Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2013, 83rd Leg., R.S., Ch. 281 (H.B. 938), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 225.091 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(51), eff. September 1, 2015.

Sec. 225.098. TROOPER EDUARDO CHAVEZ MEMORIAL HIGHWAY. (a) The portion of U.S. Highway 83 in Starr County from the eastern boundary of Starr County to Farm-to-Market Road 2360 or the most appropriate point west of Farm-to-Market Road 2360, as determined by the department, shall serve as a memorial to Trooper Eduardo Chavez.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating that the portion of U.S. Highway 83 described in Subsection (a) is a memorial to Trooper Eduardo Chavez, and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2013, 83rd Leg., R.S., Ch. 248 (H.B. 442), Sec. 1, eff. June 14, 2013.

Redesignated from Transportation Code, Section 225.091 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(52), eff. September 1, 2015.

Sec. 225.099. TROOPER RANDY VETTER MEMORIAL HIGHWAY. (a) The portion of Interstate Highway 35 between River Ridge Parkway and Farm-to-Market Road 150 in Hays County is designated as the Trooper Randy Vetter Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Trooper Randy Vetter Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2013, 83rd Leg., R.S., Ch. 233 (H.B. 250), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 225.091 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(53), eff. September 1, 2015.

Sec. 225.100. PEACE OFFICERS MEMORIAL HIGHWAY. (a) The portion of State Highway 358 from Interstate Highway 37 to State Highway 286 in Nueces County is designated as the Peace Officers Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Peace Officers Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1110 (H.B. 3831), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 225.092 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(54), eff. September 1, 2015.

Sec. 225.101. SAM RAYBURN PARKWAY. (a) The portion of Recreational Road 255 between State Highway 63 and U.S. Highway 96 in Jasper County is designated as Sam Rayburn Parkway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as Sam Rayburn Parkway and any other appropriate information; and

(2) erect a marker at each end of the road and at appropriate intermediate sites along the road.

Added by Acts 2013, 83rd Leg., R.S., Ch. 999 (H.B. 2356), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 225.092 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(55), eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 647 (S.B. 2055), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 16 (S.B. 489), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 276 (H.B. 598), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 316 (H.B. 1187), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 714 (H.B. 1237), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1233 (S.B. 2041), Sec. 1, see other Sec. 225.102.

Sec. 225.102. CAPTAIN JESSE BILLINGSLEY MEMORIAL LOOP IN BASTROP COUNTY. (a) State Highway Loop 223 in McDade, Bastrop County, is designated as the Captain Jesse Billingsley Memorial Loop.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Captain Jesse Billingsley Memorial Loop and any other appropriate information; and

(2) erect a marker at each end of the loop and at appropriate intermediate sites along the loop.

Added by Acts 2015, 84th Leg., R.S., Ch. 647 (S.B. 2055), Sec. 1, eff. June 16, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 16 (S.B. 489), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 276 (H.B. 598), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 316 (H.B. 1187), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 647 (S.B. 2055), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 714 (H.B. 1237), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1233 (S.B. 2041), Sec. 1, see other Sec. 225.102.

Sec. 225.102. WILLIAM B. CROOKER MEMORIAL HIGHWAY. (a) Notwithstanding Section 225.001(c), the portion of U.S. Highway 87 under construction as of September 1, 2015, as a relief route around

Big Spring, between Interstate Highway 20 and Ranch Road 33, in Howard County is designated as the William B. Crooker Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the William B. Crooker Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 16 (S.B. 489), Sec. 1, eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 276 (H.B. 598), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 16 (S.B. 489), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 316 (H.B. 1187), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 647 (S.B. 2055), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 714 (H.B. 1237), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1233 (S.B. 2041), Sec. 1, see other Sec. 225.102.

Sec. 225.102. BOB LUMAN MEMORIAL HIGHWAY. (a) The portion of State Highway 21 in Nacogdoches County between its intersection with County Road 511 and its intersection with Farm-to-Market Road 95 is designated as the Bob Luman Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Bob Luman Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 276 (H.B. 598), Sec. 1, eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 316 (H.B. 1187), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 16 (S.B. 489), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 276 (H.B. 598), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 647 (S.B. 2055), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 714 (H.B. 1237), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1233 (S.B. 2041), Sec. 1, see other Sec. 225.102.

Sec. 225.102. CHRIS KYLE MEMORIAL HIGHWAY. (a) The portion of U.S. Highway 287 in Midlothian between its intersection with Rex Odom Drive and its intersection with Kimble Road is designated as the Chris Kyle Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Chris Kyle Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 316 (H.B. 1187), Sec. 1, eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 714 (H.B. 1237), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 16 (S.B. 489), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 276

(H.B. 598), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 316 (H.B. 1187), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 647 (S.B. 2055), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1233 (S.B. 2041), Sec. 1, see other Sec. 225.102.

Sec. 225.102. LIEUTENANT CLAY CRABB MEMORIAL HIGHWAY. (a) The portion of U.S. Highway 290 between its intersection with Circle Drive in Travis County and its intersection with Hays Country Acres Road in Hays County is designated as the Lieutenant Clay Crabb Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Lieutenant Clay Crabb Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 714 (H.B. 1237), Sec. 1, eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1233 (S.B. 2041), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 16 (S.B. 489), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 276 (H.B. 598), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 316 (H.B. 1187), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 647 (S.B. 2055), Sec. 1, see other Sec. 225.102.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 714 (H.B. 1237), Sec. 1, see other Sec. 225.102.

Sec. 225.102. SERGEANT MICHAEL NAYLOR MEMORIAL HIGHWAY. (a)

The portion of State Highway 191 in Midland County is designated as the Sergeant Michael Naylor Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Sergeant Michael Naylor Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 1233 (S.B. 2041), Sec. 1, eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 9 (S.B. 45), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 296 (H.B. 2181), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 349 (H.B. 1044), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 458 (H.B. 481), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1233 (S.B. 2041), Sec. 1, see other Sec. 225.103.

Sec. 225.103. TROOPER TERRY WAYNE MILLER MEMORIAL HIGHWAY. (a) The portion of Interstate Highway 37 in Atascosa County between mile marker 102 and mile marker 115 is designated as the Trooper Terry Wayne Miller Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the highway number, the designation as the Trooper Terry Wayne Miller Memorial Highway, and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 9 (S.B. 45), Sec. 1, eff. May 15, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 296 (H.B. 2181), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 9 (S.B. 45), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 349 (H.B. 1044), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 458 (H.B. 481), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1233 (S.B. 2041), Sec. 1, see other Sec. 225.103.

Sec. 225.103. GEORGE AND CYNTHIA MITCHELL MEMORIAL CAUSEWAY.

(a) The structure on Interstate Highway 45 that connects Galveston Island to the Texas mainland and is commonly known as the Galveston Causeway is designated as the George and Cynthia Mitchell Memorial Causeway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the George and Cynthia Mitchell Memorial Causeway and any other appropriate information; and

(2) erect a marker at each end of the causeway.

Added by Acts 2015, 84th Leg., R.S., Ch. 296 (H.B. 2181), Sec. 1, eff. June 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 349 (H.B. 1044), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 9 (S.B. 45), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 296 (H.B. 2181), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 458 (H.B. 481), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1233 (S.B. 2041), Sec. 1, see other Sec. 225.103.

Sec. 225.103. U.S. ARMY SERGEANT ENRIQUE MONDRAGON MEMORIAL HIGHWAY. (a) The portion of Farm-to-Market Road 423 in Denton County

between its intersection with U.S. Highway 380 and State Highway 121 is designated as the U.S. Army Sergeant Enrique Mondragon Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the U.S. Army Sergeant Enrique Mondragon Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 349 (H.B. 1044), Sec. 1, eff. June 9, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 458 (H.B. 481), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 9 (S.B. 45), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 296 (H.B. 2181), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 349 (H.B. 1044), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1233 (S.B. 2041), Sec. 1, see other Sec. 225.103.

Sec. 225.103. MASTER SERGEANT MIKE C. PEÑA MEMORIAL HIGHWAY.

(a) The portion of Farm-to-Market Road 1301 in Wharton County between its intersection with the Matagorda County line and Richmond Road is designated as the Master Sergeant Mike C. Peña Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Master Sergeant Mike C. Peña Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 458 (H.B. 481), Sec. 1, eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1233
(S.B. 2041), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 9
(S.B. 45), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 296
(H.B. 2181), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 349
(H.B. 1044), Sec. 1, see other Sec. 225.103.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 458
(H.B. 481), Sec. 1, see other Sec. 225.103.

Sec. 225.103. CONGRESSMAN RALPH HALL HIGHWAY. (a)

Notwithstanding Section 225.001(c), the portion of Interstate Highway 30 in Rockwall County is designated as the Congressman Ralph Hall Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Congressman Ralph Hall Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 1233 (S.B. 2041), Sec. 1, eff. September 1, 2015.

Sec. 225.104. DEPUTY JESSICA HOLLIS MEMORIAL HIGHWAY. (a) The portion of Farm-to-Market Road 685 in Travis County that runs south from State Highway 130 to East Pecan Street is designated as Deputy Jessica Hollis Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Deputy Jessica Hollis Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 15 (S.B. 415), Sec. 1, eff. May 15, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 13 (S.B. 227), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 271 (H.B. 219), Sec. 1, see other Sec. 225.105.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1220 (S.B. 1831), Sec. 1, see other Sec. 225.105.

Sec. 225.105. GAME WARDEN JAMES E. DAUGHTREY MEMORIAL HIGHWAY.

(a) The portion of Farm-to-Market Road 624 in McMullen County between its intersection with the La Salle-McMullen County line and State Highway 16 is designated as the Game Warden James E. Daughtrey Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Game Warden James E. Daughtrey Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 13 (S.B. 227), Sec. 1, eff. May 15, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1220 (S.B. 1831), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 13 (S.B. 227), Sec. 1, see other Sec. 225.105.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 271 (H.B. 219), Sec. 1, see other Sec. 225.105.

Sec. 225.105. SPECIALIST DANE BALCON MEMORIAL BRIDGE. (a) The State Highway 151 bridge at Westover Hills in Bexar County is designated as the Specialist Dane Balcon Memorial Bridge.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Specialist Dane Balcon Memorial Bridge and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 1220 (S.B. 1831), Sec. 1, eff. June 19, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 271 (H.B. 219), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 13 (S.B. 227), Sec. 1, see other Sec. 225.105.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1220 (S.B. 1831), Sec. 1, see other Sec. 225.105.

Sec. 225.105. GAME WARDEN WESLEY W. WAGSTAFF MEMORIAL HIGHWAY.

(a) Farm-to-Market Road 1293 in Hardin County is designated as the Game Warden Wesley W. Wagstaff Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Game Warden Wesley W. Wagstaff Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 271 (H.B. 219), Sec. 1, eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 35 (S.B. 288), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 506 (H.B. 663), Sec. 1, see other Sec. 225.106.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 566 (H.B. 2540), Sec. 1, see other Sec. 225.106.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 768 (H.B. 2265), Sec. 1, see other Sec. 225.106.

Sec. 225.106. TEXAS GAME WARDEN JOSEPH MARSHALL EVANS MEMORIAL HIGHWAY. (a) The portion of State Highway 16 in Young County from the Palo Pinto County line northwest to the municipal limits of Graham is designated as the Texas Game Warden Joseph Marshall Evans Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the highway number, the designation as the Texas Game Warden Joseph Marshall Evans Memorial Highway, and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 35 (S.B. 288), Sec. 1, eff. May 19, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 506 (H.B. 663), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 35 (S.B. 288), Sec. 1, see other Sec. 225.106.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 566 (H.B. 2540), Sec. 1, see other Sec. 225.106.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 768 (H.B. 2265), Sec. 1, see other Sec. 225.106.

Sec. 225.106. WILLIAM HAMBLEN MEMORIAL HIGHWAY. (a) The portion of State Highway 207 in Armstrong County between its intersection with Farm-to-Market Road 2272 and Farm-to-Market Road 285 is designated as the William Hamblen Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the William Hamblen Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 506 (H.B. 663), Sec. 1, eff. June 16, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 566 (H.B. 2540), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 35 (S.B. 288), Sec. 1, see other Sec. 225.106.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 506 (H.B. 663), Sec. 1, see other Sec. 225.106.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 768 (H.B. 2265), Sec. 1, see other Sec. 225.106.

Sec. 225.106. TEXAS RANGER GLENN ELLIOTT MEMORIAL HIGHWAY. (a) Spur 63 in Gregg County between its intersection with U.S. Highway 80 and Spur 502 is designated as the Texas Ranger Glenn Elliott Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Texas Ranger Glenn Elliott Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 566 (H.B. 2540), Sec. 1, eff. June 16, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 768 (H.B. 2265), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 35 (S.B. 288), Sec. 1, see other Sec. 225.106.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 506 (H.B. 663), Sec. 1, see other Sec. 225.106.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 566 (H.B. 2540), Sec. 1, see other Sec. 225.106.

Sec. 225.106. SGT. TANNER STONE HIGGINS MEMORIAL HIGHWAY. (a) The portion of State Highway 154 from the municipal limits of Yantis in Wood County north to the municipal limits of Sulphur Springs in Hopkins County is designated as the Sgt. Tanner Stone Higgins Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Sgt. Tanner Stone Higgins Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 768 (H.B. 2265), Sec. 1, eff. June 17, 2015.

Sec. 225.107. TEXAS GAME WARDEN MICHAEL C. PAULING MEMORIAL HIGHWAY. (a) The portion of State Highway 87 from the bridge over the intercoastal canal in Port Arthur to its intersection with Farm-to-Market Road 3322 in Sabine Pass is designated as the Texas Game Warden Michael C. Pauling Memorial Highway.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Texas Game Warden Michael C. Pauling Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 293 (H.B. 1963), Sec. 1, eff. June 1, 2015.

Sec. 225.109. DEPUTY SERGEANT LANCE MCLEAN MEMORIAL HIGHWAY.

(a) The portion of Loop 567 in Granbury between its intersection with U.S. Highway 377 and its intersection with Business Highway 377 is designated as the Deputy Sergeant Lance McLean Memorial Highway. The designation is in addition to any other designation.

(b) Subject to Section 225.021(c), the department shall:

(1) design and construct markers indicating the designation as the Deputy Sergeant Lance McLean Memorial Highway and any other appropriate information; and

(2) erect a marker at each end of the highway and at appropriate intermediate sites along the highway.

Added by Acts 2015, 84th Leg., R.S., Ch. 193 (S.B. 671), Sec. 1, eff. September 1, 2015.

CHAPTER 226. EMERGENCY HIGHWAY CALL BOX SYSTEM

Sec. 226.001. DEFINITION. In this chapter, "emergency response services" means:

(1) fire-fighting, law enforcement, or emergency medical services that are provided by a public agency; or

(2) motorist assistance services.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.42, eff. Sept. 1, 1997.

Sec. 226.002. APPLICABILITY; LIMITATION ON EXPENDITURES. This chapter does not:

(1) apply to a segment of a highway that the commission has designated as a farm-to-market or ranch-to-market road; or

(2) authorize the department to make an expenditure of money for the implementation, operation, or maintenance of the emergency telephone call box system out of the state highway fund.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.42, eff. Sept. 1, 1997.

Sec. 226.003. INSTALLATION, OPERATION, AND MAINTENANCE OF CALL BOX SYSTEM. (a) The department may provide for the installment, operation, and maintenance of a system of emergency telephone call boxes along those highways in this state that are part of the designated state highway system.

(b) The system may:

(1) be designed to enable users of those highways to request emergency and nonemergency response services;

(2) include:

(A) wired or wireless telecommunications services; and

(B) one or more motorist assistance answering centers;

and

(3) be capable of performing compatible Intelligent Transportation System (ITS) functions.

(c) To minimize call processing loads in public safety answering points established under Chapter 771 or 772, Health and Safety Code, the department may contract with a private entity to perform the functions of a motorist assistance answering center under Subsection (b)(2)(B).

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.42, eff. Sept. 1, 1997.

Sec. 226.004. FUNDING. The department may implement a call box system under this chapter if a public or private entity provides all direct and indirect costs necessary for the installment, operation, and maintenance of the system.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.42, eff. Sept. 1, 1997.

Sec. 226.005. LOCATION OF AND DISTANCE BETWEEN CALL BOXES. The location of the emergency call boxes shall be determined by the department in accordance with the design specifications of the system.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.42, eff. Sept. 1, 1997.

Sec. 226.006. CONTRACTS FOR IMPLEMENTATION AND INSTALLATION.

(a) The department may award a contract for the installation, maintenance, or operation of a call box system in the manner provided by Chapter 223.

(b) The department may solicit proposals for and enter into one or more lease-purchase agreements under this chapter.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.42, eff. Sept. 1, 1997.

Sec. 226.007. INTERGOVERNMENTAL COOPERATION. The Advisory Commission on State Emergency Communications, agencies of this state, and each county and municipality in this state shall cooperate in the design, establishment, operation, and maintenance of the emergency telephone call box system.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.42, eff. Sept. 1, 1997.

CHAPTER 228. STATE HIGHWAY TOLL PROJECTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 228.001. DEFINITIONS. In this chapter:

(1) "Air quality project" means a project or program of the department or another governmental entity that the commission determines will mitigate or prevent air pollution caused by the construction, maintenance, or use of public roads.

(2) "Bond" means bonds, notes, or other obligations issued under Subchapter C or another law with respect to a toll project or system.

(3) "Region" means:

(A) a metropolitan statistical area and any county contiguous to that metropolitan statistical area; or

(B) two adjacent districts of the department.

(3-a) "Registered owner" means an owner as defined in Section 502.001.

(4) "System" means a toll project or any combination of toll projects designated as a system under Section 228.010.

(5) "Toll project" has the meaning assigned by Section 201.001(b).

(6) "Transportation project" means:

(A) a tolled or nontolled state highway improvement project;

(B) a toll project eligible for department cost participation under Section 222.103;

(C) the acquisition, construction, maintenance, or operation of a rail facility or system under Chapter 91;

(D) the acquisition, construction, maintenance, or operation of a state-owned ferry under Subchapter A, Chapter 342;

(E) a public transportation project under Chapter 455 or 456;

(F) the establishment, construction, or repair of an aviation facility under Chapter 21; and

(G) a passenger rail project of another governmental entity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 7.03, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 920, Sec. 1, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 3, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.03, eff. June 21, 2003.

Transferred from Transportation Code, Section 361.001 and amended by

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.34, eff. June 14, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 641 (S.B. 959), Sec. 1, eff. June 17, 2011.

Sec. 228.002. AGREEMENTS WITH PUBLIC ENTITIES. (a) The department may enter into an agreement with a public entity to permit the entity, independently or jointly with the department, to design, develop, finance, construct, maintain, repair, or operate a toll project.

(b) An agreement entered into under this section with a regional tollway authority governed by Chapter 366 may provide that a function described by Subsection (a) that is performed by a regional tollway authority is governed by the provisions of Chapter 366 applicable to the performance of the same function for a turnpike project under that chapter and the rules and procedures adopted by the regional tollway authority under that chapter, in lieu of the laws, rules, or procedures applicable to the department for the performance of the same function.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 872, Sec. 2.17, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 312, Sec. 58, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.56, eff. June 21, 2003. Transferred from Transportation Code, Section 361.301 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.34, eff. June 14, 2005.

Sec. 228.003. AGREEMENTS WITH OTHER GOVERNMENTAL AGENCIES. (a) The department may, with the approval of the commission, enter into an agreement with another governmental agency or entity, including a federal agency, an agency of this or another state, including the United Mexican States or a state of the United Mexican States, or a political subdivision, to independently or jointly provide services, to study the feasibility of a toll project, or to finance, construct, operate, and maintain a toll project. The department must obtain the approval of the governor to enter into an agreement with an agency of

another state, the United Mexican States, or a state of the United Mexican States.

(b) If the department enters into an agreement with a private entity, including a comprehensive development agreement under Subchapter E, Chapter 223, the department and the private entity may jointly enter into an agreement under Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 872, Sec. 2.19, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 312, Sec. 66, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.63, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 1.18, eff. Jan. 11, 2004. Transferred from Transportation Code, Section 361.307 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.34, eff. June 14, 2005.

Sec. 228.0031. AGREEMENTS WITH LOCAL GOVERNMENTS. (a) In this section, "local government" means a:

- (1) county, municipality, special district, or other political subdivision of this state;
- (2) local government corporation created under Subchapter D, Chapter 431; or
- (3) combination of two or more entities described by Subdivision (1) or (2).

(b) A local government may enter into an agreement with the department or a private entity under which the local government assists in the financing of the construction, maintenance, and operation of a turnpike project located in the government's jurisdiction in return for a percentage of the revenue from the project.

(c) A local government may use any revenue available for road purposes, including bond and tax proceeds, to provide financing under Subsection (b).

(d) An agreement under this section between a local government and a private entity must be approved by the department.

(e) Revenue received by a local government under an agreement under this section must be used for transportation purposes.

Added by Acts 2005, 79th Leg., Ch. 1297 (H.B. [2650](#)), Sec. 1, eff. September 1, 2005.

Transferred from Transportation Code, Section 361.308 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 23.002, eff. September 1, 2009.

Sec. 228.004. PROMOTION OF TOLL PROJECT. The department may, notwithstanding Chapter 2113, Government Code, engage in marketing, advertising, and other activities to promote the development and use of toll projects and may enter into contracts or agreements necessary to procure marketing, advertising, or other promotional services from outside service providers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 7.08, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 920, Sec. 4, eff. June 14, 2001; Renumbered from Transportation Code Sec. 361.042 and amended by Acts 2003, 78th Leg., ch. 312, Sec. 6, eff. June 18, 2003 and Acts 2003, 78th Leg., ch. 1325, Sec. 15.06, eff. June 21, 2003. Transferred from Transportation Code, Section 361.032 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.34, eff. June 14, 2005.

Sec. 228.005. REVENUE OF TOLL PROJECT OR SYSTEM. Except as provided by Subchapter C, toll revenue or other revenue derived from a toll project or system that is collected or received by the department under this chapter, and a payment received by the department under a comprehensive development agreement for a toll project or system:

- (1) shall be deposited in the state highway fund; and
- (2) is exempt from the application of Section 403.095, Government Code.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.35, eff. June 14, 2005.

Sec. 228.0055. USE OF CONTRACT PAYMENTS AND OTHER REVENUE. (a) Payments, project savings, refinancing dividends, and any other revenue received by the commission or the department under a comprehensive development agreement shall be used by the commission

or the department to finance the construction, maintenance, or operation of transportation projects or air quality projects in the region.

(b) The department shall allocate the distribution of funds to department districts in the region that are located in the boundaries of the metropolitan planning organization in which the project that is the subject of the comprehensive development agreement is located based on the percentage of toll revenue from users from each department district of the project. To assist the department in determining the allocation, each entity responsible for collecting tolls for a project shall calculate on an annual basis the percentage of toll revenue from users of the project from each department district based on the number of recorded electronic toll collections.

(c) The commission or the department may not:

(1) revise the formula as provided in the department's unified transportation program, or its successor document, in a manner that results in a decrease of a department district's allocation because of a payment under Subsection (a); or

(2) take any other action that would reduce funding allocated to a department district because of payments received under a comprehensive development agreement.

(d) A metropolitan planning organization may not take any action that would reduce distribution of funds or other resources to a department district because of the use of a payment or other revenue under Subsection (a).

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.35, eff. June 14, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 6.01, eff. June 11, 2007.

Sec. 228.006. USE OF SURPLUS REVENUE. (a) The commission shall authorize the use of surplus revenue of a toll project or system to pay the costs of a transportation project, highway project, or air quality project within a region in which any part of the toll project is located.

(a-1) The department shall allocate the distribution of the surplus toll revenue to department districts in the region that are

located in the boundaries of the metropolitan planning organization in which the toll project or system producing the surplus revenue is located based on the percentage of toll revenue from users in each department district of the project or system. To assist the department in determining the allocation, each entity responsible for collecting tolls for a project or system shall calculate on an annual basis the percentage of toll revenue from users of the project or system in each department district based on the number of recorded electronic toll collections.

(b) The commission may not revise the formula as provided in the department's unified transportation program, or its successor document, in a manner that results in a decrease of a district's allocation because of a payment under Subsection (a).

(c) The commission may not take an action under this section that violates, impairs, or is inconsistent with a bond order, trust agreement, or indenture governing the use of the surplus revenue.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 7.16, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 312, Sec. 39, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.37, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 1.12, eff. Jan. 11, 2004. Transferred from Transportation Code, Section 361.189 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.36, eff. June 14, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 2, eff. June 17, 2011.

Sec. 228.007. TOLL LANES. (a) Subject to Section 228.201, the commission may by order authorize the department to charge a toll for the use of one or more lanes of a state highway, including a high occupancy vehicle lane designated under Section 224.153 or an exclusive lane designated under Section 224.1541.

(b) If the commission authorizes the department to charge a toll under Subsection (a), the department may enter into an agreement with a regional tollway authority described in Chapter 366, a transit authority described in Chapter 451, 452, or 453, a coordinated county transportation authority under Chapter 460, a regional mobility

authority under Chapter 370, a county acting under Chapter 284, or a transportation corporation:

(1) to design, construct, operate, or maintain a toll lane under this section; and

(2) to charge a toll for the use of one or more lanes of a state highway facility under this section.

(c) The commission may by order authorize the department or the entity contracted to operate the toll lane to set the amount of toll charges. Any toll charges shall be imposed in a reasonable and nondiscriminatory manner.

(d) Revenue generated from toll charges and collection fees assessed by an entity with whom the department contracts under this section shall be allocated as required by the terms of the agreement.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.24, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1049, Sec. 4, eff. June 20, 2003.

Transferred from Transportation Code, Section 224.154 by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.36, eff. June 14, 2005.

Sec. 228.008. TOLLS ON EXCLUSIVE LANE. The department may not charge a toll for the use of an exclusive lane unless:

(1) the lanes or multilane facility adjacent to the exclusive lane is tolled; or

(2) a vehicle that is authorized to use the tolled exclusive lane is authorized to use nontolled adjacent lanes or an adjacent nontolled multilane facility.

Transferred from Transportation Code, Section 224.1541(d) and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.37, eff. June 14, 2005.

Sec. 228.009. AUDIT. Notwithstanding any other law to the contrary, the department shall have an independent certified public accountant audit the department's books and accounts for each toll project or system at least annually. The audit shall be conducted in accordance with the requirements of any trust agreement securing bonds issued under Subchapter C that is in effect at the time of the audit. The cost of the audit may be treated as part of the cost of

construction or operation of a toll project or system. This section does not affect the ability of a state agency to audit the department's books and accounts.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 920, Sec. 5, eff. June 14, 2001; Renumbered from Transportation Code Sec. 361.054 and amended by Acts 2003, 78th Leg., ch. 312, Sec. 7, eff. June 18, 2003 and Acts 2003, 78th Leg., ch. 1325, Sec. 15.07, eff. June 21, 2003. Transferred from Transportation Code, Section 361.033 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.38, eff. June 14, 2005.

Sec. 228.010. ESTABLISHMENT OF TOLL SYSTEMS. (a) If the commission determines that the mobility needs of a region of this state could be most efficiently and economically met by jointly operating two or more toll projects in that region as one operational and financial enterprise, it may create a system composed of those projects. The commission may create more than one system in a region and may combine two or more systems in a region into one system. The department may finance, acquire, construct, and operate additional toll projects in the region as additions to or expansions of a system if the commission determines that the toll project could most efficiently and economically be acquired or constructed if it were part of the system and that the addition will benefit the system.

(b) The revenue of a system shall be accounted for separately and may not be commingled with the revenue of a toll project that is not part of the system or with the revenue of another system.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.39, eff. June 14, 2005.

Sec. 228.011. TOLL PROJECTS IN CERTAIN COUNTIES. (a) This section applies only to a county acting under Chapter 284 for:

(1) the widening, expansion, reconstruction, and continued operation of existing toll projects of the county; or

(2) the development, construction, and operation of all or a portion of any of the following toll projects, a component of that project, or the functional equivalent of that project:

- (A) Beltway 8 Tollway East, between US 59 North and US 90 East;
- (B) Hardy Downtown Connector, consisting of the proposed direct connection from the Hardy Toll Road southern terminus at Loop 610 to downtown Houston;
- (C) State Highway 288, between US 59 and Grand Parkway South (State Highway 99);
- (D) US 290 Toll Lanes, between IH 610 West and the Grand Parkway Northwest (State Highway 99);
- (E) Fairmont Parkway East, between Beltway 8 East and Grand Parkway East (State Highway 99);
- (F) South Post Oak Road Extension, between IH 610 South and near the intersection of Beltway 8 and Hillcroft in the vicinity of the Fort Bend Parkway Tollway;
- (G) Westpark Toll Road Phase II, between Grand Parkway (State Highway 99) and FM 1463;
- (H) Fort Bend Parkway, between State Highway 6 and the Brazos River; and
- (I) Montgomery County Parkway, between State Highway 242 and the Grand Parkway (State Highway 99), and if the Grand Parkway project has not begun construction, a nontolled extension of the Montgomery County Parkway to allow a connection to Interstate Highway 45.

(b) The county is the entity with the primary responsibility for the financing, construction, and operation of a toll project located in the county. A county may develop, construct, and operate a project described in Subsection (a) at any time, regardless of whether it receives a first option notice from the commission or the department under Subsection (e).

(b-1) Consistent with federal law, the department shall assist the county in the financing, construction, and operation of a toll project in the county by allowing the county to use state highway right-of-way owned by the department and to access the state highway system. The commission or the department may not require the county to pay for the use of the right-of-way or access, except to reimburse the department as provided by this subsection. The county shall pay an amount to reimburse the department for the department's actual costs to acquire the right-of-way. If the department cannot determine that amount, the amount shall be determined based on the average historical right-of-way acquisition values for right-of-way

located in proximity to the project on the date of original acquisition of the right-of-way. Money received by the department under this subsection shall be deposited in the state highway fund and used in the department district in which the project is located.

(c) The department and the county must enter into an agreement that includes reasonable terms to accommodate the use of the right-of-way by the county and to protect the interests of the commission and the department in the use of the right-of-way for operations of the department, including public safety and congestion mitigation on the right-of-way.

(d) Subsection (b) does not limit the authority of the commission or the department to participate in the cost of acquiring, constructing, maintaining, or operating a project of the county under Chapter 284.

(e) Before the department may enter into a contract for the financing, construction, or operation of a proposed or existing toll project any part of which is located in the county, the commission or department shall provide the county the first option to finance, construct, or operate, as applicable, the portion of the toll project located in the county:

(1) on terms agreeable to the county; and

(2) in a manner determined by the county to be consistent with the practices and procedures by which the county finances, constructs, or operates a project.

(f) A county's right to exercise the first option under Subsection (e) is effective for six months after the date of the receipt by the county of written notice from the commission or the department meeting the requirements of Subsection (e) and describing in reasonable detail the location of the toll project, a projected cost estimate, sources and uses of funds, and a construction schedule. If a county exercises the first option with respect to a toll project, the county must enter into one or more contracts for the financing, construction, or operation of the toll project within two years after the date on which all environmental requirements necessary for the development of the project are secured and all legal challenges to development are concluded. A contract may include agreements for design of the project, acquisition of right-of-way, and utility relocation. If the county does not enter into a contract during the two-year period, the commission or the department may enter into a contract for the financing, construction, or

operation of the toll project with a different entity.

(g) An agreement entered into by the county and the department in connection with a project under Chapter 284 that is financed, constructed, or operated by the county and that is on or directly connected to a highway in the state highway system does not create a joint enterprise for liability purposes.

(h) If the county approves, the commission may remove any right-of-way to be used by a county under this section from the state highway system. If the right-of-way used by a county under this section remains part of the state highway system, the county must comply with department design and construction standards.

(i) Notwithstanding an action of a county taken under this section, the commission or department may take any action that is necessary in its reasonable judgment to comply with any federal requirement to enable this state to receive federal-aid highway funds.

(j) Notwithstanding any other law, the commission and the department are not liable for any damages that result from a county's use of state highway right-of-way or access to the state highway system under this section, regardless of the legal theory, statute, or cause of action under which liability is asserted.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 7.01, eff. June 11, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 3, eff. June 17, 2011.

Sec. 228.012. PROJECT SUBACCOUNTS. (a) The department shall create a separate account in the state highway fund to hold payments received by the department under a comprehensive development agreement and the surplus revenue of a toll project or system. The department shall create subaccounts in the account for each project, system, or region. Interest earned on money in a subaccount shall be deposited to the credit of that subaccount.

(b) The department shall hold money in a subaccount in trust for the benefit of the region in which a project or system is located and may assign the responsibility for allocating money in a subaccount to a metropolitan planning organization in which the

region is located for projects approved by the department. At the time the project is approved by the department money shall be allocated and distributed to projects authorized by Section 228.0055 or Section 228.006, as applicable.

(c) Not later than January 1 of each odd-numbered year, the department shall submit to the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy a report on cash balances in the subaccounts created under this section and expenditures made with money in those subaccounts. The report must be in the form prescribed by the Legislative Budget Board.

(d) The commission or the department may not:

- (1) revise the formula as provided in the department's unified transportation program or a successor document in a manner that results in a decrease of a department district's allocation because of the deposit of a payment into a project subaccount; or
- (2) take any other action that would reduce funding allocated to a department district because of the deposit of a payment into a project subaccount.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 7.01, eff. June 11, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 4, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 35, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 92, eff. September 1, 2013.

Sec. 228.013. DETERMINATION OF FINANCIAL TERMS FOR CERTAIN TOLL PROJECTS. (a) This section applies only to a proposed department toll project in which a private entity has a financial interest in the project's performance and for which:

- (1) funds dedicated to or controlled by a region will be used;
 - (2) right-of-way is provided by a municipality or county;
- or
- (3) revenues dedicated to or controlled by a municipality or county will be used.

(b) The distribution of a project's financial risk, the method of financing for a project, and the tolling structure and methodology must be determined by a committee consisting of the following members:

- (1) a representative of the department;
- (2) a representative of any local toll project entity, as defined by Section 371.001, for the area in which the project is located;
- (3) a representative of the applicable metropolitan planning organization; and
- (4) a representative of each municipality or county that has provided revenue or right-of-way as described by Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 36, eff. September 1, 2011.

SUBCHAPTER B. USE AND OPERATION OF TOLL PROJECTS OR SYSTEMS

Sec. 228.051. DESIGNATION. Subject to Section 228.201, the commission by order may designate one or more lanes of a segment of the state highway system as a toll project or system.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.40, eff. June 14, 2005.

Sec. 228.052. OPERATION OF TOLL PROJECT OR SYSTEM. (a) The department may enter into an agreement with one or more persons to provide, on terms approved by the department, personnel, equipment, systems, facilities, and services necessary to operate a toll project or system, including the operation of toll plazas and lanes and customer service centers and the collection of tolls.

(b) A person that enters into an agreement with the department to provide services for a customer to pay an amount on an electronic toll collection customer account at a location other than a department office may collect from the customer a service charge in addition to the amount paid on the account.

(c) The commission by rule shall set the maximum amount a person may collect as a service charge under Subsection (b), which may not exceed \$3 for a payment transaction.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.40, eff. June 14, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 634 (S.B. 1467), Sec. 1, eff. September 1, 2015.

Sec. 228.053. REVENUE. (a) The department may:

(1) impose tolls for the use of each toll project or system and the different segments or parts of each project or system; and

(2) notwithstanding anything in Chapter 202 to the contrary, contract with a person for the use of part of a toll project or system or lease part of a toll project or system for a gas station, garage, store, hotel, restaurant, railroad tracks, utilities, and telecommunications facilities and equipment and set the terms for the use or lease.

(b) The tolls shall be set so that, at a minimum, the aggregate of tolls from the toll project or system:

(1) provides a fund sufficient with other revenue and contributions, if any, to pay:

(A) the cost of maintaining, repairing, and operating the project or system; and

(B) the principal of and interest on the bonds issued under Subchapter C for the project or system as those bonds become due and payable; and

(2) creates reserves for the purposes listed under Subdivision (1).

(c) The tolls are not subject to supervision or regulation by any other state agency.

(d) The tolls and other revenue derived from the toll project or system for which bonds were issued, except the part necessary to pay the cost of maintenance, repair, and operation and to provide reserves for those costs as may be provided in the order authorizing the issuance of the bonds or in the trust agreement securing the bonds, shall be set aside at regular intervals as may be provided in the order or trust agreement in a sinking fund that is pledged to and charged with the payment of:

(1) interest on the bonds as it becomes due;

(2) principal of the bonds as it becomes due;

(3) necessary charges of paying agents for paying principal

and interest; and

(4) the redemption price or the purchase price of bonds retired by call or purchase as provided by the bonds.

(e) Use and disposition of money to the credit of the sinking fund are subject to the order authorizing the issuance of the bonds or to the trust agreement.

(f) The revenue and disbursements for each toll project or system shall be kept separately. The revenue from one project may not be used to pay the cost of another project except as authorized by Sections 228.0055 and 228.006.

(g) Money in the sinking fund, less the reserve provided by the order or trust agreement, if not used within a reasonable time to purchase bonds for cancellation, shall be applied to the redemption of bonds at the applicable redemption price.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 872, Sec. 2.09, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 920, Sec. 12, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 30, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.31, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 1.10, eff. Jan. 11, 2004. Transferred from Transportation Code, Section 361.179 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.41, eff. June 14, 2005.

Sec. 228.054. FAILURE OR REFUSAL TO PAY TOLL; OFFENSE. (a) Except as provided by Subsection (e) or Section 228.0545, the operator of a vehicle, other than an authorized emergency vehicle, as defined by Section 541.201, that is driven or towed through a toll collection facility shall pay the proper toll. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

- (1) responding to an emergency;
- (2) displaying a flashing light; or
- (3) marked as an emergency vehicle.

(b) The operator of a vehicle who drives or tows a vehicle through a toll collection facility and does not pay the proper toll commits an offense.

(c) An offense under this section is a misdemeanor punishable

by a fine not to exceed \$250.

(d) In this section, "authorized emergency vehicle" has the meaning assigned by Section 541.201.

(e) Notwithstanding Subsection (a), the department may waive the requirement of the payment of a toll or may authorize the payment of a reduced toll for any vehicle or class of vehicles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 872, Sec. 2.15, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1246, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 23 (S.B. 129), Sec. 1, eff. September 1, 2005.

Transferred from Transportation Code, Section 361.252 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.41, eff. June 14, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 4.01, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 641 (S.B. 959), Sec. 2, eff. June 17, 2011.

Sec. 228.0545. ALTERNATIVE TOLLING METHODS. (a) As an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll collection facility, the department may use video billing or other tolling methods to permit the registered owner of the vehicle to pay the toll at a later date.

(b) The department may use automated enforcement technology authorized under Section 228.058 to identify the registered owner of the vehicle for purposes of billing, collection, and enforcement activities.

(c) The department shall send by first class mail to the registered owner of the vehicle a written notice of the total amount due. The notice must specify the date, which may not be earlier than the 30th day after the date the notice is mailed, by which the amount due must be paid. The registered owner shall pay the amount due on or before the date specified in the notice.

(d) The department shall send the notice required under Subsection (c) and subsequent notices to:

(1) the registered owner's address as shown in the vehicle registration records of the Texas Department of Motor Vehicles or the analogous department or agency of another state or country; or

(2) an alternate address provided by the owner or derived through other reliable means.

Added by Acts 2011, 82nd Leg., R.S., Ch. 641 (S.B. 959), Sec. 3, eff. June 17, 2011.

Sec. 228.055. ADMINISTRATIVE FEE; NOTICE; OFFENSE. (a) In the event of nonpayment of the toll as required by Section 228.054 or 228.0545, on issuance of a written notice of nonpayment, the registered owner of the nonpaying vehicle is liable for the payment of both the proper toll and an administrative fee.

(b) The department may impose and collect the administrative fee, so as to recover the cost of collecting the unpaid toll, not to exceed \$100. The department shall send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the Texas Department of Motor Vehicles or the analogous department or agency of another state or country or at an alternate address provided by the owner or derived through other reliable means. The notice of nonpayment shall be sent by first class mail and may require payment not sooner than the 30th day after the date the notice was mailed. The registered owner shall pay a separate toll and administrative fee for each event of nonpayment under Section 228.054 or 228.0545.

(c) The registered owner of a vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under Subsection (b) and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the department:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 228.054 or the date the vehicle was driven or towed through a toll

collection facility that results in a notice issued under Section 228.0545, with the name and address of the lessee clearly legible; or

(2) electronic data, in a format agreed on by the department and the lessor, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Section 228.054 or the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545.

(d-1) If the lessor provides the required information within the period prescribed under Subsection (d), the department may send a notice of nonpayment to the lessee at the address provided under Subsection (d) by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(e) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 228.054 occurred or before the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545, submitted written notice of the transfer to the department in accordance with Section 501.147, and, before the 30th day after the date the notice of nonpayment is mailed, provides to the department the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the department may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by first class mail before the 30th day after the date of receipt of the required information from the former owner. The department may send all subsequent notices of nonpayment associated with the vehicle to the person to whom ownership of the vehicle was transferred at the address provided by the former owner or an alternate address provided by the subsequent

owner or derived through other reliable means. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The subsequent owner shall pay a separate toll and administrative fee for each event of nonpayment under Section 228.054 or 228.0545. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(f) An offense under this section is a misdemeanor punishable by a fine not to exceed \$250.

(g) The court in which a person is convicted of an offense under this section shall also collect the proper toll and administrative fee and forward the toll and fee to the department for deposit in the depository bank used for that purpose.

(h) Notwithstanding the requirement in Subsections (b), (d-1), and (e) for payment of a separate administrative fee for each event of nonpayment under Section 228.054 or 228.0545, the department may impose one administrative fee that covers multiple events of nonpayment.

(i) The department may contract, in accordance with Section 2107.003, Government Code, with a person to collect the unpaid toll and administrative fee before referring the matter to a court with jurisdiction over the offense.

Added by Acts 1995, 74th Leg., ch. 872, Sec. 2.15, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1246, Sec. 7, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 49, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.47, eff. June 21, 2003. Transferred from Transportation Code, Section 361.253 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.41, eff. June 14, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 918 (H.B. [2983](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. [3097](#)), Sec. 2B.01, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 641 (S.B. [959](#)), Sec. 4, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 20.002,

eff. September 1, 2013.

Sec. 228.056. PRESUMPTIONS; PRIMA FACIE EVIDENCE; DEFENSES.

(a) In the prosecution of an offense under Section 228.054 or 228.055, proof that the vehicle was driven or towed through the toll collection facility without payment of the proper toll may be shown by a video recording, photograph, electronic recording, or other appropriate evidence, including evidence obtained by automated enforcement technology.

(b) In the prosecution of an offense under Section 228.055(c), (d-1), or (e):

(1) it is presumed that the notice of nonpayment was received on the fifth day after the date of mailing;

(2) a computer record of the Texas Department of Motor Vehicles of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 228.054 occurred or on the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545; and

(3) a copy of the rental, lease, or other contract document, or the electronic data provided to the department under Section 228.055(d), covering the vehicle on the date of the underlying event of nonpayment under Section 228.054 or on the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 228.054 occurred or when the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545.

(c) It is a defense to prosecution under Section 228.055(c), (d-1), or (e) that the motor vehicle in question was stolen before the failure to pay the proper toll occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

- (1) the occurrence of the failure to pay; or
- (2) eight hours after the discovery of the theft.

Added by Acts 1995, 74th Leg., ch. 872, Sec. 2.15, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1246, Sec. 8, eff. Sept. 1, 2001.

Transferred from Transportation Code, Section 361.254 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.41, eff. June 14, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 918 (H.B. 2983), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2B.02, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 641 (S.B. 959), Sec. 5, eff. June 17, 2011.

Sec. 228.057. ELECTRONIC TOLL COLLECTION. (a) For purposes of this section, a "transponder" means a device, placed on or within an automobile, that is capable of transmitting information used to assess or to collect tolls. A transponder is "insufficiently funded" when there are no remaining funds in the account in connection with which the transponder was issued.

(b) Any peace officer of this state may seize a stolen or insufficiently funded transponder and return it to the department, except that an insufficiently funded transponder may not be seized sooner than the 30th day after the date the department has sent a notice of delinquency to the holder of the account.

(c) The department may enter into an agreement with one or more persons to market and sell transponders for use on department toll roads.

(d) The department may charge reasonable fees for administering electronic toll collection customer accounts.

(e) Electronic toll collection customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

(f) A contract for the acquisition, construction, maintenance, or operation of a toll project must ensure the confidentiality of all electronic toll collection customer account information under Subsection (e).

(g) The department may, following closure of an electronic toll

collection customer account and at the request of the account holder, refund the balance of funds in the account after satisfaction of any outstanding tolls and fees.

(h) The department may enter into an agreement with a governmental or private entity regarding the use of a transponder issued by the department and the corresponding electronic toll collection customer account to pay for parking services offered by the entity.

Added by Acts 1995, 74th Leg., ch. 872, Sec. 2.15, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1246, Sec. 9, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 50, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.48, eff. June 21, 2003. Transferred from Transportation Code, Section 361.255 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.41, eff. June 14, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 641 (S.B. 959), Sec. 6, eff. June 17, 2011.

Sec. 228.058. AUTOMATED ENFORCEMENT TECHNOLOGY. (a) To aid in the collection of tolls and in the enforcement of toll violations, the department may use automated enforcement technology that it determines is necessary, including automatic vehicle license plate identification photography and video surveillance, by electronic imaging or photographic copying.

(b) Automated enforcement technology approved by the department under Subsection (a) may be used only for the purpose of producing, depicting, photographing, or recording an image that depicts that portion of a vehicle necessary to establish the classification of vehicle and the proper toll to be charged, the license plate number, and the state of registration, including an image:

(1) of a license plate attached to the front or rear of a vehicle; and

(2) showing the vehicle dimensions, the presence of a trailer, and the number of axles.

(c) This section does not authorize the use of automated enforcement technology for any other purpose.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 258, Sec. 4.07,

eff. September 1, 2007.

Added by Acts 2001, 77th Leg., ch. 1246, Sec. 10, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 312, Sec. 51, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.49, eff. June 21, 2003.

Transferred from Transportation Code, Section 361.256 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.41, eff. June 14, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 4.07, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 641 (S.B. 959), Sec. 7, eff. June 17, 2011.

Sec. 228.059. TOLL COLLECTION AND ENFORCEMENT BY OTHER ENTITY; OFFENSE. An entity operating a toll lane pursuant to Section 228.007(b) has, with regard to toll collection and enforcement for that toll lane, the same powers and duties as the department under this chapter. A person who fails to pay a toll or administrative fee imposed by the entity commits an offense. Each failure to pay a toll or administrative fee imposed by the entity is a separate offense. An offense under this section is a misdemeanor punishable by a fine not to exceed \$250, and the provisions of Section 228.056 apply to the prosecution of the offense under this section. The entity may use revenues for improvement, extension, expansion, or maintenance of the toll lane.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 13.01, eff. June 11, 2007.

SUBCHAPTER C. TOLL REVENUE BONDS

Sec. 228.101. CONSTRUCTION COSTS. (a) The cost of construction, improvement, extension, or expansion of a toll project or system under this chapter includes the cost of:

(1) the actual acquisition, design, development, planning, financing, construction, improvement, extension, or expansion of the project or system;

(2) acquisition of real property, rights-of-way, property

rights, easements, and interests;

(3) the acquisition of machinery, equipment, software, and intellectual property;

(4) interest before, during, and for one year after construction, improvement, extension, or expansion;

(5) traffic estimates, engineering, legal and other advisory services, plans, specifications, surveys, appraisals, cost and revenue estimates, and other expenses necessary or incident to determining the feasibility of the construction, improvement, extension, or expansion;

(6) necessary or incidental administrative, legal, and other expenses;

(7) financing; and

(8) placement of the project or system in operation and expenses related to the initial operation of the project or system.

(b) Costs attributable to a toll project or system for which bonds are issued that are incurred before the issuance of the bonds may be reimbursed from the proceeds of the sale of the bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 920, Sec. 2, eff. June 14, 2001. Transferred from Transportation Code, Section 361.004 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.42, eff. June 14, 2005.

Sec. 228.102. ISSUANCE OF BONDS. (a) The commission by order may authorize the issuance of toll revenue bonds to pay all or part of the cost of a toll project or system. The proceeds of a bond issue may be used solely for the payment of the project or system for which the bonds were issued and may not be divided between or among two or more projects. Each project is a separate undertaking, the cost of which shall be determined separately.

(b) As determined in the order authorizing the issuance, the bonds of each issue shall:

(1) be dated;

(2) bear interest at the rate or rates provided by the order and beginning on the dates provided by the order and as authorized by law, or bear no interest;

(3) mature at the time or times provided by the order, not

exceeding 40 years from their date or dates; and

(4) be made redeemable before maturity, at the price or prices and under the terms provided by the order.

(c) The commission may sell the bonds at public or private sale in the manner and for the price it determines to be in the best interest of the department.

(d) The proceeds of each bond issue shall be disbursed in the manner and under the restrictions, if any, the commission provides in the order authorizing the issuance of the bonds or in the trust agreement securing the bonds.

(e) If the proceeds of a bond issue are less than the toll project or system cost, additional bonds may be issued in the same manner to pay the costs of a project or system. Unless otherwise provided in the order authorizing the issuance of the bonds or in the trust agreement securing the bonds, the additional bonds are on a parity with and are payable, without preference or priority, from the same fund as the bonds first issued. In addition, the commission may issue bonds for a project or system secured by a lien on the revenue of the project or system subordinate to the lien on the revenue securing other bonds issued for the project or system.

(f) If the proceeds of a bond issue exceed the cost of the toll project or system for which the bonds were issued, the surplus shall be segregated from the other money of the commission and used only for the purposes specified in the order authorizing the issuance.

(g) In addition to other permitted uses, the proceeds of a bond issue may be used to pay costs incurred before the issuance of the bonds, including costs of environmental review, design, planning, acquisition of property, relocation assistance, construction, and operation.

(h) Bonds issued and delivered under this subchapter and interest coupons on the bonds are a security under Chapter 8, Business & Commerce Code.

(i) Bonds issued under this subchapter and income from the bonds, including any profit made on the sale or transfer of the bonds, are exempt from taxation in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 872, Sec. 2.05, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 920, Sec. 11, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 22, eff. June 18, 2003; Acts 2003,

78th Leg., ch. 1325, Sec. 15.22, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 1.04, eff. Jan. 11, 2004. Transferred from Transportation Code, Section 361.171 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.42, eff. June 14, 2005.

Sec. 228.103. APPLICABILITY OF OTHER LAW; CONFLICTS. All laws affecting the issuance of bonds by governmental entities, including Chapters 1201, 1202, 1204, 1207, and 1371, Government Code, apply to bonds issued under this subchapter. To the extent of a conflict between those laws and this subchapter, the provisions of this subchapter prevail.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.386, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 23, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.23, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 1.05, eff. Jan. 11, 2004. Transferred from Transportation Code, Section 361.172 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.42, eff. June 14, 2005.

Sec. 228.104. PAYMENT OF BONDS; CREDIT OF STATE NOT PLEDGED.

(a) The principal of, interest on, and any redemption premium on bonds issued by the commission under this subchapter are payable solely from:

- (1) the revenue of the toll project or system for which the bonds are issued, including tolls pledged to pay the bonds;
- (2) the proceeds of bonds issued for the project or system;
- (3) the amounts deposited in a debt service reserve fund as required by the trust agreement securing bonds issued for the project or system;
- (4) amounts received under a credit agreement relating to the project or system for which the bonds are issued;
- (5) surplus revenue of another project or system as authorized by Section 228.006; and
- (6) amounts received by the department:
 - (A) as pass-through tolls under Section 222.104;

(B) under an agreement with a local governmental entity entered into under Section 228.254;

(C) under other agreements with a local governmental entity relating to the project or system for which the bonds are issued; and

(D) under a comprehensive development agreement entered into under Section 223.201.

(b) Bonds issued under this subchapter do not constitute a debt of the state or a pledge of the faith and credit of the state. Each bond must contain on its face a statement to the effect that:

(1) the state, the commission, and the department are not obligated to pay the bond or the interest on the bond from a source other than the amount pledged to pay the bond and the interest on the bond; and

(2) the faith and credit and the taxing power of the state are not pledged to the payment of the principal of or interest on the bond.

(c) The commission and the department may not incur financial obligations that cannot be paid from tolls or revenue derived from owning or operating toll projects or systems or from money provided by law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 872, Sec. 2.06, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 312, Sec. 24, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.24, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 1.06, eff. Jan. 11, 2004. Transferred from Transportation Code, Section 361.173 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.42, eff. June 14, 2005.

Sec. 228.105. SOURCES OF PAYMENT OF AND SECURITY FOR TOLL REVENUE BONDS. Notwithstanding any other provisions of this subchapter, toll revenue bonds issued by the commission may:

(1) be payable from and secured by:

(A) payments made under an agreement with a local governmental entity as provided by Section 228.254;

(B) the proceeds of bonds issued for the toll project or system;

(C) amounts deposited in a debt service reserve fund as required by the trust agreement securing bonds issued for the project or system; or

(D) surplus revenue of another toll project or system as authorized by Section 228.006; and

(2) state on their faces any pledge of revenue or taxes and any security for the bonds under the agreement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 312, Sec. 25, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.25, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 1.07, eff. Jan. 11, 2004. Transferred from Transportation Code, Section 361.174 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.42, eff. June 14, 2005.

Sec. 228.106. INTERIM BONDS. (a) The commission may, before issuing definitive bonds, issue interim bonds, with or without coupons, exchangeable for definitive bonds.

(b) An order authorizing interim bonds may provide that the interim bonds recite that the bonds are issued under this subchapter. The recital is conclusive evidence of the validity and the regularity of the bonds' issuance.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 15.27, eff. June 21, 2003.

Transferred from Transportation Code, Section 361.1751 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.42, eff. June 14, 2005.

Sec. 228.107. EFFECT OF LIEN. (a) A lien on or a pledge of revenue, a contract payment, or a pledge of money to the payment of bonds issued under this subchapter is valid and effective in accordance with Chapter 1208, Government Code, and:

(1) is enforceable in any court at the time of payment for and delivery of the bond;

(2) applies to each item on hand or subsequently received;

(3) applies without physical delivery of an item or other act; and

(4) is enforceable in any court against any person having a claim, in tort, contract, or other remedy, against the commission or the department without regard to whether the person has notice of the lien or pledge.

(b) An order authorizing the issuance of bonds is not required to be recorded except in the regular records of the department.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 15.27, eff. June 21, 2003.

Transferred from Transportation Code, Section 361.1752 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.42, eff. June 14, 2005.

Sec. 228.108. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a) The commission shall submit to the attorney general for examination the record of proceedings relating to bonds authorized under this subchapter. The record shall include the bond proceedings and any contract securing or providing revenue for the payment of the bonds.

(b) If the attorney general determines that the bonds, the bond proceedings, and any supporting contract are authorized by law, the attorney general shall approve the bonds and deliver to the comptroller:

(1) a copy of the legal opinion of the attorney general stating the approval; and

(2) the record of proceedings relating to the authorization of the bonds.

(c) On receipt of the legal opinion of the attorney general and the record of proceedings relating to the authorization of the bonds, the comptroller shall register the record of proceedings.

(d) After approval by the attorney general, the bonds, the bond proceedings, and any supporting contract are valid, enforceable, and incontestable in any court or other forum for any reason and are binding obligations according to their terms for all purposes.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 15.27, eff. June 21, 2003.

Transferred from Transportation Code, Section 361.1753 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.42, eff. June 14, 2005.

Sec. 228.109. TRUST AGREEMENT. (a) Bonds issued under this subchapter may be secured by a trust agreement between the commission and a corporate trustee that is a trust company or a bank that has the powers of a trust company.

(b) A trust agreement may pledge or assign the tolls and other revenue to be received but may not convey or mortgage any part of a toll project or system.

(c) A trust agreement may not evidence a pledge of the revenue of a toll project or system except:

(1) to pay the cost of maintaining, repairing, and operating the project or system;

(2) to pay the principal of, interest on, and any redemption premium on the bonds as they become due and payable;

(3) to create and maintain reserves for the purposes described by Subdivisions (1) and (2), as prescribed by Section 228.053; and

(4) as otherwise provided by law.

(d) Notwithstanding Subsection (c), surplus revenue may be used for a transportation or air quality project as authorized by Section 228.006.

(e) A trust agreement may:

(1) set forth the rights and remedies of the bondholders and the trustee;

(2) restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing corporate bonds and debentures; and

(3) contain provisions the commission determines reasonable and proper for the security of the bondholders.

(f) The expenses incurred in carrying out a trust agreement may be treated as part of the cost of operating the toll project or system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 872, Sec. 2.08, eff. Sept. 1, 1995;

Acts 2003, 78th Leg., ch. 312, Sec. 27, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.28, eff. June 21, 2003.

Transferred from Transportation Code, Section 361.176 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.42, eff. June 14, 2005.

Sec. 228.110. PROVISIONS PROTECTING AND ENFORCING RIGHTS AND REMEDIES OF BONDHOLDERS. A trust agreement or order providing for the issuance of bonds may contain provisions to protect and enforce the rights and remedies of the bondholders, including:

(1) covenants establishing the commission's duties relating to:

(A) the acquisition of property;

(B) the design, development, financing, construction, improvement, expansion, maintenance, repair, operation, and insurance of the toll project or system in connection with which the bonds were authorized; and

(C) the custody, safeguarding, and application of money;

(2) covenants prescribing events that constitute default;

(3) covenants relating to the rights, powers, liabilities, or duties that arise on the breach of a duty of the commission, including the right of the trustee to bring actions against the commission or the department in any state court to enforce the covenants in the agreement, and the sovereign immunity of the state is waived for that purpose; and

(4) provisions for the employment of consulting engineers in connection with the construction or operation of the project or system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 312, Sec. 28, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.29, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 1.08, eff. Jan. 11, 2004. Transferred from Transportation Code, Section 361.177 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.42, eff. June 14, 2005.

Sec. 228.111. FURNISHING OF INDEMNIFYING BONDS OR PLEDGE OF SECURITIES. A bank or trust company incorporated under the laws of this state that acts as depository of the proceeds of bonds or of revenue may furnish indemnifying bonds or pledge securities that the department requires.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 344, Sec. 5.015, eff. Sept. 1, 1999;

Acts 2003, 78th Leg., ch. 312, Sec. 29, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.30, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 1.09, eff. Jan. 11, 2004. Transferred from Transportation Code, Section 361.178 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.42, eff. June 14, 2005.

Sec. 228.112. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY, OR PRIVATE GROUP. (a) One or more municipalities, one or more counties, a combination of municipalities and counties, or a private group or combination of individuals in this state may pay all or part of the expenses of studying the cost and feasibility and any other expenses relating to:

- (1) the preparation and issuance of toll revenue bonds for the construction of a proposed toll project or system;
- (2) the improvement, extension, or expansion of an existing project or system; or
- (3) the use of private participation under Subchapter E, Chapter 223.

(b) Money spent under Subsection (a) for a proposed toll project or system is reimbursable, with the consent of the commission, to the person paying the expenses out of the proceeds from toll revenue bonds issued for or other proceeds that may be used for the financing, design, development, construction, improvement, extension, expansion, or operation of the project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 312, Sec. 33, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.32, eff. June 21, 2003. Transferred from Transportation Code, Section 361.183 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.42, eff. June 14, 2005.

Sec. 228.113. TRUST FUND. (a) All money received under this subchapter, whether as proceeds from the sale of bonds or as revenue, is a trust fund to be held and applied as provided by this subchapter. Notwithstanding any other law, including Section 9, Chapter 1123, Acts of the 75th Legislature, Regular Session, 1997,

and without the prior approval of the comptroller, funds held under this subchapter shall be held in trust by a banking institution chosen by the department or, at the discretion of the department, in trust in the state treasury outside the general revenue fund.

(b) The order authorizing the issuance of bonds or the trust agreement securing the bonds shall provide that an officer to whom or a bank or trust company to which the money is paid shall act as trustee of the money and shall hold and apply the money for the purpose of the order or trust agreement, subject to this subchapter and the order or trust agreement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1306, Sec. 3, eff. Aug. 30, 1999; Acts 2003, 78th Leg., ch. 312, Sec. 35, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.33, eff. June 21, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 1.11, eff. Jan. 11, 2004. Transferred from Transportation Code, Section 361.185 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.42, eff. June 14, 2005.

Sec. 228.114. REMEDIES. Except to the extent restricted by a trust agreement, a holder of a bond issued under this subchapter and a trustee under a trust agreement may:

- (1) protect and enforce by a legal proceeding in any court a right under:
 - (A) this subchapter or another law of this state;
 - (B) the trust agreement; or
 - (C) the order authorizing the issuance of the bond; and
- (2) compel the performance of a duty this subchapter, the trust agreement, or the order requires the commission or the department or an officer of the commission or the department to perform, including the imposing of tolls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 312, Sec. 36, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.34, eff. June 21, 2003. Transferred from Transportation Code, Section 361.186 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.42, eff. June 14, 2005.

Sec. 228.115. EXEMPTION FROM TAXATION OR ASSESSMENT. (a) The commission is exempt from taxation of or assessments on:

- (1) a toll project or system;
- (2) property the department acquires or uses under this subchapter; or
- (3) income from property described by Subdivision (1) or (2).

(b) Bonds issued under this subchapter and income from the bonds, including any profit made on the sale or transfer of the bonds, are exempt from taxation in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 872, Sec. 2.12, 2.13, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 312, Sec. 37, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.35, eff. June 21, 2003. Transferred from Transportation Code, Section 361.187 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.42, eff. June 14, 2005.

Sec. 228.116. VALUATION OF BONDS SECURING DEPOSIT OF PUBLIC FUNDS. Bonds of the commission may secure the deposit of public funds of the state or a political subdivision of the state to the extent of the lesser of the face value of the bonds or their market value.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 312, Sec. 38, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.36, eff. June 21, 2003. Transferred from Transportation Code, Section 361.188 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.42, eff. June 14, 2005.

Sec. 228.117. FUNDING FOR DEPARTMENT DISTRICT. The commission may not revise the formula as provided in the department's unified transportation program, or its successor document, in a manner that results in a decrease of a district's allocation because revenue bonds are issued for a toll project located within the department district.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.43, eff. June 14, 2005.

SUBCHAPTER D. TRANSFER OF TOLL PROJECT

Sec. 228.151. LEASE, SALE, OR TRANSFER OF TOLL PROJECT OR SYSTEM. (a) The department may lease, sell, or transfer in another manner a toll project or system, including a nontolled state highway or a segment of a nontolled state highway converted to a toll project under Subchapter E, to a governmental entity that has the authority to operate a tolled highway or a local government corporation created under Chapter 431.

(b) The commission and the governor must approve the transfer of the toll project or system as being in the best interests of the state and the entity receiving the project or system.

Transferred from Transportation Code, Subchapter H, Chapter 361 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.44, eff. June 14, 2005.

Sec. 228.152. DISCHARGE OF OUTSTANDING BONDED INDEBTEDNESS. An agreement to lease, sell, or convey a toll project or system under Section 228.151 must provide for the discharge and final payment or redemption of the department's outstanding bonded indebtedness for the project or system.

Transferred from Transportation Code, Subchapter H, Chapter 361 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.44, eff. June 14, 2005.

Sec. 228.153. REPAYMENT OF DEPARTMENT'S EXPENDITURES. (a) Except as provided by Subsection (b), an agreement to lease, sell, or convey a toll project or system under Section 228.151 must provide for the repayment of any expenditures of the department for the financing, design, development, construction, operation, or maintenance of the highway that have not been reimbursed with the proceeds of bonds issued for the highway.

(b) The commission may waive repayment of all or a portion of the expenditures if it finds that the transfer will result in

substantial net benefits to the state, the department, and the public that equal or exceed the amount of repayment waived.

Transferred from Transportation Code, Subchapter H, Chapter 361 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.44, eff. June 14, 2005.

Sec. 228.154. APPROVAL OF AGREEMENT BY ATTORNEY GENERAL. (a) An agreement for the lease, sale, or conveyance of a toll project or system under this subchapter shall be submitted to the attorney general for approval as part of the records of proceedings relating to the issuance of bonds of the governmental entity.

(b) If the attorney general determines that the agreement is in accordance with law, the attorney general shall approve the agreement and deliver to the commission a copy of the legal opinion of the attorney general stating that approval.

Transferred from Transportation Code, Subchapter H, Chapter 361 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.44, eff. June 14, 2005.

SUBCHAPTER E. LIMITATION ON TOLL FACILITY DETERMINATION; CONVERSION OF NONTOLLED STATE HIGHWAY

Sec. 228.201. LIMITATION ON TOLL FACILITY DESIGNATION. (a) The department may not operate a nontolled state highway or a segment of a nontolled state highway as a toll project, and may not transfer a highway or segment to another entity for operation as a toll project, unless:

(1) the commission by order designated the highway or segment as a toll project before the contract to construct the highway or segment was awarded;

(2) the project was designated as a toll project in a plan or program of a metropolitan planning organization on or before September 1, 2005;

(3) the highway or segment is reconstructed so that the number of nontolled lanes on the highway or segment is greater than or equal to the number in existence before the reconstruction;

(4) a facility is constructed adjacent to the highway or segment so that the number of nontolled lanes on the converted

highway or segment and the adjacent facility together is greater than or equal to the number in existence on the converted highway or segment before the conversion; or

(5) subject to Subsection (b), the highway or segment was open to traffic as a high-occupancy vehicle lane on May 1, 2005.

(b) The department may operate or transfer a high-occupancy vehicle lane under Subsection (a)(5) as a tolled lane only if the department or other entity operating the lane allows vehicles occupied by a specified number of passengers to use the lane without paying a toll.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.45, eff. June 14, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1186 (S.B. 1029), Sec. 1, eff. June 14, 2013.

Sec. 228.204. RULES. The commission shall adopt rules implementing this subchapter, including criteria and guidelines for the approval of a conversion of a highway.

Transferred from Transportation Code, Section 362.0041(c) and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.46, eff. June 14, 2005.

Sec. 228.205. QUEEN ISABELLA CAUSEWAY. The commission may not convert the Queen Isabella Causeway in Cameron County to a toll project.

Transferred from Transportation Code, Section 362.0041(d) and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.46, eff. June 14, 2005.

Sec. 228.206. TOLL REVENUE. Toll revenue collected under this section:

- (1) shall be deposited in the state highway fund;
- (2) may be used by the department to finance the improvement, extension, expansion, or operation of the converted

segment of highway and may not be collected except for those purposes; and

(3) is exempt from the application of Section 403.095, Government Code.

Transferred from Transportation Code, Section 362.0041(f) and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.46, eff. June 14, 2005.

SUBCHAPTER F. JOINT TOLL PROJECTS

Sec. 228.251. DEFINITIONS. In this subchapter:

(1) "Bonds" includes certificates, notes, and other obligations of an issuer authorized by statute, municipal home-rule charter, or the Texas Constitution.

(2) "Local governmental entity" means a political subdivision of the state, including a municipality or a county, a political subdivision of a county, a group of adjoining counties, a defined district, or a nonprofit corporation, including a transportation corporation created under Chapter 431.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 872, Sec. 2.22, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 312, Sec. 77, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.74, eff. June 21, 2003. Transferred from Transportation Code, Section 362.001 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.47, eff. June 14, 2005.

Sec. 228.252. APPLICABILITY OF OTHER LAW; CONFLICTS. (a) This subchapter is cumulative of all laws affecting the issuance of bonds by local governmental entities, particularly, but not by way of limitation, provisions of Chapters 1201 and 1371, Government Code, and Subchapters A-C, Chapter 1207, Government Code, are applicable to and apply to all bonds issued under this subchapter, regardless of any classification of any such local governmental entities thereunder; provided, however, in the event of any conflict between such laws and this subchapter, the provisions of this subchapter prevail.

(b) This subchapter is cumulative of all laws affecting the

commission, the department, and the local governmental entities, except that in the event any other law conflicts with this subchapter, the provisions of this subchapter prevail. Chapters 1201 and 1371, Government Code, and Subchapters A, B, and C, Chapter 1207, Government Code, apply to bonds issued by the commission under this subchapter.

(c) The department may enter into all agreements necessary or convenient to effectuate the purposes of this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 872, Sec. 2.23, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 30.20, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.388, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 71, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.68, eff. June 21, 2003. Transferred from Transportation Code, Section 362.003 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.47, eff. June 14, 2005.

Sec. 228.253. USE OF FEDERAL FUNDS. The department may use federal funds for any purpose described by this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Transferred from Transportation Code, Section 362.006 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.47, eff. June 14, 2005.

Sec. 228.254. AGREEMENTS BETWEEN AUTHORITY AND LOCAL GOVERNMENTAL ENTITIES. (a) Under authority of Section 52, Article III, Texas Constitution, a local governmental entity other than a nonprofit corporation may, upon the required vote of the qualified voters, in addition to all other debts, issue bonds or enter into and make payments under agreements with the department, not to exceed 40 years in term, in any amount not to exceed one-fourth of the assessed valuation of real property within the local governmental entity, except that the total indebtedness of any municipality shall never exceed the limits imposed by other provisions of the constitution, and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof, for the purposes of

construction, maintenance, and operation of toll projects or systems of the department, or in aid thereof.

(b) In addition to Subsection (a), a local governmental entity may, within any applicable constitutional limitations, agree with the department to issue bonds or enter into and make payments under an agreement to construct, maintain, or operate any portion of a toll project or system of the department.

(c) To make payments under an agreement under Subsection (b) or pay the interest on bonds issued under Subsection (b) and to provide a sinking fund for the bonds or the contract, a local governmental entity may:

- (1) pledge revenue from any available source, including annual appropriations;
- (2) levy and collect taxes; or
- (3) provide for a combination of Subdivisions (1) and (2).

(d) The term of an agreement under this section may not exceed 40 years.

(e) Any election required to permit action under this subchapter must be held in conformance with Chapter 1251, Government Code, or other law applicable to the local governmental entity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1995, 74th Leg., ch. 872, Sec. 2.26, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1420, Sec. 8.389, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 72, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.69, eff. June 21, 2003. Transferred from Transportation Code, Section 362.007 and amended by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.47, eff. June 14, 2005.

CHAPTER 250. MISCELLANEOUS PROVISIONS

Sec. 250.001. RESTRICTION ON FENCES IN CERTAIN MUNICIPALITIES.

(a) This section applies only to a fence located on land adjacent to a road or highway in the state highway system in a municipality with a population of 1.5 million or more.

(b) The commission may regulate the use of a fence near a road or highway that prevents or obstructs a vehicle from observing other vehicles or traffic in a manner that creates a safety hazard.

(c) The rules may provide for:

(1) setback, height, or visibility requirements for fences;
 (2) delayed enforcement of not more than 120 days from the regulations for existing fences that do not comply with current standards; and

(3) any other provision necessary to prevent an unsafe obstruction to the view of traffic on a road or highway.

(d) The failure of the commission to regulate a fence under this section is not admissible as evidence in a civil action that involves allegations that a fence prevents or obstructs a vehicle from observing other vehicles or traffic.

(e) A person commits an offense if the person intentionally violates a rule adopted by the commission under this section. An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day of a rule violation is a separate offense.

Added by Acts 1997, 75th Leg., ch. 1224, Sec. 1, eff. June 20, 1997.

SUBTITLE C. COUNTY ROADS AND BRIDGES

CHAPTER 251. GENERAL COUNTY AUTHORITY RELATING TO ROADS AND BRIDGES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 251.001. DEFINITIONS. In this chapter as applied to a public road:

(1) "Abandon" means to relinquish the public's right of way in and use of the road.

(2) "Discontinue" means to discontinue the maintenance of the road.

(3) "Vacate" means to terminate the existence of the road by direct action of the commissioners court of a county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.002. PUBLIC ROADS. A public road or highway that has been laid out and established according to law and that has not been discontinued is a public road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.003. CONSTRUCTION AND MAINTENANCE OF PUBLIC ROADS.

(a) The commissioners court of a county may:

(1) make and enforce all necessary rules and orders for the construction and maintenance of public roads;

(2) hire the labor and purchase the machinery and equipment needed to construct and maintain public roads; and

(3) use any necessary material most convenient to build, repair, or maintain public roads, regardless of the location or extent of the material.

(b) The court may enter any necessary order for the use of inmates of the county jails to work on the county roads or to build bridges.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.004. COMMISSIONERS AS ROAD SUPERVISORS. (a) The county commissioners are the supervisors of the public roads in a county unless the county adopts an optional system of administering the county roads under Chapter 252.

(b) A county commissioner serving as a road supervisor shall supervise the public roads in the commissioner's precinct at least once each month.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.005. COMMISSIONER'S ROAD REPORT. (a) A county commissioner serving as a road supervisor shall make a sworn annual report during the ninth month of the county fiscal year on a form approved by the commissioners court showing:

(1) the condition of each road or part of a road and of each culvert and bridge in the commissioner's precinct;

(2) the amount of money reasonably necessary for maintenance of the roads in the precinct during the next county fiscal year;

(3) the number of traffic control devices in the precinct defaced or torn down;

(4) any new road that should be opened in the precinct;

and

(5) any bridges, culverts, or other improvements necessary

to place the roads in the precinct in good condition, and the probable cost of the improvements.

(b) The report shall be entered in the minutes of the commissioners court to be considered in improving public roads and determining the amount of taxes imposed for public roads.

(c) The report shall be submitted, together with each contract made by the court since its last report for any work on any road, to the grand jury at the first term of the district court occurring after the report is made to the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 621, Sec. 1, eff. June 11, 1997; Acts 1997, 75th Leg., ch. 917, Sec. 1, eff. Sept. 1, 1997.

Sec. 251.006. OBTAINING MATERIAL FOR PUBLIC ROADS. (a) The commissioners court of a county may condemn material necessary to construct, repair, or maintain public roads if the owner of the material rejects the price that the court determines to be a fair price.

(b) The commissioners court shall appoint commissioners to condemn the material. A condemnation commissioner is entitled to a fee of \$2 for each day of service. The fee shall be paid on order of the commissioners court from the same fund from which payment for the materials is made.

(c) The condemnation commissioners shall hold a hearing to set a fair and reasonable value for the material according to the current method for pricing or valuing the material. The compensation awarded by the condemnation commissioners for the material shall be paid to the owner of the material or deposited with the county treasurer to the owner's credit. When the payment or deposit is made, the county has the right to enter on and use the material.

(d) If the owner of the material or the county is not satisfied with the compensation awarded, the owner or county may appeal the award in the manner provided for appeal of a condemnation case.

(e) Payment for material needed for the general system of county roads shall be made from the county road and bridge fund or from the proceeds of any county bond issue. Payment for material to be used for the benefit of a defined district or political subdivision of the county shall be made from the district or

subdivision's funds derived from the sale of bonds or the collection of special taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.007. CLASSIFICATION OF COUNTY ROADS. (a) The commissioners court of each county shall classify each public road in the county as a first-class, second-class, or third-class road.

(b) A county may not reduce a first-class or second-class road to a lower class.

(c) A first-class road must be not less than 40 feet wide or more than 100 feet wide. The causeway on a first-class road must be at least 16 feet wide.

(d) A second-class road and a causeway on a second-class road must meet the requirements applicable to a first-class road.

(e) A third-class road must meet the requirements applicable to a first-class road, except that:

(1) a third-class road may be less than 40 but not less than 20 feet wide; and

(2) the causeway on a third-class road may be less than 16 but not less than 12 feet wide.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.008. GENERAL REQUIREMENTS FOR COUNTY ROADS. A public road of any class must:

(1) be clear of all obstructions;

(2) have all stumps over six inches in diameter cut down to not more than six inches of the surface and rounded off; and

(3) have all stumps of six inches or less in diameter cut smooth with the ground.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.009. CONSTRUCTION OF CATTLE GUARDS ON COUNTY ROADS; OFFENSE. (a) The commissioners court of a county may authorize the construction of cattle guards on a county road of any class. A cattle guard authorized under this section is not an obstruction of

the road.

(b) The commissioners court shall establish plans and specifications for a standard cattle guard to be used on the county roads. The plans and specifications must be plainly written and supplemented by drawings as necessary and must be available for inspection by the residents of the county.

(c) A person who constructs a cattle guard on a county road that does not conform to the plans and specifications established under Subsection (b) commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$5 or more than \$100.

(d) The commissioners court may construct a cattle guard on a county road of any class and may pay for its construction from the county road and bridge fund if the court finds that the construction of the cattle guard is in the best interest of the residents of the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 128, Sec. 2, eff. May 27, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 339 (S.B. 66), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 339 (S.B. 66), Sec. 2, eff. September 1, 2007.

Sec. 251.0095. REPLACEMENT AND REPAIR OF EXISTING CATTLE GUARDS ON COUNTY ROADS. (a) The commissioners court of a county may authorize the replacement or repair of an existing cattle guard on a county road of any class.

(b) The commissioners court may replace or repair a cattle guard on a county road of any class and may pay for its replacement or repair from the county road and bridge fund if the court finds that the replacement or repair of the cattle guard is in the best interest of the residents of the county.

Added by Acts 2003, 78th Leg., ch. 128, Sec. 1, eff. May 27, 2003.

Sec. 251.0096. REMOVAL OF CATTLE GUARDS FROM COUNTY ROADS. (a) The commissioners court of a county may remove a cattle guard from a

county road of any class if the commissioners court notifies each person who owns land adjacent to the cattle guard by certified mail not less than 90 days before the proposed removal of the cattle guard.

(b) The commissioners court is not required to hold a public hearing on a proposed cattle guard removal. If a resident of the county requests a public hearing, the commissioners court shall hold a public hearing on the removal of the cattle guard. To be valid, a request for a public hearing must be in writing and be made before the 75th day after the date the notice required by Subsection (a) is mailed.

Added by Acts 2009, 81st Leg., R.S., Ch. 216 (S.B. 1059), Sec. 1, eff. September 1, 2009.

Sec. 251.010. GATES ON THIRD-CLASS AND NEIGHBORHOOD ROADS; OFFENSES. (a) A person, including a neighborhood association, who owns or controls real property on which a third-class road or a neighborhood road established under Section 251.053 is located for which the right-of-way was obtained without cost to the county may erect a gate across the road when necessary. The person shall place a permanent hitching post and stile block on each side of the gate within 60 feet of the gate. The gate must be:

- (1) at least 10 feet wide;
- (2) free of obstructions above the gate;
- (3) constructed so that opening and shutting the gate will not cause unnecessary delay to persons, including emergency personnel, using the road; and
- (4) constructed with a fastening to hold the gate open until a person using the gate passes through it.

(b) The property owner shall keep the gate and the approaches to the gate in good order.

(c) A person who erects a gate across a road specified by Subsection (a) and who wilfully or negligently fails to comply with a requirement of this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$5 or more than \$20. Each week that the person fails to comply with this section constitutes a separate offense.

(d) A person who wilfully or negligently leaves open a gate on

a road specified by Subsection (a) commits an offense. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$5 or more than \$20.

(e) A person may not erect a gate under this section unless the gate is approved by the commissioners court of the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1123, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1032 (H.B. 1671), Sec. 1, eff. September 1, 2007.

Sec. 251.011. DETOUR ROADS. (a) The commissioners court of a county shall establish detour roads for the convenience of the public when a county road that is not part of the state highway system must be closed to traffic for road construction. When a county detour road is in use, the county has the same authority over the road as over an established public road.

(b) The commissioners court shall:

- (1) post all signs necessary for the convenience and guidance of the public at each end of a county detour road; and
- (2) maintain a county detour road so that it is reasonably adequate for normal traffic requirements.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.012. COUNTY AUTHORITY IN MUNICIPALITY. (a) With the approval of the governing body of a municipality, the commissioners court of a county may spend county money to finance the construction, improvement, maintenance, or repair of a street or alley in the county that is located in the municipality, including the provision of:

- (1) necessary roadbed preparation or material;
- (2) paving or other hard covering of the street or alley;
- (3) curbs, gutters, bridges, or drainage facilities; or
- (4) any construction, improvement, maintenance, or repair allowed under Section 791.032, Government Code, if the commissioners court finds that the county will receive benefits as a result of the work on the street or alley.

(b) County work authorized by this section may be done or financed:

- (1) by the county through the use of county equipment;
- (2) by an independent contractor with whom the county has contracted;
- (3) by the county as an independent contractor with the municipality; or
- (4) by the municipality, with the municipality to be reimbursed by the county.

(c) A county acting under this section has, to the extent practicable, the same powers and duties relating to imposing assessments for the construction, improvement, maintenance, or repair as the municipality would have if the municipality were to finance and undertake that activity.

(d) A county acting under Subsection (b) may not spend bond proceeds for the construction of a new road in a municipality unless the construction is specifically authorized in the election approving the issuance of the bonds, regardless of the source of the money used to acquire the equipment used to construct the road.

(e) The authority granted by this section is in addition to the authority of a county provided by a local road law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 671, Sec. 2, eff. Sept. 1, 1999.

Sec. 251.013. ROAD NAMES AND ADDRESS NUMBERS. (a) The commissioners court of a county by order may adopt uniform standards for naming public roads located wholly or partly in unincorporated areas of the county and for assigning address numbers to property located in unincorporated areas of the county. The standards apply to any new public road that is established.

(b) The commissioners court of a county by order may adopt a name for a public road located wholly or partly in an unincorporated area of the county and may assign address numbers to property located in an unincorporated area of the county for which there is no established address system.

(b-1) The commissioners court of a county by order may:

- (1) adopt standards and specifications for the design and installation of address number signs to identify properties located

in unincorporated areas of the county, including standards or specifications as to sign size, material, longevity, ability to be seen and to reflect light, and any other factor the commissioners court considers necessary or appropriate; and

(2) require the owners or occupants of properties in unincorporated areas of the county to:

(A) obtain address number signs that comply with the standards and specifications adopted under Subdivision (1); and

(B) install and maintain those signs at the locations and in the manner required by those standards and specifications.

(c) If an order adopted under this section conflicts with a municipal ordinance, the municipal ordinance prevails in the territory in which it is effective.

(d) A commissioners court may adopt an order under this section only after conducting a public hearing on the proposed order. The court shall give public notice of the hearing at least two weeks before the date of the hearing.

(e) A person who knowingly fails or refuses to comply with an order of a commissioners court under Subsection (b-1)(2) commits an offense. An offense under this subsection is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 688 (H.B. 2665), Sec. 1, eff. June 19, 2009.

Sec. 251.014. COUNTY IMPROVEMENT OF STATE HIGHWAY. (a) The commissioners court of a county may enter into an agreement with the commission for the county to carry out a project or activity for the improvement of a segment of the state highway system.

(b) In this section, "improvement" means construction, reconstruction, maintenance, and the making of a necessary plan or survey before beginning construction, reconstruction, or maintenance and includes a project or activity appurtenant to a state highway, including surveying, making a traffic count, or landscaping or an activity relating to a drainage facility, driveway, sign, light, or guardrail.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.27, eff. Sept. 1, 1997.

Sec. 251.015. ASSISTING OTHER GOVERNMENTAL ENTITY. The commissioners court of a county may use county road equipment, construction equipment, including trucks, and employees necessary to operate the equipment to assist another governmental entity on a project if:

- (1) the cost does not exceed \$15,000;
- (2) the use of the equipment or employees does not interfere with the county's work schedule; and
- (3) the county pays only the costs that the county would pay if the county did not assist the governmental entity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1058, Sec. 1, eff. June 18, 1999.

Sec. 251.016. GENERAL COUNTY AUTHORITY OVER ROADS, HIGHWAYS, AND BRIDGES. The commissioners court of a county may exercise general control over all roads, highways, and bridges in the county.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 13.11(b), eff. Sept. 1, 1999.

Sec. 251.0165. CONTROL OF ACCESS WITHIN CERTAIN COUNTIES. (a) Except as limited by Section 203.032, a county with a population of 3.3 million or more or a county adjacent to a county with a population of 3.3 million or more, by resolution or order, may:

- (1) deny access to or from a controlled access highway within the county and outside the limits of a municipality, including a state highway, from or to adjoining public or private real property and from or to a public or private way intersecting the highway, except at specific locations designated by the county; and
- (2) designate locations on a controlled access highway within the county and outside the limits of a municipality, including a state highway, at which access to or from the highway is permitted and determine the type and extent of access permitted at each location.

(b) This section does not apply to the placement of or access to a utility facility in or near a highway right-of-way.

Added by Acts 2007, 80th Leg., R.S., Ch. 1400 (H.B. 2991), Sec. 1, eff. June 15, 2007.

Sec. 251.017. COUNTY AUTHORITY TO SET FEE. The commissioners court of a county may set a reasonable fee for the county's issuance of a permit authorized by this chapter for which a fee is not specifically prescribed. The fee must be set and itemized in the county's budget as part of the budget preparation process.

Added by Acts 2001, 77th Leg., ch. 951, Sec. 1, eff. Sept. 1, 2001.

Sec. 251.018. ROAD REPORTS. A road condition report made by a county that is operating under a system of administering county roads under Chapter 252 or a special law, including a report made under Section 251.005, must include the primary cause of any road, culvert, or bridge degradation if reasonably ascertained.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1372 (S.B. 1747), Sec. 4, eff. September 1, 2013.

Sec. 251.019. DONATIONS. (a) A commissioners court may accept donations of labor, money, or other property to aid in the building or maintaining of roads, culverts, or bridges in the county.

(b) A county operating under the county road department system on September 1, 2013, may use the authority granted under this section without holding a new election under Section 252.301.

(c) A county that accepts donations under this section must execute a release of liability in favor of the entity donating the labor, money, or other property.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1372 (S.B. 1747), Sec. 4, eff. September 1, 2013.

SUBCHAPTER B. ESTABLISHING AND CLOSING ROADS

Sec. 251.051. GENERAL AUTHORITY OF COMMISSIONERS COURT. (a) The commissioners court of a county shall:

- (1) order that public roads be laid out, opened,

discontinued, closed, abandoned, vacated, or altered; and

(2) assume control of streets and alleys in a municipality that does not have an active de facto municipal government.

(b) A unanimous vote of the commissioners court is required to:

(1) close, abandon, or vacate a public road; or

(2) alter a public road, except to shorten it from end to end.

(c) The commissioners court of a county may not discontinue a public road until a new road designated by the court as a replacement is ready to replace it.

(d) The commissioners court may not discontinue, close, or abandon an entire first-class or second-class road unless the road has been vacated or unused for at least three years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.052. PUBLIC APPLICATION FOR NEW ROAD OR ROAD CHANGE.

(a) The residents of a precinct may apply for a new road or a change in an existing road by presenting to the commissioners court a petition signed by:

(1) eight property owners in the precinct, if the application is to request a new road or that a road be discontinued; or

(2) one property owner in the precinct, if the application is for a change in a road other than discontinuing the road.

(b) A petition presented under Subsection (a)(1) must specify the beginning and termination points of the proposed new road or road to be discontinued.

(c) The commissioners court may not grant an order on an application made under this section unless the applicants give notice of their intent to apply by posting, at the courthouse door and at two other places in the vicinity of the affected route, a written notice of their intent for at least 20 days before the date the application is made.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.053. NEIGHBORHOOD ROADS. (a) As provided by this section, a commissioners court may declare as a public road:

- (1) any line between the locations of any persons;
- (2) any section line; or
- (3) any practical route that is convenient to property owners while avoiding hills, mountains, or streams through any enclosures.

(b) A person who owns real property to which there is no public road or other public means of access may request that an access road be established connecting the person's real property to the county public road system by making a sworn application to the commissioners court requesting the court to establish the road. The application must:

- (1) designate the lines sought to be opened;
- (2) include the names and places of residence of the persons that would be affected by the establishment of the road; and
- (3) describe why the road is necessary.

(c) After an application is filed, the county clerk shall issue notice to the sheriff or constable commanding that officer to summon each property owner affected by the application. The sheriff or constable shall serve the summons and make a return in the manner in which process is served in a civil action in a justice court. A property owner summoned must appear at the next regular term of the commissioners court if the property owner elects to contest the application.

(d) At a regular term of court following the service of the summons under Subsection (c), the commissioners court may hear evidence as to the truth of the application. If the court determines that the applicants do not have access to their real property and premises, the court may issue an order declaring the lines designated in the application, or other lines established by the court, to be a public road. The court may direct the public road to be opened by the property owners and to remain open for a width of not less than 15 feet or more than 30 feet on each side of a designated line. The marked trees or other objects used to designate the lines or the corners of the survey may not be removed or defaced. Notice of the court's order shall be served immediately on the property owners and a return of the notice made in the manner provided by Subsection (c) for a return under that subsection. A copy of the order shall be filed in the deed records in the office of the county clerk.

(e) Damages to property owners incident to the opening of a road under this section shall be assessed by a jury of property

owners in the manner provided for other public roads. The county shall pay all costs incurred in connection with the proceedings to open a road under this section.

(f) The commissioners court is not required to maintain a road established under this section using county employees but shall make the road initially suitable for use as an access public road.

(g) In the case of a public road established under this section that involves an enclosure of 1,280 acres or more, a person who for 12 months after the person receives notice of the court's order issued under Subsection (d) fails, neglects, or refuses to leave open the person's real property free from all obstructions for 15 feet on the person's side of the line designated by the order commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$20 for each month that the person fails, neglects, or refuses to do so after the first 12 months after the person receives the notice.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.055. EXTENDING FARM-TO-MARKET ROAD IN ADJOINING COUNTY. A county that determines that it would significantly benefit from the extension of a farm-to-market road in an adjoining county may contract with the adjoining county for the extension and agree to pay all or part of the cost that the adjoining county necessarily incurs in extending the road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.056. ROADS ACROSS PUBLIC REAL PROPERTY. (a) A public road may not be opened across real property owned and used or intended for use for public purposes by a state institution and not subject to sale under the general law of this state without the consent of the governing body of the institution and the approval of the governor.

(b) The authority in charge of real property described by Subsection (a) may close a road opened on that real property before September 1, 1925, if the authority considers it necessary to protect the interests of the state. An institution that closes a road under this subsection shall compensate the county in which the real

property is located in an amount equal to the amount paid by the county to condemn the real property, as shown by the records of the commissioners court, together with eight percent interest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.057. ABANDONMENT OF COUNTY ROAD. (a) A county road is abandoned when its use has become so infrequent that one or more adjoining property owners have enclosed the road with a fence continuously for at least 20 years. The abandoned road may be reestablished as a public road only in the manner provided for establishing a new road.

(b) This section does not apply to:

(1) a road to a cemetery, unless a property owner whose property adjoins the road enclosed with a fence under Subsection (a) files notice with the county clerk of the county in which the road is located that the owner agrees to provide reasonable access to the cemetery in accordance with Section 711.041, Health and Safety Code; or

(2) an access road that is reasonably necessary to reach adjoining real property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 485 (S.B. [1487](#)), Sec. 1, eff. June 14, 2013.

Sec. 251.058. CLOSING, ABANDONING, AND VACATING PUBLIC ROAD.

(a) A property owner may not enjoin the entry or enforcement of an order of a commissioners court, acting at the request of any person or on its own initiative, to close, abandon, and vacate a public road or portion of a public road unless the property owner is entitled to an injunction because:

(1) the person owns property that abuts the portion of the road being closed, abandoned, and vacated; or

(2) the portion of the road being closed, abandoned, and vacated provides the only ingress to or egress from the person's property.

(b) Title to a public road or portion of a public road that is

closed, abandoned, and vacated to the center line of the road vests on the date the order is signed by the county judge in the owner of the property that abuts the portion of the road being closed, abandoned, and vacated. A copy of the order shall be filed in the deed records of the county and serves as the official instrument of conveyance from the county to the owner of the abutting property. The order shall:

(1) include the name of each property owner who receives a conveyance under this section;

(2) include the dimensions of the property being conveyed to each property owner;

(3) be indexed in the deed records of the county in a manner that describes:

(A) the county conveying the property as grantor; and

(B) the property owner receiving the conveyance as grantee; and

(4) if a public utility or common carrier that has the right of eminent domain is using the property being conveyed for a right-of-way or easement purpose, state that the title to the property is subject to the right-of-way or easement and the continued use by the public utility or common carrier of utility infrastructure in existence on the date the order is signed.

(b-1) Not later than the 30th day before the date an order is signed under Subsection (b), the commissioners court shall notify a public utility or common carrier described by Subsection (b)(4) of the proposal to close, abandon, and vacate the public road or portion of the public road.

(c) This section does not deprive a person whose property abuts the road at a point other than the portion of the road being closed, abandoned, and vacated of a right to seek compensation for damages caused by:

(1) any depreciation in the value of the property; or

(2) any impairment to the property owner's right of ingress to or egress from the property.

(d) If a commissioners court closes, abandons, and vacates a public road or a portion of a public road at the request of an owner of property that abuts the portion of the road being closed, abandoned, and vacated, the commissioners court may require the owner to:

(1) pay all reasonable administrative costs incurred for

processing the request and recording the order described by Subsection (b) in the county deed records; and

(2) reimburse the county for the market value of any property interest conveyed to the owner.

(e) A county by order of the commissioners court may adopt standard fees required to be paid under Subsection (d)(1) for processing a request and recording an order.

(f) For purposes of Subsection (b), "utility infrastructure" includes any facility owned by:

(1) an electric utility, as defined by Section 31.002, Utilities Code;

(2) a gas utility, as defined by Section 101.003 or 121.001, Utilities Code;

(3) a telecommunications provider, as defined by Section 51.002, Utilities Code; or

(4) a video service provider, as defined by Section 66.002, Utilities Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 233 (S.B. 1614), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 538 (H.B. 1709), Sec. 1, eff. June 16, 2015.

Sec. 251.059. MAINTAINING ESTABLISHED COUNTY ROADS. (a) When the commissioners court of a county has established a county road and (i) the laying out of the road has been established by a jury of view, (ii) the county road has been in continuous use for more than 30 years, and (iii) public funds have been expended for the upkeep and maintenance of the road for at least 10 of the last 20 years, the commissioners court of a county may declare that the road shall continue to be used as a public road.

(b) When the commissioners court of a county determines after declaring such road a public road that it is in more than one county, the commissioners courts of the counties in which the road is located may allocate by mutual agreement the costs of maintenance of the road upon a finding by the commissioners courts of the counties that the continued maintenance of the road as a public road would be of

benefit to the counties.

(c) It is hereby found by the legislature that all orders enacted by the commissioners court of a county in establishing such county roads and orders authorizing the expenditure of public funds for the construction and maintenance of public roads were enacted for a public purpose and all such orders are validated in all respects.

Added by Acts 1997, 75th Leg., ch. 621, Sec. 2, eff. June 11, 1997.

SUBCHAPTER C. COUNTY BRIDGES

Sec. 251.081. GENERAL AUTHORITY TO ERECT AND MAINTAIN BRIDGES. The commissioners court of a county may erect and maintain any necessary bridge in the county and make any necessary appropriation for that purpose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.082. ERECTION OF JOINT COUNTY BRIDGES. On equitable terms agreed to by the commissioners courts of the counties, two or more counties jointly may erect a bridge over a stream that forms the boundary between counties or at any other location at which the counties choose to erect a bridge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.083. ERECTING AND MAINTAINING BRIDGE IN MUNICIPALITY. (a) The commissioners court of a county may erect a bridge in a municipality in the manner authorized by law for the erection of a bridge outside a municipality.

(b) The commissioners court and the governing body of the municipality may agree to erect the bridge jointly. The county or the municipality may issue bonds to pay its proportionate share of any resulting debt.

(c) The commissioners court of a county that owns a bridge located in a municipality shall maintain the bridge in good condition. The duty imposed by this subsection does not affect the municipality's liability for an injury caused by a defective condition of the bridge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. ACQUISITION OF RIGHT-OF-WAY FOR COUNTY ROADS

Sec. 251.101. CONDEMNATION FOR COUNTY ROAD IN MUNICIPALITY.

(a) A county may exercise the power of eminent domain in a municipality with the prior consent of the governing body of the municipality to condemn and acquire real property, a right-of-way, or an easement in public or private real property that the commissioners court determines is necessary or convenient to any road that forms or will form a connecting link in the county road system or in a state highway.

(b) This section does not authorize the condemnation of property used for cemetery purposes.

(c) A condemnation proceeding under this section must be instituted under the direction of the commissioners court and in the name of the county. The procedure established by Chapter 21, Property Code, governs condemnation under this section.

(d) An appeal from the finding and assessment of damages by the condemnation commissioners may not suspend work by the county in connection with which the real property, right-of-way, or easement is sought to be acquired. In an appeal, the county is not required to give a bond for costs or other purposes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.102. COST OF RELOCATING OR ADJUSTING UTILITY FACILITY.

A county shall include the cost of relocating or adjusting an eligible utility facility in the expense of right-of-way acquisition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.103. RELOCATING WATER LINE. A county may pay for relocating a water line owned by a water control and improvement district if:

(1) the relocation is necessary to complete construction or improvement of a farm-to-market road as described by Section 256.008; and

(2) the district agrees to pay the county for the

relocation costs:

(A) within 20 years; and

(B) with interest at a rate equal to the rate paid by the county on its road and bridge fund time warrants.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. COUNTY TRAFFIC REGULATIONS

Sec. 251.151. AUTHORITY OF COMMISSIONERS COURT TO REGULATE CERTAIN ROADS. (a) The commissioners court of a county may regulate traffic on a county road or on real property owned by the county that is under the jurisdiction of the commissioners court.

(b) The commissioners court of a county may by order apply the county's traffic regulations to a public road in the county that is owned, operated, and maintained by a special district and located wholly or partly in the county if the commissioners court and the board of the district have entered into an interlocal contract under Section 791.036, Government Code.

(c) A public road that is subject to an order under Subsection (b) is considered to be a county road for purposes of applying a traffic regulation to the public road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1211 (S.B. [1411](#)), Sec. 2, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. [1296](#)), Sec. 21.002(30), eff. September 1, 2015.

Sec. 251.152. PUBLIC HEARING REQUIRED. (a) Except as provided by Section 251.159, before the commissioners court may issue a traffic regulation under this subchapter, the commissioners court must hold a public hearing on the proposed regulation.

(b) The commissioners court shall publish notice of the hearing in a newspaper of general circulation in the county. The notice must be published not later than the seventh or earlier than the 30th day before the date of the hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.153. LOAD LIMITS ON COUNTY ROADS AND BRIDGES. (a) The commissioners court of a county may establish load limits for any county road or bridge in the manner prescribed by Section 621.301.

(b) The commissioners court may authorize a county traffic officer, sheriff, deputy sheriff, constable, or deputy constable to weigh a vehicle to ascertain whether the vehicle's load exceeds the limit prescribed by the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1227, Sec. 1, eff. Sept. 1, 2001.

Sec. 251.154. MAXIMUM REASONABLE AND PRUDENT SPEEDS ON COUNTY ROADS. (a) The commissioners court of a county, by order entered on the minutes of the court, may determine and set a maximum reasonable and prudent speed for a vehicle travelling on any segment of a county road, including a road or highway intersection, railroad grade crossing, curve, or hill.

(b) In determining the maximum reasonable and prudent speed, the commissioners court shall consider all circumstances on the affected segment of the road, including the width and condition of the road surface and the usual traffic on the road.

(c) The maximum reasonable and prudent speed set by the commissioners court under this section may be lower than the maximum speed set by law for a vehicle travelling on a public highway.

(d) A speed limit set by the commissioners court under this section is effective when appropriate signs giving notice of the speed limit are installed on the affected segment of the county road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.155. RESTRICTED TRAFFIC ZONES. (a) The commissioners court of a county may adopt regulations establishing a system of traffic control devices in restricted traffic zones on:

- (1) property described by Section 251.151(a); and
- (2) property abutting a public road that is the subject of an order under Section 251.151(b) if the property is owned by the district that is subject to the order or is a public right-of-way.

(b) A system of traffic control devices adopted under this section must conform to the manual and specifications of the Texas Department of Transportation.

(c) The commissioners court by order entered on its minutes may install and maintain on property to which this section applies any traffic signal light, stop sign, or no-parking sign that the court considers necessary for public safety.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1211 (S.B. 1411), Sec. 3, eff. June 14, 2013.

Sec. 251.156. PARKING RESTRICTIONS. (a) The commissioners court of a county by order may have signs installed that prohibit or restrict the stopping, standing, or parking of a vehicle in a restricted traffic zone on property described by Section 251.151, if in the opinion of the court the stopping, standing, or parking:

- (1) is dangerous to those using the road or property; or
- (2) will unduly interfere with:
 - (A) the free movement of traffic; or
 - (B) the necessary control or use of the property.

(b) The commissioners court of a county by order may provide that in a prosecution for an offense involving the stopping, standing, or parking of an unattended motor vehicle in a restricted traffic zone on property described by Section 251.151 it is presumed that the registered owner of the vehicle is the person who stopped, stood, or parked the vehicle at the time and place the offense occurred.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1080, Sec. 1, eff. Sept. 1, 2001.

Sec. 251.157. PROHIBITING OR RESTRICTING USE OF ROAD. (a) In this section, "road supervisor" means a person authorized to supervise roads in a county or in a district or precinct of a county.

(b) A road supervisor may prohibit or restrict, if an alternative, more suitable road is available within the county at the time, the use of a road or a section of a road under the supervisor's

control by any vehicle that will unduly damage the road when:

(1) because of wet weather or recent construction or repairs, the road cannot be safely used without probable serious damage to it; or

(2) a bridge or culvert on the road is unsafe.

(c) Before prohibiting or restricting the use of a road under this section, the road supervisor shall post notices that state the road and the expected duration of the prohibition or restriction, and identify the alternate route. The notices must be posted at locations that enable drivers to detour to avoid the restricted road.

(d) The road supervisor may not prohibit the use of a road under this section until a detour has been provided.

(e) If the owner or operator of a vehicle that is prohibited or restricted from using a road under this section is aggrieved by the prohibition or restriction, the person may file with the county judge of the county in which the restricted road is located a written complaint that sets forth the nature of the grievance. On the filing of the complaint the county judge promptly shall set the issue for a hearing to be held not later than the third day after the date on which the complaint is filed. The county judge shall give the road supervisor, the county engineer, and the commissioners court written notice of the date and purpose of each hearing.

(f) The county judge shall hear testimony offered by the parties. On conclusion of the hearing, the county judge shall sustain, revoke, or modify the road supervisor's decision on the prohibition or restriction. The county judge's judgment is final as to the issues raised.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1019 (H.B. [2612](#)), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1019 (H.B. [2612](#)), Sec. 2, eff. June 14, 2013.

Sec. 251.1575. PROHIBITING USE OF ROAD FOR CERTAIN VEHICLES.

(a) A commissioners court may identify an alternate route to a road and require heavy vehicles having a gross weight of more than 60,000 pounds to travel the alternate route in order to prevent excessive

damage to the road due to the volume of traffic by such heavy vehicles. An alternate route identified under this subsection must be:

(1) of sufficient strength and design to withstand the weight of the vehicles traveling the alternate route, including any bridges or culverts along the road; and

(2) located within the same county as the road described by this subsection.

(b) Notice of the prohibition must be provided in the same manner as for a prohibition or restriction under Section 251.157.

(c) A person who is required to operate or move a vehicle or other object on an alternate route identified under this section is not liable for damage sustained by the road, including a bridge, as a result of the operation or movement of the vehicle or other object, unless the act, error, or omission resulting in the damage constitutes:

(1) wanton, wilful, and intentional misconduct; or

(2) gross negligence.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1019 (H.B. 2612), Sec. 3, eff. June 14, 2013.

Sec. 251.158. TEMPORARY USE OF COUNTY ROAD FOR FESTIVAL OR CIVIC EVENT. (a) The commissioners court of a county by order may permit the temporary use of a county road located in an unincorporated area of the county for a civic event, including a festival.

(b) The court by order shall establish procedures for the temporary diversion of traffic from the road being used for the event.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.159. DELEGATION OF COMMISSIONERS' AUTHORITY. (a) This section applies only to a county with a population of more than 78,000.

(b) The commissioners court of a county may delegate to the county engineer or other county employee any function of the commissioners court under this subchapter, except as provided by

Subsection (e). An action of the county engineer or other county employee under this section has the same effect as if the action were an action of the commissioners court.

(c) Before issuing a traffic regulation under this subchapter, the commissioners court, in lieu of publishing notice required by a law other than this subchapter, may give notice of the proposed regulation by posting a conspicuous sign in any location to be affected by the regulation.

(d) The commissioners court is not required to hold a public hearing on the proposed traffic regulation unless a resident of the county requests a public hearing. The request must be in writing and made before the eighth day after the later of:

(1) the date that the sign is posted; or

(2) the date that the notice under Section 251.152 is published.

(e) If a public hearing is requested, the commissioners court may not delegate the duty to hold the hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 885, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 780 (H.B. 3955), Sec. 1, eff. September 1, 2007.

Sec. 251.160. LIABILITY OF OWNER OR OPERATOR FOR ROAD DAMAGE.

(a) A person who operates or moves a vehicle or other object on a public road or bridge and the owner of the vehicle or other object are jointly and severally liable for damage sustained by the road or bridge as a result of the negligent operation or moving of the vehicle or other object or as a result of the operation or movement of the vehicle at a time prohibited by the officials with authority over the road.

(b) The county judge by appropriate legal action may recover damages for which liability is provided by this section. The county attorney shall represent the county in an action under this subsection. Damages collected under this subsection are for the use of the county to benefit the damaged road or bridge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 251.161. VIOLATIONS OF SUBCHAPTER; OFFENSE. (a) A person commits a misdemeanor offense if the person:

(1) stops, stands, or parks a vehicle in violation of a restriction stated on a sign installed under Section 251.156;

(2) defaces, injures, knocks down, or removes a sign or traffic control device installed under an order of the commissioners court of a county issued under this subchapter;

(3) operates a motor vehicle in violation of an order of the commissioners court entered under this subchapter; or

(4) otherwise violates this subchapter.

(b) An offense under this section is punishable by a fine not to exceed \$200.

(c) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 806, Sec. 2, eff. September 1, 2007.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 806 (S.B. 1127), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 806 (S.B. 1127), Sec. 2, eff. September 1, 2007.

CHAPTER 252. SYSTEMS OF COUNTY ROAD ADMINISTRATION

SUBCHAPTER A. EX OFFICIO ROAD COMMISSIONER SYSTEM

Sec. 252.001. ADOPTION OF EX OFFICIO ROAD COMMISSIONER SYSTEM.

(a) The commissioners court of a county may adopt this subchapter by an order made at a regular term of the court when all the members are present.

(b) The commissioners court shall enter the order in its minutes. The order is not required to be in any particular form, and substantial compliance with this section is sufficient.

(c) If the commissioners court adopts this subchapter, Subchapters B, C, and D do not apply to the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.002. RELATIONSHIP OF SUBCHAPTER TO OTHER LAW. If this subchapter conflicts with a general law relating to roads, this subchapter controls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.003. EX OFFICIO ROAD COMMISSIONERS. A county commissioner is the ex officio road commissioner of the county commissioner's precinct.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.004. BOND. (a) Before assuming the duties of an ex officio road commissioner, a county commissioner must execute a bond in the amount of \$3,000 payable to the county judge for the use and benefit of the county road and bridge fund. The bond must be conditioned that the member will:

(1) perform the duties required of the ex officio road commissioner by law or by the commissioners court; and

(2) account for the money or other property belonging to the county that comes into the commissioner's possession.

(b) To be effective, the bond must be approved by the county judge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.005. POWERS AND DUTIES OF COMMISSIONERS COURT. (a) The commissioners court shall adopt a system for laying out, working on, draining, and repairing the public roads.

(b) The commissioners court may purchase vehicles, tools, and machinery necessary for working on public roads and may construct, grade, or otherwise improve a road or bridge by contract in the manner provided by Section 252.213.

(c) The commissioners court may provide reasonable rules and punishment as necessary to require inmates of county jails to work well on public roads and may provide a reward not to exceed \$10 to be paid out of the county road and bridge fund for the recapture and delivery of an escaped inmate to be paid to any person other than the

person in charge of the inmate at the time of the escape.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.006. POWERS AND DUTIES OF EX OFFICIO ROAD COMMISSIONERS. (a) Under the direction of the commissioners court, an ex officio road commissioner is responsible for the vehicles, tools, and machinery belonging to the county and placed in the commissioner's control by the court.

(b) Under rules adopted by the commissioners court, an ex officio road commissioner shall direct the:

- (1) laying out of new roads;
- (2) construction or changing of roads; and
- (3) building of bridges.

(c) Subject to authorization by the commissioners court, an ex officio road commissioner may employ persons for positions in the commissioner's precinct to be paid from the county road and bridge fund.

(d) An ex officio road commissioner may discharge any county employee working in the commissioner's precinct who is paid from the county road and bridge fund.

(e) An ex officio road commissioner has the duties of a supervisor of public roads as provided by Sections 251.004 and 251.005.

(f) An ex officio road commissioner shall:

(1) determine the condition of the public roads in the commissioner's precinct;

(2) determine the character of work to be done on the roads; and

(3) direct the manner of grading, draining, or otherwise improving the roads.

(g) A road overseer shall follow a direction given under Subsection (f)(3).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. ROAD COMMISSIONER SYSTEM

Sec. 252.101. SUBCHAPTER NOT APPLICABLE TO CERTAIN COUNTIES.

(a) This subchapter does not apply to Angelina, Aransas, Blanco,

Bowie, Calhoun, Camp, Cass, Cherokee, Comal, Dallas, Delta, DeWitt, Fayette, Franklin, Galveston, Gillespie, Grayson, Gregg, Harris, Harrison, Henderson, Hill, Hopkins, Houston, Jack, Jackson, Jasper, Lamar, Lavaca, Limestone, McLennan, Milam, Montgomery, Morris, Nacogdoches, Newton, Parker, Rains, Red River, Refugio, Sabine, San Augustine, Shelby, Smith, Tarrant, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Washington, or Wood County.

(b) Notwithstanding Subsection (a), the commissioners court of Collin, Dallas, or Van Zandt County may adopt this subchapter instead of the special law for that county if the court determines that this subchapter is better suited to that county than the special law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 917, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1431, Sec. 2, eff. Sept. 1, 1997.

Sec. 252.102. RELATIONSHIP OF SUBCHAPTER TO OTHER LAW. If this subchapter conflicts with a general law relating to roads and bridges, this subchapter controls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.103. ROAD COMMISSIONERS. (a) A commissioners court may employ not more than four road commissioners.

(b) A road commissioner must be a resident of the district for which the road commissioner is employed.

(c) If the commissioners court employs more than one road commissioner, the court shall determine the district each road commissioner controls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.104. BOND OF ROAD COMMISSIONER. (a) Before assuming the duties of a road commissioner, a road commissioner must execute a bond with one or more good and sufficient sureties payable to the county judge in the amount of \$1,000, conditioned on the faithful performance of the road commissioner's duties.

(b) To be effective, the bond must be approved by the county

judge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.105. POWERS AND DUTIES OF ROAD COMMISSIONER. (a) A road commissioner controls the overseers, laborers, tools, machinery, and vehicles to be used on the roads in the road commissioner's district and may require overseers to deploy laborers that the road commissioner designates to open, work on, or repair roads or to build or repair bridges or culverts in the district.

(b) A road commissioner shall:

(1) ensure that the roads and bridges in the district are kept in good repair;

(2) under the control of the commissioners court, establish a system of grading and draining public roads in the district and ensure that the system is carried out by the overseers and laborers under the road commissioner's control;

(3) under the direction of the commissioners court, spend the money entrusted to the road commissioner by the court in the most economical and advantageous manner on the public roads, bridges, and culverts of the district; and

(4) put the inmates and other laborers furnished by the commissioners court to work.

(c) A road commissioner is responsible for the safekeeping of and is liable for the loss or destruction of the machinery, tools, or vehicles placed under the road commissioner's control unless the road commissioner was not at fault. When discharged, the road commissioner shall deliver those items to the person designated by the commissioners court.

(d) Inmates may not be required to work when there is available, after building and repairing bridges, a sufficient road fund to provide for the necessary work on the roads.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.106. SUPERVISION OF ROAD COMMISSIONER BY COMMISSIONERS COURT. (a) A road commissioner shall obey the orders of the commissioners court.

(b) A road commissioner's acts are subject to the control,

supervision, orders, and approval of the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.107. REPORT OF ROAD COMMISSIONER. (a) At each regular term of the commissioners court, a road commissioner shall give a report under oath to the court that:

(1) includes an itemized account of the money the road commissioner has received to be spent on roads and bridges and the use made of the money;

(2) describes the condition of the roads, bridges, and culverts in the road commissioner's district; and

(3) includes any other information the court requires.

(b) The road commissioner shall make other reports at any time the commissioners court requires.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.108. USE OF COUNTY ROAD AND BRIDGE FUND. (a) In a county that employs road commissioners under this subchapter, the commissioners court shall ensure that the county road and bridge fund is judiciously and equitably spent on the roads and bridges in the county. As nearly as the condition and necessity of the roads permit, the fund shall be spent in each county commissioner's precinct in proportion to the amount of money in the fund collected in the precinct.

(b) In a county that employs road commissioners under this subchapter, money used in building permanent roads must first be used on:

(1) first-class or second-class roads; and

(2) roads for which the right-of-way has been furnished free of cost to make as straight a road as is practicable and for which the residents have offered the greatest amount of labor, money, or other property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.109. DONATIONS. A commissioners court or the road

commissioners may accept donations of labor, money, or other property to aid in building or maintaining roads in the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.110. LIABILITY FOR PROPERTY DAMAGE OR MISPLACEMENT. A person who knowingly or wilfully damages or misplaces a bridge, culvert, drain, sewer, ditch, sign, milepost, or similar thing placed on a road to benefit the road is liable to the county and any injured person for damages caused by the person's conduct.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.111. DRAINAGE ALONG PUBLIC ROAD. (a) A commissioners court or road commissioner may authorize a person to make a drain along a public road to drain the person's property.

(b) The person must make the drain under the direction of the commissioners court, road commissioner, or a person designated by the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. ROAD SUPERINTENDENT SYSTEM

Sec. 252.201. SUBCHAPTER NOT APPLICABLE TO CERTAIN COUNTIES.

(a) This subchapter does not apply to Angelina, Aransas, Blanco, Bowie, Calhoun, Camp, Cass, Cherokee, Comal, Dallas, Delta, DeWitt, Fayette, Franklin, Galveston, Gillespie, Grayson, Gregg, Harris, Harrison, Henderson, Hill, Hopkins, Houston, Jack, Jackson, Jasper, Lamar, Lavaca, Limestone, McLennan, Milam, Montgomery, Morris, Nacogdoches, Newton, Parker, Rains, Red River, Refugio, Sabine, San Augustine, Shelby, Smith, Tarrant, Titus, Travis, Trinity, Tyler, Upshur, Van Zandt, Victoria, Washington, or Wood County.

(b) Notwithstanding Subsection (a), the commissioners court of Collin or Dallas County may adopt this subchapter instead of the special law for that county if the court determines that this subchapter is better suited to that county than the special law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 1997, 75th Leg., ch. 1431, Sec. 3, eff. Sept. 1, 1997.

Sec. 252.202. RELATIONSHIP OF SUBCHAPTER TO OTHER LAW. If this subchapter conflicts with a general law relating to roads and bridges, this subchapter controls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.203. ADOPTION OF SUBCHAPTER AND APPOINTMENT OF ROAD SUPERINTENDENTS. (a) The commissioners court of a county may adopt this subchapter by appointing a road superintendent for the county or one superintendent in each county commissioner's precinct by an order made at a regular term of the court.

(b) The commissioners court shall enter the order in its minutes. The order is not required to be in any particular form, and substantial compliance with this section is sufficient.

(c) A road superintendent must be a qualified voter of the county or precinct for which the road superintendent is appointed.

(d) A road superintendent holds office for two years unless removed by the commissioners court for good cause.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.204. OATH AND BOND OF ROAD SUPERINTENDENT. (a) Not later than the 20th day after the date of appointment, a road superintendent must:

(1) take and subscribe to the oath required by the constitution; and

(2) give a bond payable to the county judge in an amount fixed by the commissioners court, conditioned that the road superintendent will:

(A) faithfully perform the duties required of the road superintendent by law or the commissioners court; and

(B) disburse money under the road superintendent's control as the law provides or the commissioners court directs.

(b) To be effective, the bond must be approved by the county judge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.205. POWERS AND DUTIES OF ROAD SUPERINTENDENT. (a) Subject to the orders of the commissioners court, a road superintendent has general supervision over the public roads in the road superintendent's county or precinct and the county inmates working on the roads.

(b) A road superintendent shall:

(1) perform the duties of supervisor imposed on the county commissioners in counties not adopting this subchapter;

(2) direct the laying out, constructing, changing, and repairing of roads and the building of bridges in the road superintendent's county or precinct, except where otherwise contracted;

(3) take charge of and be responsible for the safekeeping of the tools, machinery, and vehicles placed under the road superintendent's control by the commissioners court, execute a receipt for an item described by this subdivision, and file the receipt with the county clerk;

(4) ensure that the roads and bridges in the road superintendent's county or precinct are kept in good repair;

(5) under the direction of the commissioners court, establish and carry out a system of working on, grading, and draining the public roads in the road superintendent's county or precinct;

(6) employ a sufficient force to enable the road superintendent to do the necessary work in the road superintendent's county or precinct, giving due regard to the condition of the county road and bridge fund and the work to be done;

(7) buy or hire tools, machinery, and vehicles as directed by the commissioners court;

(8) work on the roads in the manner directed by the commissioners court;

(9) perform any other service required by the commissioners court; and

(10) on leaving office, deliver all money and other property to the person the commissioners court directs.

(c) Notwithstanding Subsection (a), the commissioners court may employ a person to supervise the inmates and direct the work to be done by them.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.206. LIABILITY OF ROAD SUPERINTENDENT. A road superintendent is liable for:

(1) the loss, injury, or destruction of machinery or a tool or vehicle placed under the road superintendent's control by the commissioners court unless the road superintendent was not at fault; and

(2) the improper expenditure of any money for roads entrusted to the road superintendent.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.207. REPORT OF ROAD SUPERINTENDENT. (a) A road superintendent shall make a sworn report to the commissioners court at each regular term of the court showing:

(1) an itemized account of the money the road superintendent has received belonging to the road fund;

(2) the person from whom the money was received;

(3) the use the road superintendent has made of the money;

(4) the condition of the roads and bridges in the county or precinct; and

(5) any other matter on which the court requires information.

(b) A road superintendent shall make other reports as required by the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.208. SUPERVISION OF ROAD SUPERINTENDENT BY COMMISSIONERS COURT. Work performed under a road superintendent is subject to the general supervision of the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.209. CONTRACTS BY ROAD SUPERINTENDENT; PAYMENT. (a) A road superintendent shall make the best contract possible for labor

or machinery and in payment for the labor or machinery shall issue to the person entitled to payment a certificate showing the amount due and the purpose for which the certificate was given.

(b) The certificate shall be dated, numbered, and signed by the road superintendent.

(c) The road superintendent and the sureties on the road superintendent's official bond are liable for the damages caused by:

- (1) the wrongful issuance of a certificate; or
- (2) an extravagance in the amount of a certificate.

(d) On approval by the commissioners court, a warrant shall be issued to the person entitled to payment to be paid by the county treasurer out of the proper fund in the same manner as other warrants.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.210. DIVISION OF COUNTY OR PRECINCT INTO ROAD DISTRICTS. (a) If the commissioners court directs, a road superintendent shall:

- (1) divide the road superintendent's county or precinct into road districts of convenient size;
- (2) define the boundaries of the districts; and
- (3) designate the districts by number.

(b) To be effective, the districts must be approved by the commissioners court.

(c) The boundaries shall be recorded in the minutes of the commissioners court.

(d) The road superintendent shall:

- (1) determine the names of the persons subject to road duty in each district;
- (2) keep a record of the names of the persons; and
- (3) report the record to the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.211. SALARY OF ROAD SUPERINTENDENT. (a) A road superintendent's salary shall be paid at stated intervals on the order of the commissioners court.

(b) The commissioners court may suspend the salary of a road

superintendent whose services are no longer needed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.212. POWERS OF COMMISSIONERS COURT. In a county that appoints one or more road superintendents, the commissioners court may:

(1) purchase or hire the road machinery, tools, vehicles, and labor required to grade, drain, or repair the roads of the county;

(2) use labor and spend money on the roads; and

(3) adopt and enforce reasonable and necessary orders and rules for laying out, working on, and improving the public roads.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.213. CONTRACTS BY COMMISSIONERS COURT; PAYMENT. (a) In a county that appoints one or more road superintendents, the commissioners court by contract may construct, grade, gravel, or otherwise improve a road or bridge.

(b) At the time the contract is made, the commissioners court shall direct the county treasurer to:

(1) transfer the amount of money stipulated in the contract to a particular fund; and

(2) keep a separate account of the money.

(c) The money may be used only for payment under the contract and may be paid only on the order of the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.214. DONATIONS. A commissioners court may accept donations of labor, money, or other property to aid in building or maintaining roads in the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.215. LIABILITY FOR PROPERTY DAMAGE OR MISPLACEMENT. A

person who knowingly or wilfully damages or misplaces a bridge, culvert, drain, sewer, ditch, sign, milepost, or similar thing placed on a road to benefit the road is liable to the county and any injured person for damages caused by the person's conduct.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.216. DRAINAGE ALONG PUBLIC ROAD. (a) A commissioners court or, with the approval of the commissioners court, a road superintendent may authorize a person to make a drain along a public road to drain the person's property.

(b) The person must make the drain under the direction of the commissioners court, road superintendent, or a person designated by the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. COUNTY ROAD DEPARTMENT SYSTEM

Sec. 252.301. ADOPTION OF COUNTY ROAD DEPARTMENT SYSTEM. (a) A county may adopt this subchapter at an election held as provided by this section.

(b) The commissioners court shall submit the question of whether to adopt this subchapter to the voters of the county if it receives a petition signed by a number of registered voters of the county equal to at least 10 percent of the number of votes received in the county by all the candidates for governor in the most recent gubernatorial election. The court shall order the election to be held on the first authorized uniform election date prescribed by Subchapter A, Chapter 41, Election Code, that occurs after the 30th day after the date the petition is filed with the court. The ballot for the election shall be printed to permit voting for or against the proposition: "Adopting the Optional County Road System in _____ County."

(c) If the majority of the votes received in the election favor adoption, this subchapter takes effect in the county on the date the official result of the election is determined.

(d) A county that votes to adopt this subchapter may vote in the same manner to discontinue use of this subchapter.

(e) An election on the question of adopting or discontinuing

use of this subchapter may not be held more often than every two years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.302. ORGANIZATION OF SYSTEM. (a) The county road department is responsible for the construction and maintenance of county roads.

(b) The county road department includes:

- (1) the commissioners court as the policy-making body;
- (2) the county road engineer as the chief executive officer;
- (3) other administrative personnel; and
- (4) road employees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.303. COUNTYWIDE SYSTEM. In a county that adopts this subchapter, the construction and maintenance of county roads, the ownership and use of county road department equipment, materials, and supplies, and the administration of the county road department are to be based on the county as a whole without regard to commissioners' precincts.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.304. COUNTY ROAD ENGINEER OR ROAD ADMINISTRATOR. (a) The commissioners court shall appoint a county road engineer, who must:

- (1) be a licensed professional engineer experienced in road construction and maintenance; and
- (2) meet the qualifications required by the Texas Department of Transportation for its district engineers.

(b) If the commissioners court is unable to employ a licensed professional engineer, it may employ a county road administrator to perform the duties of the county road engineer. The county road administrator must have had experience in road building or maintenance or other types of construction work qualifying the person

to perform the duties of the position but need not have had any particular amount of professional training or experience in engineering work.

(c) For purposes of this subchapter, a reference in another section of this subchapter to the county road engineer means the county road administrator.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.305. OATH; BONDS. (a) A county road engineer must take the official oath of office.

(b) As required by the commissioners court, the county road engineer and other administrative personnel of the county road department must give a bond in an amount and with a surety approved by the commissioners court. The county shall pay the premiums on the bond.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.306. SALARY OF COUNTY ROAD ENGINEER. A county road engineer shall receive an annual salary to be paid in equal monthly installments out of the county road and bridge fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.307. TERM AND REMOVAL. (a) A county road engineer holds the position for an indefinite term.

(b) A county road engineer may be removed by a majority vote of the commissioners court. The removal takes effect on the 30th day after the date the county road engineer receives written notice that the court intends to remove the engineer. The court shall hold a public hearing on the removal before the removal takes effect if the county road engineer requests a hearing in writing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.308. COUNTY ROAD ENGINEER UNABLE TO PERFORM DUTIES. A

commissioners court may designate a qualified administrative officer to perform the county road engineer's duties during any period in which the county road engineer is absent or unable to perform those duties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.309. POWERS AND DUTIES OF COUNTY ROAD ENGINEER. (a) The county road engineer is responsible to the commissioners court for the efficient and economical construction and maintenance of the county roads.

(b) The county road engineer may:

(1) appoint for an indefinite term and remove the county road department's personnel, subject to the approval of the commissioners court; and

(2) authorize administrative personnel to employ and remove subordinates.

(c) Except for the purpose of inquiry, the commissioners court shall deal with the county road department's personnel through the county road engineer.

(d) The county road engineer shall attend all meetings of the commissioners court relating to county road matters and may participate in the discussions and make recommendations.

(e) The county road engineer shall:

(1) ensure that the policies of the commissioners court relating to county roads are faithfully executed;

(2) supervise the administration of the county road department;

(3) prepare detailed annual budget estimates for the construction and maintenance of the county roads and the operation of the county road department;

(4) prepare estimates and specifications for the equipment, materials, supplies, and labor necessary for the construction and maintenance of the county roads and the operation of the county road department;

(5) serve as custodian of the equipment, materials, and supplies belonging to the county road department;

(6) prepare plans and specifications for county road construction and maintenance;

(7) maintain cost-accounting records of county road department expenditures;

(8) keep an inventory of county road department equipment, materials, and supplies; and

(9) perform any other duties required by the commissioners court that are consistent with this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.310. INSPECTIONS. The county road engineer shall inspect for the county the progress of work on a county road construction and maintenance project awarded to a private contractor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.311. FUNDING. (a) Expenditures for the construction and maintenance of the county roads and the operation of the county road department shall be paid out of the county road and bridge fund strictly in accordance with annual budgeted appropriations.

(b) On application of the county road engineer, the commissioners court may transfer any part of an unencumbered appropriation balance for an item in the county road and bridge fund budget to another item.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.312. COMPETITIVE BIDDING. (a) Except as provided by Subsection (b), the commissioners court shall purchase the equipment, materials, and supplies for the county road department through competitive bidding in conformity with estimates and specifications prepared by the county road engineer.

(b) If the county road engineer so recommends and the commissioners court considers it to be in the best interest of the county, a purchase in an amount of \$25,000 or less may be made through negotiation by the commissioners court or the court's authorized representative on requisition to be approved by the commissioners court or the county auditor without advertising for competitive bids.

(c) A purchase may not be divided or reduced to avoid the competitive bidding requirement on a purchase that would otherwise cost more than \$25,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 115, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 675, Sec. 2, eff. June 13, 2001.

Sec. 252.313. PAYMENT OF CLAIMS. Before the commissioners court orders payment of a claim covering the purchase of equipment, materials, supplies, or services, including county road construction or maintenance, contracted for by the court, the county road engineer must certify in writing that the claim is correct and that:

(1) any equipment, materials, or supplies covered by the claim conform to specifications approved by the county road engineer and have been delivered in good condition;

(2) any county road department services contracted for by the commissioners court have been satisfactorily performed; and

(3) any county road construction or maintenance done under the contract conforms to the plans and specifications called for in the contract.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 252.314. DONATIONS. A commissioners court may accept donations of labor, money, or other property to aid in the building or maintaining of roads in the county.

Added by Acts 2013, 83rd Leg., R.S., Ch. 834 (H.B. [1384](#)), Sec. 1, eff. June 14, 2013.

CHAPTER 253. COUNTY IMPROVEMENT OF SUBDIVISION ROADS

Sec. 253.001. APPLICABILITY. This chapter applies only to a subdivision, part of a subdivision, or an access road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1245 (H.B. [2591](#)), Sec. 1, eff.

June 15, 2007.

Sec. 253.002. DEFINITION. In this chapter, "improvement" means construction or repair.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 253.003. PROPOSAL FOR COUNTY IMPROVEMENT OF SUBDIVISION ROADS AND ASSESSMENT OF COSTS. If the commissioners court of a county determines that the improvement of a road in a subdivision or of an access road to a subdivision is necessary for the public health, safety, or welfare of the residents of the county, the commissioners court may propose to:

- (1) improve the road to comply with county standards for roads; and
- (2) assess all or part of the costs of the improvement pro rata against the record owners of the real property of the subdivision or a defined part of the subdivision.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1131, Sec. 1, eff. June 20, 2003.

Sec. 253.004. NOTICE. (a) The commissioners court must publish notice of the proposed improvement and assessment at least twice in a newspaper of general circulation in the county.

(b) The notice must state the date the commissioners court will hold a public hearing to consider the proposed improvement and assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 253.005. PUBLIC HEARING. The commissioners court must hold a public hearing to consider the proposed improvement and assessment on or after the 31st day after the date the commissioners court publishes the first required notice.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 253.006. BALLOT. (a) Not later than the 10th day after the date the commissioners court holds a public hearing under Section 253.005, the commissioners court by certified mail shall send to each record owner of real property in the subdivision or part of the subdivision to be assessed:

(1) a ballot on whether the commissioners court shall order the improvement and assessment; and

(2) an addressed stamped envelope for the return of the completed ballot to the county clerk.

(b) The ballot must state the maximum assessment that could be made against each property in the subdivision or part of the subdivision to be assessed if a majority of the votes received favor the proposition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1131, Sec. 2, eff. June 20, 2003.

Sec. 253.007. RESULTS OF VOTE. (a) Not later than the 30th day after the date of the public hearing, the county clerk shall tally the returned ballots and declare the results to the commissioners court.

(b) If a majority of returned ballots are in favor of the improvement and assessment, the commissioners court shall order the improvements and assess the costs of the improvements against the real property owners of the subdivision or part of the subdivision.

(c) If the proposition fails, the commissioners court may not:

(1) order the improvement and assessment; or

(2) again propose the improvement and assessment before the fourth anniversary of the date the county clerk declares the results of the vote to the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1131, Sec. 3, eff. June 20, 2003.

Sec. 253.008. ASSESSMENT OF COSTS. (a) The commissioners court may provide the time, terms, and conditions of payment and default of an assessment.

(b) Except as provided by Subsection (d), the commissioners court may not require the payment of interest on an assessment.

(c) An assessed property owner is personally liable for the amount of the assessment.

(d) Beginning on the second anniversary of the date of an assessment, the Commissioners Court of Aransas County by order may require the payment of interest on the assessment at the rate determined under Section 304.003, Finance Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1236 (S.B. 802), Sec. 2, eff. June 17, 2011.

Sec. 253.009. LIEN. (a) An assessment is secured by a lien against the real property of the assessed property owner.

(b) The lien is effective on the date written notice of the assessment is filed for record in the office of the county clerk of the county in which the property is located.

(c) The written notice must be in recordable form and contain the:

- (1) amount of the assessment;
- (2) legal description of the property; and
- (3) name and address of each property owner.

(d) An assessment lien under this chapter is inferior only to a tax lien or mortgage lien recorded before the effective date of the assessment lien.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 253.010. APPEAL. (a) Not later than the 15th day after the date a property owner receives an assessment, the owner may appeal the assessment by filing a petition in a district court having jurisdiction in the county.

(b) The appeal may be made on the basis of the assessment amount or the inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or the road improvements.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 253.011. MAINTENANCE OF ROADS. (a) A road improved under this chapter is a county road.

(b) The county shall maintain the road according to county road standards.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 253.012. ROADS IN MUNICIPALITIES. (a) If a road in a subdivision or an access road to a subdivision is located in a municipality, the county may improve the road only if the governing body of the municipality and the commissioners court:

(1) agree that the county may improve the road; and

(2) in the agreement indicate whether the improved road will become a county road or a municipal road.

(b) Before a county may improve a road located in a municipality under this section:

(1) the county must meet the other requirements of this subchapter; and

(2) the commissioners court of the county must find that the improvement of the road serves a county purpose.

(c) Section 253.011 does not apply to a road improved under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1245 (H.B. 2591), Sec. 2, eff. June 15, 2007.

CHAPTER 254. DRAINAGE ON PUBLIC ROADS

Sec. 254.001. DEFINITIONS. In this chapter:

(1) "Ditch" includes a drain or other watercourse.

(2) "Public road" means a road or highway that has not been discontinued and that has been established according to law, and includes each road or highway opened to and used by the public for at least 10 years before March 25, 1897.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.002. PETITION FOR DRAINAGE CONSTRUCTION. (a) The commissioners court of a county may not order a drainage system to be constructed unless a petition is presented to the court as provided by this section.

(b) To be valid, the petition must include:

(1) the signatures of at least 100 registered voters of the county;

(2) a statement of the necessity for and availability of the drainage system;

(3) the number of miles of public roads, as accurately as possible;

(4) the width and depth of the ditches to be built along the first-class roads;

(5) the name and location of each natural waterway crossed by the county's first-class roads;

(6) the distance of each waterway from another along the first-class roads; and

(7) the names and residences, if known, of each owner of real property adjacent to or within one mile of each first-class road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.003. NOTICE OF HEARING ON ESTABLISHING DRAINAGE SYSTEM. (a) After a petition is filed under Section 254.002, the county clerk shall issue notice of the petition not later than the 20th day before the date on which the next regular session of the commissioners court convenes. Each notice must contain a brief statement of the contents of the petition and must require all interested persons who wish to contest the petition to appear at the court's next regular session.

(b) The county clerk shall post a copy of the notice:

(1) at the courthouse door; and

(2) at each of four other public places in the county, not more than one of which may be posted in the same municipality.

(c) The sheriff shall post the notices and shall return them to the county clerk on or before the first day of the term.

(d) For services provided under this section, the county clerk shall receive a fee of \$1.50.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.004. HEARING AND DETERMINATION ON ESTABLISHING DRAINAGE SYSTEM. (a) At the hearing on the petition, the commissioners court shall:

(1) consider the petition and hear all testimony for or against its provisions; and

(2) determine whether the drainage system proposed by the petition is necessary or advisable for the public benefit.

(b) If the court approves the petition, the court shall:

(1) order the decision entered into the court's minutes and made part of the record; and

(2) enter into the minutes whether notice was properly served.

(c) The court's order is final if notice was properly served.

(d) If the court disapproves the petition for the drainage system, the court may not hear another application for the drainage system before the first anniversary of the date of disapproval.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.005. AUTHORITY TO PROVIDE DRAINAGE. (a) The commissioners court of a county may order the construction or maintenance of ditches as provided by this chapter at any regular session of the court.

(b) If a ditch is constructed under this chapter, the ditch must be placed on or within the exterior lines of a public road in the county and must have the capacity to carry off into a natural waterway all surface water reasonably adjacent that may collect in the ditch from natural causes.

(c) The commissioners court shall:

(1) make a drain on each side of a public road when necessary and use the dirt from the drain excavation to build the road; and

(2) drain a public road when necessary and have one or more ditches cut for that purpose, taking into account the natural waterflow and causing as little damage as possible to adjacent property owners.

(d) In connection with its authority to construct and maintain ditches, the commissioners court may construct any necessary side, lateral, spur, or branch ditch.

(e) The commissioners court may acquire by purchase or condemnation any new or wider right-of-way not wider than 100 feet for streambed diversion and drainage channels, but only for locating, constructing, or maintaining a county road. The cost of acquisition may be paid from the county road and bridge fund or any available county money.

(f) If damages are suffered by a property owner, the commissioners court shall determine the damages and pay the property owner out of the county general fund. If the commissioners court and the property owner disagree as to the amount of damages, the amount may be determined by civil suit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.006. RESTRICTIONS ON DRAINAGE AUTHORITY. (a) The commissioners court of a county may not construct a ditch without an outlet to a natural waterway large enough to carry off all water that may collect in the ditch.

(b) The commissioners court may not change the natural course of any branch, creek, or stream. The public road must cross a branch, creek, or stream at the water's natural crossing.

(c) A culvert must be of sufficient size to allow water to flow, at its natural rate at its normal peak level, from the side of the road where the road intersects the natural channel to the natural channel at the other side of the road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.007. PRIVATE DITCHES. An owner of real property abutting a road or ditch or the owner of a tract of property that is located wholly or partly within one mile of a road or ditch may construct at the owner's cost lateral drainage ditches and may connect those ditches with a main ditch constructed under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.008. REGULATION OF PRIVATE DITCHES IN COUNTIES OF 100,000 OR LESS. (a) In a county with a population of 100,000 or less, the commissioners court by order may:

(1) remove the blockage of a ditch on real property that is not owned by the county, if the ditch connects with a drainage ditch constructed or maintained by the county; or

(2) provide for the removal or clearance of a blockage from a ditch that is in violation of an order adopted under this section.

(b) Before a commissioners court acts to remove or clear a blockage under this section, the court shall send a notice by certified mail to the record owners of the property on which the blockage is located in violation of an order adopted under this section. The notice must inform the owners of the order and of the other relevant provisions of this section. The court may not remove or clear the blockage before the 20th day after the date the notice is sent.

(c) The commissioners court shall pay the costs incurred in clearing or removing a blockage under this section.

(d) In this section:

(1) "Blockage" means an accumulation of refuse, vegetation, or other matter in a ditch that substantially decreases or stops the flow of water through the ditch.

(2) "Ditch" includes a culvert.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.009. DRAINAGE SYSTEM SURVEY. (a) After approval of a petition under Section 254.004, the commissioners court shall hire a surveyor to conduct a survey under this section for an amount determined by the court at the same meeting or at a subsequent term of court. The surveyor must be an engineer.

(b) The survey shall be applied first to the first-class roads, followed by the second-class and third-class roads.

(c) The surveyor shall make the survey and system of levels required by this section as soon as practicable after the surveyor is employed.

(d) The surveyor shall:

(1) run a line of levels along the county's public roads, measure the roads from beginning to end, and measure the distance of each waterway crossed by a public road from the location of the beginning of the waterway;

(2) place stakes or monuments along the line at intervals of 100 feet, with intermediate stakes that may be necessary, numbered progressively;

(3) establish permanent benchmarks along the line at intervals of one mile or less as necessary;

(4) establish by stakes or monuments different in character and appearance from all other stakes or monuments the highest point on the road between each of the natural waterways crossed by the road;

(5) measure and establish by suitable marks the frontage of each tract of real property abutting the road; and

(6) if there is a natural waterway adjacent to the line of the road and ditch and the waterway is necessary as an outlet for the water at any point on the ditch, measure the distance to the waterway and run the line of levels to the waterway at the nearest practicable point on the road and ditch.

(e) The surveyor shall prepare a map showing:

(1) the location of the ditch or ditches, with the position of stakes or monuments with numbers corresponding with those on the ground;

(2) the location of benchmarks with their elevations referred to an assumed or previously determined datum; and

(3) the lines and boundaries of adjacent property and the courses and distances of any adjacent watercourse, with a profile of the line of the ditch showing the assumed datum and the grade line of the bottom of the ditch, and the elevation of each stake, monument, or other important feature along the line, such as the top of the banks, the bottom of all ditches or watercourses, the surface of the water, the top of the rail, the bottom of the tie, the foot of the embankment, and the bottom of each borrow pit of each railroad.

(f) The map or an explanation accompanying the map must:

(1) give in tabular form the depth of the cut and the width at the bottom, at the top, at the source, at the outlet, and at each 100-foot stake or monument to the ditch;

(2) show the total number of cubic yards of earth to be excavated and removed from the ditch between each natural waterway

into which the water is to be conveyed;

(3) show an estimate of the cost of each portion of each ditch located between natural waterways crossed by the road; and

(4) show an estimate of total cost of the whole work.

(g) The surveyor shall also prepare detailed specifications for the execution of the project.

(h) If in the surveyor's opinion it is advantageous to run a ditch underground through drainage tiles, the surveyor shall so state in the surveyor's report, map, and specifications, with a statement of the location of the underground ditch, its length, and the dimensions or character of tiling or other material required for the underground ditch.

(i) The surveyor shall file a report and the survey, map, and explanation with the county clerk as soon as those items are completed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.010. APPOINTMENT OF JURY OF VIEW. (a) At any regular or called session of the commissioners court after the filing of the surveyor's report, the court shall appoint five real property owners of the county as a jury of view. An appointee may not:

(1) have a direct interest in property adjacent to a proposed ditch or within one mile of a proposed ditch; or

(2) have a family relationship with a person having a direct interest in property described by Subdivision (1).

(b) The court may appoint a single jury of view for the entire proposed drainage system or a separate jury of view for each ditch.

(c) If the jurors selected fail or refuse to perform their duties or the report of the jury is rejected by the commissioners court, the court may appoint another jury of view with the same duties as the initial jury.

(d) A member of a jury of view is entitled to compensation in the amount of \$3 for each day of service.

(e) After the appointment of a jury of view, the county clerk shall provide the jurors with a certified copy of the petition, court order, and the original surveyor's report with maps, specifications, and the surveyor's estimate of costs.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.011. OATH OF JURY. Members of the jury of view must take the following oath before assuming their duties: "I do solemnly swear that I am not directly interested in the construction of the proposed ditch, either as the owner or otherwise, or in adjacent land lying within one mile of the proposed ditch, and that I am not related to any person who is so interested. I further swear that I have no bias or prejudice toward any person directly interested in the ditch, and that I will assess the amount of expense due on and by all adjacent lands lying within one mile of the ditch, according to law, without fear, favor, hatred, or hope of reward, to the best of my knowledge and ability. So help me God."

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.012. NOTICE TO PROPERTY OWNERS OF JURY PROCEEDINGS.

(a) Not later than the fifth day before the date of the meeting to determine costs of ditch construction, the jury of view shall issue notice of the time and place of the meeting to each property owner or to the agent of each property owner who owns real property adjacent to or within one mile of the proposed ditch. The notice must state that:

(1) the purpose of the meeting is to determine each property owner's share of the expense of constructing the ditch; and

(2) each property owner's share of the total expense of constructing the ditch is to be a proportional share of one-half of the total expense of constructing the ditch.

(b) The notice may be served by anyone competent to testify and shall be returned and filed with the jury's final report.

(c) Notice to a property owner who is not a resident of the county and does not have an agent or representative in the county shall be published in a newspaper in the county in the manner provided for giving notice to a nonresident defendant in a district court action. The notice must be published at least four weeks before the jury's meeting date.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.013. CLAIMS BY PROPERTY OWNERS. (a) A person whose real property may be affected by the ditch may appear before the jury of view and express the person's opinion on any matter relating to the assessment of expense against the person. The owner at or before the time stated in the notice of the jury's meeting may present to the jury a written statement of an objection to or dissatisfaction with the ditch and any claim for damage sustained because of the construction of the ditch.

(b) Failure to make an objection or claim for damages under Subsection (a) is a waiver of all claim or right to make the objection or claim.

(c) The jury shall return each claim or objection to the commissioners court with the jury's report.

(d) An adjacent property owner may appear before and be heard by the commissioners court on the property owner's protest or claim against the action of the jury.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.014. DETERMINATION OF DAMAGES AND ASSESSMENTS; ACTION OF COMMISSIONERS COURT. (a) After giving the required notice and conducting a meeting at which all interested persons have been heard, the jury of view shall:

(1) consider all of the partial estimates and the surveyor's total cost estimate;

(2) draw parallel lines one mile on each side of the ditch; and

(3) apportion to each parcel of real property abutting or within the parallel lines and to the owner of each parcel a proportional share of one-half of the total expense of the ditch, considering the relative amount of benefit to the property derived from the ditch.

(b) The jury shall determine the damages due to any property owner whose property is crossed by any spur, branch, or lateral ditch constructed by order of the commissioners court. Before the ditch may be opened, the damages must be paid by an order of the court out of the money set aside for the ditch.

(c) The jury shall make a sworn report to the court, signed by at least three jurors, as soon as practicable after its meeting. The

report must include:

(1) an accurate description of each tract of property assessed, with the number of acres and the names of the owners; and

(2) the amount assessed against each tract and its owners.

(d) The jury shall return the surveyor's report and records to the county clerk. The county clerk shall file the jury's report and the surveyor's report and records. The reports and records are public information after filing.

(e) The commissioners court shall approve or reject the jury's report at its next regular or called term.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.015. APPEALS BY PROPERTY OWNERS. (a) A person aggrieved by an assessment may appeal from the final order of the commissioners court approving the report of the jury of view to the appropriate court in the county by:

(1) giving notice of the appeal in open court;

(2) having the notice entered as part of the judgment of the court; and

(3) filing a transcript of the proceeding in the commissioners court with the justice or clerk of the court to which the appeal is taken.

(b) The transcript must be filed not later than the 10th day after the date the judgment of the commissioners court is entered, and must be filed with an appeal bond that has at least two good sureties. The appeal bond must:

(1) be in an amount that is at least twice the amount of the probable costs to accrue;

(2) be conditioned that the appellant will prosecute the appeal to effect and pay all costs that may be adjudged against the appellant in the appeal; and

(3) be approved by the clerk or justice of the court.

(c) The issue in an appeal from an assessment of expense is whether the assessment made against the appellant for construction of the ditch is in proportion to the benefit to the real property derived from the ditch.

(d) The issue in an appeal from an assessment of compensation is whether the assessment of compensation made by the jury of view is

adequate to the damage suffered and to the value of the property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.016. PROCEDURES GOVERNING PROPERTY OWNER APPEAL. (a) In an appeal of an assessment under Section 254.015, the appellant has the burden of proof.

(b) The court that tries the appeal shall determine the amount of expense chargeable to the appellant, or the amount of compensation due the appellant, as appropriate, and shall enter that amount as the court's judgment.

(c) Except as provided by Subsection (d), the costs of the appeal shall be adjudged against the appellant.

(d) The costs of the appeal shall be adjudged against the county if the court finds that:

(1) the amount chargeable to the appellant is less than the amount of expense charged by the jury of view; or

(2) the appellant is entitled to a greater amount of compensation as damages than determined by the jury of view.

(e) Not later than the fifth day after the date of the judgment, the clerk of the court or the justice, as appropriate, shall issue a certified copy of the judgment and return it to the commissioners court. The commissioners court shall:

(1) file the judgment with the records relating to the ditch; and

(2) enter the judgment as the judgment of the commissioners court.

(f) After the commissioners court enters the judgment on appeal:

(1) there is no further appeal from the judgment of the court for either party to the appeal; and

(2) the appellant is liable for the amount of expense or entitled to the amount of compensation, as applicable, as determined by the judgment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.017. CERTIFICATION AND COLLECTION OF ASSESSMENTS; LIENS. (a) At the same term at which the commissioners court enters

its order for the construction of the ditches and adjoining roadway or at any subsequent term, the court shall enter on its minutes a list of each tract of real property for which an assessment of expense was made and reported by the jury of view and approved by the court. The list must include:

- (1) the names of the owners and original grantees of each tract;
- (2) the number of acres covered by the assessment; and
- (3) the amount of the assessment.

(b) The county clerk shall issue a certificate against each person on the list showing the amount of each assessment, the ditch or road for which the assessment was issued, and the tract of property on which the assessment was issued. The certificate must be signed by the county judge in open court and attested under the hand and seal of the county clerk, and that fact shall be noted in the minutes of the court.

(c) All amounts assessed against any property and its owner by the jury of view or the order of the court are a lien on the property unless prohibited by the Texas Constitution.

(d) The county judge shall deliver the certificates to the county treasurer, and shall take a receipt for delivery from the treasurer and file it with the county records relating to the ditch. The treasurer shall collect each amount due on the certificates and deposit the money collected to the credit of the county road and bridge fund.

(e) If a person against whom a certificate is issued does not pay the amount due to the treasurer on demand, the treasurer shall report that fact to the county attorney. The county attorney shall immediately file suit for foreclosure of the lien or for a personal judgment, as permitted by law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.018. APPROPRIATION FOR DITCH CONSTRUCTION. Following its approval of the report of the jury of view, the commissioners court may order that a portion of the road and bridge fund or the special road and bridge fund, if necessary, be set aside for the construction of the ditch described in the report.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 254.019. CARRYING OUT CONSTRUCTION OF DITCHES. (a) The commissioners court shall order the person in charge of the road adjoining the proposed ditch to construct the ditch in the manner prescribed, using the earth taken from the excavation to build a raised road adjoining the ditch. In the alternative, the court may hire a suitable and competent person other than the person normally in charge of the road adjacent to the proposed ditch to oversee the construction of the ditch for compensation in an amount ordered by the court.

(b) The court by order shall assign to the person in charge of constructing the ditch all county employees assigned to the road adjacent to the ditch and all county equipment and materials. The order shall provide that the person may employ additional labor or purchase additional equipment or material to construct the ditch. The order must show the amount to be paid to the director of construction for the person's services. The court shall order the money required for additional labor, equipment, or material to be paid from the money set aside from the road and bridge fund.

(c) The drainage system shall be applied first to the county's first-class roads, followed by the second-class and third-class roads.

(d) The county may construct one or more ditches at the same time, as the financial condition of the county permits.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 255. COUNTY REGULATION OF SIGHT DISTANCES

Sec. 255.001. DEFINITION. In this chapter, "sight distance" means the unimpaired view of a motorist at or near the intersection of a road with another road or with an alley, driveway, or another way intended for vehicular traffic.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 255.002. COUNTY REGULATORY AUTHORITY. (a) The commissioners court of a county by order may regulate the sight distance for an intersection that involves a county road and that is

located outside the limits of a municipality. The commissioners court may:

- (1) define the appropriate sight distance;
- (2) prohibit an obstruction of the sight distance by any vegetation, loose earth, or other item except a building or other structure affixed to the ground, if the obstruction is a traffic hazard; and
- (3) provide for the removal and disposition of an obstruction maintained in violation of an order adopted under this section.

(b) The commissioners court may not adopt an order under this section that conflicts with an ordinance of a municipality located in the county or with a rule adopted by a state agency relating to billboards or outdoor advertising. An order adopted in violation of this subsection is void.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 255.003. NOTICE TO OWNER OF OBSTRUCTION. (a) If the commissioners court determines that an obstruction of the sight distance exists in violation of an order adopted under Section 255.002, the court shall send a written notice of that determination by registered mail, return receipt requested, to the record owner of the property on which the obstruction is located.

- (b) The notice must include:
- (1) a description of the obstruction and its location; and
 - (2) an order requiring the owner to take measures specified in the order to correct or remove the obstruction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 255.004. HEARING ON REMOVAL ORDER. (a) A person who is aggrieved by an order issued under Section 255.003 may request a hearing on the order. The request must be made not later than the 10th day after the date the person receives notice of the obstruction.

(b) The commissioners court shall hold the hearing not later than the 10th day after the date the request for a hearing is received.

(c) After the hearing, the commissioners court shall make appropriate orders relating to the obstruction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 255.005. ASSESSMENT. (a) If after notice and expiration of the time permitted for a hearing request under this chapter, a person does not comply with an order adopted under this chapter, the commissioners court may remove, dispose of, or correct the obstruction and assess the costs incurred by the county in doing so against the owner of the property on which the obstruction was located.

(b) Interest accrues at an annual rate of 10 percent on any unpaid part of the costs.

(c) If a person assessed costs under this section does not pay the costs within 60 days after the date of assessment, a lien in favor of the county attaches to the property from which the obstruction was removed or corrected to secure the payment of the costs and interest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 255.006. COMPENSATION FOR LOSS OF VALUE. The commissioners court shall pay the owner of the property from which an obstruction is removed by the court or required by the court to be removed under this chapter an amount sufficient to cover the loss of value, if any, of the obstruction incurred by the owner because of the removal.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 255.007. OFFENSE FOR VIOLATION OF ORDER. (a) A person commits an offense if the person violates an order adopted under this chapter.

(b) An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 256. FUNDS AND TAXES FOR COUNTY ROADS**SUBCHAPTER A. FUNDS USED FOR COUNTY ROADS; GENERAL PROVISIONS**

Sec. 256.001. USE OF COUNTY ROAD AND BRIDGE FUND. (a) Money in the road and bridge fund of a county may be used only for working public roads or building bridges, except as otherwise provided by law.

(b) Money in the fund may be spent only by order of the commissioners court of the county. The court may make the necessary orders for using the money for the purposes provided by this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.002. DISTRIBUTION OF COUNTY AND ROAD DISTRICT HIGHWAY FUND. (a) The comptroller shall distribute to the counties on or before October 15 of each year the money appropriated from the county and road district highway fund for that fiscal year.

(b) The money appropriated under Subsection (a) shall be allocated among the counties as follows:

(1) one-fifth according to area, determined by the ratio of the area of the county to the area of the state;

(2) two-fifths according to rural population, determined by the ratio of the rural population of the county to the rural population of the state; and

(3) two-fifths according to lateral road mileage, determined by the ratio of the mileage of lateral roads in the county to the mileage of lateral roads in the state as of January 1 of the year of the allocation as shown by the records of the State-Federal Highway Planning Survey and the department.

(c) On its own motion or at the request of a county, the commission may have a survey made of the county's lateral road mileage. If a survey is made, its results shall be substituted for the corresponding government information to be used under Subsection (b)(3). The governmental entity that requests the survey shall pay for it.

(d) Except as provided by Section 153.503(3)(A), Tax Code, the comptroller may not deposit tax receipts or other money to the credit of the county and road district highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.02, eff. Sept. 1, 1997;

Acts 2001, 77th Leg., ch. 943, Sec. 2, eff. Sept. 1, 2001.

Sec. 256.003. USE OF REVENUES FROM COUNTY AND ROAD DISTRICT HIGHWAY FUND. (a) A county may use the money it receives under Section 256.002 only for:

(1) purchasing right-of-way for lateral roads, farm-to-market roads, or state highways;

(2) constructing and maintaining lateral roads, including the hiring of labor and the purchase of materials, supplies, and equipment; or

(3) paying the principal, interest, and sinking fund requirements maturing during the fiscal year on bonds, warrants, or other legal obligations incurred to finance activities described in Subdivisions (1) and (2).

(b) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(29).

(c) Repealed by Acts 2003, 78th Leg., ch. 1310, Sec. 121(29).

(d) A county may require that bids for construction funded in whole or part by money received under Section 256.002 be submitted to the commission in the manner provided for bids for construction of a state highway.

(e) On the request of a county, the commission shall provide technical and engineering assistance in making surveys, preparing plans and specifications, preparing project proposals, and supervising construction. The county shall pay the costs of providing the assistance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.03, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1310, Sec. 121(29), eff. June 20, 2003.

Sec. 256.004. DEPOSITS OF TAXES TO COUNTY FARM-TO-MARKET AND LATERAL ROAD FUND AND FLOOD CONTROL FUND. (a) The commissioners court of a county shall credit taxes collected under Section 256.054 to the credit of separate funds called the farm-to-market and lateral road fund and the flood control fund.

(b) If the voters at an election held under Section 256.054 approved separately a farm-to-market and lateral road tax and a flood control tax, the court shall credit the taxes collected to those

funds in proportion to the allocation adopted at the election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.005. USE OF FARM-TO-MARKET AND LATERAL ROAD FUND. (a) The farm-to-market and lateral road fund of a county is under the jurisdiction and control of the commissioners court. Money in the fund may be used only for the construction and maintenance of farm-to-market and lateral roads in the county.

(b) All or part of the money in the fund may be used in cooperation with the department in acquiring rights-of-way and in constructing and maintaining farm-to-market and lateral roads.

(c) Money in the fund shall be spent to equitably distribute as nearly as possible the benefits derived from the expenditures to the commissioners' precincts in accordance with the taxable value of property in each precinct.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.006. USE OF FLOOD CONTROL FUND. (a) The flood control fund of a county is under the jurisdiction and control of the commissioners court. Money in the fund may be used only for flood control purposes in the county and political subdivisions of the county, including:

(1) any soil conservation activity such as contouring, terracing, or tank building; or

(2) any other activity that controls or conserves moisture or water.

(b) Money in the fund shall be spent to equitably distribute as nearly as possible the benefits derived from the expenditures to the commissioners' precincts in accordance with the taxable value of property in each precinct.

(c) All or part of the money in the fund may be used in connection with the plans and programs of:

(1) the United States Soil Conservation Service;

(2) the Texas Agricultural Extension Service;

(3) a state soil conservation district, conservation and reclamation district, drainage district, water control and improvement district, navigation district, flood control district, or

levee improvement district; or

(4) a municipality.

(d) Plans for an improvement constructed with money from the fund must be approved by the county and, if applicable, the affected political subdivision.

(e) The commissioners court may hire a federal or state soil conservation engineer or personnel of the Texas Agricultural Extension Service to plan a soil, water, erosion, and drainage program for flood control under this section and may acquire the machinery, equipment, or material useful in carrying out the program. The machinery and equipment shall be made available to the owner of a farm or ranch for purposes consistent with the purposes of this section. A farm or ranch owner using the machinery or equipment shall compensate the county for the use according to the actual expenses incurred by the county, not including depreciation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.007. TRANSFERS OF SURPLUS REGISTRATION FEE REVENUE. The commissioners court of a county that does not impose a tax for the construction and maintenance of roads and bridges may transfer surplus money derived from motor vehicle registration fees to any county fund that the court designates and may spend that money for any purpose authorized by Section 7-a, Article VIII, Texas Constitution.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.008. STATE FUNDING OF FARM-TO-MARKET ROADS. (a) Money in the farm-to-market road fund may be used only to finance the construction, improvement, and maintenance of farm-to-market roads by the department.

(b) The department shall use money made available for the construction, improvement, and maintenance of farm-to-market roads so that not less than \$23 million is used each year for those purposes on farm-to-market roads selected under Subsection (c).

(c) The money spent under Subsection (b) shall be used for a system of roads selected by the department after consultation with the commissioners courts of the counties to identify the most needed

roads in the counties. The department shall make the selections in a manner intended to ensure equitable and judicious distribution of money and work among the counties.

(d) To be selected, a road must have the following general characteristics:

(1) it may not be a potential addition to the federal aid primary highway system;

(2) it must serve rural areas primarily and must connect farms, ranches, rural homes, sources of natural resources such as oil, mines, timber, and water loading points, schools, churches, and points of public congregation, including community developments and villages;

(3) it must be capable of contributing to the creation of economic values in the areas it serves;

(4) it must preferably serve as a public school bus route or rural free delivery postal route; and

(5) it must be capable of early integration into the improved state road system, and at least one end of the road should connect with an improved road or a road that is soon to be improved that is in the state road system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.009. REPORT TO COMPTROLLER. (a) Not later than January 30 of each year, the county auditor or, if the county does not have a county auditor, the official having the duties of the county auditor shall file a report with the comptroller that includes:

(1) an account of how:

(A) the money allocated to a county under Section 256.002 during the preceding year was spent; and

(B) if the county designated a county energy transportation reinvestment zone, money paid into a tax increment account for the zone or from an award under Subchapter C was spent;

(2) a description, including location, of any new roads constructed in whole or in part with the money:

(A) allocated to a county under Section 256.002 during the preceding year; and

(B) paid into a tax increment account for the zone or

from an award under Subchapter C if the county designated a county energy transportation reinvestment zone;

(3) any other information related to the administration of Sections 256.002 and 256.003 that the comptroller requires; and

(4) the total amount of expenditures for county road and bridge construction, maintenance, rehabilitation, right-of-way acquisition, and utility construction and other appropriate road expenditures of county funds in the preceding county fiscal year that are required by the constitution or other law to be spent on public roads or highways.

(b) The report must be in a form prescribed by the comptroller.

(c) The comptroller may distribute money under Section 256.002(a) to a county only if the most recent report required by Subsection (a) has been filed.

(d) A county official or employee shall provide to the comptroller on request any information necessary to determine the legality of the use of money allocated under Section 256.002.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.17(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 917, Sec. 3, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1310, Sec. 119, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1372 (S.B. 1747), Sec. 5, eff. September 1, 2013.

Sec. 256.010. APPLICABILITY OF CHAPTER TO COUNTY OPERATING UNDER SPECIAL ROAD TAX LAW. A county operating under a special road tax law may take any action authorized by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 22, eff. Sept. 1, 1999.

SUBCHAPTER B. TAXES FOR COUNTY ROADS

Sec. 256.051. COUNTY, PRECINCT, AND ROAD DISTRICT BOND TAXES.

(a) In each year in which bonds issued under Chapter 1471, Government Code, are outstanding, the county, precinct, or road district that issued the bonds shall impose taxes in an amount sufficient to pay the principal of and interest on the bonds.

(b) The taxes shall be imposed in the manner provided by

Sections 51.502 through 51.506, Water Code. A reference in Chapter 257 or in Chapter 1471, Government Code, to ad valorem taxes applies to a tax levied by the commissioners court under this section on a basis other than the ad valorem basis.

(c) Taxes for bonds issued on the full faith and credit of the county shall be assessed and collected by the county assessor-collector in the manner provided by law for the assessment and collection of other county taxes.

(d) Taxes for bonds issued for and on the full faith and credit of a precinct or road district shall be assessed and collected by the county assessor-collector in the manner provided for the assessment and collection of common school district taxes.

(e) The county assessor-collector shall pay taxes collected under this section to the county treasurer in the manner that other taxes are paid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.374, eff. Sept. 1, 2001.

Sec. 256.052. ADOPTION OF SPECIAL ROAD TAX. (a) At an election held under this section, a county or political subdivision or defined district of a county may adopt the additional ad valorem tax not to exceed 15 cents on the \$100 valuation of property provided by Section 9, Article VIII, Texas Constitution, for the further maintenance of the county roads.

(b) On a petition signed by a majority of the registered voters of a political subdivision or other specified portion of a county, the commissioners court of the county by order shall declare the political subdivision or specified portion of the county to be a defined district and shall record the order in the court's minutes. The petition must define by metes and bounds the territory requested to be included in the proposed defined district.

(c) The commissioners court shall order an election to adopt the tax if it receives a petition requesting the election that is signed by:

(1) at least 200 registered voters of the county, if the petition requests an election to approve a tax for the county; or

(2) at least 50 registered voters of the political subdivision or defined district, if the petition requests an election

to approve a tax for a political subdivision or defined district.

(d) The commissioners court shall set the rate of the tax in the election order. The court shall order the election to be held on the first authorized uniform election date prescribed by Subchapter A, Chapter 41, Election Code, that occurs after the 20th day after the date the election is ordered.

(e) The county judge shall issue an election proclamation.

(f) The ballot for the election shall be printed to permit voting for or against the proposition: "Adopting a road tax."

(g) If a majority of the votes received in the election favor adoption of the tax, the commissioners court shall impose the tax in the amount specified in the order for the election in the same manner as it imposes other taxes. If the election is held in time, in the year of the election the court shall impose the tax at the same time as other county taxes. Otherwise, the court may impose the tax at any time before the tax roll is made out. If a greater rate is not imposed for a year, the court may lower the rate for the next year without a petition for that action.

(h) A petition calling for an election to adopt a tax under this section may not be granted on or before the first anniversary of the date of an election held under this section at which the voters do not approve the adoption of the tax.

(i) This section does not authorize the issuance of bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.053. REPEAL OF SPECIAL ROAD TAX. (a) The commissioners court of a county may order and conduct an election to repeal a tax adopted under Section 256.052 in the manner provided for an election to adopt the tax.

(b) A petition requesting an election to repeal the tax may not be granted on or before the second anniversary of the date of the election at which the tax is adopted.

(c) The commissioners court may grant a petition calling for an election to repeal the tax only if satisfactory proof is presented to the court that:

(1) there is great dissatisfaction with the tax; and

(2) it is probable that a majority of the residents of the county, political subdivision, or defined district who are qualified

to vote for the tax would vote for repeal of the tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 256.054. ADDITIONAL COUNTY TAXES FOR COUNTY ROADS AND FLOOD CONTROL; BONDS. (a) A county may impose ad valorem taxes as provided by Section 1-a, Article VIII, Texas Constitution, for the construction and maintenance of farm-to-market and lateral roads or for flood control, not to exceed the maximum tax rate established by that section, only if the taxes are approved at an election held under this section.

(b) The commissioners court of the county may order an election under this section on its own motion. The court shall order an election under this section if it receives a petition requesting the election signed by a number of registered voters of the county equal to at least 10 percent of the number of voters who voted in the most recent general election in the county. The court may adopt the order only at a regular session of the court. The order must specify the maximum rate of the tax to be voted on.

(c) The proposition submitted to the voters at the election may provide that the tax may be used for the construction and maintenance of farm-to-market and lateral roads, for flood control purposes, or for both, as determined by the commissioners court. At an election to adopt a tax for only one of those purposes, the ballot shall be printed to permit voting for or against the proposition: "Adopting a tax not exceeding ___ cents on each \$100 valuation," specifying the purpose of the tax to be voted on. At an election to adopt a tax for each of those purposes, the ballot shall be printed to permit voting for or against the proposition: "Adopting a farm-to-market and lateral roads tax not exceeding ___ cents and a flood control tax not exceeding ___ cents on each \$100 valuation."

(d) In addition to the notice of the election required by Section 4.003, Election Code, the county judge shall post a copy of the election order at a public place in each county election precinct not later than the 14th day before the date of the election.

(e) If a majority of the votes received in the election favor adoption of the tax, the commissioners court shall impose the tax each year in the same manner as other county ad valorem taxes.

(f) The commissioners court may call a subsequent election to

change the maximum rate of a farm-to-market and lateral road tax or flood control tax previously adopted by the county in the manner provided by this section for an election to adopt a tax.

(g) The commissioners court of a county that adopts a tax as provided by this section may issue negotiable county bonds or county time warrants for the construction or improvement of farm-to-market and lateral roads or the construction of permanent improvements for flood control purposes if the bonds or warrants are authorized by a majority of the votes received in an election ordered by the commissioners court. The commissioners court shall submit each proposition separately at the election. The commissioners court shall issue the bonds or warrants and impose the taxes for those bonds or warrants as provided by Subtitles A and C, Title 9, Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.375, eff. Sept. 1, 2001.

SUBCHAPTER C. TRANSPORTATION INFRASTRUCTURE FUND

Sec. 256.101. DEFINITIONS. In this subchapter:

- (1) "Fund" means the transportation infrastructure fund established under this subchapter.
- (2) "Transportation infrastructure project" means the planning for, construction of, reconstruction of, or maintenance of transportation infrastructure, including roads, bridges, and culverts, intended to alleviate degradation caused by the exploration, development, or production of oil or gas. The term includes the lease or rental of equipment used for road maintenance.
- (3) "Weight tolerance permit" means a permit issued under Chapter 623 authorizing a vehicle to exceed maximum legal weight limitations.
- (4) "Well completion" means the completion, reentry, or recompletion of an oil or gas well.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1372 (S.B. [1747](#)), Sec. 1, eff. September 1, 2013.

Sec. 256.102. TRANSPORTATION INFRASTRUCTURE FUND. (a) The transportation infrastructure fund is a dedicated fund in the state

treasury outside the general revenue fund. The fund consists of:

- (1) any federal funds received by the state deposited to the credit of the fund;
- (2) matching state funds in an amount required by federal law;
- (3) funds appropriated by the legislature to the credit of the fund;
- (4) a gift or grant;
- (5) any fees paid into the fund; and
- (6) investment earnings on the money on deposit in the fund.

(b) Money in the fund may be appropriated only to the department for the purposes of this subchapter.

(c) Sections 403.095 and 404.071, Government Code, do not apply to the fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1372 (S.B. [1747](#)), Sec. 1, eff. September 1, 2013.

Sec. 256.103. GRANT PROGRAM. (a) The department shall develop policies and procedures to administer a grant program under this subchapter to make grants to counties for transportation infrastructure projects located in areas of the state affected by increased oil and gas production. The department may adopt rules to implement this subchapter.

(b) Grants distributed during a fiscal year must be allocated among counties as follows:

(1) 20 percent according to weight tolerance permits, determined by the ratio of weight tolerance permits issued in the preceding fiscal year for the county that designated a county energy transportation reinvestment zone to the total number of weight tolerance permits issued in the state in that fiscal year, as determined by the Texas Department of Motor Vehicles;

(2) 20 percent according to oil and gas production taxes, determined by the ratio of oil and gas production taxes collected by the comptroller in the preceding fiscal year in the county that designated a county energy transportation reinvestment zone to the total amount of oil and gas production taxes collected in the state in that fiscal year, as determined by the comptroller;

(3) 50 percent according to well completions, determined by the ratio of well completions in the preceding fiscal year in the county that designated a county energy transportation reinvestment zone to the total number of well completions in the state in that fiscal year, as determined by the Railroad Commission of Texas; and

(4) 10 percent according to the volume of oil and gas waste injected, determined by the ratio of the volume of oil and gas waste injected in the preceding fiscal year in the county that designated a county energy transportation reinvestment zone to the total volume of oil and gas waste injected in the state in that fiscal year, as determined by the Railroad Commission of Texas.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1372 (S.B. 1747), Sec. 1, eff. September 1, 2013.

Sec. 256.104. GRANT APPLICATION PROCESS. (a) In applying for a grant under this subchapter, the county shall:

(1) provide the road condition report described by Section 251.018 made by the county for the previous year; and

(2) submit to the department:

(A) a copy of the order or resolution establishing a county energy transportation reinvestment zone in the county, except that the department may waive the submission until the time the grant is awarded; and

(B) a plan that:

(i) provides a list of transportation infrastructure projects to be funded by the grant;

(ii) describes the scope of the transportation infrastructure project or projects to be funded by the grant using best practices for prioritizing the projects;

(iii) provides for matching funds as required by Section 256.105; and

(iv) meets any other requirements imposed by the department.

(b) In reviewing grant applications under this subchapter, the department shall:

(1) seek other potential sources of funding to maximize resources available for the transportation infrastructure projects to be funded by grants under this subchapter; and

(2) consult related transportation planning documents to improve project efficiency and work effectively in partnership with counties.

(c) Except as otherwise provided by this subsection, the department shall review a grant application before the 31st day after the date the department receives the application. The department may act on an application not later than the 60th day after the date the department receives the application if the department provides notice of the extension to the county that submitted the application.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1372 (S.B. 1747), Sec. 1, eff. September 1, 2013.

Sec. 256.105. MATCHING FUNDS. (a) Except as provided by Subsection (b), to be eligible to receive a grant under the program, matching funds must be provided, from any source, in an amount equal to at least 20 percent of the amount of the grant.

(b) A county that the department determines to be economically disadvantaged must provide matching funds in an amount equal to at least 10 percent of the amount of the grant.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1372 (S.B. 1747), Sec. 1, eff. September 1, 2013.

Sec. 256.106. PROGRAM ADMINISTRATION. (a) A county that makes a second or subsequent application for a grant from the department under this subchapter must:

(1) provide the department with a copy of a report filed under Section 251.018;

(2) certify that all previous grants are being spent in accordance with the plan submitted under Section 256.104; and

(3) provide an accounting of how previous grants were spent, including any amounts spent on administrative costs.

(b) The department may use one-half of one percent of the amount deposited into the fund in the preceding fiscal year, not to exceed \$500,000 in a state fiscal biennium, to administer this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1372 (S.B. 1747), Sec. 1,

eff. September 1, 2013.

CHAPTER 257. ROAD DISTRICTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 257.001. ROAD DISTRICT OR PRECINCT OPERATING UNDER ROAD BOND LAW DESIGNATED BODY CORPORATE; POWER TO SUE AND BE SUED. (a) A county commissioners precinct or justice precinct operating under Chapter 1471, Government Code, or a road district is a body corporate and may sue or be sued in the same manner as a county.

(b) A commissioners precinct or justice precinct operating under Chapter 1471, Government Code, or a road district may not be held liable for a tort except as provided by Chapter 101, Civil Practice and Remedies Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.376, eff. Sept. 1, 2001.

Sec. 257.002. CONTRACTS OF ROAD DISTRICT OR PRECINCT OPERATING UNDER ROAD BOND LAW. (a) A county commissioner is the ex officio road superintendent with power to enter into a contract in an amount that is not more than \$50 on behalf of:

- (1) a road district located in the commissioner's precinct;
- (2) a justice precinct operating under Chapter 1471, Government Code, and located in the commissioner's precinct; or
- (3) the commissioner's precinct if it is operating under Chapter 1471, Government Code.

(b) A contract made under Subsection (a) must be approved by the commissioners court.

(c) A contract in an amount that is more than \$50 made on behalf of a road district or precinct described by Subsection (a) must be awarded by the commissioners court of the county in which the road district or precinct is located.

(d) The commissioners court may enter into a contract with an engineer, financial advisor, attorney, or other consultant as the court determines appropriate to act on behalf of the county or the road district or precinct.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.377, eff. Sept. 1, 2001.

Sec. 257.003. ACQUISITION OF ROADS. (a) Subject to Subsection (b), a road district established pursuant to Section 52, Article III, Texas Constitution, may agree to:

(1) reimburse a private person for money spent to construct a road or improvement that has been or will be dedicated or otherwise transferred to public use; or

(2) purchase a road or improvement constructed by a private person.

(b) A road district may agree to make a reimbursement or purchase under Subsection (a) only if:

(1) the construction was carried out through the award of contracts in substantial conformity with the bid procedures applicable to a county;

(2) the construction was performed in accordance with the road standards and rules of the county in which the road or improvement is located; and

(3) the road or improvement was not opened for public use or accepted by official action of a governmental entity before the district agreed to the reimbursement or purchase.

(c) A construction contract awarded for the construction of a road for which reimbursement is to be paid or that is to be purchased under Subsection (a) must be approved by the commissioners court of the county in which the road is or will be situated. The amount paid for the reimbursement or purchase:

(1) may include all construction costs, including engineering, legal, financing, and other expenses incident to the construction; and

(2) may be paid with proceeds from the sale of the district's bonds or from any other money available to the district.

(d) In addition to the procedure provided by Subsection (a), a road district may acquire, pay for the construction of, or agree to reimburse the costs of construction or acquisition of a road, including engineering, legal, financing, and other expenses incident to the construction or acquisition, at a price not to exceed the replacement cost of the road or road improvements as determined by the commissioners court.

(e) A road district bond election may state as one of its purposes the construction or acquisition of, or reimbursement of

expenses for construction or acquisition of, roads for an amount that may not be more than the cost of construction on the basis of competitive bid contracts plus engineering, legal, financing, and other expenses incident to the construction, improvement, or acquisition.

(f) A road district may enter into an agreement to use the proceeds of a subsequent bond sale for reimbursing all construction costs, engineering and other expenses, and financing costs incident to construction or acquisition of a road to a private person who constructs or acquires a facility that benefits the road district pursuant to the agreement. The agreement may provide the terms and conditions under which the road district will be required to accept the dedication or transfer of the road or road improvements to the district for the benefit of the public and to pay or reimburse the cost of constructing or acquiring the road. A road district may assign all or any portion of its rights or obligations under the agreement to any other political subdivision authorized by law to own, operate, or maintain the road that is the subject of the agreement.

(g) In this section, "construction" includes improvement and landscaping.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.004. ROAD DISTRICT SIGNS. (a) A road district to which this chapter applies shall post signs indicating the existence of the district at two or more principal entrances to the district so that they are readable by traffic entering the district. The signs must be posted not later than the 60th day after the date the district is established and must be maintained as long as the district exists.

(b) Consistent with state and local rules governing signs, the signs must be permanent and contain the name of the district in at least three-inch letters. The signs may contain other information as determined by the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.005. NOTICE TO PURCHASERS OF REAL PROPERTY IN ROAD

DISTRICT. (a) Before the final closing of a sale of real property located in a road district, the seller shall furnish to the buyer of the real property a written notice, executed and acknowledged by the seller, that:

(1) contains a statement that the real property is located in the road district and includes the name of the district;

(2) states the total amount of any bonds, notes, or other obligations that have been approved and authorized to be issued by the district but have not been issued; and

(3) states the total amount of any bonds, notes, or other obligations payable from property taxes that have been issued and sold by the district, if any, and the district's current tax rate if this subdivision applies.

(b) The seller shall provide to the road district a copy of the notice.

(c) The notice is sufficient if it substantially complies with this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.006. APPLICABILITY OF CHAPTER TO COUNTY OPERATING UNDER SPECIAL ROAD TAX LAW. A county operating under a special road tax law may take any action authorized by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 23, eff. Sept. 1, 1999.

SUBCHAPTER B. ROAD DISTRICT WITHIN COUNTY

Sec. 257.021. ESTABLISHMENT OF ROAD DISTRICTS. (a) The commissioners court of a county by order may establish one or more road districts in the county as provided by Section 52, Article III, Texas Constitution. The order must define the boundaries of the road district. A road district is a governmental entity and body politic.

(b) A road district created under this section may include:

(1) all or part of a municipality; or

(2) another road district or a precinct or political subdivision of the county for which road bonds have been approved by the voters and issued as provided by Section 52, Article III, Texas Constitution.

(c) Before establishing a road district under this section, the

commissioners court shall conduct a public hearing on the matter. Notice of the hearing shall be given in the manner provided for notice of an election by Section 1471.018, Government Code.

(d) The establishment of a defined road district or the issuance of road district bonds in a county with outstanding countywide road bonds is not prevented by this chapter or Subchapters A-C, Chapter 1471, Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.378, eff. Sept. 1, 2001.

Sec. 257.022. ABOLITION OF ROAD DISTRICT. (a) The commissioners court by order may abolish a road district after a public hearing on the matter if:

(1) the road district has no outstanding public securities, as that term is defined by Section 1201.002, Government Code; or

(2) all the public securities of the district have been assumed and exchanged for county bonds under Subchapter D, Chapter 1471, Government Code.

(b) The road district ceases to exist when the commissioners court adopts the order abolishing the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.379, eff. Sept. 1, 2001.

Sec. 257.023. EXCLUSION OF CERTAIN TERRITORY OF EXISTING DISTRICTS FROM ROAD DISTRICT. (a) A county commissioners court may exclude from a proposed road district any territory that is part of or adjacent to an existing road district that includes all or part of a levee improvement district, drainage district, or other improvement district created under a law authorized by Section 52, Article III, Texas Constitution. The excluded territory shall continue to bear and pay its proportion of existing debt created for the construction of macadamized, graveled, or paved roads or turnpikes or in aid of these purposes, but may not be used to pay debt created for those purposes after the territory is excluded from the new road district.

(b) Except as specifically permitted by Sections 1471.086 and 1471.087, Government Code, a road district may not contain a fractional part of a preexisting road district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.380, eff. Sept. 1, 2001.

Sec. 257.024. EXCLUDING REAL PROPERTY FROM ROAD DISTRICT. (a) Before the commissioners court orders an election to authorize bonds for a road district, the commissioners court, on its own motion or on receipt of a written petition from a property owner seeking to exclude the property owner's real property from the district, may hold a hearing on the question of excluding specified real property from the district.

(b) If the commissioners court determines that a hearing should be held, the court shall give notice of the time and place of the hearing in the manner provided for notice of a hearing for the creation of a road district.

(c) The court shall exclude real property from the district if:

(1) the retention of the real property in the district's taxing jurisdiction would:

(A) be arbitrary and unnecessary to protect the public welfare;

(B) impair the value of the real property; and

(C) arbitrarily impose a confiscatory burden on the real property;

(2) the retention of the real property in the district and the extension to it of the benefits, service, or protection of the district's roads would create an undue and uneconomical burden on the remainder of the district; or

(3) the real property cannot be benefited by the district's proposed improvements.

(d) If, after considering the engineering information and other evidence presented at the hearing, the commissioners court determines that a ground for exclusion of the real property exists, the court shall enter an order:

(1) excluding the real property from the road district;

and

(2) redefining the boundaries of the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.025. ADDING REAL PROPERTY TO ROAD DISTRICT BY PROPERTY OWNER PETITION. (a) One or more persons may file a petition with the commissioners court of a county requesting that real property owned by the person or persons be annexed to a road district. The petition must describe the real property by:

(1) metes and bounds; or

(2) lot and block number if there is a recorded plat of the real property.

(b) Before the real property may be annexed to the road district, each petitioner must agree to:

(1) assume the petitioner's share of:

(A) any outstanding bonds, notes, or other obligations of the district; and

(B) any bonds of the district payable in whole or part from taxes that have been approved by the voters but have not been issued; and

(2) authorize the commissioners court to impose a tax on the petitioner's property in each year in which the bonds, notes, or other obligations payable in whole or part from taxes are outstanding to pay the petitioner's share of the indebtedness.

(c) The commissioners court shall hold a hearing to consider the petition and shall give notice of the hearing in the manner required for a hearing for creation of a road district.

(d) The commissioners court may annex the real property described by the petition to the district if the court determines that:

(1) it is to the advantage of the real property to be annexed to the district; and

(2) the real property already in the district will not be injured by the annexation.

(e) If each petitioner agrees to the items specified by Subsection (b), the commissioners court may issue any unissued bonds that have been approved by the voters of the district even though the boundary of the district has been altered by the annexation since the bonds were approved.

(f) If no qualified voter resides on the real property proposed to be annexed to the district, the commissioners court may order the annexation of the real property without further proceedings.

(g) If a qualified voter resides on the real property to be added and there are any outstanding bonds, notes, or other

obligations of the district that are payable from taxes, the commissioners court shall order an election to be held in the district, including the real property to be annexed to the district, on the question of the assumption by the real property to be annexed of the district's outstanding and approved but unissued bonds, notes, or other obligations and of the taxes imposed to pay those obligations. Notice of the election shall be given and the election shall be held as provided by law for a bond election in the district.

(h) The order annexing the real property to the district shall provide that the annexation does not take effect unless a majority of the votes cast at the election held under Subsection (g) favor the assumption of the district's outstanding bonds, notes, and other obligations and the imposition of a tax to pay those obligations.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.026. ADDING TERRITORY TO ROAD DISTRICT BY PETITION OR ON COMMISSIONERS COURT MOTION. (a) The commissioners court of a county on its own motion may hold a hearing on the question of annexing a defined area to a road district and shall hold a hearing on the question on receipt of a petition requesting the annexation signed by:

(1) owners of real property the taxable value of which is a majority of the taxable value of real property in the defined area according to the county tax roll; or

(2) at least 50 property owners in the defined area if there are more than 50 property owners in the defined area.

(b) The commissioners court shall give notice of the hearing in the manner required for notice of a hearing on creation of a road district.

(c) If after the hearing the commissioners court finds that annexation of the defined area to the district is feasible and practical and would benefit the area and the district, the court may annex the area to the district. The order annexing the area to the district is not required to include all of the real property described by a petition requesting the annexation if the court finds that a modification is necessary or desirable.

(d) The annexed area is subject to any bonds, notes, or other obligations issued or taxes imposed before the area was annexed to

the district.

(e) The commissioners court shall, in the order annexing the area to the district, order an election to be held in the district, including the area to be annexed, on the questions whether the annexed area should assume:

(1) the bonds, notes, or other obligations issued or taxes imposed by the district before the area was annexed to the district; and

(2) its part of the bonds of the district payable in whole or part from taxes that have been approved by the voters but have not been issued, and the imposition of the district's ad valorem tax on the taxable property in the annexed area for the payment of the bonds.

(f) At the election held under Subsection (e) the commissioners court, in a separate proposal, may submit the question whether the court should be authorized to issue bonds for the construction, purchase, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid of those purposes, in the annexed area.

(g) Notice of an election held under this section shall be given and the election shall be held in the manner provided by law for a bond election in the district.

(h) If the majority of the votes received in the election favor the assumptions proposed under Subsection (e), the district may issue its approved but unissued bonds even though the boundaries of the district have been changed by the annexation since the original election approving the bonds.

(i) The commissioners court shall provide in its order annexing an area to the district that the annexation does not take effect unless the voters approve the assumptions proposed under Subsection (e).

(j) The commissioners court may provide in its order annexing an area to the district that the annexation does not take effect unless the voters approve an issuance of bonds proposed under Subsection (f).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. ROAD DISTRICT IN ADJOINING COUNTIES

Sec. 257.101. ROAD DISTRICT AUTHORIZED; NATURE OF DISTRICT.

(a) The qualified voters of two or more adjoining counties or portions of adjoining counties in the manner provided by this subchapter may combine those counties or portions of counties to establish a defined road district for the purpose of constructing, maintaining, and operating macadamized, graveled, or paved roads and turnpikes, or in aid of those activities.

(b) A road district established under this subchapter is a defined district for purposes of the Texas Constitution and is a body corporate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.102. PETITION TO ESTABLISH ROAD DISTRICT. (a) A petition to establish a road district under this subchapter must be signed by at least 50 registered voters or a majority of the registered voters, whichever is less, in each county or in each portion of a county of which less than the entire county is included in the proposed district.

(b) The petition must:

(1) describe in general terms the road or roads proposed to be constructed and any municipalities to be connected by the road or roads;

(2) name each county proposed to be included in the road district and define the portion of each county proposed to be included if less than the entire county is proposed to be included in the district; and

(3) request each commissioners court to order an election to determine whether the county or defined portion of the county is to be included in the proposed district.

(c) A separate petition for the establishment of the road district must be presented to the commissioners court of each county or portion of a county in the proposed district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.103. CHANGE IN ROADS DESIGNATED IN PETITION. The commissioners court of a county may change a road designated in the petition calling for the establishment of a road district under this

subchapter if at the hearing on the petition the court finds that the change:

- (1) is necessary and practicable;
- (2) would be a public benefit; and
- (3) would be beneficial to all taxable property in the

county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.104. NOTICE OF HEARING ON PETITION. (a) On presentation of a petition under Section 257.102, the commissioners court of each county shall order the time for the petition to be heard on a date not less than 15 or more than 30 days after the date of the order. The hearing shall be held at the regular meeting place of the commissioners court in the county courthouse.

(b) The county clerk shall immediately issue notice of the time and place of the hearing. The notice must:

(1) inform all interested persons of the time and place of the hearing and of their right to appear at the hearing and support or protest the ordering of the election; and

(2) set forth in substance the contents of the petition, including the name of each county proposed to be included in whole or part in the road district.

(c) Before the 10th day before the date of the hearing, the clerk shall post a copy of the notice:

(1) at the courthouse door; and

(2) at a public place in each commissioners precinct contained in whole or part in the proposed road district.

(d) Not later than the fifth day before the date of the hearing, the clerk shall publish the notice in a newspaper of general circulation published in the county. If a newspaper is not published in the county, the posting of the notice as provided by Subsection (c) is sufficient.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.105. HEARING ON PETITION. (a) At the time and place set for the hearing of a petition presented under Section 257.102, or on a subsequent date set at that time, the commissioners court of

each county in the proposed road district shall hear the petition and all matters relating to the proposed district.

(b) Any interested person may appear before the court in person or by attorney and support or protest the establishment of the proposed road district.

(c) The court may adjourn the hearing from day to day and from time to time as it considers necessary.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.106. ORDER OF ELECTION TO ESTABLISH DISTRICT. (a) The commissioners court of each county included in whole or part in a proposed road district may issue and record in its minutes an order directing that an election be held within the county or the defined portion of the county if on the hearing of the petition to establish the district the court finds that:

(1) the petition is signed by the required number of registered voters of the county or defined portion of the county;

(2) notice of the hearing was given as required by law;
and

(3) the establishment of the proposed district by the consolidation of the county or defined portion of the county with the other counties or defined portions of counties named in the proceedings would be for the benefit of all taxable property in the county or defined portion of the county.

(b) The court shall order the election to be held on the next uniform election date authorized by Subchapter A, Chapter 41, Election Code, that occurs after the 15th day after the date of the order. An election must be held on the same date in each county in the proposed road district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.107. ELECTION TO ESTABLISH DISTRICT. (a) Notice of an election to establish a road district under this subchapter shall be given in the same manner and for the same time required for notices of the hearing on the petition to establish the district.

(b) The conduct of the election and the canvassing and making the returns is governed by general law when not in conflict with this

section.

(c) The officer directed by the commissioners court of each county to administer the election in the county shall make returns of the election to the commissioners court and return all ballot boxes to the clerk of the commissioners court.

(d) The commissioners court of each county or portion of a county in the proposed road district, on receiving the returns of the election, shall canvass the returns and certify the result of the election in the county or defined portion of the county to the county judge of the county in the proposed district with the greatest population. On receipt of the returns of the election in the different counties or defined portions of counties in the proposed district, the county judge designated to canvass the votes shall canvass the votes and certify the result of the election to each county included in whole or part in the proposed district.

(e) If a majority of the votes received in each county or defined portion of a county favor the consolidation of the counties or portions of counties into a defined road district, the commissioners court of each county or portion of a county shall declare the district established, and the district shall be known as "_____ Counties Road District of Texas," listing in alphabetical order each county included in whole or part in the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.108. EX OFFICIO DISTRICT DIRECTORS. (a) The following are ex officio directors of a road district established under this subchapter:

(1) for a county that is wholly included in the district, the county judge and each county commissioner; and

(2) for a county only part of which is included in the district, the county judge and the county commissioner of each commissioner precinct included in whole or part in the district.

(b) The ex officio directors have the same power and authority in the management of the affairs of the road district as the commissioners court of a county has in a road district located entirely in the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.109. MEETINGS OF COMMISSIONERS OR DIRECTORS. A joint meeting of the commissioners courts or ex officio directors of a road district established under this subchapter may be adjourned from day to day or time to time as the courts consider necessary and advisable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.110. DISTRICT TREASURER OR DEPOSITORY. (a) At a joint meeting held for that purpose in the county having the greatest population, the commissioners of the counties included in whole or part in a road district established under this subchapter shall select a treasurer or depository for the district. The treasurer or depository must be a bank, banking corporation, or individual banker resident in the district.

(b) The treasurer or depository is governed by the laws and subject to the penalties applicable by law to a depository of county money.

(c) The selected treasurer or depository may not receive any road district money until the treasurer or depository gives a surety bond to the district:

(1) in an amount equal to the amount of district money deposited;

(2) made with a corporate surety authorized to do business in the state; and

(3) conditioned on the safekeeping and paying of the district money.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.111. PURCHASE OF IMPROVED ROADS. (a) A road district established under this subchapter may purchase or take over an improved road previously constructed by a county or by another road district.

(b) A district may purchase or take over a road under Subsection (a) only in the manner provided by Subchapter D, Chapter 1471, Government Code, except that a petition is not required to be filed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.381, eff. Sept. 1, 2001.

Sec. 257.112. BONDS AND TAX AUTHORIZED. As provided by Section 52, Article III, Texas Constitution, to construct, maintain, and operate macadamized, graveled, or paved roads or turnpikes, or in aid of those activities, two or more adjoining counties or portions of adjoining counties through a road district established under this subchapter may:

- (1) issue bonds in any amount not to exceed one-fourth of the taxable value of the real property located in the district;
- (2) impose an annual ad valorem tax to pay the interest on the bonds; and
- (3) provide a sinking fund for the redemption of the bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.113. ORDER FOR BOND ELECTION. (a) The members of the commissioners courts of the counties included in whole or part in a road district established under this subchapter at a joint meeting held in the county having the greatest population may order an election to authorize bonds for the district.

(b) The members of the commissioners courts shall order the election to be held on a date authorized by Section 41.001, Election Code. Notice of the election shall be given as provided by Chapter 4, Election Code.

(c) At the election, the voters shall be permitted to vote for or against the following proposition:

"Authorizing the _____ Counties Road District of Texas to issue the bonds of the district in the total sum of \$_____ and to levy annually ad valorem taxes on all taxable property in the district to pay the interest on the bonds and create a sinking fund to redeem the principal at maturity for the purpose of the construction, maintenance, and operation of macadamized, graveled, or paved road and turnpikes or in aid of these purposes within the district.

"The roads to be constructed from the proceeds of the sale of the bonds and the amount apportioned to each road is as follows:

"(Here set out the road or roads as described in the order and notice of the election to determine the establishment of the district and the amount to be expended on each road or roads.)"

(d) If the proposition provides for the road district to purchase or take over improved roads constructed by an included county or another road district included in the road district, the election order must conform to the requirements of Section 1471.081, Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.382, eff. Sept. 1, 2001.

Sec. 257.114. NOTICE OF BOND ELECTION. (a) A certified copy of an order for an election made under Section 257.113 shall be sent to the county clerk of each county included in whole or part in the road district.

(b) After the clerk receives the certified copy of the election order, the commissioners court of each county at a regular or special session of the court held in the respective counties shall give notice of the proposed bond election to be held on the date provided by the order. The notice must state the time and place at which the election is to be held and state in substance the contents of the order.

(c) All other proceedings relating to the question submitted must be in accordance with the provisions of Chapter 1471, Government Code, that apply to county road bond elections.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.383, eff. Sept. 1, 2001.

Sec. 257.115. DECLARATION OF BOND ELECTION RESULTS. The ex officio directors of a road district established under this subchapter by order shall declare the result of a district bond election and certify the result to the county judge of the county in the road district that has the greatest population.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.116. ORDERS TO ISSUE BONDS AND LEVY TAX. If in a bond election held under this subchapter two-thirds of the votes received in each county or portion of a county included in the road district favor issuing the bonds, the commissioners court of each county or portion of a county, as soon after the declaration of the result of the election as practicable, shall pass the orders necessary to issue the bonds and impose taxes to pay the bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.117. LEVY OF BOND TAX. (a) Each year, the commissioners courts of the counties included in whole or part in a road district established under this subchapter shall determine the amount of the district bond tax to be imposed.

(b) The commissioners court of each county shall impose the portion of the bond tax imposed by the road district in that county at the time and in the manner that other taxes are imposed in the county by the commissioners court of the county. The imposition of the tax is governed by the law governing the imposition of county taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.118. ISSUANCE OF BONDS. (a) Bonds issued by a road district under this subchapter shall be:

- (1) issued in the name of the road district;
- (2) signed by the county judge of each county included in whole or part in the district; and
- (3) countersigned by the clerk of each of those counties.

(b) The seal of the commissioners court of each county included in whole or part in the district must be impressed on the bonds.

(c) The bonds must be attested by the treasurer or depository of the district.

(d) As nearly as practicable, the bonds shall be issued in the form used for the issuance of county bonds, except as provided by this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.119. SALE OF BONDS. (a) The commissioners courts of the counties included in whole or part in a road district established under this subchapter, at a joint meeting held in the county having the greatest population, shall advertise bonds issued under this subchapter for sale in an advertisement or notice published in a newspaper of general circulation published in the district not later than the 10th day before the date set for the sale.

(b) The commissioners courts shall convene in joint meeting in the county having the greatest population on the date specified for the sale in the notice to consider bids for the purchase of the bonds. The courts may reject any bid.

(c) The commissioners courts shall sell some or all of the bonds at that joint meeting at a price permitted by Chapter 1204, Government Code. The purchase money shall be deposited with the road district's treasurer or depository to the credit of the available road fund of the road district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.384, eff. Sept. 1, 2001.

Sec. 257.120. BOND PROCEEDS. (a) On the issuance and sale of road district bonds under this subchapter, the commissioners court of each county included in whole or part in the road district may adopt any necessary order setting aside an amount of the proceeds from the sale of the bonds as the ex officio directors of the road district consider necessary to be used for the maintenance, repair, and upkeep of the district's roads.

(b) The necessary expense incident to the issuance of the bonds may be paid out of the proceeds from the sale of the bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.121. APPLICATION OF COUNTY BOND LAWS. Except as otherwise provided by this subchapter, the general laws governing county road bonds authorized under Section 52, Article III, Texas Constitution, apply to the authorization, issuance, approval, certification, registration, sale, and payment of bonds issued under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.122. INTEREST RATE AND MATURITY OF BONDS. Bonds issued under this subchapter shall mature not later than the 40th anniversary of the date of their issuance and shall bear interest at a rate not to exceed that provided by Chapter 1204, Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.385, eff. Sept. 1, 2001.

Sec. 257.123. BOND RECORDS. (a) The commissioners court of each county included in whole or part in a road district established under this subchapter shall make a record of the district bonds issued under this subchapter.

(b) The county clerk of each county shall keep the record. The record must show:

- (1) the numbers of the bonds;
- (2) the amount of each bond;
- (3) the interest rate of each bond;
- (4) the date of issue of each bond; and
- (5) when each bond is due and where it is payable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 257.124. BOND WARRANTS. (a) The treasurer or depository of a road district established under this subchapter shall pay out the proceeds from the sale of the district's bonds on warrants drawn on the available road fund and issued by the county clerk of the county in the road district having the greatest population. A warrant must be countersigned by the county judge of each district included in whole or part in the road district.

(b) A warrant may be issued only in payment of a certified account approved by the ex officio directors of the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 257.901. LAND DEVELOPMENT IN ROAD DISTRICT WITH OUTSTANDING INDEBTEDNESS. (a) In this section:

(1) "Affected area" means the area:

(A) of an assessment road district; and

(B) within 1,500 feet of the boundary of an assessment road district.

(2) "Assessment road district" means a road district that has refinanced outstanding bonded indebtedness under Subchapter C, Chapter 1471, Government Code.

(3) "Land development" means any action necessary or customary in connection with the construction of improvements on real property.

(4) "Regulation" means any ordinance, rule, regulation, or application or interpretation of an ordinance, rule, regulation, or application.

(b) After March 9, 1999, a political subdivision shall pay the outstanding bonded indebtedness of an assessment road district if the political subdivision changes regulations regarding land development that apply to more than 20 percent of the land in the assessment road district in a manner that reduces:

(1) the amount of impervious cover, as defined in the regulations; or

(2) the total allowable floor area of a building on developed land.

(c) Subsection (b) does not apply to an affected land owner who agrees in writing to the regulation.

(d) On request of a person who owns land in an affected area, the governing body of an assessment road district by resolution may annex any part of the person's land that is within two miles of the district's boundaries.

(e) After annexation of the land under this section, the governing body of the district shall reapportion the remaining assessment on the owner's land on a per acre basis for all of the owner's land in the district.

(f) Chapter 245, Local Government Code, controls to the extent of any conflict with this section.

(g) This section expires March 10, 2019.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 19.003(a), eff. Sept. 1, 2001.

**CHAPTER 258. CLARIFICATION OF EXISTENCE OF PUBLIC INTEREST IN ROAD BY
ADOPTION OF COUNTY ROAD MAP**

Sec. 258.001. CLARIFICATION OF PUBLIC INTEREST IN ROAD.

Notwithstanding Chapter 281, a county may clarify the existence of a public interest in a road as provided by this chapter.

Added by Acts 2003, 78th Leg., ch. 236, Sec. 1, eff. Sept. 1, 2003.

Sec. 258.002. ADOPTION OF COUNTY ROAD MAP. (a) The commissioners court of a county may propose a county road map that includes each road in which the county claims the existence of a public interest:

(1) under Chapter 281 or other law; or

(2) as a result of having continuously maintained the road with public funds beginning before September 1, 1981.

(b) A commissioners court that proposes a county road map under this section shall hold a public meeting at which a person asserting a private right, title, or interest in a road in which the county has claimed the existence of a public interest may appear before the commissioners court to protest the county's claim. A person asserting a private right, title, or interest in a road may also file a written protest with the county judge at any time before the public meeting. The commissioners court shall appoint a jury of view consisting of five property owners who have no interest in the outcome of the protest to determine, by a majority vote after a public hearing and an examination of the county's road maintenance records and other information, the validity of the county's claim of the existence of a public interest in the road. A county has a valid claim of the existence of a public interest in a road if it provides written records or other information documenting the county's continuous maintenance of the road beginning before September 1, 1981. The determination of the jury of view is binding on the commissioners court, and the commissioners court shall revise the proposed county road map accordingly.

(c) The commissioners court shall publish at least once a week in a newspaper of general circulation in the county for at least four consecutive weeks preceding the date of the public meeting a notice:

(1) advising the public that the commissioners court has proposed a county road map including each road in which the county claims the existence of a public interest;

(2) identifying a location at the courthouse at which the proposed map will be available to the public during regular business hours; and

(3) stating the date and location of the public meeting.

(d) The commissioners court shall display the proposed map at the location and during the time described in the notice from the date on which notice is first published through the date on which the commissioners court formally adopts the proposed map. The map must be legible, and the map scale must be that not less than one inch equals 2,000 feet.

(e) The commissioners court may formally adopt the proposed map, as revised after public comment and a determination by the jury of view, only at a public meeting held before the 90th day following the date of the initial public meeting required by Subsection (b).

(f) The county clerk shall keep a county road map adopted under this section in a place accessible to the public.

(g) The failure to include on a county road map adopted under this section a road in which the county has previously acquired a public interest by purchase, condemnation, dedication, or a court's final judgment of adverse possession does not affect the status of the omitted road.

(h) In this section, "continuous maintenance" means grading or other routine road maintenance beginning before September 1, 1981, and continuing until the date of protest.

Added by Acts 2003, 78th Leg., ch. 236, Sec. 1, eff. Sept. 1, 2003.

Sec. 258.003. CONCLUSIVE EVIDENCE. Except as provided by Section 258.004, a county road map adopted under Section 258.002 is conclusive evidence of:

(1) the public's right of access over a road included on the map; and

(2) the county's authority to spend public money to maintain a road included on the map.

Added by Acts 2003, 78th Leg., ch. 236, Sec. 1, eff. Sept. 1, 2003.

Sec. 258.004. CONTEST. (a) A person asserting a private right, title, or interest in a road in which the existence of a public interest is asserted under this chapter may contest the inclusion of the road in the county road map by filing a suit in a district court in the county in which the road is located not later than the second anniversary of the date on which the county road map including the road was adopted.

(b) The county has the burden of proving that the county has continuously maintained, as that term is defined by Section 258.002, the road in question.

Added by Acts 2003, 78th Leg., ch. 236, Sec. 1, eff. Sept. 1, 2003.

Sec. 258.005. TRANSFER OF INTEREST. (a) The commissioners court shall include a notice of its intention to consider adoption of the county road map with the ad valorem tax statements for the year before the adoption of a county road map under Section 258.002. The notice must include a list of all roads in which the county will claim the existence of a public interest by adoption of the map, the date the commissioners court will hold the public meeting required by Section 258.002(b), and a statement that a landowner has a right to protest under Section 258.002(b). If a property owner tenders a warranty deed to the county for property included in the right-of-way of a county road, the commissioners court shall accept and file the warranty deed.

(b) The commissioners court shall include a notice of the adoption of the county road map with the ad valorem tax statements for the year after the year in which the county adopts a map under Section 258.002. The notice must include a list of all roads in which the county has claimed the existence of a public interest by adoption of the map, the date of the adoption, and the date on which the statute of limitations will bar a landowner from filing a suit in district court to dispute the county's claim.

Added by Acts 2003, 78th Leg., ch. 236, Sec. 1, eff. Sept. 1, 2003.

Sec. 258.006. TAX ABATEMENT; REVERSION OF INTEREST. (a) A private right, title, or interest, other than a mineral interest, held by a person in land underlying a road in which the county has

successfully asserted the existence of a public interest under this chapter is exempt from ad valorem taxation by any taxing authority.

(b) A right, title, or interest described in Subsection (a) reverts completely to the person who held the right, title, or interest at the time the county successfully asserted the existence of the public interest in the land if the county ceases to maintain the road, and the person is liable for all ad valorem taxes levied on that right, title, or interest on or after the reversion.

(c) To levy and collect an ad valorem tax on a right, title, or interest described in Subsection (a) that has reverted to the landowner under Subsection (b), the taxing authority must obtain from the county an order stating that the county has ceased to maintain the road. The owner of the right, title, or interest will be liable for any ad valorem tax levied on the right, title, or interest on or after the date of the county's order.

Added by Acts 2003, 78th Leg., ch. 236, Sec. 1, eff. Sept. 1, 2003.

Sec. 258.007. APPLICATION OF CHAPTER. This chapter applies only to a county that initiates or completes compliance with the provisions of this chapter before September 1, 2011.

Added by Acts 2003, 78th Leg., ch. 236, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1303 (H.B. [2462](#)), Sec. 1, eff. June 19, 2009.

CHAPTER 280. MISCELLANEOUS PROVISIONS

Sec. 280.001. CONDEMNING RAILROAD ROADBED. The commissioners court of a county may condemn a railroad roadbed on the petition of at least 20 freeholders of an unincorporated community for the purpose of opening, widening, or extending a street in the community.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 280.002. AUTHORITY OF CERTAIN COUNTIES TO REMOVE PROPERTY FROM COUNTY ROADS. (a) In this section, "personal property" includes personal property of any kind or character, including a

motor vehicle.

(b) This section applies only to a county with a population of 3.3 million or more.

(c) Except as provided by Subsection (g), a county commissioner may order the removal of personal property by the county from the right-of-way or roadway of a county road if the county commissioner determines the property:

(1) blocks the right-of-way or roadway for at least six hours; or

(2) endangers public safety.

(d) A county commissioner may order the removal of the personal property by the county without the consent of the owner or carrier of the property.

(e) The owner and the carrier of personal property removed under this section shall reimburse a county for the costs of removal and disposition.

(f) Notwithstanding any other provision of law, a county and its officers, agents, and employees are not liable for:

(1) any damage to personal property resulting from its removal or disposal by the county unless the removal or disposal is carried out recklessly or in a grossly negligent manner; or

(2) any damage resulting from the failure to exercise authority granted under this subchapter.

(g) A county commissioner may not order the removal of personal property of a public utility that is using the right-of-way or roadway of a county road to install, maintain, repair, or otherwise access a facility of the public utility.

Added by Acts 2005, 79th Leg., Ch. 1030 (H.B. 1092), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 295 (H.B. 1420), Sec. 1, eff. June 15, 2007.

Sec. 280.003. STREET LIGHTS IN SUBDIVISION LOCATED IN CERTAIN COUNTIES. (a) This section applies only to the unincorporated area of a county that has any of its territory located within 150 miles of an international boundary.

(b) The commissioners court of a county may by order provide

for the establishment of street lights along a county road located in a subdivision. The order may provide for:

(1) the installation, operation, and maintenance of the street lights by:

(A) the county; or

(B) another public or private entity with which the county may contract;

(2) the imposition of a fee on landowners in the subdivision who benefit from the street lights;

(3) the collection of a fee imposed under this subsection by the county tax assessor-collector; and

(4) any other matter the commissioners court finds necessary to the installation, operation, or maintenance of the street lights.

(c) This section does not supersede applicable provisions for street light service contained in the tariff of an electric utility that provides service to the subdivision.

(d) The county tax assessor-collector of a county in which a fee is imposed under this section shall include the fee in the tax bill prepared under Section 31.01, Tax Code, for each landowner whose real property is benefited by the street lights for which the fee is imposed. The tax bill must separately state the amount of the fee imposed under this section. The county tax assessor-collector shall collect the fee for the county in the same manner that the county tax assessor-collector collects ad valorem taxes for the county.

(e) A commissioners court may obtain a lien against real property benefited by the street lights for which a fee is imposed under this section to secure payment of the fee. To obtain the lien, the commissioners court must file a notice with the county clerk of the county in which the property is located that includes:

(1) a statement that the fee has been imposed on the landowner and the amount of the fee;

(2) a legal description of the property on which the lien is to be attached sufficient to identify the property; and

(3) the name of the landowner, if known.

(f) The lien authorized by this section exists in favor of the county. The lien attaches to the real property on the date the notice of lien is filed with the county clerk. The lien is inferior to a mortgage lien recorded with the county clerk before the date the lien authorized by this section attaches to the property. A county

may not foreclose a lien authorized by this section if the lien is the only lien attached to the property.

Added by Acts 2007, 80th Leg., R.S., Ch. 1183 (H.B. 573), Sec. 1, eff. June 15, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 660 (H.B. 3002), Sec. 1, eff. September 1, 2015.

SUBTITLE D. ROAD LAWS RELATING TO PARTICULAR COUNTIES
CHAPTER 281. ACQUISITION OF PUBLIC INTEREST IN PRIVATE ROAD BY
CERTAIN COUNTIES

Sec. 281.001. APPLICABILITY OF CHAPTER. This chapter applies only to a county with a population of 50,000 or less.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 281.002. ACQUISITION OF PUBLIC INTEREST IN PRIVATE ROAD. A county may acquire a public interest in a private road only by:

- (1) purchase;
- (2) condemnation;
- (3) dedication; or
- (4) a court's final judgment of adverse possession.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 281.003. DEDICATION. (a) For purposes of this chapter, a dedication must be:

- (1) an explicit voluntary grant of the use of a private road for public purposes; and
- (2) communicated in writing to the commissioners court of the county in which the real property is located.

(b) An oral dedication or intent to dedicate by overt act is not sufficient to establish a public interest in a private road under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 281.004. ADVERSE POSSESSION. For purposes of this chapter, adverse possession is not established by the:

(1) use of a private road by the public with the permission of the owner; or

(2) maintenance with public funds of a private road in which a public interest is not recorded.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 281.005. RESOLUTION OF COMMISSIONERS COURT. (a) After a public interest in a private road is acquired under this chapter, the commissioners court of the county in which the road is located shall record by resolution the interest in the records of the court.

(b) The resolution must state:

(1) the date on which the interest was acquired; and

(2) the circumstance by which the interest was acquired.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 281.006. NOTICE TO OWNER REQUIRED. A commissioners court may not assert a public interest in a private road acquired under this chapter until the court:

(1) complies with Section 281.005; and

(2) gives written notice to the owner of the road in person or by registered mail to the address of the owner shown on the most recent ad valorem tax roll for the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 281.007. CONTEST. A person asserting a right, title, or interest in a private road in which a public interest is asserted under this chapter may file suit in a district court in the county in which the road is located not later than the second anniversary after the later of:

(1) the date that the resolution required by Section 281.005 is recorded; or

(2) the date the notice required by Section 281.006 is given to the owner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 282. TOLL UNDERPASS OR TUNNEL IN CERTAIN COUNTIES

Sec. 282.001. APPLICABILITY OF CHAPTER. This chapter applies only to a county with a population of 350,000 or more.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 282.002. GRANT OF FRANCHISE AUTHORIZED. The commissioners court of a county may grant to a person a franchise for the construction, maintenance, and operation of a toll underpass or tunnel under a body of water and any necessary approach to the underpass or tunnel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 282.003. TERM OF FRANCHISE. The term of a franchise granted under this chapter may not exceed 50 years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 282.004. CONTRACT AUTHORIZED. The commissioners court may contract with the franchisee to finance, construct, own, maintain, and operate a toll underpass or tunnel and any approach.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 282.005. MAINTENANCE REQUIRED. (a) The franchise must be conditioned on the franchisee's building and keeping in continuous repair, for the term of the franchise, the toll underpass or tunnel and any approach in accordance with the plans and specifications in the contract and franchise.

(b) The contract and franchise must provide that the franchisee keep the underpass or tunnel and any approach in continuous repair during the term of the contract or franchise.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 282.006. TOLL. The commissioners court and the franchisee shall agree on a reasonable toll to impose for all cattle, railroads, persons, or vehicles that pass through the underpass or tunnel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 282.007. OPTION OF COUNTY TO PURCHASE. The contract and franchise granted may provide that the county has the right to purchase the underpass or tunnel at the time and price specified by the contract or franchise.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 282.008. OWNERSHIP BY COUNTY AUTHORIZED. The commissioners court may provide for the county to construct, acquire, own, and operate an underpass or tunnel and any necessary approach as part of the county's road and bridge system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 282.009. CROSSING UNDER NAVIGABLE BODY OF WATER. The franchise must provide that the underpass or tunnel be constructed so that, where it crosses a navigable body of water, the tunnel or underpass is at a depth below the fixed navigable depth of the body of water adequate to comply with law and the rules and regulations of a state authority or department of the United States government in charge of the body of water.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 282.010. TOLL BY COUNTY AUTHORIZED. The commissioners court of a county that operates an underpass or tunnel may impose a toll for use of the underpass or tunnel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 282.011. CONDEMNATION OF RIGHT-OF-WAY OR EASEMENT. A county may condemn a right-of-way or easement in real property necessary to construct an underpass, tunnel, or approach.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 282.012. GRANTS OR LOANS OF PUBLIC FUNDS. A commissioners court may enter into an agreement that relates to a grant or loan of public funds from the federal government as necessary to carry out this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 283. CAUSEWAYS, BRIDGES, AND TUNNELS IN CERTAIN COUNTIES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 283.001. DEFINITIONS. In this chapter:

- (1) "Bondholder" includes a trustee for a bondholder.
- (2) "Bond instrument" means a bond resolution or trust indenture.
- (3) "Interim bond" means a temporary bond, with or without coupons, that may be converted to a definitive bond.
- (4) "Project" means a causeway, bridge, or tunnel, including a necessary approach, fixture, accessory, or equipment that:
 - (A) is located in one county; and
 - (B) traverses or lies under the water of the Gulf of Mexico, including a bay or inlet opening.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.002. APPLICABILITY. This chapter applies only to a county that:

- (1) borders on the Gulf of Mexico; and
- (2) has a population of at least 20,000 as determined before the issuance of bonds under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.003. GENERAL AUTHORITY TO ACT. (a) Except as provided in Subsection (b), a county acting through its commissioners court may:

(1) construct, acquire, improve, operate, and maintain a project;

(2) authorize by resolution and issue revenue bonds, including interim bonds, to pay the cost of construction, acquisition, or improvement of the project; and

(3) accept a loan, gift, or grant from this state or the United States and enter into any agreement necessary to obtain the loan, gift, or grant.

(b) A county may not construct a bridge that traverses a ship channel or waterway with a maintained depth of 20 feet or more.

(c) Except as provided by Section 283.104, a county may act as authorized by this chapter without the consent, approval, supervision, or regulation of the state.

(d) A county performs an essential governmental function when it acts as authorized by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. PROVISIONS RELATING TO A PROJECT

Sec. 283.101. ACQUISITION OF PROPERTY. (a) A county acting under this chapter may enter on land, water, or other premises to make a survey, sounding, or examination of the property.

(b) When a condemnation proceeding is filed by a county, the county may take immediate possession of the property being condemned pending the results of the proceeding if the county tenders a bond or other security approved by the court that is sufficient to secure the property owner for damages to the property.

(c) The state grants to a county any easement or right-of-way traversing state property that is necessary or convenient to the construction, acquisition, or efficient operation of a project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.102. MANAGEMENT OF PROJECT. (a) A bond instrument may allow the project to be managed and controlled by a board of trustees while the bonds issued are outstanding.

(b) The bond instrument in providing for a board of trustees must:

- (1) name no more than five board members;
- (2) provide the manner of appointment; and
- (3) specify the powers and duties of the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.103. TOLLS REQUIRED. The county shall impose tolls and other charges for use of the project in amounts that are sufficient to:

- (1) pay operation and maintenance costs of the project;
- (2) pay principal and interest when due on the bonds;
- (3) establish a reserve fund if required; and
- (4) establish an adequate depreciation and replacement fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.104. OPERATION AND MAINTENANCE OF PROJECT. (a) The commission may:

(1) agree with a county to operate, maintain, or contribute to the maintenance costs of a project if the agreement is not inconsistent with the rights of the bondholders;

(2) lease a project from a county under terms that are agreed to by the county and that are not inconsistent with the bond instrument; and

(3) declare or operate all or part of a project as part of the state highway system only if the property and contract rights in the project and in the bonds are not unfavorably affected.

(b) The project shall become part of the state highway system and the commission shall maintain the project free of tolls when:

(1) the principal and interest due on the bonds are paid;
or

(2) a sufficient reserve to pay the principal and interest due on the bonds until maturity has been deposited in an irrevocable

trust fund for the benefit of the bondholders.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. PROVISIONS RELATING TO BONDS

Sec. 283.201. BOND PROCEEDS. (a) Except as provided in Subsection (b), the proceeds of bonds issued under this chapter shall be:

(1) used only to pay the cost of the project described by Section 283.202; and

(2) disbursed consistent with the terms of the bond instrument.

(b) Bond proceeds remaining after the cost of the project has been paid in full shall be used to pay interest on and retire the bonds.

(c) Unless otherwise provided in a bond instrument, if the bond proceeds are insufficient to pay the cost of the project, additional bonds may be issued up to the amount of the deficit and the bonds are:

(1) considered part of the same issue as the bonds first issued; and

(2) entitled to payment from the same fund without preference or priority of the bonds first issued.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.202. COSTS AND EXPENSES. (a) The cost of the project may include:

(1) the cost of construction;

(2) the cost of all property used in the construction, acquisition, improvement, operation, or maintenance of the project;

(3) payment of the cost of condemning property, including the award, court costs, and attorney's fees;

(4) payment of all legal, fiscal, or engineering expenses incurred in the acquisition or construction of the project, the making of any preliminary survey or investigation, or the authorization and issuance of the bonds; and

(5) payment of interest on the bonds before construction, during construction, and for one year after construction of the

project.

(b) Any preliminary expense paid from a county fund shall be repaid to the fund from the proceeds of the bonds when available.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.203. SOURCE OF REPAYMENT. (a) A bond authorized by this chapter may be paid only from the revenues received from the operation of the project.

(b) The bond is not a debt of the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.204. DEPOSITORY FOR PROCEEDS AND REVENUES. A bank or trust company in this state may:

(1) act as a depository of bond proceeds or revenues received from the operation of a project; and

(2) provide an indemnity bond or pledge securities required by the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.205. TRUST INDENTURE PERMITTED. (a) A bond authorized by this chapter may be secured by a trust indenture between the county and a corporate trustee that is a trust company or bank with the powers of a trust company.

(b) A trust indenture may pledge or assign revenues.

(c) A trust indenture may not convey or mortgage all or part of the project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.206. BOND PROVISIONS. (a) A bond authorized by this chapter shall contain the following clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

(b) A bond instrument may contain provisions:

- (1) that restrict individual rights of action of a bondholder;
- (2) that detail the rights and remedies of a bondholder and a trustee;
- (3) to protect and enforce as reasonable the rights and remedies of a bondholder, including covenants detailing the duties of the county in:
 - (A) acquiring property and constructing, maintaining, operating, repairing, and insuring the project; and
 - (B) maintaining custody of the bond proceeds and revenues and safeguarding and applying the funds; and
- (4) to secure as reasonable a bondholder, including covenants detailing:
 - (A) an event that constitutes an event of default;
 - (B) terms and conditions that would or could result in an acceleration of the bond maturity date; and
 - (C) rights, liabilities, powers, and duties that arise because of a breach by the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.207. BOND APPROVAL AND REGISTRATION. (a) A bond issued under this chapter may be presented to the attorney general for approval in the same manner and with like effect as is provided for the approval of a tax bond issued by a county.

(b) After approval by the attorney general, the comptroller shall register the bonds as in the case of other county bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.208. RIGHTS OF BONDHOLDERS. (a) A bond issued under this chapter creates and grants a lien on bond proceeds in favor of a bondholder until the bond is paid.

(b) In addition to other legal remedies, a bondholder may enforce the bondholder's rights against:

- (1) a county and its employees; and
- (2) a board, including an agent or employee, created to operate the project.

(c) A bondholder's rights include the right to:

- (1) require the county or board to:
 - (A) impose and collect sufficient tolls and other charges to carry out agreements in the bond instrument; and
 - (B) perform an agreement, covenant, or duty provided in the bond instrument; and
- (2) apply for and obtain the appointment of a receiver for the project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.209. RECEIVERSHIP. (a) A receiver appointed under Section 283.208, acting in the same manner as the county, may:

- (1) take possession of the project;
 - (2) maintain the project; and
 - (3) collect and receive revenues received from the project.
- (b) The receiver shall dispose of and apply revenues:
- (1) according to the obligations of the county under the bond instrument; and
 - (2) as directed by a court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 283.210. TAX STATUS OF BONDS. A bond issued under this chapter, the transfer of and income from the bond, and any profit made in the sale of the bond is exempt from taxation by this state or a political subdivision of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**CHAPTER 284. CAUSEWAYS, BRIDGES, TUNNELS, TURNPIKES, FERRIES,
AND HIGHWAYS IN CERTAIN COUNTIES
SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 284.001. DEFINITIONS. In this chapter:

- (1) "Bond instrument" means a bond trust indenture and a bond resolution.
- (2) "Bond resolution" means an order or resolution of a commissioners court authorizing the issuance of bonds.
- (3) "Project" means:

(A) a causeway, bridge, tunnel, turnpike, highway, ferry, or any combination of those facilities, including:

(i) a necessary overpass, underpass, interchange, entrance plaza, toll house, service station, approach, fixture, and accessory and necessary equipment that has been designated as part of the project by order of a county;

(ii) necessary administration, storage, and other buildings that have been designated as part of the project by order of a county; and

(iii) all property rights, easements, and related interests acquired; or

(B) a turnpike project or system, as those terms are defined by Section 370.003.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.48, eff. June 14, 2005.

Acts 2005, 79th Leg., Ch. 877 (S.B. 1131), Sec. 2, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 8.01, eff. June 11, 2007.

Sec. 284.002. APPLICABILITY TO CERTAIN COUNTIES AND LOCAL GOVERNMENT CORPORATIONS. (a) Except as provided by Subsection (b), this chapter applies only to a county that:

(1) has a population of 50,000 or more and borders the Gulf of Mexico or a bay or inlet opening into the gulf;

(2) has a population of two million or more;

(3) is adjacent to a county that has a population of two million or more; or

(4) borders the United Mexican States.

(b) A local government corporation created under Chapter 431 in a county to which this chapter applies has the same powers as a county acting under this chapter, except as provided by Chapter 362.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 875, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 124, eff.

September 1, 2011.

Sec. 284.003. PROJECT AUTHORIZED; CONSTRUCTION, OPERATION, AND COST. (a) A county, acting through the commissioners court of the county, or a local government corporation, without state approval, supervision, or regulation, may:

(1) construct, acquire, improve, operate, maintain, or pool a project located:

(A) exclusively in the county;

(B) in the county and outside the county; or

(C) in one or more counties adjacent to the county;

(2) issue tax bonds, revenue bonds, or combination tax and revenue bonds to pay the cost of the construction, acquisition, or improvement of a project;

(3) impose tolls or charges as otherwise authorized by this chapter;

(4) construct a bridge over a deepwater navigation channel, if the bridge does not hinder maritime transportation;

(5) construct, acquire, or operate a ferry across a deepwater navigation channel;

(6) in connection with a project, on adoption of an order exercise the powers of a regional mobility authority operating under Chapter 370; or

(7) enter into a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a proposed or existing project in the county to the extent and in the manner applicable to the department under Chapter 223 or to a regional tollway authority under Chapter 366.

(b) The county or a local government corporation may exercise a power provided by Subsection (a)(6) only in a manner consistent with the other powers provided by this chapter. To the extent of a conflict between this chapter and Chapter 370, this chapter prevails.

(c) A project or any portion of a project that is owned by the county and licensed or leased to a private entity or operated by a private entity under this chapter to provide transportation services to the general public is public property used for a public purpose and exempt from taxation by this state or a political subdivision of this state.

(d) If the county constructs, acquires, improves, operates, maintains, or pools a project under this chapter, before December 31 of each even-numbered year the county shall submit to the department a plan for the project that includes the time schedule for the project and describes the use of project funds. The plan may provide for and permit the use of project funds and other money, including state or federal funds, available to the county for roads, streets, highways, and other related facilities in the county that are not part of a project under this chapter. A plan is not subject to approval, supervision, or regulation by the commission or the department, except that:

(1) any use of state or federal highway funds must be approved by the commission;

(2) any work on a highway in the state highway system must be approved by the department; and

(3) the department shall supervise and regulate work on a highway in the state highway system.

(e) Except as provided by federal law, an action of a county taken under this chapter is not subject to approval, supervision, or regulation by a metropolitan planning organization.

(f) The county may enter into a protocol or other agreement with the commission or the department to implement this section through the cooperation of the parties to the agreement.

(g) An action of a county taken under this chapter must comply with the requirements of applicable federal law. The foregoing compliance requirement shall apply to the role of metropolitan planning organizations under federal law, including the approval of projects for conformity to the state implementation plan relating to air quality, the use of toll revenue, and the use of the right-of-way of and access to federal-aid highways. Notwithstanding an action of a county taken under this chapter, the commission or department may take any action that is necessary in its reasonable judgment to comply with any federal requirement to enable the state to receive federal-aid highway funds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 875, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 877 (S.B. [1131](#)), Sec. 3, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 8.02, eff. June 11, 2007.

Sec. 284.0031. OTHER ROAD, STREET, OR HIGHWAY PROJECTS. (a) The commissioners court of a county or a local government corporation, without state approval, supervision, or regulation may:

(1) authorize the use or pledge of surplus revenue to pay or finance the costs of a project for the study, design, construction, maintenance, repair, or operation of roads, streets, highways, or other related facilities that are not part of a project under this chapter; and

(2) prescribe terms for the use of the surplus revenue, including the manner in which revenue from a project becomes surplus revenue and the manner in which the roads, streets, highways, or other related facilities are to be studied, designed, constructed, maintained, repaired, or operated.

(b) To implement this section, a county may enter into an agreement with the commission, the department, a local governmental entity, or another political subdivision of this state.

(c) A county may not take an action under this section that violates or impairs a bond resolution, trust agreement, or indenture that governs the use of the revenue of a project.

(d) Except as provided by this section, a county has the same powers, including the powers to finance and to encumber surplus revenue, and may use the same procedures with respect to the study, financing, design, construction, maintenance, repair, or operation of a road, street, highway, or other related facility under this section as are available to the county with respect to a project under this chapter.

(e) Notwithstanding other provisions of this section:

(1) any work on the state highway system must be approved by the department; and

(2) the department shall supervise and regulate any work on a highway in the state highway system.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 8.03, eff. June 11, 2007.

Sec. 284.004. USE OF COUNTY PROPERTY. (a) Notwithstanding any other law, a county may use any county property for a project under this chapter, regardless of when or how the property is acquired.

(b) In addition to authority granted by other law, a county may use state highway right-of-way and may access state highway right-of-way in accordance with Sections 228.011, 373.101, and 373.102.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 8.03, eff. June 11, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 5, eff. June 17, 2011.

Sec. 284.005. CONVEYANCE TO COUNTY. The governing body of a political subdivision or agency of this state may convey title or right and easements to property needed by a county for a project under this chapter without advertisement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.006. FEDERAL OR STATE AID. A county may:

(1) accept from the United States or this state assistance or a loan, gift, grant, or contribution to acquire, construct, improve, maintain, pool, or operate a project under this chapter; and

(2) enter into agreements with the United States or this state for the acquisition, construction, improvement, maintenance, pooling, or operation of the project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.007. CONTRACTS FOR HISTORICALLY UNDERUTILIZED BUSINESSES. (a) A county with a population of more than 3.3 million operating under this chapter shall set and make a good faith effort to meet or exceed goals for awarding contracts or subcontracts associated with a project it operates, maintains, or constructs to historically underutilized businesses.

(b) The goals must equal or exceed:

(1) the federal requirement on federal money used in highway construction and maintenance; and

(2) the goals adopted by the department under Section 201.702.

(c) The goals apply to the total value of all contracts and subcontracts awarded, including contracts and subcontracts for construction, maintenance, operations, supplies, services, materials, equipment, professional services, the issuance of bonds, and bond counsel.

(d) In this section, "historically underutilized business" means:

(1) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned, managed, and in daily operations controlled by one or more persons who have been historically underutilized because of their identification as members of certain groups, including African Americans, Hispanic Americans, women, Asian Pacific Americans, and Native Americans, who have suffered the effects of discriminatory practices or similar invidious circumstances over which they have no control;

(2) a sole proprietorship formed for the purpose of making a profit that is 100 percent owned and in daily operations is controlled by a person described by Subdivision (1);

(3) a partnership formed for the purpose of making a profit in which at least 51 percent of the assets and interest in the partnership is owned by one or more persons described by Subdivision (1) who also have proportionate interest in the control, daily operations, and management of the partnership's affairs;

(4) a joint venture in which each entity in the joint venture is a historically underutilized business; or

(5) a supplier contract between a historically underutilized business and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies or materials.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 125, eff.

September 1, 2011.

Sec. 284.008. POWERS OF COMMISSION. (a) The commission may:

(1) provide for and contribute toward the acquisition, construction, improvement, operation, maintenance, or pooling of a project under this chapter and under terms to which the commission and the local government corporation or county agree that are consistent with the rights of bondholders or a person operating the project under a lease or other contract;

(2) lease a project under terms:

(A) to which the county or local government corporation acting under this chapter and the commission agree; and

(B) that are consistent with the bond instrument; and

(3) declare any part of a project under this chapter to be a part of the state highway system and operate any part of a project as part of the state highway system, to the extent that property and contract rights in the project and bonds are not affected unfavorably.

(b) Sections 222.031 and 284.003 do not limit the commission's authority to:

(1) operate or maintain a project under this chapter; or

(2) contribute to the cost of acquisition, construction, improvement, maintenance, operation, or pooling of a project as provided by Subsection (a).

(c) Except as provided by Subsection (d), a project becomes a part of the state highway system and the commission shall maintain the project without tolls when:

(1) all of the bonds and interest on the bonds that are payable from or secured by revenues of the project have been paid by the issuer of the bonds or another person with the consent or approval of the issuer; or

(2) a sufficient amount for the payment of all bonds and the interest on the bonds to maturity has been set aside by the issuer of the bonds or another person with the consent or approval of the issuer in a trust fund held for the benefit of the bondholders.

(d) A county may request that the commission adopt an order stating that a project will not become part of the state highway system under Subsection (c). If the commission adopts the order:

(1) Section 362.051 does not apply to the project;

- (2) the project must be maintained by the county; and
- (3) the project will not become part of the state highway system unless the county transfers the project under Section 284.011.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.49, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 8.04, eff. June 11, 2007.

Sec. 284.011. TRANSFER OF PROJECT TO DEPARTMENT. (a) A county may transfer to the department a project under this chapter that has outstanding bonded indebtedness if the commission:

- (1) agrees to the transfer; and
- (2) agrees to assume the outstanding bonded indebtedness.

(b) The commission may assume the outstanding bonded indebtedness only if the assumption:

(1) is not prohibited under the terms of an existing trust agreement or indenture securing bonds or other obligations issued by the commission for another project;

(2) does not prevent the commission from complying with covenants of the commission under an existing trust agreement or indenture; and

(3) does not cause a rating agency maintaining a rating on outstanding obligations of the commission to lower the existing rating.

(c) If the commission agrees to the transfer under Subsection (a), the county shall convey the project and any real property acquired to construct or operate the project to the department.

(d) At the time of a conveyance under this section, the commission shall designate the project as part of the state highway system. After the designation, the county has no liability, responsibility, or duty to maintain or operate the project.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.50, eff. June 14, 2005.

Sec. 284.012. TRANSFER OF ASSETS. (a) A county, acting

through the commissioners court of the county, may submit a request to the commission for authorization to create a regional mobility authority under Chapter 370 and to transfer all projects under this chapter to the regional mobility authority if:

(1) the creation of the regional mobility authority and transfer of projects is not prohibited under the bond proceedings applicable to the projects;

(2) adequate provision has been made for the assumption by the regional mobility authority of all debts, obligations, and liabilities of the county arising out of the transferred projects; and

(3) the commissioners courts of any additional counties to be part of the regional mobility authority have approved the request.

(b) The county may submit to the commission a proposed structure for the initial board of directors of the regional mobility authority and a method for appointment to the board of directors at the creation of the regional mobility authority. Subsequent appointments to the board of directors are subject to the requirements of Subchapter F, Chapter 370.

(c) After commission authorization, the county may transfer each of its projects under this chapter to the regional mobility authority to the extent authorized by the Texas Constitution if property and contract rights in the projects and bonds issued for the projects are not affected unfavorably.

(d) The commission shall adopt rules governing the creation of a regional mobility authority and the transfer of projects under this section.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.51, eff. June 14, 2005.

Sec. 284.013. CONVEYANCE OF FERRY CONNECTING STATE HIGHWAYS.

(a) The commission by order may convey a ferry operated under Section 342.001 to a county or local government corporation incorporated under Chapter 431 in a county to which this chapter applies if:

(1) the commission determines that the proposed conveyance is an integral part of the region's overall plan to improve mobility in the region;

(2) the county or local government corporation:

(A) agrees to the conveyance; and

(B) agrees to assume all liability and responsibility for the maintenance and operation of the ferry on its conveyance; and

(3) a majority of the voters in the municipality in which the ferry is located, voting in an election held for that purpose, approve the conveyance.

(b) A county or local government corporation shall reimburse the commission for the cost of a conveyed ferry unless the commission determines that the conveyance will result in a substantial net benefit to the state, the department, and the traveling public that equals or exceeds that cost.

(c) In computing the cost of the ferry, the commission shall:

(1) include the total amount spent by the department for the original construction of the ferry, including the costs associated with the preliminary engineering and design engineering for plans, specifications, and estimates, the acquisition of necessary rights-of-way, and actual construction of the ferry and all necessary appurtenant facilities; and

(2) consider the anticipated future costs of expanding, improving, maintaining, or operating the ferry to be incurred by the county or local government corporation and not by the department if the ferry is conveyed.

(d) The commission shall, at the time the ferry is conveyed, remove the ferry from the state highway system. After a conveyance, the commission has no liability or responsibility for the maintenance or operation of the ferry.

(e) Before conveying a ferry that is a part of the state highway system under this section, the commission shall conduct a public hearing at which interested persons shall be allowed to speak on the proposed conveyance. Notice of the hearing must be published in the Texas Register and in one or more newspapers of general circulation in the county in which the ferry is located.

(f) The commission shall adopt rules to implement this section. The rules must include criteria and guidelines for the approval of a conveyance of a ferry.

(g) A county or local government corporation shall establish criteria and guidelines for approval of the conveyance of a ferry under this section.

(h) A county or local government corporation may temporarily

charge a toll for use of a ferry conveyed under this section to pay the costs necessary for an expansion of the ferry and may permanently charge a toll for use of ferry facilities that are an expansion of the ferry conveyed under this section.

(i) The commission may not convey a ferry under this section if any of the docking facilities used by the ferry are located in a municipality with a population of 8,000 or less unless the governing body of the municipality approves the conveyance.

(j) The governing body of the municipality in which the ferry is located shall order an election held on the approval of a conveyance under this section.

Added by Acts 2005, 79th Leg., Ch. 877 (S.B. [1131](#)), Sec. 4, eff. June 17, 2005.

Renumbered from Transportation Code, Section 284.011 by Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.001(74), eff. September 1, 2007.

SUBCHAPTER B. BOND PROVISIONS

Sec. 284.031. BONDS AUTHORIZED. (a) A county may issue bonds for a project under this chapter that are secured:

(1) solely by the pledge of the gross or net revenues of a project;

(2) by a pledge of:

(A) an ad valorem tax under Section 9, Article VIII, Texas Constitution; or

(B) an unlimited ad valorem tax authorized by Section 52, Article III, Texas Constitution;

(3) by designating part of the bonds to be secured solely by a pledge of project revenues and part of the bonds to be secured by pledge of the ad valorem tax; or

(4) by a combination of methods described by Subdivisions (1) and (2) with all of the bonds supported and secured by the ad valorem tax and the duty imposed on the county to collect tolls for use of the project facilities as long as the bonds are outstanding so that, as prescribed in the bond instrument, the amount of the tax may be reduced as the project revenues become sufficient to:

(A) meet the requirements for operation and maintenance; and

(B) provide money for the bonds.

(b) The commissioners court may secure bonds issued under this chapter through a trust indenture between the county and a corporate trustee. The corporate trustee may be any trust company or bank that has the powers of a trust company. The indenture may pledge or assign project tolls or revenues but may not convey or mortgage any part of the project.

(c) The bonds issued under this chapter may be authorized by bond resolution at one time or from time to time and shall mature on or before the 40th anniversary of their date.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.032. TAX BOND ELECTION. Bonds wholly or partly supported by an ad valorem tax may not be issued without an election at which the issuance of the bonds is authorized.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.033. INTERIM BONDS. (a) A county may, before issuing definitive bonds, issue interim bonds, with or without coupons, exchangeable for definitive bonds.

(b) The interim bonds may be authorized and issued in accordance with this chapter, without regard to the requirements, restrictions, or procedural provisions contained in any other law.

(c) The bond resolution authorizing interim bonds may provide that the interim bonds must recite that the bonds are issued under this chapter. The recital is conclusive evidence of the validity and the regularity of the bonds' issuance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.034. BOND SALE TO PAY OUTSTANDING BONDS. A county acting through its commissioners court that issues bonds payable from revenues from tolls collected for the use of a project under this chapter and also payable from an unlimited tax authorized under Section 52, Article III, Texas Constitution, may authorize, under that section, and issue and sell its bonds and use the proceeds to

call, redeem, and pay off its outstanding tax and revenue bonds under the terms of the bonds and make the project available for the free use of the public.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.035. BOND APPROVAL AND REGISTRATION. (a) Bonds under this chapter may be presented to the attorney general for approval in the same manner as provided for approval of tax bonds issued by a county. The attorney general's approval of the bonds has the same effect as approval of county tax bonds.

(b) The comptroller shall register in the manner other county bonds are registered bonds the attorney general approves under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.036. BONDS SECURED SOLELY BY REVENUE. Bonds secured solely by a pledge of project revenue:

(1) are not a debt of the county issuing the bonds but are solely a charge on project revenue;

(2) may not be considered in determining the power of the county to issue for any purpose bonds payable in whole or in part from taxes; and

(3) must state: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.037. REVENUE BOND ELECTION NOT REQUIRED. (a) The issuance of bonds under this chapter that are payable solely from revenues may be authorized without an election.

(b) If an election is not held, notice of intention to issue the revenue bonds must be given as provided by Section 252.041, Local Government Code.

(c) The authority to issue the revenue bonds is subject to the right of referendum provided by Section 252.045, Local Government

Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.038. REVENUE BONDS: AD VALOREM TAX FOR MAINTENANCE AND OPERATION. (a) A county issuing bonds under this chapter that are secured solely by a pledge of revenues may:

(1) by the bond resolution, authorize the payment of the principal of and premium, if any, and interest on the bonds from the gross revenues of the project; and

(2) impose a direct continuing ad valorem tax under Section 9, Article VIII, or Section 52, Article III, Texas Constitution, and pledge the tax to pay maintenance and operating expenses of the project and to establish and maintain a reserve fund and a depreciation and replacement fund for the project, as a supplement to the pledge of revenues for those purposes or in lieu of a pledge of revenues, as provided by the bond resolution.

(b) The proceeds of a tax pledged under this section shall be used annually to the extent required by the bond resolution and for the purposes stated in Subsection (a)(2). The county may provide in the resolution that certain or all costs listed in the resolution will be paid by the county from the proceeds of the tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.039. BONDS ARE SECURITIES. The bonds issued and delivered under this chapter and interest coupons on the bonds are a security under Chapter 8, Business & Commerce Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.040. EFFECT OF LIEN. (a) A lien on or a pledge of revenue from a project under this chapter or on a reserve, replacement, or other fund established in connection with a bond issued under this chapter:

(1) is enforceable at the time of payment for and delivery of the bond;

(2) applies to an item on hand or subsequently received;

(3) applies without physical delivery of an item or other act; and

(4) is enforceable against any person having any claim, in tort, contract, or other remedy, against the county without regard to whether the person has notice of the lien or pledge.

(b) A bond resolution is not required to be recorded except in the regular records of the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.041. REFUNDING BONDS. Subject to any restriction in a bond instrument, a refunding bond may not be delivered unless delivered in exchange for the bond authorized to be refunded or unless sold and delivered to provide money for the payment of a matured or redeemable bond maturing or redeemable within three months.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.042. USE OF BOND PROCEEDS; LIEN. (a) The proceeds of bonds issued under this chapter:

(1) may be used only to pay the costs of the project described by Section 284.043; and

(2) shall be disbursed under the restrictions the bond instrument provides.

(b) Project operating and maintenance costs to be paid from proceeds of bonds payable in whole or in part from project revenue may include only items expressly defined in the proceedings authorizing the bonds.

(c) Notwithstanding Subsection (a), bond proceeds that remain after the project costs are paid in full shall be used to pay interest on and retire the bonds, unless otherwise provided in the bond instrument.

(d) Unless otherwise provided in the bond instrument, if the bond proceeds are not sufficient to pay all the project costs, additional bonds may be issued up to the amount necessary to pay the remaining costs. The additional bonds are considered to be of the same issue as the original bonds and are entitled to payment from the same fund, without preference for the bonds first issued.

(e) The bondholder or a bond trustee has a lien on the bond proceeds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.043. COSTS AND EXPENSES. (a) The cost of the project may include:

- (1) the cost of construction;
- (2) the cost of any property, appurtenance, easement, contract, franchise, or pavement used in the construction, acquisition, improvement, operation, or maintenance of the project;
- (3) the cost of condemning property, including the award, court costs, and attorney's fees;
- (4) all legal, fiscal, or engineering expenses incurred in the acquisition or construction of the project, the making of any preliminary survey or investigation, or the authorization and issuance of the bonds; and
- (5) payment of interest on the bonds and operating expenses on the project before and during construction and before the first anniversary after construction of the project is completed.

(b) Any preliminary expense paid from a county fund shall be repaid to the fund from the proceeds of the bonds when the proceeds are available.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.044. DEPOSITORY. A bank or trust company in this state may:

- (1) act as depository of bond proceeds or revenues derived from the operation of the project; and
- (2) provide indemnity bonds or pledge securities the county requires.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.045. BONDS TAX FREE. Bonds under this chapter and the transfer of and income from the bonds, including a profit made on the sale of the bonds, are exempt from taxation in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.046. BONDHOLDER RIGHTS. (a) In addition to all other rights by mandamus or other court proceeding, a holder or trustee of a bond issued under this chapter may enforce the holder's rights against the county, the county's employees, an operating board, or an agent or employee of the operating board and is entitled to:

(1) require the county and the board to impose and collect tolls and charges sufficient to carry out any agreement contained in the bond instrument; and

(2) apply for and obtain the appointment of a receiver for the project.

(b) A bond instrument may contain provisions for the protection and enforcement of a bondholder's rights and remedies, including covenants:

(1) establishing the county's duties relating to:

(A) the acquisition of property;

(B) the construction, maintenance, operation, and repair of, and insurance for, a project; and

(C) custody, safeguarding, and application of money;

(2) prescribing events that constitute default;

(3) prescribing terms on which any or all of the bonds become or may be declared due before maturity; and

(4) relating to the rights, powers, liabilities, or duties that arise on the breach of a county's duty.

(c) A bond instrument may contain provisions restricting the individual rights of action of the bondholder.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. CONSTRUCTION AND OPERATION

Sec. 284.061. ACQUISITION OF PROPERTY. (a) To acquire property useful in connection with a project, a county may enter on any real property, water, or premises to make a survey, sounding, or examination.

(b) A county may acquire by eminent domain property to use in or useful for a project under this chapter.

(c) Except as provided by Section 284.0615, if applicable, the

county is entitled to immediate possession of property subject to a condemnation proceeding brought by the county after:

- (1) a tender of a bond or other security in an amount sufficient to secure the owner for damages; and
- (2) the approval of the bond or security by the court.

(d) Subject to the reimbursement requirements of Section 373.102, a county has full easements and rights-of-way through, across, under, and over any property owned by this state that are necessary or convenient to construct, acquire, or efficiently operate a project under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 5.05, eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.52, eff. June 14, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 6, eff. June 17, 2011.

Sec. 284.0615. DECLARATION OF TAKING BY CERTAIN COUNTIES. (a) This section applies only to a county with a population of 3.3 million or more.

(b) If, in connection with a project under this chapter, the commissioners court of the county authorizes the county to proceed in the manner provided by Section 203.066:

- (1) the county may file a declaration of taking and proceed in the manner provided by that section on the project; and
- (2) a reference to the department in that section means the county.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.53, eff. June 14, 2005.

Sec. 284.062. FERRY. The commissioners court may purchase or lease a ferry property and operate the property over the route to be traversed by a project under this chapter during the period that the project is being constructed. The cost of the purchase or lease of the ferry property may be paid from the proceeds of the bonds issued

for the project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.063. CONTRACT FOR PROJECT CONSTRUCTION. (a) A county may enter into an agreement with a political subdivision or agency of this state to construct, acquire, improve, operate, and maintain a project under this chapter. The agreement may provide for title to the project to be in one party to the agreement or for joint ownership of the project.

(b) A county entering into an agreement under this section may issue bonds as provided by this chapter to pay all or a part of the cost of a project.

(c) An agreement entered into under this section, in addition to other terms, may:

(1) extend for any agreed period; and

(2) provide that the agreement continues in effect until bonds specified in the agreement and refunding bonds issued in lieu of those bonds are paid.

(d) A payment made under the agreement is an operating and maintenance expense of the project if the agreement so provides. Revenues derived from the operation of the project may be pledged to pay operating and maintenance expenses.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.064. CONTRACT TO OPERATE. (a) A county may contract with another person for the person to operate all or part of a project under this chapter to the extent prescribed by the bond instrument.

(b) A contract made under this section must be for a specified period that does not extend beyond the date of maturity of the last maturing bond.

(c) A contract made under this section may not interfere with the right of a bondholder to require proper operation and maintenance of the facilities and the payments for the benefit of the bond as prescribed in the bond instrument.

(d) If a county enters into an agreement with a person that includes the collection by the person of tolls for the use of a

project, the person shall submit to the county for approval:

- (1) the methodology for:
 - (A) the setting of tolls; and
 - (B) increasing the amount of the tolls;
- (2) a plan outlining methods the person will use to collect the tolls, including:
 - (A) any charge to be imposed as a penalty for late payment of a toll; and
 - (B) any charge to be imposed to recover the cost of collecting a delinquent toll; and
- (3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll.
- (e) An agreement with a person that includes the collection by the person of tolls for the use of a project may not be for a term longer than 50 years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.54, eff. June 14, 2005.

Sec. 284.065. POOLED PROJECTS. (a) A commissioners court of a county by resolution may pool two or more projects the county constructs under this chapter.

(b) An existing project may be pooled in whole or in part with a new project or another existing project.

(c) A project may be pooled more than once.

(d) The resolution of the commissioners court establishing a pooled project shall set a date when each of the projects being pooled will be available for the free use of the public. The date must be consistent with the bond instrument applicable to bonds for any of the pooled projects.

(e) Subject to the terms of a bond instrument, a county proceeding under this chapter may, from time to time, issue bonds, including bonds that are payable either in whole or in part from the revenues of a pooled project, to:

- (1) pay all or a part of the cost of the pooled project or the cost of a part of the pooled project;
- (2) pay the costs of constructing improvements, extensions,

or enlargements to all or part of a pooled project; or

(3) refund outstanding bonds issued for any part of a pooled project, including payment of a bond redemption premium and any interest to the date of redemption; and

(4) pay the cost of constructing improvements, extensions, and enlargements to any part of a pooled project for which any part of the bonds to be refunded were issued.

(f) Revenues of any part of a pooled project may be pledged to pay the bonds.

(g) Improvements, extensions, or enlargements to be paid from refunding bonds issued under this chapter may be constructed on any part of the pooled project without regard to the parts of the pooled project covered by the bonds to be refunded.

(h) The refunding bonds may be issued in exchange for outstanding bonds or may be sold and the proceeds used to redeem outstanding bonds.

(i) A county may, from time to time, amend the extent or component parts of a designated pooled project, consistent with the terms of related bond instruments.

(j) This chapter applies to a pooled project and an amended pooled project in the same manner that it applies to any other project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 8.05, eff. June 11, 2007.

Sec. 284.066. OPERATING BOARD. (a) A commissioners court may appoint an operating board if the commissioners court determines that a project under this chapter could be developed, constructed, operated, and managed better and more efficiently by an operating board.

(b) Except as provided by Subsections (c) and (d), an operating board has the same authority as the commissioners court, including the power of eminent domain, regarding the development, construction, operation, and management of a project under this chapter.

(c) The operating board's authority is subject to the limitations prescribed by the commissioners court.

- (d) An operating board may not:
 - (1) impose a tax or borrow money; or
 - (2) exercise the authority of the commissioners court under Section 284.071 except as provided by order of the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.0665. COMPENSATION OF OPERATING BOARD MEMBERS. (a) In this section, "performing the duties of the operating board" means substantive performance of the management or business of a project:

- (1) including participation in:
 - (A) board and committee meetings;
 - (B) other activities involving the substantive deliberation of business; and
 - (C) pertinent educational programs related to a project; and
- (2) not including routine or ministerial activities such as the execution of documents, self-preparation for meetings, or other activities requiring a minimal amount of time.

(b) This section applies only to an operating board:

- (1) appointed by a local government corporation; or
- (2) that is a local government corporation.

(c) A member of an operating board is entitled to receive as compensation not more than \$150 a day for each day the member actually spends performing the duties of the operating board.

(d) The operating board shall set a limit on the amount of compensation a member of the operating board may receive in a year under this section not to exceed \$7,200.

(e) In addition to Subsection (c), a member of the operating board is entitled to reimbursement of actual and necessary expenses incurred in performing duties of the operating board.

(f) To receive compensation or reimbursement under this section, a member of the operating board must file a verified statement with the local government corporation:

- (1) showing the number of days the member actually spent performing duties of the operating board; and
- (2) including a general description of the duties performed for each day of service.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.55, eff. June 14, 2005.

Sec. 284.067. PROJECTS EXTENDING INTO OTHER COUNTIES. (a) A county may not construct or acquire a project that is financed under this chapter and any part of which is in another county until the commissioners court of the other county adopts a resolution consenting to the construction or acquisition.

(b) A part of a project that has not been designated as part of the state highway system and that is not a turnpike project as defined in Chapter 361 is a part of the county road system of the county in which the part is located. A law relating to the maintenance and operation of a county road applies to a project constructed or acquired under this chapter to the extent the law does not conflict with this chapter.

(c) Any county into which the project extends, by condemnation or another method under general law, may acquire the property necessary for the project, except that a county may not condemn property in another county until after the resolution required by Subsection (a) is adopted. The county issuing the bonds may use the bond proceeds to acquire property necessary for the project in any county into which the project extends.

(d) Payment of the purchase price, award, or other cost of the project may be on the terms to which the commissioners courts of the county issuing the bonds and the other county or counties agree. Proceeds from bonds issued under this chapter may be used to pay a cost incurred under this section.

(e) Two-tenths of one percent of the toll revenue shall be shared equally between the permanent school fund and the General Land Office. The General Land Office shall use its share for the acquisition of real property in a natural state in the county of the project. The acquired land shall be maintained in a natural state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 875, Sec. 3, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.56, eff. June 14, 2005.

Sec. 284.068. RECONSTRUCTION OF CLOSED OR RELOCATED NONTOLL ROADS, STREETS, OR HIGHWAYS. If under this chapter a county closes or changes the location of a portion of a nontoll road, street, or highway, the county shall reconstruct the nontoll road, street, or highway at a location and in the manner the county determines will provide substantially the same access as the nontoll road, street, or highway being closed or relocated.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.069. TOLLS AND CHARGES. If bonds under this chapter are payable in whole or in part from project revenue, the county shall impose tolls and charges that are, together with other money or revenues available for the project, including ad valorem tax, sufficient to:

- (1) pay the maintenance and operating expenses of the project;
- (2) pay the principal of, premium of, if any, and interest on the bonds when due;
- (3) establish a reserve for payment of bond principal, premium, and interest; and
- (4) establish an adequate fund for project depreciation and replacement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.070. NONPAYMENT OF TOLL; OFFENSE. (a) A person commits an offense if the person:

- (1) operates a vehicle on a county project; and
- (2) fails or refuses to pay a toll imposed under Section 284.069.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$100.

(c) The county may take and retain possession of a vehicle operated in violation of Subsection (a) until the amount of the toll and all charges in connection with the toll are paid.

(d) In a county with a population over 2.8 million, an offense under this section may be prosecuted in any precinct in the county in which the offense was committed.

(e) An authorized emergency vehicle, as defined by Section 541.201, is exempt from payment of a toll imposed under this chapter regardless of whether the vehicle is:

- (1) responding to an emergency;
- (2) displaying a flashing light; or
- (3) marked as an emergency vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1107, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 4.02, eff. September 1, 2007.

Sec. 284.0701. ADMINISTRATIVE COSTS; NOTICE; OFFENSE. (a) In the event of an offense committed under Section 284.070, on issuance of a written notice of nonpayment, the registered owner of the nonpaying vehicle is liable for the payment of both the proper toll and an administrative cost.

(b) The county may impose and collect the administrative cost so as to recover the expense of collecting the unpaid toll, not to exceed \$100. The county shall send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the Texas Department of Motor Vehicles by first-class mail not later than the 30th day after the date of the alleged failure to pay and may require payment not sooner than the 30th day after the date the notice was mailed. The registered owner shall pay a separate toll and administrative cost for each event of nonpayment under Section 284.070.

(c) The registered owner of a vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under Subsection (b) and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the authority:

- (1) a copy of the rental, lease, or other contract document

covering the vehicle on the date of the nonpayment under Section 284.070, with the name and address of the lessee clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Section 284.070.

(d-1) If the lessor provides the required information within the period prescribed under Subsection (d), the authority may send a notice of nonpayment to the lessee at the address provided under Subsection (d) by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative cost for each event of nonpayment. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

(e) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 284.070 occurred, submitted written notice of the transfer to the Texas Department of Motor Vehicles in accordance with Section 501.147, and before the 30th day after the date the notice of nonpayment is mailed, provides to the county the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the county may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by first-class mail before the 30th day after the date of receipt of the required information from the former owner. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. The subsequent owner shall pay a separate toll and administrative cost for each event of nonpayment under Section 284.070. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

(f) An offense under this section is a misdemeanor punishable

by a fine not to exceed \$250.

(g) The court in which a person is convicted of an offense under this section shall also collect the proper toll and administrative cost and forward the toll and cost to the county.

(h) In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the Texas Department of Motor Vehicles or the analogous department or agency of another state or country.

Added by Acts 2003, 78th Leg., ch. 372, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 918 (H.B. 2983), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2C.01, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.003, eff. September 1, 2013.

Sec. 284.0702. PRIMA FACIE EVIDENCE; DEFENSE. (a) In the prosecution of an offense under Section 284.070 or 284.0701, proof that the vehicle was driven or towed through the toll collection facility without payment of the proper toll may be shown by a video recording, photograph, electronic recording, or other appropriate evidence, including evidence obtained by automated enforcement technology.

(b) In the prosecution of an offense under Section 284.0701(c), (d-1), or (e):

(1) a computer record of the department of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment under Section 284.070 occurred; and

(2) a copy of the rental, lease, or other contract document, or the electronic data provided to the authority under Section 284.0701(d), covering the vehicle on the date of the underlying event of nonpayment under Section 284.070 is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the underlying event of nonpayment under Section 284.070 occurred.

(c) It is a defense to prosecution under Section 284.0701(c),

(d-1), or (e) that the vehicle in question was stolen before the failure to pay the proper toll occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

- (1) the occurrence of the failure to pay; or
- (2) eight hours after the discovery of the theft.

Added by Acts 2003, 78th Leg., ch. 372, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 918 (H.B. 2983), Sec. 4, eff. September 1, 2009.

Sec. 284.071. CONTROLLED ACCESS TO TOLL ROAD. (a) The commissioners court of a county by order may designate a toll road established for the county under this chapter as a controlled-access toll road.

(b) The commissioners court by order may:

- (1) deny use of or access to or from the toll road by a motor vehicle, bicycle, or other vehicle or by a pedestrian;
- (2) deny access to or from:
 - (A) the toll road;
 - (B) real property adjacent to the toll road; or
 - (C) a street, road, alley, highway, or other public or private way intersecting the toll road;
- (3) designate locations on the toll road at which access to or from the toll road is permitted;
- (4) control, restrict, and determine the type and extent of access permitted at a designated location of access to the toll road; or
- (5) erect appropriate protective devices to preserve the utility, integrity, and use of the toll road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.072. PROMOTION OF TOLL ROADS. The commissioners court of a county may promote the use of a toll road operated under this chapter by appropriate means, including advertising or marketing as the commissioners court finds appropriate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.073. POWERS AND DUTIES OF RECEIVER. (a) A receiver appointed for a project may enter, take possession of, and maintain the project.

(b) A receiver may collect all revenues and tolls from the project in the same manner as the county.

(c) A receiver shall dispose of the money collected in accordance with the obligations of the county under the bond instrument and as the court that appoints the receiver directs.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 284.074. TAX AND ASSESSMENT EXEMPTION: PROJECTS. Each part of a project is exempt from taxation and assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. UNAUTHORIZED USE OF TOLL ROADS IN CERTAIN COUNTIES

Sec. 284.201. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to:

(1) a county with a population of more than 3.3 million;

or

(2) a county adjacent to a county with a population of more than 3.3 million.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.18(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 131, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 670, Sec. 1, eff. June 20, 2003.

Sec. 284.202. ORDER PROHIBITING OPERATION OF MOTOR VEHICLE ON TOLL PROJECT. (a) The commissioners court of a county by order may prohibit the operation of a motor vehicle on a county project described by Section 284.001(3) if:

(1) an operator of the vehicle has failed to pay a required toll or charge; and

(2) the county provides the registered owner of the vehicle

with notice of the unpaid toll or charge.

(b) The notice required by Subsection (a)(2) must be mailed to the registered owner of the vehicle at least 10 days before the date the prohibition takes effect.

(c) If the registered owner of the vehicle fails to pay a toll or charge not later than the 10th day after the notice under Subsection (b) is mailed, the commissioners court by order may impose a reasonable cost for expenses associated with collecting the unpaid toll or charge.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.18(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 372, Sec. 2, eff. Sept. 1, 2003.

Sec. 284.203. VIOLATION OF ORDER; OFFENSE. (a) A person commits an offense if the person operates a motor vehicle or causes or allows the operation of a motor vehicle in violation of an order adopted under Section 284.202(a).

(b) An offense under this section is a Class C misdemeanor.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.18(a), eff. Sept. 1, 1997.

Sec. 284.2031. CIVIL AND CRIMINAL ENFORCEMENT COST. (a) A county may impose, in addition to other costs, \$1 as a court cost on conviction to a defendant convicted of an offense under Section 284.070, 284.0701, or 284.203 in an action brought by the county or district attorney.

(b) In this section, a person is considered convicted if:

- (1) a sentence is imposed on the person; or
- (2) the court defers final disposition of the person's

case.

(c) In a county with a population of 3.3 million or more, money collected under Subsection (a) shall be deposited in the county treasury in a special fund to be administered by the county attorney or district attorney. Expenditures from this fund shall be at the sole discretion of the attorney and may be used only to defray the salaries and expenses of the prosecutor's office, but in no event may the county attorney or district attorney supplement his or her own

salary from this fund.

(d) In a county with a population of less than 3.3 million, money collected under Subsection (a) shall be deposited in the general fund of the county.

Added by Acts 2003, 78th Leg., ch. 372, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 963 (H.B. 1672), Sec. 1, eff. June 18, 2005.

Sec. 284.2032. ADDITIONAL ADMINISTRATIVE COST IN CERTAIN COUNTIES. (a) A county with a population of 3.3 million or more may impose, in addition to other costs, \$1 as an administrative cost associated with collecting a toll or charge for each event of nonpayment of a required toll or charge imposed under Section 284.069.

(b) Money collected under Subsection (a) shall be deposited in the county treasury in a special fund to be administered by the county attorney. Expenditures from the fund shall be at the sole discretion of the attorney and may be used only to defray the salaries and expenses of the attorney's office, but in no event may the county attorney supplement his or her own salary from the fund.

Added by Acts 2005, 79th Leg., Ch. 963 (H.B. 1672), Sec. 2(a), eff. September 1, 2005.

Sec. 284.204. ADMINISTRATIVE ADJUDICATION HEARING PROCEDURE.

(a) The commissioners court of a county may adopt an administrative adjudication hearing procedure for a person who is suspected of having violated an order adopted under Section 284.202(a) on at least two separate occasions within a 12-month period.

(b) A hearing procedure adopted under Subsection (a) must provide:

- (1) a period for a person charged with violating the order:
 - (A) to pay the toll or charge plus administrative costs authorized by Sections 284.202 and 284.2031; or
 - (B) to request a hearing;
- (2) for appointment of one or more hearing officers with authority to administer oaths and issue orders compelling the

attendance of witnesses and the production of documents; and

(3) for the amount and disposition of civil fines, costs, and fees.

(c) An order issued under Subsection (b)(2) may be enforced by a justice of the peace.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.18(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 372, Sec. 4, eff. Sept. 1, 2003.

Sec. 284.205. CITATION OR SUMMONS. (a) A citation or summons issued under this subchapter must:

(1) inform the recipient of the time and place of the hearing; and

(2) notify the person charged with a violation that the person has the right of a hearing without delay.

(b) The original or any copy of the summons or citation is a record kept in the ordinary course of business of the county and is rebuttable proof of the facts it contains.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.18(a), eff. Sept. 1, 1997.

Sec. 284.206. ADMINISTRATIVE HEARING: PRESUMPTION; EVIDENCE OF OWNERSHIP. (a) In an administrative adjudication hearing under this subchapter it is presumed that the registered owner of the motor vehicle that is the subject of the hearing is the person who operated or allowed the operation of the motor vehicle in violation of the order.

(b) A computer record of the department of the registered vehicle owner is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle at the time the violation occurred.

(c) Proof of the violation of the order may be shown by a video recording, photograph, electronic recording, or other appropriate evidence, including evidence obtained by automated enforcement technology.

(d) It is a defense to prosecution under this subchapter that the vehicle in question was stolen before the failure to pay the

proper toll occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

- (1) the occurrence of the failure to pay; or
- (2) eight hours after the discovery of the theft.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.18(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 372, Sec. 5, eff. Sept. 1, 2003.

Sec. 284.207. ATTENDANCE ON HEARING. (a) The peace officer or toll road agent who alleges a violation is not required to attend the hearing.

(b) The failure of a person charged with an offense to appear at the hearing is considered an admission of liability for the violation.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.18(a), eff. Sept. 1, 1997.

Sec. 284.208. DECISION OF HEARING OFFICER. (a) The hearing officer shall issue a decision stating:

- (1) whether the person charged is liable for a violation of the order; and
- (2) the amount of the fine and costs to be assessed against the person.

(b) The hearing officer shall file the decision with the county clerk.

(c) A decision of a hearing officer filed under Subsection (b) must be kept in a separate index and file. The decision may be recorded using a computer printout, microfilm, microfiche, or a similar data processing technique.

(d) Repealed by Acts 2005, 79th Leg., Ch. 963, Sec. 2(b), eff. September 1, 2005.

(e) Repealed by Acts 2005, 79th Leg., Ch. 963, Sec. 2(b), eff. September 1, 2005.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.18(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 372, Sec. 6, eff. Sept.

1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 963 (H.B. 1672), Sec. 2(b), eff. September 1, 2005.

Sec. 284.209. ENFORCEMENT OF DECISION. A decision issued under Section 284.208(a) may be enforced by:

- (1) placing a device that prohibits movement of a motor vehicle on the vehicle that is the subject of the decision;
- (2) imposing an additional fine if the fine for the offense is not paid within a specified time; or
- (3) refusing to allow the registration of the vehicle.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.18(a), eff. Sept. 1, 1997.

Sec. 284.210. APPEAL OF HEARING OFFICER DECISION. (a) A person determined by a hearing officer to be in violation of an order may appeal the determination to a county court at law.

(b) To appeal, the person must file a petition with the court not later than the 30th day after the date the hearing officer's decision is filed with the county clerk. The petition must be accompanied by payment of the costs required by law for the court.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.18(a), eff. Sept. 1, 1997.

Sec. 284.211. HEARING ON APPEAL. The court in which an appeal petition is filed shall:

- (1) schedule a hearing; and
- (2) notify all parties of the date, time, and place of the hearing.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.18(a), eff. Sept. 1, 1997.

Sec. 284.212. EFFECT OF APPEAL. Service of notice of appeal

does not stay the enforcement and collection of the decision of the hearing officer unless the person who files the appeal posts a bond with an agency designated by the county to accept payment for a violation.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.18(a), eff. Sept. 1, 1997.

Sec. 284.213. SEIZURE OF TRANSPONDERS. (a) For purposes of this section, "transponder" means a device, placed on or within a motor vehicle, that is capable of transmitting information used to assess or to collect tolls. A transponder is insufficiently funded when there are no remaining funds in the account in connection with which the transponder was issued.

(b) Any peace officer of this state may seize a stolen or insufficiently funded transponder and return it to the county, except that an insufficiently funded transponder may not be seized sooner than the 30th day after the date the county has sent a notice of delinquency to the holder of the account.

Added by Acts 2003, 78th Leg., ch. 372, Sec. 7, eff. Sept. 1, 2003.

CHAPTER 285. COUNTY REGULATION OF ROADSIDE VENDOR AND SOLICITOR IN CERTAIN COUNTIES

Sec. 285.001. REGULATION OF ROADSIDE VENDOR AND SOLICITOR. (a) To promote the public safety, the commissioners court of a county with a population of more than 1.3 million by order may regulate the following in the unincorporated area of the county if they occur on a public highway or road, in the right-of-way of a public highway or road, or in a parking lot:

- (1) the sale of items by a vendor of food or merchandise, including live animals;
- (2) the erection, maintenance, or placement of a structure by a vendor of food or merchandise, including live animals; and
- (3) the solicitation of money.

(b) The commissioners court of a county with a population of more than 700,000 and less than 800,000 that borders the United Mexican States by order may regulate the activities described by Subsection (a) in the manner described by that subsection, except

that:

(1) the regulation of activities on or in the right-of-way of a public highway or road is limited to public highways and roads with a speed limit of 40 miles per hour or faster; and

(2) the county may not prohibit the sale of livestock.

(c) A county regulating vendors under Subsection (b) may require that a vendor be located not closer to the edge of the public highway or road than a distance that is equal to one-half the width of the right-of-way adjacent to the highway or road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 132, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 493 (S.B. 254), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 340 (H.B. 2094), Sec. 1, eff. June 14, 2013.

Sec. 285.002. PERMIT; REMOVAL OF STRUCTURE. The commissioners court may:

(1) require a vendor or a person soliciting money to obtain a permit to sell the food or merchandise or to solicit money;

(2) charge a reasonable fee for the permit; and

(3) provide for the removal of a structure that is in violation of the regulations.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 285.003. CONFLICT WITH STATUTE OR STATE AGENCY RULE. If a regulation adopted under this chapter conflicts with a statute or state agency rule, the statute or rule prevails to the extent of the conflict.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 285.004. VIOLATION OF REGULATION; OFFENSE. (a) A person commits an offense if the person knowingly:

(1) violates a regulation adopted under this chapter; or

(2) obstructs or threatens to obstruct the removal of a structure that is in violation of a regulation adopted under this chapter.

(b) Each day a violation continues is a separate offense.

(c) An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 286. ROAD LAWS RELATING TO SPECIFIC COUNTIES
SUBCHAPTER A. ROAD IMPROVEMENTS AND ASSESSMENTS BY GALVESTON OR
CAMERON COUNTY COMMISSIONERS COURT

Sec. 286.001. APPLICABILITY. This subchapter applies only to Galveston County and Cameron County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.002. ROAD IMPROVEMENT AND ASSESSMENT. (a) The commissioners court of the county may improve a county road in the county by:

- (1) filling, grading, raising, paving, or repairing the road in a permanent manner;
- (2) constructing, repairing, or realigning a curb, gutter, or sidewalk;
- (3) constructing a drain or culvert; or
- (4) installing a streetlight.

(b) The commissioners court by order may assess against property abutting the portion of the county road to be improved and against the owners of that property:

- (1) all or part of the cost of:
 - (A) constructing, repairing, or realigning a curb, gutter, or sidewalk; or
 - (B) installing a streetlight; and
- (2) not more than nine-tenths of the cost of any other improvement.

(c) The commissioners court may:

- (1) determine the amount of the assessment and any other necessary matter;
- (2) provide the terms of payment and default of the assessment;

(3) prescribe the interest rate on the assessment, not to exceed eight percent a year;

(4) make the assessment before, during, or after the construction of the improvement;

(5) make an assessment against several parcels of property in one assessment when the parcels are owned by the same person; and

(6) jointly assess property owned jointly.

(d) An assessment authorized by this section:

(1) does not mature before the county accepts the improvements for which the assessment is made;

(2) is collectable with interest, cost of collection, and reasonable attorney's fees, if incurred;

(3) is a personal liability and charge against the owner of the assessed property, regardless of whether the owner is named; and

(4) is a first and prior lien on the assessed property and superior to any other lien or claim on the property except county, school district, or municipal ad valorem taxes from the date the commissioners court orders the improvement of the road abutting the property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 847, Sec. 1, eff. June 14, 2001.

Sec. 286.003. ASSESSMENT LIMITED. (a) The commissioners court may not make an assessment against abutting property or the owners of the property in excess of the special benefit to the property and its owner in enhanced value caused by an improvement ordered under Section 286.002(a).

(b) A railroad right-of-way does not benefit from an improvement described by Section 286.002(a), and the commissioners court may not assess the cost of the improvement against a railroad right-of-way.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.004. ASSESSMENT OF EXEMPT PROPERTY. (a) This subchapter does not authorize the commissioners court to create a lien against an interest in property that is exempt from the lien of assessment at the time the commissioners court orders a county road

to be improved.

(b) An owner of the exempt property is personally liable for an assessment related to the property, without regard to the exemption from the lien.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.005. APPORTIONMENT OF COSTS. (a) The commissioners court shall apportion the part of the cost of an improvement assessed against abutting property among the parcels of the abutting property and the property's owners in accordance with the front foot rule.

(b) If, in the opinion of the commissioners court, application of the front foot rule would result in injustice or inequity in a particular case, the commissioners court may apportion and assess the cost in the proportion the commissioners court determines just and equitable to produce a substantial equality of benefits received and burdens imposed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.006. CHANGES IN IMPROVEMENT PROCEEDINGS; ABANDONMENT.

(a) The commissioners court may change a plan, method, or contract relating to an improvement.

(b) The commissioners court may not make a change that substantially affects the nature or quality of an improvement unless the commissioners court, by a four-fifths vote, determines that it is impractical to proceed with the improvement as proposed and, after the vote, the commissioners court:

(1) obtains the consent of the person with whom the commissioners court has contracted for the construction of the improvements;

(2) obtains a new estimate of the cost of the improvement;
and

(3) holds a new hearing, with notice as required by this subchapter.

(c) The commissioners court at any time may abandon an improvement with the consent of a person who has contracted with the commissioners court for the construction of the improvement.

(d) The commissioners court by order shall cancel an assessment

made for an abandoned improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.007. NOTICE AND OTHER PREHEARING REQUIREMENTS. (a) A commissioners court may make an assessment under Section 286.002 only after notice and an opportunity for a hearing is provided in accordance with this subchapter.

(b) Notice of the hearing must be published at least three times in a newspaper of general circulation in the county in which the assessment is to be made. The first publication of the notice must appear not later than the 21st day before the date of the hearing.

(c) Notice of the hearing must be mailed with postage prepaid to the address of the owner of the property that abuts the county road to be improved, as determined from the current rendered and unrendered county tax rolls. The notice must be mailed 14 days before the date of the hearing.

(d) The mailed notice:

(1) is not required if the county tax rolls list the owners of the property as unknown; and

(2) may be addressed to the estate if the tax rolls show the owner of the property is an estate.

(e) To be sufficient and binding on a person who owns or claims the property or an interest in the property, the mailed notice must:

(1) generally describe the nature of the improvement for which the assessment is to be made;

(2) describe the county road to be improved or the portion of the county road to which the improvement is related;

(3) state the estimated cost per front foot proposed to be assessed against the property or the property's owners;

(4) state the estimated total cost of the improvement; and

(5) state the time and place of the hearing.

(f) The mailed notice may consist of a copy of the published notice if the notice contains the information required by Subsection (e).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.008. HEARING. The commissioners court shall hold a hearing at which a person who owns an interest in property that abuts a county road that is to be improved under this subchapter may be heard on any matter relating to the improvement or a proposed assessment including:

- (1) the amount of the assessment;
- (2) the lien and liability created by the assessment;
- (3) the special benefit to the property and the property owner because of the improvement; and
- (4) the accuracy, sufficiency, regularity, and validity of a proceeding or contract related to the improvement or assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.009. APPEAL. (a) Not later than the 15th day after the date the commissioners court makes an assessment under Section 286.002, a person who owns or claims an interest in the assessed property may appeal the assessment in district court. The person may contest:

- (1) the amount of the assessment;
- (2) an inaccuracy, irregularity, invalidity, or insufficiency in a proceeding or contract related to the improvement or assessment; or
- (3) any other matter that is not in the discretion of the commissioners court.

(b) A person who does not bring a suit within the time provided by Subsection (a):

- (1) waives the right to contest a matter that might have been heard at the hearing; and
- (2) is barred and estopped from contesting the assessment or any matter related to the assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.010. DEFENSES TO ACTIONS FOR ASSESSMENTS. The only defenses to an assessment in a suit to enforce the assessment are that:

- (1) the assessment exceeds the amount of the estimated assessment stated in the notice; or

(2) notice of the hearing:

(A) was not mailed, delivered, or published as required by Section 286.007; or

(B) did not contain the information required by Section 286.007.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.011. WORD OR ACT OF OFFICER OR EMPLOYEE. Nothing said or done by a county officer or employee or a member of the commissioners court affects this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.012. CERTIFICATE OF ASSESSMENT. (a) The commissioners court may issue an assignable certificate that:

(1) is evidence of an assessment made under this subchapter; and

(2) declares:

(A) the lien against the property assessed; or

(B) the liability of the true owner of the property assessed.

(b) The commissioners court may set the terms of the certificate.

(c) A recital in a certificate is prima facie evidence of the matter recited and further proof of the matter is not required if the certificate substantially states that:

(1) the proceedings referred to in the certificate were in compliance with the law; and

(2) the prerequisites to imposing the assessment lien against the property described in the certificate and the personal liability of the property owner have been performed.

(d) In a suit on an assessment or reassessment in evidence of which a certificate is issued under this subchapter, it is sufficient to allege the substance of the recitals in the certificate and that the recitals are true. Further allegations with reference to a proceeding relating to an original assessment or subsequent assessment are not necessary.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.013. VALIDITY OF ASSESSMENT. An assessment related to the cost of an improvement that is to be constructed is not valid unless the commissioners court:

(1) makes or causes to be made an estimate of the cost of the improvement; and

(2) includes the estimate in a published or mailed notice required by Section 286.007.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.014. CORRECTION OF ASSESSMENT; SUBSEQUENT ASSESSMENT.

(a) If an assessment is held or determined to be invalid or unenforceable, the commissioners court may correct:

(1) a deficiency in a proceeding relating to the assessment; or

(2) an error, inaccuracy, irregularity, or invalidity relating to the assessment.

(b) The commissioners court may make and impose a subsequent assessment after a notice and hearing that comply as nearly as possible with the requirements for the original notice and hearing.

(c) A recital in a certificate issued as evidence of a subsequent assessment has the same force as a recital in a certificate related to an original assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**SUBCHAPTER B. ROAD IMPROVEMENTS AND ASSESSMENTS BY LIVE OAK COUNTY
COMMISSIONERS COURT**

Sec. 286.041. APPLICABILITY. This subchapter applies only to Live Oak County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.042. ASSESSMENT PROVISIONS. (a) The commissioners court of the county may finance all or part of the cost of improving

a portion of the county road system located in a recorded subdivision and outside the limits of a municipality by imposing an assessment against real property that abuts the portion of the road that is to be improved and against the owners of the property.

(b) The commissioners court may:

- (1) determine the terms of payment and default of the assessment;
- (2) determine the rate of interest of the assessment, not to exceed 10 percent a year;
- (3) make an assessment against several parcels of property in one assessment when the parcels are owned by the same person; and
- (4) jointly assess property owned jointly.

(c) An assessment authorized by this section does not mature before the commissioners court accepts the improvement for which the assessment is made.

(d) An owner of an interest in property against which the commissioners court makes an assessment under this section is personally liable for the assessed amount. Each owner of property owned jointly is jointly and severally liable for the assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.043. ASSESSMENT LIEN. (a) The county has a lien on assessed property under this subchapter that takes effect on the date the assessment is made.

(b) The lien has the same priority as a lien for county ad valorem taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.044. ASSESSMENT LIENS ON CERTAIN EXEMPT PROPERTY. (a) The county may not assess a lien against property that on the date the commissioners court orders the assessment is exempt by law from execution on a judgment for debt.

(b) A property owner may waive an exemption to which the owner is entitled and voluntarily grant an assessment lien against the property in the same manner provided by law for granting a mechanic's lien for a homestead improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.045. APPORTIONMENT OF COSTS. (a) The commissioners court shall apportion the assessed cost of improving a county road in accordance with the front foot rule which may vary among the assessed properties.

(b) To produce a substantial equality of burdens imposed in relation to benefits received, the commissioners court shall determine an assessment under this section in a just and equitable manner, keeping in mind the enhanced value to be gained by the abutting property and the property's owners because of the improvement.

(c) The commissioners court may not impose an assessment in excess of the enhanced value derived from the improvement by the property or the property owner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.046. PLAN OF PROPOSED ROAD IMPROVEMENT. (a) The commissioners court shall prepare a plan of each proposed improvement that is to be financed by an assessment under Section 286.042.

(b) The plan must:

- (1) specify the nature and location of the improvement;
- (2) include an estimate of the total cost of the improvement;
- (3) state the total amount of the costs to be financed by the assessment; and
- (4) include an estimate of the cost for each front foot to be assessed against the property abutting the road to be improved.

(c) The plan must specify each variation if the estimate of the cost for each front foot is not uniform.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.047. NOTICE AND ORDER FOR HEARING. (a) After preparing the plan required by Section 286.046, the commissioners court by order shall set a time, date, and place for a public hearing on the proposed improvement.

(b) The commissioners court shall publish notice of the hearing once a week for at least three consecutive weeks in a newspaper of general circulation in the area where the improvement is located. The first publication of the notice must appear not later than the 21st day before the date of the hearing.

(c) The commissioners court shall mail or personally deliver written notice of the hearing to the owner of each parcel of property subject to the proposed assessment. The commissioners court shall deliver or mail the notice not later than the 14th day before the date of the hearing. An owner is not entitled to notice under this subsection if the owner's name or address is not shown on the county tax roll.

(d) Notice provided under this section must contain:

(1) a general description of the proposed improvement that is to be financed by the assessment;

(2) an estimate of the proposed assessment for each front foot of abutting property;

(3) an estimate of the total cost of the proposed improvement to be made on each portion of road;

(4) the location of the proposed improvement; and

(5) the date, time, and place of the hearing.

(e) If the estimate of the proposed assessment for each front foot of abutting property is not uniform, the notice must specify each variation and identify the affected property.

(f) Notice required by this section is in addition to notice otherwise required by law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.048. HEARING. (a) The commissioners court shall hold a public hearing at which an owner of an interest in property that abuts a proposed improvement may contest:

(1) the amount of the assessment; or

(2) the accuracy, sufficiency, or validity of a proceeding or determination of the commissioners court related to the improvement or assessment.

(b) After correcting a deficiency or error in its proceeding or determinations, the commissioners court by order may make an assessment against property that abuts the improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.049. APPEAL. (a) Not later than the 15th day after the date the commissioners court makes an assessment under this subchapter, the owner of an interest in property against which the assessment has been made may file suit in district court to contest the:

(1) amount of the assessment; or

(2) accuracy or validity of a proceeding or determination related to the assessment or improvement.

(b) A property owner may file suit under this section not later than the 15th day after the date the property owner receives actual notice of the results of the public hearing if the owner shows by a preponderance of the evidence that notice of the hearing was not:

(1) mailed or delivered to the owner in the form or manner required by Section 286.047; or

(2) published in the form or manner required by Section 286.047.

(c) A person who does not file suit within the time stated in this section waives a complaint because of a determination or proceeding of the commissioners court related to an order for an improvement or an assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.050. ENFORCEMENT OF ASSESSMENT OR LIABILITY. (a) A lien against assessed property and the personal liability of the owner may be enforced by suit in district court. An amount equal to the interest on the assessment and an amount equal to collection expenses, including attorney's fees, are included in the lien and may be recovered.

(b) In a suit brought to enforce an assessment, it is a defense that:

(1) notice of the hearing was not delivered or published in the form or manner required by Section 286.047; or

(2) the amount of the assessment exceeds the estimate given in the notice provided under Section 286.047.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.051. CERTIFICATE OF ASSESSMENT. (a) The commissioners court of the county may issue an assignable certificate in the county's name that:

(1) certifies an assessment imposed under this subchapter; and

(2) declares:

(A) the existence of a lien against the assessed property; or

(B) the personal liability of the property owner.

(b) The commissioners court may determine the terms of the certificate.

(c) The certificate is prima facie evidence of a recital in the certificate that states:

(1) a proceeding ordering the improvements referred to in the certificate was conducted in compliance with the law; and

(2) the prerequisites to creating the assessment lien against the property described in the certificate and the personal liability of the property owner have been met.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.052. CORRECTION OF ASSESSMENT; SUBSEQUENT ASSESSMENT.

(a) If an assessment is held invalid or unenforceable, the commissioners court may:

(1) correct an error related to the assessment; and

(2) after a notice and hearing, impose a subsequent assessment in the same manner provided for an original assessment.

(b) A person who owns or claims an interest in property against which a subsequent assessment has been imposed has the same right of appeal from the date the commissioners court orders the subsequent assessment as an original assessment.

(c) Sections 286.049(c) and 286.050(b) relating to waiver of appeal and limitation of defenses apply to a subsequent assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.053. SUBSEQUENT ASSESSMENT CERTIFICATE. (a) The

commissioners court may issue a subsequent assessment certificate that reflects each modification of the original assessment.

(b) A subsequent assessment certificate has the same attributes and effect of an original certificate from the date the commissioners court orders the subsequent assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**SUBCHAPTER C. ROADS TO PUBLIC STREAMS AND LAKES AND OTHER PUBLIC
WATER IN LEON AND MADISON COUNTIES**

Sec. 286.061. APPLICABILITY. This subchapter applies only to Leon County and Madison County.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.062. DEFINITIONS. In this subchapter:

(1) "Public water" includes a public stream, river, bay, or lake.

(2) "Navigable stream" has the meaning assigned by Section 21.001, Natural Resources Code.

(3) "Public lake" means a lake in which the state owns the bed, or reserves for the state's residents the right of access to the lake for fishing, boating, hunting, or other recreation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.063. PUBLIC NECESSITY FOR ADDITIONAL ROADS; PURPOSE.

(a) A public necessity for additional roads is created by the lack of adequate roads for general public access to a navigable stream, public lake, or the shore of a lake.

(b) There is a public necessity for a road under this subchapter if a bank or shore of public water is inaccessible to the general public.

(c) The purpose of this subchapter is to establish a road to make accessible to the general public a bank or shore of public water that is fenced in and inaccessible.

(d) A bank or shore of public water is inaccessible to the general public under this section if:

(1) the bank or shore extends for more than five miles without a public road to furnish access to the bank or shore; or

(2) there is an area of five or more miles on the bank or shore without a road to furnish public access to the bank or shore.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.064. PUBLIC ROAD. The commissioners court may declare to be a public road to furnish access to public water a:

(1) line between parcels of real property having different owners;

(2) section line;

(3) survey line;

(4) survey subdivision line; or

(5) direct practicable route through an enclosure that contains 500 or more acres of land.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.065. APPLICATION FOR PUBLIC ROAD. (a) A person who lives within an enclosure described by Section 286.064(5), or 10 residents of the county, may file a sworn application with the commissioners court for an order to establish a public road for access to a bank or shore of public water in the county.

(b) The application must:

(1) state the facts that show the necessity for the highway;

(2) designate the line or route sought to be opened; and

(3) designate the name and residence of each person or owner of real property to be affected by the proposed road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.066. NOTICE OF APPLICATION. (a) On the filing of an application under Section 286.065, the county clerk shall issue to the sheriff or a constable a notice that commands the sheriff or constable to summon the property owners named in the notice to:

(1) appear at the next regular term of the commissioners

court; and

(2) show cause why the line or route designated in the application should not be declared a public road.

(b) Notice under this section:

(1) must contain the substance of the application filed under Section 286.065; and

(2) shall be served and returned in the same manner and for the same length of time as provided for the service of citation in a civil action in justice court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.067. OPENING OF ROAD TO PUBLIC WATER. (a) The commissioners court by order shall declare each line designated in the application or designated by the commissioners court to be a public road if the commissioners court determines, at a regular term of court and after service of notice required by Section 286.066, that:

(1) this subchapter applies to the proposed road; and

(2) the proposed road is of public importance.

(b) The order must direct the owner of each designated line to open the road and leave the road open for a space of 15 feet on each side of the line. A marked tree or other object used to designate a line and the corners of a survey may not be removed or defaced.

(c) Notice of the order must be served on the owner of the line immediately. Service and return of the notice shall be made as provided by Section 286.066.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.068. ROADWORK. The commissioners court is not required to keep a road declared to be a public road under this subchapter worked by road hands.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.069. DAMAGES AND COSTS. (a) A jury of freeholders shall assess any damage to a property owner under this subchapter in

the manner provided for other public roads.

(b) The county shall pay all costs of a proceeding to open a public road if the commissioners court of the county grants the application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 286.070. OPENING ROAD PARALLEL TO NAVIGABLE STREAM. (a) On the filing of an application in accordance with Sections 286.064 through 286.069, the commissioners court may issue an order that opens, in accordance with this subchapter, a public road that runs parallel and adjacent to the bank of a navigable stream for public access to the navigable stream and for camping purposes.

(b) The public road must be 60 feet wide and may extend any distance the commissioners court considers necessary.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. OPTIONAL COUNTY ROAD SYSTEM IN GREGG COUNTY

Sec. 286.081. ELECTION FOR COUNTY ROAD SYSTEM. (a) The commissioners court of Gregg County shall order an election on the question of the adoption of the optional county road system under Subchapter D, Chapter 252, if the commissioners court receives a petition signed by a number of registered voters residing in each commissioner precinct equal to at least 10 percent of the number of votes cast in the precinct for governor in the most recent general election at which that office was filled.

(b) The election shall be held on the first authorized uniform election date prescribed by Section 41.001, Election Code, that occurs at least 31 days after the date on which the petition is filed with the commissioners court.

(c) The ballot for the election shall be printed to permit voting for or against the proposition: "Adopting the Optional County Road System in Gregg County."

(d) If the majority of the votes cast in the election favor adoption, the optional county road system takes effect and Chapter 339, Acts of the 54th Legislature, Regular Session, 1955, has no effect.

(e) If a majority of the votes cast in the election do not

favor adoption:

(1) Chapter 339, Acts of the 54th Legislature, Regular Session, 1955, remains in effect; and

(2) another election on the question of adopting the optional county road system may not be held before the first anniversary of the most recent election on the proposition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBTITLE E. MUNICIPAL STREETS

CHAPTER 311. GENERAL PROVISIONS RELATING TO MUNICIPAL STREETS

SUBCHAPTER A. GENERAL AUTHORITY

Sec. 311.001. GENERAL AUTHORITY OF HOME-RULE MUNICIPALITY. (a) A home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality.

(b) The municipality may:

(1) control, regulate, or remove an encroachment or obstruction on a public street or alley of the municipality;

(2) open or change a public street or alley of the municipality; or

(3) improve a public highway, street, or alley of the municipality.

(c) Notwithstanding Subsection (a) or (b) or Section 311.007, before a municipality with a population of 1.9 million or more may install traffic calming measures within the municipality, the governing body of the municipality must:

(1) publish standards and criteria, which must include sufficient notice to allow the governing body to receive and consider public comments from residents within one-half mile of the proposed traffic calming measure;

(2) on request of affected residents, schedule and hold a public meeting before implementation of the measure; and

(3) if the measure involves the closure of a street to motor vehicular traffic, before the closure:

(A) hold a public hearing on the issue of the closure; and

(B) approve the closure by a majority vote.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1321 (H.B. 3082), Sec. 1, eff. June 19, 2009.

Sec. 311.002. GENERAL AUTHORITY OF GENERAL-LAW MUNICIPALITY.

(a) A general-law municipality has exclusive control over the highways, streets, and alleys of the municipality.

(b) The municipality may:

- (1) abate or remove an encroachment or obstruction on a highway, street, or alley;
- (2) open, change, regulate, or improve a street; or
- (3) put a drain or sewer in a street, prevent the obstruction of the drain or sewer, or protect the drain or sewer from encroachment or damage.

(c) To carry out its powers under this section, the municipality may:

- (1) regulate or change the grade of land; and
- (2) require that the grade of land be raised by filling an area.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.003. ADDITIONAL AUTHORITY OF TYPE A GENERAL-LAW MUNICIPALITY. The governing body of a Type A general-law municipality may:

- (1) prevent an encroachment or obstruction on a sidewalk in the municipality;
- (2) abate an encroachment or obstruction on a bridge, culvert, sidewalk, or crossway in the municipality;
- (3) construct, regulate, or maintain a bridge, culvert, sidewalk, or crossway in the municipality;
- (4) regulate the construction of a bridge, culvert, sewer, sidewalk, or crossway in the municipality;
- (5) require a person to keep weeds, unclean matter, or trash from the street, sidewalk, or gutter in front of the person's premises; or
- (6) require the owner of land to improve the sidewalk in front of the person's land.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.004. AUTHORITY OVER SIDEWALK IN HOME-RULE MUNICIPALITY. A home-rule municipality may:

- (1) construct a sidewalk;
- (2) provide for the improvement of a sidewalk or the construction of a curb under an ordinance enforced by a penal provision; or
- (3) declare a defective sidewalk to be a public nuisance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.005. MOVEMENT OF STRUCTURE ON STREET IN HOME-RULE MUNICIPALITY. A home-rule municipality may regulate the movement of a structure over or on a street of the municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.006. AUTHORITY OF COUNTY TO IMPROVE STREET IN TYPE B GENERAL-LAW MUNICIPALITY. To facilitate travel on a street in a Type B general-law municipality, the commissioners court of a county may construct a bridge for or otherwise improve the street if:

- (1) the street is a continuation of a public road of the county; and
- (2) the governing body of the municipality consents.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.007. CLOSING OF STREET OR ALLEY BY HOME-RULE MUNICIPALITY. A home-rule municipality may vacate, abandon, or close a street or alley.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.008. CLOSING OF STREET OR ALLEY BY GENERAL-LAW MUNICIPALITY. The governing body of a general-law municipality by ordinance may vacate, abandon, or close a street or alley of the

municipality if a petition signed by all the owners of real property abutting the street or alley is submitted to the governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. MUNICIPAL FREEWAYS

Sec. 311.031. DEFINITION. In this subchapter, "freeway" means a municipal street for which the right of access to or from adjoining land has been acquired in whole or in part from the owners of the adjoining land by the governing body of a municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.032. ESTABLISHMENT OF FREEWAY. (a) The governing body of a municipality may establish, maintain, and operate a freeway.

(b) To establish a freeway by using a street that exists at the time of the establishment, the municipality must have the consent of the owners of lands abutting the freeway or must purchase or condemn the right of access to the abutting lands. This subsection does not require consent to establish a freeway for the first time as a new way for vehicular and pedestrian traffic.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.033. ACQUISITION OF LAND. For the purposes of this subchapter, the governing body may acquire necessary property or property rights by gift, devise, purchase, or condemnation in the same manner that the governing body may acquire property for a municipal street.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.034. CONTROL OF INTERSECTING STREET. The governing body of a municipality may:

(1) close a street in the municipality at or near the place the street intersects a freeway;

- (2) provide for the construction of a street over or under a freeway;
- (3) connect a street with a freeway; or
- (4) perform other actions on a street as necessary to carry out a power granted by this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.035. LEASE OF LAND UNDER FREEWAY. (a) A governmental agency that holds the title and property rights to land on which a freeway is located may lease for parking purposes the part of the land beneath an elevated section of the freeway.

(b) Revenue from the parking lease shall be used only for general governmental purposes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. AUTHORITY RELATING TO RAIL TRANSPORTATION

Sec. 311.051. REGULATION OF STREET RAILWAY BY TYPE A GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type A general-law municipality may:

- (1) require a street railway company to:
 - (A) keep the company's roads in repair;
 - (B) conform the area in which the company's tracks lie to the grade of the street on which they lie, if the municipality has graded the street; or
 - (C) take measures to provide for the safe and convenient travel of people on the street on which the company's tracks lie; or

(2) regulate the speed of vehicles that use the company's tracks.

(b) The governing body by ordinance may establish penalties to enforce a regulation adopted under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.052. REGULATION OF RAILROAD BY TYPE A GENERAL-LAW MUNICIPALITY. The governing body of a Type A general-law

municipality may:

(1) direct and control the location and construction of railroad tracks, turnouts, and switches and prohibit the construction of those facilities in a street or alley, unless that action has been authorized by law;

(2) require that railroad tracks, turnouts, and switches be constructed in a way that interferes as little as possible with the ordinary use of a street or alley and that leaves sufficient space on each side of the tracks for the safe and convenient passage of vehicles and people;

(3) require a railroad company to keep in repair the street or alley on which their tracks are located;

(4) order a railroad company to construct and keep in repair a crossing at the place where the company's tracks intersect a street or alley;

(5) require a railroad company to construct and keep in repair a ditch, sewer, or culvert;

(6) direct or prohibit the use of or regulate the speed of a locomotive in the municipality; or

(7) direct and control the location of railroad depots in the municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.053. CLOSING STREET FOR CERTAIN PURPOSES IN GENERAL-LAW OR SPECIAL-LAW MUNICIPALITY. The governing body of a general-law municipality or special-law municipality may close temporarily or permanently any part of a street or alley for the exclusive use by a railroad company or other corporation having the right of eminent domain or may ratify an ordinance closing a street or alley for that purpose if:

(1) the municipality operates under a municipal charter that authorizes the governing body to take that action; or

(2) a majority of the qualified voters of the municipality voting at an election on the question approve the grant of authority to the governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.054. RAILROAD QUIET ZONE LOCATED OUTSIDE TYPE A GENERAL-LAW MUNICIPALITY. (a) This section applies only to a Type A general-law municipality that is an enclave surrounded entirely by a municipality with a population of 1.1 million or more.

(b) The governing body of the general-law municipality may enter into an interlocal contract with the surrounding municipality for the establishment of a railroad quiet zone located outside the boundaries of the general-law municipality that the governing body determines will benefit the general-law municipality.

(c) A general-law municipality may expend municipal funds and may issue certificates of obligation or bonds to pay for expenses associated with a railroad quiet zone under Subsection (b), including expenses related to feasibility, engineering, and traffic studies and improvements related to the railroad quiet zone.

Added by Acts 2009, 81st Leg., R.S., Ch. 203 (S.B. 316), Sec. 1, eff. May 27, 2009.

SUBCHAPTER D. FRANCHISE TO USE STREETS IN HOME-RULE MUNICIPALITY

Sec. 311.071. AUTHORITY TO GRANT FRANCHISE. (a) The governing body of a home-rule municipality by ordinance may grant to a person a franchise to use or occupy a public street or alley of the municipality.

(b) The authority to grant a franchise is the exclusive authority of the governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.072. PROHIBITION OF GRANT BY CHARTER. The charter of the municipality may not grant to a person a franchise described by Section 311.071.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.073. ELECTION AFTER PETITION. (a) The governing body shall submit to the voters of the municipality the question of granting a franchise to a person if, before the effective date of the ordinance granting the franchise, the governing body receives a

petition that requests the election and is signed by 10 percent of the registered voters of the municipality.

(b) In a municipality with a population of more than 1.9 million, the number of registered voters who must sign the petition may be set at a lower number by the municipal charter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 133, eff. Sept. 1, 2001.

Sec. 311.074. ELECTION DATE. After receipt of a petition under Section 311.073, the election shall be held on the first uniform election date prescribed by Section 41.001, Election Code, that allows sufficient time to comply with other requirements of law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.075. ELECTION NOTICE. (a) Notice of the election must be published in a daily newspaper in the municipality for at least 20 successive days before the date of the election.

(b) This notice requirement supersedes the notice requirements prescribed by Section 4.003, Election Code, except as provided by that section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.076. BALLOT PROPOSITION. The ballot at the election shall be printed to provide for voting for or against the proposition: "Granting of a franchise (brief description of the franchise and its terms)."

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.077. EFFECTIVE DATE OF FRANCHISE. If a majority of the votes cast at the election favor the proposition:

- (1) the governing body shall declare that result on canvassing the election returns; and
- (2) the franchise takes effect according to its terms.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.078. DURATION OF FRANCHISE. A franchise under this subchapter may not extend beyond the period set for its termination.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. FINANCING IMPROVEMENTS

Sec. 311.091. ASSESSMENT FOR STREET IMPROVEMENT IN HOME-RULE MUNICIPALITY. (a) A home-rule municipality may assess a landowner for the cost of improving a public highway, street, or alley abutting the owner's land, if the municipal charter provides for apportioning the cost between the municipality and the landowner. The assessment may not exceed the amount by which the improvement specially benefits the owner's abutting land by enhancing the land's value.

(b) The municipality may issue assignable certificates for the payment of the assessed cost.

(c) The assessment creates a lien on the owner's abutting land for the assessed cost.

(d) Regardless of Subsection (a), a railway company shall pay the cost of a street improvement made between the rails or tracks of the company or made in the area extending two feet from a rail or track of the company.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.092. ASSESSMENT FOR OPENING, EXTENDING, OR WIDENING OF STREET OR ALLEY IN HOME-RULE MUNICIPALITY. (a) A home-rule municipality may:

(1) acquire land necessary for opening, extending, or widening a public street or alley by the exercise of the right of eminent domain under Section 251.001, Local Government Code; and

(2) assess the owners of land located in the territory of the improvement and specially benefitted by the improvement for the cost of the improvement.

(b) The special commissioners appointed under Chapter 21, Property Code, as part of the eminent domain proceeding shall apportion the cost of the improvement between the municipality and

the landowners. The municipality's share of the cost may not exceed one-third of the cost. The municipality shall pay its share of the cost, and the landowners shall pay the balance.

(c) The special commissioners shall determine the land that is located in the territory of the improvement and is specially benefitted in enhanced value.

(d) The assessment creates a lien on the owner's land for the assessed cost.

(e) The municipality may issue assignable certificates for the payment of the assessed cost and may provide for the payment of the cost in deferred payments, which bear interest at a rate determined by the municipal charter but not to exceed eight percent.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.093. ASSESSMENT FOR SIDEWALK IN HOME-RULE MUNICIPALITY. (a) A home-rule municipality may assess a landowner for the entire cost of constructing a sidewalk, including a curb, abutting the owner's land.

(b) The assessment creates a lien on the owner's abutting land for the assessed cost.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.094. OTHER FINANCING METHODS IN CHARTER OF HOME-RULE MUNICIPALITY. (a) A home-rule municipality by charter may adopt any other method of financing an improvement described by Section 311.091, 311.092, or 311.093.

(b) Another method adopted by charter for financing an improvement described by Section 311.092 must:

(1) charge the cost of the improvement to the property and to the owner of the property specially benefitted in enhanced value by the improvement and located in the territory in which the improvement is made; and

(2) describe the manner of:

(A) appointing commissioners;

(B) giving notice; and

(C) fixing assessments or otherwise providing for the payment of the improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.095. ASSESSMENT FOR STREET IMPROVEMENT IN TYPE A GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type A general-law municipality, by a two-thirds vote of the aldermen present, may improve a street or alley under this section.

(b) The governing body shall assess the land abutting the street or alley improved under this section for two-thirds of the cost of the improvement. The municipality shall pay the other one-third of the cost. The municipality shall pay the entire cost of an improvement at the intersection of streets.

(c) The landowner shall pay the assessment in not fewer than five equal annual payments. A collected assessment shall be appropriated for the payment of the bonds issued to finance the cost of the improvement.

(d) After the governing body determines to make an improvement, the governing body shall require the municipal engineer, another municipal officer, or a committee of three aldermen to prepare a report. The report must:

(1) contain an estimate of the cost of the improvement;

(2) list each lot or part of a lot abutting the street or alley to be improved and list the number and size of the lot, the number of the block in which the lot is located, the owner of the lot or a statement that the owner is unknown, and other information required by the governing body; and

(3) state, opposite a lot's listing, one-third the estimated cost of the improvement of the street or alley abutting the lot.

(e) On the acceptance and approval of the report, the governing body shall impose the assessment as taxes. After the assessment is imposed, the individual or committee that prepared the report shall give, as may be required by ordinance, notice of the time in which the payment of the assessment is due and shall begin to collect the payment.

(f) The assessment is a lien on the land until it is paid. After an assessment on the land becomes delinquent, the individual or committee that prepared the report on the assessments may seize any part of the land that is sufficient to pay the assessment. The individual or committee shall sell the seized land if the assessment

is not paid before the day of the sale. The municipality shall give the same notice of the sale that is required to be given in other sales to collect delinquent taxes. The sale is subject to the same ordinance provisions that govern the name, circumstances, and conditions under which a sale of land may be made and the extent to which a sale may be made to collect delinquent taxes owed the municipality. The individual or committee shall execute a deed to the purchaser at the sale. The deed used in the sale is subject to another statute that governs a deed prepared by an assessor or collector of taxes for a general-law municipality.

(g) The governing body may initiate a suit in the municipality's corporate name to recover from a landowner an assessment.

(h) The governing body may adopt resolutions, ordinances, or regulations necessary to carry out the authority granted by this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.096. COST OF SIDEWALK IN TYPE A GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type A general-law municipality may require the owner of a lot, or part of a lot or block, in front of which the municipality constructs a sidewalk to pay the cost of the construction.

(b) If necessary to collect the cost of the construction, the municipality shall sell the lot, or the part of the lot or block, in the manner the governing body of the municipality by ordinance provides. The municipality may keep an amount of the sale proceeds that covers the cost of the construction and the cost of collection. The municipality shall pay to the owner the balance of the sale proceeds.

(c) The sale of the lot, or the part of the lot or block, under this section conveys a good title to the purchaser.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 311.901. REGULATION OF ANIMALS ON STREET OF TYPE A GENERAL-LAW MUNICIPALITY. The governing body of a Type A general-law

municipality may:

- (1) prohibit or suppress horse racing on a street or immoderate riding or driving of an animal on a street; or
- (2) require a person to fasten in place the person's horse or other animal remaining in a street.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.902. STREET LIGHTING IN TYPE A GENERAL-LAW MUNICIPALITY. The governing body of a Type A general-law municipality may:

- (1) provide for and regulate the lighting of a street;
- (2) create or change lamp districts; or
- (3) exclusively regulate or direct the laying or repairing of gas pipes and gas fixtures in a street, alley, sidewalk, or other place.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.903. STREET WORK REQUIRED OF INHABITANT IN TYPE B GENERAL-LAW MUNICIPALITY. (a) The governing body of a Type B general-law municipality may require the male inhabitants of the municipality who are at least 18 years of age but younger than 46 years of age to work on the streets and public alleys. The period of work may not exceed five days in a year.

(b) Instead of performing the work, a person may furnish a substitute to perform the work or may pay a sum not to exceed \$1 for each day of work demanded so that a substitute may be employed.

(c) The requirement does not apply to a minister of the gospel actually engaged in the discharge of the minister's duties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 311.904. FORMER PRESIDENT'S STREET IN HOME-RULE MUNICIPALITY. A home-rule municipality, alone or in conjunction with another person, may regulate or restrict access to a street or alley in the municipality on which the dwelling of a former president of the United States is located. This authority includes the authority

to install and maintain a fence, gate, or other structure.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 312. CONTROL OF HIGHWAY ASSETS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 312.001. DEFINITIONS. In this subchapter and in Subchapters B and C:

(1) "Highway" includes all or any part of a street, alley, or public place or square that is dedicated to public use.

(2) "Improvement" means the:

(A) filling, grading, raising, or paving of a highway in a permanent manner;

(B) widening, narrowing, or straightening of a highway;

(C) constructing of a gutter, curb, or sidewalk; or

(D) constructing of necessary appurtenances to a highway, including sewers and drains.

(3) "Railway" includes a street railway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.002. APPLICABILITY AND ADOPTION OF SUBCHAPTERS. (a) This subchapter and Subchapters B and C apply only to a municipality that has adopted those subchapters as provided by this section.

(b) To adopt the subchapters, the governing body of a municipality must submit the question of the adoption to voters of the municipality at a special election called for that purpose.

(c) The governing body of a municipality by resolution:

(1) may order the election; and

(2) shall order the election if the governing body is presented with a petition for an election that is signed by at least 100 of the registered voters of the municipality.

(d) If the majority of the votes cast in the election favor the adoption of the subchapters, the governing body shall enter the result in its minutes. On entry of the result, the subchapters apply to the municipality. A certified copy of the minutes is prima facie evidence of the regularity of the election and its result.

(e) The governing body of a municipality that adopts the subchapters may adopt any ordinance or resolution to implement the

subchapters.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.003. HIGHWAY IMPROVEMENT. A municipality may:

- (1) order the improvement of a highway in the municipality's limits;
- (2) select the materials and methods to be used in that construction; and
- (3) contract for the construction in the name of the municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.004. CONFLICT OF LAWS. To the extent of a conflict between this subchapter or Subchapter B or C and a law granting a special charter to a municipality, the provision of the special charter controls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. ASSESSMENTS

Sec. 312.021. PAYMENT FOR IMPROVEMENT. (a) Payment for an improvement under Subchapter A may be made either entirely by the municipality or partly by the municipality and partly by the owners of the abutting property.

(b) The governing body of a municipality may use any available municipal money to pay the municipality's share of the cost of the improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.022. ASSESSMENT ORDINANCE. (a) The governing body of a municipality by ordinance may assess the cost of an improvement made under Subchapter A against property that abuts and benefits from the improvement or against the owner of the property.

(b) Except as provided by Subsection (c), the governing body

may not assess more than three-fourths of the cost of an improvement against properties or property owners.

(c) The entire cost of constructing a curb or sidewalk fronting property may be assessed against the property or its owner.

(d) The ordinance may:

(1) provide the terms of payment of an assessment;

(2) provide a rate of interest to be paid on the assessment, not to exceed eight percent a year payable on deferred payments;

(3) create a lien on the assessed property; and

(4) declare the assessment to be a personal liability of the owner of the assessed property.

(e) The ordinance must provide for the collection of the:

(1) assessment; and

(2) collection costs and reasonable attorney's fees incurred.

(f) An assessment under this section is a lien securing the payment of the assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.023. ASSESSMENT OR TAX AGAINST RAILWAY. (a) The governing body of a municipality may assess against the owner of a railroad that occupies a highway ordered to be improved the entire cost of the improvement made in the area between or under the rails or tracks or in the area extending two feet outside of the rails or tracks.

(b) A municipality by ordinance may impose a special tax on a railway and its roadbed, ties, rails, fixtures, rights, and franchise.

(c) An ordinance that imposes a special tax under this section must describe when the tax is due and delinquent and the method of enforcement.

(d) A tax under Subsection (b) is a lien that is superior to any other lien or claim except a lien or claim for state, county, or municipal taxes.

(e) A tax lien under Subsection (d) may be enforced by:

(1) sale of the property in the manner provided by law in the collection of ad valorem taxes by the municipality; or

(2) suit against the owner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.024. CORRECTION OF ERROR; REASSESSMENT. (a) The governing body of a municipality may correct a mistake or irregularity in a proceeding regarding an improvement or in an assessment of the cost of an improvement made against abutting property or its owner.

(b) If an assessment is in error or is not valid, the governing body may reassess the cost of the improvement against abutting property or its owner. A reassessment may not exceed the improvement's benefit in enhanced value to the property.

(c) The governing body may adopt rules for giving notice to a property owner before a reassessment and for holding a hearing before a reassessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. HEARING; APPEAL; PROPERTY LIEN

Sec. 312.041. HEARING REQUIRED. (a) An assessment against property abutting an improvement or against the owner of the property may be made under Subchapter B only after the property owner has a full hearing.

(b) Reasonable notice of the hearing shall be given to the property owner or the owner's agent or attorney.

(c) Notice of the hearing shall be published at least three times in a newspaper published in the municipality in which the assessment is to be made. If that municipality does not have a newspaper, notice shall be published in the newspaper that is published nearest to the municipality and that is of general circulation in the county in which the municipality is located.

(d) The first publication of the notice shall be made not later than the 10th day before the date of the hearing.

(e) If the owner of the property is a railway, written notice of the assessment and hearing shall be:

(1) delivered in person to the local agent of the railway;

or

(2) mailed postage paid at a post office in the

municipality and properly addressed to the office of the railway at the address shown on the last approved municipal tax roll.

(f) Notice required by Subsection (e) shall be mailed or delivered not later than 10 days before the date of the hearing.

(g) The governing body of the municipality may provide notice in addition to the notice required by this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.042. HEARING. (a) A hearing under this subchapter shall be before the governing body of the municipality.

(b) An owner of property abutting a proposed improvement is entitled to contest at the hearing:

(1) a proposed assessment or personal liability;

(2) the regularity of the proceedings regarding the proposed improvement;

(3) the benefit of the proposed improvement to the owner's property; or

(4) any related matter.

(c) The amount of an assessment may not exceed the benefit the property owner receives in enhanced value to the property.

(d) The enhanced value to the property shall be determined at the hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.043. NOTICE AND HEARING: RULES. The governing body of a municipality by ordinance shall adopt rules providing for giving notice and hearing as provided by this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.044. NO LIEN ON EXEMPT PROPERTY; LIABILITY OF OWNER.

(a) This chapter does not authorize a municipality to create a lien by assessment against property that by law is exempt from sale under execution.

(b) The owner of exempt property is personally liable for an assessment for the cost of an improvement fronting the property.

(c) The omission of an improvement fronting exempt property does not invalidate an assessment lien made against nonexempt property on the improved highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.045. RIGHT TO APPEAL. (a) A property owner against whose property or against whom the assessment has been made may bring suit to set aside or correct the assessment or any proceeding related to the assessment. The suit or proceeding must be brought not later than the 20th day after the date on which an assessment is made.

(b) After the period provided by Subsection (a), the property owner and the property owner's successors are barred from:

(1) any action to set aside or correct the assessment or a related proceeding; and

(2) raising a defense that alleges the invalidity of the assessment or of a related proceeding in any action in which the invalidity may be raised.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.046. ENFORCEMENT OF ASSESSMENT LIEN AND LIABILITY.

(a) An assessment lien created against property or the personal liability of the property owner may be enforced by suit or by sale of the assessed property in the manner provided by law for the collection of municipal ad valorem taxes.

(b) A recital in a deed to property sold under Subsection (a) that all legal prerequisites to the assessment and sale of the property have been performed is prima facie evidence that the procedures and prerequisites were performed as stated.

(c) An assessment secured under Subchapter B by a lien on property is:

(1) the first enforceable claim against the property; and

(2) superior to any other lien or claim except a lien or claim for state, county, or municipal taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.047. ASSESSMENT CERTIFICATE. (a) A municipality that makes an assessment under Section 312.022 may:

- (1) issue in its name an assignable certificate that declares the liability of the owner and the assessed property; and
- (2) determine the terms and conditions of the certificate.

(b) A recital in a certificate that states that the procedure for making the improvement was in compliance with law and that all prerequisites to creating the assessment lien on the property and to creating the personal liability of the property owner were performed is prima facie evidence that the procedure and prerequisites were performed as stated in the certificate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. SPECIAL ASSESSMENT

Sec. 312.061. DEFINITION. In this subchapter, "improvement" means the opening, straightening, widening, paving, constructing, or grading of a street, alley, sidewalk, gutter, or public way.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.062. ASSESSMENT FOLLOWING VOID OR ERRONEOUS ASSESSMENT. (a) The governing body of a municipality may assess property that abuts an improvement with the amount of the cost of the improvement if for any reason none of the cost of the improvement has been borne by the abutting property or its owner either because an attempted assessment and enforcement of the assessment was erroneous or void or was declared erroneous or void in a judicial proceeding and if:

- (1) the municipality has spent public money on the improvement;
- (2) a municipal voucher or certificate has been issued to a contractor; or
- (3) the municipality has contracted for the improvement.

(b) The assessment may not exceed the special benefit the property receives in enhanced value to the property.

(c) The amount of the special benefit is to be determined on a basis of the condition of the improvement at the time of the assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.063. NOTICE OF ASSESSMENT. (a) An assessment may be made under this subchapter only if at least 10 days' written notice and an opportunity to be heard on the question of special benefits has been given to the owner of the property abutting the improvement.

(b) Notice under this section may be served personally or by publication in a newspaper of general circulation published in the municipality.

(c) If the owner of the property abutting the improvement is a railway and the property is assessed for improvements, notice shall be given by publication and by written notice delivered in person to the local agent of the railway or mailed postage paid at a post office in the municipality and properly addressed to the office of the railway at the address as shown on the last approved municipal tax roll.

(d) The governing body of the municipality may provide for the procedure and rules:

- (1) for notice and a hearing under this section; and
- (2) to assess and collect the assessment.

(e) In this section, "railway" includes a street railway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.064. ASSESSMENT LIEN AND LIABILITY. (a) An assessment under this subchapter is payable in not less than five equal, annual installments.

(b) An assessment under this subchapter is a lien against the abutting property and is a personal liability of the owner of the abutting property. The assessment may not be construed as becoming due before the assessment is properly made in accordance with this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.065. TIME LIMIT ON ASSESSMENT. (a) A proceeding to assess property under this subchapter may not be started later than three years after the date on which the improvement abutting the

property that is to be assessed is completed.

(b) If an original assessment on property has been in litigation, the time that the assessment was in litigation may not be computed in the time limit for assessment under Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.066. ASSESSMENTS IN CERTAIN MUNICIPALITIES. (a) The amount of an assessment made by the governing body of a municipality with fewer than 5,000 inhabitants may equal the entire cost of a sidewalk, curb, gutter, or improvement other than a street intersection.

(b) The governing body of a municipality making an assessment under this section shall follow applicable procedures in Section 311.095.

(c) The amount of an assessment may not exceed the special benefit the property receives in enhanced value to the property.

(d) An assessment under this section may be made only after the owner of the abutting property has:

(1) been given notice of the assessment; and

(2) the opportunity to contest the assessment before the governing body of the municipality.

(e) The governing body of the municipality may by ordinance adopt rules for the notice and opportunity to contest an assessment under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 312.067. RIGHT TO APPEAL. (a) A property owner against whose property or against whom an assessment has been made may appeal to a court the decision of the governing body of the municipality. The appeal must be brought not later than the 20th day after the date on which an assessment is made.

(b) An assessment becomes final at the end of the period provided for appeal if an appeal is not brought.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**CHAPTER 313. STREET IMPROVEMENTS AND ASSESSMENTS IN CERTAIN
MUNICIPALITIES**

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 313.001. DEFINITIONS. In this chapter:

- (1) "Cost" includes an expense of engineering and other expense incident to construction of an improvement.
- (2) "Governing body" means the governing body of a municipality.
- (3) "Highway" includes any part of a street, alley, public place, or square, including a part left wholly or partly unimproved in connection with another street improvement.
- (4) "Improvement" includes the following, liberally construed:
 - (A) filling, grading, raising, paving, or repairing a highway in a permanent manner;
 - (B) constructing, realigning, or repairing a curb, gutter, or sidewalk;
 - (C) widening, narrowing, or straightening a highway;
 and
 - (D) an appurtenance or incidental to an improvement, including a drain or culvert.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.002. APPLICABILITY OF CHAPTER. This chapter applies only to a municipality that has a population of more than 1,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.003. GENERAL POWERS OF GOVERNING BODY. (a) The governing body of a municipality may:

- (1) determine the necessity for and order the improvement of a highway in the municipality;
 - (2) contract for the construction of the improvement in the name of the municipality; and
 - (3) provide for the payment of the cost of the improvement by the municipality or partly by the municipality and partly by assessments as provided by this chapter.
- (b) The governing body by resolution, motion, order, or

ordinance may exercise a power granted by this chapter unless this chapter specifically prescribes that the governing body act by ordinance.

(c) The governing body by resolution or ordinance may adopt rules appropriate to:

- (1) the exercise of a power granted by this chapter;
- (2) the method and manner of ordering or holding a hearing;

and

- (3) giving notice of a hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. IMPROVEMENTS

Sec. 313.021. HIGHWAY IMPROVEMENTS AUTHORIZED. (a) A municipality may improve a highway within its limits.

(b) A municipality that has a population of more than 285,000 may make an improvement on a highway outside the municipality's limits if the improvement does not extend more than 150 feet from the municipal limits.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.022. CONTRACT FOR IMPROVEMENT OF BOUNDARY HIGHWAY.

(a) A municipality may contract with another municipality for one municipality to make an improvement to a part of a highway as provided by this chapter and for the other to pay a part of the cost of the improvement if:

(1) the boundary between the municipalities is on or along the highway or the edge of the highway; and

(2) the governing bodies of the municipalities determine the improvement is necessary.

(b) Either municipality may use its money for the improvement under the contract without regard to whether the highway is within the municipality's limits.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.023. PAYMENT FOR IMPROVEMENT. Payment for an

improvement under this chapter may be paid entirely by the municipality or may be paid partly by the municipality and partly by property abutting the part of the highway ordered to be improved and the owners of that property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.024. ESTIMATE OF COST. If part of the cost of an improvement is to be paid by the property abutting the part of the highway to be improved and the owner of the property, the governing body shall prepare an estimate of the cost of the improvement before the improvement is constructed and before the hearing provided by Section 313.048 is held.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. ASSESSMENTS

Sec. 313.041. DEFINITION. In this subchapter, "railway" includes a street railway and an interurban.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.042. ASSESSMENT ORDINANCE. (a) The governing body of a municipality by ordinance may assess the cost of an improvement under this chapter against property that abuts the highway or part of the highway the municipality orders to be improved and against the owner of the property.

(b) Except as provided by Subsection (c), the governing body may not assess more than nine-tenths of the estimated cost of an improvement against properties or their owners.

(c) The entire cost of constructing, repairing, or realigning a curb, gutter, or sidewalk may be assessed against the property and its owner.

(d) The ordinance may:

(1) prescribe the terms of payment and default of the assessment; and

(2) prescribe the rate of interest to be paid on the assessment, not to exceed the greater of:

(A) eight percent a year; or

(B) the rate payable by the municipality on its most recently issued general obligation bonds, determined as of the date of the notice provided by Section 313.047.

(e) An assessment against abutting property is:

(1) a lien on the property that is superior to any other lien or claim except a lien or claim for ad valorem taxes; and

(2) a personal liability and charge against the owner of the property, regardless of whether the owner is named.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 827, Sec. 2, eff. Sept. 1, 2001.

Sec. 313.043. ASSESSMENT AGAINST PARCELS OWNED JOINTLY. (a) A single assessment may be made against multiple parcels of property owned by the same person.

(b) Property owned jointly may be assessed jointly.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.044. ASSESSMENT APPORTIONED UNDER FRONT FOOT RULE UNLESS INEQUITABLE. (a) A cost of an improvement that is assessed against abutting property and the owners of the property shall be apportioned among the parcels of abutting property and the owners of the property in accordance with the front foot rule.

(b) If, in the opinion of the governing body, the application of the front foot rule in a particular case would result in injustice or inequality, the governing body shall apportion and assess the costs in the proportion it determines just and equitable, considering:

(1) the special benefit the property and the owner receive in enhanced value to the property;

(2) the equities of the owners; and

(3) the adjustment of the apportionment so as to produce a substantial equality of benefits received and burdens imposed.

(c) The entirety of a parcel of real property abutting the highway proposed for assessment is subject to the assessment irrespective of subdivision or partial sale after the date on which the notice was mailed if:

- (1) an assessment is imposed by ordinance; and
- (2) the municipality has delivered to the county clerk for recording a notice of the proposed assessment that describes, or describes by reference, each abutting parcel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.045. ASSESSMENT OR TAX ON RAILWAYS FOR CERTAIN IMPROVEMENTS. (a) The governing body of a municipality may assess against a railway that uses, occupies, or crosses a highway the cost of a highway improvement in the area between, under, or in the area extending two feet outside of the railway's rails, tracks, double tracks, turn outs, or switches.

(b) The governing body by ordinance may impose a special tax on the railway and its roadbed, ties, rails, fixtures, rights, and franchises.

(c) The tax imposed under Subsection (b) is a lien on the railway and its roadbed, ties, rails, fixtures, rights, and franchises that is superior to any other lien or claim except county or municipal ad valorem taxes.

(d) A tax lien imposed under Subsection (c) may be enforced by:

- (1) sale of the property in the manner provided by law for the collection of ad valorem taxes by the municipality; or
- (2) suit.

(e) The ordinance imposing the special tax must prescribe the terms of payment of the tax.

(f) The rate of interest may not exceed the greater of:

- (1) eight percent a year; or
- (2) the rate payable by the municipality on its most recently issued general obligation bonds, determined as of the date of the notice provided by Section 313.047.

(g) If the special tax imposed under Subsection (b) is not paid when due, the municipality may collect the tax, interest, expenses of collection, and reasonable attorney's fees, if incurred.

(h) The governing body may issue assignable certificates in evidence of an assessment as provided by Section 313.052.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.046. ASSESSMENT FOR IMPROVEMENT OF BOUNDARY HIGHWAY.

(a) If part of the boundary of a municipality is on or along a highway, the municipality may improve that part of the highway and assess a part of the cost of the improvement against the abutting property on both sides of the highway as provided by Section 313.048.

(b) If the highway is wholly or partly in another municipality, the improvement and assessments are subject to consent of the governing body of the other municipality.

(c) An assessment imposed under Section 313.048 against abutting property that is in a municipality other than the municipality initiating the improvement is valid only if the governing body of the other municipality by ordinance or resolution ratifies the assessment.

(d) A person who owns or claims the abutting property has, in addition to the right of appeal provided by Section 313.049, the right of appeal from an assessment for 15 days after the date the ratifying ordinance or resolution is adopted by the governing body of the other municipality.

(e) If the governing body of the other municipality does not ratify the assessment within 30 days after the date of the ordinance or resolution imposing the assessment, the municipality that initiated the improvement may repeal and annul all of the assessment proceedings, including a contract for the improvement.

(f) The failure of the governing body of the other municipality to ratify an assessment does not affect the validity of an assessment imposed against property that is in the municipality that initiated the improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.047. NOTICE OF HEARING ON ASSESSMENT. (a) An assessment may be made against an abutting property or its owner or against a railway or its owner only after notice and opportunity for hearing as provided by this section and Section 313.048.

(b) Notice of the hearing shall be published at least three times in a newspaper published in the municipality in which the assessment tax is to be imposed. If the municipality does not have a newspaper, the notice shall be published in the newspaper that is published nearest to the municipality and that is of general

circulation in the county in which the municipality is located.

(c) The first publication of the notice shall be made not later than the 21st day before the date of the hearing.

(d) In addition to the notice required by Subsection (c), written notice of the hearing shall be given by mail, postage prepaid, deposited at least 14 days before the date of the hearing, and addressed to the owners of the properties abutting the part of the highway to be improved, as the names and addresses of the owners are shown on the rendered tax roll of the municipality. If the names of the respective owners do not appear on the rendered tax roll, the notice shall be addressed to the owners as their names and addresses are shown on the unrendered tax roll of the municipality.

(e) If a special tax is proposed to be imposed against a railway that uses, occupies, or crosses a part of a highway to be improved, the additional notice shall be given by mail, postage prepaid, deposited at least 14 days before the date of the hearing, and addressed to the railway as shown on the rendered tax roll of the municipality. If the name of the railway does not appear on the rendered tax roll of the municipality, the notice shall be addressed to the railway as its name and address are shown on the unrendered tax roll of the municipality.

(f) The notice is sufficient, valid, and binding on each person who owns or claims an interest in the property or the railway if the notice:

- (1) describes in general terms the nature of the improvement for which the proposed assessment is to be imposed;
- (2) states the part of the highway to be improved;
- (3) states the estimated amount per front foot proposed to be assessed against the owners of abutting property and the property on which the hearing is to be held;
- (4) states the estimated total cost of the improvement on each part of the highway;
- (5) states the amount proposed to be assessed for the improvements proposed to be constructed in part of the area between, under, and two feet outside of rails, tracks, double tracks, turnouts, or switches of a railway; and
- (6) states the time and place of the hearing.

(g) The mailed notice may consist of a copy of the published notice.

(h) If an owner of property abutting a part of a highway

proposed to be improved is listed as "unknown" on the municipal tax roll or if the name of an owner is shown on the municipal tax roll but no address for the owner is shown, it is not necessary to mail a notice. If the owner is shown as an estate, the notice may be mailed to the address of the estate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.048. HEARING. (a) A hearing under this subchapter shall be before the governing body of the municipality.

(b) The owner of property abutting a proposed improvement or the owner of an affected railway is entitled to:

- (1) be heard on any matter for which a hearing is a constitutional prerequisite to the validity of an assessment under this chapter; and
- (2) contest:
 - (A) the amount of the proposed assessment;
 - (B) the lien and liability for the assessment;
 - (C) the special benefit of the proposed improvement to the abutting property and the owner of the abutting property; and
 - (D) the accuracy, sufficiency, regularity, or validity of the proceedings or contract for the improvement and proposed assessment.

(c) The governing body may:

- (1) correct an error, inaccuracy, irregularity, or invalidity;
- (2) supply a deficiency;
- (3) determine the amount of an assessment;
- (4) determine any other necessary matter; and
- (5) by ordinance, end the hearing and impose the assessment before, during, or after the construction of the improvement.

(d) An assessment may not:

- (1) exceed the enhanced value to the property as determined at the hearing; or
- (2) be made to mature before the municipality accepts the improvement for which the assessment is imposed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.049. APPEAL OF ASSESSMENT. (a) A person who owns or claims an interest in assessed property or in an assessed railway may bring suit to contest:

- (1) the amount of the assessment;
- (2) an inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract relating to the assessment or the improvements; or
- (3) any matter or thing not in the discretion of the governing body.

(b) The suit must be brought not later than the 15th day after the date the assessment is imposed.

(c) After the period provided by Subsection (b), a person who fails to bring suit:

- (1) waives every matter the hearing might have addressed; and
- (2) is barred from contesting or questioning in any manner or for any reason:
 - (A) the assessment;
 - (B) the amount, accuracy, validity, regularity, or sufficiency of the assessment;
 - (C) the assessment proceedings; or
 - (D) a contract relating to the assessment or the improvement.

(d) This section applies to an assessment made under Section 313.048 or 313.050.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.050. CORRECTION OF ASSESSMENTS. If an assessment is determined to be invalid or unenforceable, the governing body of the municipality may:

- (1) supply any deficiency in the assessment proceedings;
- (2) correct any mistake or irregularity in connection with the assessment; and
- (3) at any time, make and impose a subsequent assessment after notice and hearing as nearly as possible in the manner this chapter provides for an original assessment and subject to the provisions of this chapter regarding special benefits.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.051. NO LIEN ON EXEMPT PROPERTY; LIABILITY OF OWNER.

(a) This chapter does not authorize a lien against an interest in property that, at the time an improvement is ordered, is exempt from any lien created by an assessment for a street improvement.

(b) Notwithstanding Subsection (a), the owner of exempt property is personally liable for an assessment in connection with the property.

(c) The omission of an improvement fronting exempt property does not invalidate the lien or liability for an assessment made against nonexempt property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.052. ASSESSMENT CERTIFICATES. (a) The governing body may issue in the name of the municipality an assignable certificate to evidence an assessment imposed. The certificate may declare the lien on the property and the liability of the owner of the property regardless of whether the owner is correctly named. The governing body may determine the terms of the certificate.

(b) A recital in a certificate that states substantially that the procedure for making the improvement was in compliance with law and that all prerequisites to creating the assessment lien on the property the certificate describes and to creating the personal liability of the property owner were performed is prima facie evidence of those matters.

(c) Subsection (b) applies to a recital in a certificate that evidences an assessment under Section 313.048 or 313.050.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.053. CHANGES IN PROCEEDINGS; PROCEDURE. (a) The governing body of a municipality may change a plan, method, or contract for an improvement or other proceeding related to a plan, method, or contract for an improvement.

(b) A change that substantially affects the nature or quality of an improvement may not be made unless the governing body determines, by a two-thirds vote, that it is impractical to proceed

with the improvement.

(c) If a substantial change is made after a hearing has been ordered or held, the governing body, in the same manner and with the same effect as provided for an original notice and hearing, shall:

- (1) make a new estimate of cost;
- (2) order and hold a new hearing; and
- (3) give new notices.

(d) If an improvement is abandoned, the new estimate, hearing, and notices are not required.

(e) A change in or abandonment of an improvement must be with the consent of the person who contracted with the municipality for the construction of the improvement.

(f) If an improvement is abandoned, a municipality shall adopt an ordinance that has the effect of canceling:

- (1) any assessment imposed for the abandoned improvement; and
- (2) all other proceedings relating to the abandoned improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.054. ENFORCEMENT OF ASSESSMENT; PRIORITY OF LIEN; DEFENSES. (a) An assessment under this subchapter:

- (1) is collectible with interest, expense of collection, and reasonable attorney's fees, if incurred;
- (2) is a first and prior lien on the property on which the lien is created from the date the municipality orders the improvement; and
- (3) is superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes.

(b) A lien against property or the personal liability of a property owner that arises from an assessment made under this subchapter may be enforced by:

- (1) suit; or
- (2) sale of the property assessed in the manner provided by law for sale of property for municipal ad valorem taxes.

(c) In a suit on an assessment for which a certificate has been issued, it is sufficient to allege the substance of the recitals in

the certificate and that the recitals are true. Additional allegations about the assessment proceedings are not necessary in the suit.

(d) In a suit to enforce an assessment, the only defenses are that:

- (1) the notice of the hearing:
 - (A) was not mailed as required;
 - (B) was not published; or
 - (C) did not contain the substance of a requirement prescribed for the notice; or
- (2) the assessment exceeded the amount of the estimate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 313.055. CHAPTER NOT AFFECTED BY STATEMENTS OR ACTIONS OF MUNICIPAL OFFICERS OR EMPLOYEES. Nothing said or done by an employee or officer of a municipality, including a member of the governing body of the municipality, as shown in the municipality's written proceedings and other records, affects this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**CHAPTER 314. PURCHASE OR CONDEMNATION OF PROPERTY FOR HIGHWAYS BY
CERTAIN MUNICIPALITIES**

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 314.001. APPLICABILITY. This chapter applies only to a municipality with a population of more than 1,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. AUTHORITY TO PURCHASE OR CONDEMN PROPERTY

Sec. 314.011. ACQUISITION OF PROPERTY FOR HIGHWAY IMPROVEMENTS BY MUNICIPALITY. (a) The governing body of a municipality may purchase or condemn property to lay out, construct, improve, or extend any highway within its boundaries.

(b) Costs incurred in making improvements, including the costs of purchase or condemnation of or damage to property and the costs of making assessments or issuing certificates under this chapter, may be

paid from any municipal fund available for that purpose.

(c) A municipality may sell property originally purchased for improvements but not used for the improvements on the terms it considers appropriate. The proceeds from the sale shall be deposited in a fund that may be used only to pay for costs described by Subsection (b).

(d) In this section, "highway" includes any street, alley, public place, or square dedicated to public use.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.012. RESOLUTION. (a) A governing body that determines to proceed under this chapter shall declare its determination by resolution that may:

(1) state the nature, extent, and limits of the improvement to be made; and

(2) describe the real property proposed to be condemned by:

(A) the lot or block number;

(B) the number of front feet;

(C) the name of the owner; or

(D) any other description that substantially identifies the property.

(b) A mistake or omission in the resolution does not invalidate it.

(c) Passage of the resolution is conclusive evidence of the public use and necessity of the proposed improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.013. SURVEY. (a) On passage of the resolution, the municipal engineer or engineer designated by the governing body shall prepare and submit to the governing body:

(1) a plat showing:

(A) the nature and limits of the proposed improvements;

(B) the location of the proposed improvements; and

(C) the property through which the improvements are to be extended and that is to be condemned for the improvements; and

(2) a written estimate of the total cost of:

(A) the improvements; and

(B) each parcel of property to be condemned.

(b) The governing body shall examine the plat and report and correct any errors. An error or omission does not invalidate the plat or report or a subsequent proceeding held under the plat or report.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. PROCEDURE

Sec. 314.021. APPOINTMENT OF CONDEMNATION COMMISSION. (a) In addition to qualifying under Section 21.014(a), Property Code, a member of a condemnation commission must be a qualified voter.

(b) If a commissioner dies, becomes disabled, refuses to act, becomes incapacitated, or is absent for more than 30 days from the county, the judge shall promptly, in term time or vacation, appoint a new commissioner having the qualifications prescribed by Subsection (a). An action of the commission taken before the vacancy is valid. After the vacancy is filled, the commission shall proceed and take all actions provided by this chapter as if a vacancy had not occurred.

(c) A commissioner is entitled to receive as compensation not more than \$10 for each day the commissioner is employed in the performance of the commissioner's duties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.022. NOTICE OF CONDEMNATION. (a) The commission or the clerk, secretary, or recording officer of a municipality shall give written notice of a hearing before the commission to:

(1) each owner of property proposed to be condemned or damaged; and

(2) each person with an interest in or lien on the property.

(b) In addition to the requirements of Section 21.016(a), Property Code, the notice may contain:

(1) a brief statement of the nature and extent of the proposed improvement; and

(2) a description of the property proposed to be condemned.

(c) The description provided by Subsection (b)(2) may be by:

- (1) lot and block number;
- (2) front feet;
- (3) the name of each owner; or
- (4) any other description that substantially identifies the property.

(d) Notice of the hearing shall be given by publication for not less than three days in a newspaper of general circulation in the county in which the property is located beginning not later than the 10th day before the date of the hearing.

(e) Notice by publication is valid and binding on each owner or other person with an interest in or lien on the property if it generally notifies the person to appear and be heard without specifically designating the person by name. An error in the name of a person to whom the notice is directed does not invalidate the notice.

(f) A copy of the notice shall be delivered to:

- (1) each owner, lienholder, or interested party who is a resident of the county where the property is located;

- (2) the agent or attorney of a person described by Paragraph (1); or

- (3) the guardian of the owner if the owner is a minor.

(g) The person serving the notice shall make a written return on the notice stating when and how the person served the notice.

(h) The governing body may provide for additional notice, but notice by publication is valid and binding regardless of whether any other notice is given.

(i) The governing body may provide for as many hearings in the course of condemnation proceedings as it determines necessary for whatever purposes it determines necessary.

(j) A notice and a return of a notice shall be filed with the municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.023. HEARING ON CONDEMNATION. (a) Each owner, lienholder, or other interested party is entitled to appear at the hearing in person or by agent and be heard regarding:

- (1) the value of the property proposed to be condemned;
- (2) the damages to property not condemned resulting from

the improvement;

- (3) the legality of the proceedings; or
- (4) any right of the owner or other party.

(b) An objection must be in writing and filed with the commission.

(c) The commission may not close the hearing until all interested parties appearing have been heard. At the conclusion of the hearing, the commission shall:

- (1) determine the damages due the owners, lienholders, or other interested parties for property taken or damaged;
- (2) apportion the damages determined under Subdivision (1) among the owners, lienholders, or other interested parties;
- (3) date and sign two copies of a written report; and
- (4) file one copy of the report with the clerk, secretary, or recording officer of the municipality and the second copy with the clerk of the court that appointed the commission.

(d) The governing body may record in its minutes the following items relating to a condemnation proceeding:

- (1) proceedings of the governing body;
- (2) notices issued and returns of the notices;
- (3) orders, reports, and other proceedings of the commission; and
- (4) certified copies of all orders or proceedings of a court.

(e) A record made under Subsection (d) or a certified copy of the record is prima facie evidence of the facts in the record.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.024. OBJECTIONS. (a) Not later than the 10th day after the date the commission files a report under Section 314.023 with the court, a party affected by the decision of the commission may file with the court an objection to the decision.

(b) If an objection is not timely filed:

- (1) the determinations of the commission become final and binding on the parties and their heirs, successors, and assigns and may not subsequently be questioned in any proceeding; and
- (2) the judge shall enter the report in the records of the court and adopt the report as the court's.

(c) The judge may issue process as necessary to enforce a judgment under Subsection (b)(2).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.025. LAW APPLICABLE. Except as otherwise provided by this chapter, Chapter 21, Property Code, applies to proceedings under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.026. ERRORS. The governing body, the condemnation commission, and the judge before whom a condemnation proceeding is pending shall take all appropriate actions to correct any error or invalidity in the proceeding. An error or omission in a proceeding does not invalidate the proceeding, but a proceeding may be corrected, repeated, or adjourned until the correction is made or omission supplied.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. ASSESSMENTS

Sec. 314.041. ASSESSMENTS. (a) Except as provided by this section, the governing body may by resolution order an assessment to pay all or part of the costs of making an improvement as described by Section 314.011(b), with reasonable attorney's fees and the costs incurred in making the assessment, against the owner and property if the property is:

- (1) adjacent to or in the vicinity of an improvement; and
- (2) specially benefited by the improvement.

(b) In its resolution, the governing body may designate:

- (1) the property to be assessed; or
- (2) a district containing property to be assessed.

(c) The governing body may apportion the costs of the assessment among the owners of the property assessed.

(d) In making an assessment, the governing body may not include the cost of property purchased but not actually used for making the improvement.

(e) An assessment may not be made against:

(1) property or its owner in excess of the special benefit to the property in the enhanced value of the property resulting from the improvement; or

(2) property that is exempt from execution.

(f) The owner of property exempt from assessment under Subsection (e)(2):

(1) shall be assessed an amount equal to the amount the assessment would have been if the property were not exempt; and

(2) is personally liable for the assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.042. NOTICE TO OWNER OF ASSESSMENT. (a) An assessment may not be made against the property benefited or the owners of the property until after the owners, lienholders, and other interested parties are given a reasonable opportunity to be heard before the governing body or before the commission as provided by Section 314.047.

(b) The governing body or commission shall publish three times before the hearing reasonable notice of the hearing in a newspaper of general circulation in the municipality beginning not later than the 10th day before the date of the hearing.

(c) If an owner is a railway or street railway, the governing body or commission shall also give, not later than the 10th day before the date of the hearing, written notice:

(1) in person to the owner's local agent; or

(2) by mailing the notice through the post office in the municipality to the address of the office of the railway or street railway as it appears on the most recent tax roll of the municipality.

(d) The name of an owner, lienholder, or other interested party need not be specifically set out in the notice required by Subsection (b) or (c), but the real property proposed to be assessed shall be briefly described in the notice by:

(1) lot and block;

(2) number;

(3) front feet;

(4) reference to a plat, report, or record filed in

connection with the proceedings; or

(5) any other description reasonably identifying the property.

(e) The governing body or commission may give notice in addition to the notice required by Subsections (b) and (c), but the notice required by those subsections is sufficient.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.043. NOTICE TO COUNTY CLERK OF ASSESSMENT. (a) A governing body that proposes to assess property abutting an improvement shall file notice with the county clerk of each county in which the property is located. The notice must be signed in the name of the municipality by its clerk, secretary, or mayor or the officer performing the duties of the clerk, secretary, or mayor.

(b) The notice required by Subsection (a) must:

(1) show substantially that the governing body has determined it necessary that the street be improved;

(2) give the name of:

(A) the street and the names of the two cross streets or other approximate lengthwise limits between which the street is to be or has been improved or otherwise identify or designate the street and the portion of the street to be improved; and

(B) the subdivision and affected blocks if the street abuts a subdivision for which a plat has been recorded in the county clerk's office; and

(3) state that a portion of the cost of the improvement is to be or has been specifically assessed as a lien on property abutting the street.

(c) A notice filed under Subsection (a) may include one or more streets or improvements.

(d) A governing body that proposes to assess property not abutting the improvement shall file a notice signed as required by Subsection (a) with the clerk of each county where the property is located.

(e) The notice required by Subsection (d) must:

(1) designate the property proposed to be assessed or the district within which assessments have been or may be made; or

(2) otherwise identify the property against which a lien is

proposed to be assessed.

(f) A notice required by Subsection (a) or (d) need not give details or be sworn to or acknowledged. The notice may be filed at any time, and the county clerk with whom the notice is filed shall:

(1) record the notice in the same class of records as a mortgage or deed of trust; and

(2) index the notice in the name of the municipality and in the name or other designation of the street to which the notice relates.

(g) Substantial compliance with this section is sufficient.

(h) In this section, "street" includes any part of a street, alley, highway, public place, or square.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 827, Sec. 3, eff. Sept. 1, 2001.

Sec. 314.044. HEARING ON ASSESSMENT. (a) At a hearing under Section 314.042(a), an owner, lienholder, or other interested party may:

(1) object in writing to an assessment, special benefit to the property, invalidity of the assessment, or any prerequisite to the assessment; and

(2) present testimony in support of the objection.

(b) The governing body or the commission shall determine the amounts, if any, to be assessed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.045. LIEN. (a) An assessment creates a lien on property prior to all other liens except a lien for ad valorem taxes.

(b) The lien takes effect on the filing of the notice provided by Section 314.043(a) or (d).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.046. ASSESSMENTS LEVIED. (a) The governing body may make an assessment only by ordinance.

(b) An assessment may:

- (1) be made payable in not more than 16 installments maturing within 15 years; and
- (2) bear interest at not more than eight percent a year.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.047. HEARING ON ASSESSMENT BEFORE CONDEMNATION COMMISSION. (a) The governing body may provide that the condemnation commissioners hold the hearing required under Section 314.042(a).

(b) The commission that holds the hearing:

- (1) shall give notice as required by Section 314.042; and
- (2) has the powers and duties conferred by this chapter on the governing body except as otherwise provided by this chapter.

(c) At the conclusion of the hearing, the commission shall report in writing its findings to the governing body. The governing body shall:

- (1) examine the report and, if it finds the report to be correct, approve the report; and
- (2) make an assessment in the proper amount against property and the owner of property found to be benefited by the improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.048. CERTIFICATES. The municipality may:

- (1) issue assignable certificates payable to the municipality or the purchaser of the certificates stating the liability of the property and the owner of the property for the payment of assessments; and
- (2) set the terms of the certificates, including the time of payment, conditions of default, and date of maturity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.049. ENFORCEMENT OF ASSESSMENT. An assessment may be enforced by:

- (1) suit brought by the municipality for the benefit of a

holder and owner of an assessment or a certificate issued on the assessment;

(2) suit brought by a holder and owner of an assessment or a certificate issued on the assessment; or

(3) sale of the assessed property in the same manner as nearly as possible as the sale of real property for municipal taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.050. SUIT ON CERTIFICATE. In a suit to enforce a certificate issued under Section 314.048, the recitals of the certificate are sufficient to allege the proceedings of the governing body in making the improvements, the assessment for the improvements, and all prerequisites to the assessment. The allegations contained in the recitals need not be stated in the pleadings.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.051. REASSESSMENTS. (a) An error in a proceeding under this chapter, the description of property, or the name of the owner does not invalidate an assessment, and an assessment is in effect against the property and the owner of the property.

(b) A governing body that is advised of an error shall correct the error.

(c) At the request of an interested party, the governing body shall, after notice and hearing that comply with this chapter, reassess an owner or property erroneously assessed in accordance with special benefits as provided by this chapter as to original assessments. The governing body may set the terms of payment of a reassessment and may issue assignable certificates evidencing the reassessment in the same manner as for an original assessment.

(d) The governing body may not make a reassessment later than six years after the date of the ordinance making the original assessment. If the reassessment is contested in an action at law, the time consumed in the action is not included in computing the six years.

(e) In making a reassessment, the governing body is not required to repeat an action relating to the original assessment, except as required by Subsection (c).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.052. DEFICIENCY ASSESSMENTS. (a) If, after an assessment is made under this chapter, the amount assessed and apportioned is insufficient to defray all the costs of an improvement:

(1) the governing body may assess the deficiency against property specially benefited and the owners of the property and apportion the deficiency among them, after notice and hearing as provided by this chapter and after complying with each provision of this chapter applicable to original assessments; or

(2) a deficiency assessment may be made after notice and hearing before the commission in the manner provided by Section 314.047.

(b) A municipality may issue assignable certificates evidencing the deficiency assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.053. SUIT TO SET ASIDE OR CORRECT ASSESSMENT OR REASSESSMENT. (a) A suit to set aside or correct an assessment or reassessment or a proceeding relating to the assessment or reassessment because of an error or invalidity in the assessment or reassessment must be brought by a property owner against whom or whose property an assessment or reassessment has been made not later than the 10th day after the date of the assessment or reassessment.

(b) After the deadline prescribed by Subsection (a), the owner and the owner's heirs, successors, and assigns are barred from bringing an action described by that subsection or objecting to the validity of an assessment, reassessment, or proceeding.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 314.054. VALIDITY OF ASSESSMENT. An assessment or reassessment is valid and binding without regard to:

(1) an error, omission, or invalidity in a proceeding of the municipality under this chapter with reference to:

(A) the making of an improvement provided by this

chapter;

(B) the taking or condemnation of property for an improvement; or

(C) the determination and payment of damages for property taken or damaged; or

(2) whether as of the date of the assessments the improvement was completed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 315. ARTIFICIAL LIGHTING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 315.001. DEFINITIONS. In this chapter:

(1) "Abutting property" means property abutting a street on which lighting improvements are made or proposed to be made.

(2) "Special benefit" means the amount of enhanced value that a property receives as a result of lighting improvements.

(3) "Street" includes a portion, not less than one block, of a street.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.002. APPLICABILITY. This chapter applies only to a municipality with a population of more than 5,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. AUTHORITY AND INITIAL PROCEDURES

Sec. 315.021. ESTABLISHMENT OF LIGHTING IMPROVEMENTS. (a) A municipality may install and maintain lighting improvements for a local public street as provided by this chapter if the governing body of the municipality adopts a resolution:

(1) on its own motion if:

(A) the governing body considers it more advantageous to the public; and

(B) public money is available for that purpose; or

(2) following the receipt of a petition from the owners of property abutting a street to install and maintain street lighting

improvements.

(b) Adoption of the resolution is conclusive of the public necessity and benefit of the lighting improvements. Failure to give notice of the adoption of a resolution does not affect the resolution's validity.

(c) The resolution must describe:

- (1) the nature and extent of the lighting improvements to be made;
- (2) any street or district composed of streets, highways, or alleys to be lighted;
- (3) the materials to be used; and
- (4) the method of paying the cost of the improvements.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.022. CONTENTS OF PETITION. (a) A petition submitted under Section 315.021(a)(2) must:

- (1) state that a street or a district composed of streets, highways, or alleys should be lighted;
- (2) state that lighting improvements are needed for that purpose;
- (3) name and describe the street or district to be lighted;
- (4) state that the lighting will be a public improvement and will be conducive to the public welfare; and
- (5) be signed by a majority of the owners of property abutting streets designated in the petition.

(b) A petition submitted under Section 315.021(a)(2) may:

- (1) provide plans and specifications for the requested lighting improvements; and
- (2) specify the kind of poles, lights, or other material necessary to properly install the improvements or any part of the necessary material.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.023. PLANS AND SPECIFICATIONS. (a) The governing body may:

- (1) order the use of all or any part of the materials specified in the petition in constructing the lighting improvements;

(2) if materials specified in the petition are not available, order the use of materials similar in kind and quality to the specified materials; or

(3) reject any or all plans and specifications included in the petition and have new plans and specifications prepared by the municipal engineer.

(b) On adoption of a resolution as provided by Section 315.021, the municipal engineer shall:

(1) prepare plans and specifications for the lighting improvements ordered by the resolution; and

(2) submit the completed plans and specifications to the governing body for approval.

(c) If there is no municipal engineer, the municipal official whose duties most closely correspond to those of a municipal engineer shall prepare and submit the plans and specifications.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.024. OWNERSHIP AND CONTROL. After lighting improvements made under this chapter are installed and accepted by the municipality, the improvements become a part of the municipality's lighting system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.025. USE OF AVAILABLE MONEY. A municipality may use available money to assist in financing lighting improvements.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. BIDS AND CONTRACTS

Sec. 315.041. ADVERTISEMENT FOR BID. (a) On approval and adoption of plans and specifications by the governing body of a municipality, the municipal secretary or other officer designated by the governing body shall advertise for sealed bids for installing the lighting improvements according to the specifications.

(b) The advertisement shall be published in a daily newspaper of general circulation in the municipality and shall state the time

within which bids may be received.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.042. FILING OF BID. (a) The governing body of a municipality may prescribe a period of not less than 10 or more than 15 days after the date on which the advertisement for bids is published within which bids may be received.

(b) Bids shall be filed with the municipal secretary or another officer designated by the governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.043. AMENDMENT OF BID PROHIBITED. A bid may not be amended after it has been filed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.044. OPENING OF BIDS; ACCEPTANCE OR REJECTION. (a) Bids shall be opened and read at a public meeting of the governing body of a municipality.

(b) The governing body may:

- (1) accept a bid it considers most advantageous to the owners of abutting property; or
- (2) reject any or all bids.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.045. CONTRACTS. (a) After the governing body of a municipality has accepted a bid for lighting improvements, the municipality shall contract with a contractor whose bid has been accepted.

(b) A contract shall be:

- (1) executed by the municipality's chief executive; and
- (2) attested with the corporate seal by the municipal secretary or other officer designated by the governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. PAYMENT OF COSTS

Sec. 315.061. **AUTHORITY TO ASSESS COSTS.** (a) A municipality may assess against owners of abutting property who will specially benefit from lighting improvements the entire cost, including labor and material, of installing the improvements.

(b) A municipality may impose a lien against abutting property to secure the payment of the assessment against that property.

(c) Costs may not be assessed against any property or property owner and personal liability for costs may not be finally determined until after the hearing under Section 315.066 and the adjustment of equities between or among abutting property owners under Section 315.063.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.062. **METHOD OF ASSESSMENT.** (a) An assessment against abutting property or an owner of abutting property shall be made according to the frontage of that property on a street to be improved in proportion to the total frontage on all streets to be improved.

(b) The costs shall be apportioned according to the frontage or front foot rule but may not exceed the special benefit to the property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.063. **ADJUSTMENT OF EQUITIES.** If the governing body of a municipality considers that assessing and apportioning costs as provided by Section 315.062 would be unjust or unequal in a particular case, the governing body shall assess and apportion the costs justly and equally, considering the special benefit to each owner, the equities of the owners, and the adjustment of the apportionment, so as to produce a substantial equality of benefits received by and burdens imposed on each owner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.064. STATEMENT OF OWNERSHIP AND COSTS. (a) After the governing body of a municipality has approved and executed a contract for lighting improvements, the municipal engineer shall prepare and submit to the governing body a written statement that:

- (1) lists the owners of property abutting any street to be improved;
- (2) states the number of front feet owned by each owner;
- (3) describes, by lot and block number or by another method that identifies the property, the abutting property owned by each owner; and
- (4) estimates:
 - (A) the total cost of the improvement;
 - (B) the amount for each front foot to be assessed against abutting property and its owner; and
 - (C) the total amount to be assessed against each owner.

(b) If there is no municipal engineer, the municipal official whose duties most closely correspond to those of a municipal engineer shall prepare and submit the statement.

(c) The governing body shall examine the statement and correct any error in the statement.

(d) An error or omission in a statement prepared under this section does not invalidate an assessment or a lien or claim of personal liability imposed under an assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.065. NOTICE OF HEARING. (a) After the governing body of a municipality has examined and approved a statement prepared under Section 315.064, the governing body by resolution shall direct publication of notice of a hearing to owners of abutting property.

(b) Notice shall be published for 10 consecutive days in a daily newspaper of general circulation in the municipality where the lighting improvements are to be made.

(c) If there is no daily newspaper, the governing body shall notify the owners by registered mail before the 10th day before the date of the hearing.

(d) The notice must:

- (1) state the place and time of the hearing;
- (2) generally describe the lighting improvements;

- (3) name any street to be improved;
- (4) state the amount proposed to be assessed against abutting property for each front foot; and
- (5) notify each owner of abutting property and each interested person to appear at the hearing.

(e) The notice is not required to describe any property or to include the name of an owner. The notice is nonetheless binding on and conclusive against an owner of abutting property or a person interested in or having a lien or claim on the property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.066. HEARING. (a) A hearing:

- (1) is before the governing body of the municipality; and
- (2) may not be held before the 10th day after the date of notice under Section 315.065.

(b) At any time before the close of the hearing, a person interested in property that may be claimed to be subject to assessment under this chapter is entitled to be heard on:

- (1) any matter affecting the property itself;
- (2) the benefit of the proposed improvement to the property;
- (3) a claim of liability relating to the property;
- (4) the proposed lighting improvements;
- (5) any invalidity or irregularity in a proceeding regarding the proposed improvements; or
- (6) any other objection to the proposed improvements.

(c) An objection must be filed in writing.

(d) At the hearing, an interested person may:

- (1) produce evidence and witnesses; and
- (2) appear in person or by attorney.

(e) The governing body:

(1) shall give a full hearing on an objection presented under this section;

(2) may, from time to time and without further notice, adjourn the hearing;

(3) may inquire into and determine all facts necessary to adjudicate an objection or ascertain the special benefit to an owner; and

(4) shall render a just decision in each case.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.067. RULES. The governing body of a municipality may adopt rules governing hearings or notice of hearings that the governing body considers advisable to give all property owners a full hearing on assessments against them because of the special benefits.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.068. WAIVER OF OBJECTION. An objection to an irregularity in a proceeding regarding proposed lighting improvements under this chapter or to the validity of an assessment or adjudication of personal liability against abutting property or an owner of abutting property is waived unless presented at the time and in the manner prescribed by Section 315.066.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.069. ASSESSMENT ORDER. (a) After the close of a hearing held under Section 315.066, the governing body of the municipality by ordinance shall assess against each owner of abutting property the proportionate cost of the lighting improvements as decided by the governing body.

(b) The ordinance shall:

(1) impose a lien on the property;

(2) declare the owner of the property personally liable for the amount assessed; and

(3) prescribe the time and manner of payment of the assessed amount.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.070. INSTALLMENTS. (a) The governing body may order the assessments payable in not more than six installments and prescribe the amount, time, and manner of payment of the

installments.

(b) The last payment may not be deferred beyond the fifth anniversary of the municipality's acceptance of the completed lighting improvement.

(c) The ordinance shall prescribe the rate of interest, not to exceed seven percent a year, to be charged on deferred payments.

(d) The ordinance may provide for the maturity and collection of all deferred payments on the default of an installment of principal or interest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.071. DISCHARGE OF OBLIGATION. An owner of abutting property may discharge the total amount assessed against the owner, or any installment of that amount, at any time before maturity, on payment of the amount with accrued interest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.072. LIEN. (a) An assessment under this subchapter against a property or property owner and any costs and reasonable attorney's fees incurred are a personal claim against the owner secured by a lien against the property.

(b) A lien under this section reverts back and takes effect as of the date of the original resolution ordering the lighting improvement. Adoption of the resolution is notice of the lien to all persons.

(c) A person who owns property on the date of an ordinance providing for an assessment against the property under Section 315.069 is personally liable for that person's respective portion of the assessment.

(d) Assessing in one assessment more than one parcel of property owned by a single owner or owned jointly by two or more persons does not invalidate the assessment or a lien or claim of personal liability under the assessment.

(e) An error in the name of an owner of assessed property in the ordinance providing for the assessment does not invalidate the lien or personal liability created by the ordinance. The lien or personal liability exists against the true owner of the property as

if the owner had been correctly described.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.073. PRIORITY OF LIEN. A lien under Section 315.072 is superior to any other lien, claim, or title, except a municipal, county, or state tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.074. CERTIFICATE OF OBLIGATION. (a) The governing body of a municipality may provide that:

(1) a contractor to whom work is let under this chapter may recover the costs assessed against abutting property and the owners of abutting property only from the property or property owners; and

(2) the municipality has no liability for the costs.

(b) The governing body may also authorize assignable certificates against abutting property or owners of abutting property.

(c) A recital in a certificate that states that the procedure for making the lighting improvement was in compliance with law and that all prerequisites to imposing the lien and to creating the personal liability of the property owner were performed is prima facie evidence in all courts that the procedure and prerequisites were performed as stated in the certificate.

(d) A certificate authorized under this section shall be:

(1) executed by the municipality's chief executive; and

(2) attested with the corporate seal by the municipal secretary or other officer designated by the governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.075. PAYMENT FROM AVAILABLE MONEY. (a) The cost of lighting improvements made without a petition by property owners shall be paid by the municipality out of the municipality's available money.

(b) The amount paid by a municipality to a contractor under this section shall be reimbursed to the municipality by assessments

against abutting property owners under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. JUDICIAL PROCEEDINGS

Sec. 315.091. SUIT ON LIEN. Personal liability established under Section 315.072 may be enforced by bringing suit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.092. SUIT TO CONTEST ASSESSMENT OR PROCEEDING. (a) A person who has an interest in property that may be subject to assessment under this chapter or who has any other financial interest in a proposed lighting improvement or the manner in which the cost of the proposed improvement is to be paid may bring suit to contest on any ground:

(1) the validity of a proceeding held on the making of the improvement; or

(2) the validity in whole or in part of an assessment, lien, or personal liability imposed by the proceeding.

(b) A suit under this section must be brought not later than the 10th day after the date on which the hearing under Section 315.066 concludes.

(c) The municipality and any person to whom a contract has been awarded shall be made defendants in a suit under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.093. ESTOPPEL. (a) A person who does not bring suit within the period prescribed by Section 315.092 or who does not diligently and in good faith prosecute a suit to final judgment may not contest or raise as a defense in another action the validity of a proceeding or an assessment, lien, or personal liability imposed by the proceeding.

(b) Estoppel under this section binds a person's heirs, successors, administrators, and assigns.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.094. AFFIDAVIT. (a) In a suit brought under Section 315.092, an affidavit must be attached to the plaintiff's petition stating:

(1) that the matters alleged in the petition are true, except for matters alleged on information and belief; and

(2) that the suit is brought in good faith and not to injure or delay the municipality, the contractor, or an owner of abutting property.

(b) If the plaintiff does not attach the affidavit required by this section, the court shall dismiss the suit on a defendant's motion and the plaintiff is barred to the same extent as if suit had not been brought.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.095. SUSPENSION OF WORK. When suit is brought under Section 315.092, the municipality or the contractor may suspend performance of work until a final judgment is rendered in the case and all appellate remedies are exhausted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 315.096. APPEAL. (a) An appeal or writ of error must be perfected not later than the 30th day after the date of adjournment of the term of the court of original jurisdiction during which judgment was rendered in the suit.

(b) An appeal or writ of error under this section is entitled to precedence in state courts of appellate jurisdiction and shall be heard and determined as soon as practicable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**CHAPTER 316. USE OF MUNICIPAL STREETS AND SIDEWALKS FOR PUBLIC
CONVENIENCES AND AMENITIES OR FOR PRIVATE USES
SUBCHAPTER A. USE OF MUNICIPAL STREETS AND SIDEWALKS FOR PUBLIC
CONVENIENCES AND AMENITIES**

Sec. 316.001. DEFINITIONS. In this subchapter:

(1) "Municipal street" means the entire width of a way held by a municipality in fee or by easement or dedication that has a part open for public use for vehicular travel. The term does not include a designated state or federal highway or road or a designated county road.

(2) "Roadway" means the portion of a municipal street that is improved, designed, or ordinarily used for vehicular travel. The term does not include a curb, berm, or shoulder.

(3) "Sidewalk" means the portion of a municipal street between the curb lines or lateral lines of a roadway and the adjacent property lines that is improved and designed for or is ordinarily used for pedestrian travel.

(4) "Sidewalk cafe" means an outdoor dining area that is located on a sidewalk and that contains removable tables, chairs, planters, or related appurtenances.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 316.002. PERMITTED IMPROVEMENTS OR FACILITIES ON MUNICIPAL STREET. (a) The governing body of a municipality may permit a person described by Subsection (b) to use property in the municipality on which a municipal street is located for the establishment or maintenance of:

(1) trees or decorative landscaping, including landscaping lighting, watering systems, or other accessories for the maintenance of the trees or landscaping;

(2) a sidewalk cafe that is:

(A) contiguous to a restaurant in which food preparation, sanitation, and related services for the cafe are performed; and

(B) open to the air, except for any canopy, and not enclosed by fixed walls;

(3) an ornamental gate, column, or other ornamental work denoting the entrance to a neighborhood or platted and recorded subdivision;

(4) a supportive or decorative column, arch, or other structural or decorative feature of a building that is:

(A) of historical value or of unusual architectural

design, character, or significance; and

(B) 50 or more years old at the time of application for a permit for the establishment or maintenance of the feature; or

(5) an amenity for the convenience of the public in the use of the municipal streets for pedestrian or vehicular travel, including a transit bus shelter, drinking fountain, or bench.

(b) The governing body may grant permission under Subsection (a) only to:

(1) a person who owns the underlying fee title to the real property; or

(2) an entity that holds a lease of the property from or has written permission to use the property from a person who owns the underlying fee title to the real property.

(c) An ornamental work described by Subsection (a)(3) may display the name of the neighborhood or subdivision, but may not contain commercial advertising or other signs.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 316.003. FINDING REQUIRED. An improvement or facility described by Section 316.002(a) may not be established unless the governing body of the municipality, or a municipal official who is designated by ordinance to make the finding, finds that:

(1) the improvement or facility will not be located on, extend onto, or intrude on:

(A) the roadway; or

(B) a part of the sidewalk needed for pedestrian use;

(2) the improvement or facility will not create a hazardous condition or obstruction of vehicular or pedestrian travel on the municipal street; and

(3) the design and location of the improvement or facility includes all reasonable planning to minimize potential injury or interference to the public in the use of the municipal street.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 316.004. PERMIT PROGRAM. (a) A municipality by ordinance may establish a permit program under this subchapter.

(b) The governing body of the municipality shall include in the

ordinance:

(1) provisions the governing body determines are necessary or desirable to protect, at the site of an applicant's proposed facility, the public, utility companies, and any person who has the right to use the municipal street;

(2) provisions that require:

(A) clearances between the facility or improvement and utility lines that comply with clearances from structures to utility lines required by a nationally recognized building code;

(B) a permit holder to provide a cash or surety bond in an amount approved by the municipality sufficient to cover the costs for the municipality or a public utility to remove the permit holder's facilities or improvements; and

(C) a permit holder to pay the costs to relocate a municipal or public utility facility or improvement in a municipal street associated with the installation of a facility or improvement of the permit holder; and

(3) a provision authorizing the municipality or a utility company or other person authorized by the municipality to remove, without liability, any part of a facility for which a permit has been issued if there is a lawful need for the site or for access to the site.

(c) The governing body may include in the ordinance:

(1) construction, maintenance, operation, and inspection requirements;

(2) public liability insurance requirements;

(3) a requirement that the applicant or permit holder pay for traffic and safety studies;

(4) provisions for conducting a public hearing on the issuance, renewal, or revocation of a permit, with notice and reporting expenses of the hearing to be paid by the applicant or permit holder;

(5) a requirement for indemnity agreements by abutting fee title land owners in the form of covenants that run with the title to the abutting land; or

(6) a provision that authorizes the governing body, at its discretion, to terminate the permit without notice to the permit holder.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 316.005. RENEWAL OF PRIOR PERMIT. The renewal of a permit issued before April 30, 1985, for an improvement or facility described by Section 316.002(a) must be renewed in the same manner as a permit issued under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 316.006. USE OF MUNICIPAL MONEY OR EMPLOYEE FOR PERMITTED FACILITY. A municipality may use or permit the use of municipal money or an employee with respect to a facility operated under a permit issued under this subchapter only for inspections or removal.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 316.007. IMPROVEMENT OR FACILITY ESTABLISHED OR MAINTAINED BY MUNICIPALITY. (a) A municipality may establish or maintain, with municipal money, material, equipment, or personnel, an improvement or facility described by Section 316.002(a)(1) or (5) without a permit, regardless of whether the municipality establishes a permit program under this chapter.

(b) A municipality must make the finding required by Section 316.003 regarding an improvement or facility the municipality proposes to place on a municipal street.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 316.008. PUBLIC AND GOVERNMENTAL ACTIONS AND FUNCTIONS OF MUNICIPALITY. The following actions of a municipality are public and governmental actions and functions, are exercised for a public purpose, and are matters of public necessity:

- (1) granting a permit authorized by this subchapter;
- (2) permitting the use of a municipal street for a purpose authorized by Section 316.002 under a permit authorized by this subchapter; and
- (3) establishing or maintaining, with municipal money, material, equipment, or personnel, an improvement or facility

described by Section 316.002(a)(1) or (5).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 316.009. RIGHT OF ABATEMENT. This chapter does not impair the right of a municipality or other person to abate an unlawful obstruction or use of a municipal street.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 316.010. POLITICAL SUBDIVISION NOT REQUIRED TO OBTAIN PERMIT. This chapter does not require a political subdivision of this state to obtain a permit to establish or maintain an improvement or facility authorized by other law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. USE OF STREETS AND SIDEWALKS FOR PRIVATE PURPOSE

Sec. 316.021. MUNICIPAL PERMISSION TO USE STREET OR SIDEWALK FOR PRIVATE PURPOSE. A municipality may permit and prescribe the consideration and terms for the use of a portion of a municipal street or sidewalk for a private purpose if the use does not:

- (1) interfere with the public use of the street or sidewalk; or
- (2) create a dangerous condition on the street or sidewalk.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 317. ELIMINATION OF GRADE-LEVEL STREET CROSSINGS BY RAILROAD LINES IN MUNICIPALITIES WITH POPULATION OF MORE THAN 100,000

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 317.001. APPLICABILITY OF CHAPTER. This chapter applies only to a municipality with a population of more than 100,000.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.002. DEFINITION. In this chapter, "facility" means property that the governing body of a municipality considers necessary for the elimination of a grade-level crossing by a railroad line from a street of the municipality or for the relocation of a railroad line within the municipality, including:

- (1) land;
- (2) a right-of-way;
- (3) an elevated structure;
- (4) a grade separation;
- (5) an underpass or overpass;
- (6) a passenger station, depot, or other building;
- (7) an interchange yard;
- (8) a railroad track; and
- (9) any other improvement.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.003. AUTHORITY REGARDING FACILITIES. (a) To decrease hazards to life or property, promote public safety or convenience, improve traffic conditions, or encourage the orderly development of the municipality, a municipality may acquire, construct, improve, enlarge, extend, maintain, repair, or replace a facility.

(b) Activities authorized by Subsection (a) include:

- (1) removing and relocating railroad tracks, a utility line or pipe, or another improvement;
- (2) removing or demolishing a building or another improvement;
- (3) paying for damage to other property in connection with an activity described by that subsection; or
- (4) improving a street in connection with an activity described by that subsection.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.004. APPLICABILITY OF OTHER LAW. Except to the extent that it conflicts or is inconsistent with this chapter, Subchapter B, Chapter 1502, Government Code, applies to revenue bonds issued under this chapter, and a municipality to which this chapter applies has, with respect to a revenue bond issued under this chapter, each power

granted by that subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.005. CONFLICT OR INCONSISTENCY WITH MUNICIPAL CHARTER. To the extent of a conflict or inconsistency between this chapter and a municipal charter, this chapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.006. AGREEMENTS. (a) In this section, "agreement" includes a contract, lease, conveyance, contract of sale, or lease-purchase contract.

(b) The governing body of a municipality may enter into an agreement with any person with respect to a facility, including an agreement in connection with or incidental to the acquisition, financing, construction, or operation of a facility, if the governing body:

(1) considers the agreement necessary or convenient to implement this chapter; and

(2) authorizes the agreement by ordinance or resolution.

(c) The mayor or other presiding officer of the municipality must execute the agreement, and the municipal secretary or clerk must attest to the agreement.

(d) An agreement entered into by a municipality under this chapter is binding on the municipality and its governing body.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.007. EMINENT DOMAIN. (a) A municipality may exercise the power of eminent domain to acquire the fee simple title to, an easement in, or a right-of-way over or through any property, including water or land under water, that the governing body of the municipality determines necessary to accomplish a purpose provided by Section 317.003.

(b) A municipality may not condemn property under Subsection (a) if the property is used for cemetery purposes.

(c) A municipality shall pay adequate compensation to the owner

of property that is taken, damaged, or destroyed in the accomplishment of a purpose provided by Section 317.003.

(d) A municipality may pay compensation and damages adjudicated in a condemnation proceeding or damage to the property of a person in the accomplishment of a purpose provided by Section 317.003 from:

- (1) the proceeds of tax or revenue bonds issued under this chapter; or
- (2) other available municipal money.

(e) Chapter 21, Property Code, governs the procedure for the exercise of the power of eminent domain under this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

SUBCHAPTER B. MANAGEMENT AND CONTROL OF FACILITIES; BOARD OF TRUSTEES

Sec. 317.051. DEFINITION. In this subchapter, "board" means a board of trustees established under Section 317.052.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.052. MANAGEMENT AND CONTROL BY GOVERNING BODY OR BOARD. An ordinance authorizing the issuance of revenue bonds under this chapter may provide that while the principal of or interest on the bonds is outstanding, and regardless of whether the facility is encumbered under Section 317.112, management and control of the facility is vested in:

- (1) the governing body of the municipality; or
- (2) the board of trustees named in the ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.053. COMPOSITION OF BOARD. A board may consist of not more than seven members, one of whom must be a member of the governing body of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.054. ORGANIZATION AND DUTIES OF BOARD. (a) An

ordinance under Section 317.052 that vests management and control of a facility in a board must:

- (1) specify the board members' compensation, which may not exceed five percent of the gross revenue of the facility;
- (2) specify the members' terms of office;
- (3) specify the members' powers and duties and the manner of exercising those powers and duties;
- (4) provide for the election or appointment of the members' successors; and
- (5) specify any other matter relating to the members' organization and duties.

(b) On any matter not covered by the ordinance, the board is governed by the laws and rules governing the governing body of the municipality to the extent applicable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

SUBCHAPTER C. BONDS

Sec. 317.101. DEFINITION. In this subchapter, "net revenue" means the gross revenue derived from the operation or use of a facility the net revenue of which is pledged to the payment of a bond less the reasonable expenses of maintaining and operating the facility, including necessary repair and insurance of the facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.102. AUTHORITY TO ISSUE BONDS. The governing body of a municipality by ordinance may issue tax bonds, revenue bonds, or both to provide money for a facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.103. ELECTION. (a) Tax bonds, other than refunding bonds, may be issued only if authorized by a majority of the qualified voters voting at an election held under Chapter 1251, Government Code.

(b) The governing body of a municipality may:

- (1) submit a proposition for the issuance of revenue bonds

at an election held in the manner provided by Subsection (a) for tax bonds; or

- (2) issue revenue bonds without an election.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.104. MATURITY. A bond issued under this chapter must mature not later than 40 years after its date.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.105. SIGNATURES. A bond issued under this chapter must be signed by the mayor or presiding officer of the municipality and countersigned by the municipal secretary or clerk.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.106. SALE OF BONDS. A municipality may sell bonds issued under this chapter at a public or private sale under terms determined by the governing body to be the most advantageous and reasonably obtainable.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.107. CONTENTS OF ORDINANCE AUTHORIZING ISSUANCE OF REVENUE BONDS. (a) The ordinance of the governing body of the municipality authorizing the issuance of revenue bonds and the related proceedings may:

- (1) provide for the flow of funds and the establishment and maintenance of an interest and sinking fund, reserve fund, or other fund;

- (2) specify a depository for the money; and

- (3) contain any additional covenant, as considered appropriate, with respect to the bonds, the pledged revenue, and the operation and maintenance of each facility the net revenue of which is pledged, including provisions for:

- (A) the lease of a facility; and

(B) the use or pledge of money derived from that lease.

(b) The ordinance or related proceeding may:

(1) prohibit the further issuance of bonds or other obligations payable from pledged revenue; or

(2) reserve the right to issue additional bonds to be secured by a pledge of and payable from the net revenue on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to any condition provided by the ordinance or related proceeding.

(c) The ordinance or related proceeding may contain any other provision or covenant determined by the governing body.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.108. ADOPTION AND EXECUTION OF DOCUMENTS. The governing body of a municipality may adopt and have executed any other proceeding or instrument necessary or convenient in the issuance of revenue bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.109. REVIEW AND APPROVAL OF CONTRACTS RELATING TO REVENUE BONDS. (a) If revenue bonds issued under this chapter state that they are secured in whole or in part by a pledge of the proceeds from a contract between the municipality and another person, a copy of the contract and of the proceedings authorizing the contract must be submitted to the attorney general with the bond record.

(b) The approval by the attorney general of the bonds is approval of the contract.

(c) After approval, the contract is incontestable except for forgery or fraud.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.110. SECURITY FOR AND PAYMENT OF BONDS PAYABLE FROM REVENUE. (a) Revenue bonds may be secured by a pledge of and paid from:

(1) the net revenue derived from the operation or use of

all or a designated part of a facility then in existence or to be improved, constructed, or acquired;

(2) the revenue, proceeds, or payments that will accrue to or be received by the municipality under a lease-purchase contract or contract of sale relating to a facility; or

(3) a combination of those sources.

(b) While the principal of or interest on bonds is outstanding, the municipality shall:

(1) impose and collect charges in an amount sufficient to pay:

(A) maintenance and operation expenses of the facility the net revenue of which is pledged;

(B) the interest on the bonds as it accrues; and

(C) the principal of the bonds as the bonds mature;

and

(2) make any other payment prescribed by the ordinance or other proceeding authorizing or relating to the issuance of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.111. USE OF CERTAIN PROCEEDS. From the proceeds of bonds issued under this chapter, the governing body of a municipality may appropriate or set aside:

(1) an amount for the payment of interest expected to accrue while a facility is under construction;

(2) an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds; and

(3) in the case of revenue bonds, an amount required by the ordinance authorizing the issuance of the bonds to be deposited to the credit of a reserve fund or other fund specified by the ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.112. ENCUMBRANCE AS ADDITIONAL SECURITY. (a) As additional security for the payment of revenue bonds issued under this chapter, the governing body of a municipality may have executed in favor of the bondholders an indenture or deed of trust that

encumbers all or part of a facility the net revenue of which is pledged to the payment of the bonds, including the land on which the facility is located.

(b) An indenture or deed of trust entered into under this section:

(1) may contain terms considered proper by the governing body;

(2) may provide for a grant, to any purchaser at a foreclosure sale, of a franchise to operate the facility for a term not to exceed 40 years from the date of the purchase, subject to all laws regulating same then in force; and

(3) is enforceable in the manner provided under the laws of this state for the enforcement of other encumbrances.

(c) Under a sale ordered under the provisions of an encumbrance entered into under this section, the purchaser and the purchaser's successors or assigns are vested with:

(1) a permit or franchise to maintain the facility that conforms to the provisions stipulated in the indenture or deed of trust;

(2) powers and privileges similar to those of the municipality in the operation of the facility; and

(3) the right to remove all or part of the facility for diversion to other purposes.

(d) The laws of this state other than this chapter do not apply to the authorization or execution of an encumbrance entered into under this chapter or to the granting of a franchise under this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

SUBCHAPTER D. REFUNDING BONDS

Sec. 317.151. APPLICABILITY OF LAW RELATING TO ORIGINAL BONDS. The provisions of this chapter relating to original bonds apply to refunding bonds issued under this chapter to the extent the provisions can be made to apply.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.152. AUTHORITY TO ISSUE TAX REFUNDING BONDS. (a) The

governing body of a municipality by ordinance may issue tax bonds under this chapter to refund outstanding original or refunding bonds issued by the municipality under this chapter and the accrued interest on those bonds.

(b) Refunding bonds issued under this section may be issued to refund tax bonds of more than one series or issue.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.153. AUTHORITY TO ISSUE REVENUE REFUNDING BONDS. The governing body of a municipality by ordinance may issue revenue bonds under this chapter to refund outstanding original or refunding revenue bonds issued by the municipality under this chapter and the accrued interest on those bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.154. TERMS OF ISSUANCE OF REVENUE REFUNDING BONDS.

(a) Revenue refunding bonds may:

(1) be combined with new or original revenue bonds into one series or issue;

(2) be issued to refund bonds of more than one series or issue;

(3) combine the pledges securing the bonds to be refunded to secure the revenue refunding bonds; or

(4) be secured by a pledge of other or additional net revenue.

(b) Revenue refunding bonds may bear interest at a rate higher than that of the bonds to be refunded.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.155. REGISTRATION OF REFUNDING BONDS BY COMPTROLLER.

(a) Except as provided by Subsection (b), the comptroller shall register refunding bonds on surrender and cancellation of the bonds to be refunded.

(b) The comptroller shall register refunding bonds without the surrender and cancellation of the bonds to be refunded if the

ordinance authorizing the issuance of the refunding bonds requires that the bonds be sold and the proceeds from the sale be deposited where the bonds to be refunded are payable.

(c) Refunding bonds to which Subsection (b) applies may be issued in an amount sufficient to pay the principal of and interest on the bonds to be refunded to the option or maturity date of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

Sec. 317.156. ESCROW AGREEMENT. (a) The proceeds from revenue refunding bonds that are deposited as provided by Section 317.155(b) shall be held under an escrow agreement so that the proceeds will be available to pay the principal of and interest on the bonds to be refunded as each becomes due.

(b) The escrow agreement may provide that the proceeds may, until needed to pay principal and interest, be invested in direct obligations of the United States.

(c) Interest earned on an investment described by Subsection (b) shall be considered revenue of the facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 24, eff. Sept. 1, 1999.

SUBTITLE F. PRIVATE CAUSEWAYS, FERRIES, AND CERTAIN TOLL BRIDGES

CHAPTER 341. PRIVATE CAUSEWAYS

Sec. 341.001. DEFINITIONS. In this chapter:

- (1) "Commission" means the Railroad Commission of Texas.
- (2) "Structure" means a combination bridge, dam, dike, or causeway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 341.002. GENERAL AUTHORITY TO ACT. Subject to Chapter 33, Natural Resources Code, an individual, corporation, or association may purchase, build, own, maintain, and operate a structure across an arm, inlet, or saltwater bay of the Gulf of Mexico located entirely in this state to provide a causeway for vehicles, pedestrians, and railroads.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 341.003. CAUSEWAY CORPORATION. (a) A corporation may be formed and chartered under this chapter, Title 32, Revised Statutes, the Texas Business Corporation Act, or the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) for the purposes provided by Section 341.002.

(b) The corporation:

(1) is subject to regulation by the commission in regard to the powers and provisions of this chapter;

(2) may contract to convey to an individual or another corporation an easement for the use of its structure;

(3) may impose a reasonable toll for the use of the structure; and

(4) may not discriminate in the time for handling or in the amount charged for a toll.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 341.004. STATEMENT OF LOCATION; PRIORITY. (a) Not later than the 90th day after the date the building of a structure begins, the individual, corporation, or association that owns the structure shall file for record with the clerk of the county in which the greater part of the structure is located:

(1) a sworn statement showing:

(A) the location of the structure;

(B) the name and size of the structure;

(C) the name of the body of water the structure will cross;

(D) the date the work began; and

(E) the name of the individual, corporation, or association; and

(2) a map designating the location of the structure.

(b) The right of the individual, corporation, or association to build the structure relates back to the time of the filing of the statement and the map, and the first individual, corporation, or association to file has priority over a subsequent filing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 341.005. ACQUIRING NECESSARY PROPERTY. (a) An individual, corporation, or association authorized to act by this chapter may acquire by purchase or by the exercise of the right of eminent domain any approach the individual, corporation, or association considers necessary for a structure.

(b) Subject to Chapter 51, Natural Resources Code, the state grants to an individual, corporation, or association acting as authorized by this chapter 500 feet on each side of the structure with the right only to dredge from that area or beyond for material required to construct or maintain the causeway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 341.006. LEASING OF STRUCTURE. (a) The individual, corporation, or association that owns a structure may lease the right-of-way over the structure to:

(1) a municipality for public utilities owned and operated by the municipality; or

(2) a corporation to construct railroad tracks to operate a steam or electric train or car.

(b) An individual, corporation, or association by leasing the right-of-way may not:

(1) obstruct or interfere with a pedestrian's or vehicle's use of the structure; or

(2) permit a monopoly.

(c) The commission may prescribe the terms of a lease to a railroad corporation.

(d) If approved by the commission, a corporation that leases the right-of-way over the structure may:

(1) contract with the individual, corporation, or association that owns the structure to pay all money due under the contract; and

(2) issue and sell bonds up to the amount of its obligation to the individual, corporation, or association.

(e) A railroad corporation that leases the right-of-way over the structure may only charge for the use of the tracks as a part of mileage according to statutory rates and the general laws of this

state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 342. FERRIES AND CERTAIN TOLL BRIDGES

SUBCHAPTER A. GOVERNMENT-OWNED FERRIES

Sec. 342.001. FERRY CONNECTING STATE HIGHWAYS. (a) The department may purchase, construct, maintain, operate, or control a ferry that crosses:

(1) a bay, arm, channel, or saltwater lake emptying into the Gulf of Mexico;

(2) an inlet of the Gulf of Mexico; or

(3) a river or other navigable body of water.

(b) This section applies only if:

(1) the ferry connects designated state highways; or

(2) the ferry connects a designated highway of this state and a designated highway of an adjoining state that by statute provides for the acquisition, construction, and maintenance of a ferry jointly by the states and for public use of the ferry as the states agree.

(c) The department shall use money from the state highway fund to carry out this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.002. COUNTY FERRIES. The commissioners court of a county may establish public ferries as required by the public interest.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 13.11(d), eff. Sept. 1, 1999.

Sec. 342.003. MELVIN O. LITTLETON FERRY LANDING. (a) In recognition of Melvin O. Littleton's outstanding supervision of the Port Aransas ferry for 30 years, the ferry landing owned by the department in Port Aransas is designated as the Melvin O. Littleton Ferry Landing.

(b) The department shall design and construct a memorial marker

at the ferry landing in Port Aransas indicating the designation as the Melvin O. Littleton Ferry Landing and any other appropriate information.

(c) The department shall repair and replace the marker required by this section and maintain the grounds for the marker.

(d) The department may accept a grant or donation to assist in financing the construction and maintenance of a marker.

Added by Acts 1999, 76th Leg., ch. 1036, Sec. 1, eff. Sept. 1, 1999.

Sec. 342.004. GALVESTON-PORT BOLIVAR FERRY AND PORT ARANSAS FERRY VEHICLE STICKERS. (a) The department may adopt rules to establish a system under which an owner of a motor vehicle may apply to the department for issuance of:

(1) a sticker for the vehicle that entitles the vehicle to have priority in boarding the Galveston-Port Bolivar ferry operated by the department; or

(2) a sticker for the vehicle that entitles the vehicle to have priority in boarding the Port Aransas ferry operated by the department.

(b) Any rules adopted under this section must:

(1) establish a design for the sticker for each ferry;

(2) designate the place where a sticker must be affixed to the windshield of the motor vehicle for which it is issued;

(3) establish an annual fee for a ferry vehicle sticker;

(4) prescribe forms necessary for the administration of this section; and

(5) ensure that a vehicle displaying a sticker issued under this section is given priority in boarding the applicable ferry only until the ferry reaches 50 percent of its vehicle capacity.

(c) The department shall deposit each fee collected under this section to the credit of the state highway fund.

Added by Acts 2003, 78th Leg., ch. 810, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER B. ESTABLISHING TOLL BRIDGE OR FERRY

Sec. 342.051. RIGHT OF PROPERTY OWNER TO OPERATE FERRY. (a) A person who owns land fronting a body of water may operate a public ferry across the water.

(b) A person who owns land on both sides of the body of water is entitled to the exclusive right of ferriage to and from the land owned.

(c) A person who owns land only on one side of the body of water may operate a public ferry between the person's land and land on the opposite side if the person obtains the consent of the owner of the other land. If the other landowner's consent cannot be obtained, the person may apply to the commissioners court of the county in which the other land is located for the establishment of a public road from the opposite side of the body of water.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.052. BRIDGE OR FERRY COMPANY'S INCORPORATION STATEMENT. The articles of incorporation of a company organized to erect a bridge or operate a ferry must state the body of water that the bridge or ferry is to cross.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.053. COMPANY'S GEOGRAPHICAL CLAIM. (a) The articles of incorporation of a company organized to erect and maintain a bridge or operate a ferry may specify the geographical area of the company's exclusive operations. No part of the area specified may be farther than three miles from the nearest point of the bridge or route of the ferry.

(b) Another toll bridge or ferry for hire may not be established on the same body of water within the area specified in the articles.

(c) Subsection (b) does not prohibit a bridge or ferry at the crossing of a road on the body of water that the commissioners court of the county in which the crossing is located declares to be a public road regardless of when that declaration is made.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. FERRY OPERATOR'S LICENSE AND DUTIES

Sec. 342.101. LICENSE REQUIREMENT. A person may not operate a

ferry for hire unless the person holds a license to operate the ferry issued under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.102. LICENSE APPLICATION. To obtain a license to operate a ferry a person must file an application with:

(1) the commissioners court of the county in which the ferry is located; or

(2) if the ferry is to be operated between land in different counties, the commissioners court of the county in which the applicant resides or has the ferry house.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.103. ISSUANCE OF LICENSE. (a) The commissioners court shall approve an application for a license to operate a ferry for hire if the applicant:

(1) shows that the applicant owns the land on which the ferry is to be established; and

(2) satisfies the court that the public convenience will be promoted by operation of the ferry.

(b) The commissioners court shall issue the license when the applicant:

(1) executes a bond in accordance with Section 342.104; and

(2) presents a receipt from the county treasurer for payment of the license fee imposed under Section 342.104.

(c) A license issued under this section expires on the first anniversary of the date it is issued and may be renewed annually.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.104. BOND; LICENSE FEE. (a) The holder of a license to operate a ferry annually shall execute a bond payable to and approved by the county judge conditioned on the license holder's compliance with this chapter.

(b) The commissioners court shall set the amount of the bond at

not less than \$1,000.

(c) The commissioners court may impose an annual license fee not to exceed \$100.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.105. FERRY OPERATION BETWEEN COUNTIES. (a) A person who holds a license to operate a ferry between two counties has the same rights and duties as a person licensed to operate a ferry exclusively in one county.

(b) A commissioners court other than the commissioners court that issues the license may not impose a tax or license fee on a ferry that operates between two counties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.106. TEMPORARY LICENSE. (a) Between regular terms of a commissioners court of a county a person may obtain from the county judge a temporary license to operate a public ferry until the next regular term of the commissioners court.

(b) The holder of a temporary license may impose the toll rates imposed at other ferries operating on the same body of water for which the temporary license is issued.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.107. DUTIES OF FERRY OPERATOR. The holder of a license to operate a ferry shall:

(1) at all times maintain good, safe, and substantial boats in sufficient number to readily accommodate the public;

(2) keep the banks used by the ferry in good repair and graded so that the ascent from the water's edge to the top of the bank does not exceed one foot in height for each seven feet from the water's edge; and

(3) readily attend a passenger wanting to cross with animals or other property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.108. GENERAL COUNTY AUTHORITY OVER FERRIES. The commissioners court of a county may exercise general control over all ferries in the county.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 13.11(e), eff. Sept. 1, 1999.

SUBCHAPTER D. COUNTY REGULATION OF TOLLS

Sec. 342.201. TOLLS FOR BRIDGES AND FERRIES. The commissioners court of a county, by an order made at a regular term and entered on the minutes of the court, shall regulate the toll for crossing any bridge or ferry in the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.202. ESTABLISHING AND CHANGING FERRY TOLL RATES. (a) When a commissioners court issues a license to operate a ferry, the court shall state in its record the toll rate that may be charged for ferrying property usually transported by a ferry.

(b) The commissioners court may at its first term of the year, and shall at another term on the petition of 20 residents of the county, revise and if necessary change the toll rate for ferries in the county.

(c) The county clerk shall:

(1) record toll rates, including changes; and
(2) deliver to each person holding a license to operate a ferry issued by the county a copy of the record, signed and sealed by the clerk.

(d) A change of toll rate may not take effect before the 31st day after the date on which the change is made.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.203. FERRY CHARGE ON SWIMMING COW OR HORSE. The commissioners court may not authorize a charge of more than one cent for each cow or horse swimming the river at a location for which a

license is issued to operate a ferry, including the use of a pen or boat necessary to control the animal.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.204. REFUSAL TO OPERATE AT AUTHORIZED TOLL RATES. (a) If the holder of a license to operate a ferry refuses to operate at the toll rates authorized by the commissioners court, the court may issue a license to operate the ferry to another person who agrees to operate the ferry at those rates.

(b) If the former license holder requests, the person who receives a license under this section shall purchase the ferry boat in use at the location at the valuation placed on it by two residents of the vicinity where the ferry is operated. The former license holder and the person receiving the license each shall choose one of the residents.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.205. CHARGE IMPOSED ON CERTAIN INTERSTATE FERRIES. If a body of water forms a part of the boundary between this state and another state and the other state imposes a charge to land a ferry from this state in that state, the commissioners court of a county may impose a charge equal to the amount of that charge to land a ferry from that state in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. CIVIL LIABILITY OF BRIDGE OR FERRY OWNER AND OPERATOR

Sec. 342.301. LIABILITY OF BRIDGE OR FERRY OWNER. The owner of a toll bridge or ferry for hire is liable for damage caused by neglect, delay, or insufficiency of the bridge or ferry boat.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.302. OPERATING FERRY WITHOUT LICENSE. (a) If a person operates a ferry for hire over a body of water and does not

hold a license required under this chapter, the person is liable to:

(1) the county from which a license is required under this chapter; and

(2) each person who holds a license to operate a ferry on the same body of water in that county.

(b) The amount of liability to each person described by Subsection (a)(1) or (2) is \$5 for each person transported and \$5 for each article transported that is subject to a separate toll.

(c) A suit under this section must be filed in a justice court of the county described by Subsection (a)(1).

(d) A person described by Subsection (a)(1) or (2) who prevails in an action brought under this section is also entitled to recover costs of suit.

(e) The county treasurer may file suit under this section on behalf of the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.303. CHARGE OF EXCESSIVE TOLL RATE. (a) If the holder of a license to operate a ferry charges and receives from a person a toll at a rate greater than the rate authorized by the commissioners court, the license holder is liable to the person in the amount of \$5 for each violation.

(b) A suit under this section must be filed in a justice court of the county in which the license is issued.

(c) A person who brings a suit under this section and prevails is entitled to recover costs of suit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.304. FAILURE TO SERVE. (a) If the holder of a license to operate a ferry, on being tendered the authorized toll, does not, without reasonable cause, transport a person or the person's property of the type usually transported by the ferry, the holder is liable to the person in the amount of \$2 for each 30 minutes of delay.

(b) A suit under this section must be filed in a justice court of the county in which the license is issued.

(c) A person who brings suit under this section and prevails is

also entitled to recover costs of suit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.305. FAILURE TO POST TOLL RATES. (a) The holder of a license to operate a ferry shall post and maintain at the ferry or ferry house for inspection a list of toll rates authorized by the commissioners court for the ferry.

(b) A person who violates Subsection (a) is liable for \$4 for each violation.

(c) Each week a person violates Subsection (a) is a separate violation.

(d) Any person may bring suit in a justice court of the county in which the license is issued to collect the amount due under this section. One-half of the amount collected shall be paid to the county and one-half shall be paid to the person who brings the suit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.306. RECOVERY UNDER BOND OR FROM SURETY. (a) A person injured by a license holder's violation of a condition of the bond required under Section 342.104 may sue on the bond in the person's name for recovery of the amount due because of the violation.

(b) If a judgment is obtained against a license holder for a violation of this chapter and execution is returned because no property of the license holder can be found on which to levy to satisfy judgment, the justice to whom execution is returned shall cite the license holder's sureties to appear and show cause why judgment should not be entered against the sureties for the amount of the judgment against the license holder that is not satisfied.

(c) If the sureties do not show cause as described by Subsection (b), the justice shall enter judgment and issue execution for satisfaction of judgment against the sureties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. OFFENSES RELATING TO OPERATION OF FERRY

Sec. 342.401. FAILURE TO PERFORM DUTIES; CHARGING EXCESSIVE TOLL RATE. A person who holds a license to operate a ferry shall be fined not less than \$10 or more than \$100 if the person:

- (1) violates Section 342.107; or
- (2) charges a toll at a rate greater than the rate

authorized by the commissioners court for the ferry.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 342.402. FAILURE TO OBTAIN LICENSE. A person shall be fined not less than \$50 or more than \$200 if the person violates Section 342.101.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBTITLE G. TURNPIKES AND TOLL PROJECTS

Text of chapter as repealed by Acts 2009, 81st Leg., R.S., Ch. 87
(S.B. 1969), Sec. 23.003 effective September 1, 2009

CHAPTER 361. STATE HIGHWAY TURNPIKE PROJECTS

SUBCHAPTER G. USE OF TURNPIKE PROJECTS

SUBCHAPTER I. PARTICIPATION IN TURNPIKE PROJECTS

CHAPTER 362. TURNPIKES AND TOLL PROJECTS

SUBCHAPTER A. JOINT TURNPIKE PROJECTS

SUBCHAPTER B. COMMISSION APPROVAL OF TOLL PROJECTS

Sec. 362.051. COMMISSION APPROVAL OF TOLL PROJECT REQUIRED.

(a) Except as provided by Section 362.055, a governmental or private entity must obtain the commission's approval before beginning construction of a toll road, toll bridge, or turnpike that is to be a part of the state highway system.

(b) In deciding whether to approve a proposed toll road, toll bridge, or turnpike, the commission shall consider:

- (1) the feasibility of effectively integrating the toll road, toll bridge, or turnpike into the state highway system; and
- (2) the ability of the department to construct any connecting roads necessary for the toll road, toll bridge, or turnpike to produce sufficient revenue to pay the debt incurred for its construction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 362.054. BONDS NOT CONSIDERED OBLIGATIONS OF STATE. Bonds or other debt obligations of a political subdivision reviewed under this subchapter are obligations of the issuing entity and are not obligations of the state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 362.055. EXCEPTION. This subchapter does not apply to:

- (1) a county that has a population of more than two million;
- (2) a local government corporation created under Chapter 431 by a county that has a population of more than two million; or
- (3) a regional tollway authority created under Chapter 366.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 7.02, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 126, eff. September 1, 2011.

SUBCHAPTER C. PRIVATE TURNPIKES AND TOLL PROJECTS

Sec. 362.101. DEFINITION. In this subchapter, "turnpike or toll project" means a road, highway, bridge, ferry, or similar project that is financed in whole or in part through the issuance of revenue bonds payable from toll revenue collected from users. The term does not include a project constructed, operated, maintained, or financed:

- (1) under Chapter 361; or
- (2) by a toll road authority created by a county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 362.102. COMMISSION APPROVAL OF PRIVATE TURNPIKE OR TOLL PROJECT REQUIRED. Notwithstanding any other provision of law, a private entity may not construct a privately owned turnpike or toll project that connects to a road, bridge, or highway in the state

highway system unless the commission approves the private turnpike or toll project as provided by this subchapter. Before the commission may approve a private turnpike or toll project, the commission must hold a public meeting concerning the project in the region in which the project will be located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1247 (H.B. 565), Sec. 1, eff. June 20, 2015.

Sec. 362.103. RULES. The commission shall adopt procedural and substantive rules relating to approval of a project under this subchapter, including rules requiring consideration of:

(1) the integration of the project into the state highway system embodied in the existing regional transportation plan, including the plan developed by the metropolitan planning organization, if any, of a municipality the territory or extraterritorial jurisdiction in which the project is proposed to be located;

(2) the potential effect of the project on the economy of the region in which the project is located, including the economy of each county in which the project is located and the economy of each municipality in those counties; and

(3) the potential effect of the project on the free flow of trade between the United Mexican States and this state, if the project is located in whole or in part in:

(A) a county bordering the United Mexican States; or

(B) a county adjacent to a county described by

Paragraph (A).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 362.104. FEASIBILITY, ALIGNMENT, AND ENVIRONMENTAL STUDIES. A private entity shall conduct studies concerning the feasibility, route or alignment, and environmental effect of a proposed turnpike or toll project before requesting approval under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 362.105. USE OF EMINENT DOMAIN BY TOLL ROAD CORPORATION. Notwithstanding Section 30, Chapter 766 (H.B. 749), Acts of the 72nd Legislature, Regular Session, 1991, a corporation that has the powers, rights, and privileges of a corporation created under former Chapter 11, Title 32, Revised Statutes, as that law existed on August 31, 1991, other than a corporation to which Section 431.073(c) applies, may not exercise the power of eminent domain granted under that former law.

Added by Acts 2015, 84th Leg., R.S., Ch. 1247 (H.B. 565), Sec. 2, eff. June 20, 2015.

Sec. 362.106. AGREEMENT WITH TOLL PROJECT ENTITY. (a) In this section, "toll project entity" has the meaning assigned by Section 372.001.

(b) A private toll project entity may enter into an agreement with a public toll project entity to finance, construct, maintain, or operate a toll road.

Added by Acts 2015, 84th Leg., R.S., Ch. 1247 (H.B. 565), Sec. 2, eff. June 20, 2015.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 362.901. FREE USE OF TOLL PROJECT BY MILITARY VEHICLES.

(a) The commission and the governing body of each local governmental entity or private entity that operates a toll project shall adopt rules to allow a military vehicle to use toll projects without payment of a toll or fare.

(b) A rule adopted under this section must:

(1) allow a convoy of military vehicles of this state, another state, or the United States to use the toll project without payment of a toll or fare; and

(2) allow individual military vehicles to use the toll project without payment of a toll or fare, to the greatest extent practicable, considering the technological and personnel limitations of operating the toll project.

(c) A person who claims a privilege under a rule adopted under this section to which the person is not entitled commits an offense. An offense under this subsection is a Class C misdemeanor.

(d) In this section:

(1) "Military vehicle" includes an unmarked military vehicle operated by military personnel conducting an emergency preparedness, response, or recovery operation or participating in a training exercise for an emergency preparedness, response, or recovery operation. The term does not include a vehicle operated for personal use.

(2) "Toll project" includes a toll road, toll highway, turnpike, toll bridge, ferry, or similar project, users of which are required to pay a toll or fare.

Added by Acts 2003, 78th Leg., ch. 157, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 747 (H.B. [1274](#)), Sec. 1, eff. June 17, 2011.

Sec. 362.902. INCLUSION OF TOLL PROJECTS IN UNIFIED TRANSPORTATION PROGRAM. The department shall adopt and include in the unified transportation program of the department a list of transportation projects in each department district that the department considers to be eligible and feasible for tolling. A transportation project that is included in the list is not required to be operated as a toll project.

Added by Acts 2005, 79th Leg., Ch. 534 (H.B. [962](#)), Sec. 1, eff. September 1, 2005.

CHAPTER 363. COUNTY TOLL BRIDGES

Sec. 363.001. DEFINITION. In this chapter, "contractor" includes a contractor's successor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 363.002. CONTRACT FOR TOLL BRIDGE. (a) The commissioners court of a county may contract for the construction of a toll bridge

over a large creek or watercourse if it is inexpedient for the county to build the bridge.

(b) The commissioners court shall determine the toll to be imposed for crossing the bridge.

(c) The commissioners court may grant to the contractor the right to the tolls for a period not to exceed 10 years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 363.003. DUTY TO REPAIR; FORFEIT OF TOLLS. (a) The contractor shall maintain the bridge during the term of the contract.

(b) A contractor who fails to maintain the bridge forfeits all right to the tolls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 363.004. SURETY BOND; ACTION ON BOND. (a) Before granting a license to a contractor to construct a toll bridge, the commissioners court shall require a bond in the amount of \$1,000 with a good and sufficient surety. The bond shall be conditioned on:

(1) the construction of the bridge by the contractor; and
(2) the maintenance of the bridge by the contractor for the agreed term.

(b) A person who sustains damage because a contractor has not complied with the conditions of the bond may:

(1) sue the contractor on the bond; and
(2) recover any judgment for damages.

(c) A suit for damages under this section shall be brought in the county in which the license is granted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 363.005. COUNTY TOLLS. The commissioners court of a county that issues bonds to construct a bridge may, under rules adopted by the commissioners court, impose tolls sufficient to:

(1) pay the interest on the bonds; or
(2) pay the interest and create a sinking fund for payment of the principal at maturity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 364. TOLL BRIDGES IN COUNTIES BORDERING THE RIO GRANDE
SUBCHAPTER A. ESTABLISHMENT OF TOLL BRIDGE AND GENERAL PROVISIONS

Sec. 364.0001. DEFINITION. (a) Except as provided by Subsection (b), in this chapter, "bridge" includes a bridge used by vehicles, pedestrians, or railroads, or a combination of vehicles, pedestrians, or railroads.

(b) For the purposes of this chapter, "bridge" does not include a railroad bridge in a county with a population of more than 675,000.

Added by Acts 2007, 80th Leg., R.S., Ch. 530 (S.B. 893), Sec. 1, eff. June 16, 2007.

Sec. 364.001. AUTHORITY TO ACQUIRE TOLL BRIDGE. (a) A county bordering the Rio Grande, acting through the commissioners court of the county, as a part of its road and bridge system may acquire a toll bridge by any method, including by:

(1) construction; or

(2) purchase of an entire toll bridge or only that part of the toll bridge that is located in this state.

(b) The county is not required to:

(1) hold an election to authorize the acquisition of a toll bridge under this chapter;

(2) give or publish notice of its intent to acquire a toll bridge under this chapter; or

(3) advertise or call for competitive bids in connection with the acquisition of a toll bridge under this chapter.

(c) The county may acquire a toll bridge owned by a corporation by purchasing the toll bridge itself or by purchasing all of the capital stock of the corporation or a sufficient amount of the stock as required by law to dissolve and liquidate the corporation. The county may take title to the stock in the name of the county or in the name of a trustee for the county. After purchasing the stock, the county or its trustee shall:

(1) vote its shares in the corporation as necessary to vest title to the toll bridge, together with any associated right or property described by Section 364.002 to be acquired in connection

with the acquisition of the toll bridge, in the county; and

(2) immediately dissolve and liquidate the corporation, pay its debts, liabilities, and obligations, wind up its business and affairs, and convey the properties to the county.

(d) The purchase and acquisition of toll bridge property or stock in a corporation under this section must be made at the price and on the terms agreed on by the owners of the property or stock and the commissioners court. The commissioners court shall act under this subsection by appropriate resolution or order consistent with this chapter.

(e) A county may not acquire a toll bridge under this chapter by eminent domain.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.002. RIGHTS AND PROPERTIES ASSOCIATED WITH TOLL BRIDGE. When a county acquires a toll bridge under Section 364.001, the county may, as determined by the commissioners court of the county, acquire any or all of the following items in connection with the toll bridge:

(1) a permit, grant, franchise, right, or privilege granted or extended by the United States, the United Mexican States, or a state, municipality, or political subdivision of the United States or United Mexican States, for or related to the maintenance or operation of the toll bridge or the collection of a toll or charge for the use of the toll bridge;

(2) an interest in real property in either the United States or the United Mexican States that is held or used for or incident to the maintenance or operation of the toll bridge or an approach to it, or for the use or occupancy of any building or other structure, appurtenance, appliance, road or street, park, grounds, or convenience or facility of any kind relating to or incident to the maintenance or operation of the toll bridge;

(3) a building or other structure, appurtenance, appliance, equipment, convenience, or facility of any kind held or used for or incident to the maintenance or operation of the toll bridge; or

(4) any other right or property used for or incident to the maintenance or operation of the toll bridge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.003. LIBERAL CONSTRUCTION. This chapter shall be liberally construed to effect its purposes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.004. AGREEMENTS RELATING TO TOLL BRIDGE. (a) A county may enter into and make payments under an agreement with a private entity or another governmental entity to acquire, construct, maintain, or operate a toll bridge, including an international toll bridge, and a private or governmental entity in this state may enter into an agreement with a county for that purpose.

(b) In connection with or in support of an agreement entered into under Subsection (a), the county may enter into a lease, an operating agreement, a service agreement, a license agreement, a franchise agreement, or a similar agreement with a private entity or another governmental entity.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 400 , Sec. 1, eff. June 10, 2015.

Added by Acts 2007, 80th Leg., R.S., Ch. 530 (S.B. 893), Sec. 2, eff. June 16, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 400 (H.B. 1833), Sec. 1, eff. June 10, 2015.

SUBCHAPTER B. ADMINISTRATION OF TOLL BRIDGES

Sec. 364.021. APPLICATION OF SUBCHAPTER. This subchapter applies only to a county that acquires a toll bridge under Section 364.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.022. MAINTENANCE AND OPERATION OF TOLL BRIDGES. (a) A county through the commissioners court of the county may own, hold, control, maintain, and operate the toll bridge and may make or provide for any repairs or improvements to the bridge. To carry out

this subsection, the county may acquire property by eminent domain under general law.

(b) The county may:

(1) renew or extend an existing franchise or obtain a new or additional franchise for the toll bridge; and

(2) render services to the public and to the users of the toll bridge.

(c) To accomplish the purposes of this section, the county may enter into and carry out a contract, agreement, or undertaking of any kind required by the United States or the United Mexican States or a department, officer, governmental agency, or public authority of the United Mexican States.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.023. OPERATING BOARD. The commissioners court of a county by the resolution or order providing for the issuance of bonds under this chapter or by the trust indenture securing those bonds may provide that the toll bridge be operated by an operating board if the court determines that the bridge could be better and more efficiently operated by the board. The operating board:

(1) is appointed as provided by the resolution, order, or trust indenture; and

(2) has the powers granted by the resolution, order, or trust indenture but may not be granted the power of eminent domain or the power to borrow money.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.024. RECREATIONAL FACILITIES. (a) A county, in connection with the maintenance and operation of the toll bridge, may acquire real property or another site adjacent to the toll bridge to construct, maintain, or operate a park, recreational grounds or facilities, a camp, quarters, accommodations, or other facility for the use and convenience of the public. The county may manage and regulate those facilities and may adopt and enforce reasonable rules for those facilities.

(b) A county may not acquire property under this section by eminent domain.

(c) The county may impose a fee, rental, or other charge for the use of a facility established under this section. The charge must be just, reasonable, and nondiscriminatory.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. BONDS AND FINANCES

Sec. 364.041. TOLLS. (a) A county that acquires a toll bridge under this chapter or that owns or controls any international toll bridge, by order or resolution of the commissioners court, may impose tolls and other charges for the use of the bridge and for the transportation of persons or property, including passengers, vehicles, or freight and commodities, over the bridge.

(b) In accordance with any applicable permit or franchise granted by a governmental authority, the tolls must be just, reasonable, nondiscriminatory, and sufficient to provide revenue in an amount that is at least adequate to:

(1) pay all expenses necessary to maintain and operate the toll bridge or bridges;

(2) make necessary payments and comply with any applicable permit or franchise;

(3) pay the interest on and principal of all bonds or warrants issued under this chapter as due;

(4) pay as due all sinking fund or reserve fund payments agreed to be made in connection with bonds or warrants issued under this chapter and payable from that revenue;

(5) comply with any agreement made with the holders of bonds or warrants issued under this chapter or with any person on behalf of those holders; and

(6) recover a reasonable rate of return on invested capital.

(c) The commissioners court may use revenue received under this section in excess of the amounts required by Subsection (b) to:

(1) establish a reasonable depreciation and emergency fund;

(2) retire by purchase and cancellation or by redemption any outstanding bonds or warrants issued under this chapter;

(3) provide needed budgetary support to local government for public purposes and the general welfare; or

(4) accomplish the purposes of this chapter.

(d) The commissioners court shall impose tolls and other charges under this section for use of a bridge subject to an encumbrance.

(e) This chapter does not deprive this state, the United States, or any other agency having jurisdiction of its power to regulate or control tolls and other charges to be collected for a purpose listed in Subsection (b) or (c).

(f) Until bonds or warrants issued under this chapter have been paid and discharged, together with all interest on the bonds or warrants, interest on unpaid interest installments on the bonds or warrants, other costs or expenses incurred in connection with any acts or proceedings taken by or on behalf of the holders of the bonds or warrants, and all other obligations of the county incurred in connection with the bonds or warrants, this state pledges to and agrees with the purchasers and successive holders of the bonds or warrants that it will not:

(1) limit or alter the power of a county to impose tolls and other charges under this section sufficient to pay the items listed in Subsection (b) or (c); or

(2) take any action that will impair the rights or remedies of the holders of the bonds or warrants or of persons acting on their behalf.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.042. AUTHORITY TO BORROW MONEY OR ACCEPT FEDERAL ASSISTANCE. (a) To accomplish the purposes of this chapter, a county may:

(1) borrow money from any person or corporation; or

(2) borrow money or accept grants from the United States or a corporation or agency created by or authorized to act as an agency of the United States.

(b) In connection with a loan or grant under Subsection (a)(2), a county may enter into any related agreement that the United States, corporation, or agency requires.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.02, eff. Sept. 1, 1999.

Sec. 364.043. AUTHORITY TO ISSUE BONDS. (a) A county, through the commissioners court, may issue, sell, and deliver negotiable bonds to accomplish the purposes of this chapter. The county may use the bonds or the proceeds of the sale of the bonds to acquire a toll bridge under this chapter or may exchange the bonds for property to accomplish the purposes of this chapter.

(b) Bonds issued under this chapter may be authorized by resolution or order from time to time.

(c) Except as required by Section 364.045, a county by resolution or order of its commissioners court may issue bonds under this chapter and use the bonds or proceeds from their sale as provided by this chapter without:

- (1) holding an election to authorize that action;
- (2) giving or publishing notice of the county's intent to take that action; or
- (3) advertising or calling for competitive bids in connection with that action.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.044. REVENUE BONDS. (a) Except for bonds issued under Section 364.045, bonds issued under this chapter are not a debt of the county issuing them and are a charge on and payable solely from the revenues of the toll bridge or bridges and appurtenances acquired through the issuance of the bonds, as provided by the bond proceedings.

(b) Revenue bonds issued under this chapter are not considered in determining the authority of a county to issue bonds for any purpose authorized by law.

(c) A revenue bond issued under this chapter must include the following clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.045. COMBINATION BONDS AND AD VALOREM TAX TO FINANCE INTERNATIONAL TOLL BRIDGE OR IMPROVEMENT. (a) A county may issue combination tax and revenue bonds to construct all or part of an

international toll bridge or other improvement spanning the Rio Grande and may impose an ad valorem tax to pay all or part of the bonds if the issuance of the bonds and the imposition of the tax are approved by a majority of the votes received at an election held in the county for that purpose.

(b) The commissioners court of a county may call an election under this section on its own motion at any regular session of the court. The commissioners court shall call an election under this section at the next regular session of the court following the submission to the court of a petition requesting the election signed by a number of registered voters of the county that is equal to at least one percent of the number of votes cast in the county in the most recent general election for governor.

(c) The election order and notice of election must include:

- (1) the purpose for which the bonds are to be issued;
- (2) the amount of the bonds;
- (3) the rate of interest; and

(4) a statement that unlimited ad valorem taxes are to be imposed annually on all taxable property in the county in amounts sufficient, together with revenues from the county toll bridge or toll bridge system, to pay the bonds at maturity.

(d) The bonds must be made payable from revenues of the county toll bridge or toll bridge system and from ad valorem taxes imposed and collected in accordance with Section 52, Article III, Texas Constitution. The ad valorem taxes must be imposed in amounts that, together with revenues from the county toll bridge or toll bridge system, are sufficient to retire the bonds.

(e) The county may execute an agreement, contract, or trust with a private entity or with the United Mexican States or a political subdivision, department, or agency of the United Mexican States to finance, construct, operate, or maintain an international toll bridge in its entirety or other improvement spanning the Rio Grande.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.046. MORTGAGE OR PLEDGE OF REVENUE TO SECURE BONDS. To accomplish any of the purposes of this chapter, a county authorized to issue bonds under this chapter with respect to those

bonds may:

(1) mortgage or pledge:

(A) all or part of any interest in the county's toll bridge or bridges, together with any associated right or property described by Section 364.002, or any other property acquired or to be acquired with the bonds or the proceeds of the sale of the bonds; or

(B) all or part of the net or gross revenues of any property described by Paragraph (A);

(2) secure the payment of the principal and interest on the bonds and of the sinking fund and reserve fund agreed to be established in connection with the bonds; and

(3) enter into any covenant or agreement with the purchasers of the bonds or any person on behalf of those purchasers with respect to the bonds to secure the payments described by Subdivision (2) and to provide rights and remedies to the purchasers or holders of the bonds or any person on their behalf as the commissioners court may provide by order or resolution.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.047. ADDITIONAL BONDS. (a) A county that has outstanding bonds payable from the revenue of a toll bridge or bridges may issue additional bonds to the extent and under the conditions prescribed by the provisions of the outstanding bonds and the proceedings related to those bonds, including any trust indenture securing those bonds. The additional bonds may be secured by a pledge of and a lien on the net revenues of the bridge or bridges on a parity with the outstanding bonds under the conditions set out in the proceedings or trust indenture securing and authorizing the outstanding bonds.

(b) A county that has acquired a toll bridge or bridges under this chapter may, in the manner provided by this chapter for the issuance of original bonds, issue and deliver subsequent bonds to repair, improve, reconstruct, or replace a toll bridge. The issuance of bonds under this subsection is subject to the restrictions contained in the resolution or order of the commissioners court authorizing the original bonds and in the deed of indenture, if any, securing the issuance of the original issue of bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.048. TERMS OF BONDS; NEGOTIABILITY. (a) The commissioners court may prescribe the terms and conditions of bonds issued under this chapter and determine the manner of their sale. The commissioners court by order or resolution shall determine:

- (1) the aggregate principal amount or amounts of the bonds;
- (2) the denominations of the bonds;
- (3) the date or dates of maturity;
- (4) the rate or rates of interest;
- (5) whether the bonds are payable annually or semiannually, and on what dates;
- (6) the form of the bonds;
- (7) the terms, provisions, and conditions of the bonds;
- (8) whether the bonds are coupon or registered bonds, and any registration privileges;
- (9) provisions for the call or redemption of the bonds before maturity; and
- (10) the place or places, in or outside of this state, at which the bonds are payable.

(b) Bonds issued under this chapter have all the qualifications and incidents of negotiable instruments as provided by the law of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.049. SALE OR EXCHANGE OF BONDS. A bond issued under this chapter may be:

- (1) sold for cash at a public or private sale at a price determined by the commissioners court;
- (2) issued on terms determined by the commissioners court in exchange for property of any kind or an interest in property of any kind, as the commissioners court determines is necessary and proper to accomplish a purpose of this chapter; or
- (3) issued in exchange for a bond of the same issue, matured or unmatured, in the same principal amount.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.050. TRUST INDENTURE. (a) Bonds issued under this chapter may be secured by a trust indenture between the county and a corporate trustee that is a trust company or a bank that has the powers of a trust company.

(b) The trust indenture may:

(1) pledge or assign the tolls, charges, and revenues from the operation of the toll bridge or bridges; or

(2) mortgage all or part of the toll bridge or bridges.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.051. DEPOSITORY OF BOND PROCEEDS AND OTHER REVENUE.

(a) Any bank or trust company in this state may be the depository of the proceeds of bonds issued under this chapter or revenues derived from the operation of a toll bridge acquired under this chapter.

(b) The cash proceeds of the sale shall be deposited in the depository and shall be paid under the terms and conditions agreed on by the commissioners court and the purchasers of the bonds.

(c) A depository may furnish the indemnity bonds or pledge the securities required by the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.052. RIGHTS OF BONDHOLDERS; RECEIVERS. (a) The trust indenture or the order or resolution authorizing the issuance of bonds under this chapter may include provisions to protect and enforce the rights and remedies of bondholders, including covenants determining the duties of the county in relation to:

(1) the acquisition of properties and the construction, maintenance, operation, repair, and insurance of the toll bridge or bridges; and

(2) the custody, safekeeping, and disposition of the county's toll bridge revenues.

(b) The holder of a bond issued under this chapter, including the trustee for a bondholder, in addition to all other rights may by mandamus or other judicial proceeding enforce the bondholder's rights against the county and its officers and employees, including the right to:

(1) require the county and its commissioners court:

(A) to impose and collect sufficient tolls and charges to carry out the agreements contained in the bond resolution or order or the trust indenture; or

(B) to perform each agreement or covenant in the bond resolution or trust indenture and each duty arising from the agreement or covenant; or

(2) apply for and obtain the appointment of a receiver for the toll bridge or bridges.

(c) A receiver appointed under this section may enter and take possession of and maintain a toll bridge and collect all revenues and tolls derived from the bridge in the same manner as the county. The receiver shall apply the money collected under this subsection in accordance with the county's obligations under the bond resolution or order or under the trust indenture and as the court may direct.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.053. REFUNDING BONDS. The commissioners court by resolution or order may issue bonds to refund outstanding bonds that were issued under this chapter, subject to any restriction in the bond resolutions or orders or in the trust indentures relating to the issuance of the bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.054. TAX EXEMPTIONS; PAYMENTS IN LIEU OF TAXES. (a) A county carrying out this chapter may not be required to pay an assessment on property acquired under this chapter.

(b) Bonds issued under this chapter, the transfer of those bonds, and income from those bonds, including profits from their sale, are exempt from taxation in this state.

(c) A county that purchases a toll bridge under this chapter from a private owner may make payments, in amounts determined by the commissioners court, in lieu of ad valorem taxes previously paid by the owner to any common or independent school district in which the property is located. The payments are considered operating expenses of the toll bridge for purposes of this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 364.055. LIMITATIONS ON COUNTY AUTHORITY. Except as provided by Section 364.045, this chapter does not authorize a county to:

- (1) impose or collect a tax or assessment or pledge the credit of this state; or
- (2) issue, sell, or deliver a bond, create an obligation, incur a liability, or enter an agreement to be paid, performed, met, or discharged using any tax or assessment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 365. ROAD DISTRICT TOLL ROADS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 365.001. DEFINITIONS. In this chapter:

(1) "Bonds" means tax bonds, tax and revenue bonds, revenue bonds, tax anticipation notes, revenue anticipation notes, grant anticipation notes, or a combination of those evidences of indebtedness.

(2) "District" means a district created under Chapter 441 or Subchapter B, Chapter 257.

(3) "Toll road project" means a road, street, highway, or turnpike constructed under this chapter and includes:

(A) a necessary bridge, overpass, underpass, interchange, entrance plaza, approach, toll structure, or service station;

(B) an administration, storage, or other necessary building; and

(C) property rights, easements, and interests acquired in connection with the project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.002. APPLICABILITY. This chapter applies only to a county with a population of 175,000 or more.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.003. DESIGNATION AS PART OF ROAD SYSTEM. A district may act to have a toll road become part of the state highway system or part of the road system of a county or municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.004. USE OF CERTAIN INTEREST. A district may use interest earned on its construction account for a purpose for which the district's financing documents permit the construction account to be used. For this purpose, the district's governing body may redeposit into the construction account any interest that has been transferred to the credit of an interest and sinking account.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. PROVIDING TOLL ROAD

Sec. 365.011. AUTHORITY TO PROVIDE TOLL ROAD. A district may construct, acquire, improve, operate, repair, maintain, and finance a toll road project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.012. TOLL ROAD DISTRICT POWERS. In exercising its authority under Section 365.011, a district has the powers of a county owning or operating a toll project under Chapter 284 regardless of whether the district is in a county to which that chapter applies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.013. NATURE AND LOCATION OF ROAD AND STRUCTURE. (a) A toll road must be all or part of a state highway or a major arterial road that connects two state highways, two federal highways, or a combination of state and federal highways.

(b) A district may not construct a toll structure within two miles of the intersection of the toll road and a federal highway unless the toll structure is located in a county with a population of

more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 7.27, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 669, Sec. 135, eff. Sept. 1, 2001.

Sec. 365.014. RIGHT OF FREE ACCESS OR PASSAGE. A district operating a toll road shall give to property that had access to and right of free passage on the road on or before August 28, 1989:

- (1) free access to the toll road; or
- (2) an alternative right of passage.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.015. USE OF PROPERTY OF GOVERNMENTAL ENTITY. (a) Notwithstanding any other law, a district may use for a toll road project any real property, right-of-way, or other property of a governmental entity regardless of when or how the property is acquired.

(b) The governing body of a governmental entity may, without advertising, convey title to or rights or easements in property needed for a toll road project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. FINANCIAL PROVISIONS

Sec. 365.031. AUTHORITY TO ISSUE BONDS. A district may issue bonds to finance a toll road project:

- (1) to the extent and for the purpose a county may pay the cost of a project under Chapter 284; and
- (2) as provided by Chapter 1371, Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.390, eff. Sept. 1, 2001.

Sec. 365.032. BOND ELECTION. (a) Bonds issued under this

chapter that are payable from ad valorem taxes must be approved at an election held as provided by Chapters 284 and 441.

(b) An election is not necessary for the issuance of bonds under this chapter, including refunding bonds, payable only from district revenues.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.033. SALE OF BONDS. The district may sell bonds under this chapter in the manner, at public or private sale, and for the prices that the district's governing body determines is in the district's best interest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.034. BOND SECURITY. Bonds issued under this chapter may be secured by a trust indenture between the district and a corporate trustee that is a trust company or a bank that has the powers of a trust company.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.035. BONDHOLDER PROTECTION. The trust indenture or the resolution or order authorizing the issuance of bonds under this chapter may include provisions to protect and enforce the rights and remedies of bondholders, including covenants determining the district's duties in relation to:

(1) the acquisition and financing of the toll road project;
and

(2) the custody, safeguarding, and application of the district's toll road revenues.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.036. REFUNDING BONDS. (a) A district may issue refunding bonds to refund its bonds under this chapter as provided by Chapter 1371, Government Code, and Chapter 441.

(b) Refunding bonds may be payable from taxes, revenues, or a combination of taxes and revenues.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.391, eff. Sept. 1, 2001.

Sec. 365.037. COUNTY AD VALOREM TAX. (a) A county may impose an ad valorem tax under Section 9, Article VIII, or Section 52, Article III, of the Texas Constitution, and contract to pay and pledge taxes in support of its obligation to a district and the district's bondholders.

(b) The tax proceeds shall be used annually to the extent required and for the payments provided by the county's contract with the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.038. COUNTY PAYMENTS RELATING TO DISTRICT BONDS. (a) A county in which a district is located may pay:

(1) part of the principal or redemption price of or interest on the district's bonds; or

(2) the cost of operating or maintaining the district's toll road project.

(b) The county may establish or maintain a reserve fund or a depreciation and replacement fund for the district's bonds or toll road project as a supplement to the district's pledge of revenue for those purposes or instead of a pledge of the district's revenue or taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.039. COUNTY BONDS AND CERTIFICATES OF OBLIGATION. A county may authorize, issue, and sell its bonds or certificates of obligation and use the proceeds to:

(1) call, redeem, and retire a district's outstanding bonds;

(2) remove the pledge of the revenue from a district's toll road project or other road, street, or highway project and the

district's covenants in connection with the bonds and toll road project; and

(3) make the toll road project available for use of the public free from tolls and charges.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.040. AUTHORITY FOR TOLLS AND CHARGES. A district may impose tolls and other charges for the use of a toll road project and may use toll revenue to retire outstanding indebtedness issued to pay the costs of a road providing service to the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.041. AMOUNT OF TOLLS. Revenue from tolls and other charges under Section 365.040 may be sufficient to:

(1) pay all expenses necessary to maintain and operate the toll road project;

(2) make necessary payments and otherwise comply with any permit or franchise for maintenance or operation of the toll road project;

(3) pay the principal and redemption price of and interest on all bonds that the district is obligated to pay, regardless of whether the bonds were issued as revenue bonds;

(4) pay all sinking fund or reserve fund payments agreed to be made in connection with bonds or other obligations as they become due and payable to establish a reasonable depreciation and emergency fund;

(5) comply with any agreement made with the holders of the district's bonds or other obligations or with another person on the bondholder's behalf; and

(6) recover a reasonable rate of return on invested capital.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.042. FINES AND PENALTIES. A district may impose fines and penalties as provided by Chapter 284 as if the district were a

county to which that chapter applies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.043. COUNTY EXPENSES. The district may reimburse a county, from any funds available to the district, for any expenses the county pays on behalf of the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 365.044. COSTS OF CERTAIN ACQUISITIONS AND ALTERATIONS. A transportation corporation, state agency, political subdivision, or road district that acquires, inside or outside the right-of-way of a project, an interest in real property required for or beneficial to a project or to adjust utilities for a project or design, construct, improve, or beautify a project, or that in exercising the power of eminent domain requires the relocating, raising, lowering, rerouting, changing of grade, or altering of construction of a railroad, highway, pipeline, or electric transmission or distribution, telegraph, or telephone line, conduit, pole, or facility shall pay the cost of that action so as to provide comparable replacement, less the salvage value, of any replaced facility.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 366. REGIONAL TOLLWAY AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 366.001. SHORT TITLE. This chapter may be cited as the Regional Tollway Authority Act.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.002. PURPOSES; LIBERAL CONSTRUCTION. (a) The purposes of this chapter are:

(1) the expansion and improvement of transportation facilities and systems in this state;

(2) the creation of regional tollway authorities to secure and acquire rights-of-way for urgently needed transportation systems and to plan, design, construct, operate, expand, extend, and modify those systems; and

(3) the reduction of burdens and demands on the limited money available to the commission and an increase in the effectiveness and efficiency of the commission.

(b) This chapter shall be liberally construed to effect its purposes.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.003. DEFINITIONS. In this chapter:

(1) "Authority" means a regional tollway authority organized under this chapter.

(2) "Board" means the board of directors of an authority organized under this chapter.

(3) "Bond" means all bonds, certificates, notes, and other obligations of an authority authorized by this chapter, any other statute, or the Texas Constitution.

(4) "Bond proceedings" means a bond resolution and any bond indenture authorized by the bond resolution, any credit agreement entered into in connection with the bonds or the payments to be made under the agreement, and any other agreement between an authority and another person providing security for the payment of bonds.

(5) "Bond resolution" means an order or resolution of an authority's board authorizing the issuance of bonds.

(6) "Bondholder" means the owner of bonds and includes a trustee acting on behalf of an owner of bonds under the terms of a bond indenture.

(7) "Highway" means a road, highway, farm-to-market road, or street under the supervision of the state or a political subdivision of the state.

(8) "Local governmental entity" means a political subdivision of the state, including a municipality or a county, a political subdivision of a county, a group of adjoining counties, a district organized or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, or a nonprofit

corporation, including a transportation corporation created under Chapter 431.

(9) "Revenue" means the tolls, rents, and other money received by an authority from the ownership or operation of a turnpike project.

(9-a) "Surplus revenue" means the revenue of a turnpike project or system remaining at the end of any fiscal year after all required payments and deposits have been made in accordance with all bond resolutions, trust agreements, indentures, credit agreements, or other instruments and contractual obligations of the authority payable from the revenue of the turnpike project or system.

(10) "System" means a turnpike project or any combination of turnpike projects designated as a system by the board under Section 366.034.

(10-a) "Toll assessment facility" means a location on a turnpike project where a vehicle that is driven or towed through the facility is assessed a toll for the use of the project.

(11) "Turnpike project" means a highway of any number of lanes, with or without grade separations, owned or operated by an authority under this chapter and any improvement, extension, or expansion to that highway, including:

(A) an improvement to relieve traffic congestion and promote safety;

(B) a bridge, tunnel, overpass, underpass, interchange, service road, ramp, entrance plaza, approach, or tollhouse;

(C) an administration, storage, or other building the authority considers necessary to operate the turnpike project;

(D) a parking area or structure, rest stop, park, and other improvement or amenity the authority considers necessary, useful, or beneficial for the operation of a turnpike project; and

(E) property rights, easements, and interests the authority acquires to construct or operate the turnpike project.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.01, eff. June 11, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1216 (S.B. 469), Sec. 1, eff. September 1, 2011.

Sec. 366.004. CONSTRUCTION COSTS DEFINED. (a) The cost of acquisition, construction, improvement, extension, or expansion of a turnpike project or system under this chapter includes the cost of:

- (1) the actual acquisition, construction, improvement, extension, or expansion of the turnpike project or system;
- (2) the acquisition of real property, rights-of-way, property rights, easements, and other interests in real property;
- (3) machinery and equipment;
- (4) interest payable before, during, and after acquisition, construction, improvement, extension, or expansion as provided in the bond proceedings;
- (5) traffic estimates, revenue estimates, engineering and legal services, plans, specifications, surveys, appraisals, construction cost estimates, and other expenses necessary or incidental to determining the feasibility of the construction, improvement, extension, or expansion;
- (6) necessary or incidental administrative, legal, and other expenses;
- (7) compliance with laws, regulations, and administrative rulings;
- (8) financing;
- (9) the assumption of debts, obligations, and liabilities of an entity relating to a turnpike project or system transferred to an authority by that entity; and
- (10) expenses related to the initial operation of the turnpike project or system.

(b) Costs attributable to a turnpike project or system and incurred before the issuance of bonds to finance the turnpike project or system may be reimbursed from the proceeds of sale of the bonds.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.57, eff. June 14, 2005.

SUBCHAPTER B. CREATION AND POWERS OF REGIONAL TOLLWAY AUTHORITIES

Sec. 366.031. CREATION AND EXPANSION OF A REGIONAL TOLLWAY AUTHORITY. (a) Two or more counties, acting through their respective commissioners courts, may by order passed by each commissioners court create a regional tollway authority under this chapter if:

(1) one of the counties has a population of not less than 300,000;

(2) the counties form a contiguous territory; and

(3) unless one of the counties has a population of two million or more, the commission approves the creation.

(b) The commission shall adopt rules to implement the provisions of this section by March 1, 1998.

(c) A commissioners court may by resolution petition an established authority for inclusion in the authority if the county is contiguous to a county that initially created the authority.

(d) On approval of the board of an authority receiving a petition under Subsection (c), the county becomes part of the authority.

(e) A county that is not part of an authority and in which an authority turnpike project is located becomes part of the authority on the date the authority determines that:

(1) recorded electronic toll collections at toll assessment facilities located in the county account for not less than four percent of all recorded electronic toll collections on all of the authority's turnpike projects; and

(2) the population of the county is at least four percent of the aggregate population of all the counties of the authority, not including the county that will become part of the authority.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 127, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 727 (H.B. 1394), Sec. 1, eff. September 1, 2015.

Sec. 366.0311. ADVISORY COMMITTEE FOR PROJECTS LOCATED OUTSIDE AUTHORITY. (a) At the time an authority enters into a primary

construction contract for its first project to be located in a county that is not part of the authority, the authority shall create an advisory committee to advise the board on matters related to projects located in counties that are not part of the authority.

(b) The advisory committee must be composed of:

(1) the director of the authority appointed by the governor, who serves as the chair of the committee;

(2) an additional director of the authority appointed by the presiding officer of the board as the presiding officer deems appropriate; and

(3) one member from each county that is not part of the authority and in which a project is proposed to be located, to be appointed by the commissioners court of that county at the time a primary construction contract for the project is entered into.

(c) An advisory committee member appointed under Subsection (b)(3) is not a director of the authority for the purposes of Section 366.251 or any other purpose.

(d) The board may adopt rules governing the operation and duties of an advisory committee.

Added by Acts 2015, 84th Leg., R.S., Ch. 727 (H.B. 1394), Sec. 2, eff. September 1, 2015.

Sec. 366.032. NATURE OF REGIONAL TOLLWAY AUTHORITY. (a) An authority created under this chapter is a body politic and corporate and a political subdivision of this state.

(b) An authority is a governmental unit as that term is defined in Chapter 101, Civil Practice and Remedies Code.

(c) The exercise by an authority of the powers conferred by this chapter in the acquisition, design, financing, construction, operation, and maintenance of a turnpike project or system is:

(1) in all respects for the benefit of the people of the counties in which an authority operates and of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health, living conditions, and public safety; and

(2) an essential governmental function of the state.

(d) The operations of an authority are governmental, not proprietary, functions.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.033. GENERAL POWERS. (a) An authority, acting through its board, without state approval, supervision, or regulation, may:

- (1) adopt rules for the regulation of its affairs and the conduct of its business;
- (2) adopt an official seal;
- (3) study, evaluate, design, acquire, construct, maintain, repair, and operate turnpike projects, individually or as one or more systems;
- (4) acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;
- (5) enter into contracts or operating agreements with similar authorities or agencies of the United States, a state of the United States, the United Mexican States, or a state of the United Mexican States;
- (6) enter into contracts or agreements necessary or incidental to its duties and powers under this chapter;
- (7) cooperate and work directly with property owners and governmental agencies and officials to support an activity required to promote or develop a turnpike project or system;
- (8) employ and set the compensation and benefits of administrators, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, full-time and part-time employees, agents, consultants, and such other persons as the authority considers necessary or useful;
- (9) receive loans, gifts, grants, and other contributions for the construction of a turnpike project or system and receive contributions of money, property, labor, or other things of value from any source, including the United States, a state of the United States, the United Mexican States, a state of the United Mexican States, the commission, the department, any subdivision of the state, or any other local governmental or private entity, to be used for the purposes for which the grants or contributions are made, and enter into any agreement necessary for the grants or contributions;
- (10) install, construct, maintain, repair, renew, relocate, and remove public utility facilities in, on, along, over, or under a

turnpike project;

(11) organize a corporation under Chapter 431 for the promotion and development of turnpike projects and systems;

(12) adopt and enforce rules not inconsistent with this chapter for the use of any turnpike project or system, including traffic and other public safety rules;

(13) enter into leases, operating agreements, service agreements, licenses, franchises, and similar agreements with public or private parties governing the parties' use of all or any portion of a turnpike project and the rights and obligations of the authority with respect to a turnpike project; and

(14) do all things necessary or appropriate to carry out the powers expressly granted by this chapter.

(b) Rules adopted by the authority must be published in a newspaper with general circulation in the area in which the authority is located once each week for two consecutive weeks after adoption of the rule. The notice must contain a condensed statement of the substance of the rule and must advise that a copy of the complete text of the rule is filed in the principal office of the authority where the text may be read by any person. A rule takes effect 10 days after the date of the second publication of the notice under this subsection.

(c) Property comprising a part of a turnpike project or a system is not subject to condemnation or the power of eminent domain by any person, including a governmental entity.

(d) An authority may, if requested by the commission, perform any function not specified by this chapter to promote or develop turnpike projects and systems in this state.

(e) An authority may sue and be sued and plead and be impleaded in its own name.

(f) An authority may rent, lease, franchise, license, or otherwise make portions of any property of the authority, including tangible or intangible property, available for use by others in furtherance of its powers under this chapter by increasing:

(1) the feasibility or efficient operation of a turnpike project or system; or

(2) the revenue of the authority.

(g) An authority and any local governmental entity may enter into a contract under which the authority will operate a turnpike project or system on behalf of the local governmental entity. An

authority may enter into a contract with the department under which the authority will operate a turnpike project or system on behalf of the department.

(h) The payments to be made to an authority under a contract described by Subsection (g) shall constitute operating expenses of the facility or system that is to be operated under the contract, and the contract may extend for a number of years as the parties agree.

(i) An authority shall adopt a written drug and alcohol policy restricting the use of controlled substances by employees of the authority, prohibiting the consumption of alcoholic beverages by employees while on duty, and prohibiting employees from working for the authority while under the influence of controlled substances or alcohol. An authority may adopt policies regarding the testing of employees suspected of being in violation of the authority's drug and alcohol policy. The policy shall provide that, unless required by court order or permitted by the person who is the subject of the testing, the authority shall keep the results of the test confidential.

(j) An authority shall adopt written procedures governing its procurement of goods and services that are consistent with general laws applicable to the authority.

(k) If an authority enters into a contract or agreement to design, finance, construct, operate, maintain, or perform any other function for a turnpike project, system, or improvement authorized by law on behalf of a local governmental entity, the commission, the department, a regional mobility authority, or any other entity, the contract or agreement may provide that the authority, in performing the function, is governed by the applicable provisions of this chapter and the rules and procedures adopted by the authority under this chapter, in lieu of the laws, rules, or procedures applicable to the other party for the performance of the same function.

(l) An authority, acting through its board, may agree with another entity to acquire a turnpike project or system from that entity and to assume any debts, obligations, and liabilities of the entity relating to a turnpike project or system transferred to the authority.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.58, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.04, eff. June 11, 2007.

Sec. 366.034. ESTABLISHMENT OF TURNPIKE SYSTEMS. (a) If an authority determines that the traffic needs of the counties in which it operates and the traffic needs of the surrounding region could be most efficiently and economically met by jointly operating two or more turnpike projects as one operational and financial enterprise, it may create a system comprised of those turnpike projects. An authority may create more than one system and may combine two or more systems into one system. An authority may finance, acquire, construct, and operate additional turnpike projects as additions to and expansions of a system if the authority determines that the turnpike project could most efficiently and economically be acquired and constructed if it were a part of the system and that the addition will benefit the system.

(b) The revenue of a system shall be accounted for separately and may not be commingled with the revenue of a turnpike project that is not a part of the system or with the revenue of another system.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.036. TRANSFER OF TURNPIKE PROJECT OR SYSTEM. (a) An authority may transfer any of its turnpike projects or systems to one or more local governmental entities if:

(1) the authority has commitments from the governing bodies of the local governmental entities to assume jurisdiction over the transferred projects or systems;

(2) property and contract rights in the transferred projects or systems and bonds issued for the projects or systems are not affected unfavorably;

(3) the transfer is not prohibited under the bond proceedings applicable to the transferred projects or systems;

(4) adequate provision has been made for the assumption of all debts, obligations, and liabilities of the authority relating to

the transferred projects or systems by the local governmental entities assuming jurisdiction over the transferred projects or systems;

(5) the local governmental entities are authorized to assume jurisdiction over the transferred projects or systems and to assume the debts, obligations, and liabilities of the authority relating to the transferred projects or systems; and

(6) the transfer has been approved by the commissioners court of each county that is part of the authority.

(b) An authority may transfer to one or more local governmental entities any traffic estimates, revenue estimates, plans, specifications, surveys, appraisals, and other work product developed by the authority in determining the feasibility of the construction, improvement, extension, or expansion of a turnpike project or system, and the authority's rights and obligations under any related agreements, if the requirements of Subsections (a)(1) and (6) are met.

(c) A local governmental entity shall, using any lawfully available funds, reimburse any expenditures made by an authority from its feasibility study fund or otherwise to pay the costs of work product transferred to the local governmental entity under Subsection (b) and any other amounts expended under related agreements transferred to the local governmental entity. The reimbursement may be made over time, as determined by the local governmental entity and the authority.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.59, eff. June 14, 2005.

Sec. 366.037. OTHER HIGHWAY PROJECTS. (a) In addition to the powers granted under this chapter and without supervision or regulation by any state agency or local governmental entity, but subject to an agreement entered into under Subsection (c), the board of an authority may by resolution, and on making the findings set forth in this subsection, authorize the use of surplus revenue of a turnpike project or system for the study, design, construction, maintenance, repair, and operation of a highway or similar facility that is not a turnpike project if the highway or similar facility is:

(1) situated in a county in which the authority is

authorized to design, construct, and operate a turnpike project;

(2) anticipated to either:

(A) enhance the operation or revenue of an existing, or the feasibility of a proposed, turnpike project by bringing traffic to that turnpike project or enhancing the flow of traffic either on that turnpike project or to or from that turnpike project to another facility; or

(B) ameliorate the impact of an existing or proposed turnpike project by enhancing the capability of another facility to handle traffic traveling, or anticipated to travel, to or from that turnpike project; and

(3) not anticipated to result in an overall reduction of revenue of any turnpike project or system.

(b) The board in the resolution may prescribe terms for the use of the surplus revenue, including the manner in which the highway or related facility shall be studied, designed, constructed, maintained, repaired, or operated.

(c) An authority shall enter into an agreement to implement this section with the department, the commission, a local governmental entity, or another political subdivision that owns a street, road, alley, or highway that is directly affected by the authority's turnpike project or related facility.

(d) An authority may not:

(1) take an action under this section that violates, impairs, or is inconsistent with a bond resolution, trust agreement, or indenture governing the use of the revenue of a turnpike project or system; or

(2) commit in any fiscal year expenditures under this section exceeding 10 percent of its surplus revenue from the preceding fiscal year.

(e) In authorizing expenditures under this section, the board shall consider:

(1) balancing throughout the counties of the authority the application of funds generated by its turnpike projects and systems, taking into account where those amounts are already committed or programmed as a result of this section or otherwise; and

(2) connectivity to an existing or proposed turnpike project or system.

(f) Except as provided by this section, an authority has the same powers and may use the same procedures with respect to the

study, financing, design, construction, maintenance, repair, and operation of a highway or similar facility under this section as are available to the authority with respect to a turnpike project or system.

(g) Notwithstanding other provisions of this section:

(1) any work on a highway in the state highway system must be approved by the department; and

(2) the department shall supervise and regulate any work on a highway in the state highway system.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.05, eff. June 11, 2007.

Sec. 366.038. TOLLING SERVICES. (a) In this section, "tolling services" means the tolling services normally provided through an authority's customer service center, including customer service, customer account maintenance, transponder supply, and toll collection and enforcement.

(b) An authority shall provide, for reasonable compensation, tolling services for a toll project in the boundaries of the authority, regardless of whether the toll project is developed, financed, constructed, and operated under an agreement, including a comprehensive development agreement, with the authority or another entity. This section does not restrict an authority from agreeing to provide additional tolling services in an agreement described in Subsection (d). Additional tolling services provided under an agreement under that subsection are subject to the provisions that apply to tolling services under this section.

(c) An authority may not provide financial security, including a cash collateral account, for the performance of tolling services the authority provides under this section if:

(1) the authority determines that providing security could restrict the amount, or increase the cost, of bonds or other debt obligations the authority may subsequently issue under this chapter; or

(2) the authority is not reimbursed its cost of providing the security.

(d) Before providing tolling services for a toll project under this section, an authority must enter into a written agreement that

sets out the terms and conditions for the tolling services to be provided and the terms of compensation for those services.

(e) Toll revenues are the property of the entity that is entitled to the revenues under a tolling services agreement for the toll project, regardless of who holds or collects the revenues. Toll revenues that are held or collected by an authority under a tolling services agreement and are not the property of the authority are not subject to a claim adverse to the authority or a lien on or encumbrance against property of the authority. Toll revenues that are the property of the authority are not subject to a claim adverse to any other entity or a lien on or encumbrance against property of any other entity.

(f) An authority may agree in a tolling services agreement that its right and obligation to provide tolling services for the applicable toll project under this section are subject to termination for default and that after a termination for default this section does not apply to that toll project.

(g) Any public or private entity, including an authority or the department, may agree to fund a cash collateral account for the purpose of providing money that may be withdrawn as provided in the tolling services agreement because of an authority's failure to make any payment as required by the tolling services agreement. An authority's written commitment to fully or partially fund a cash collateral account is conclusive evidence of the authority's determination that the commitment does not violate Subsection (c). The department may use money from any available source to fund a cash collateral account under this subsection.

(h) For purposes of Subchapter C, Chapter 372, a toll project for which an authority provides tolling services under a tolling services agreement is considered a toll project of the authority and the authority is considered the toll project entity with respect to all rights and remedies arising under that subchapter regarding the toll project. The authority may not stop, detain, or impound a motor vehicle as authorized under that subchapter on a toll project's active traffic lanes unless a tolling service agreement addresses that action.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. [792](#)), Sec. 9.05, eff. June 11, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 373 (S.B. 246), Sec. 1, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 782 (H.B. 2549), Sec. 1, eff. September 1, 2015.

SUBCHAPTER C. FEASIBILITY OF REGIONAL TURNPIKE PROJECTS

Sec. 366.071. EXPENDITURES FOR FEASIBILITY STUDIES. (a) An authority may pay the expenses of studying the cost and feasibility and any other expenses relating to the preparation and issuance of bonds for a proposed turnpike project or system by:

- (1) using legally available revenue derived from an existing turnpike project or system;
- (2) borrowing money and issuing bonds or entering into a loan agreement payable out of legally available revenue anticipated to be derived from the operation of an existing turnpike project or system; or
- (3) pledging to the payment of the bonds or loan agreements legally available revenue anticipated to be derived from the operation of an existing turnpike project or system or revenue legally available to the authority from another source.

(b) Money spent under this section for a proposed turnpike project or system must be reimbursed to the turnpike project or system from which the money was spent from the proceeds of bonds issued for the acquisition and construction of the proposed turnpike project or system.

(c) The use of any money of a turnpike project or system to study the feasibility of another turnpike project or system or used to repay any money used for that purpose does not constitute an operating expense of the turnpike project or system producing the revenue and may only be paid from the surplus money of the turnpike project or system.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.072. FEASIBILITY STUDY FUND. (a) An authority may maintain a feasibility study fund. The fund is a revolving fund held in trust by a banking institution chosen by the authority and shall

be kept separate from the money for any turnpike project or system.

(b) An authority may transfer an amount from a surplus fund established for a turnpike project or system to the authority's feasibility study fund if the remainder of the surplus fund is not less than any minimum amount required by the bond proceedings to be retained for that turnpike project or system.

(c) Money in the feasibility study fund may be used only to pay the expenses of studying the cost and feasibility and any other expenses relating to:

(1) the preparation and issuance of bonds for the acquisition and construction of a proposed turnpike project or system;

(2) the financing of the improvement, extension, or expansion of an existing turnpike project or system; and

(3) private participation, as authorized by law, in the financing of a proposed turnpike project or system, the refinancing of an existing turnpike project or system, or the improvement, extension, or expansion of a turnpike project or system.

(d) Money spent under Subsection (c) for a proposed turnpike project or system must be reimbursed from the proceeds of turnpike revenue bonds issued for, or other proceeds that may be used for, the acquisition, construction, improvement, extension, expansion, or operation of the turnpike project or system.

(e) For a purpose described by Subsection (c), an authority may borrow money and issue promissory notes or other interest-bearing evidences of indebtedness payable out of its feasibility study fund, pledging money in the fund or to be placed in the fund.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY, OTHER LOCAL GOVERNMENTAL ENTITY, OR PRIVATE GROUP. (a) One or more municipalities, counties, or local governmental entities, a combination of municipalities, counties, and local governmental entities, or a private group or combination of individuals in this state may pay all or part of the expenses of studying the cost and feasibility and any other expenses relating to:

(1) the preparation and issuance of bonds for the

acquisition and construction of a proposed turnpike project or system by an authority;

(2) the improvement, extension, or expansion of an authority's existing turnpike project or system; or

(3) the use of private participation under applicable law in connection with the acquisition, construction, improvement, expansion, extension, maintenance, repair, or operation of a turnpike project or system by an authority.

(b) Money spent under Subsection (a) for an authority's proposed turnpike project or system is reimbursable without interest and with the consent of the authority to the person paying the expenses described in Subsection (a) out of the proceeds from turnpike revenue bonds issued for or other proceeds that may be used for the acquisition, construction, improvement, extension, expansion, or operation of the turnpike project or system.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

SUBCHAPTER D. TURNPIKE FINANCING

Sec. 366.111. TURNPIKE REVENUE BONDS. (a) An authority, by adoption of a bond resolution, may authorize the issuance of bonds to pay all or part of the cost of a turnpike project or system, to refund any bonds previously issued for the turnpike project or system, or to pay for all or part of the cost of a turnpike project or system that will become a part of another system.

(b) As determined in the bond resolution, the bonds of each issue shall:

(1) be dated;

(2) bear interest at the rate or rates and beginning on the dates, as authorized by law, or bear no interest;

(3) mature at the time or times, not exceeding 40 years from their date or dates; and

(4) be made redeemable before maturity at the price or prices and under the terms provided by the bond resolution.

(c) An authority may sell the bonds at public or private sale in the manner and for the price it determines to be in the best interest of the authority.

(d) The proceeds of each bond issue shall be disbursed in the

manner and under the restrictions, if any, the authority provides in the bond resolution.

(e) Additional bonds may be issued in the same manner to pay the costs of a turnpike project or system. Unless otherwise provided in the bond resolution, the additional bonds shall be on a parity, without preference or priority, with bonds previously issued and payable from the revenue of the turnpike project or system. In addition, an authority may issue bonds for a turnpike project or system secured by a lien on the revenue of the turnpike project or system subordinate to the lien on the revenue securing other bonds issued for the turnpike project or system.

(f) If the proceeds of a bond issue exceed the cost of the turnpike project or system for which the bonds were issued, the surplus shall be segregated from the other money of the authority and used only for the purposes specified in the bond resolution.

(g) Bonds issued and delivered under this chapter and interest coupons on the bonds are a security under Chapter 8, Business & Commerce Code.

(h) Bonds issued under this chapter and income from the bonds, including any profit made on the sale or transfer of the bonds, are exempt from taxation in this state.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.112. INTERIM BONDS. (a) An authority may, before issuing definitive bonds, issue interim bonds, with or without coupons, exchangeable for definitive bonds.

(b) The interim bonds may be authorized and issued in accordance with this chapter, without regard to the requirements, restrictions, or procedural provisions contained in any other law.

(c) A bond resolution authorizing interim bonds may provide that the interim bonds recite that the bonds are issued under this chapter. The recital is conclusive evidence of the validity and the regularity of the bonds' issuance.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.113. PAYMENT OF BONDS; STATE AND COUNTY CREDIT NOT PLEDGED. (a) The principal of, interest on, and any redemption premium on bonds issued by an authority are payable solely from:

(1) the revenue of the turnpike project or system for which the bonds are issued, including tolls pledged to pay the bonds;

(2) payments made under an agreement with the commission or a local governmental entity as provided by Subchapter G;

(3) money derived from any other source available to the authority, other than money derived from a turnpike project that is not part of the same system or money derived from a different system, except to the extent that the surplus revenue of a turnpike project or system has been pledged for that purpose; and

(4) amounts received under a credit agreement relating to the turnpike project or system for which the bonds are issued.

(b) Bonds issued under this chapter do not constitute a debt of the state or any of the counties of an authority or a pledge of the faith and credit of the state or any of the counties. Each bond must contain on its face a statement to the effect that the state, the authority, and the counties of the authority are not obligated to pay the bond or the interest on the bond from a source other than the amount pledged to pay the bond and the interest on the bond, and neither the faith and credit and taxing power of the state or the counties of the authority are pledged to the payment of the principal of or interest on the bond.

(c) An authority may not incur financial obligations that cannot be paid from revenue derived from owning or operating the authority's turnpike projects and systems or from other revenue provided by law.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.114. EFFECT OF LIEN. (a) A lien on or a pledge of revenue from a turnpike project or system under this chapter or on a reserve, replacement, or other fund established in connection with a bond issued under this chapter:

(1) is enforceable at the time of payment for and delivery of the bond;

(2) applies to an item on hand or subsequently received;

(3) applies without physical delivery of an item or other act; and

(4) is enforceable against any person having any claim, in tort, contract, or other remedy, against the applicable authority without regard to whether the person has notice of the lien or pledge.

(b) A bond resolution is not required to be recorded except in the regular records of the authority.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.115. BOND INDENTURE. (a) Bonds issued under this chapter may be secured by a bond indenture between the authority and a corporate trustee that is a trust company or a bank that has the powers of a trust company.

(b) A bond indenture may pledge or assign the tolls and other revenue to be received but may not convey or mortgage any part of a turnpike project or system.

(c) A bond indenture may:

(1) set forth the rights and remedies of the bondholders and the trustee;

(2) restrict the individual right of action by bondholders as is customary in trust agreements or indentures of trust securing corporate bonds and debentures; and

(3) contain provisions the authority determines reasonable and proper for the security of the bondholders, including covenants:

(A) establishing the authority's duties relating to:

(i) the acquisition of property;

(ii) the construction, maintenance, operation, and repair of and insurance for a turnpike project or system; and

(iii) custody, safeguarding, and application of money;

(B) prescribing events that constitute default;

(C) prescribing terms on which any or all of the bonds become or may be declared due before maturity; and

(D) relating to the rights, powers, liabilities, or duties that arise on the breach of an authority's duty.

(d) The expenses incurred in carrying out a trust agreement may

be treated as part of the cost of operating the turnpike project.

(e) In addition to all other rights by mandamus or other court proceeding, an owner or trustee of a bond issued under this chapter may enforce the owner's rights against an issuing authority, the authority's employees, the authority's board, or an agent or employee of the authority's board and is entitled to:

(1) require the authority and the board to impose and collect tolls, charges, and other revenue sufficient to carry out any agreement contained in the bond proceedings; and

(2) apply for and obtain the appointment of a receiver for the turnpike project or system.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.116. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a) An authority shall submit to the attorney general for examination a transcript of proceedings relating to bonds authorized under this chapter. The transcript shall include the bond proceedings and any contract securing or providing revenue for the payment of the bonds.

(b) If the attorney general determines that the bonds, the bond proceedings, and any supporting contract are authorized by law, the attorney general shall approve the bonds and deliver to the comptroller:

(1) a copy of the legal opinion of the attorney general stating the approval; and

(2) the record of proceedings relating to the authorization of the bonds.

(c) On receipt of the legal opinion of the attorney general and the record of proceedings relating to the authorization of the bonds, the comptroller shall register the record of proceedings.

(d) After approval by the attorney general, the bonds, the bond proceedings, and any supporting contract are valid, enforceable, and incontestable in any court or other forum for any reason and are binding obligations according to their terms for all purposes.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.117. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES OF SECURITIES. (a) A bank or trust company incorporated under the laws of this state that acts as depository of the proceeds of bonds or of revenue may furnish indemnifying bonds or pledge securities that an authority requires.

(b) Bonds of an authority may secure the deposit of public money of the state or a political subdivision of the state to the extent of the lesser of the face value of the bonds or their market value.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.118. APPLICABILITY OF OTHER LAW; CONFLICTS. All laws affecting the issuance of bonds by local governmental entities, including Chapters 1201, 1202, 1204, and 1371, Government Code, apply to bonds issued under this chapter. To the extent of a conflict between those laws and this chapter, the provisions of this chapter prevail.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.392, eff. Sept. 1, 2001.

SUBCHAPTER E. ACQUISITION, CONSTRUCTION, AND OPERATION OF TURNPIKE PROJECTS

Sec. 366.161. TURNPIKE PROJECTS EXTENDING INTO OTHER COUNTIES. An authority may acquire, construct, operate, maintain, expand, or extend a turnpike project in:

- (1) a county that is a part of the authority; or
- (2) subject to Sections 366.031(e) and 366.0311, a county in which the authority operates or is constructing a turnpike project if the turnpike project in the affected county is a continuation of the authority's turnpike project or system extending from an adjacent county.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 727 (H.B. 1394), Sec. 3, eff. September 1, 2015.

Sec. 366.162. POWERS AND PROCEDURES OF AUTHORITY IN ACQUIRING PROPERTY. (a) An authority may construct or improve a turnpike project on real property, including a right-of-way acquired by the authority or provided to the authority for that purpose by the commission, a political subdivision of this state, or any other local governmental entity.

(b) Except as provided by this chapter, an authority has the same powers and may use the same procedures as the commission in acquiring property.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.163. ACQUISITION OF PROPERTY. (a) An authority may acquire in the name of the authority public or private real and other property it determines necessary or convenient for the construction, operation, maintenance, expansion, or extension of a turnpike project or for otherwise carrying out this chapter.

(b) The property an authority may acquire under this subchapter includes all or any portion of, and rights in and to:

- (1) public or private land, streets, alleys, rights-of-way, parks, playgrounds, and reservations;
- (2) franchises;
- (3) easements;
- (4) licenses; and
- (5) other interests in real and other property.

(c) An authority may acquire real property by any method, including purchase and condemnation. An authority may purchase public or private real property on the terms and at the price the authority and the property owner consider reasonable.

(d) Covenants, conditions, restrictions, or limitations affecting property acquired in any manner by the authority are not binding against the authority and do not impair the authority's ability to use the property for a purpose authorized by this chapter. The beneficiaries of the covenants, conditions, restrictions, or

limitations are not entitled to enjoin the authority from using the property for a purpose authorized under this chapter, but this section does not affect the right of a person to seek compensation for damages to the person's property under Section 17, Article I, Texas Constitution.

(e) Subsection (d) does not affect the obligation of the authority under other state law to compensate the state for acquiring or using property owned by or on behalf of the state.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.164. RIGHT OF ENTRY. (a) To acquire property necessary or useful in connection with a turnpike project, an authority may enter any real property, water, or premises to make a survey, geotechnical evaluation, sounding, or examination.

(b) An entry under Subsection (a) is not:

- (1) a trespass; or
- (2) an entry under a pending condemnation proceeding.

(c) The authority shall make reimbursements for any actual damages to real property, water, or premises that result from an activity described by Subsection (a).

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.165. CONDEMNATION OF REAL PROPERTY. (a) Subject to Subsection (c), an authority may acquire public or private real property in the name of the authority by the exercise of the power of condemnation under the laws applicable to the exercise of that power on property for public use if:

- (1) the authority and the property owner cannot agree on a reasonable price for the property; or
- (2) the property owner is legally incapacitated, absent, unknown, or unable to convey title.

(b) An authority may condemn real property that the authority determines is:

- (1) necessary or appropriate to construct or to efficiently operate a turnpike project;

(2) necessary to restore public or private property damaged or destroyed, including property necessary or convenient to mitigate an environmental effect that directly results from the construction, operation, or maintenance of a turnpike project;

(3) necessary for access, approach, and interchange roads;

(4) necessary to provide proper drainage and ground slope for a turnpike project; or

(5) necessary otherwise to implement this chapter.

(c) An authority may construct a supplemental facility only on real property the authority purchases.

(d) An authority shall, in a statement or petition in condemnation, exclude from the interest to be condemned all the oil, gas, and sulphur that can be removed from beneath the real property. This exclusion shall be made without providing the owner of the oil, gas, or sulphur any right of ingress or egress to or from the surface of the land to explore, develop, drill, or mine the real property.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.101(16), eff. June 14, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 239 (H.B. 341), Sec. 1, eff. June 14, 2013.

Sec. 366.166. DECLARATION OF TAKING. (a) An authority may file a declaration of taking with the clerk of the court:

(1) in which the authority files a condemnation petition under Chapter 21, Property Code; or

(2) to which the case is assigned.

(b) An authority may file the declaration of taking concurrently with or subsequent to the filing of the condemnation petition but may not file the declaration after the special commissioners have made an award in the condemnation proceeding.

(c) The declaration of taking must include:

(1) a specific reference to the legislative authority for the condemnation;

(2) a description and plot plan of the real property to be condemned, including the following information if applicable:

- (A) the municipality in which the property is located;
 - (B) the street address of the property; and
 - (C) the lot and block number of the property;
- (3) a statement of the property interest to be condemned;
 - (4) the name and address of each property owner that the authority can obtain after reasonable investigation and a description of the owner's interest in the property; and
 - (5) a statement that immediate possession of all or part of the property to be condemned is necessary for the timely construction of a turnpike project.

(d) A deposit to the registry of the court of an amount equal to the appraised fair market value, as determined by the authority, of the property to be condemned and any damages to the remainder must accompany the declaration of taking.

(e) Instead of the deposit under Subsection (d), at its option, the authority may, concurrently with the declaration of a taking, tender in favor of the owner of the subject property a bond or other security in an amount sufficient to secure the owner for the value of the property taken and damages to remaining property, if the authority obtains the court's approval.

(f) The date on which the declaration is filed is the date of taking for the purpose of assessing the value of the property taken and damages to any remaining property to which an owner is entitled.

(g) An owner may draw upon the deposit held by the court under Subsection (d) on the same terms and conditions as are applicable under state law to a property owner's withdrawal of a commissioners' award deposited under Section 21.021(a)(1), Property Code.

(h) A property owner that is a defendant in an eminent domain action filed by an authority under this chapter has 20 days after the date of service of process of both a condemnation petition and a notice of declaration of taking to give notice to the court in which the action is pending of the defendant's desire to have the condemnation petition placed on the court's docket in the same manner as other cases pending in the court. On receipt of timely notice from the defendant, the court in which the eminent domain action is pending shall place the case on its docket in the same manner as other cases pending in the court.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.167. POSSESSION OF PROPERTY. (a) Immediately on the filing of a declaration of taking, an authority shall serve a copy of the declaration on each person possessing an interest in the condemned property by a method prescribed by Section 21.016(d), Property Code. The authority shall file evidence of the service with the clerk of the court. On filing of that evidence, the authority may take possession of the property on the same terms as if a commissioners hearing had been conducted, pending the litigation.

(b) If the condemned property is a homestead or a portion of a homestead as defined by Section 41.002, Property Code, an authority may not take possession before the 31st day after the date of service under Subsection (a).

(c) A property owner or tenant who refuses to vacate the property or yield possession is subject to forcible entry and detainer under Chapter 24, Property Code.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.168. SEVERANCE OF REAL PROPERTY. (a) If an authority's turnpike project severs a property owner's real property, the authority shall pay:

(1) the value of the property acquired; and
(2) the damages, if any, to the remainder of the owner's property caused by the severance, including damages caused by the inaccessibility of one tract from the other.

(b) At its option, an authority may negotiate for and purchase the severed real property or any part of the severed real property if the authority and the property owner agree on terms for the purchase. An authority may sell and dispose of severed real property that it determines is not necessary or useful to the authority. Severed property must be appraised before being offered for sale by an authority.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.169. ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY.

(a) An authority may use real property, including submerged land, streets, alleys, and easements, owned by the state or a local governmental entity that the authority considers necessary for the construction or operation of a turnpike project.

(b) The state or a local governmental entity having charge of public real property may consent to the use of the property for a turnpike project.

(c) Except as provided by Section 228.201, the state or a local governmental entity may convey, grant, or lease to an authority real property, including highways and other real property already devoted to public use and rights or easements in real property, that may be necessary or convenient to accomplish the authority's purposes, including the construction or operation of a turnpike project. A conveyance, grant, or lease under this section may be made without advertising, court order, or other action other than the normal action of the state or local governmental entity necessary for a conveyance, grant, or lease.

(d) This section does not deprive the School Land Board of the power to execute leases for the development of oil, gas, and other minerals on state-owned real property adjoining a turnpike project or in tidewater limits. The leases may provide for directional drilling from the adjoining property or tidewater area.

(e) This section does not affect the obligation of the authority under other state law to compensate the state for acquiring or using property owned by or on behalf of the state. An authority's use of property owned by or on behalf of the state is subject to any covenants, conditions, restrictions, or limitations affecting that property.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.60, eff. June 14, 2005.

Sec. 366.170. COMPENSATION FOR AND RESTORATION OF PUBLIC PROPERTY. (a) Except as provided by Section 366.035 or Section 366.165(c), an authority may not pay compensation for public real

property, parkways, streets, highways, alleys, or reservations it takes, except for:

(1) parks and playgrounds;

(2) property owned by or on behalf of the state that under state law requires compensation to the state for the use or acquisition of the property; or

(3) as provided by this chapter.

(b) Public property damaged in the exercise of powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable.

(c) An authority has full easements and rights-of-way through, across, under, and over any property owned by the state or any local governmental entity that are necessary or convenient to construct, acquire, or efficiently operate a turnpike project or system under this chapter. This subsection does not affect the obligation of the authority under other state law, including Section 373.102, to compensate or reimburse the state for the use or acquisition of an easement or right-of-way on property owned by or on behalf of the state. An authority's use of property owned by or on behalf of the state is subject to any covenants, conditions, restrictions, or limitations affecting that property.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 7, eff. June 17, 2011.

Sec. 366.171. PUBLIC UTILITY FACILITIES. (a) An authority may adopt rules for the installation, construction, operation, maintenance, repair, renewal, relocation, and removal of a public utility facility in, on, along, over, or under a turnpike project.

(b) If an authority determines it is necessary that a public utility facility located in, on, along, over, or under a turnpike project be relocated in the turnpike project, removed from the turnpike project, or carried along or across the turnpike project by grade separation, the owner or operator of the utility facility shall relocate or remove the facility in accordance with the requirements of the authority and in a manner that does not impede the design,

financing, construction, operation, or maintenance of the turnpike project. The authority, as a part of the cost of the turnpike project or the cost of operating the turnpike project, shall pay the cost of the relocation, removal, or grade separation, including the cost of:

- (1) installation of the facility in a new location;
- (2) damages incurred by the utility to its facilities and services;
- (3) interests in real property and other rights acquired to accomplish the relocation or removal; and
- (4) maintenance of grade separation structures.

(c) The authority may reduce the total costs to be paid by the authority under Subsection (b) by 10 percent for each 30-day period or portion of a 30-day period by which the relocation exceeds the limit specified by the authority. If an owner or operator of a public utility facility does not timely remove or relocate as required under Subsection (b), the authority may do so at the expense of the public utility. If the authority determines that a delay in relocation is the result of circumstances beyond the control of the utility, full costs shall be paid by the authority.

(d) Subchapter C, Chapter 181, Utilities Code, applies to the erection, construction, maintenance, and operation of lines and poles owned by an electric utility, as that term is defined by Section 181.041, Utilities Code, over, under, across, on, and along a turnpike project or system constructed by an authority. An authority has the powers and duties delegated to the commissioners court by that subchapter, and an authority has exclusive jurisdiction and control of utilities located in its rights-of-way.

(e) Subchapter B, Chapter 181, Utilities Code, applies to the laying and maintenance of facilities used for conducting gas by a gas utility, as that term is defined by Section 181.021, Utilities Code, through, under, along, across, and over a turnpike project or system constructed by an authority except as otherwise provided by this section. An authority has the power and duties delegated to the commissioners court by that subchapter and an authority has exclusive jurisdiction and control of utilities located in its right-of-way.

(f) The laws of this state applicable to the use of public roads, streets, and waters by a telephone and telegraph corporation apply to the erection, construction, maintenance, location, and operation of a line, pole, or other fixture by a telephone and

telegraph corporation over, under, across, on, and along a turnpike project or system constructed by an authority under this chapter.

(g) In this section "public utility facility" means a track, pipe, main, conduit, cable, wire, tower, pole, or other item of plant or equipment or an appliance of a public utility or other person.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.51, eff. Sept. 1, 1999.

Sec. 366.172. LEASE, SALE, OR CONVEYANCE OF TURNPIKE PROJECT.

(a) An authority may lease, sell, or convey in another manner a turnpike project to the department, a county, or a local government corporation created under Chapter 431 only with the approval of the governing body of the entity to which the project is transferred.

(b) An agreement to lease, sell, or convey a turnpike project under this section must provide for the discharge and final payment or redemption of the authority's outstanding bonded indebtedness for the turnpike project and must not be prohibited under the bond proceedings applicable to the system, if any, of which the turnpike project is a part.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.173. REVENUE. (a) An authority may:

(1) impose tolls for the use of each of its turnpike projects and systems and the different parts or sections of each of its turnpike projects and systems; and

(2) contract with a person for the use of part of a turnpike project or system or lease or sell part of a turnpike project or system, including the right-of-way adjoining the paved portion, for any purpose, including placing on the adjoining right-of-way a gas station, garage, store, hotel, restaurant, parking facility, railroad track, billboard, livestock pasturage, telephone line or facility, telecommunication line or facility, data transmission line or facility, and electric line or facility, under terms set by the authority.

(b) Tolls must be set so that the aggregate of tolls from an

authority's turnpike project or system, together with other revenue of the turnpike project or system:

(1) provides revenue sufficient to pay:

(A) the cost of maintaining, repairing, and operating the turnpike project or system; and

(B) the principal of and interest on the bonds issued for the turnpike project or system as those bonds become due and payable; and

(2) creates reserves for a purpose listed under Subdivision (1).

(c) Tolls are not subject to supervision or regulation by any state agency or other local governmental entity.

(d) Tolls and other revenue derived from a turnpike project or system for which bonds are issued, except the part necessary to pay the cost of maintenance, repair, and operation and to provide reserves for those costs as may be provided in the bond proceedings, shall be set aside at regular intervals as may be provided in the bond resolution or trust agreement in a sinking fund that is pledged to and charged with the payment of:

(1) interest on the bonds as it becomes due;

(2) principal of the bonds as it becomes due;

(3) necessary charges of paying agents for paying principal and interest; and

(4) the redemption price or the purchase price of bonds retired by call or purchase as provided by the bond proceedings.

(e) Use and disposition of money to the credit of the sinking fund is subject to the bond proceedings.

(f) To the extent permitted under the applicable bond proceedings, revenue from one turnpike project of an authority may be used to pay the cost of other turnpike projects of the authority.

(g) An authority may not use revenue from its turnpike projects in a manner not authorized by this chapter. Revenue generated from a turnpike project may not be applied for a purpose or to pay a cost other than a cost or purpose that is reasonably related to or anticipated to be for the benefit of a turnpike project.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.174. AUTHORITY REVOLVING FUND. (a) An authority may maintain a revolving fund to be held in trust by a banking institution chosen by the authority separate from any other funds and administered by the authority's board.

(b) An authority may transfer into its revolving fund money from any permissible source, including:

(1) money from a turnpike project if the transfer does not diminish the money available for the project or the system, if any, of which it is a part to less than an amount required to be retained by the bond proceedings pertaining to the project or system;

(2) money received by the authority from any source and not otherwise committed, including money from the transfer of a turnpike project or system or sale of authority assets;

(3) money received from the state highway fund; and

(4) contributions, loans, grants, or assistance from the United States, another state, a political subdivision of this state, a foreign governmental entity, including the United Mexican States or a state of the United Mexican States, a local governmental entity, any private enterprise, or any person.

(c) The authority may use money in the revolving fund to:

(1) finance the acquisition, construction, maintenance, or operation of a turnpike project or system, including the extension, expansion, or improvement of a project or system;

(2) provide matching money required in connection with any federal, state, local, or private aid, grant, or other funding, including aid or funding by or with public-private partnerships;

(3) provide credit enhancement either directly or indirectly for bonds issued to acquire, construct, extend, expand, or improve a turnpike project or system;

(4) provide security for or payment of future or existing debt for the design, acquisition, construction, operation, maintenance, extension, expansion, or improvement of a turnpike project or system;

(5) borrow money and issue promissory notes or other indebtedness payable out of the revolving fund for any purpose authorized by this chapter; and

(6) provide for any other reasonable purpose that assists in the financing of an authority as authorized by this chapter.

(d) Money spent or advanced from the revolving fund for a turnpike project or system must be reimbursed from the money of that

turnpike project or system, and there must be a reasonable expectation of such repayment at the time of authorization.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1237, Sec. 5, eff. Nov. 6, 2001.

Sec. 366.175. USE OF SURPLUS REVENUE. The board of an authority may by resolution authorize the use of surplus revenue of a turnpike project or system to pay the costs of another turnpike project or system other than a project financed under Subchapter G. The board may in the resolution prescribe terms for the use of the revenue, including the pledge of the revenue, but may not take an action under this section that violates, impairs, or is inconsistent with a bond resolution, trust agreement, or indenture governing the use of the surplus revenue.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.176. EXEMPTION FROM TAXATION OR ASSESSMENT. (a) An authority is exempt from taxation of or assessments on:

- (1) a turnpike project or system;
- (2) property the authority acquires or uses under this chapter; or
- (3) income from property described by Subdivision (1) or (2).

(b) An authority is exempt from payment of development fees, utility connection fees, assessments, and service fees imposed or assessed by a county, municipality, road and utility district, river authority, any other state or local governmental entity, or any property owners' or homeowners' association.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.177. ACTIONS AFFECTING EXISTING ROADS. (a) An authority may impose a toll for transit over an existing free road,

street, or public highway transferred to the authority under this chapter.

(b) An authority may construct a grade separation at an intersection of a turnpike project with a railroad or highway and change the line or grade of a highway to accommodate the design of the grade separation. The action may not affect a segment of the state highway system without the department's consent. The authority shall pay the cost of a grade separation and any damage incurred in changing a line or grade of a railroad or highway as part of the cost of the turnpike project.

(c) If feasible, an authority shall provide access to properties previously abutting a county or other public road that is taken for a turnpike project and shall pay abutting property owners the expenses or any resulting damages for a denial of access to the road.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.178. FAILURE OR REFUSAL TO PAY TOLL. (a) A motor vehicle other than an authorized emergency vehicle, as defined by Section 541.201, that passes through a toll assessment facility, whether driven or towed, shall pay the proper toll. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

- (1) responding to an emergency;
- (2) displaying a flashing light; or
- (3) marked as a police or emergency vehicle.

(b) A person who fails or refuses to pay a toll provided for the use of a project is liable for a fine not to exceed \$250, plus any administrative fees incurred in connection with the violation.

(b-1) As an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll assessment facility, the authority shall use video recordings, photography, electronic data, transponders, or other tolling methods to permit the registered owner of the nonpaying vehicle to pay the toll at a later date or provide toll exemptions. Information collected under this subsection, including contact, payment, and other account information and trip data, is confidential and not subject to disclosure under

Chapter 552, Government Code.

(b-2) If the authority does not collect the proper toll at the time a vehicle is driven or towed through a toll assessment facility, the authority shall send an invoice by first class mail to the registered owner of the vehicle. The invoice may include one or more tolls assessed by the authority for use of the project by the nonpaying vehicle and must specify the date by which the toll or tolls must be paid. Except as provided by Subsection (b-3), the registered owner shall pay the unpaid tolls included in the invoice not later than the 25th day after the date the invoice is mailed.

(b-3) If the address to which the invoice issued under Subsection (b-2) is mailed to the registered owner is determined to be incorrect, the registered owner shall pay the invoice not later than the 25th day after the date the invoice is mailed to the correct address.

(b-4) If the registered owner of the nonpaying vehicle fails to pay the unpaid tolls included in the invoice mailed under Subsection (b-2) or (b-3) by the date specified in the invoice, the authority shall send the first notice of nonpayment by first class mail to the registered owner of the nonpaying vehicle as provided by Subsection (d).

(c) On issuance of the first notice of nonpayment, the registered owner of the nonpaying vehicle shall pay both the unpaid tolls included in the invoice and an administrative fee. The authority may charge only one administrative fee of not more than \$25 for the first notice of nonpayment that is sent to the registered owner of the nonpaying vehicle.

(d) Unless an authority requires additional time to send a notice of nonpayment because of events outside the authority's reasonable control, the authority shall send the first notice of nonpayment not later than the 30th day after the date the 25-day period expires for the registered owner to pay the invoice issued under Subsection (b-2) or (b-3). If an authority requires additional time as provided by this subsection, the authority must send the notice not later than the 60th day after the date the 25-day period expires for the registered owner to pay the invoice issued under Subsection (b-2) or (b-3). The first notice of nonpayment shall require payment of the unpaid tolls included in the invoice and the administrative fee before the 25th day after the date the first notice of nonpayment is mailed.

(d-1) If the registered owner of the nonpaying vehicle fails to pay the unpaid tolls and the administrative fee by the date specified in the first notice of nonpayment, the authority shall send a second notice of nonpayment by first class mail to the registered owner of the nonpaying vehicle. The second notice of nonpayment must specify the date by which payment must be made and may require payment of:

(1) the unpaid tolls and administrative fee included in the first notice of nonpayment; and

(2) an additional administrative fee of not more than \$25 for each unpaid toll included in the notice, not to exceed a total of \$200.

(d-2) If the registered owner of the nonpaying vehicle fails to pay the amount included in the second notice of nonpayment by the date specified in that notice, the authority shall send a third notice of nonpayment by first class mail to the registered owner of the nonpaying vehicle. The third notice of nonpayment must specify the date by which payment must be made and may require payment of:

(1) the amount included in the second notice of nonpayment; and

(2) any third-party collection service fees incurred by the authority.

(e) If the registered owner of the vehicle fails to pay the amount included in the third notice of nonpayment by the date specified in the notice, the owner may be cited as for other traffic violations as provided by law, and the owner shall pay a fine of not more than \$250 for each nonpayment of a toll.

(f) Except as provided by Subsection (f-1), in the prosecution of a violation for nonpayment, proof that the vehicle passed through a toll assessment facility and that the amount included in the third notice of nonpayment was not paid before the date specified in the notice, together with proof that the defendant was the registered owner or the driver of the vehicle when the unpaid toll was assessed, establishes the nonpayment of the registered owner. The proof may be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence, including a copy of the rental, lease, or other contract document or the electronic data provided to the authority under Subsection (i) that shows the defendant was the lessee of the vehicle when the unpaid toll was assessed.

(f-1) Nonpayment by the registered owner of the vehicle may be

established by:

(1) a copy of a written agreement between the authority and the registered owner for the payment of unpaid tolls and administrative fees; and

(2) evidence that the registered owner is in default under the agreement.

(g) The court of the local jurisdiction in which the unpaid toll was assessed may assess and collect the fine in addition to any court costs. The court may collect and forward to the authority properly assessed unpaid tolls, administrative fees, and third-party collection service fees incurred by the authority as determined by:

(1) the court after a hearing; or

(2) written agreement of the registered owner.

(h) It is a defense to nonpayment under this section that the motor vehicle in question was stolen before the failure to pay the proper toll occurred and was not recovered by the time of the failure to pay, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

(1) the occurrence of the failure to pay; or

(2) eight hours after the discovery of the theft.

(i) A registered owner who is the lessor of a vehicle for which an invoice is mailed under Subsection (b-2) or (b-3) is not liable if, not later than the 30th day after the date the invoice is mailed, the registered owner provides to the authority:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date the unpaid toll was assessed, with the name and address of the lessee clearly legible; or

(2) electronic data, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date the unpaid toll was assessed under this section.

(i-1) If the lessor timely provides the required information under Subsection (i), the lessee of the vehicle on the date the unpaid toll was assessed is considered to be the registered owner of the vehicle for purposes of this section, and the authority shall follow the procedures provided by this section as if the lessee were the registered owner of the vehicle, including sending an invoice to the lessee by first-class mail not later than the 30th day after the date of the receipt of the information from the lessor.

(j) In addition to the other powers and duties provided by this

chapter, an authority has the same powers and duties as the department under Chapter 228, a county under Chapter 284, and a regional mobility authority under Chapter 370, regarding the authority's toll collection and enforcement powers for:

- (1) the authority's turnpike projects; and
- (2) other toll projects developed, financed, constructed, or operated under an agreement, including a comprehensive development agreement, with the authority.

(k) As authorized under Section 322.008(d)(2), Business & Commerce Code, an authority may provide information, including an invoice or notice, required under this section to be sent first class mail instead as an electronic record:

- (1) if the recipient of the information agrees to the transmission of the information as an electronic record; and
- (2) on terms acceptable to the recipient.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 4.03, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 770 (S.B. 882), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 918 (H.B. 2983), Sec. 5, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1216 (S.B. 469), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 782 (H.B. 2549), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1129 (S.B. 57), Sec. 1, eff. June 19, 2015.

Sec. 366.179. USE AND RETURN OF TRANSPONDERS. (a) For purposes of this section, a transponder is a device placed on or within a motor vehicle that is capable of transmitting or receiving information used to assess or collect tolls or provide toll exemptions. A transponder is insufficiently funded if there is no money in the account for which the transponder was issued.

- (b) Any law enforcement or peace officer of an entity with

which an authority has contracted under Section 366.182(c) may seize a stolen or insufficiently funded transponder and return it to the authority that issued the transponder. An insufficiently funded transponder may not be seized before the 30th day after the date that an authority has sent a notice of delinquency to the holder of the account.

(c) The following entities shall consider offering motor vehicle operators the option of using a transponder to pay tolls without stopping, to mitigate congestion at toll locations, to enhance traffic flow, and to otherwise increase the efficiency of operations:

(1) the authority;

(2) an entity to which a project authorized by this chapter is transferred; or

(3) a third party service provider under contract with an entity described by Subdivision (1) or (2).

(d) Transponder account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.61, eff. June 14, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1129 (S.B. 57), Sec. 2, eff. June 19, 2015.

Sec. 366.180. CONTROLLED ACCESS TO TURNPIKE PROJECTS. (a) An authority may designate a turnpike project or a portion of a project as a controlled-access toll road.

(b) An authority by order may:

(1) prohibit the use of or access to or from a turnpike project by a motor vehicle, bicycle, other vehicle, or a pedestrian;

(2) deny access to or from:

(A) its turnpike projects;

(B) real property adjacent to its turnpike projects;

or

(C) a street, road, alley, highway, or other public or

private way intersecting its turnpike projects;

(3) designate locations on its turnpike projects at which access to or from the toll road is permitted;

(4) control, restrict, and determine the type and extent of access permitted at a designated location of access to the turnpike projects; or

(5) erect appropriate protective devices to preserve the utility, integrity, and use of its turnpike projects.

(c) Denial of access to or from a segment of the state highway system is subject to the approval of the commission.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.181. PROMOTION OF TOLL ROADS. An authority may promote the use of its turnpike projects by appropriate means, including advertising or marketing as the authority determines appropriate.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.182. OPERATION OF TURNPIKE PROJECT. (a) An authority shall operate its turnpike projects through a force of toll-takers and other employees of the authority or through services contracted under Subsection (b) or (c).

(b) An authority may enter into an agreement with one or more persons to provide, on terms and conditions approved by the authority, personnel and services to design, construct, operate, maintain, expand, enlarge, or extend the authority's turnpike projects.

(c) An authority may contract with any state or local governmental entity for the services of peace officers of that agency.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.183. AUDIT. An authority shall have a certified public accountant audit the authority's books and accounts at least annually. The cost of the audit may be treated as part of the cost of construction or operation of a turnpike project.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.184. DISADVANTAGED BUSINESSES. (a) Consistent with general law, an authority shall:

(1) set goals for the award of contracts to disadvantaged businesses and attempt to meet the goals;

(2) attempt to identify disadvantaged businesses that provide or have the potential to provide supplies, materials, equipment, or services to the authority; and

(3) give disadvantaged businesses full access to the authority's contract bidding process, inform the businesses about the process, offer the businesses assistance concerning the process, and identify barriers to the businesses' participation in the process.

(b) This section does not exempt an authority from competitive bidding requirements provided by other law.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.185. ENGINEERING, DESIGN, AND CONSTRUCTION SERVICES.

(a) A contract made by an authority that requires the expenditures of public funds for the construction or maintenance of a turnpike project may be let by a competitive bidding procedure in which the contract is awarded to the lowest responsible bidder that complies with the authority's criteria.

(b) The authority shall adopt rules governing the award of contracts through competitive bidding.

(c) An authority may procure a combination of engineering, design, and construction services in a single procurement for a turnpike project, provided that any contract awarded results in the best value to the authority.

(d) The authority shall adopt rules governing the award of contracts for engineering, design, construction, and maintenance

services in a single procurement.

(d-1) The rules adopted under Subsection (d) may not materially conflict with the design-build procedures provided by Subchapter H, Chapter 2269, Government Code, and shall provide materially similar injunctive and declaratory action enforcement rights regarding the improper disclosure or use of unique or nonordinary information as provided in that subchapter.

(d-2) Notwithstanding Subsection (d-1), if the contract amount exceeds \$50 million, the rules adopted under Subsection (d) may provide for a stipend to be offered to an unsuccessful design-build firm that submits a response to the authority's request for additional information, in an amount that:

(1) may exceed \$250,000; and

(2) is reasonably necessary, as determined by the authority in its sole discretion, to compensate an unsuccessful firm for:

(A) preliminary engineering costs associated with the development of the proposal by the firm; and

(B) the value of the work product contained in the proposal, including the techniques, methods, processes, and information contained in the proposal.

(e) Notwithstanding any other law requiring a competitive bidding procedure, an authority may let a contract for the construction of a turnpike project by a construction manager-at-risk procedure under which the construction manager-at-risk provides consultation to the authority during the design of the turnpike project and is responsible for the construction of the turnpike project in accordance with the authority's specifications. A construction manager-at-risk shall be selected on the basis of criteria established by the authority, which may include the construction manager-at-risk's experience, past performance, safety record, proposed personnel and methodology, proposed fees, and other appropriate factors that demonstrate the construction manager-at-risk's ability to provide the best value to the authority and to deliver the required services in accordance with the authority's specifications.

(f) The authority shall adopt rules governing the award of contracts using construction manager-at-risk procedures under this section.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1,

1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.06, eff. June 11, 2007.

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.07(a), eff. June 11, 2007.

Acts 2009, 81st Leg., R.S., Ch. 770 (S.B. 882), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 4.07, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(33), eff. September 1, 2013.

SUBCHAPTER F. GOVERNANCE

Sec. 366.251. BOARD OF DIRECTORS. (a) An authority is governed by a board of directors.

(b) The commissioners court of each county of the authority shall appoint one director to serve on the board. The governor shall appoint one director to serve on the board.

(c) In addition to directors appointed by a commissioners court under Subsection (b), the commissioners courts of each county that created the authority under Section 366.031 shall appoint one additional director.

(c-1) The commissioners court of a county eligible to appoint an additional director under Subsection (c) shall ensure that each director appointed by that commissioners court resides in a different geographic region in that county. To the extent possible, appointments to the board must reflect the diversity of the population of the various counties.

(d) Directors shall be divided into two groups. To the greatest degree possible, each group shall contain an equal number of directors. Directors shall serve terms of two years, except that one group of directors of the initial board of an authority shall serve for a term of one year.

(d-1) If one or more directors are subsequently appointed to the board, the directors other than the subsequent appointees shall determine the length of the appointees' terms, to comply with Subsection (d).

(e) The director appointed by the governor must have resided in

a county outside the authority that is adjacent to a county of the authority for at least one year before the person's appointment. Each director appointed by a commissioners court under Subsection (b) must have resided in that county for at least one year before the person's appointment. Each director appointed by a commissioners court under Subsection (c) must have resided in a county of the authority for at least one year before the person's appointment.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 981, Sec. 2, eff. September 1, 2007.

(g) An elected official is not eligible to serve as a director.

(h) A vacancy in a position shall be filled promptly by the entity that made the appointment.

(i) Each director has equal status and may vote.

(j) The board of an authority shall select one director as the presiding officer of the board to serve in that capacity until the person's term as a director expires. The board shall elect one director as assistant presiding officer. The board shall select a secretary and treasurer, neither of whom need be a director.

(k) The vote of a majority attending a board meeting is necessary for any action taken by the board. If a vacancy exists on a board, the majority of directors serving on the board is a quorum.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1305, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 981 (S.B. 964), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 981 (S.B. 964), Sec. 2, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 727 (H.B. 1394), Sec. 4, eff. September 1, 2015.

Sec. 366.252. CONFLICT OF INTEREST. (a) A person is not eligible to serve on the board of an authority if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of toll road construction, maintenance, or operation;

(2) is employed by or participates in the management of a business entity or other organization regulated by the authority or receiving money from the authority;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the authority, other than compensation for acquisition of turnpike right-of-way;

(4) uses or receives a substantial amount of tangible goods, services, or money from the authority, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses, or for compensation for acquisition of turnpike right-of-way;

(5) is an officer, employee, or paid consultant of a Texas trade association in the field of road construction, maintenance, or operation; or

(6) is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the authority.

(b) A person may not act as the general counsel to an authority if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the authority.

(c) In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.253. SURETY BONDS. (a) Before beginning a term, each director shall execute a surety bond in the amount of \$25,000, and the secretary and treasurer shall execute a surety bond in the amount of \$50,000.

(b) Each surety bond must be:

(1) conditioned on the faithful performance of the duties of office;

(2) executed by a surety company authorized to transact business in this state; and

(3) filed with the secretary of state's office.

(c) The authority shall pay the expense of the bonds.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.254. REMOVAL OF DIRECTOR. (a) It is a ground for removal of a director from the board if the director:

(1) did not have at the time of appointment the qualifications required by Section 366.251(e);

(2) whether at the time of appointment or at any time during the director's term, is ineligible under Section 366.251(g) or 366.252 to serve as a director;

(3) cannot discharge the director's duties for a substantial part of the term for which the director is appointed because of illness or disability; or

(4) is absent from more than half of the regularly scheduled board meetings that the director is eligible to attend during a calendar year.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a director exists.

(c) If the administrative head of the authority has knowledge that a potential ground for removal exists, that person shall notify the presiding officer of the board of the ground. The presiding officer shall then notify the person that appointed the director that a potential ground for removal exists.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1305, Sec. 2, eff. Sept. 1, 2001.

Sec. 366.255. COMPENSATION OF DIRECTOR. Each director is entitled to reimbursement for the director's actual expenses necessarily incurred in the performance of the director's duties. A

director is not entitled to any additional compensation for the director's services.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.256. EVIDENCE OF AUTHORITY ACTIONS. Actions of an authority are the actions of its board and may be evidenced in any legal manner, including a board resolution.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.257. PUBLIC ACCESS. An authority shall:

(1) make and implement policies that provide the public with a reasonable opportunity to appear before the board to speak on any issue under the jurisdiction of the authority; and

(2) prepare and maintain a written plan that describes how an individual who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the authority's programs.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.2575. BOARD VOTE ON COUNTY REQUEST. On request of the commissioners court of a county of an authority, the board shall vote on whether to build a project that the county requests.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.09, eff. June 11, 2007.

Sec. 366.258. INDEMNIFICATION. (a) An authority may indemnify one or more of its directors or officers for necessary expenses and costs, including attorney's fees, incurred by the directors or officers in connection with any claim asserted against the directors or officers in their respective capacities as directors or officers.

(b) If an authority does not fully indemnify a director or officer as provided by Subsection (a), the court in a proceeding in which any claim against the director or officer is asserted or any court with jurisdiction of an action instituted by the director or officer on a claim for indemnity may assess indemnity against the authority, its receiver, or trustee only if the court finds that, in connection with the claim, the director or officer is not guilty of negligence or misconduct.

(c) A court may not assess indemnity under Subsection (b) for an amount paid by the director or officer to the authority.

(d) This section applies to a current or former director or officer of the authority.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.259. PURCHASE OF LIABILITY INSURANCE. (a) An authority shall insure its officers and employees from liability arising from the use, operation, or maintenance of equipment that is used or may be used in connection with the laying out, construction, or maintenance of the authority's turnpike projects.

(b) Insurance coverage under this section must be provided by the purchase of a policy of liability insurance from a reliable insurance company authorized to do business in this state. The form of the policy must be approved by the commissioner of insurance.

(c) This section is not a waiver of immunity of the authority or the counties in an authority from liability for the torts or negligence of an officer or employee of an authority.

(d) In this section, "equipment" includes an automobile, motor truck, trailer, aircraft, motor grader, roller, tractor, tractor power mower, and other power equipment.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.260. CERTAIN CONTRACTS AND SALES PROHIBITED. (a) A director, agent, or employee of an authority may not:

- (1) contract with the authority; or
- (2) be directly or indirectly interested in:

- (A) a contract with the authority; or
- (B) the sale of property to the authority.

(b) A person who violates Subsection (a) is liable for a civil penalty to the authority not to exceed \$1,000.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Sec. 366.261. STRATEGIC PLANS AND ANNUAL REPORTS. (a) An authority shall make a strategic plan for its operations. A majority of the commissioners courts of the counties composing the authority shall by concurrent resolution determine the types of information required to be included in the strategic plan. Each even-numbered year, an authority shall issue a plan covering the next five fiscal years, beginning with the next odd-numbered fiscal year.

(b) Not later than June 30 of each year, an authority shall file with the commissioners court of each county of the authority a written report on the authority's activities describing all turnpike revenue bond issuances anticipated for the coming year, the financial condition of the authority, all project schedules, and the status of the authority's performance under the most recent strategic plan. At the invitation of a commissioners court of a county in the authority, representatives of the board and the administrative head of an authority shall appear before the commissioners court to present the report and receive questions and comments.

(c) The authority shall give notice to the commissioners court of each county of the authority not later than the 90th day before the date of issuance of revenue bonds.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 782 (H.B. [2549](#)), Sec. 3, eff. September 1, 2015.

Sec. 366.262. MEETINGS BY TELEPHONE CONFERENCE CALL. (a) Chapter 551, Government Code, does not prohibit any open or closed meeting of the board, a committee of the board, or the staff, or any combination of the board or staff, from being held by telephone

conference call.

(b) A telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(c) Notice of a telephone conference call meeting that by law must be open to the public must specify the location of the meeting. The location must be a conference room of the authority or other facility in a county of the authority that is accessible to the public.

(d) Each part of the telephone conference call meeting that by law must be open to the public shall be audible to the public at the location specified in the notice and shall be tape-recorded or documented by written minutes. On conclusion of the meeting, the tape recording or the written minutes of the meeting shall be made available to the public.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

SUBCHAPTER G. AID FOR REGIONAL TURNPIKE PROJECTS

Sec. 366.301. DEPARTMENT CONTRIBUTIONS TO TURNPIKE PROJECTS.

(a) To the extent permitted by the Texas Constitution, the department may agree with an authority to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, construction, operation, or maintenance of a turnpike project or system on terms agreed on by the commission or department, as applicable, and the authority. The agreement may not be inconsistent with the rights of the bondholders or persons operating the turnpike project under a lease or other contract.

(b) The department may use its engineering and other personnel, including consulting engineers and traffic engineers, to conduct feasibility studies under Subsection (a).

(c) An obligation or expense incurred by the commission or department under this section is a part of the cost of the turnpike project for which the obligation or expense was incurred. The commission or department may require money contributed by the commission or department under this section to be repaid from tolls or other revenue of the turnpike project or system on which the money was spent. Money repaid as required by the commission or department

shall be deposited to the credit of the fund from which the contribution was made. Money deposited as required by this section is exempt from the application of Section 403.095, Government Code.

(d) The commission or department may use federal money for any purpose described by this chapter.

(e) An action of an authority taken under this chapter must comply with the requirements of applicable federal law, including provisions relating to the role of metropolitan planning organizations under federal law and the approval of projects for conformity with the state implementation plan relating to air quality, the use of toll revenue, and the use of the right-of-way of and access to federal-aid highways. Notwithstanding an action of an authority taken under this chapter, the commission or the department may take any action that in its reasonable judgment is necessary to comply with any federal requirement to enable this state to receive federal-aid highway funds.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1237, Sec. 6, eff. Nov. 6, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.02, eff. June 11, 2007.

Sec. 366.302. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE TURNPIKE PROJECTS. (a) An authority may enter into an agreement with a public or private entity, including a toll road corporation, the United States, a state of the United States, the United Mexican States, a state of the United Mexican States, a local governmental entity, or another political subdivision, to permit the entity, jointly with the authority, to study the feasibility of a turnpike project or system or to acquire, design, finance, construct, maintain, repair, operate, extend, or expand a turnpike project or system.

(b) An authority has broad discretion to negotiate provisions in a development agreement with a private entity. The provisions may include provisions relating to:

(1) the design, financing, construction, maintenance, and operation of a turnpike project or system in accordance with

standards adopted by the authority; and

(2) professional and consulting services to be rendered under standards adopted by the authority in connection with a turnpike project or system.

(c) An authority may not incur a financial obligation on behalf of, or otherwise guarantee the obligations of, a private entity that constructs, maintains, or operates a turnpike project or system.

(d) An authority or a county in an authority is not liable for any financial or other obligation of a turnpike project solely because a private entity constructs, finances, or operates any part of a turnpike project or system.

(e) An authority may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.

(f) If an authority enters into an agreement with a private entity that includes the collection by the private entity of tolls for the use of a turnpike project or system, the private entity shall submit to the authority for approval:

(1) the methodology for:

(A) the setting of tolls; and

(B) increasing the amount of the tolls;

(2) a plan outlining methods the entity will use to collect the tolls, including:

(A) any charge to be imposed as a penalty for late payment of a toll; and

(B) any charge to be imposed to recover the cost of collecting a delinquent toll; and

(3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll.

(g) An agreement with a private entity that includes the collection by the private entity of tolls for the use of a turnpike project or system may not be for a term longer than 50 years.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.67, eff. June 14, 2005.

Sec. 366.303. AGREEMENTS BETWEEN AUTHORITY AND LOCAL GOVERNMENTAL ENTITIES. (a) A local governmental entity other than a nonprofit corporation may, consistent with the Texas Constitution, issue bonds or enter into and make payments under agreements with an authority to acquire, construct, maintain, or operate a turnpike project or system. The entity may levy and collect taxes to pay the interest on the bonds and to provide a sinking fund for the redemption of the bonds.

(b) In addition to the powers provided by Subsection (a), a local governmental entity may, within any applicable constitutional limitations, agree with an authority to issue bonds or enter into and make payments under an agreement to acquire, construct, maintain, or operate any portion of a turnpike project or system of that authority.

(c) To make payments under an agreement under Subsection (b), to pay the interest on bonds issued under Subsection (b), or to provide a sinking fund for the bonds or the contract, a local governmental entity may:

(1) pledge revenue from any available source, including annual appropriations;

(2) levy and collect taxes; or

(3) provide for a combination of Subdivisions (1) and (2).

(d) The term of an agreement under this section may not exceed 40 years.

(e) Any election required to permit action under this subchapter must be held in conformity with Chapter 1251, Government Code, or other law applicable to the local governmental entity.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.393, eff. Sept. 1, 2001.

Sec. 366.304. ADDITIONAL AGREEMENTS OF AUTHORITY. An authority may enter into any agreement necessary or convenient to achieve the purposes of this subchapter.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 7.24, eff. Sept. 1, 1997.

SUBCHAPTER H. COMPREHENSIVE DEVELOPMENT AGREEMENTS

Sec. 366.401. COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) An authority may use a comprehensive development agreement with a private entity to design, develop, finance, construct, maintain, repair, operate, extend, or expand a turnpike project.

(b) A comprehensive development agreement is an agreement with a private entity that, at a minimum, provides for the design, construction, rehabilitation, expansion, or improvement of a turnpike project and may also provide for the financing, acquisition, maintenance, or operation of a turnpike project.

(c) An authority may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement.

(d) An authority may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.03, eff. June 11, 2007.

Sec. 366.402. PROCESS FOR ENTERING INTO COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) If an authority enters into a comprehensive development agreement, the authority shall use a competitive procurement process that provides the best value for the authority. An authority may accept unsolicited proposals for a proposed turnpike project or solicit proposals in accordance with this section.

(b) An authority shall establish rules and procedures for accepting unsolicited proposals that require the private entity to include in the proposal:

(1) information regarding the proposed project location, scope, and limits;

(2) information regarding the private entity's qualifications, experience, technical competence, and capability to develop the project; and

(3) any other information the authority considers relevant or necessary.

(c) An authority shall publish a notice advertising a request for competing proposals and qualifications in the Texas Register that

includes the criteria to be used to evaluate the proposals, the relative weight given to the criteria, and a deadline by which proposals must be received if:

(1) the authority decides to issue a request for qualifications for a proposed project; or

(2) the authority authorizes the further evaluation of an unsolicited proposal.

(d) A proposal submitted in response to a request published under Subsection (c) must contain, at a minimum, the information required by Subsections (b)(2) and (3).

(e) An authority may interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). The authority shall evaluate each proposal based on the criteria described in the request for competing proposals and qualifications and may qualify or shortlist private entities to submit detailed proposals under Subsection (f). The authority must qualify or shortlist at least two private entities to submit detailed proposals for a project under Subsection (f) unless the authority does not receive more than one proposal or one response to a request under Subsection (c).

(f) An authority shall issue a request for detailed proposals from all private entities qualified or shortlisted under Subsection (e) if the authority proceeds with the further evaluation of a proposed project. A request under this subsection may require additional information the authority considers relevant or necessary, including information relating to:

(1) the private entity's qualifications and demonstrated technical competence;

(2) the feasibility of developing the project as proposed;

(3) engineering or architectural designs;

(4) the private entity's ability to meet schedules; or

(5) a financial plan, including costing methodology and cost proposals.

(g) In issuing a request for proposals under Subsection (f), an authority may solicit input from entities qualified under Subsection (e) or any other person. An authority may also solicit input regarding alternative technical concepts after issuing a request under Subsection (f).

(h) An authority shall evaluate each proposal based on the criteria described in the request for detailed proposals and select

the private entity whose proposal offers the apparent best value to the authority.

(i) An authority may enter into negotiations with the private entity whose proposal offers the apparent best value.

(j) If at any point in negotiations under Subsection (i), it appears to the authority that the highest ranking proposal will not provide the authority with the overall best value, the authority may enter into negotiations with the private entity submitting the next-highest-ranking proposal.

(k) An authority may withdraw a request for competing proposals and qualifications or a request for detailed proposals at any time. The authority may then publish a new request for competing proposals and qualifications.

(l) An authority may require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal.

(m) An authority may pay an unsuccessful private entity that submits a responsive proposal in response to a request for detailed proposals under Subsection (f) a stipulated amount in exchange for the work product contained in that proposal. A stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the authority, be used by the authority in the performance of its functions. The use by the authority of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the authority and does not confer liability on the recipient of the stipulated amount under this subsection. After payment of the stipulated amount:

(1) the authority, with the unsuccessful private entity, jointly owns the rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, ideas, and information contained in the project design; and

(2) the use by the unsuccessful private entity of any portion of the work product contained in the proposal is at the sole risk of the unsuccessful private entity and does not confer liability on the authority.

(n) An authority may prescribe the general form of a comprehensive development agreement and may include any matter the authority considers advantageous to the authority. The authority and

the private entity shall finalize the specific terms of a comprehensive development agreement.

(o) Section 366.185 and Subchapter A, Chapter 223, of this code and Chapter 2254, Government Code, do not apply to a comprehensive development agreement entered into under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.03, eff. June 11, 2007.

Sec. 366.403. CONFIDENTIALITY OF INFORMATION. (a) To encourage private entities to submit proposals under this subchapter, the following information is confidential, is not subject to disclosure, inspection, or copying under Chapter 552, Government Code, and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for its release until a final contract for a proposed project is entered into:

(1) all or part of a proposal that is submitted by a private entity for a comprehensive development agreement, except information provided under Sections 366.402(b)(1) and (2), unless the private entity consents to the disclosure of the information;

(2) supplemental information or material submitted by a private entity in connection with a proposal for a comprehensive development agreement unless the private entity consents to the disclosure of the information or material; and

(3) information created or collected by an authority or its agent during consideration of a proposal for a comprehensive development agreement or during the authority's preparation of a proposal to the department relating to a comprehensive development agreement.

(b) After an authority completes its final ranking of proposals under Section 366.402(h), the final rankings of each proposal under each of the published criteria are not confidential.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.03, eff. June 11, 2007.

Sec. 366.404. PERFORMANCE AND PAYMENT SECURITY. (a) Notwithstanding the requirements of Subchapter B, Chapter 2253, Government Code, an authority shall require a private entity entering

into a comprehensive development agreement under this subchapter to provide a performance and payment bond or an alternative form of security in an amount sufficient to:

- (1) ensure the proper performance of the agreement; and
- (2) protect:

- (A) the authority; and

- (B) payment bond beneficiaries who have a direct contractual relationship with the private entity or a subcontractor of the private entity to supply labor or material.

(b) A performance and payment bond or alternative form of security shall be in an amount equal to the cost of constructing or maintaining the project.

(c) If an authority determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), the authority shall set the amount of the bonds or the alternative forms of security.

(d) A payment or performance bond or alternative form of security is not required for the portion of an agreement that includes only design or planning services, the performance of preliminary studies, or the acquisition of real property.

(e) The amount of the payment security must not be less than the amount of the performance security.

(f) In addition to, or instead of, performance and payment bonds, an authority may require the following alternative forms of security:

- (1) a cashier's check drawn on a financial entity specified by the authority;

- (2) a United States bond or note;

- (3) an irrevocable bank letter of credit; or

- (4) any other form of security determined suitable by the authority.

(g) An authority by rule shall prescribe requirements for alternative forms of security provided under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. [792](#)), Sec. 9.03, eff. June 11, 2007.

Sec. 366.405. OWNERSHIP OF TURNPIKE PROJECTS. (a) A turnpike project that is the subject of a comprehensive development agreement

with a private entity, including the facilities acquired or constructed on the project, is public property and is owned by the authority.

(b) Notwithstanding Subsection (a), an authority may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a turnpike project, including supplemental facilities. At the termination of the agreement, the turnpike project, including the facilities, are to be in a state of proper maintenance as determined by the authority and shall be returned to the authority in satisfactory condition at no further cost.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.03, eff. June 11, 2007.

Sec. 366.406. LIABILITY FOR PRIVATE OBLIGATIONS. An authority may not incur a financial obligation for a private entity that designs, develops, finances, constructs, operates, or maintains a turnpike project. The authority or a political subdivision of the state is not liable for any financial or other obligation of a turnpike project solely because a private entity constructs, finances, or operates any part of the project.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.03, eff. June 11, 2007.

Sec. 366.407. TERMS OF PRIVATE PARTICIPATION. (a) An authority shall negotiate the terms of private participation in a turnpike project under this subchapter, including:

(1) methods to determine the applicable cost, profit, and project distribution among the private participants and the authority;

(2) reasonable methods to determine and classify toll rates and the responsibility for setting toll rates;

(3) acceptable safety and policing standards; and

(4) other applicable professional, consulting, construction, operation, and maintenance standards, expenses, and costs.

(b) A comprehensive development agreement entered into under this subchapter may include any provision the authority considers appropriate, including a provision:

(1) providing for the purchase by the authority, under terms and conditions agreed to by the parties, of the interest of a private participant in the comprehensive development agreement and related property, including any interest in a turnpike project designed, developed, financed, constructed, operated, or maintained under the comprehensive development agreement;

(2) establishing the purchase price, as determined in accordance with the methodology established by the parties in the comprehensive development agreement, for the interest of a private participant in the comprehensive development agreement and related property;

(3) providing for the payment of an obligation incurred under the comprehensive development agreement, including an obligation to pay the purchase price for the interest of a private participant in the comprehensive development agreement, from any available source, including securing the obligation by a pledge of revenues of the authority derived from the applicable project, which pledge shall have priority as established by the authority;

(4) permitting the private participant to pledge its rights under the comprehensive development agreement;

(5) concerning the private participant's right to operate and collect revenue from the turnpike project; and

(6) restricting the right of the authority to terminate the private participant's right to operate and collect revenue from the turnpike project unless and until any applicable termination payments have been made.

(c) An authority may enter into a comprehensive development agreement under this subchapter with a private participant only if the project is identified in the department's unified transportation program or is located on a transportation corridor identified in the statewide transportation plan.

(d) Section 366.406 does not apply to an obligation of an authority under a comprehensive development agreement, nor is an authority otherwise constrained from issuing bonds or other financial obligations for a turnpike project payable solely from revenues of that turnpike project or from amounts received under a comprehensive development agreement.

(e) Notwithstanding any other law, and subject to compliance with the dispute resolution procedures set out in the comprehensive development agreement, an obligation of an authority under a comprehensive development agreement entered into under this subchapter to make or secure payments to a person because of the termination of the agreement, including the purchase of the interest of a private participant or other investor in a project, may be enforced by mandamus against the authority in a district court of any county of the authority, and the sovereign immunity of the authority is waived for that purpose. The district courts of any county of the authority shall have exclusive jurisdiction and venue over and to determine and adjudicate all issues necessary to adjudicate any action brought under this subsection. The remedy provided by this subsection is in addition to any legal and equitable remedies that may be available to a party to a comprehensive development agreement.

(f) If an authority enters into a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project, the private participant shall submit to the authority for approval:

(1) the methodology for:

- (A) the setting of tolls; and
- (B) increasing the amount of the tolls;

(2) a plan outlining methods the private participant will use to collect the tolls, including:

(A) any charge to be imposed as a penalty for late payment of a toll; and

(B) any charge to be imposed to recover the cost of collecting a delinquent toll; and

(3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll.

(g) Except as provided by this subsection, a comprehensive development agreement with a private participant that includes the collection by the private participant of tolls for the use of a toll project may be for a term not longer than 50 years from the later of the date of final acceptance of the project or the start of revenue operations by the private participant, not to exceed a total term of 52 years. The contract must contain an explicit mechanism for setting the price for the purchase by the authority of the interest of the private participant in the contract and related property, including any interest in a highway or other facility designed,

developed, financed, constructed, operated, or maintained under the contract.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.03, eff. June 11, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 770 (S.B. 882), Sec. 3, eff. June 19, 2009.

Sec. 366.408. RULES, PROCEDURES, AND GUIDELINES GOVERNING SELECTION AND NEGOTIATING PROCESS. (a) To promote fairness, obtain private participants in turnpike projects, and promote confidence among those participants, an authority shall adopt rules, procedures, and other guidelines governing selection of private participants for comprehensive development agreements and negotiations of comprehensive development agreements. The rules must contain criteria relating to the qualifications of the participants and the award of the contracts.

(b) An authority shall have up-to-date procedures for participation in negotiations under this subchapter.

(c) An authority has exclusive judgment to determine the terms of an agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.03, eff. June 11, 2007.

Sec. 366.409. USE OF CONTRACT PAYMENTS. (a) Payments received by an authority under a comprehensive development agreement shall be used by the authority to finance the construction, maintenance, or operation of a turnpike project or a highway.

(b) The authority shall allocate the distribution of funds received under Subsection (a) to the counties of the authority based on the percentage of toll revenue from users, from each county, of the project that is the subject of the comprehensive development agreement. To assist the authority in determining the allocation, each entity responsible for collecting tolls for a project shall calculate on an annual basis the percentage of toll revenue from users of the project from each county within the authority based on the number of recorded electronic toll collections.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 9.03, eff. June 11, 2007.

CHAPTER 367. MUNICIPAL TOLL BRIDGES OVER RIO GRANDE

SUBCHAPTER A. GENERAL AUTHORITY RELATING TO TOLL BRIDGES

Sec. 367.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a municipality any part of the municipal boundaries of which is within 15 miles of a section of the Rio Grande that forms the border between this state and the United Mexican States.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.002. DEFINITION. In this subchapter, "toll bridge" includes:

- (1) any part of the physical property comprising a toll bridge;
- (2) a permit, grant, franchise, right, or privilege granted or extended by the United States, the United Mexican States, or a state or political subdivision of either nation, for or related to the construction, maintenance, or operation of a toll bridge, or to the collection of a toll or charge for use of the toll bridge;
- (3) an interest in real property in either the United States or the United Mexican States that is held or used for or incident to the construction, maintenance, or operation of the toll bridge or an approach to the toll bridge or for the use or occupancy of any building or other structure, appurtenance, appliance, road or street, railroad, park, grounds, or convenience or facility of any kind relating to or incident to the toll bridge;
- (4) a building or other structure, appurtenance, appliance, equipment, convenience, or facility of any kind held or used for or incident to the construction, maintenance, or operation of the toll bridge;
- (5) a lease or contract of any kind for the use or occupancy of that real property, building or other structure, convenience, appliance, or facility; and
- (6) any other right or property used for or incident to the construction, maintenance, or operation of the toll bridge.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.003. AUTHORITY OF MUNICIPALITY IN RELATION TO TOLL BRIDGE. For any public purpose, a municipality may acquire, construct, improve, enlarge, equip, operate, or maintain a toll bridge over a section of the Rio Grande that forms the border between this state and the United Mexican States.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.004. AUTHORITY OF MUNICIPALITY TO ENTER INTO CONTRACTS. For the purpose of taking an action authorized by this subchapter, a municipality may enter into and perform a contract, agreement, or undertaking required by the United States, the United Mexican States, or a department, officer, governmental agency, or public authority of either nation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.005. AUTHORITY TO ISSUE REVENUE BONDS. To provide money to acquire, construct, improve, enlarge, or equip a toll bridge, a part of a toll bridge, or a related building, structure, or other facility for a public purpose, the governing body of a municipality may issue revenue bonds that are payable from and secured by a lien on and pledge of all or any part of the revenue, income, or receipts the municipality receives from its ownership and operation of:

- (1) a portion of a toll bridge over the Rio Grande; and
- (2) any other property, building, structure, activity, or facility.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.006. INTERIM FINANCING. (a) Pending the issuance of revenue bonds under this subchapter, a municipality may:

- (1) spend, in connection with a toll bridge, money that is not required by law to be used for another purpose; or
- (2) issue notes for an expenditure described by Subdivision

(1).

(b) A municipality may use proceeds of revenue bonds issued under this subchapter to repay money spent under Subsection (a).

(c) Notes issued under Subsection (a) may have any characteristic the governing body considers appropriate and:

(1) bear rates of interest, be payable from available sources, and be secured in the same manner as revenue bonds issued under this subchapter; or

(2) be payable from:

(A) the proceeds of refunding bonds issued under this subchapter; or

(B) both revenue bonds and refunding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.007. MATURITY. A bond issued under this subchapter must mature not later than 50 years after its date of issuance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.008. PLEDGE OF REVENUE. A municipality may pledge to the payment of bonds issued under this subchapter, including the principal of, interest on, and any other amount required or permitted to be paid in connection with the bonds, all or any part of its revenue, income, or receipts from:

(1) a toll or charge authorized by Section 367.011; or

(2) another resource.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.009. ADDITIONAL SECURITY. (a) Bonds issued under this subchapter may be additionally secured by:

(1) a mortgage or deed of trust on any real property owned by the municipality; or

(2) a chattel mortgage or lien on any personal property appurtenant to that real property.

(b) The governing body of the municipality may authorize the execution of a trust indenture, mortgage, deed of trust, or other

form of encumbrance as evidence of the debt.

(c) The municipality may pledge to the payment of the bonds all or part of any grant, donation, revenue, or income received or to be received from the United States or any other public or private source whether under an agreement or otherwise.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.010. ADDITIONAL BONDS. An ordinance authorizing the issuance of bonds under this subchapter may provide for the subsequent issuance of additional parity or subordinate lien bonds under terms specified in the ordinance.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.011. TOLLS AND CHARGES. (a) The governing body of a municipality may impose and collect tolls and other charges for the use or availability of a toll bridge of the municipality.

(b) The governing body of the municipality shall impose and collect pledged tolls and charges in an amount that will be at least sufficient, with any other pledged resource, to provide for the payment of:

(1) principal of and interest on and any other amount required to be paid in connection with the bonds; and

(2) to the extent required by the ordinance authorizing issuance of the bonds:

(A) expenses incurred in connection with the bonds;
and

(B) operation, maintenance, and other expenses in connection with the toll bridge.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.012. PUBLIC PURPOSE. The acquisition, construction, improvement, enlargement, or equipment by a municipality of property or a building, structure, or other facility for lease to the United States for use in performing a federal governmental function in the municipality or at or near and relating to a toll bridge of the

municipality is a public purpose and a proper municipal function, regardless of whether the toll bridge or the federal facility relating to the toll bridge is located inside or outside the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.013. LEASE OR RENTAL OF FACILITY TO UNITED STATES. A municipality may lease or rent to the United States property or a building, structure, or other facility acquired, constructed, improved, enlarged, or equipped in whole or in part with proceeds from the sale of bonds issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.014. REFUNDING BONDS AND NOTES. (a) A municipality may refund or otherwise refinance bonds or notes issued under this subchapter by issuing refunding bonds under any terms provided by ordinance of the governing body of the municipality.

(b) All appropriate provisions of this subchapter apply to the refunding bonds. The refunding bonds shall be issued in the manner provided by this subchapter for other bonds.

(c) The refunding bonds may be sold and delivered in amounts sufficient to pay the principal of and interest and any redemption premium on the bonds or notes to be refunded, at maturity or on any redemption date.

(d) The refunding bonds may be issued to be exchanged for the bonds or notes to be refunded. In that case, the comptroller shall register the refunding bonds and deliver them to the holder of the bonds or notes to be refunded as provided by the ordinance authorizing the refunding bonds. The exchange may be made in one delivery or in installment deliveries.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.015. SALE OF BONDS OR NOTES. A municipality may sell bonds or notes issued under this subchapter in the manner and on the terms provided by the ordinance authorizing the issuance of the bonds

or notes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.016. BONDS AND NOTES NOT PAYABLE FROM TAXES. A bond or note issued under this subchapter:

(1) is payable only from the revenue or another resource of the municipality; and

(2) is not a tax obligation of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.017. CONFLICT OR INCONSISTENCY WITH OTHER LAW. When bonds or notes are being issued under this subchapter, to the extent of any conflict or inconsistency between this subchapter and another law, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

**SUBCHAPTER B. ACQUIRING EXISTING BRIDGE; BUILDING REPLACEMENT OR
ADDITIONAL BRIDGE**

Sec. 367.051. AUTHORITY TO ACQUIRE TOLL BRIDGE. (a) A municipality may acquire a toll bridge that is located over a section of the Rio Grande that forms the border between this state and the United Mexican States and that is inside or within 15 miles of its municipal boundaries by purchasing:

(1) the entire toll bridge; or

(2) that part of the toll bridge that is located in this state.

(b) The municipality is not required to:

(1) give or publish notice of its intent to acquire a toll bridge under this subchapter; or

(2) advertise or call for competitive bids in connection with the acquisition of a toll bridge under this subchapter.

(c) The municipality may acquire a toll bridge owned by a private corporation by purchasing the toll bridge itself or by purchasing all of the capital stock of the corporation or a sufficient amount of the stock as required by law to dissolve and

liquidate the corporation. The municipality may take title to the stock in the name of the municipality or in the name of a trustee for the municipality. After purchasing the stock, the municipality or its trustee shall:

(1) vote its shares in the corporation as necessary to vest title to the toll bridge, together with any associated right or property described by Section 367.052 to be acquired in connection with the acquisition of the toll bridge, in the municipality; and

(2) immediately dissolve and liquidate the corporation, pay its debts, liabilities, and obligations, wind up its business and affairs, and convey the properties to the municipality.

(d) The purchase and acquisition of toll bridge property or stock in a corporation under this section must be made at the price and on the terms agreed on by the owners of the property or stock and the governing body of the municipality.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.052. RIGHTS AND PROPERTIES ASSOCIATED WITH TOLL BRIDGE. When a municipality acquires a toll bridge under Section 367.051, the municipality may, as determined by the governing body of the municipality, acquire any or all of the following items in connection with the toll bridge:

(1) a permit, grant, franchise, right, or privilege granted or extended by the United States, the United Mexican States, or a department, officer, agency, governmental authority, state, municipality, or political subdivision of either nation, for or related to the construction, maintenance, or operation of the toll bridge or the collection of a toll or charge for the use of the toll bridge;

(2) an interest in real property in either the United States or the United Mexican States that is held or used for or incident to the construction, maintenance, or operation of the toll bridge or an approach to it, or for the use or occupancy of any building or other structure, appurtenance, appliance, road or street, park, grounds, or convenience or facility of any kind relating to or incident to the construction, maintenance, or operation of the toll bridge;

(3) a building or other structure, appurtenance, appliance,

equipment, convenience, or facility of any kind held or used for or incident to the construction, maintenance, or operation of the toll bridge;

(4) a lease or contract of any kind for the use or occupancy of that real property or a building or other structure, convenience, appliance, or facility; or

(5) any other right or property used for or incident to the construction, maintenance, or operation of the toll bridge.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.053. LIBERAL CONSTRUCTION. This subchapter shall be liberally construed to effect its purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.054. POWERS TO BE EXERCISED BY ORDINANCE; ELECTION NOT REQUIRED. (a) The governing body of a municipality may exercise a power, right, privilege, or function conferred by this subchapter on the municipality only by adopting an ordinance to authorize the action.

(b) A referendum or election by the voters of the municipality is not necessary to authorize:

(1) the adoption of an ordinance under Subsection (a); or

(2) the taking of an action to accomplish a purpose of this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.055. GENERAL POWERS OF MUNICIPALITY ACQUIRING TOLL BRIDGE. (a) A municipality that acquires a toll bridge under this subchapter may:

(1) maintain, operate, own, hold, control, repair, improve, extend, or replace the toll bridge;

(2) renew or extend an existing franchise and obtain a new or additional franchise for the bridge; and

(3) take any action required for maintaining or operating the bridge, conducting the bridge's business, or providing services

to the public and to the users of the bridge.

(b) To accomplish the purposes of this section the municipality may enter into and perform a contract, agreement, or undertaking of any kind required by the United States or the United Mexican States or a department, officer, governmental agency, or public authority of either nation.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.056. RECREATIONAL FACILITIES. (a) In connection with the maintenance and operation of the toll bridge, a municipality may acquire real property that is either inside or outside the municipal boundaries and that is adjacent to the toll bridge or the municipality to construct, maintain, or operate a park, recreational grounds or facilities, a camp, quarters, accommodations, or other facility for the use and convenience of the public.

(b) The municipality may manage, police, and regulate those facilities and may adopt and enforce reasonable rules for those facilities without regard to whether the toll bridge is located inside or outside the municipality.

(c) The governing body of the municipality may impose and collect a fee, rental, or other charge for the use of a facility established under this section. The charge must be just, reasonable, and nondiscriminatory.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.057. TOLLS AND CHARGES. (a) A municipality that acquires a toll bridge under this subchapter or that owns or controls an international toll bridge may impose tolls and other charges for the use of the bridge and for the transportation of persons or property, including passengers, vehicles, or freight and commodities, over the bridge.

(b) In accordance with any applicable permit or franchise granted by a governmental authority, the tolls and other charges must be just, reasonable, nondiscriminatory, and sufficient to provide revenue in an amount that is sufficient to:

(1) pay all expenses necessary to maintain and operate the toll bridge;

(2) make necessary payments and comply with any applicable permit or franchise;

(3) pay when due the principal of and interest on all bonds or warrants issued under this subchapter;

(4) pay when due all sinking fund or reserve fund payments agreed to be made in connection with bonds or warrants issued under this subchapter and payable from that revenue;

(5) comply with any agreement made with the holders of bonds or warrants issued under this subchapter or with any person on behalf of those holders; and

(6) recover a reasonable rate of return on invested capital.

(c) The governing body of the municipality may use revenue received under this section in excess of the amount required by Subsection (b) to:

(1) establish a reasonable depreciation and emergency fund;

(2) retire by purchase and cancellation or by redemption any outstanding bonds or warrants issued under this subchapter;

(3) provide necessary budgetary support to local government for public purposes and the general welfare; or

(4) accomplish the purposes of this subchapter.

(d) This subchapter does not deprive this state, the United States, or an agency with jurisdiction of its power:

(1) to regulate or control tolls and other charges to be collected for a purpose listed in Subsection (b) or (c); or

(2) to provide for bridges over the river that will be used free of any tolls or charges.

(e) Until bonds or warrants issued under this subchapter have been paid and discharged, including all interest on the bonds or warrants, interest on unpaid interest installments on the bonds or warrants, other costs or expenses incurred in connection with any acts or proceedings taken by or on behalf of the holders of the bonds or warrants, and all other obligations of the municipality incurred in connection with the bonds or warrants:

(1) the municipality may not provide free use of the toll bridge to any person; and

(2) this state pledges to and agrees with the purchasers and successive holders of the bonds or warrants that it will not:

(A) limit or alter the power of a municipality to impose tolls and other charges under this section sufficient to pay

the items listed in Subsection (b) or (c); or

(B) take any action that will impair the rights or remedies of the holders of the bonds or warrants or of persons acting on their behalf.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.058. AUTHORITY TO BORROW MONEY OR ACCEPT FEDERAL ASSISTANCE. (a) To accomplish the purposes of this subchapter, a municipality may:

(1) borrow money from any person or corporation; or

(2) borrow money or accept grants from the United States or a corporation or agency created by or authorized to act as an agency of the United States.

(b) In connection with a loan or grant under Subsection (a)(2), a municipality may enter into any related agreement that the United States, corporation, or agency requires.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.059. AUTHORITY TO ISSUE REVENUE BONDS. (a) The governing body of a municipality may issue, sell, and deliver revenue bonds to accomplish the purposes of this subchapter. The municipality may use the bonds or the proceeds of the sale of the bonds to acquire all or part of a toll bridge under this subchapter or may exchange the bonds for property to accomplish the purposes of this subchapter.

(b) The governing body may issue the bonds and use a bond or bond proceeds as provided by this subchapter without:

(1) giving or publishing notice of the municipality's intent to take that action; or

(2) advertising or calling for competitive bids in connection with that action.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.060. BONDS AND WARRANTS NOT PAYABLE FROM TAXES. (a) Bonds and warrants issued under this subchapter are not a debt of the

municipality that issues them and are a charge only against:

- (1) the pledged revenues of the toll bridge; and
- (2) the property comprising the toll bridge, if a lien is given on that property.

(b) A bond or warrant issued under this subchapter must include substantially the following provision: "The holder of this obligation is not entitled to demand payment of this obligation out of any money raised by taxation."

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.061. MORTGAGE OR PLEDGE OF REVENUE TO SECURE BONDS. To accomplish any purpose of this subchapter, the governing body of a municipality may with respect to bonds issued under this subchapter:

- (1) mortgage or pledge all or part of:
 - (A) any interest in a toll bridge of the municipality, together with any associated right or property described by Section 367.052, or any other property acquired or to be acquired with the bonds or the proceeds of the sale of the bonds; or
 - (B) the net or gross revenue of any property described by Paragraph (A);
- (2) secure the payment of the principal of and interest on the bonds and of the sinking fund and reserve fund agreed to be established in connection with the bonds; and
- (3) enter into any covenant or agreement with the purchasers of the bonds or any person on behalf of those purchasers with respect to the bonds to:
 - (A) secure the payments described by Subdivision (2);
 and
 - (B) provide rights and remedies to the purchasers or holders of the bonds or any person on their behalf.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.062. MATURITY. The governing body of a municipality shall determine the maturity of bonds issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.063. SALE OR EXCHANGE OF BONDS. A bond issued under this subchapter may be:

- (1) sold for cash at a public or private sale;
- (2) issued in exchange for property of any kind or an interest in property of any kind, as the governing body of the municipality determines is necessary and proper to accomplish a purpose of this subchapter; or
- (3) issued in exchange for a matured or unmatured bond of the same issue and in the same principal amount.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.064. DEPOSIT OF PROCEEDS. The proceeds of the sale of bonds sold for cash shall be deposited and paid out under the terms that are agreed to by the governing body of the municipality and the purchasers of the bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.065. AUTHORITY TO ISSUE BONDS OR WARRANTS TO REPAIR, IMPROVE, OR BUILD TOLL BRIDGE. (a) A municipality that has acquired a toll bridge under this subchapter may issue and deliver revenue bonds or revenue time warrants:

- (1) to repair, improve, alter, reconstruct, or replace the bridge;
 - (2) to build an additional bridge; or
 - (3) for one or more of those purposes.
- (b) The municipality shall issue the bonds or warrants:
- (1) in the manner prescribed by this subchapter; and
 - (2) subject to any restriction in an ordinance authorizing or a deed of indenture securing the original or a subsequent issue of toll bridge bonds or warrants.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.066. TAX EXEMPTIONS. Bonds issued under this subchapter are exempt from taxation by this state or a municipality or other political subdivision of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.067. LIMITATIONS ON MUNICIPAL AUTHORITY. This subchapter does not authorize a municipality to:

- (1) impose or collect a tax or assessment or pledge the credit of this state; or
- (2) issue, sell, or deliver a bond, create an obligation, incur a liability, or enter an agreement to be paid, performed, met, or discharged using any tax or assessment.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.068. APPLICABILITY OF AND CONFLICTS WITH OTHER LAW.

(a) Sections 252.046, 252.047, and 252.048, Local Government Code, and Subchapter B, Chapter 1502, Government Code, apply, except as provided by Section 367.051, Section 367.059, or another provision of this subchapter, to:

- (1) the purchase of a toll bridge under this subchapter;
- (2) the issuance, sale, or delivery of bonds under this subchapter;
- (3) the manner of securing payment of the bonds;
- (4) the enforcement of the obligations relating to the bonds;
- (5) the rights and remedies of the owners or holders of the bonds or of any person acting on their behalf;
- (6) the maintenance or operation of property acquired under this subchapter; and
- (7) the accomplishment of any other purpose of this subchapter.

(b) To the extent of a conflict between this subchapter and another law, this subchapter controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 43, eff. Sept. 1, 1999.

SUBCHAPTER C. BONDS FOR REPAIR OR IMPROVEMENT OF TOLL BRIDGE

Sec. 367.101. APPLICABILITY OF SUBCHAPTER. This subchapter

applies only to a municipality that owns that portion of an international toll bridge over the Rio Grande that is located in the United States.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.102. **AUTHORITY TO ISSUE REVENUE BONDS.** The municipality may, in compliance with Subtitles A, C, D, and E, Title 9, Government Code, issue bonds payable from the net revenue derived from the operation of the bridge to:

- (1) repair or improve the bridge;
- (2) acquire an approach to the bridge; or
- (3) construct a building to be used in connection with the bridge.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

Sec. 367.103. **ADDITIONAL BONDS.** (a) The municipality may issue additional revenue bonds to the extent permitted or authorized by the provisions of or the proceedings relating to outstanding bonds that are payable from the net revenue from the operation of the bridge, including any trust indenture securing the outstanding bonds.

(b) As permitted or authorized by those provisions and proceedings, the additional bonds may be secured by a pledge of and lien on the net revenue that are:

- (1) junior to the pledge and lien securing the outstanding bonds; or
- (2) on a parity with the outstanding bonds.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 25, eff. Sept. 1, 1999.

CHAPTER 370. REGIONAL MOBILITY AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 370.001. **SHORT TITLE.** This chapter may be cited as the Regional Mobility Authority Act.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.003. DEFINITIONS. In this chapter:

(1) "Authority" means a regional mobility authority organized under this chapter or under Section 361.003, as that section existed before June 22, 2003.

(2) "Board" means the board of directors of an authority.

(3) "Bond" includes a bond, certificate, note, or other obligation of an authority authorized by this chapter, another statute, or the Texas Constitution.

(4) "Bond proceeding" includes a bond resolution and a bond indenture authorized by the bond resolution, a credit agreement, loan agreement, or other agreement entered into in connection with the bond or the payments to be made under the agreement, and any other agreement between an authority and another person providing security for the payment of a bond.

(5) "Bond resolution" means an order or resolution of a board authorizing the issuance of a bond.

(6) "Bondholder" means the owner of a bond and includes a trustee acting on behalf of an owner of a bond under the terms of a bond indenture.

(7) "Comprehensive development agreement" means an agreement under Section 370.305.

(8) "Governmental entity" means a political subdivision of the state, including a municipality or a county, a political subdivision of a county, a group of adjoining counties, a district organized or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, the department, a rail district, a transit authority, a nonprofit corporation, including a transportation corporation, that is created under Chapter 431, or any other public entity or instrumentality.

(9) "Highway" means a road, highway, farm-to-market road, or street under the supervision of the state or a political subdivision of this state.

(9-a) "Intermodal hub" means a central location where cargo containers can be easily and quickly transferred between trucks, trains, and airplanes.

(10) "Public utility facility" means:

(A) a water, wastewater, natural gas, or petroleum pipeline or associated equipment;

(B) an electric transmission or distribution line or associated equipment; or

(C) telecommunications information services, or cable television infrastructure or associated equipment, including fiber optic cable, conduit, and wireless communications facilities.

(11) "Revenue" means fares, fees, rents, tolls, and other money received by an authority from the ownership or operation of a transportation project.

(12) "Surplus revenue" means revenue that exceeds:

(A) an authority's debt service requirements for a transportation project, including the redemption or purchase price of bonds subject to redemption or purchase as provided in the applicable bond proceedings;

(A-1) an authority's payment obligations under a contract or agreement authorized by this chapter;

(B) coverage requirements of a bond indenture for a transportation project;

(C) costs of operation and maintenance for a transportation project;

(D) cost of repair, expansion, or improvement of a transportation project;

(E) funds allocated for feasibility studies; and

(F) necessary reserves as determined by the authority.

(13) "System" means a transportation project or a combination of transportation projects designated as a system by the board under Section 370.034.

(14) "Transportation project" means:

(A) a turnpike project;

(B) a system;

(C) a passenger or freight rail facility, including:

(i) tracks;

(ii) a rail line;

(iii) switching, signaling, or other operating equipment;

(iv) a depot;

(v) a locomotive;

(vi) rolling stock;

(vii) a maintenance facility; and

(viii) other real and personal property associated with a rail operation;

(D) a roadway with a functional classification greater than a local road or rural minor collector;

(D-1) a bridge;

(E) a ferry;

(F) an airport, other than an airport that on September 1, 2005, was served by one or more air carriers engaged in scheduled interstate transportation, as those terms were defined by 14 C.F.R. Section 1.1 on that date;

(G) a pedestrian or bicycle facility;

(H) an intermodal hub;

(I) an automated conveyor belt for the movement of freight;

(J) a border crossing inspection station, including:

(i) a border crossing inspection station located at or near an international border crossing; and

(ii) a border crossing inspection station located at or near a border crossing from another state of the United States and not more than 50 miles from an international border;

(K) an air quality improvement initiative;

(L) a public utility facility;

(M) a transit system;

(M-1) a parking area, structure, or facility, or a collection device for parking fees;

(N) if applicable, projects and programs listed in the most recently approved state implementation plan for the area covered by the authority, including an early action compact;

(O) improvements in a transportation reinvestment zone designated under Subchapter E, Chapter 222; and

(P) port security, transportation, or facility projects eligible for funding under Section 55.002.

(14-a) "Transportation project" does not include a border inspection facility that serves a bridge system that had more than 900,000 commercial border crossings during the state fiscal year ending August 31, 2002.

(15) "Turnpike project" means a highway of any number of lanes, with or without grade separations, owned or operated by an authority under this chapter and any improvement, extension, or expansion to that highway, including:

(A) an improvement to relieve traffic congestion or promote safety;

(B) a bridge, tunnel, overpass, underpass, interchange, service road, ramp, entrance plaza, approach, or tollhouse;

(C) an administration, storage, or other building the authority considers necessary for the operation of a turnpike project;

(D) a parking area or structure, rest stop, park, and other improvement or amenity the authority considers necessary, useful, or beneficial for the operation of a turnpike project; and

(E) a property right, easement, or interest the authority acquires to construct or operate the turnpike project.

(16) "Mass transit" means the transportation of passengers and hand-carried packages or baggage of a passenger by any means of surface, overhead, or underground transportation, other than an aircraft or taxicab.

(17) "Service area" means the county or counties in which an authority or transit provider has established a transit system.

(18) "Transit provider" means an entity that provides mass transit for the public and that was created under Chapter 451, 452, 453, 454, 457, 458, or 460.

(19) "Transit system" means:

(A) property owned or held by an authority for mass transit purposes; and

(B) facilities necessary, convenient, or useful for:

(i) the use of or access to mass transit by persons or vehicles; or

(ii) the protection or environmental enhancement of mass transit.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 5.07, eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.62, eff. June 14, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. [1112](#)), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 118 (S.B. [1489](#)), Sec. 1, eff. May 18, 2013.

Sec. 370.004. CONSTRUCTION COSTS DEFINED. (a) The cost of acquisition, construction, improvement, extension, or expansion of a transportation project under this chapter includes the cost of:

(1) the actual acquisition, construction, improvement, extension, or expansion of the transportation project;

(2) the acquisition of real property, rights-of-way, property rights, easements, and other interests in real property;

(3) machinery and equipment;

(4) interest payable before, during, and for not more than three years after acquisition, construction, improvement, extension, or expansion as provided in the bond proceedings;

(5) traffic estimates, revenue estimates, engineering and legal services, plans, specifications, surveys, appraisals, construction cost estimates, and other expenses necessary or incidental to determining the feasibility of the acquisition, construction, improvement, extension, or expansion;

(6) necessary or incidental administrative, legal, and other expenses;

(7) compliance with laws, regulations, and administrative rulings, including any costs associated with necessary environmental mitigation measures;

(8) financing;

(9) the assumption of debts, obligations, and liabilities of an entity relating to a transportation project transferred to an authority by that entity;

(10) expenses related to the initial operation of the transportation project; and

(11) payment obligations of an authority under a contract or agreement authorized by this chapter in connection with the acquisition, construction, improvement, extension, expansion, or financing of the transportation project.

(b) Costs attributable to a transportation project and incurred before the issuance of bonds to finance the transportation project may be reimbursed from the proceeds of sale of the bonds.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.63, eff. June 14, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. 1112), Sec. 2, eff. June 17, 2011.

SUBCHAPTER B. CREATION AND POWERS OF REGIONAL MOBILITY AUTHORITIES

Sec. 370.031. CREATION OF A REGIONAL MOBILITY AUTHORITY. (a) At the request of one or more counties, the commission by order may authorize the creation of a regional mobility authority for the purposes of constructing, maintaining, and operating transportation projects in a region of this state. An authority is governed in accordance with Subchapter F.

(b) An authority may not be created without the approval of the commission under Subsection (a) and the approval of the commissioners court of each county that will be a part of the authority.

(c) A municipality that borders the United Mexican States and has a population of 105,000 or more has the same authority as a county, within its municipal boundaries, to create and participate in an authority. A municipality creating or participating in an authority has the same powers and duties as a county participating in an authority, the governing body of the municipality has the same powers and duties as the commissioners court of a county participating in an authority, and an elected member of the municipality's governing body has the same powers and duties as a commissioner of a county that is participating in an authority.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.64, eff. June 14, 2005.

Sec. 370.0311. CERTAIN MUNICIPALITIES. (a) This section applies to a municipality:

(1) with a population of 5,000 or less; and
(2) in which a ferry system that is a part of the state highway system is located.

(b) A municipality has the same authority as a county under this chapter to create and participate in an authority.

(c) A municipality that creates or participates in an authority

has the same powers and duties as a county that creates or participates in an authority under this chapter.

(d) The governing body of a municipality that creates or participates in an authority has the same powers and duties as a commissioners court of a county that creates or participates in an authority under this chapter.

(e) An elected member of the governing body of a municipality that creates or participates in an authority has the same powers and duties as a commissioner of a county that creates or participates in an authority under this chapter.

Added by Acts 2005, 79th Leg., Ch. 877 (S.B. [1131](#)), Sec. 5, eff. June 17, 2005.

Sec. 370.0315. ADDITION AND WITHDRAWAL OF COUNTIES. (a) One or more counties may petition the commission for approval to become part of an existing authority. The commission may approve the petition only if:

(1) the board has agreed to the addition; and

(2) the commission finds that the affected political subdivisions in the county or counties will be adequately represented on the board.

(b) One or more counties may petition the commission for approval to withdraw from an authority. The commission may approve the petition only if:

(1) the authority has no bonded indebtedness; or

(2) the authority has debt other than bonded indebtedness, but the board has agreed to the withdrawal.

(c) A county may not become part of an authority or withdraw from an authority without the approval of the commission.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.032. NATURE OF REGIONAL MOBILITY AUTHORITY. (a) An authority is a body politic and corporate and a political subdivision of this state.

(b) An authority is a governmental unit as that term is defined in Section 101.001, Civil Practice and Remedies Code.

(c) The exercise by an authority of the powers conferred by this chapter in the acquisition, design, financing, construction, operation, and maintenance of a transportation project or system is:

(1) in all respects for the benefit of the people of the counties in which an authority operates and of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health, living conditions, and public safety; and

(2) an essential governmental function of the state.

(d) The operations of an authority are governmental, not proprietary, functions.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.033. GENERAL POWERS. (a) An authority, through its board, may:

(1) adopt rules for the regulation of its affairs and the conduct of its business;

(2) adopt an official seal;

(3) study, evaluate, design, finance, acquire, construct, maintain, repair, and operate transportation projects, individually or as one or more systems, provided that a transportation project that is subject to Subpart C, 23 C.F.R. Part 450, is:

(A) included in the plan approved by the applicable metropolitan planning organization; and

(B) consistent with the statewide transportation plan and the statewide transportation improvement program;

(4) acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;

(5) enter into contracts or operating agreements with a similar authority, another governmental entity, or an agency of the United States, a state of the United States, the United Mexican States, or a state of the United Mexican States;

(6) enter into contracts or agreements necessary or incidental to its powers and duties under this chapter;

(7) cooperate and work directly with property owners and governmental entities and officials to support an activity required to promote or develop a transportation project;

(8) employ and set the compensation and benefits of administrators, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, full-time and part-time employees, agents, consultants, and other persons as the authority considers necessary or useful;

(8-a) participate in the state travel management program administered by the comptroller for the purpose of obtaining reduced airline fares and reduced travel agent fees, provided that the comptroller may charge the authority a fee not to exceed the costs incurred by the comptroller in providing services to the authority;

(9) notwithstanding Sections 221.003 and 222.031 and subject to Subsections (j) and (m), apply for, directly or indirectly receive and spend loans, gifts, grants, and other contributions for any purpose of this chapter, including the construction of a transportation project, and receive and spend contributions of money, property, labor, or other things of value from any source, including the United States, a state of the United States, the United Mexican States, a state of the United Mexican States, the commission, the department, a subdivision of this state, or a governmental entity or private entity, to be used for the purposes for which the grants, loans, or contributions are made, and enter into any agreement necessary for the grants, loans, or contributions;

(10) install, construct, or contract for the construction of public utility facilities, direct the time and manner of construction of a public utility facility in, on, along, over, or under a transportation project, or request the removal or relocation of a public utility facility in, on, along, over, or under a transportation project;

(11) organize a corporation under Chapter 431 for the promotion and development of transportation projects;

(12) adopt and enforce rules not inconsistent with this chapter for the use of any transportation project, including tolls, fares, or other user fees, speed and weight limits, and traffic and other public safety rules, provided that an authority must consider the same factors that the Texas Turnpike Authority division of the department must consider in altering a prima facie speed limit under Section 545.354;

(13) enter into leases, operating agreements, service agreements, licenses, franchises, and similar agreements with a public or private party governing the party's use of all or any

portion of a transportation project and the rights and obligations of the authority with respect to a transportation project;

(14) borrow money from or enter into a loan agreement or other arrangement with the state infrastructure bank, the department, the commission, or any other public or private entity; and

(15) do all things necessary or appropriate to carry out the powers and duties expressly granted or imposed by this chapter.

(b) Except as provided by this subsection, property that is a part of a transportation project of an authority is not subject to condemnation or the exercise of the power of eminent domain by any person, including a governmental entity. The department may condemn property that is a part of a transportation project of an authority if the property is needed for the construction, reconstruction, or expansion of a state highway or rail facility.

(c) An authority may perform any function not specified by this chapter to promote or develop a transportation project that the authority is authorized to develop or operate under this chapter.

(d) An authority may sue and be sued and plead and be impleaded in its own name.

(e) An authority may rent, lease, franchise, license, or make portions of its properties available for use by others in furtherance of its powers under this chapter by increasing the feasibility or the revenue of a transportation project. If the transportation project is a project other than a public utility facility an authority may rent, lease, franchise or make property available only to the extent that the renting, lease or franchise benefits the users of the project.

(f) An authority may enter into a contract, agreement, interlocal agreement, or other similar arrangement under which the authority may acquire, plan, design, construct, maintain, repair, or operate a transportation project on behalf of another governmental entity if:

(1) the transportation project is located in the authority's area of jurisdiction or in a county adjacent to the authority's area of jurisdiction;

(2) the transportation project is being acquired, planned, constructed, designed, operated, repaired, or maintained on behalf of the department or another toll project entity, as defined by Section 372.001; or

(3) for a transportation project that is not described by

Subdivision (1) or (2), the department approves the acquisition, planning, construction, design, operation, repair, or maintenance of the project by the authority.

(f-1) A contract or agreement under Subsection (f) may contain terms and conditions as may be approved by an authority, including payment obligations of the governmental entity and the authority.

(g) Payments to be made to an authority under a contract or agreement described by Subsection (f) constitute operating expenses of the transportation project or system that is to be operated under the contract or agreement. The contract or agreement may extend for the number of years as agreed to by the parties.

(h) An authority shall adopt a written drug and alcohol policy restricting the use of controlled substances by officers and employees of the authority, prohibiting the consumption of alcoholic beverages by employees while on duty, and prohibiting employees from working for the authority while under the influence of a controlled substance or alcohol. An authority may adopt policies regarding the testing of employees suspected of being in violation of the authority's drug and alcohol policy. The policy shall provide that, unless required by court order or permitted by the person who is the subject of the testing, the authority shall keep the results of the test confidential.

(i) An authority shall adopt written procedures governing its procurement of goods and services that are consistent with general laws applicable to the authority.

(j) An authority may not apply for federal highway or rail funds without the approval of the department.

(k) An authority may not directly provide water, wastewater, natural gas, petroleum pipeline, electric transmission, electric distribution, telecommunications, information, or cable television services.

(l) If an authority establishes an airport in Central Texas, the authority may not establish the airport at a location prohibited to the department by Section 21.069(c).

(m) If an authority receives money from the general revenue fund, the Texas Mobility Fund, or the state highway fund it may use the money only to acquire, design, finance, construct, operate, or maintain a turnpike project under Section 370.003(14)(A) or (D) or a transit system under Section 370.351.

(n) Nothing in this chapter or any contractual right obtained

under a contract with an authority under this chapter supersedes or renders ineffective any provision of another law applicable to the owner or operator of a public utility facility, including any provision of the utilities code regarding licensing, certification, or regulatory jurisdiction of the Public Utility Commission of Texas or the Railroad Commission of Texas.

(o) Except as provided in Subchapter J, an authority may not provide mass transit services in the service area of another transit provider that has taxing authority and has implemented it anywhere in the service area unless the service is provided under a written agreement with the transit provider or under Section 370.186.

(p) Before providing public transportation or mass transit services in the service area of any other existing transit provider, including a transit provider operating under Chapter 458, an authority must first consult with that transit provider. An authority shall ensure there is coordination of services provided by the authority and an existing transit provider, including a transit provider operating under Chapter 458. An authority is ineligible to participate in the formula or discretionary program under Chapter 456 unless there is no other transit provider, including a transit provider operating under Chapter 458, providing public transportation or mass transit services in the service area of the authority.

(q) An authority, acting through its board, may agree with another entity to acquire a transportation project or system from that entity and to assume any debts, obligations, and liabilities of the entity relating to a transportation project or system transferred to the authority.

(r) This chapter may not be construed to restrict the ability of an authority to enter into an agreement under Chapter 791, Government Code, with another governmental entity located anywhere in this state.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.65, eff. June 14, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. [1112](#)), Sec. 3, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 118 (S.B. [1489](#)), Sec. 2, eff. May

18, 2013.

Sec. 370.034. ESTABLISHMENT OF TRANSPORTATION SYSTEMS. (a) If an authority determines that the traffic needs of the counties in which it operates and the traffic needs of the surrounding region could be most efficiently and economically met by jointly operating two or more transportation projects as one operational and financial enterprise, it may create a system made up of those transportation projects. An authority may create more than one system and may combine two or more systems into one system. An authority may finance, acquire, construct, and operate additional transportation projects as additions to or expansions of a system if the authority determines that the transportation project could most efficiently and economically be acquired or constructed if it were a part of the system and that the addition will benefit the system.

(b) The revenue of a system shall be accounted for separately and may not be commingled with the revenue of a transportation project that is not a part of the system or with the revenue of another system.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.036. TRANSFER OF BONDED TURNPIKE PROJECT TO DEPARTMENT. (a) An authority may transfer to the department a turnpike project of the authority that has outstanding bonded indebtedness if the commission:

- (1) agrees to the transfer; and
- (2) agrees to assume the outstanding bonded indebtedness.

(b) The commission may assume the outstanding bonded indebtedness only if the assumption:

- (1) is not prohibited under the terms of an existing trust agreement or indenture securing bonds or other obligations issued by the commission for another project;
- (2) does not prevent the commission from complying with covenants of the commission under an existing trust agreement or indenture; and
- (3) does not cause a rating agency maintaining a rating on

outstanding obligations of the commission to lower the existing rating.

(c) If the commission agrees to the transfer under Subsection (a), the authority shall convey the turnpike project and any real property acquired to construct or operate the turnpike project to the department.

(d) At the time of a conveyance under this section, the commission shall designate the turnpike project as part of the state highway system. After the designation, the authority has no liability, responsibility, or duty to maintain or operate the transferred turnpike project.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.037. TRANSFER OF FERRY CONNECTING STATE HIGHWAYS. (a) The commission by order may transfer a ferry operated under Section 342.001 to an authority if:

(1) the commission determines that the proposed transfer is an integral part of the region's overall plan to improve mobility in the region; and

(2) the authority:

(A) agrees to the transfer; and

(B) agrees to assume all liability and responsibility for the maintenance and operation of the ferry on its transfer.

(b) An authority shall reimburse the commission for the cost of a transferred ferry unless the commission determines that the transfer will result in a substantial net benefit to the state, the department, and the traveling public that equals or exceeds that cost.

(c) In computing the cost of the ferry, the commission shall:

(1) include the total amount spent by the department for the original construction of the ferry, including the costs associated with the preliminary engineering and design engineering for plans, specifications, and estimates, the acquisition of necessary rights-of-way, and actual construction of the ferry and all necessary appurtenant facilities; and

(2) consider the anticipated future costs of expanding, improving, maintaining, or operating the ferry to be incurred by the

authority and not by the department if the ferry is transferred.

(d) The commission shall, at the time the ferry is transferred, remove the ferry from the state highway system. After a transfer, the commission has no liability, responsibility, or duty for the maintenance or operation of the ferry.

(e) Before transferring a ferry that is a part of the state highway system under this section, the commission shall conduct a public hearing at which interested persons shall be allowed to speak on the proposed transfer. Notice of the hearing must be published in the Texas Register, one or more newspapers of general circulation in the counties in which the ferry is located, and a newspaper, if any, published in the counties of the applicable authority.

(f) The commission shall adopt rules to implement this section. The rules must include criteria and guidelines for the approval of a transfer of a ferry.

(g) An authority shall adopt rules establishing criteria and guidelines for approval of the transfer of a ferry under this section.

(h) An authority may permanently charge a toll for use of a ferry transferred under this section. An authority may permanently charge a fee or toll for priority use of ferry facilities under Section 370.193.

(i) The commission may not transfer a ferry under this section if the ferry is located in a municipality with a population of 5,000 or less unless the city council of the municipality approves the transfer.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 877 (S.B. [1131](#)), Sec. 6, eff. June 17, 2005.

Sec. 370.038. COMMISSION RULES. (a) The commission shall adopt rules that:

- (1) govern the creation of an authority;
- (2) govern the commission's approval of a project under Section 370.187 and other commission approvals required by this chapter;

(3) establish design and construction standards for a transportation project that will connect with a highway in the state highway system or a department rail facility;

(4) establish minimum audit and reporting requirements and standards;

(5) establish minimum ethical standards for authority directors and employees; and

(6) govern the authority of an authority to contract with the United Mexican States or a state of the United Mexican States.

(b) The commission shall appoint a rules advisory committee to advise the department and the commission on the development of the commission's initial rules required by this section. The committee must include one or more members representing an existing authority, if applicable. Chapter 2110, Government Code, does not apply to the committee. This subsection expires on the date the commission adopts initial rules under this section.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.039. TRANSFER OF TRANSPORTATION PROJECT OR SYSTEM.

(a) An authority may transfer any of its transportation projects or systems to one or more governmental entities if:

(1) the authority has commitments from the governing bodies of the governmental entities to assume jurisdiction over the transferred projects or systems;

(2) property and contract rights in the transferred projects or systems and bonds issued for the projects or systems are not affected unfavorably;

(3) the transfer is not prohibited under the bond proceedings applicable to the transferred projects or systems;

(4) adequate provision has been made for the assumption of all debts, obligations, and liabilities of the authority relating to the transferred projects or systems by the governmental entities assuming jurisdiction over the transferred projects or systems;

(5) the governmental entities are authorized to assume jurisdiction over the transferred projects or systems and to assume the debts, obligations, and liabilities of the authority relating to the transferred projects or systems; and

(6) the transfer has been approved by the commissioners court of each county that is part of the authority.

(b) An authority may transfer to one or more governmental entities any traffic estimates, revenue estimates, plans, specifications, surveys, appraisals, and other work product developed by the authority in determining the feasibility of the construction, improvement, extension, or expansion of a transportation project or system, and the authority's rights and obligations under any related agreements, if the requirements of Subsections (a)(1) and (6) are met.

(c) A governmental entity shall, using any lawfully available funds, reimburse any expenditures made by an authority from its feasibility study fund or otherwise to pay the costs of work product transferred to the governmental entity under Subsection (b) and any other amounts expended under related agreements transferred to the governmental entity. The reimbursement may be made over time, as determined by the governmental entity and the authority.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.66, eff. June 14, 2005.

SUBCHAPTER C. FEASIBILITY OF REGIONAL TRANSPORTATION PROJECTS

Sec. 370.071. EXPENDITURES FOR FEASIBILITY STUDIES. (a) An authority may pay the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to the preparation and issuance of bonds for a proposed transportation project by:

(1) using legally available revenue derived from an existing transportation project;

(2) borrowing money and issuing bonds or entering into a loan agreement payable out of legally available revenue anticipated to be derived from the operation of an existing transportation project;

(3) pledging to the payment of the bonds or a loan agreement legally available revenue anticipated to be derived from the operation of transportation projects or revenue legally available to the authority from another source; or

(4) pledging to the payment of the bonds or a loan

agreement the proceeds from the sale of other bonds.

(b) Money spent under this section for a proposed transportation project must be reimbursed to the transportation project from which the money was spent from the proceeds of bonds issued for the acquisition and construction of the proposed transportation project, unless the transportation projects are or become part of a system under Section 370.034.

(c) The use of any money of a transportation project to study the feasibility of another transportation project or used to repay any money used for that purpose does not constitute an operating expense of the transportation project producing the revenue and may be paid only from the surplus money of the transportation project as determined by the authority.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. [1112](#)), Sec. 4, eff. June 17, 2011.

Sec. 370.072. FEASIBILITY STUDY FUND. (a) An authority may maintain a feasibility study fund. The fund is a revolving fund held in trust by a banking institution chosen by the authority and shall be kept separate from the money for a transportation project.

(b) An authority may transfer an amount from a surplus fund established for a transportation project to the authority's feasibility study fund if the remainder of the surplus fund after the transfer is not less than any minimum amount required by the bond proceedings to be retained for that transportation project.

(c) Money in the feasibility study fund may be used only to pay the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to:

- (1) the preparation and issuance of bonds for the acquisition and construction of a proposed transportation project;
- (2) the financing of the improvement, extension, or expansion of an existing transportation project; and
- (3) private participation, as authorized by law, in the financing of a proposed transportation project, the refinancing of an

existing transportation project or system, or the improvement, extension, or expansion of a transportation project.

(d) Money spent under Subsection (c) for a proposed transportation project must be reimbursed from the proceeds of revenue bonds issued for, or other proceeds that may be used for, the acquisition, construction, improvement, extension, expansion, or operation of the transportation project.

(e) For a purpose described by Subsection (c), an authority may borrow money and issue promissory notes or other interest-bearing evidences of indebtedness payable out of its feasibility study fund, pledging money in the fund or to be placed in the fund.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. [1112](#)), Sec. 5, eff. June 17, 2011.

Sec. 370.073. FEASIBILITY STUDY BY MUNICIPALITY, COUNTY, OTHER GOVERNMENTAL ENTITY, OR PRIVATE GROUP. (a) One or more municipalities, counties, or other governmental entities, a combination of municipalities, counties, and other governmental entities, or a private group or combination of individuals in this state may pay all or part of the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to:

(1) the preparation and issuance of bonds for the acquisition or construction of a proposed transportation project by an authority;

(2) the improvement, extension, or expansion of an existing transportation project of the authority; or

(3) the use of private participation under applicable law in connection with the acquisition, construction, improvement, expansion, extension, maintenance, repair, or operation of a transportation project by an authority.

(b) Money spent under Subsection (a) for a proposed transportation project is reimbursable without interest and with the consent of the authority to the person paying the expenses described in Subsection (a) out of the proceeds from revenue bonds issued for

or other proceeds that may be used for the acquisition, construction, improvement, extension, expansion, maintenance, repair, or operation of the transportation project.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. 1112), Sec. 6, eff. June 17, 2011.

SUBCHAPTER D. TRANSPORTATION PROJECT FINANCING

Sec. 370.111. TRANSPORTATION REVENUE BONDS. (a) An authority, by bond resolution, may authorize the issuance of bonds to pay all or part of the cost of a transportation project, to refund any bonds previously issued for the transportation project, or to pay for all or part of the cost of a transportation project that will become a part of another system.

(b) As determined in the bond resolution, the bonds of each issue shall:

(1) be dated;

(2) bear interest at the rate or rates provided by the bond resolution and beginning on the dates provided by the bond resolution and as authorized by law, or bear no interest;

(3) mature at the time or times provided by the bond resolution, not exceeding 40 years from their date or dates; and

(4) be made redeemable before maturity at the price or prices and under the terms provided by the bond resolution.

(c) An authority may sell the bonds at public or private sale in the manner and for the price it determines to be in the best interest of the authority.

(d) The proceeds of each bond issue shall be disbursed in the manner and under any restrictions provided in the bond resolution.

(e) Additional bonds may be issued in the same manner to pay the costs of a transportation project. Unless otherwise provided in the bond resolution, the additional bonds shall be on a parity, without preference or priority, with bonds previously issued and payable from the revenue of the transportation project. In addition, an authority may issue bonds for a transportation project secured by a lien on the revenue of the transportation project subordinate to

the lien on the revenue securing other bonds issued for the transportation project.

(f) If the proceeds of a bond issue exceed the cost of the transportation project for which the bonds were issued, the surplus shall be segregated from the other money of the authority and used only for the purposes specified in the bond resolution.

(g) Bonds issued and delivered under this chapter and interest coupons on the bonds are a security under Chapter 8, Business & Commerce Code.

(h) Bonds issued under this chapter and income from the bonds, including any profit made on the sale or transfer of the bonds, are exempt from taxation in this state.

(i) Bonds issued under this chapter shall be considered authorized investments under Chapter 2256, Government Code, for this state, any governmental entity, and any other public entity proposing to invest in the bonds.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.112. INTERIM BONDS. (a) An authority may, before issuing definitive bonds, issue interim bonds, with or without coupons, exchangeable for definitive bonds.

(b) The interim bonds may be authorized and issued in accordance with this chapter, without regard to a requirement, restriction, or procedural provision in any other law.

(c) A bond resolution authorizing interim bonds may provide that the interim bonds recite that the bonds are issued under this chapter. The recital is conclusive evidence of the validity and the regularity of the bonds' issuance.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.113. PAYMENT OF BONDS; STATE AND COUNTY CREDIT. (a) The principal of, interest on, and any redemption premium on bonds issued by an authority are payable solely from:

(1) the revenue of the transportation project for which the bonds are issued;

(2) payments made under an agreement with the commission, the department, or other governmental entity as authorized by this chapter;

(3) money derived from any other source available to the authority, other than money derived from a transportation project that is not part of the same system or money derived from a different system, except to the extent that the surplus revenue of a transportation project or system has been pledged for that purpose;

(4) amounts received under a credit agreement relating to the transportation project for which the bonds are issued; and

(5) the proceeds of the sale of other bonds.

(b) Bonds issued under this chapter do not constitute a debt of this state or of a governmental entity, or a pledge of the faith and credit of this state or of a governmental entity. Each bond must contain on its face a statement to the effect that the state, the authority, or any governmental entity is not obligated to pay the bond or the interest on the bond from a source other than the amount pledged to pay the bond and the interest on the bond, and neither the faith and credit and taxing power of this state or of any governmental entity are pledged to the payment of the principal of or interest on the bond. This subsection does not apply to a governmental entity that has entered into an agreement under Section 370.303.

(c) An authority may not incur a financial obligation that cannot be paid from revenue derived from owning or operating the authority's transportation projects or from other revenue provided by law.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. [1112](#)), Sec. 7, eff. June 17, 2011.

Sec. 370.114. EFFECT OF LIEN. (a) A lien on or a pledge of revenue from a transportation project under this chapter or on a reserve, replacement, or other fund established in connection with a bond issued under this chapter or a contract or agreement entered into under this chapter:

(1) is enforceable at the time of payment for and delivery of the bond or on the effective date of the contract or agreement;

(2) applies to each item on hand or subsequently received;

(3) applies without physical delivery of an item or other act; and

(4) is enforceable against any person having a claim, in tort, contract, or other remedy, against the applicable authority without regard to whether the person has notice of the lien or pledge.

(b) A copy of any bond resolution shall be maintained in the regular records of the authority.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. [1112](#)), Sec. 8, eff. June 17, 2011.

Sec. 370.115. BOND INDENTURE. (a) Bonds issued by an authority under this chapter may be secured by a bond indenture between the authority and a corporate trustee that is a trust company or a bank that has the powers of a trust company.

(b) A bond indenture may pledge or assign the revenues to be received but may not convey or mortgage any part of a transportation project.

(c) A bond indenture may:

(1) set forth the rights and remedies of the bondholders and the trustee;

(2) restrict the individual right of action by bondholders as is customary in trust agreements or indentures of trust securing corporate bonds and debentures; and

(3) contain provisions the authority determines reasonable and proper for the security of the bondholders, including covenants:

(A) establishing the authority's duties relating to:

(i) the acquisition of property;

(ii) the construction, maintenance, operation, and repair of and insurance for a transportation project; and

(iii) custody, safeguarding, and application of money;

(B) prescribing events that constitute default;

(C) prescribing terms on which any or all of the bonds become or may be declared due before maturity; and

(D) relating to the rights, powers, liabilities, or duties that arise on the breach of a duty of the authority.

(d) An expense incurred in carrying out a trust agreement may be treated as part of the cost of operating the transportation project.

(e) In addition to all other rights by mandamus or other court proceeding, an owner or trustee of a bond issued under this chapter may enforce the owner's rights against an issuing authority, the authority's employees, the authority's board, or an agent or employee of the authority's board and is entitled to:

(1) require the authority or the board to impose and collect tolls, fares, fees, charges, and other revenue sufficient to carry out any agreement contained in the bond proceedings; and

(2) apply for and obtain the appointment of a receiver for the transportation project or system.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.116. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a) An authority shall submit to the attorney general for examination the record of proceedings relating to bonds authorized under this chapter. The record shall include the bond proceedings and any contract securing or providing revenue for the payment of the bonds.

(b) If the attorney general determines that the bonds, the bond proceedings, and any supporting contract are authorized by law, the attorney general shall approve the bonds and deliver to the comptroller:

(1) a copy of the legal opinion of the attorney general stating the approval; and

(2) the record of proceedings relating to the authorization of the bonds.

(c) On receipt of the legal opinion of the attorney general and the record of proceedings relating to the authorization of the bonds, the comptroller shall register the record of proceedings.

(d) After approval by the attorney general, the bonds, the bond

proceedings, and any supporting contract are valid, enforceable, and incontestable in any court or other forum for any reason and are binding obligations according to their terms for all purposes.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.117. FURNISHING OF INDEMNIFYING BONDS OR PLEDGES OF SECURITIES. (a) A bank or trust company incorporated under the laws of this state that acts as depository of the proceeds of bonds or of revenue may furnish indemnifying bonds or pledge securities that an authority requires.

(b) Bonds of an authority may secure the deposit of public money of this state or a political subdivision of this state to the extent of the lesser of the face value of the bonds or their market value.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.118. APPLICABILITY OF OTHER LAW; CONFLICTS. All laws affecting the issuance of bonds by local governmental entities, including Chapters 1201, 1202, 1204, and 1371, Government Code, apply to bonds issued under this chapter. To the extent of a conflict between those laws and this chapter, the provisions of this chapter prevail.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

SUBCHAPTER E. ACQUISITION, CONSTRUCTION, AND OPERATION OF TRANSPORTATION PROJECTS

Sec. 370.161. TRANSPORTATION PROJECTS EXTENDING INTO OTHER COUNTIES. An authority may study, evaluate, design, finance, acquire, construct, operate, maintain, repair, expand, or extend a transportation project in:

- (1) a county that is a part of the authority;
- (2) a county in this state that is not a part of the

authority if the county and authority enter into an agreement under Section 370.033(f); or

(3) a county in another state or the United Mexican States if:

(A) each governing body of a political subdivision in which the project will be located agrees to the proposed study, evaluation, design, financing, acquisition, construction, operation, maintenance, repair, expansion, or extension;

(B) the project will bring significant benefits to the counties in this state that are part of the authority;

(C) the county in the other state is adjacent to a county that:

(i) is part of the authority studying, evaluating, designing, financing, acquiring, constructing, operating, maintaining, repairing, expanding, or extending the transportation project; and

(ii) has a municipality with a population of 500,000 or more; and

(D) the governor approves the proposed study, evaluation, design, financing, acquisition, construction, operation, maintenance, repair, expansion, or extension.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.102, eff. June 14, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 118 (S.B. 1489), Sec. 3, eff. May 18, 2013.

Sec. 370.162. POWERS AND PROCEDURES OF AUTHORITY IN ACQUIRING PROPERTY. (a) An authority may construct or improve a transportation project on real property, including a right-of-way acquired by the authority or provided to the authority for that purpose by the commission, a political subdivision of this state, or any other governmental entity.

(b) Except as provided by this chapter, an authority has the same powers and may use the same procedures as the commission in acquiring property.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.163. ACQUISITION OF PROPERTY. (a) Except as otherwise provided by this subchapter, the governing body of an authority has the same powers and duties relating to the condemnation and acquisition of real property for a transportation project that the commission and the department have under Subchapter D, Chapter 203, relating to the condemnation or purchase of real property for a toll project.

(b) Repealed by Acts 2005, 79th Leg., Ch. 281, Sec. 2.101(17), eff. June 14, 2005.

(c) The authority granted under this section does not include the authority to condemn a bridge connecting this state to the United Mexican States that is owned by a county or municipality.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.68, eff. June 14, 2005.

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.101(17), eff. June 14, 2005.

Sec. 370.164. DECLARATION OF TAKING. (a) An authority may file a declaration of taking with the clerk of the court:

(1) in which the authority files a condemnation petition under Chapter 21, Property Code; or

(2) to which the case is assigned.

(b) An authority may file the declaration of taking concurrently with or subsequent to the filing of the condemnation petition but may not file the declaration after the special commissioners have made an award in the condemnation proceeding.

(c) An authority may not file a declaration of taking before the completion of all:

(1) environmental documentation, including a final environmental impact statement or a record of decision, that is required by federal or state law;

(2) public hearings and meetings, including those held in connection with the environmental rules adopted by the authority under Section 370.188, that are required by federal or state law; and

(3) notifications required by the rules adopted by the authority under Section 370.188.

(d) The declaration of taking must include:

(1) a specific reference to the legislative authority for the condemnation;

(2) a description and plot plan of the real property to be condemned, including the following information if applicable:

(A) the municipality in which the property is located;

(B) the street address of the property; and

(C) the lot and block number of the property;

(3) a statement of the property interest to be condemned;

(4) the name and address of each property owner that the authority can obtain after reasonable investigation and a description of the owner's interest in the property; and

(5) a statement that immediate possession of all or part of the property to be condemned is necessary for the timely construction of a transportation project.

(e) A deposit to the registry of the court of an amount equal to the appraised value as determined by the authority of the property to be condemned must accompany the declaration of taking.

(f) The date on which the declaration is filed is the date of taking for the purpose of assessing damages to which a property owner is entitled.

(g) After a declaration of taking is filed, the case shall proceed as any other case in eminent domain under Chapter 21, Property Code.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.165. POSSESSION OF PROPERTY. (a) Immediately on the filing of a declaration of taking, the authority shall serve a copy of the declaration on each person possessing an interest in the condemned property by a method prescribed by Section 21.016(d), Property Code. The authority shall file evidence of the service with

the clerk of the court. On filing of that evidence, the authority may take possession of the property pending the litigation.

(b) If the condemned property is a homestead or a portion of a homestead as defined by Section 41.002, Property Code, the authority may not take possession before the 91st day after the date of service under Subsection (a).

(c) A property owner or tenant who refuses to vacate the property or yield possession is subject to forcible entry and detainer under Chapter 24, Property Code.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.166. PARTICIPATION PAYMENT FOR REAL PROPERTY. (a) As an alternative to paying for an interest in real property or a real property right with a single fixed payment, the authority may, with the owner's consent, pay the owner by means of a participation payment.

(b) A right to receive a participation payment under this section is subordinate to any right to receive a fee as payment on the principal of or interest on a bond that is issued for the construction of the applicable segment.

(c) In this section, "participation payment" means an intangible legal right to receive a percentage of one or more identified fees related to a segment constructed by the authority.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.167. SEVERANCE OF REAL PROPERTY. (a) If a transportation project of an authority severs a property owner's real property, the authority shall pay:

(1) the value of the property acquired; and
(2) the damages, if any, to the remainder of the owner's property caused by the severance, including damages caused by the inaccessibility of one tract from the other.

(b) At its option, an authority may negotiate for and purchase the severed real property or any part of the severed real property if the authority and the property owner agree on terms for the purchase.

An authority may sell and dispose of severed real property that it determines is not necessary or useful to the authority. Severed property must be appraised before being offered for sale by the authority.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.168. ACQUISITION OF RIGHTS IN PUBLIC REAL PROPERTY.

(a) An authority may use real property, including submerged land, streets, alleys, and easements, owned by this state or a local government that the authority considers necessary for the construction or operation of a transportation project.

(b) This state or a local government having charge of public real property may consent to the use of the property for a transportation project.

(c) Except as provided by Section 228.201, this state or a local government may convey, grant, or lease to an authority real property, including highways and other real property devoted to public use and rights or easements in real property, that may be necessary or convenient to accomplish a purpose of the authority, including the construction or operation of a transportation project. A conveyance, grant, or lease under this section may be made without advertising, court order, or other action other than the normal action of this state or local government necessary for a conveyance, grant, or lease.

(d) This section does not deprive the School Land Board of the power to execute a lease for the development of oil, gas, and other minerals on state-owned real property adjoining a transportation project or in tidewater limits. A lease may provide for directional drilling from the adjoining property or tidewater area.

(e) This section does not affect the obligation of the authority under another law to compensate this state for acquiring or using property owned by or on behalf of this state. An authority's use of property owned by or on behalf of this state is subject to any covenants, conditions, restrictions, or limitations affecting that property.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.69, eff. June 14, 2005.

Sec. 370.169. COMPENSATION FOR AND RESTORATION OF PUBLIC PROPERTY. (a) Except as provided by Section 370.035, an authority may not pay compensation for public real property, parkways, streets, highways, alleys, or reservations it takes, other than:

- (1) a park, playground, or designated environmental preserve;
- (2) property owned by or on behalf of this state that under law requires compensation to this state for the use or acquisition of the property; or
- (3) as provided by this chapter.

(b) Public property damaged in the exercise of a power granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable.

(c) An authority has full easements and rights-of-way through, across, under, and over any property owned by the state or any local government that are necessary or convenient to construct, acquire, or efficiently operate a transportation project or system under this chapter. This subsection does not affect the obligation of the authority under other law, including Section 373.102, to compensate or reimburse this state for the use or acquisition of an easement or right-of-way on property owned by or on behalf of this state. An authority's use of property owned by or on behalf of this state is subject to any covenants, conditions, restrictions, or limitations affecting that property.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 8, eff. June 17, 2011.

Sec. 370.170. PUBLIC UTILITY FACILITIES. (a) An authority may adopt rules for the authority's approval of the installation, construction, relocation, and removal of a public utility facility

in, on, along, over, or under a transportation project.

(b) If the authority determines that a public utility facility located in, on, along, over, or under a transportation project must be relocated, the utility and the authority shall negotiate in good faith to establish reasonable terms and conditions concerning the responsibilities of the parties with regard to sharing of information about the project and the planning and implementation of any necessary relocation of the public utility facility.

(c) The authority shall use its best efforts to provide an affected utility with plans and drawings of the project that are sufficient to enable the utility to develop plans for, and determine the cost of, the necessary relocation of a public utility facility. If the authority and the affected utility enter into an agreement after negotiations under Subsection (b), the terms and conditions of the agreement govern the relocation of each public utility facility covered by the agreement.

(d) If the authority and an affected utility do not enter into an agreement under Subsection (b), the authority shall provide to the affected utility:

(1) written notice of the authority's determination that the public utility facility must be removed;

(2) a final plan for relocation of the public utility facility; and

(3) reasonable terms and conditions for an agreement with the utility for the relocation of the public utility facility.

(e) Not later than the 90th day after the date a utility receives the notice from the authority, including the plan and agreement terms and conditions under Subsection (d), the utility shall enter into an agreement with the authority that provides for the relocation.

(f) If the utility fails to enter into an agreement within the 90-day period under Subsection (e), the authority may relocate the public utility facility at the sole cost and expense of the utility less any reimbursement of costs that would have been payable to the utility under applicable law. A relocation by the authority under this subsection shall be conducted in full compliance with applicable law, using standard equipment and construction practices compatible with the utility's existing facilities, and in a manner that minimizes disruption of utility service.

(g) The 90-day period under Subsection (e) may be extended:

(1) by mutual agreement between the authority and the utility; or

(2) for any period of time during which the utility is negotiating in good faith with the authority to relocate its facility.

(h) Subject to Subsections (a)-(g), the authority, as a part of the cost of the transportation project or the cost of operating the transportation project, shall pay the cost of the relocation, removal, or grade separation of a public utility facility under Subsection (a).

(i) The authority may reduce the total costs to be paid by the authority under Subsection (h) by 10 percent for each 30-day period or portion of a 30-day period by which the relocation or removal exceeds the reasonable limit specified by agreement between the authority and the owner or operator of the public utility facility, unless the failure of the owner or operator of the facility to timely relocate or remove the facility results directly from:

(1) a material action or inaction of the authority;

(2) an inability of the public utility facility owner or operator to obtain necessary line clearances to perform the removal or relocation; or

(3) conditions beyond the reasonable control of the owner or operator of the facility, including:

(A) an act of God; or

(B) a labor shortage or strike.

(j) The owner or operator of a public utility facility relocated or removed under Subsection (f) shall reimburse the authority for the expenses the authority reasonably incurred for the relocation or removal of the facility, less any costs that would have been payable to the owner or operator under Subsection (h) had the owner or operator relocated or removed the facility, except that the owner or operator is not required to reimburse the authority if the failure of the owner or operator to timely relocate or remove the facility was the result of circumstances beyond the control of the owner or operator.

(k) Subchapter C, Chapter 181, Utilities Code, applies to the erection, construction, maintenance, and operation of a line or pole owned by an electric utility, as that term is defined by Section 181.041, Utilities Code, over, under, across, on, and along a transportation project or system constructed by an authority. An

authority has the powers and duties delegated to the commissioners court by that subchapter.

(1) Subchapter B, Chapter 181, Utilities Code, applies to the laying and maintenance of facilities used for conducting gas by a gas utility, as that term is defined by Section 181.021, Utilities Code, through, under, along, across, and over a transportation project or system constructed by an authority except as otherwise provided by this section. An authority has the powers and duties delegated to the commissioners court by that subchapter.

(m) The laws of this state applicable to the use of public roads, streets, and waters by a telephone or telegraph corporation apply to the erection, construction, maintenance, location, and operation of a line, pole, or other fixture by a telephone or telegraph corporation over, under, across, on, and along a transportation project constructed by an authority under this chapter.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.171. LEASE, SALE, OR CONVEYANCE OF TRANSPORTATION PROJECT. An authority may lease, sell, or convey in any other manner a transportation project to a governmental entity with the approval of the governing body of the governmental entity to which the project is transferred.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.172. REVENUE. (a) An authority may:

(1) impose tolls, fees, fares, or other charges for the use of each of its transportation projects and the different parts or sections of each of its transportation projects; and

(2) subject to Subsection (j), contract with a person for the use of part of a transportation project, or lease or sell part of a transportation project, including the right-of-way adjoining the portion used to transport people and property, for any purpose, including placing on the adjoining right-of-way a gas station, garage, store, hotel, restaurant, parking facility, railroad track,

billboard, livestock pasturage, telephone line or facility, telecommunication line or facility, data transmission line or facility, or electric line or facility, under terms set by the authority.

(b) Tolls, fees, fares, or other charges must be set at rates or amounts so that the aggregate of tolls, fees, fares, or other charges from an authority's transportation project, together with other revenue of the transportation project:

(1) provides revenue sufficient to pay:

(A) the cost of maintaining, repairing, and operating the transportation project;

(B) the principal of and interest on any bonds issued for the transportation project as those bonds become due and payable; and

(C) any other payment obligations of an authority under a contract or agreement authorized under this chapter; and

(2) creates reserves for a purpose listed under Subdivision (1).

(c) Any toll, fee, fare, or other charge imposed on an owner of a public utility facility under this section must be imposed in a manner that is competitively neutral and nondiscriminatory among similarly situated users of the transportation project.

(d) Tolls, fees, fares, or other usage charges are not subject to supervision or regulation by any agency of this state or another governmental entity.

(e) Revenue derived from tolls, fees, and fares, and other revenue derived from a transportation project for which bonds are issued, other than any part necessary to pay the cost of maintenance, repair, and operation and to provide reserves for those costs as provided in the bond proceedings, shall be set aside at regular intervals as provided in the bond resolution or trust agreement in a sinking fund that is pledged to and charged with the payment of:

(1) interest on the bonds as it becomes due;

(2) principal of the bonds as it becomes due;

(3) necessary charges of paying agents for paying principal and interest;

(4) the redemption price or the purchase price of bonds retired by call or purchase as provided in the bond proceedings; and

(5) any amounts due under credit agreements.

(f) Use and disposition of money deposited to the credit of the

sinking fund is subject to the bond proceedings.

(g) To the extent permitted under the applicable bond proceedings, revenue from one transportation project of an authority may be used to pay the cost of another transportation project of the authority.

(h) An authority may not use revenue from a transportation project in a manner not authorized by this chapter. Except as provided by this chapter, revenue derived from a transportation project may not be applied for a purpose or to pay a cost other than a cost or purpose that is reasonably related to or anticipated to be for the benefit of a transportation project.

(i) An authority may not require the owner of a public utility facility to pay a fee as a condition of placing a facility across the rights-of-way.

(j) If the transportation project is a project other than a public utility facility, an authority may contract for the use of part of a transportation project or lease or sell part of a transportation project under Subsection (a)(2) only to the extent that the contract, lease, or sale benefits the users of the transportation project.

(k) Notwithstanding any other provision of this chapter, an authority may pledge all or any part of its revenues and any other funds available to the authority to the payment of any obligations of the authority under a contract or agreement authorized by this chapter.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. [1112](#)), Sec. 9, eff. June 17, 2011.

Sec. 370.173. AUTHORITY REVOLVING FUND. (a) An authority may maintain a revolving fund to be held in trust by a banking institution chosen by the authority separate from any other funds and administered by the authority's board.

(b) An authority may transfer into its revolving fund money from any permissible source, including:

(1) money from a transportation project if the transfer

does not diminish the money available for the project to less than any amount required to be retained by the bond proceedings pertaining to the project;

(2) money received by the authority from any source and not otherwise committed, including money from the transfer of a transportation project or system or sale of authority assets;

(3) money received from the state highway fund; and

(4) contributions, loans, grants, or assistance from the United States, another state, another political subdivision of this state, a foreign governmental entity, including the United Mexican States or a state of the United Mexican States, a local government, any private enterprise, or any person.

(c) The authority may use money in the revolving fund to:

(1) finance the acquisition, construction, maintenance, or operation of a transportation project, including the extension, expansion, or improvement of a transportation project;

(2) provide matching money required in connection with any federal, state, local, or private aid, grant, or other funding, including aid or funding by or with public-private partnerships;

(3) provide credit enhancement either directly or indirectly for bonds issued to acquire, construct, extend, expand, or improve a transportation project;

(4) provide security for or payment of future or existing debt for the design, acquisition, construction, operation, maintenance, extension, expansion, or improvement of a transportation project or system;

(5) borrow money and issue bonds, promissory notes, or other indebtedness payable out of the revolving fund for any purpose authorized by this chapter; and

(6) provide for any other reasonable purpose that assists in the financing of an authority as authorized by this chapter.

(d) Money spent or advanced from the revolving fund for a transportation project must be reimbursed from the money of that transportation project. There must be a reasonable expectation of repayment at the time the expenditure or advancement is authorized.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. [1112](#)), Sec. 10, eff.

June 17, 2011.

Sec. 370.174. USE OF SURPLUS REVENUE. (a) Each year, if an authority determines that it has surplus revenue from transportation projects, it shall reduce tolls, spend the surplus revenue on other transportation projects in the counties of the authority in accordance with Subsection (b), or deposit the surplus revenue to the credit of the Texas Mobility Fund.

(b) Consistent with other law and commission rule, an authority may spend surplus revenue on other transportation projects by:

(1) constructing a transportation project located within the counties of the authority;

(2) assisting in the financing of a toll or toll-free transportation project of another governmental entity; or

(3) with the approval of the commission, constructing a toll or toll-free transportation project and, on completion of the project, transferring the project to another governmental entity if:

(A) the other governmental entity authorizes the authority to construct the project and agrees to assume all liability and responsibility for the maintenance and operation of the project on its transfer; and

(B) the project is constructed in compliance with all laws applicable to the governmental entity.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.175. EXEMPTION FROM TAXATION OR ASSESSMENT. (a) An authority is exempt from taxation of or assessments on:

(1) a transportation project or system;

(2) property the authority acquires or uses under this chapter for a transportation project or system; or

(3) income from property described by Subdivision (1) or (2).

(b) An authority is exempt from payment of development fees, utility connection fees, assessments, and service fees imposed or assessed by any governmental entity or any property owners' or homeowners' association. This subsection does not apply to fees or

assessments charged under approved rate schedules or line extension policies of a municipally owned electric or gas utility.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.176. ACTIONS AFFECTING EXISTING ROADS. (a) An authority may impose a toll for transit over an existing free road, street, or public highway transferred to the authority under this chapter.

(b) An authority may construct a grade separation at an intersection of a transportation project with a railroad or highway and change the line or grade of a highway to accommodate the design of the grade separation. The action may not affect a segment of the state highway system without the department's consent. The authority shall pay the cost of a grade separation and any damage incurred in changing a line or grade of a railroad or highway as part of the cost of the transportation project.

(c) If feasible, an authority shall provide access to properties previously abutting a county road or other public road that is taken for a transportation project and shall pay abutting property owners the expenses or any resulting damages for a denial of access to the road.

(d) If an authority changes the location of a segment of a county road as part of its development of a transportation project, the authority shall, on the request of the county, reconstruct that segment of the road at a location that the authority determines, in its discretion, restores the utility of the road. The reconstruction and its associated costs are in furtherance of a transportation project.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.177. FAILURE OR REFUSAL TO PAY TURNPIKE PROJECT TOLL; OFFENSE; ADMINISTRATIVE PENALTY. (a) Except as provided by Subsection (a-1), the operator of a vehicle, other than an authorized emergency vehicle as defined by Section 541.201, that is driven or towed through a toll collection facility of a turnpike project shall

pay the proper toll. The operator of a vehicle who drives or tows a vehicle through a toll collection facility and does not pay the proper toll commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$250. The exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is:

- (1) responding to an emergency;
- (2) displaying a flashing light; or
- (3) marked as an emergency vehicle.

(a-1) Notwithstanding Subsection (a), the board may waive the requirement of the payment of a toll or may authorize the payment of a reduced toll for any vehicle or class of vehicles.

(b) In the event of nonpayment of the proper toll as required by Subsection (a), on issuance of a written notice of nonpayment, the registered owner of the nonpaying vehicle is liable for the payment of both the proper toll and an administrative fee.

(c) The authority may impose and collect the administrative fee to recover the cost of collecting the unpaid toll, not to exceed \$100. The authority shall send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the department by first class mail not later than the 30th day after the date of the alleged failure to pay and may require payment not sooner than the 30th day after the date the notice was mailed. The registered owner shall pay a separate toll and administrative fee for each event of nonpayment under Subsection (a).

(d) The registered owner of a vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under Subsection (c) and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(e) It is an exception to the application of Subsection (b) or (d) that the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the authority:

- (1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Subsection (a), with the name and address of the lessee clearly legible; or
- (2) electronic data, other than a photocopy or scan of a

rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Subsection (a).

(e-1) If the lessor provides the required information within the period prescribed under Subsection (e), the authority may send a notice of nonpayment to the lessee at the address provided under Subsection (e) by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(f) It is an exception to the application of Subsection (b) or (d) that the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Subsection (a) occurred, submitted written notice of the transfer to the department in accordance with Section 501.147, and before the 30th day after the date the notice of nonpayment is mailed, provides to the authority the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the authority may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by first class mail before the 30th day after the date of receipt of the required information from the former owner. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The subsequent owner shall pay a separate toll and administrative fee for each event of nonpayment under Subsection (a). Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(g) An offense under Subsection (d), (e-1), or (f) is a misdemeanor punishable by a fine not to exceed \$250.

(h) The court in which a person is convicted of an offense under this section shall also collect the proper toll and

administrative fee and forward the toll and fee to the authority.

(i) In the prosecution of an offense under this section, proof that the vehicle passed through a toll collection facility without payment of the proper toll together with proof that the defendant was the registered owner or the driver of the vehicle when the failure to pay occurred, establishes the nonpayment of the registered owner. The proof may be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence, including:

(1) evidence obtained by automated enforcement technology that the authority determines is necessary, including automated enforcement technology described by Sections 228.058(a) and (b); or

(2) a copy of the rental, lease, or other contract document or the electronic data provided to the authority under Subsection (e) that shows the defendant was the lessee of the vehicle when the underlying event of nonpayment occurred.

(j) It is a defense to prosecution under this section that the motor vehicle in question was stolen before the failure to pay the proper toll occurred and was not recovered by the time of the failure to pay, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

(1) the occurrence of the failure to pay; or

(2) eight hours after the discovery of the theft.

(k) In this section, "registered owner" means the owner of a vehicle as shown on the vehicle registration records of the department or the analogous department or agency of another state or country.

(l) In addition to the other powers and duties provided by this chapter, with regard to its toll collection and enforcement powers for its turnpike projects or other toll projects developed, financed, constructed, and operated under an agreement with the authority or another entity, an authority has the same powers and duties as the department under Chapter 228, a county under Chapter 284, and a regional tollway authority under Chapter 366.

(m) Information collected for the purposes of this section, including contact, payment, and other account information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21,

2003.

Amended by:

Acts 2005, 79th Leg., Ch. 23 (S.B. 129), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.70, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 4.04, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 918 (H.B. 2983), Sec. 6, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. 1112), Sec. 11, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.004, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1129 (S.B. 57), Sec. 3, eff. June 19, 2015.

Sec. 370.178. USE AND RETURN OF TRANSPONDERS. (a) For purposes of this section, "transponder" means a device placed on or within a motor vehicle that is capable of transmitting or receiving information used to assess or collect tolls or provide toll exemptions. A transponder is insufficiently funded if there is no money in the account for which the transponder was issued.

(b) Any law enforcement or peace officer of an entity with which an authority has contracted under Section 370.181(c) may seize a stolen or insufficiently funded transponder and return it to the authority that issued the transponder. An insufficiently funded transponder may not be seized before the 30th day after the date that an authority has sent a notice of delinquency to the holder of the account.

(c) The following entities shall consider offering motor vehicle operators the option of using a transponder to pay tolls without stopping, to mitigate congestion at toll locations, to enhance traffic flow, and to otherwise increase the efficiency of operations:

- (1) the authority;
- (2) an entity to which a project authorized by this chapter is transferred; or
- (3) a third-party service provider under contract with an

entity described by Subdivision (1) or (2).

(d) Transponder account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.71, eff. June 14, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1129 (S.B. 57), Sec. 4, eff. June 19, 2015.

Sec. 370.179. CONTROLLED ACCESS TO TURNPIKE PROJECTS. (a) An authority by order may designate a turnpike project or a portion of a project as a controlled-access toll road.

(b) An authority by order may:

(1) prohibit the use of or access to or from a turnpike project by a motor vehicle, bicycle, another classification or type of vehicle, or a pedestrian;

(2) deny access to or from:

(A) a turnpike project;

(B) real property adjacent to a turnpike project; or

(C) a street, road, alley, highway, or other public or private way intersecting a turnpike project;

(3) designate locations on a turnpike project at which access to or from the toll road is permitted;

(4) control, restrict, and determine the type and extent of access permitted at a designated location of access to a turnpike project; or

(5) erect appropriate protective devices to preserve the utility, integrity, and use of a turnpike project.

(c) Denial of access to or from a segment of the state highway system is subject to the approval of the commission.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.180. PROMOTION OF TRANSPORTATION PROJECT. An

authority may promote the use of a transportation project, including a project that it operates on behalf of another entity, by appropriate means, including advertising or marketing as the authority determines appropriate.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.181. OPERATION OF TRANSPORTATION PROJECT. (a) An authority shall operate a transportation project with employees of the authority or by using services contracted under Subsection (b) or (c).

(b) An authority may enter into an agreement with one or more persons to provide, on terms and conditions approved by the authority, personnel and services to design, construct, operate, maintain, expand, enlarge, or extend a transportation project owned or operated by the authority.

(c) An authority may contract with any state or local government for the services of peace officers of that agency.

(d) An authority may not directly provide water, wastewater, natural gas, petroleum pipeline, electric transmission, electric distribution, telecommunications, information, or cable television services.

(e) Nothing in this chapter, or any contractual right obtained under a contract with an authority authorized by this chapter, supersedes or renders ineffective any provision of another law applicable to the owner or operator of a public utility facility, including any provision of the Utilities Code regarding licensing, certification, and regulatory jurisdiction of the Public Utility Commission of Texas or Railroad Commission of Texas.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 118 (S.B. [1489](#)), Sec. 4, eff. May 18, 2013.

Sec. 370.182. AUDIT. (a) An authority shall have a certified public accountant audit the authority's books and accounts at least

annually. The cost of the audit may be treated as part of the cost of construction or operation of a transportation project.

(b) The commission may initiate an independent audit of the authority or any of its activities at any time the commission considers appropriate. An audit under this subsection shall be conducted at the expense of the department.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.183. DISADVANTAGED BUSINESSES. (a) Consistent with general law, an authority shall:

(1) set goals for the award of contracts to disadvantaged businesses and attempt to meet the goals;

(2) attempt to identify disadvantaged businesses that provide or have the potential to provide supplies, materials, equipment, or services to the authority; and

(3) give disadvantaged businesses full access to the authority's contract bidding process, inform the businesses about the process, offer the businesses assistance concerning the process, and identify barriers to the businesses' participation in the process.

(b) This section does not exempt an authority from competitive bidding requirements provided by other law.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.184. PROCUREMENT. An authority shall adopt rules governing the award of contracts for goods and services. Notwithstanding any other provision of state law, an authority may procure goods and services, including materials, engineering, design, construction, operations, maintenance, and other goods and services, through any procedure authorized by this chapter. Procurement of professional services is governed by Chapter 2254, Government Code.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.185. COMPETITIVE BIDDING. A contract made by an authority may be let by a competitive bidding procedure in which the contract is awarded to the lowest responsible bidder that complies with the authority's criteria.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.186. CONTRACTS WITH GOVERNMENTAL ENTITIES. (a) Except as provided by Subsection (c), an authority may not construct, maintain, or operate a turnpike or toll project in an area having a governmental entity established under Chapter 284 or 366 unless the governmental entity and the authority enter into a written agreement specifying the terms and conditions under which the project shall be undertaken. An authority may not construct, maintain, or operate a transportation project that another governmental entity has determined to be a project under Chapter 451, 452, or 460 unless the governmental entity and the authority enter into a written agreement specifying the terms and conditions under which the project shall be undertaken.

(b) An authority may not receive or be paid revenue derived by another governmental entity operating under Chapter 284, 366, 451, 452, or 460 unless the governmental entity and the authority enter into a written agreement specifying the terms and conditions under which the revenue shall be received by or paid to the authority.

(c) Subsection (a) does not apply to a turnpike or toll project located in a county in which a regional tollway authority has transferred under Section 366.036 or 366.172:

(1) all turnpike projects of the regional tollway authority that are located in the county; and

(2) all work product developed by the regional tollway authority in determining the feasibility of the construction, improvement, extension, or expansion of a turnpike project to be located in the county.

(d) An authority may not construct, maintain, or operate a passenger rail facility within the boundaries of an intermunicipal commuter rail district created under former Article 6550c-1, Vernon's Texas Civil Statutes, as those boundaries existed on September 1, 2005, unless the district and the authority enter into a written

agreement specifying the terms and conditions under which the project will be undertaken.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.72, eff. June 14, 2005.

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.09, eff. April 1, 2011.

Sec. 370.187. PROJECT APPROVAL. (a) An authority may not begin construction of a transportation project that will connect to the state highway system or to a department rail facility without the approval of the commission.

(b) The commission by rule shall establish procedures and criteria for an approval under this section. The rules must require the commission to consider a request for project approval not later than the 60th day after the date the department receives all information reasonably necessary to review the request.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.188. ENVIRONMENTAL REVIEW OF AUTHORITY PROJECTS. (a) An authority shall adopt rules for environmental review of a transportation project that is not subject to review under the National Environmental Policy Act (42 U.S.C. Section 4321 et seq.), as amended. The rules must:

(1) specify the types of projects for which a public hearing is required;

(2) establish procedures for public comment on the environmental review, including a procedure for requesting a public hearing on an environmental review for which a public hearing is not required; and

(3) require:

(A) an evaluation of any direct or indirect environmental effect of the project;

(B) an analysis of project alternatives; and

(C) a written report that briefly explains the authority's review of the project and that specifies any mitigation measures on environmental harm on which the project is conditioned.

(b) An environmental review of a project must be conducted before the authority may approve the location or alignment of the project.

(c) The authority shall consider the results of the environmental review in executing its duties.

(d) The authority shall coordinate with the Texas Commission on Environmental Quality and the Parks and Wildlife Department in the preparation of an environmental review.

(e) This section does not prohibit an owner of a public utility facility or a proposed public utility facility from conducting any necessary environmental evaluation for the public utility facility. The authority is entitled to review and give final approval regarding the sufficiency of any environmental evaluation conducted for a facility that is part of a transportation project.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.189. DEPARTMENT MAINTENANCE AND OPERATION. (a) If requested by an authority, the department may agree to assume all or part of the duty to maintain or operate a turnpike project or ferry of the authority.

(b) The authority shall reimburse the department for necessary costs of maintaining or operating the turnpike project or ferry as agreed by the department and the authority.

(c) Money received by the department under Subsection (b) shall be deposited to the credit of the state highway fund and is exempt from the application of Sections 403.095 and 404.071, Government Code.

(d) If the department assumes all of the duty to maintain or operate a turnpike project or ferry under Subsection (a), the authority is not liable for damages resulting from the maintenance or operation of the turnpike project or ferry.

(e) An agreement under this section is not a joint enterprise for purposes of liability.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21,

2003.

Sec. 370.190. PROPERTY OF CERTAIN TRANSPORTATION AUTHORITIES. An authority may not condemn or purchase real property of a transportation authority operating under Chapter 451, 452, or 460 unless the authority has entered into a written agreement with the transportation authority specifying the terms and conditions under which the condemnation or the purchase of the real property will take place.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.191. COMMERCIAL TRANSPORTATION PROCESSING SYSTEMS.

(a) In this section, "port of entry" means a place designated by executive order of the president of the United States, by order of the United States secretary of the treasury, or by act of the United States Congress at which a customs officer is authorized to accept entries of merchandise, to collect duties, and to enforce the various provisions of the customs and navigation laws.

(b) This section applies only to a port of entry for land traffic from the United Mexican States and does not apply to a port of entry for marine traffic.

(c) To the extent an authority considers appropriate to expedite commerce and based on the Texas ITS/CVO Business Plan prepared by the department, the Department of Public Safety, and the comptroller, the authority shall provide for implementation by the appropriate agencies of the use of Intelligent Transportation Systems for Commercial Vehicle Operations (ITS/CVO) in any new commercial motor vehicle inspection facility constructed by the authority and in any existing facility located at a port of entry to which this section applies. The authority shall coordinate with other state and federal transportation officials to develop interoperability standards for the systems.

(d) If an authority constructs a facility at which commercial vehicle safety inspections are conducted, the facility may not be used solely for the purpose of conducting commercial motor vehicle inspections by the Department of Public Safety and the facility must

include implementation of ITS/CVO technology by the appropriate agencies to support all commercial motor vehicle regulation and enforcement functions.

(e) As part of its implementation of technology under this section, an authority shall to the greatest extent possible as a requirement of the construction of the facility:

(1) enhance efficiency and reduce complexity for motor carriers by providing a single point of contact between carriers and regulating state and federal government officials and providing a single point of information, available to wireless access, about federal and state regulatory and enforcement requirements;

(2) prevent duplication of state and federal procedures and locations for regulatory and enforcement activities, including consolidation of collection of applicable fees;

(3) link information systems of the authority, the department, the Department of Public Safety, the comptroller, and, to the extent possible, the United States Department of Transportation and other appropriate regulatory and enforcement entities; and

(4) take other necessary action to:

(A) facilitate the flow of commerce;

(B) assist federal interdiction efforts;

(C) protect the environment by reducing idling time of commercial motor vehicles at the facilities;

(D) prevent highway damage caused by overweight commercial motor vehicles; and

(E) seek federal funds to assist in the implementation of this section.

(f) Construction of a facility to which this section applies is subject to the availability of federal funding for that purpose.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.1911. COMMERCIAL TRANSPORTATION PROCESSING SYSTEMS AT INSPECTION FACILITIES AT INTERSTATE BORDERS. (a) Notwithstanding Section 370.191, an authority may construct a border inspection facility to be used solely for the purpose of conducting commercial motor vehicle inspections by the Department of Public Safety, provided that the facility is located:

(1) at or near a border crossing from another state of the United States; and

(2) not more than 50 miles from an international border.

(b) To the extent an authority constructing a border inspection facility under this section considers appropriate to expedite commerce, the facility may include implementation of Intelligent Transportation Systems for Commercial Vehicle Operations (ITS/CVO) technology.

Added by Acts 2013, 83rd Leg., R.S., Ch. 118 (S.B. [1489](#)), Sec. 5, eff. May 18, 2013.

Sec. 370.192. PROPERTY OF RAPID TRANSIT AUTHORITIES. An authority may not condemn or purchase real property of a rapid transit authority operating pursuant to Chapter 451 that was confirmed before July 1, 1985, and in which the principal municipality has a population of less than 850,000, unless the authority has entered into a written agreement with the rapid transit authority specifying the terms and conditions under which the condemnation or the purchase of the real property will take place.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 128, eff. September 1, 2011.

Sec. 370.193. PRIORITY BOARDING OF FERRY. An authority may establish a system under which an owner of a motor vehicle may pay an additional fee or toll that entitles the vehicle to have priority in boarding a ferry operated by the authority.

Added by Acts 2005, 79th Leg., Ch. 877 (S.B. [1131](#)), Sec. 7, eff. June 17, 2005.

SUBCHAPTER F. GOVERNANCE

Sec. 370.251. BOARD OF DIRECTORS. (a) Except as provided by Subsection (a-1), the governing body of an authority is a board of

directors consisting of representatives of each county in which a transportation project of the authority is located or is proposed to be located. The commissioners court of each county that initially forms the authority shall appoint at least two directors to the board. Additional directors may be appointed to the board at the time of initial formation by agreement of the counties creating the authority to ensure fair representation of political subdivisions in the counties of the authority that will be affected by a transportation project of the authority, provided that the number of directors must be an odd number. The commissioners court of a county that is subsequently added to the authority shall appoint at least one director to the board. The governor shall appoint one director to the board who shall serve as the presiding officer of the board and shall appoint an additional director to the board if an appointment is necessary to maintain an odd number of directors on the board.

(a-1) To be eligible to serve as director of an authority created by a municipality an individual:

(1) may be a representative of an entity that also has representation on a metropolitan planning organization in the region where the municipality is located; and

(2) is required to be a resident of Texas regardless of whether the metropolitan planning organization's geographic area includes territory in another state.

(b) The appointment of additional directors from a county subsequently added to an authority or from a county of an authority that contains an operating transportation project of the authority shall be by a process unanimously agreed to by the commissioners courts of all the counties of the authority.

(c) Directors serve two-year terms, with as near as possible to one-half of the directors' terms expiring on February 1 of each year.

(d) If six-year terms are permitted under the constitution of this state, one director appointed to the initial board of an authority by the commissioners court of a county shall be designated by the court to serve a term of two years and one director designated to serve a term of four years. If six-year terms are not permitted under the constitution, one director appointed to the initial board of an authority by the commissioners court of a county shall be designated by the court to serve a term of one year and one director designated to serve a term of two years. If one or more directors are

subsequently appointed to the board, the directors other than the subsequent appointees shall determine the length of the appointees' terms, to comply with Subsection (c).

(e) If a vacancy occurs on the board, the appointing authority shall promptly appoint a successor to serve for the unexpired portion of the term.

(f) All appointments to the board shall be made without regard to race, color, disability, sex, religion, age, or national origin.

(g) The following individuals are ineligible to serve as a director:

- (1) an elected official;
- (2) a person who is not a resident of a county within the geographic area of the authority;
- (3) a department employee;
- (4) an employee of a governmental entity any part of which is located within the geographic boundaries of the authority; and
- (5) a person owning an interest in real property that will be acquired for an authority project, if it is known at the time of the person's proposed appointment that the property will be acquired for the authority project.

(h) Each director has equal status and may vote.

(i) The vote of a majority attending a board meeting is necessary for any action taken by the board. If a vacancy exists on a board, the majority of directors serving on the board is a quorum.

(j) The commission may refuse to authorize the creation of an authority if the commission determines that the proposed board will not fairly represent political subdivisions in the counties of the authority that will be affected by the creation of the authority.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.73, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 180 (H.B. [3718](#)), Sec. 1, eff. May 23, 2007.

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. [792](#)), Sec. 10.01, eff. June 11, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. [1112](#)), Sec. 12, eff. June 17, 2011.

Sec. 370.2511. BOARD OF DIRECTORS: CERTAIN AUTHORITIES. (a) This section applies only to an authority created by a municipality.

(b) The governing body of a municipality may, by a resolution approved by at least two-thirds of the members of the governing body, establish the governing body as the board of directors of an authority.

(c) If the board of directors of an authority created by a municipality consists of the members of the governing body of the municipality, the governor shall appoint an additional director who is not a member of the governing body of the municipality and who serves as the presiding officer of the board.

(d) Each director of a board under this section has equal status and may vote.

(e) The vote of a majority attending a board meeting is necessary for any action taken by a board under this section. If a vacancy exists on a board, the majority of directors serving on the board is a quorum.

(f) The governing body of a municipality that becomes the board of an existing authority under this section shall by resolution provide for the transfer process that establishes the governing body as the board of the authority.

(g) If the board of directors of an authority created by a municipality consists of the members of the governing body of the municipality, Sections 370.251, 370.2515, 370.252, 370.2521, 370.2522, 370.2523, 370.253, 370.254, and 370.255 do not apply to the board, except that, to the extent applicable, those provisions apply to the governor's appointee under Subsection (c).

(h) This section has no effect if the attorney general issues an opinion stating that, notwithstanding the statutory authority under this section, the Texas Constitution, the common law doctrine of incompatibility, or any other legal principle would prohibit a member of the governing body of a municipality from serving as a director of an authority.

(i) A board under this section is not required to have an odd number of directors.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. [1112](#)), Sec. 13, eff. June 17, 2011.

Sec. 370.2515. BOARD COMPOSITION PROPOSAL BY TURNPIKE AUTHORITY. If a county in which a turnpike authority under Chapter 366 operates or a county owning or operating a toll project under Chapter 284 is part of an authority, the turnpike authority or the county may submit to the commission a proposed structure for the board and a method of appointment to the board:

- (1) at the creation of the authority if the county is a county that initially forms an authority;
- (2) when a new county is added to the authority; and
- (3) when the county is initially added to the authority.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.252. PROHIBITED CONDUCT FOR DIRECTORS AND EMPLOYEES.

- (a) A director or employee of an authority may not:
- (1) accept or solicit any gift, favor, or service that:
 - (A) might reasonably influence the director or employee in the discharge of an official duty; or
 - (B) the director or employee knows or should know is being offered with the intent to influence the director's or employee's official conduct;
 - (2) accept other employment or engage in a business or professional activity that the director or employee might reasonably expect would require or induce the director or employee to disclose confidential information acquired by reason of the official position;
 - (3) accept other employment or compensation that could reasonably be expected to impair the director's or employee's independence of judgment in the performance of the director's or employee's official duties;
 - (4) make personal investments that could reasonably be expected to create a substantial conflict between the director's or employee's private interest and the interest of the authority;
 - (5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the director's or employee's official powers or performed the director's or employee's official duties in favor of another; or

(6) have a personal interest in an agreement executed by the authority.

(b) A person is not eligible to serve as a director or chief administrative officer of an authority if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization, other than a governmental entity, that is regulated by or receives funds from the authority or the department;

(2) directly or indirectly owns or controls more than a 10 percent interest in a business or other organization that is regulated by or receives funds from the authority or the department;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the authority or the department; or

(4) is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the authority or the department.

(c) A person is not eligible to serve as a director or chief administrative officer of an authority if the person is an officer, employee, or paid consultant of a Texas trade association in the field of road construction or maintenance, public transportation, or aviation, or if the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of road construction or maintenance, public transportation, or aviation.

(d) In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interests.

(e) A person is not ineligible to serve as a director or chief administrative officer of an authority if the person has received funds from the department for acquisition of highway right-of-way unless the acquisition was for a project of the authority.

(f) In addition to the prohibitions and restrictions of this section, directors are subject to Chapter 171, Local Government Code.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.74, eff. June 14, 2005.

Sec. 370.2521. FILING OF FINANCIAL STATEMENT BY DIRECTOR. (a) Except as provided by Subsection (c), (d), or (e) a director shall file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with the Texas Ethics Commission.

(b) Subchapter B, Chapter 572, Government Code:

(1) applies to a director as if the director were a state officer; and

(2) governs the contents, timeliness of filing, and public inspection of a statement filed under Subsection (a).

(c) Subsection (a) does not apply to a director who is a state officer subject to Subchapter B, Chapter 572, Government Code.

(d) A director who is a municipal officer subject to Chapter 145, Local Government Code, or a county officer subject to Subchapter A, Chapter 159, Local Government Code, shall file with the Texas Ethics Commission a copy of the financial statement filed under Chapter 145, Local Government Code, or Subchapter A, Chapter 159, Local Government Code, as applicable. Subchapter B, Chapter 572, Government Code, governs the timeliness of filing and public inspection of a copy of a statement filed under this subsection.

(e) Subsection (a) does not apply to an authority if each county that is a part of the authority has a population of less than 200,000. The commissioners courts of the counties that are a part of an authority to which this subsection applies may jointly adopt a process that requires the directors of the authority to disclose personal financial activity as specified by the commissioners courts.

(f) A person subject to Subsection (a) or (d) commits an offense if the person fails to file the statement required by Subsection (a) or the copy required by Subsection (d), as applicable. An offense under this subsection is a Class B misdemeanor.

Added by Acts 2005, 79th Leg., Ch. 590 (H.B. 1708), Sec. 1, eff. September 1, 2005.

Sec. 370.2522. APPLICABILITY OF CONFLICTS OF INTEREST LAW TO DIRECTORS. (a) A director is considered to be a local public official for purposes of Chapter 171, Local Government Code.

(b) For purposes of Chapter 171, Local Government Code, a director, in connection with a vote or decision by the board, is considered to have a substantial interest in a business entity if a person related to the director in the second degree by consanguinity, as determined under Chapter 573, Government Code, has a substantial interest in the business entity.

Added by Acts 2005, 79th Leg., Ch. 590 (H.B. 1708), Sec. 1, eff. September 1, 2005.

Sec. 370.2523. APPLICABILITY OF NEPOTISM LAWS. A director is a public official for purposes of Chapter 573, Government Code.

Added by Acts 2005, 79th Leg., Ch. 590 (H.B. 1708), Sec. 1, eff. September 1, 2005.

Sec. 370.253. SURETY BONDS. (a) Before beginning a term, each director shall execute a surety bond in the amount of \$25,000, and the secretary and treasurer shall execute a surety bond in the amount of \$50,000.

(b) Each surety bond must be:

(1) conditioned on the faithful performance of the duties of office;

(2) executed by a surety company authorized to transact business in this state; and

(3) filed with the secretary of state's office.

(c) The authority shall pay the expense of the bonds.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.254. REMOVAL OF DIRECTOR. (a) It is a ground for removal of a director from the board if the director:

(1) did not have at the time of appointment the qualifications required by Section 370.251;

(2) at the time of appointment or at any time during the director's term, is ineligible under Section 370.251 or 370.252 to serve as a director;

(3) cannot discharge the director's duties for a substantial part of the term for which the director is appointed because of illness or disability; or

(4) is absent from more than half of the regularly scheduled board meetings that the director is eligible to attend during a calendar year.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a director exists.

(c) If the chief administrative officer of the authority has knowledge that a potential ground for removal exists, that person shall notify the presiding officer of the board of the ground. The presiding officer shall then notify the person that appointed the director that a potential ground for removal exists.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.255. COMPENSATION OF DIRECTOR. Each director is entitled to reimbursement for the director's actual expenses necessarily incurred in the performance of the director's duties. A director is not entitled to any additional compensation for the director's services.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.256. EVIDENCE OF AUTHORITY ACTIONS. Actions of an authority are the actions of its board and may be evidenced in any legal manner, including a board resolution.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.257. PUBLIC ACCESS. An authority shall:

(1) make and implement policies that provide the public with a reasonable opportunity to appear before the board to speak on any issue under the jurisdiction of the authority; and

(2) prepare and maintain a written plan that describes how an individual who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the authority's programs.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.258. INDEMNIFICATION. (a) An authority may indemnify one or more of its directors or officers for necessary expenses and costs, including attorney's fees, incurred by the directors or officers in connection with any claim asserted against the directors or officers in their respective capacities as directors or officers.

(b) If an authority does not fully indemnify a director or officer as provided by Subsection (a), the court in a proceeding in which any claim against the director or officer is asserted or any court with jurisdiction of an action instituted by the director or officer on a claim for indemnity may assess indemnity against the authority, its receiver, or trustee only if the court finds that, in connection with the claim, the director or officer is not guilty of negligence or misconduct.

(c) A court may not assess indemnity under Subsection (b) for an amount paid by the director or officer to the authority.

(d) This section applies to a current or former director or officer of the authority.

(e) If an officer or director who has been indemnified by an authority under Subsection (a) is subsequently convicted of an offense involving the conduct for which the officer or director was indemnified, the officer or director is liable to the authority for the amount of indemnification paid, with interest at the legal rate for interest on a judgment from the date the indemnification was paid.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 590 (H.B. [1708](#)), Sec. 2, eff. September

1, 2005.

Sec. 370.259. PURCHASE OF LIABILITY INSURANCE. (a) An authority shall insure its officers and employees from liability arising from the use, operation, or maintenance of equipment that is used or may be used in connection with the laying out, construction, or maintenance of the authority's transportation projects.

(b) Insurance coverage under this section must be provided by the purchase of a policy of liability insurance from a reliable insurance company authorized to do business in this state. The form of the policy must be approved by the commissioner of insurance.

(c) This section is not a waiver of immunity of the authority or the counties in an authority from liability for the torts or negligence of an officer or employee of an authority.

(d) In this section, "equipment" includes an automobile, motor truck, trailer, aircraft, motor grader, roller, tractor, tractor power mower, locomotive, rail car, and other power equipment.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.260. CERTAIN CONTRACTS AND SALES PROHIBITED. (a) A director, agent, or employee of an authority may not:

- (1) contract with the authority; or
- (2) be directly or indirectly interested in:
 - (A) a contract with the authority; or
 - (B) the sale of property to the authority.

(b) A person who violates Subsection (a) is liable for a civil penalty to the authority in an amount not to exceed \$1,000.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.261. STRATEGIC PLANS AND ANNUAL REPORTS. (a) An authority shall make a strategic plan for its operations. A majority of the commissioners courts of the counties of the authority shall by concurrent resolution determine the types of information required to be included in the strategic plan. Each even-numbered year, an

authority shall issue a plan covering the succeeding five fiscal years, beginning with the next odd-numbered fiscal year.

(b) Not later than March 31 of each year, an authority shall file with the commissioners court of each county of the authority a written report on the authority's activities describing all transportation revenue bond issuances anticipated for the coming year, the financial condition of the authority, all project schedules, and the status of the authority's performance under the most recent strategic plan. At the invitation of a commissioners court of a county of the authority, representatives of the board and the administrative head of an authority shall appear before the commissioners court to present the report and receive questions and comments.

(c) The authority shall give notice to the commissioners court of each county of the authority not later than the 90th day before the date of issuance of revenue bonds.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.262. MEETINGS BY TELEPHONE CONFERENCE CALL. (a) Chapter 551, Government Code, does not prohibit any open or closed meeting of the board, a committee of the board, or the staff, or any combination of the board or staff, from being held by telephone conference call. The board may hold an open or closed meeting by telephone conference call subject to the requirements of Sections 551.125(c)-(f), Government Code, but is not subject to the requirements of Subsection (b) of that section.

(b) A telephone conference call meeting is subject to the notice requirements applicable to other meetings.

(c) Notice of a telephone conference call meeting that by law must be open to the public must specify the location of the meeting. The location must be a conference room of the authority or other facility in a county of the authority that is accessible to the public.

(d) Each part of the telephone conference call meeting that by law must be open to the public shall be audible to the public at the location specified in the notice and shall be tape-recorded or documented by written minutes. On conclusion of the meeting, the

tape recording or the written minutes of the meeting shall be made available to the public.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.75, eff. June 14, 2005.

**SUBCHAPTER G. PARTICIPATION IN FINANCING, CONSTRUCTION, AND OPERATION
OF TRANSPORTATION PROJECTS**

Sec. 370.301. DEPARTMENT CONTRIBUTIONS TO TURNPIKE PROJECTS.

(a) The department may agree with an authority to provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, construction, operation, or maintenance of a turnpike project or system on terms agreed on by the commission or department, as applicable, and the authority. The agreement may not be inconsistent with the rights of the bondholders or persons operating the turnpike project under a lease or other contract.

(b) The department may use its engineering and other personnel, including consulting engineers and traffic engineers, to conduct feasibility studies under Subsection (a).

(c) An obligation or expense incurred by the commission or department under this section is a part of the cost of the turnpike project for which the obligation or expense was incurred. The commission or department may require money contributed by the commission or department under this section to be repaid from tolls or other revenue of the turnpike project on which the money was spent. Money repaid as required by the commission or department shall be deposited to the credit of the fund from which the contribution was made. Money deposited as required by this section is exempt from the application of Section 403.095, Government Code.

(d) The commission or department may use federal money for any purpose described by this chapter. An action of an authority taken under this chapter must comply with the requirements of applicable federal law, including provisions relating to the role of metropolitan planning organizations under federal law and the approval of projects for conformity with the state implementation

plan relating to air quality, the use of toll revenue, and the use of the right-of-way of and access to federal-aid highways.

Notwithstanding an action of an authority taken under this chapter, the commission or the department may take any action that in its reasonable judgment is necessary to comply with any federal requirement to enable this state to receive federal-aid highway funds.

(e) A turnpike project developed by an authority may not be part of the state highway system unless otherwise agreed to by the authority and the department.

(f) The commission may grant or loan department money to an authority for the acquisition of land for or the construction, maintenance, or operation of a turnpike project. The commission may require the authority to repay money provided under this section from toll revenue or other sources on terms established by the commission.

(g) Money repaid as required by the commission shall be deposited to the credit of the fund from which the money was provided. Money deposited as required by this section is exempt from the application of Section 403.095, Government Code.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 10.02, eff. June 11, 2007.

Sec. 370.302. AGREEMENTS TO CONSTRUCT, MAINTAIN, AND OPERATE TRANSPORTATION PROJECTS. (a) An authority may enter into an agreement with a public or private entity, including a toll road corporation, the United States, a state of the United States, the United Mexican States, a state of the United Mexican States, another governmental entity, or a political subdivision, to permit the entity, independently or jointly with the authority, to study the feasibility of a transportation project or to acquire, design, finance, construct, maintain, repair, operate, extend, or expand a transportation project. An authority and a private entity jointly may enter into an agreement with another governmental entity to study the feasibility of a transportation project or to acquire, design, finance, construct, maintain, repair, operate, extend, or expand a

transportation project.

(b) An authority has broad discretion to negotiate provisions in a development agreement with a private entity. The provisions may include provisions relating to:

(1) the design, financing, construction, maintenance, and operation of a transportation project in accordance with standards adopted by the authority; and

(2) professional and consulting services to be rendered under standards adopted by the authority in connection with a transportation project.

(c) An authority may not incur a financial obligation on behalf of, or guarantee the obligations of, a private entity that constructs, maintains, or operates a transportation project.

(d) An authority or a county in an authority is not liable for any financial or other obligation of a transportation project solely because a private entity constructs, finances, or operates any part of a transportation project.

(e) An authority may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.

(f) An authority may not directly provide water, wastewater, natural gas, petroleum pipeline, electric transmission, electric distribution, telecommunications, information, or cable television services.

(g) Nothing in this chapter, or any contractual right obtained under a contract with an authority authorized by this chapter, supersedes or renders ineffective any provision of another law applicable to the owner or operator of a public utility facility, including any provision of the Utilities Code regarding licensing, certification, and regulatory jurisdiction of the Public Utility Commission of Texas or Railroad Commission of Texas.

(h) If an authority enters into an agreement with a private entity that includes the collection by the private entity of tolls for the use of a transportation project, the private entity shall submit to the authority for approval:

(1) the methodology for:

(A) the setting of tolls; and

(B) increasing the amount of the tolls;

(2) a plan outlining methods the entity will use to collect the tolls, including:

(A) any charge to be imposed as a penalty for late payment of a toll; and

(B) any charge to be imposed to recover the cost of collecting a delinquent toll; and

(3) any proposed change in an approved methodology for the setting of a toll or a plan for collecting the toll.

(i) An agreement with a private entity that includes the collection by the private entity of tolls for the use of a transportation project may not be for a term longer than 50 years from the later of the date of final acceptance of the project or the start of revenue operations by the private entity, not to exceed a total term of 52 years. The agreement must contain an explicit mechanism for setting the price for the purchase by the authority of the interest of the private entity in the contract and related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the agreement.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.77, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 1.04, eff. June 11, 2007.

Sec. 370.303. AGREEMENTS BETWEEN AUTHORITY AND LOCAL GOVERNMENTAL ENTITIES. (a) A governmental entity may, consistent with the Texas Constitution, issue bonds, notes, or other obligations or enter into and make payments under agreements with an authority in connection with the financing, acquisition, construction, or operation of a transportation project by an authority, whether inside or outside the geographic boundaries of the governmental entity, including agreements to pay the principal of, and interest on, bonds, notes, or other obligations issued by the authority and make payments under any related credit agreements. The entity may impose and collect taxes to pay the interest on the bonds and to provide a sinking fund for the redemption of the bonds.

(b) In addition to the powers provided by Subsection (a), a

governmental entity may, to the extent constitutionally permitted, agree with an authority to:

- (1) issue bonds, notes, or other obligations;
- (2) create:
 - (A) a taxing district;
 - (B) a transportation reinvestment zone under Subchapter E, Chapter 222; or
 - (C) an entity to promote economic development;
- (3) collect and remit to an authority taxes, fees, or assessments collected for purposes of developing transportation projects;
- (4) fund public improvements to promote economic development; or
- (5) enter into and make payments under an agreement to acquire, construct, maintain, or operate any portion of a transportation project of the authority.

(b-1) An agreement under Subsection (b) may include a means for a local governmental entity to pledge or otherwise provide funds for a transportation project that benefits the governmental entity to be developed by the authority.

(c) To make payments under an agreement under Subsection (b), to pay the interest on bonds issued under Subsection (b), or to provide a sinking fund for the bonds or the agreement, a governmental entity may:

- (1) pledge revenue from any available source, including annual appropriations;
- (2) impose and collect taxes; or
- (3) pledge revenue and impose and collect taxes.

(d) The term of an agreement under this section may not exceed 40 years.

(e) An election required to authorize action under this subchapter must be held in conformity with Chapter 1251, Government Code, or other law applicable to the governmental entity.

(f) The governing body of any governmental entity issuing bonds, notes, or other obligations or entering into agreements under this section may exercise the authority granted to the governing body of an issuer with regard to issuance of obligations under Chapter 1371, Government Code, except that the prohibition in that chapter on the repayment of an obligation with ad valorem taxes does not apply to an issuer exercising the authority granted by this section.

(g) An agreement under this section may contain repayment or reimbursement obligations of an authority.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. 1112), Sec. 14, eff. June 17, 2011.

Sec. 370.304. ADDITIONAL AGREEMENTS OF AUTHORITY. An authority may enter into any contract, loan agreement, or other agreement necessary or convenient to achieve the purposes of this subchapter.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. 1112), Sec. 15, eff. June 17, 2011.

Sec. 370.305. COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) A comprehensive development agreement is an agreement with a private entity that, at a minimum, provides for the design and construction of a transportation project, that may provide for the financing, acquisition, maintenance, or operation of a transportation project, and that entitles the private entity to:

(1) a leasehold interest in the transportation project; or
(2) the right to operate or retain revenue from the operation of the transportation project.

(b) An authority may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement.

(c) Except as provided by this chapter, an authority's authority to enter into a comprehensive development agreement expires on August 31, 2011.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 4.02, eff.

June 11, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 37, eff. September 1, 2011.

Sec. 370.306. PROCESS FOR ENTERING INTO COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) If an authority enters into a comprehensive development agreement, the authority shall use a competitive procurement process that provides the best value for the authority. The authority may accept unsolicited proposals for a proposed transportation project or solicit proposals in accordance with this section.

(b) An authority shall establish rules and procedures for accepting unsolicited proposals that require the private entity to include in the proposal:

(1) information regarding the proposed project location, scope, and limits;

(2) information regarding the private entity's qualifications, experience, technical competence, and capability to develop the project; and

(3) a proposed financial plan for the proposed project that includes, at a minimum:

(A) projected project costs; and

(B) proposed sources of funds.

(c) An authority shall publish a request for competing proposals and qualifications in the Texas Register that includes the criteria used to evaluate the proposals, the relative weight given to the criteria, and a deadline by which proposals must be received if:

(1) the authority decides to issue a request for qualifications for a proposed project; or

(2) the authority authorizes the further evaluation of an unsolicited proposal.

(d) A proposal submitted in response to a request published under Subsection (c) must contain, at a minimum, the information required by Subsections (b)(2) and (3).

(e) An authority may interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). The authority shall evaluate each proposal based on the criteria described in the notice. The authority must qualify at least two private entities to submit detailed proposals for a project under

Subsection (f) unless the authority does not receive more than one proposal or one response to a request under Subsection (c).

(f) An authority shall issue a request for detailed proposals from all private entities qualified under Subsection (e) if the authority proceeds with the further evaluation of a proposed project. A request under this subsection may require additional information relating to:

- (1) the private entity's qualifications and demonstrated technical competence;
- (2) the feasibility of developing the project as proposed;
- (3) detailed engineering or architectural designs;
- (4) the private entity's ability to meet schedules;
- (5) costing methodology; or
- (6) any other information the authority considers relevant or necessary.

(g) In issuing a request for proposals under Subsection (f), an authority may solicit input from entities qualified under Subsection (e) or any other person. An authority may also solicit input regarding alternative technical concepts after issuing a request under Subsection (f).

(h) An authority shall rank each proposal based on the criteria described in the request for proposals and select the private entity whose proposal offers the best value to the authority.

(i) An authority may enter into discussions with the private entity whose proposal offers the apparent best value. The discussions shall be limited to:

- (1) incorporation of aspects of other proposals for the purpose of achieving the overall best value for the authority;
- (2) clarifications and minor adjustments in scheduling, cash flow, and similar items; and
- (3) matters that have arisen since the submission of the proposal.

(j) If at any point in discussions under Subsection (i), it appears to the authority that the highest ranking proposal will not provide the authority with the overall best value, the authority may enter into discussions with the private entity submitting the next-highest ranking proposal.

(k) An authority may withdraw a request for competing proposals and qualifications or a request for detailed proposals at any time. The authority may then publish a new request for competing proposals

and qualifications.

(l) An authority may require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal.

(m) An authority may pay an unsuccessful private entity that submits a response to a request for detailed proposals under Subsection (f) a stipulated amount of the final contract price for any costs incurred in preparing that proposal. A stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the authority, be used by the authority in the performance of its functions. The use by the authority of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the authority and does not confer liability on the recipient of the stipulated amount under this subsection. After payment of the stipulated amount:

(1) the authority owns the exclusive rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, and information contained in the project design; and

(2) the work product contained in the proposal becomes the property of the authority.

(n) An authority shall prescribe the general form of a comprehensive development agreement and may include any matter the authority considers advantageous to the authority. The authority and the private entity shall negotiate the specific terms of a comprehensive development agreement.

(o) Subchapter A, Chapter 223, of this code and Chapter 2254, Government Code, do not apply to a comprehensive development agreement entered into under Section 370.305.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 2.02, eff. June 11, 2007.

Sec. 370.307. CONFIDENTIALITY OF NEGOTIATIONS FOR COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) To encourage private entities to submit

proposals under Section 370.306, the following information is confidential, is not subject to disclosure, inspection, or copying under Chapter 552, Government Code, and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for its release until a final contract for a proposed project is entered into:

(1) all or part of a proposal submitted by a private entity for a comprehensive development agreement, except information provided under Sections 370.306(b)(1) and (2);

(2) supplemental information or material submitted by a private entity in connection with a proposal for a comprehensive development agreement; and

(3) information created or collected by an authority or its agent during consideration of a proposal for a comprehensive development agreement.

(b) After an authority completes its final ranking of proposals under Section 370.306(h), the final rankings of each proposal under each of the published criteria are not confidential.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.308. PERFORMANCE AND PAYMENT SECURITY. (a)

Notwithstanding Section 223.006 and the requirements of Subchapter B, Chapter 2253, Government Code, an authority shall require a private entity entering into a comprehensive development agreement under Section 370.305 to provide a performance and payment bond or an alternative form of security in an amount sufficient to:

(1) ensure the proper performance of the agreement; and

(2) protect:

(A) the authority; and

(B) payment bond beneficiaries who have a direct contractual relationship with the private entity or a subcontractor of the private entity to supply labor or material.

(b) A performance and payment bond or alternative form of security shall be in an amount equal to the cost of constructing or maintaining the project.

(c) If an authority determines that it is impracticable for a private entity to provide security in the amount described by

Subsection (b), the authority shall set the amount of the bonds or the alternative forms of security.

(d) A payment or performance bond or alternative form of security is not required for the portion of an agreement that includes only design or planning services, the performance of preliminary studies, or the acquisition of real property.

(e) The amount of the payment security must not be less than the amount of the performance security.

(f) In addition to performance and payment bonds, an authority may require the following alternative forms of security:

(1) a cashier's check drawn on a financial entity specified by the authority;

(2) a United States bond or note;

(3) an irrevocable bank letter of credit; or

(4) any other form of security determined suitable by the authority.

(g) An authority by rule shall prescribe requirements for alternative forms of security provided under this section.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.309. OWNERSHIP OF TRANSPORTATION PROJECTS. (a) A transportation project other than a public utility facility that is the subject of a development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and belongs to the authority.

(b) Notwithstanding Subsection (a), an authority may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a transportation project, including supplemental facilities. At the termination of the agreement, the transportation project, including the facilities, must be in a state of proper maintenance as determined by the authority and shall be returned to the authority in satisfactory condition at no further cost.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.310. LIABILITY FOR PRIVATE OBLIGATIONS. An authority may not incur a financial obligation for a private entity that constructs, maintains, or operates a transportation project. The authority or a political subdivision of the state is not liable for any financial or other obligation of a transportation project solely because a private entity constructs, finances, or operates any part of the project.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.311. TERMS OF PRIVATE PARTICIPATION. (a) An authority shall negotiate the terms of private participation in a transportation project, including:

- (1) methods to determine the applicable cost, profit, and project distribution between the private equity investors and the authority;
- (2) reasonable methods to determine and classify toll rates or user fees;
- (3) acceptable safety and policing standards; and
- (4) other applicable professional, consulting, construction, operation, and maintenance standards, expenses, and costs.

(b) A comprehensive development agreement entered into under Section 370.305 must include a provision authorizing the authority to purchase, under terms agreed to by the parties, the interest of a private equity investor in a transportation project.

(c) An authority may only enter into a comprehensive development agreement under Section 370.305 with a private equity investor if the project is identified in the department's unified transportation program or is located on a transportation corridor identified in the statewide transportation plan.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.312. RULES, PROCEDURES, AND GUIDELINES GOVERNING

NEGOTIATING PROCESS. (a) An authority shall adopt rules, procedures, and other guidelines governing selection and negotiations to promote fairness, obtain private participants in transportation projects, and promote confidence among those participants. The rules must contain criteria relating to the qualifications of the participants and the award of the contracts.

(b) An authority shall have up-to-date procedures for participation in negotiations on transportation projects.

(c) An authority has exclusive judgment to determine the terms of an agreement.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.313. PARTICIPATION ON CERTAIN OTHER BOARDS, COMMISSIONS, OR PUBLIC BODIES. (a) An authority may participate in and designate board members to serve as representatives on boards, commissions, or public bodies, the purposes of which are to promote the development of joint toll facilities in this state, between this state and other states of the United States, or between this state and the United Mexican States or states of the United Mexican States.

(b) A fee or expense associated with authority participation under this section may be reimbursed from money in the authority's feasibility study fund.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.315. PERFORMANCE AND PAYMENT BONDS AND SECURITY. Notwithstanding Chapter 2253, Government Code, an authority shall require any party to an agreement to operate or maintain a transportation project to provide performance and payment bonds or other forms of security, including corporate guarantee, in amounts considered by the authority to be adequate to protect the authority and to assure performance of all obligations to the authority and to subcontractors providing materials or labor for a transportation project.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21,

2003.

Sec. 370.317. AGREEMENTS WITH LOCAL GOVERNMENTS. (a) In this section, "local government" means a:

(1) county, municipality, special district, or other political subdivision of this state;

(2) local government corporation created under Subchapter D, Chapter 431; or

(3) combination of two or more entities described by Subdivision (1) or (2).

(b) A local government may enter into an agreement with an authority or a private entity under which the local government assists in the financing of the construction, maintenance, and operation of a turnpike project located in the government's jurisdiction in return for a percentage of the revenue from the project.

(c) A local government may use any revenue available for road purposes, including bond and tax proceeds, to provide financing under Subsection (b).

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1279, Sec. 17, eff. June 17, 2011.

(e) Revenue received by a local government under an agreement under this section must be used for transportation purposes.

Added by Acts 2005, 79th Leg., Ch. 1297 (H.B. 2650), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. 1112), Sec. 17, eff. June 17, 2011.

SUBCHAPTER H. DISSOLUTION OF AUTHORITY

Sec. 370.331. VOLUNTARY DISSOLUTION. (a) An authority may not be dissolved unless the dissolution is approved by the commission.

(b) A board may submit a request to the commission for approval to dissolve.

(c) The commission may approve a request to dissolve only if:

(1) all debts, obligations, and liabilities of the authority have been paid and discharged or adequate provision has

been made for the payment of all debts, obligations, and liabilities;

(2) there are no suits pending against the authority, or adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against it in any pending suit; and

(3) the authority has commitments from other governmental entities to assume jurisdiction of all authority transportation facilities.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.332. INVOLUNTARY DISSOLUTION. (a) The commission by order may require an authority to dissolve if the commission determines that the authority has not substantially complied with the requirements of a commission rule or an agreement between the department and the authority.

(b) The commission may not require dissolution unless:

(1) the conditions described in Sections 370.331(c)(1) and (2) have been met; and

(2) the holders of any indebtedness have evidenced their agreement to the dissolution.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 2.01, eff. June 21, 2003.

Sec. 370.333. VOLUNTARY DISSOLUTION OF AUTHORITY GOVERNED BY GOVERNING BODY OF MUNICIPALITY. In addition to the requirements of Section 370.331, an authority governed under Section 370.2511 may not be dissolved unless:

(1) the dissolution is approved by a vote of at least two-thirds of the members of the governing body;

(2) all debts, obligations, and liabilities of the authority have been paid and discharged or adequate provision has been made for the payment of all debts, obligations, and liabilities;

(3) there are no suits pending against the authority, or adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against it in any pending suit; and

(4) the authority has commitments from other governmental entities to assume jurisdiction of all authority transportation facilities.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1279 (H.B. 1112), Sec. 16, eff. June 17, 2011.

SUBCHAPTER I. TRANSIT SYSTEMS

Sec. 370.351. TRANSIT SYSTEMS. (a) An authority may construct, own, operate, and maintain a transit system.

(b) An authority shall determine each transit route, including transit route changes.

(c) This chapter does not prohibit an authority, municipality, or transit provider from providing any service that complements a transit system, including providing parking garages, special transportation for persons who are disabled or elderly, or medical transportation services.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.76, eff. June 14, 2005.

Sec. 370.352. PUBLIC HEARING ON FARE AND SERVICE CHANGES. (a) In this section:

(1) "Service change" means any addition or deletion resulting in the physical realignment of a transit route or a change in the type or frequency of service provided in a specific, regularly scheduled transit route.

(2) "Transit revenue vehicle mile" means one mile traveled by a transit vehicle while the vehicle is available to public passengers.

(3) "Transit route" means a route over which a transit vehicle travels that is specifically labeled or numbered for the purpose of picking up or discharging passengers at regularly scheduled stops and intervals.

(4) "Transit route mile" means one mile along a transit route regularly traveled by transit vehicles while available to public passengers.

(b) Except as provided by Section 370.353, an authority shall hold a public hearing on:

- (1) a fare change;
 - (2) a service change involving:
 - (A) 25 percent or more of the number of transit route miles of a transit route; or
 - (B) 25 percent or more of the number of transit revenue vehicle miles of a transit route, computed daily, for the day of the week for which the change is made; or
 - (3) the establishment of a new transit route.
- (c) An authority shall hold the public hearing required by Subsection (b) before the cumulative amount of service changes in a fiscal year equals a percentage amount described in Subsection (b)(2)(A) or (B).

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.76, eff. June 14, 2005.

Sec. 370.353. PUBLIC HEARING ON FARE AND SERVICE CHANGES: EXCEPTIONS. (a) In this section, "experimental service change" means an addition of service to an existing transit route or the establishment of a new transit route.

- (b) A public hearing under Section 370.352 is not required for:
- (1) a reduced or free promotional fare that is instituted daily or periodically over a period of not more than 180 days;
 - (2) a headway adjustment of not more than five minutes during peak-hour service and not more than 15 minutes during nonpeak-hour service;
 - (3) a standard seasonal variation unless the number, timing, or type of the standard seasonal variation changes; or
 - (4) an emergency or experimental service change in effect for 180 days or less.

(c) A hearing on an experimental service change in effect for more than 180 days may be held before or while the experimental service change is in effect and satisfies the requirement for a public hearing if the hearing notice required by Section 370.354 states that the change may become permanent at the end of the effective period. If a hearing is not held before or while the experimental service change is in effect, the service that existed before the change must be reinstated at the end of the 180th day after the change became effective and a public hearing must be held

in accordance with Section 370.352 before the experimental service change may be continued.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.76, eff. June 14, 2005.

Sec. 370.354. NOTICE OF HEARING ON FARE OR SERVICE CHANGE. (a) After calling a public hearing required by Section 370.352, the authority shall:

(1) at least 30 days before the date of the hearing, publish notice of the hearing at least once in a newspaper of general circulation in the territory of the authority; and

(2) post notice in each transit vehicle in service on any transit route affected by the proposed change for at least two weeks within 30 days before the date of the hearing.

(b) The notice must contain:

(1) a description of each proposed fare or service change, as appropriate;

(2) the time and place of the hearing; and

(3) if the hearing is required under Section 370.352(c), a description of the latest proposed change and the previous changes.

(c) The requirement for a public hearing under Section 370.352 is satisfied at a public hearing required by federal law if:

(1) the notice requirements of this section are met; and

(2) the proposed fare or service change is addressed at the meeting.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.76, eff. June 14, 2005.

Sec. 370.355. CRIMINAL PENALTIES. (a) An authority by resolution may prohibit the use of the transit system by a person who fails to possess evidence showing that the appropriate fare for the use of the system has been paid and may establish reasonable and appropriate methods, including using peace officers under Section 370.181(c), to ensure that persons using the transit system pay the appropriate fare for that use.

(b) An authority by resolution may provide that a fare for or charge for the use of the transit system that is not paid incurs a

penalty, not to exceed \$100.

(c) The authority shall post signs designating each area in which a person is prohibited from using the transit system without possession of evidence showing that the appropriate fare has been paid.

(d) A person commits an offense if:

(1) the person or another for whom the person is criminally responsible under Section 7.02, Penal Code, uses the transit system and does not possess evidence showing that the appropriate fare has been paid; and

(2) the person fails to pay the appropriate fare or other charge for the use of the transit system and any penalty on the fare on or before the 30th day after the date the authority notifies the person that the person is required to pay the amount of the fare or charge and the penalty.

(e) The notice required by Subsection (d)(2) may be included in a citation issued to the person by a peace officer under Article 14.06, Code of Criminal Procedure, in connection with an offense relating to the nonpayment of the appropriate fare or charge for the use of the transit system.

(f) An offense under Subsection (d) is a Class C misdemeanor.

(g) An offense under Subsection (d) is not a crime of moral turpitude.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 2.76, eff. June 14, 2005.

SUBCHAPTER J. ACQUIRING TRANSIT SYSTEMS

Sec. 370.361. TRANSFER OF TRANSIT SYSTEMS. (a) In this section, "unit of election" means a political subdivision that previously voted to join the service area of a transit provider.

(b) An authority may request in writing a transit provider to transfer the provider's transit system and taxing authority to the authority if the board determines that the traffic needs of the counties in which the authority operates could be most efficiently and economically met by the transfer.

(c) On receipt of a written request under Subsection (b), the governing body of the transit provider may authorize the authority to solicit public comment and conduct at least one public hearing on the

proposed transfer in each unit of election in the transit provider's service area. Notice of a hearing must be published in the Texas Register, one or more newspapers of general circulation in the transit provider's service area, and a newspaper, if any, published in the counties of the requesting authority. The notice shall also solicit written comments on the proposed transfer. The transit provider may participate fully with the authority in conducting a public hearing.

(d) A board may approve the acquisition of the transit provider if the governing body of the transit provider approves transfer of its operations to the authority and dissolution of the transit provider is approved in an election ordered under Subsection (e). Before approving the acquisition, the board shall consider public comments received under Subsection (c).

(e) After considering public comments received under Subsection (c), the governing body of the transit provider may order an election to dissolve the transit provider and transfer all services, property, funds, assets, employees, debts, and obligations to the authority. The governing body of the transit provider shall submit to the qualified voters in the units of election in the transit provider's service area a proposition that reads substantially as follows: "Shall (name of transit provider) be dissolved and its services, property, funds, assets, employees, debts, and obligations be transferred to (name of regional mobility authority)?"

(f) An election under Subsection (e) shall be conducted so that votes are separately tabulated and canvassed in each participating unit of election in the transit provider's service area.

(g) The governing body of the transit provider shall canvass the returns and declare the results of the election separately with respect to each unit of election. If a majority of the votes received in a unit of election are in favor of the proposition, the proposition is approved in that unit of election. The transit provider is dissolved and its services, property, funds, assets, employees, debts, and obligations are transferred to the authority only if the proposition is approved in every unit of election. If the proposition is not approved in every unit of election, the proposition does not pass and the transit provider is not dissolved.

(h) A certified copy of the order or resolution recording the results of the election shall be filed with the department, the comptroller, and the governing body of each unit of election in the

transit provider's service area.

(i) The authority shall assume all debts or other obligations of the transferred transit provider in connection with the acquisition of property under Subsection (g). The authority may not use revenue from sales and use tax collected under this subchapter or other revenue of the transit system in a manner inconsistent with any pledge of that revenue for the payment of any outstanding bonds, unless provisions have been made for a full discharge of the bonds.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.76, eff. June 14, 2005.

Sec. 370.362. SALES AND USE TAX. (a) If an authority acquires a transit provider that has taxing authority, the authority may impose a sales and use tax at a permissible rate that does not exceed the rate approved by the voters residing in the service area of the transit provider's transit system at an election under this subchapter.

(b) The authority by resolution may:

(1) decrease the rate of the sales and use tax to a permissible rate; or

(2) call an election for the increase or decrease of the sales and use tax to a permissible rate.

(c) If an authority orders an election, the authority shall publish notice of the election in a newspaper of general circulation in the territory of the authority at least once each week for three consecutive weeks, with the first publication occurring at least 21 days before the date of the election.

(d) A resolution ordering an election and the election notice required by Subsection (c) must show, in addition to the requirements of the Election Code, the hours of the election and polling places in election precincts.

(e) A copy of the election notice required by Subsection (c) shall be furnished to the commission and the comptroller.

(f) The permissible rates for a sales and use tax imposed under this subchapter are:

(1) one-quarter of one percent;

(2) one-half of one percent;

(3) three-quarters of one percent; or

(4) one percent.

(g) Chapter 322, Tax Code, applies to a sales and use tax imposed under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.76, eff. June 14, 2005.

Sec. 370.363. MAXIMUM TAX RATE. (a) An authority may not adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by all political subdivisions of this state having territory in the service area of the transferred transit system exceeds two percent in any location in the service area.

(b) An election to approve a sales and use tax or increase the rate of an authority's sales and use tax has no effect if:

(1) the voters in the service area approve the authority's sales and use tax rate or rate increase at an election held on the same day on which a municipality or county having territory in the jurisdiction of the service area adopts a sales and use tax or an additional sales and use tax; and

(2) the combined rates of all sales and use taxes imposed by the authority and all political subdivisions of this state would exceed two percent in any part of the territory in the service area.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.76, eff. June 14, 2005.

Sec. 370.364. ELECTION TO CHANGE TAX RATE. (a) At an election ordered under Section 370.362(b)(2), the ballots shall be printed to permit voting for or against the proposition: "The increase (decrease) of the local sales and use tax rate for mass transit to (percentage)."

(b) The increase or decrease in the tax rate becomes effective only if it is approved by a majority of the votes cast.

(c) A notice of the election and a certified copy of the order canvassing the election results shall be:

(1) sent to the commission and the comptroller; and

(2) filed in the deed records of the county.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.76, eff. June 14, 2005.

Sec. 370.365. SALES TAX: EFFECTIVE DATES. (a) A sales and use tax implemented under this subchapter takes effect on the first day of the second calendar quarter that begins after the date the comptroller receives a copy of the order required to be sent under Section 370.364(c).

(b) An increase or decrease in the rate of a sales and use tax implemented under this subchapter takes effect on:

(1) the first day of the first calendar quarter that begins after the date the comptroller receives the notice provided under Section 370.364(c); or

(2) the first day of the second calendar quarter that begins after the date the comptroller receives the notice, if within 10 days after the date of receipt of the notice the comptroller gives written notice to the board that the comptroller requires more time to implement tax collection and reporting procedures.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.76, eff. June 14, 2005.

SUBCHAPTER K. DESIGN-BUILD CONTRACTS

Sec. 370.401. SCOPE OF AND LIMITATIONS ON CONTRACTS. (a) Notwithstanding the requirements of Chapter 2254, Government Code, an authority may use the design-build method for the design, construction, financing, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a transportation project.

(b) A design-build contract under this subchapter may not grant to a private entity:

(1) a leasehold interest in the transportation project; or

(2) the right to operate or retain revenue from the operation of the transportation project.

(c) In using the design-build method and in entering into a contract for the services of a design-build contractor, the authority and the design-build contractor shall follow the procedures and requirements of this subchapter.

(d) An authority may enter into not more than two design-build contracts for transportation projects in any fiscal year.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 38, eff. September 1, 2011.

Sec. 370.402. DEFINITIONS. In this subchapter:

(1) "Design-build contractor" means a partnership, corporation, or other legal entity or team that includes an engineering firm and a construction contractor qualified to engage in the construction of transportation projects in this state.

(2) "Design-build method" means a project delivery method by which an entity contracts with a single entity to provide both design and construction services for the construction, rehabilitation, alteration, or repair of a facility.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 38, eff. September 1, 2011.

Sec. 370.403. USE OF ENGINEER OR ENGINEERING FIRM. (a) To act as an authority's representative, independent of a design-build contractor, for the procurement process and for the duration of the work on a transportation project, an authority shall select or designate:

(1) an engineer;

(2) a qualified firm, selected in accordance with Section 2254.004, Government Code, that is independent of the design-build contractor; or

(3) a general engineering consultant that was previously selected by an authority and is selected or designated in accordance with Section 2254.004, Government Code.

(b) The selected or designated engineer or firm has full responsibility for complying with Chapter 1001, Occupations Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 38, eff. September 1, 2011.

Sec. 370.404. OTHER PROFESSIONAL SERVICES. (a) An authority

shall provide or contract for, independently of the design-build firm, the following services as necessary for the acceptance of the transportation project by the authority:

- (1) inspection services;
- (2) construction materials engineering and testing; and
- (3) verification testing services.

(b) An authority shall ensure that the engineering services contracted for under this section are selected based on demonstrated competence and qualifications.

(c) This section does not preclude the design-build contractor from providing construction quality assurance and quality control under a design-build contract.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 38, eff. September 1, 2011.

Sec. 370.405. REQUEST FOR QUALIFICATIONS. (a) For any transportation project to be delivered through the design-build method, an authority must prepare and issue a request for qualifications. A request for qualifications must include:

- (1) information regarding the proposed project's location, scope, and limits;
- (2) information regarding funding that may be available for the project and a description of the financing to be requested from the design-build contractor, as applicable;
- (3) criteria that will be used to evaluate the proposals, which must include a proposer's qualifications, experience, technical competence, and ability to develop the project;
- (4) the relative weight to be given to the criteria; and
- (5) the deadline by which proposals must be received by the authority.

(b) An authority shall publish notice advertising the issuance of a request for qualifications in the Texas Register and on an Internet website maintained by the authority.

(c) An authority shall evaluate each qualifications statement received in response to a request for qualifications based on the criteria identified in the request. An authority may interview responding proposers. Based on the authority's evaluation of qualifications statements and interviews, if any, an authority shall

qualify or short-list proposers to submit detailed proposals.

(d) An authority shall qualify or short-list at least two, but no more than five, firms to submit detailed proposals under Section 370.406. If an authority receives only one responsive proposal to a request for qualifications, the authority shall terminate the procurement.

(e) An authority may withdraw a request for qualifications or request for detailed proposals at any time.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 38, eff. September 1, 2011.

Sec. 370.406. REQUEST FOR DETAILED PROPOSALS. (a) An authority shall issue a request for detailed proposals to proposers qualified or short-listed under Section 370.405. A request for detailed proposals must include:

- (1) information on the overall project goals;
- (2) the authority's cost estimates for the design-build portion of the work;
- (3) materials specifications;
- (4) special material requirements;
- (5) a schematic design approximately 30 percent complete;
- (6) known utilities, provided that an authority is not required to undertake an effort to locate utilities;
- (7) quality assurance and quality control requirements;
- (8) the location of relevant structures;
- (9) notice of any rules or goals adopted by the authority pursuant to Section 370.183 relating to awarding contracts to disadvantaged businesses;
- (10) available geotechnical or other information related to the project;
- (11) the status of any environmental review of the project;
- (12) detailed instructions for preparing the technical proposal required under Subsection (c), including a description of the form and level of completeness of drawings expected;
- (13) the relative weighting of the technical and cost proposals required under Subsection (c) and the formula by which the proposals will be evaluated and ranked, provided that the formula shall allocate at least 70 percent of the weighting to the cost

proposal; and

(14) the criteria and weighting for each element of the technical proposal.

(b) A request for detailed proposals shall also include a general form of the design-build contract that the authority proposes if the terms of the contract may be modified as a result of negotiations prior to contract execution.

(c) Each response to a request for detailed proposals must include a sealed technical proposal and a separate sealed cost proposal.

(d) The technical proposal must address:

(1) the proposer's qualifications and demonstrated technical competence, provided that the proposer shall not be requested to resubmit any information that was submitted and evaluated pursuant to Section 370.405(a)(3);

(2) the feasibility of developing the project as proposed, including identification of anticipated problems;

(3) the proposed solutions to anticipated problems;

(4) the ability of the proposer to meet schedules;

(5) the conceptual engineering design proposed; and

(6) any other information requested by the authority.

(e) An authority may provide for the submission of alternative technical concepts by a proposer. If an authority provides for the submission of alternative technical concepts, the authority must prescribe a process for notifying a proposer whether the proposer's alternative technical concepts are approved for inclusion in a technical proposal.

(f) The cost proposal must include:

(1) the cost of delivering the project;

(2) the estimated number of days required to complete the project; and

(3) any terms for financing for the project that the proposer plans to provide.

(g) A response to a request for detailed proposals shall be due not later than the 180th day after the final request for detailed proposals is issued by the authority. This subsection does not preclude the release by the authority of a draft request for detailed proposals for purposes of receiving input from short-listed proposers.

(h) An authority shall first open, evaluate, and score each

responsive technical proposal submitted on the basis of the criteria described in the request for detailed proposals and assign points on the basis of the weighting specified in the request for detailed proposals. The authority may reject as nonresponsive any proposer that makes a significant change to the composition of its design-build team as initially submitted that was not approved by the authority as provided in the request for detailed proposals. The authority shall subsequently open, evaluate, and score the cost proposals from proposers that submitted a responsive technical proposal and assign points on the basis of the weighting specified in the request for detailed proposals. The authority shall rank the proposers in accordance with the formula provided in the request for detailed proposals.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 38, eff. September 1, 2011.

Sec. 370.407. NEGOTIATION. (a) After ranking the proposers under Section 370.406(h), an authority shall first attempt to negotiate a contract with the highest-ranked proposer. If an authority has committed to paying a stipend to unsuccessful proposers in accordance with Section 370.409, an authority may include in the negotiations alternative technical concepts proposed by other proposers.

(b) If an authority is unable to negotiate a satisfactory contract with the highest-ranked proposer, the authority shall, formally and in writing, end all negotiations with that proposer and proceed to negotiate with the next proposer in the order of the selection ranking until a contract is reached or negotiations with all ranked proposers end.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 38, eff. September 1, 2011.

Sec. 370.408. ASSUMPTION OF RISKS. (a) Unless otherwise provided in the final request for detailed proposals, including all addenda and supplements to that request, the authority shall assume:

- (1) all risks and costs associated with:
 - (A) scope changes and modifications, as requested by

the authority;

(B) unknown or differing site conditions;

(C) environmental clearance and other regulatory permitting for the project; and

(D) natural disasters and other force majeure events;

and

(2) all costs associated with property acquisition, excluding costs associated with acquiring a temporary easement or work area associated with staging or construction for the project.

(b) Nothing herein shall prevent the parties from agreeing that the design-build contractor should assume some or all of the risks or costs set forth in Subsection (a) provided that such agreement is reflected in the final request for detailed proposals, including all addenda and supplements to the agreement.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 38, eff. September 1, 2011.

Sec. 370.409. STIPEND AMOUNT FOR UNSUCCESSFUL PROPOSERS. (a) Pursuant to the provisions of the request for detailed proposals, an authority shall pay an unsuccessful proposer that submits a responsive proposal to the request for detailed proposals a stipend for work product contained in the proposal. The stipend must be specified in the initial request for detailed proposals in an amount of at least two-tenths of one percent of the contract amount, but may not exceed the value of the work product contained in the proposal to the authority. In the event the authority determines that the value of the work product is less than the stipend amount, the authority must provide the proposer with a detailed explanation of the valuation, including the methodology and assumptions used in determining value. After payment of the stipend, the authority may make use of any work product contained in the unsuccessful proposal, including the techniques, methods, processes, and information contained in the proposal. The use by the authority of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the authority and does not confer liability on the recipient of the stipend under this subsection.

(b) An authority may provide in a request for detailed proposals for the payment of a partial stipend in the event a

procurement is terminated prior to securing project financing and execution of a design-build contract.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 38, eff. September 1, 2011.

Sec. 370.410. PERFORMANCE AND PAYMENT BOND. (a) An authority shall require a design-build contractor to provide:

- (1) a performance and payment bond;
- (2) an alternative form of security; or
- (3) a combination of the forms of security described by Subdivisions (1) and (2).

(b) Except as provided by Subsection (c), a performance and payment bond, alternative form of security, or combination of the forms of security shall be in an amount equal to the cost of constructing or maintaining the project.

(c) If the authority determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), the authority shall set the amount of the security.

(d) A performance and payment bond is not required for the portion of a design-build contract under this section that includes design services only.

(e) An authority may require one or more of the following alternative forms of security:

- (1) a cashier's check drawn on a financial entity specified by the authority;
- (2) a United States bond or note;
- (3) an irrevocable bank letter of credit drawn from a federal or Texas chartered bank; or
- (4) any other form of security determined suitable by the authority.

(f) Chapter 2253, Government Code, does not apply to a bond or alternative form of security required under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 38, eff. September 1, 2011.

CHAPTER 371. COMPREHENSIVE DEVELOPMENT AGREEMENTS FOR HIGHWAY TOLL PROJECTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 371.001. DEFINITIONS. In this chapter:

- (1) "Toll project" means a toll project described by Section 201.001(b), regardless of whether the toll project is:
 - (A) a part of the state highway system; or
 - (B) subject to the jurisdiction of the department.
- (2) "Toll project entity" means an entity authorized by law to acquire, design, construct, operate, and maintain a toll project, including:
 - (A) the department;
 - (B) a regional tollway authority under Chapter 366;
 - (C) a regional mobility authority under Chapter 370; or
 - (D) a county under Chapter 284.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 11.01, eff. June 11, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. 1201), Sec. 12, eff. June 17, 2011.

Sec. 371.002. APPLICABILITY. This chapter does not apply to a project for which the commission selected an apparent best value proposer before May 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 11.01, eff. June 11, 2007.

Sec. 371.003. VALUATION DETERMINATION. Any determination of value, including best value, under applicable federal or state law for a comprehensive development agreement or other public-private partnership arrangement involving a toll project must take into consideration any factors the toll project entity determines appropriate, including factors related to:

- (1) oversight of the toll project;
- (2) maintenance and operations costs of the toll project;
- (3) the structure and rates of tolls;
- (4) economic development impacts of the toll project; and
- (5) social and environmental benefits and impacts of the toll project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 9, eff. June 17, 2011.

SUBCHAPTER B. OVERSIGHT

Sec. 371.051. ATTORNEY GENERAL REVIEW AND EXAMINATION FEE. (a) A toll project entity may not enter into a comprehensive development agreement unless the attorney general reviews the proposed agreement and determines that it is legally sufficient.

(b) A toll project entity shall pay a nonrefundable examination fee to the attorney general on submitting a proposed comprehensive development agreement for review. At the time the examination fee is paid, the toll project entity shall also submit for review a complete transcript of proceedings related to the comprehensive development agreement.

(c) If the toll project entity submits multiple proposed comprehensive development agreements relating to the same toll project for review, the entity shall pay the examination fee under Subsection (b) for each proposed comprehensive development agreement.

(d) The attorney general shall provide a legal sufficiency determination not later than the 60th business day after the date the examination fee and transcript of the proceedings required under Subsection (b) are received. If the attorney general cannot provide a legal sufficiency determination within the 60-business-day period, the attorney general shall notify the toll project entity in writing of the reason for the delay and may extend the review period for not more than 30 business days.

(e) After the attorney general issues a legal sufficiency determination, a toll project entity may supplement the transcript of proceedings or amend the comprehensive development agreement to facilitate a redetermination by the attorney general of the prior legal sufficiency determination issued under this section.

(f) The toll project entity may collect or seek reimbursement of the examination fee under Subsection (b) from the private participant.

(g) The attorney general by rule shall set the examination fee required under Subsection (b) in a reasonable amount and may adopt other rules as necessary to implement this section. The fee may not be set in an amount that is determined by a percentage of the cost of the toll project. The amount of the fee may not exceed reasonable

attorney's fees charged for similar legal services in the private sector.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 11.01, eff. June 11, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1329 (S.B. 731), Sec. 1, eff. June 17, 2011.

Sec. 371.052. NOTIFICATION TO LEGISLATIVE BUDGET BOARD. (a) Not later than the 10th day after the date of qualifying or shortlisting private entities to submit detailed proposals for a toll project, a toll project entity shall provide the Legislative Budget Board with the names of qualifying or shortlisted proposers and their team members.

(b) At least 30 days before entering into a comprehensive development agreement, a toll project entity shall provide the Legislative Budget Board with:

(1) a copy of the version of the proposed comprehensive development agreement to be executed;

(2) a copy of the proposal submitted by the apparent best value proposer; and

(3) a financial forecast prepared by the toll project entity that includes:

(A) toll revenue the entity projects will be derived from the project during the planned term of the agreement;

(B) estimated construction costs and operating expenses; and

(C) the amount of income the entity projects the private participant in the agreement will realize during the planned term of the agreement.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1196, Sec. 11, eff. June 17, 2011.

(d) Before the comprehensive development agreement is entered into, financial forecasts and traffic and revenue reports prepared by or for a toll project entity for the project are confidential and are not subject to disclosure, inspection, or copying under Chapter 552, Government Code. On or after the date the comprehensive development agreement is entered into, the financial forecasts and traffic

revenue reports are public information under Chapter 552, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 11.01, eff. June 11, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 10, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 11, eff. June 17, 2011.

SUBCHAPTER C. CONTRACT PROVISIONS

Sec. 371.101. TERMINATION FOR CONVENIENCE. (a) A comprehensive development agreement under which a private participant receives the right to operate and collect revenue from a toll project must contain a provision authorizing the toll project entity to terminate the agreement for convenience and to purchase, under terms agreed to by the parties:

(1) the interest of the private participant in the comprehensive development agreement; and

(2) related property, including any interest in a highway or other facility designed, developed, financed, constructed, operated, or maintained under the agreement.

(b) A comprehensive development agreement described by Subsection (a) must include a price breakdown stating a specific price for the purchase of the private participant's interest at specified intervals from the date the toll project opens, of not less than two years and not more than five years, over the term of the agreement.

(c) The provision must authorize the toll project entity to terminate the comprehensive development agreement and to purchase the private participant's interest at any time during a specified interval at the lesser of:

(1) the price stated for that interval; or

(2) the greater of:

(A) the then fair market value of the private participant's interest, plus or minus any other amounts specified in the comprehensive development agreement; or

(B) an amount equal to the amount of outstanding debt

specified in the comprehensive development agreement, plus or minus any other amounts specified in the comprehensive development agreement.

(d) A toll project entity shall include in a request for proposals for an agreement described by Subsection (a) a request for the proposed price breakdown described by Subsection (b) and shall assign points to and score each proposer's price breakdown in the evaluation of proposals.

(e) A private participant shall, not later than 12 months before the date that a new price interval takes effect, notify the toll project entity of the beginning of the price interval. The toll project entity must notify the private participant as to whether it will exercise the option to purchase under this section not later than six months after the date it receives notice under this subsection.

(f) A toll project entity must notify the private participant of the toll project entity's intention to purchase the private participant's interest under this section not less than six months before the date of the purchase.

(g) Subsections (b), (c), (d), (e), and (f) do not apply to a project for which a request for proposals was issued before January 1, 2013.

(h) If a project requires expansion or reconstruction in a manner that differs from the manner provided in the original project scope or schedule, the price for terminating the comprehensive development agreement may be adjusted to reflect the changes in the agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 11.01, eff. June 11, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1234 (S.B. 1730), Sec. 3, eff. September 1, 2013.

Sec. 371.102. TERMINATION OF CERTAIN COMPREHENSIVE DEVELOPMENT AGREEMENTS. If a toll project entity elects to terminate a comprehensive development agreement under which a private participant receives the right to operate and collect revenue from a project, the entity may:

(1) if authorized to issue bonds for that purpose, issue bonds to:

(A) make any applicable termination payments to the private participant; or

(B) purchase the interest of the private participant in the comprehensive development agreement or related property; or

(2) provide for the payment of obligations of the private participant incurred pursuant to the comprehensive development agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 11.01, eff. June 11, 2007.

Sec. 371.103. PROHIBITION AGAINST LIMITING OR PROHIBITING CONSTRUCTION OF TRANSPORTATION PROJECTS. (a) A comprehensive development agreement may not contain a provision that limits or prohibits the construction, reconstruction, expansion, rehabilitation, operation, or maintenance of a highway or other transportation project, as that term is defined by Section 370.003, by the toll project entity or other governmental entity, or by a private entity under a contract with the toll project entity or other governmental entity.

(b) Except as provided by Subsection (c), a comprehensive development agreement may contain a provision authorizing the toll project entity to compensate the private participant in the agreement for the loss of toll revenues attributable to the construction by the entity of a limited access highway project located within an area that extends up to four miles from either side of the centerline of the project developed under the agreement, less the private participant's decreased operating and maintenance costs attributable to the highway project, if any.

(c) A comprehensive development agreement may not require the toll project entity to provide compensation for the construction of:

(1) a highway project contained in the state transportation plan or a transportation plan of a metropolitan planning organization in effect on the effective date of the agreement;

(2) work on or improvements to a highway project necessary for improved safety, or for maintenance or operational purposes;

(3) a high occupancy vehicle exclusive lane addition or

other work on any highway project that is required by an environmental regulatory agency; or

(4) a transportation project that provides a mode of transportation that is not included in the project that is the subject of the comprehensive development agreement.

(d) The private participant has the burden of proving any loss of toll revenue resulting from the construction of a highway project described by Subsection (b).

(e) A comprehensive development agreement that contains a provision described by Subsection (b) must require the private participant to provide compensation to the toll project entity in the amount of any increase in toll revenues received by the private participant that is attributable to the construction of a highway project described by Subsection (b), less the private participant's increased operation and maintenance costs attributable to the highway project, if any.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 11.01, eff. June 11, 2007.

SUBCHAPTER D. DISCLOSURE OF INFORMATION

Sec. 371.151. DISCLOSURE OF FINANCIAL INFORMATION. (a) Before a toll project entity enters into a contract for the construction of a toll project, the entity shall publish in the manner provided by Section 371.152 information regarding:

(1) project financing, including:

(A) the total amount of debt that has been and will be assumed to acquire, design, construct, operate, and maintain the toll project;

(B) a description of how the debt will be repaid, including a projected timeline for repaying the debt; and

(C) the projected amount of interest that will be paid on the debt;

(2) whether the toll project will continue to be tolled after the debt has been repaid;

(3) a description of the method that will be used to set toll rates;

(4) a description of any terms in the contract relating to competing facilities, including any penalties associated with the

construction of a competing facility;

(5) a description of any terms in the contract relating to a termination for convenience provision, including any information regarding how the value of the project will be calculated for the purposes of making termination payments;

(6) the initial toll rates, the methodology for increasing toll rates, and the projected toll rates at the end of the term of the contract; and

(7) the projected total amount of concession payments.

(b) A toll project entity may not enter into a contract for the construction of a toll project before the 30th day after the date the information is first published under Section 371.152.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 11.01, eff. June 11, 2007.

Sec. 371.152. DISCLOSURE BY PUBLICATION. (a) Information under Section 371.151 must be published in a newspaper published in the county in which the toll project is to be constructed once a week for at least two weeks before the time set for entering into the contract and in two other newspapers that the toll project entity may designate.

(b) Instead of the notice required by Subsection (a), if the toll project entity estimates that the contract involves an amount less than \$300,000, the information may be published in two successive issues of a newspaper published in the county in which the project is to be constructed.

(c) If a newspaper is not published in the county in which the toll project is to be constructed, notice shall be published in a newspaper published in the county:

(1) nearest the county seat of the county in which the improvement is to be made; and

(2) in which a newspaper is published.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 11.01, eff. June 11, 2007.

Sec. 371.153. HEARING. (a) A toll project entity shall hold a public hearing on the information published under Section 371.152 not

later than the 10th day after the date the information is first published and not less than 10 days before the entity enters into the contract.

(b) A hearing under this section must be held in the county seat of the county in which the toll project is located.

(c) A hearing under this section must include a formal presentation and a mechanism for responding to comments and questions.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 11.01, eff. June 11, 2007.

CHAPTER 372. PROVISIONS APPLICABLE TO MORE THAN ONE TYPE OF TOLL PROJECT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 372.001. DEFINITIONS. In this chapter:

(1) "Toll project" means a toll project described by Section 201.001(b), regardless of whether the toll project:

- (A) is a part of the state highway system; or
- (B) is subject to the jurisdiction of the department.

(2) "Toll project entity" means an entity authorized by law to acquire, design, construct, finance, operate, and maintain a toll project, including:

- (A) the department under Chapter 228;
- (B) a regional tollway authority under Chapter 366;
- (C) a regional mobility authority under Chapter 370; or
- (D) a county under Chapter 284.

Reenacted and redesignated from Transportation Code, Chapter 371 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 23.004, eff. September 1, 2009.

Reenacted and redesignated from Transportation Code, Chapter 371 and amended by Acts 2009, 81st Leg., R.S., Ch. 940 (H.B. 3139), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. 1201), Sec. 13, eff. June 17, 2011.

SUBCHAPTER B. TOLL PROJECT OPERATION

Sec. 372.051. USE OF MOTOR VEHICLE REGISTRATION OR LICENSE PLATE INFORMATION. (a) A toll project entity may not use motor vehicle registration or other information derived from a license plate on a vehicle using a toll project, including information obtained by the use of automated enforcement technology described by Section 228.058, for purposes other than those related to:

- (1) toll collection and toll collection enforcement; and
- (2) law enforcement purposes on request by a law enforcement agency.

(b) If a toll project entity enters into an agreement with an entity in another state that involves the exchange of motor vehicle registration or license plate information for toll collection or toll collection enforcement purposes, the agreement must provide that the information may not be used for purposes other than those described in Subsection (a).

Reenacted and redesignated from Transportation Code, Chapter 371 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 23.004, eff. September 1, 2009.

Reenacted and redesignated from Transportation Code, Chapter 371 and amended by Acts 2009, 81st Leg., R.S., Ch. 940 (H.B. 3139), Sec. 1, eff. September 1, 2009.

Sec. 372.052. VEHICLES USED BY NONPROFIT DISASTER RELIEF ORGANIZATIONS. A toll project entity may not require a vehicle registered under Section 502.454 to pay a toll for the use of a toll project.

Reenacted and redesignated from Transportation Code, Chapter 371 and amended by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 23.004, eff. September 1, 2009.

Reenacted and redesignated from Transportation Code, Chapter 371 and amended by Acts 2009, 81st Leg., R.S., Ch. 940 (H.B. 3139), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.006, eff. September 1, 2013.

Sec. 372.053. VETERAN DISCOUNT PROGRAM. (a) A toll project

entity may establish a discount program for electronic toll collection customers. The program must include free or discounted use of the entity's toll project by an electronic toll collection customer whose account relates to a vehicle registered under Section 504.202 or 504.315(f) or (g).

(b) The legislature may appropriate funds from the general revenue fund to a toll project entity to defray the cost of providing free or discounted use of the entity's toll project under this section.

Reenacted and redesignated from Transportation Code, Chapter 371 and amended by Acts 2009, 81st Leg., R.S., Ch. 940 (H.B. 3139), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 901 (H.B. 1123), Sec. 1, eff. September 1, 2013.

SUBCHAPTER C. NONPAYMENT OF TOLLS; REMEDIES

Sec. 372.101. APPLICABILITY. This subchapter does not apply to a county acting under Chapter 284.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff. June 14, 2013.

Sec. 372.102. PUBLICATION OF NONPAYING VEHICLE INFORMATION.

(a) Notwithstanding the confidentiality of electronic toll collection customer account information, including confidentiality under Sections 228.057(e), 366.178(b-1), 366.179(d), 370.177(m), and 370.178(d), a toll project entity may publish a list of the names of the registered owners or lessees of nonpaying vehicles who at the time of publication are liable for the payment of past due and unpaid tolls or administrative fees. The list may include only the persons' names and, for each person listed:

- (1) the city and state of the person's residence;
- (2) the total number of events of nonpayment; and
- (3) the total amount due for the tolls and administrative fees.

(b) A toll project entity may not include on a list published under Subsection (a) the name of a registered owner who remits a tax

imposed under Section 152.026, Tax Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1129 (S.B. 57), Sec. 5, eff. June 19, 2015.

Sec. 372.103. TOLL VIOLATION PAYMENT PLAN. A toll project entity may enter into an agreement with the registered owner of a vehicle, for whom a single payment is not feasible, that allows the person to pay the total amount of outstanding tolls and administrative fees over a specified period. The agreement must be in writing and specify the amount due for tolls and administrative fees, the duration of the agreement, and the amount of each payment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff. June 14, 2013.

Sec. 372.104. DEFAULT; SUIT TO RECOVER OUTSTANDING BALANCE DUE.

(a) If the registered owner of the vehicle fails to comply with the terms of an agreement described by Section 372.103, a toll project entity may send by first class mail to the person at the address shown on the agreement a written notice demanding payment of the outstanding balance due.

(b) If the registered owner fails to pay the outstanding balance due on or before the 30th day after the date on which the notice is mailed, the toll project entity may, in addition to other remedies available to the entity, refer the matter to an attorney authorized to represent the toll project entity for suit or collection.

(c) The authorized attorney may file suit in a district court in the county in which the toll project entity's administrative offices are primarily located to recover the outstanding balance due. The authorized attorney may recover reasonable attorney's fees, investigative costs, and court costs incurred on behalf of the toll project entity in the proceeding.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff.

June 14, 2013.

Sec. 372.105. NONPAYMENT BY VEHICLES NOT REGISTERED IN THIS STATE. (a) A toll project entity may, in lieu of mailing a written notice of nonpayment, serve with a written notice of nonpayment in person an owner of a vehicle that is not registered in this state, including the owner of a vehicle registered in another state of the United States, the United Mexican States, a state of the United Mexican States, or another country or territory. A notice of nonpayment may also be served by an employee of a governmental entity operating an international bridge at the time a vehicle with a record of nonpayment seeks to enter or leave this state.

(b) Each written notice of nonpayment issued under Subsection (a) shall include a warning that the failure to pay the amounts in the notice may result in the toll project entity's exercise of the habitual violator remedies under this subchapter.

(c) An owner who is served a written notice of nonpayment under Subsection (a) and fails to pay the proper toll and administrative fee within the time specified in the notice commits an offense. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(d) An offense under Subsection (c) is a misdemeanor punishable by a fine not to exceed \$250. The court in which an owner is convicted of an offense under this section may also collect the proper toll and administrative fee and forward the toll and fee to the toll project entity.

(e) It is a defense to prosecution under Subsection (c) that the owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is served under Subsection (a) provides to the toll project entity proof that meets applicable toll project entity law establishing that the vehicle was leased to another person at the time of the nonpayment.

(f) It is a defense to prosecution under Subsection (c) that the vehicle in question was stolen before the failure to pay the proper toll occurred and was not recovered by the time of the failure to pay, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

- (1) the occurrence of the failure to pay; or
- (2) eight hours after the discovery of the theft.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff. June 14, 2013.

Sec. 372.106. HABITUAL VIOLATOR. (a) For purposes of this subchapter, a habitual violator is a registered owner of a vehicle who a toll project entity determines:

(1) was issued at least two written notices of nonpayment that contained:

(A) in the aggregate, 100 or more events of nonpayment within a period of one year, not including events of nonpayment for which:

(i) the registered owner has provided to the toll project entity information establishing that the vehicle was subject to a lease at the time of the nonpayment, as provided by applicable toll project entity law; or

(ii) a defense of theft at the time of the nonpayment has been established as provided by applicable toll project entity law; and

(B) a warning that the failure to pay the amounts specified in the notices may result in the toll project entity's exercise of habitual violator remedies; and

(2) has not paid in full the total amount due for tolls and administrative fees under those notices.

(b) If the toll project entity makes a determination under Subsection (a), the toll project entity shall give written notice to the person at:

(1) the person's address as shown in the vehicle registration records of the Texas Department of Motor Vehicles or the analogous agency of another state or country; or

(2) an alternate address provided by the person or derived through other reliable means.

(c) The notice must:

(1) be sent by first class mail and is presumed received on the fifth day after the date the notice is mailed; and

(2) state:

(A) the total number of events of nonpayment and the total amount due for tolls and administrative fees;

(B) the date of the determination under Subsection (a);

(C) the right of the person to request a hearing on the

determination; and

(D) the procedure for requesting a hearing, including the period during which the request must be made.

(d) If not later than the 30th day after the date on which the person is presumed to have received the notice the toll project entity receives a written request for a hearing, a hearing shall be held as provided by Section 372.107.

(e) If the person does not request a hearing within the period provided by Subsection (d), the toll project entity's determination becomes final and not subject to appeal on the expiration of that period.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff. June 14, 2013.

Sec. 372.107. HEARING. (a) A justice court has jurisdiction to conduct a hearing in accordance with this section.

(b) A hearing requested under Section 372.106 shall be conducted in a justice court in a county in which the toll collection facilities where at least 25 percent of the events of nonpayment occurred are located.

(c) A party requesting a hearing shall pay a filing fee of \$100 to the clerk of the justice court. If that party prevails under the justice's finding under Subsection (f), the other party shall reimburse the prevailing party for the amount of the filing fee within 10 days after issuance of the finding.

(d) The issues that must be proven at the hearing by a preponderance of the evidence are:

(1) whether the registered owner was issued at least two written notices of nonpayment for an aggregate of 100 or more events of nonpayment within a period of one year, not including events of nonpayment for which:

(A) the registered owner has provided to the toll project entity information establishing that the vehicle was subject to a lease at the time of the nonpayment, as provided by applicable toll project entity law; or

(B) a defense of theft at the time of the nonpayment has been established as provided by applicable toll project entity law; and

(2) whether the total amount due for tolls and administrative fees specified in those notices was not paid in full by the dates specified in the notices and remains not fully paid.

(e) Proof under Subsection (d) may be by oral testimony, documentary evidence, video surveillance, or any other reasonable evidence.

(f) If the justice of the peace finds in the affirmative on each issue in Subsection (d), the toll project entity's determination that the registered owner is a habitual violator is sustained and becomes final. If the justice does not find in the affirmative on each issue in Subsection (d), the toll project entity shall rescind its determination that the registered owner is a habitual violator. Rescission of the determination does not limit the toll project entity's authority to pursue collection of the outstanding tolls and administrative fees.

(g) A registered owner who requests a hearing and fails to appear without just cause waives the right to a hearing, and the toll project entity's determination is final and not subject to appeal.

(h) A justice of the peace court may adopt administrative hearings processes to expedite hearings conducted under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. [1792](#)), Sec. 1, eff. June 14, 2013.

Sec. 372.108. APPEAL. (a) A registered owner may appeal the justice of the peace's decision by filing a petition not later than the 30th day after the date on which the decision is rendered:

(1) in the county court at law of the county in which the justice of the peace precinct is located; or

(2) if there is no county court at law in that county, in the county court.

(b) The registered owner must send a file-stamped copy of the petition, certified by the clerk of the court, to the toll project entity by certified mail not later than the 30th day after the date the appeal petition is filed.

(c) The court shall notify the toll project entity of the hearing not later than the 31st day before the date the court sets for the hearing.

(d) A trial on appeal is a trial de novo on the issues under

Section 372.107(d).

(e) Neither the filing of the appeal petition nor service of notice of the appeal stays the toll project entity's exercise of the habitual violator remedies unless the person who files the appeal posts a bond with the toll project entity issued by a sufficient surety in the total amount of unpaid tolls and fees owed by the registered owner to the toll project entity.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff. June 14, 2013.

Sec. 372.109. PERIOD DETERMINATION IS EFFECTIVE. (a) A final determination that a person is a habitual violator remains in effect until:

(1) the total amount due for the person's tolls and administrative fees is paid; or

(2) the toll project entity, in its sole discretion, determines that the amount has been otherwise addressed.

(b) When a determination terminates, the toll project entity shall, not later than the seventh day after the date of the termination, send notice of the termination:

(1) to the person who is the subject of the determination at an address under Section 372.106(b); and

(2) if the toll project entity provided notice to a county assessor-collector or the Texas Department of Motor Vehicles under Section 502.011, to that county assessor-collector or that department, as appropriate.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff. June 14, 2013.

Sec. 372.110. ORDER PROHIBITING OPERATION OF MOTOR VEHICLE ON TOLL PROJECT; OFFENSE. (a) A toll project entity, by order of its governing body, may prohibit the operation of a motor vehicle on a toll project of the toll project entity if:

(1) the registered owner of the vehicle has been finally determined to be a habitual violator; and

(2) the toll project entity has provided notice of the prohibition order to the registered owner.

(b) The notice required by Subsection (a)(2) must be sent by first class mail to the registered owner at an address under Section 372.106(b) at least 10 days before the date the prohibition order takes effect and is presumed received on the fifth day after the date the notice is mailed.

(c) Notwithstanding any provisions of law governing the confidentiality of electronic toll collection customer account information, the order described in Subsection (a) may include the registered owner's name, the city and state of residence, and the license plate number of the nonpaying vehicle.

(d) A person commits an offense if the person operates a motor vehicle on a toll project in violation of an order issued under Subsection (a). An offense under this subsection is a Class C misdemeanor.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff. June 14, 2013.

Sec. 372.111. DENIAL OF MOTOR VEHICLE REGISTRATION. After a final determination that the registered owner of a motor vehicle is a habitual violator, the toll project entity may report the determination to a county assessor-collector or the Texas Department of Motor Vehicles in order to cause the denial of vehicle registration as provided by Section 502.011.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff. June 14, 2013.

Sec. 372.112. IMPOUNDMENT OF MOTOR VEHICLE. (a) A peace officer may detain a motor vehicle observed by the officer to be operated in violation of an order under Section 372.110(a) and may direct the impoundment of the vehicle if:

- (1) the vehicle was previously operated on a toll project in violation of an order issued under Section 372.110(a); and
- (2) personal notice to the registered owner of the vehicle of the toll project entity's intent to have the vehicle impounded on a second or subsequent violation of Section 372.110(a) was provided:
 - (A) at the time of the hearing under Section 372.107;
 - (B) at the time of the previous traffic stop involving

a violation of Section 372.110(a); or

(C) by personal service.

(b) A vehicle impounded under this section may be released after:

(1) payment by or on behalf of the registered owner of all towing, storage, and impoundment charges; and

(2) a determination by the toll project entity that all unpaid tolls and fees owed to the entity by the registered owner are paid or are otherwise addressed to the satisfaction of the toll project entity in the toll project entity's sole discretion.

(c) For the purposes of Section 2303.155(b)(4), Occupations Code, fees required to be submitted to a governmental entity include an amount for unpaid tolls and fees owed by the registered owner of an impounded vehicle as set out in timely written notice given by the toll project entity to the operator of the vehicle storage facility where the vehicle is impounded. The toll project entity may set out in that notice an amount less than all unpaid tolls and fees owed by the registered owner without releasing the registered owner from liability under any other law for the full amount of unpaid tolls and fees.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. [1792](#)), Sec. 1, eff. June 14, 2013.

Sec. 372.113. HABITUAL VIOLATOR REMEDIES AGAINST LESSEE OF VEHICLE. (a) A toll project entity may seek habitual violator remedies against a lessee of a vehicle and not the registered owner if the toll project entity sends to the lessee, in accordance with applicable toll project entity law, at least two notices of nonpayment containing:

(1) the warning under Section 372.106(a)(1)(B); and

(2) in the aggregate, 100 or more events of nonpayment in the period of one year, not including events of nonpayment for which a defense of theft at the time of the nonpayment has been established as provided by applicable toll project entity law, that:

(A) were not paid in full by the dates specified in the notices and that remain not fully paid; and

(B) were incurred during the period of the lease as shown in a lease contract document provided by the registered owner

to the toll project entity as provided by applicable toll project entity law.

(b) A toll project entity seeking habitual violator remedies against a lessee under Subsection (a) shall use the procedures of this subchapter as if the lessee were the registered owner.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff. June 14, 2013.

Sec. 372.114. HABITUAL VIOLATOR REMEDIES AGAINST OWNERS OF VEHICLES NOT REGISTERED IN THIS STATE. (a) A toll project entity may seek habitual violator remedies against a person described by Section 372.105(a) if:

(1) the person is served with two or more written notices of nonpayment under Section 372.105(a) and the amount owing under the notices was not paid in full by the dates specified in the notices and remains not fully paid; and

(2) notice of the toll project entity's intent to seek habitual violator remedies was served on the person in the manner described by Section 372.105(a) for a notice of nonpayment.

(b) A person described by Section 372.105(a) may request a hearing under Section 372.107 not later than the 30th day after the date of the notice under Subsection (a)(2).

(c) In making a finding under Section 372.107 against a person described by Section 372.105(a), a justice of the peace must find that the requirements of Subsection (a) have been met in lieu of the findings otherwise required under Section 372.107(d).

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff. June 14, 2013.

Sec. 372.115. USE OF REMEDIES OPTIONAL. A toll project entity's use of remedies under this subchapter is cumulative of other remedies and is optional, and nothing in this subchapter prohibits a toll project entity from exercising any other enforcement remedies available under this chapter or other law.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 1, eff. June 14, 2013.

**CHAPTER 373. TOLL PROJECTS LOCATED IN TERRITORY OF LOCAL TOLL
PROJECT ENTITY**

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 373.001. DEFINITIONS. In this chapter:

- (1) "Local toll project entity" means an entity, other than the department, that is authorized by law to acquire, design, construct, finance, operate, and maintain a toll project, including:
- (A) a regional tollway authority under Chapter 366;
 - (B) a regional mobility authority under Chapter 370; or
 - (C) a county acting under Chapter 284.
- (2) "Toll project" means a toll project described by Section 201.001(b), regardless of whether the toll project is:
- (A) a part of the state highway system; or
 - (B) subject to the jurisdiction of the department.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.002. APPLICABILITY. This chapter does not apply to:

- (1) a toll project described in Section 228.011;
- (2) Phase 4 extension of the Dallas North Tollway in Collin and Denton Counties from U.S. 380 to the Grayson County line to be developed by North Texas Tollway Authority; or
- (3) the North Tarrant Express project in Tarrant and Dallas Counties (Interstate Highway 820 and State Highway 121/State Highway 183 from Interstate Highway 35 West to State Highway 161, Interstate Highway 820 East from State Highway 121/State Highway 183 to Randol Mill Road, and Interstate Highway 35 West from Interstate Highway 30 to State Highway 170).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.003. PROJECT OWNED IN PERPETUITY. Unless a toll project is leased, sold, conveyed, or otherwise transferred to another governmental entity in accordance with applicable law, including Sections 228.151, 284.011, 366.036, 366.172, and 370.171, a

toll project procured by the department or a local toll project entity determined by the process under Subchapter B is owned by that entity in perpetuity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.004. GOVERNMENTAL AND NOT COMMERCIAL TRANSACTIONS. A transaction involving a local toll project entity under Section 228.011 or this chapter is not primarily commercial in nature but is an inherently governmental transaction whose purpose is to determine governmental jurisdiction, ownership, control, or other responsibilities with respect to a project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.005. LEGAL CHALLENGES CONCLUDED. For the purposes of this chapter, all legal challenges to development of a toll project are considered concluded when a judgment or order of a court with jurisdiction over the challenge becomes final and unappealable.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.006. TOLL PROJECT AGREEMENT. (a) Before initiating the primacy determination process under Subchapter B for a toll project, the department and the local toll project entity may enter into a toll project agreement that:

(1) identifies the responsibilities of each party for project-related activities, which may include the performance of environmental work and traffic and revenue studies; and

(2) includes an agreement that the primacy determination process under Subchapter B may be initiated earlier than as provided by Section 373.051.

(b) A toll project agreement may provide an alternative to the primacy determination process under Subchapter B for toll project development, including an alternative timeline for the development of

toll project phases.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.007. EXERCISE OF PRIMACY FOR TOLL PROJECT PHASES. Unless otherwise provided by a toll project agreement under Section 373.006 or other agreement, an exercise of primacy under Subchapter B over a phase of a toll project is an exercise of primacy over the entire project, with additional phases to be developed as the entity determines the phases financially feasible.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

SUBCHAPTER B. PROCESS TO DETERMINE ENTITY TO DEVELOP, FINANCE, CONSTRUCT, AND OPERATE TOLL PROJECT

Sec. 373.051. INITIATION OF PROCESS. (a) At any time after a metropolitan planning organization approves the inclusion in the metropolitan transportation improvement program of a toll project to be located in the territory of a local toll project entity, the local toll project entity may notify the department in writing of the local toll project entity's intent to initiate the process described in this subchapter.

(b) The department may notify the local toll project entity in writing of the department's intent to initiate the process described in this subchapter at any time after a metropolitan planning organization has approved the inclusion in the metropolitan transportation improvement program of a toll project to be located in the territory of a local toll project entity and:

(1) the department has issued a finding of no significant impact for the project, or for a project for which an environmental impact statement is prepared, the department has approved the final environmental impact statement for the project; or

(2) for a project subject to environmental review requirements under federal law, the United States Department of Transportation Federal Highway Administration has issued a finding of no significant impact, or for a project for which an environmental impact statement is prepared, the department has submitted a final

environmental impact statement to the Federal Highway Administration for approval.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.052. LOCAL TOLL PROJECT ENTITY OPTION. (a) The local toll project entity has the first option to develop, finance, construct, and operate a toll project. The local toll project entity must exercise its option not later than the later of:

(1) the 180th day after the date on which notification under Section 373.051(a) is provided or notification under Section 373.051(b) is received; or

(2) if the United States Department of Transportation Federal Highway Administration issues a record of decision for an environmental impact statement submitted by the department under Section 373.051(b)(2) more than 60 days after the date the department provides notice under Section 373.051(b), the 120th day after the date the record of decision is issued.

(b) The option period under Subsection (a) may be extended an additional 90 days by agreement of the department and the local toll project entity.

(c) If the local toll project entity exercises the option under Subsection (a), the local toll project entity after exercising the option must:

(1) within 180 days after the later of the date of exercising its option or the date on which all environmental approvals necessary for the development of the toll project are secured and all legal challenges to development are concluded, advertise for the initial procurement of required services, including, at a minimum, design services, for the project; and

(2) within two years after the later of the date of exercising its option or the date on which all environmental approvals necessary for the development are secured and all legal challenges to development are concluded, enter into a contract for the construction of the toll project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.053. DEPARTMENT OPTION. (a) If the local toll project entity fails or declines to exercise the option to develop, finance, construct, and operate a toll project under Section 373.052(a), or fails or declines to advertise for procurement or enter into a construction contract as required by Section 373.052(c), the department has the option to develop, finance, construct, and operate the toll project. The department has not more than 60 days after the date the local toll project entity fails or declines to exercise its option under Section 373.052(a) or fails or declines to advertise for procurement or enter into a construction contract as required by Section 373.052(c) to exercise its option.

(b) If the department exercises its option under Subsection (a), the department after exercising the option must:

(1) within 180 days after the later of the date of exercising its option or the date on which all environmental approvals necessary for the development of the toll project are secured and all legal challenges to development are concluded, advertise for the initial procurement of required services, including, at a minimum, design services, for the project; and

(2) within two years after the later of the date of exercising its option or the date on which all environmental approvals necessary for the development are secured and all legal challenges to development are concluded, enter into a contract for the construction of the toll project.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.054. REINITIATION OF PROCESS. If the process described by Sections 373.051, 373.052, and 373.053 concludes without the local toll project entity or the department entering into a contract for the construction of the toll project, either entity may reinitiate the process under this subchapter by submitting notice to the other entity in the manner provided by Section 373.051.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.055. WAIVER OF OPTION; ALTERATION OF STEPS OR TIME

LIMITS. (a) The department or the local toll project entity may at any time before or during the process established by this subchapter waive or decline to exercise any option, step, or other right under this subchapter that solely benefits that entity by notifying the other entity of its decision in writing.

(b) The department and the local toll project entity may, by written agreement, alter any other step or time limit under this subchapter, including the timing of or conditions for initiating the process under Section 373.051.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.056. SHARING OF PROJECT-RELATED INFORMATION. (a) In this section, "project-related information" includes traffic estimates, revenue estimates, plans, specifications, surveys, appraisals, environmental studies, and other work product developed for a toll project.

(b) On initiation of the process under Section 373.051, the department shall make its project-related information available to the local toll project entity.

(c) If the local toll project entity fails or declines to exercise an option or fails or declines to advertise for procurement or enter into a construction contract under Section 373.052, the local toll project entity shall make its project-related information available to the department.

(d) On entering into a contract for the construction of the toll project, the department or the local toll project entity, as applicable, shall reimburse the other entity for shared project-related information that it uses.

(e) Use by an entity of project-related information received by the entity under this section is at the sole risk of the receiving entity and does not confer liability on the entity that furnished the information.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.057. PROGRESS REPORTS. After the department or the

local toll project entity exercises an option under this subchapter, the department or the local toll project entity, as applicable, shall issue a semiannual report on the progress of the development of the toll project. The report shall be made available to the public.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.058. ENVIRONMENTAL REVIEW. (a) The department or the local toll project entity may begin any environmental review process that may be required for a proposed toll project before initiating the process under this subchapter.

(b) If the local toll project entity initiates the process for development of a toll project under Section 373.051(a) and has not begun the environmental review of the project, the local toll project entity shall begin the environmental review within 180 days of exercising the option.

(c) The department or the local toll project entity may begin development of a toll project before the project receives environmental clearance but may not begin construction of the project before the project receives that clearance.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.059. PROJECT LOCATED IN TERRITORY OF MORE THAN ONE LOCAL TOLL PROJECT ENTITY. If a toll project is in the territory of more than one local toll project entity, only the local toll project entity that first constructed toll projects may exercise the options and other rights under this subchapter. The local toll project entity exercising an option or other right under this section:

(1) may do so only with respect to the portion of the project located in the territory of that local toll project entity; and

(2) shall do so on behalf of another local toll project entity in whose territory the project will be located if requested by the other entity after the original entity declines to exercise its option.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

SUBCHAPTER C. USE OF RIGHT-OF-WAY BY LOCAL TOLL PROJECT ENTITY

Sec. 373.101. USE OF STATE HIGHWAY RIGHT-OF-WAY. (a)

Consistent with federal law, the commission and the department shall assist a local toll project entity in the development, financing, construction, and operation of a toll project for which the local toll project entity has exercised its option to develop, finance, construct, and operate the project under Subchapter B by allowing the local toll project entity to use state highway right-of-way and to access the state highway system as necessary to construct and operate the toll project.

(b) Notwithstanding any other law, a local toll project entity and the commission may agree to remove the toll project from the state highway system and transfer ownership to the local toll project entity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.102. REIMBURSEMENT FOR USE OF RIGHT-OF-WAY. (a) The commission or the department may not require a local toll project entity to pay for the use of state highway right-of-way or access, except:

(1) to reimburse the department for actual costs incurred by the department that are owed to a third party, including the federal government, as a result of that use by the local toll project entity; and

(2) as required under Subsection (b).

(b) A local toll project entity shall reimburse the department for the department's actual costs to acquire a right-of-way transferred to the local toll project entity. If the department is not able to determine that amount, the reimbursement must be in an amount equal to the average actual historical right-of-way acquisition values for comparable right-of-way located in proximity to the project on the date of original acquisition of the right-of-way.

(c) In lieu of reimbursement, and at the local toll project entity's sole option, the local toll project entity may agree to pay to the department a portion of the revenues of the project, in the amount and for the period of time agreed to by the local toll project entity and the department.

(d) Money received by the department under this section shall be deposited in the state highway fund and, except for reimbursement for costs owed to a third party, used to fund additional projects in the department district in which the toll project is located.

(e) The department shall reimburse a local toll project entity for any cost of right-of-way acquired by the entity for a toll project that will be developed, financed, constructed, and operated by the department.

(f) The commission or department or the local toll project entity may waive the requirement of reimbursement under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.103. AGREEMENT FOR USE OF RIGHT-OF-WAY. A local toll project entity and the department shall enter into an agreement for any toll project for which the entity has exercised its option to develop, finance, construct, and operate the project under Subchapter B and for which the entity intends to use state highway right-of-way. The agreement must contain provisions necessary to:

(1) ensure that the local toll project entity's construction, maintenance, and operation of the project complies with the requirements of applicable state and federal law; and

(2) protect the interests of the commission and the department in the use of right-of-way for operations of the department, including public safety and congestion mitigation on the right-of-way.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.104. LIABILITY FOR DAMAGES. (a) Notwithstanding any other law, the commission and the department are not liable for any damages that result from a local toll project entity's use of state

highway right-of-way or access to the state highway system under this subchapter, regardless of the legal theory, statute, or cause of action under which liability is asserted.

(b) An agreement entered into by a local toll project entity and the department in connection with a toll project that is developed, financed, constructed, or operated by the local toll project entity and that is on or directly connected to a highway in the state highway system does not create a joint enterprise for liability purposes.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

Sec. 373.105. COMPLIANCE WITH FEDERAL LAW. Notwithstanding an action taken by a local toll project entity under this subchapter, the commission or department may take any action that in its reasonable judgment is necessary to comply with any federal requirement to enable this state to receive federal-aid highway funds.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1196 (S.B. 19), Sec. 1, eff. June 17, 2011.

SUBTITLE H. HIGHWAY BEAUTIFICATION

CHAPTER 391. HIGHWAY BEAUTIFICATION ON INTERSTATE AND PRIMARY SYSTEMS AND CERTAIN ROADS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Automobile graveyard" means an establishment that is maintained, used, or operated for storing, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

(2) "Eligible highway" means a highway along which an information logo sign may be located as determined by the commission under Section 391.092(d).

(3) Repealed by Acts 2007, 80th Leg., R.S., Ch. 935, Sec. 4, eff. June 15, 2007.

(4) "Information logo sign" means a specific information logo sign or a major shopping area guide sign.

(5) "Interstate system" means that portion of the national system of interstate and defense highways that is located in this state and is designated officially by the commission and approved under Title 23, United States Code.

(6) "Junk" means:

(A) old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, or waste;

(B) junked, dismantled, or wrecked automobiles or automobile parts; or

(C) iron, steel, and other old or scrap ferrous or nonferrous material.

(7) "Junkyard" means:

(A) an automobile graveyard;

(B) an establishment maintained, used, or operated for storing, buying, or selling junk or processing scrap metal; or

(C) a garbage dump or sanitary fill.

(8) Repealed by Acts 2007, 80th Leg., R.S., Ch. 935, Sec. 4, eff. June 15, 2007.

(9) "Major shopping area guide sign" means a rectangular guide sign panel imprinted with the name of a major shopping area eligible to have its name displayed as determined by the commission under Section 391.0935 and containing directional information to the major shopping area.

(10) "Outdoor advertising" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing designed, intended, or used to advertise or inform if any part of the advertising or information content is visible from the main-traveled way of the interstate or primary system. The term does not include a sign or marker giving information about the location of an underground electric transmission line, telegraph or telephone property or facility, pipeline, public sewer, or waterline.

(11) "Primary system" means that portion of connected main highways located in this state that is designated officially by the commission and approved under Title 23, United States Code.

(12) "Specific information logo sign" means a rectangular sign imprinted with the words "GAS," "FOOD," "LODGING," "CAMPING," or "24 HOUR Rx," or with a combination of those words, and the specific brand names of commercial establishments offering those services.

(13) "Urban area" means an area defined by the commission

in cooperation with local officials, subject to approval by the secretary of the United States Department of Transportation, that as a minimum includes an urban place as designated by the United States Bureau of the Census having a population of 5,000 or more and not located within an urbanized area.

(14) "Urbanized area" means an area defined by the commission in cooperation with local officials, subject to approval by the secretary of the United States Department of Transportation, that as a minimum includes an urbanized area as defined by the United States Bureau of the Census or that part of a multistate urbanized area located in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.22(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 602, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 743, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 935 (H.B. 3441), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 935 (H.B. 3441), Sec. 4, eff. June 15, 2007.

Sec. 391.002. PURPOSE. (a) Subject to the availability of state and federal funds, it is the intent of the legislature to comply with the Highway Beautification Act of 1965 (23 U.S.C. Sections 131, 136, 319) to the extent that it is implemented by the United States Congress. This chapter is conditioned on that law.

(b) The legislature declares that it is necessary to regulate the erection and maintenance of outdoor advertising and the establishment, operation, and maintenance of junkyards in areas adjacent to the interstate and primary systems to:

(1) promote the health, safety, welfare, morals, convenience, and enjoyment of the traveling public; and

(2) protect the public investment in the interstate and primary systems.

(c) The legislature considers that the following are means of protecting and providing for the general welfare of the traveling public and promoting the safety of citizens using the highways of this state:

- (1) landscaping and developing recreational areas;
- (2) acquiring interests in and improving strips of real property within, adjacent to, or within view of the interstate or primary system that are necessary for the restoration, preservation, and enhancement of scenic beauty; and
- (3) developing publicly owned and controlled rest and sanitary facilities in or adjacent to highway rights-of-way.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.003. VIOLATION OF RULE; OFFENSE. (a) A person commits an offense if the person wilfully violates a rule adopted by the commission under this chapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000.

(c) Each day of a rule violation is a separate offense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.004. DISPOSITION OF FEES. Money the commission receives under this chapter shall be deposited to the credit of the state highway fund. The commission shall use money in the state highway fund to administer this chapter and Chapter 394.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.21, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 39, eff. September 1, 2011.

Sec. 391.005. EXEMPTION. This chapter does not apply to a sign erected solely for and relating to a public election if the sign:

- (1) is on private property;
- (2) is erected not earlier than the 90th day before the date of the election and is removed not later than the 10th day after the election date;
- (3) is constructed of lightweight material; and
- (4) has a surface area not larger than 50 square feet.

Added by Acts 1997, 75th Leg., ch. 60, Sec. 1, eff. April 1, 1998.

Sec. 391.006. COMPLAINTS; RECORDS. (a) The commission by rule shall establish procedures for accepting and resolving written complaints related to outdoor advertising under this chapter. The rules must include:

(1) a process to make information available describing the department's procedures for complaint investigation and resolution, including making information about the procedures available on the department's Internet website;

(2) a system to prioritize complaints so that the most serious complaints receive attention before less serious complaints; and

(3) a procedure for compiling and reporting detailed annual statistics about complaints.

(b) The department shall develop and provide a simple form for filing complaints with the department.

(c) The department shall provide to each person who files a written complaint with the department, and to each person who is the subject of a complaint, information about the department's policies and procedures relating to complaint investigation and resolution.

(d) The department shall keep, in accordance with the department's approved records retention schedule, an information file about each written complaint filed with the department that the department has authority to resolve. The department shall keep the following information for each complaint for the purpose of enforcing this chapter:

(1) the date the complaint is filed;

(2) the name of the person filing the complaint;

(3) the subject matter of the complaint;

(4) each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) if the department does not take action on the complaint, an explanation of the reasons that action was not taken.

(e) If a written complaint is filed with the department that the department has authority to resolve, the department, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless

the notice would jeopardize an ongoing department investigation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 40(a), eff. September 1, 2011.

SUBCHAPTER B. REGULATION OF OUTDOOR ADVERTISING GENERALLY

Sec. 391.031. UNLAWFUL OUTDOOR ADVERTISING; OFFENSE. (a) A person commits an offense if the person erects or maintains outdoor advertising, or allows outdoor advertising to be erected or maintained on property owned by the person:

(1) within 660 feet of the nearest edge of a right-of-way if the advertising is visible from the main-traveled way of the interstate or primary system; or

(2) outside an urban area if the advertising is located more than 660 feet from the nearest edge of a right-of-way, is visible from the main-traveled way of the interstate or primary system, and is erected for the purpose of having its message seen from the main-traveled way of the interstate or primary system.

(b) A person does not commit an offense if the person erects or maintains in an area described by Subsection (a):

(1) directional or other official outdoor advertising authorized by law, including advertising pertaining to a natural wonder or a scenic or historic attraction;

(2) outdoor advertising for the sale or lease of the property on which it is located;

(3) outdoor advertising solely for activities conducted on the property on which it is located;

(4) outdoor advertising located within 660 feet of the nearest edge of a right-of-way in an area in which the land use:

(A) is designated industrial or commercial under authority of law; or

(B) is not designated industrial or commercial under authority of law but the land use is consistent with an area designated industrial or commercial;

(5) outdoor advertising that has as its purpose the protection of life and property; or

(6) outdoor advertising erected on or before October 22, 1965, that the commission, with the approval of the secretary of the United States Department of Transportation, determines to be a

landmark of such historic or artistic significance that preservation is consistent with the purposes of this subchapter.

(c) The determination of whether an area is to be designated industrial or commercial must be made under criteria established by commission rule and according to actual land use.

(d) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day of the proscribed conduct is a separate offense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 611 (H.B. 412), Sec. 1, eff. September 1, 2007.

Sec. 391.032. REGULATION OF OUTDOOR ADVERTISING IN INDUSTRIAL OR COMMERCIAL AREA. (a) The commission by rule may regulate the orderly and effective display of outdoor advertising consistent with the customary use of outdoor advertising in this state in an area in which the land use:

(1) is designated industrial or commercial under authority of law; and

(2) is not so designated but in which the land use is consistent with areas designated industrial or commercial in the manner provided by Section 391.031(c).

(b) The commission may agree with the secretary of the United States Department of Transportation to regulate the orderly and effective display of outdoor advertising in an area described by Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.033. ACQUISITION OF OUTDOOR ADVERTISING BY COMMISSION. (a) The commission may purchase or acquire by eminent domain outdoor advertising that is lawfully in existence on a highway in the interstate or primary system.

(b) If an acquisition is by eminent domain, the commission shall pay just compensation to:

(1) the owner for the right, title, leasehold, and interest in the outdoor advertising; and

(2) the owner or, if appropriate, the lessee of the real property on which the outdoor advertising is located for the right to erect and maintain the outdoor advertising.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.034. NUISANCE OUTDOOR ADVERTISING; INJUNCTION. (a) Outdoor advertising that is erected or maintained in violation of this chapter:

(1) endangers the health, safety, welfare, morals, convenience, and enjoyment of the traveling public and the protection of the public investment in the interstate and primary highway systems; and

(2) is a public nuisance.

(b) On written notice by certified mail from the department, an owner of outdoor advertising that is a public nuisance under Subsection (a) shall remove the advertising. If the owner does not remove the outdoor advertising within 45 days of the date of the notice, the department may direct the attorney general to apply for an injunction to:

(1) prohibit the owner from maintaining the advertising; and

(2) require the removal of the advertising.

(c) The state is entitled to recover from the owner of outdoor advertising removed under an action brought under Subsection (b) all administrative and legal costs and expenses incurred to remove the advertising, including court costs and reasonable attorney's fees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 611 (H.B. 412), Sec. 2, eff. September 1, 2007.

Sec. 391.035. CIVIL PENALTY. (a) In lieu of being subject to a criminal penalty, a person who intentionally violates this subchapter or Subchapter C may be liable for a civil penalty. The attorney general or a district or county attorney of the county in which the violation is alleged to have occurred may sue to collect the penalty.

(b) The amount of the civil penalty is not less than \$500 or more than \$1,000 for each violation, depending on the seriousness of the violation. A separate penalty may be collected for each day a continuing violation occurs.

(c) A penalty collected under this section shall be deposited to the credit of the state highway fund if collected by the attorney general and to the credit of the county road and bridge fund of the county in which the violation occurred if collected by a district or county attorney.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 442, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 611 (H.B. 412), Sec. 3, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 68 (H.B. 875), Sec. 1, eff. May 20, 2009.

Sec. 391.0355. ADMINISTRATIVE PENALTY. (a) In lieu of a suit to collect a civil penalty, the commission, after notice and an opportunity for a hearing before the commission, may impose an administrative penalty against a person who violates this chapter or a rule adopted by the commission under this chapter. Each day a violation continues is a separate violation.

(b) The amount of the administrative penalty may not exceed the maximum amount of a civil penalty under Section 391.035.

(c) A proceeding under this section is a contested case under Chapter 2001, Government Code.

(d) Judicial review of an appeal of an administrative penalty imposed under this section is under the substantial evidence rule.

(e) An administrative penalty collected under this section shall be deposited to the credit of the state highway fund.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 41, eff. September 1, 2011.

Sec. 391.036. SCOPE OF COMMISSION RESPONSIBILITY. The commission's responsibility for the regulation of outdoor advertising is only on a federal-aid primary highway, interstate highway, state

highway, or farm-to-market road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.037. OUTDOOR ADVERTISING BY CERTAIN COUNTY AGRICULTURAL FAIRS. Outdoor advertising that is an outdoor sign may include the logo or emblem of an entity if:

(1) the sign is erected or maintained by:

(A) a nonprofit county agricultural fair;

(B) a public or private elementary or secondary school;

or

(C) a public or private institution of higher education;

(2) the sign is erected or maintained in a county with a population of 65,000 or less;

(3) the entity sponsors or provides significant funding to the agricultural fair, school, or institution of higher education; and

(4) the entity's logo or emblem occupies less than 25 percent of the area of the sign.

Added by Acts 2001, 77th Leg., ch. 860, Sec. 1, eff. June 14, 2001.

SUBCHAPTER C. LICENSE AND PERMIT FOR OUTDOOR ADVERTISING

Sec. 391.061. OUTDOOR ADVERTISING WITHOUT LICENSE; OFFENSE.

(a) A person commits an offense if the person wilfully erects or maintains outdoor advertising in an area described by Section 391.031(a) without a license under this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day of the proscribed conduct is a separate offense.

(c) A person is not required to obtain a license to erect or maintain outdoor advertising described by Section 391.031(b)(2) or (3).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.062. ISSUANCE AND PERIOD OF LICENSE. (a) The

commission shall issue a license to a person who:

(1) files with the commission a completed application form within the time specified by the commission;

(2) pays the appropriate license fee; and

(3) files with the commission a surety bond.

(b) A license may be issued for one year or longer.

(c) At least 30 days before the date on which a person's license expires, the commission shall notify the person of the impending expiration. The notice must be in writing and sent to the person's last known address according to the records of the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 2.02, eff. Sept. 1, 1997.

Sec. 391.063. LICENSE FEE. The commission may set the amount of a license fee according to a scale graduated by the number of units of outdoor advertising and the number of off-premise signs under Chapter 394 owned by a license applicant.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.03, eff. Sept. 1, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 42, eff. September 1, 2011.

Sec. 391.064. SURETY BOND. (a) The surety bond required of an applicant for a license under Section 391.062 must be:

(1) in the amount of \$2,500 for each county in the state in which the person erects or maintains outdoor advertising; and

(2) payable to the commission for reimbursement for removal costs of outdoor advertising that the license holder unlawfully erects or maintains.

(b) A person may not be required to provide more than \$10,000 in surety bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.065. RULES; FORMS. (a) The commission may adopt rules to implement Sections 391.036, 391.061(a), 391.062, 391.063, 391.064, and 391.066.

(b) For the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, the commission shall adopt rules for issuing standardized forms that are for submission by license holders and applicants and that provide for an accurate showing of the number, location, or other information required by the commission for each license holder's or applicant's outdoor advertising or off-premise signs under Chapter 394.

(c) The commission may not adopt a rule under this chapter that restricts competitive bidding or advertising by the holder of a license issued under this chapter other than a rule to prohibit false, misleading, or deceptive practices. The limitation provided by this section applies only to rules relating to the occupation of outdoor advertiser and does not affect the commission's power to regulate the orderly and effective display of outdoor advertising under this chapter. A rule to prohibit false, misleading, or deceptive practices may not:

(1) restrict the use of:

(A) any legal medium for an advertisement;

(B) the license holder's advertisement under a trade name; or

(C) the license holder's personal appearance or voice in an advertisement, if the license holder is an individual; or

(2) relate to the size or duration of an advertisement by the license holder.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 2.01, eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 43, eff. September 1, 2011.

Sec. 391.066. REVOCATION OR SUSPENSION OF LICENSE; APPEAL.

(a) The commission may revoke or suspend a license issued under this subchapter or place on probation a license holder whose license is suspended if the license holder violates this chapter or a rule

adopted under this chapter. If the suspension of the license is probated, the department may require the license holder to report regularly to the commission on any matter that is the basis of the probation.

(b) The judicial appeal of the revocation or suspension of a license must be initiated not later than the 15th day after the date of the commission's action.

(c) The commission may adopt rules for the reissuance of a revoked or suspended license and may set fees for the reissuance.

(d) The commission may deny the renewal of a license holder's license if the license holder has not complied with the permit requirements of this chapter or Chapter 394.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 2.03, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 44, eff. September 1, 2011.

Sec. 391.0661. APPLICABILITY OF LICENSE. In addition to authorizing a person to erect or maintain outdoor advertising, a license issued under this chapter authorizes a person to erect or maintain an off-premise sign under Chapter 394.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 45, eff. September 1, 2011.

Sec. 391.067. OUTDOOR ADVERTISING WITHOUT PERMIT; OFFENSE.

(a) A person who has a license issued under this subchapter commits an offense if the person wilfully erects or maintains outdoor advertising for which a license is required under Section 391.061 unless that person also has a permit for the outdoor advertising.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day of the proscribed conduct is a separate offense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.068. ISSUANCE OF PERMIT. (a) Except as provided by Subsection (d), the commission shall issue a permit to a person with a license issued under this subchapter:

(1) whose license application complies with rules adopted under Section 391.065; and

(2) whose outdoor advertising, whether owned or leased, if erected would comply with this chapter and rules adopted under Section 391.032(a).

(b) The commission by rule shall prescribe:

(1) a reasonable fee for each permit;

(2) the time for and manner of applying for a permit; and

(3) the form and content of the permit application.

(c) A permit issued to regulate the erection and maintenance of outdoor advertising by a political subdivision of this state within that subdivision's jurisdiction shall be accepted in lieu of the permit required by this subchapter if the erection and maintenance of outdoor advertising complies with this subchapter and rules adopted under Section 391.032(a).

(d) In addition to the requirements of Subsection (a), if the outdoor advertising is located within the jurisdiction of a municipality with a population of more than 1.9 million that is exercising its authority to regulate outdoor advertising, the commission may issue a permit under this section only if the municipality:

(1) has not acted to prohibit new outdoor advertising within the jurisdiction of the municipality; and

(2) has issued a permit authorizing the outdoor advertising.

(e) Subsection (d) does not apply to the relocation of outdoor advertising to another location if the construction, reconstruction, or expansion of a highway requires the removal of the outdoor advertising.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1083 (H.B. [2944](#)), Sec. 1, eff. September 1, 2007.

Sec. 391.069. FEE AMOUNTS. The license and permit fees

required by this subchapter may not exceed an amount reasonably necessary to cover the administrative costs incurred to enforce this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.070. EXCEPTIONS FOR CERTAIN NONPROFIT ORGANIZATIONS.

(a) The combined license and permit fees under this subchapter may not exceed \$10 for outdoor advertising erected and maintained by a nonprofit organization in a municipality or a municipality's extraterritorial jurisdiction if the advertising relates to or promotes only the municipality or a political subdivision whose jurisdiction is wholly or partly concurrent with the municipality.

(b) The nonprofit organization is not required to file a bond as provided by Section 391.062(a)(3).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. SPECIFIC INFORMATION LOGO SIGNS

Sec. 391.091. ERECTION AND MAINTENANCE OF SIGNS. (a) The department shall contract with an individual, firm, group, or association in this state to erect and maintain specific information logo signs and major shopping area guide signs at appropriate locations along an eligible highway.

(b) The department may enter into a contract under this section by the method that the department determines is the most practical or most advantageous for the state, including competitive bids, competitive sealed proposals, and open market contracts.

(b-1) A contract under this section shall provide for:

(1) the assessment of fees to be paid to a contractor by a commercial establishment eligible for display on the specific information logo sign; and

(2) remittance to the department of at least 10 percent of the fees collected by the contractor.

(c) The department shall make a written award of a contract to the offeror whose proposal offers the best value for the state. In determining the best value for the state, the department may consider:

(1) revenue provided to the department by the contractor;

(2) fees to be charged eligible businesses or agricultural interests for inclusion on the signs;

(3) the quality of services offered;

(4) the contractor's financial resources and ability to perform; and

(5) any other factor the department considers relevant.

(d) To the extent of any conflict, this section prevails over any other law relating to the method of the purchasing of goods and services by the department.

(e) Subtitle D, Title 10, Government Code, and Chapter 223 do not apply to purchases of goods and services under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.22(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 713, Sec. 2, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 743, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 878 (S.B. 1137), Sec. 7, eff. June 17, 2005.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(100), eff. September 1, 2009.

Sec. 391.092. REGULATION OF SIGNS GENERALLY. (a) The commission shall:

(1) regulate the content, composition, placement, erection, and maintenance of specific information logo signs and supports on an eligible highway right-of-way; and

(2) adopt rules necessary to administer and enforce this subchapter.

(b) A specific information logo sign must:

(1) have a blue background with a white reflective border; and

(2) contain a principal legend equal in height to the directional legend.

(c) A specific information logo sign may not:

(1) contain a message, symbol, or trademark that resembles an official traffic-control device; or

(2) be divided into more than six panels that contain establishment names.

(d) The commission shall adopt rules, in accordance with applicable federal law, regulations, and guidelines, for determining eligible highways along which specific information logo signs, major shopping area guide signs, and tourist-oriented directional signs may be located. If permitted by federal law, regulations, or guidelines, the commission may establish different highway eligibility criteria for each type of sign.

(e) In this section, "tourist-oriented directional signs" has the meaning assigned by Section 391.099.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.22(b), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 602, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 935 (H.B. [3441](#)), Sec. 2, eff. June 15, 2007.

Sec. 391.093. ELIGIBILITY FOR DISPLAY ON SIGN. (a) A commercial establishment, to be eligible to have its name displayed on a specific information logo sign, must provide gas, food, lodging, camping, or pharmacy services and be located not more than three miles from an interchange on an eligible highway. If no service participating or willing to participate in the specific information logo sign program is located within three miles of an interchange, the commission may grant permits for commercial establishments located not farther than:

- (1) six miles from the interchange;
- (2) nine miles from the interchange if no service participating or willing to participate in the program is located within six miles from the interchange;
- (3) 12 miles from the interchange if no service participating or willing to participate in the program is located within nine miles of the interchange; or
- (4) 15 miles from the interchange if no service participating or willing to participate in the program is located within 12 miles of the interchange.

(b) An establishment that provides gas must operate continuously at least 12 hours each day and provide:

- (1) vehicle services, including fuel, oil, and water;

- (2) tire repair, unless the establishment is self-service;
- (3) restroom facilities and drinking water; and
- (4) a telephone for use by the public.

(c) An establishment that provides food must:

- (1) have any required license or other evidence showing compliance with applicable public health or sanitation laws;
- (2) operate continuously at least 10 hours a day and serve two meals a day; and
- (3) provide:
 - (A) seating capacity for at least 16 persons;
 - (B) public restrooms; and
 - (C) a telephone for use by the public.

(d) An establishment that provides lodging must:

- (1) have any required license or other evidence showing compliance with applicable laws regulating facilities providing lodging;
- (2) provide at least 10 rooms; and
- (3) provide a telephone for use by the public.

(e) An establishment that provides camping must:

- (1) have any required license or other evidence showing compliance with applicable laws regulating camping facilities;
- (2) provide adequate parking accommodations; and
- (3) provide drinking water and modern sanitary facilities.

(f) The department shall by rule provide that an establishment that provides lodging is eligible to have its name displayed on a specific information logo sign if the establishment is:

- (1) visible from an eligible highway or an interchange on an eligible highway; and
- (2) located on a street that is not more than two turns off the access or frontage road to the eligible highway.

(g) An establishment is eligible to have two names displayed on the same specific information logo sign panel if the establishment provides:

- (1) two food outlets in a shared space under common ownership; or
- (2) gas and food outlets in a shared space under common ownership.

(h) An establishment that provides pharmacy services must operate continuously for 24 hours each day and provide pharmacy services for 24 hours each day.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.22(c), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 841, Sec. 1, eff. Aug. 30, 1999; Acts 2003, 78th Leg., ch. 602, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 156 (H.B. 2453), Sec. 1, eff. September 1, 2005.

Sec. 391.0935. MAJOR SHOPPING AREA GUIDE SIGNS. (a) Unless the commission determines there is a conflict with federal law, the commission shall establish a program that allows the erection and maintenance of major shopping area guide signs at appropriate locations along eligible highways.

(b) The commission shall adopt rules regulating the content, composition, placement, erection, and maintenance of major shopping area guide signs and supports within eligible highway rights-of-way. The commission by rule shall establish criteria for determining if a geographic area contains a sufficient concentration of retail establishments to be considered a major shopping area. A major shopping area is entitled to have its name displayed on major shopping area guide signs if it meets the criteria established by the commission and is located not farther than three miles from an interchange on an eligible highway.

(c) A major shopping area that has its name displayed on a major shopping area guide sign shall reimburse the commission for all costs associated with the composition, placement, erection, and maintenance of the sign unless the commission has entered into a contract under Subsection (f).

(d) Major shopping area guide signs may be included as part of exit direction signs, advance guide signs, and supplemental guide signs and must include guide signs for both directions of traffic on an eligible highway.

(e) Sections 391.093(b)-(e) do not apply to major shopping area guide signs.

(f) The commission may contract with an individual, firm, group, or association in this state to erect and maintain major shopping area guide signs at appropriate locations along an eligible highway.

(g) A contract under this section shall provide for:

(1) the assessment of fees to be paid to a contractor by a major shopping area; and

(2) remittance to the department of at least 10 percent of the fees collected by the contractor.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.22(d), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 743, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 935 (H.B. 3441), Sec. 3, eff. June 15, 2007.

Sec. 391.094. DUTY NOT TO DISCRIMINATE. A commercial establishment identified on a specific information logo sign shall conform to all applicable laws concerning the provision of public accommodations without regard to race, religion, color, sex, or national origin.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.095. PLACEMENT OF SIGNS. (a) The contractor installing a specific information logo sign shall place the sign so that:

(1) the sign is at least 800 feet from the previous interchange and at least 800 feet from the exit direction sign at the interchange from which the services are available;

(2) two signs having the same legend are at least 800 feet apart, but are not excessively spaced; and

(3) a motorist, after following the sign, can conveniently reenter the highway and continue in the original direction of travel.

(b) A specific information logo sign that is placed along a ramp or at a ramp terminal must be a duplicate of the corresponding establishment logo sign, except that the ramp sign must:

(1) be smaller;

(2) include the distance to the commercial establishment;

and

(3) include directional arrows instead of directions shown in words.

(c) If the service facilities are not visible from an

interchange ramp terminal, additional signs may be placed along the ramp or at the ramp terminal.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.22(e), eff. Sept. 1, 1997.

Sec. 391.096. DISPOSITION OF FUNDS. Funds received under this subchapter shall be deposited to the credit of the state highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.098. VARIANCES. (a) The commission shall authorize the director to grant variances, on a case-by-case basis, to the eligibility, location, or placement of specific logo signs and major shopping area guide signs, including the highways along which a sign may be located. The commission may adopt rules prescribing conditions or guidelines the director should or must consider when determining whether to grant a variance.

(b) The director may grant a variance if the director determines that:

- (1) the variance would promote traffic safety;
- (2) the variance would improve traffic flow;
- (3) an overpass, highway sign, or other highway structure unduly obstructs the visibility of an existing commercial sign; or
- (4) the variance would satisfy other conditions or guidelines prescribed by commission rules authorizing the granting of variances.

(c) The director may not grant a variance to the requirements of this subchapter regarding supports, content, or composition of signs.

(d) In this section, "director" means the director or the director's designee.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 2.04, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 713, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 878 (S.B. [1137](#)), Sec. 8, eff. June 17,

2005.

Sec. 391.099. TOURIST-ORIENTED DIRECTIONAL SIGN PROGRAM. (a)
In this section:

(1) "Eligible facility" means a winery or a business related to agriculture or tourism, including a farm, ranch, or other tourist activity, that:

(A) derives a major portion of its income or visitors during the normal business season from highway users not residing in the area of the facility;

(B) complies with state and federal laws relating to:
(i) provision of public accommodation without regard to race, religion, color, age, sex, or national origin; and
(ii) licensing and approval of service facilities;
and

(C) is located within the mile limitations established under the Texas Manual on Uniform Traffic Control Devices and the Manual on Uniform Traffic Control Devices issued by the United States Department of Transportation, Federal Highway Administration.

(2) Repealed by Acts 2007, 80th Leg., R.S., Ch. 935, Sec. 4, eff. June 15, 2007.

(3) "Tourist-oriented directional sign" means a sign that identifies a particular winery or business related to agriculture or tourism, including a farm, ranch, or other tourist activity, and identifies the type or nature of the winery or business by use of an icon, symbol, or other identifying device.

(4) "Trailblazing" means placing multiple signs along a route or routes directing the public to a specific location.

(b) The commission shall administer the tourist-oriented directional sign program created under this section to erect and maintain tourist-oriented directional signs on eligible highways.

(c) Except as provided by Subsection (f), the commission shall:
(1) regulate the content, composition, design, placement, erection, and maintenance of tourist-oriented directional signs and supports on eligible highway rights-of-way; and

(2) adopt rules necessary to administer and enforce this section.

(d) The commission shall enter into one or more contracts with an individual, firm, group, or association in this state to erect and

maintain tourist-oriented directional signs at locations along eligible highways.

(e) A contract under this section shall provide for:

(1) the assessment of fees to be paid to a contractor by an eligible facility; and

(2) remittance to the department of the greater of:

(A) 10 percent of the fees collected by the contractor;

or

(B) an amount sufficient to recover the department's costs of administering the program.

(f) The commission may not adopt rules under this section that:

(1) violate the Texas Manual on Uniform Traffic Control Devices or the Manual on Uniform Traffic Control Devices issued by the United States Department of Transportation, Federal Highway Administration; or

(2) prohibit an eligible facility from receiving a tourist-oriented directional sign based on trailblazing off of the state highway system.

(g) The department shall:

(1) before the 31st day after the date the eligible facility submits an application under this section, notify the facility that:

(A) the application has been received; and

(B) the application is complete or that additional information is required to complete the application; and

(2) approve or disapprove the application:

(A) before the 61st day after the date the eligible facility submits the application if no additional information is required under Subdivision (1); or

(B) before the 31st day after the date the eligible facility submits all of the additional information required under Subdivision (1).

(h) Notwithstanding any other law, an eligible facility may erect a directional sign required by the commission to receive a tourist-oriented directional sign.

Added by Acts 2005, 79th Leg., Ch. 878 (S.B. [1137](#)), Sec. 9, eff. June 17, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 935 (H.B. [3441](#)), Sec. 4, eff.

June 15, 2007.

SUBCHAPTER E. REGULATION OF JUNKYARDS AND AUTOMOBILE GRAVEYARDS

Sec. 391.121. PROHIBITED JUNKYARD; OFFENSE. (a) A person commits an offense if:

(1) the person wilfully establishes, operates, or maintains a junkyard any portion of which is within 1,000 feet of the nearest edge of a right-of-way of a highway in the interstate or primary system; and

(2) the junkyard is not:

(A) screened by appropriate means, including natural objects, plantings, or fences, so that it is not visible from the main-traveled way of the interstate or primary highway; or

(B) located in an area that is a zoned or unzoned industrial area.

(b) The determination of whether an area is industrial must be made under criteria established by commission rule and according to actual land use.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day of the proscribed conduct is a separate offense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.122. AUTHORITY OF COMMISSION TO SCREEN JUNKYARD. (a) The commission may screen with appropriate means, including natural objects, plantings, or fences, a lawfully existing junkyard that is within 1,000 feet of the nearest edge of a right-of-way of a highway in the interstate or primary system.

(b) The commission may acquire an area outside of a highway right-of-way so that a junkyard may be screened from the main-traveled way of a highway in the interstate or primary system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.123. RULES RELATING TO SCREENING OF JUNKYARDS. The commission may adopt rules governing the location, planting, construction, and maintenance of the materials used in screening

junkyards.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.124. COMPENSATION TO OWNER OF JUNKYARD. If the commission determines that the screening of a lawfully existing junkyard that is within 1,000 feet of the nearest edge of a right-of-way of a highway in the interstate or primary system is not feasible, the commission shall pay just compensation to:

(1) the owner of the junkyard for its relocation, removal, or disposal; and

(2) the owner or, if appropriate, the lessee of the real property on which the junkyard is located for the taking of the right to erect and maintain a junkyard.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.125. INJUNCTION TO REQUIRE SCREENING. (a) On written notice by certified mail from the department, an owner of a junkyard that is established, operated, or maintained in violation of this subchapter or a rule adopted under this subchapter shall screen the junkyard in accordance with Section 391.121. If the owner does not screen the junkyard within 45 days of the date of the notice, the department may request the attorney general to apply for an injunction to require the screening of the junkyard.

(b) Under an action brought under Subsection (a), the state is entitled to recover from the owner of a junkyard all administrative and legal costs and expenses incurred to require the screening of the junkyard, including court costs and reasonable attorney's fees.

Added by Acts 1999, 76th Leg., ch. 442, Sec. 2, eff. June 18, 1999.

Sec. 391.126. CIVIL PENALTY. (a) In addition to being subject to a criminal penalty or injunctive action, a person who intentionally violates this subchapter is liable to the state for a civil penalty. The attorney general may sue to collect the penalty.

(b) The amount of a civil penalty under this section is not less than \$500 or more than \$1,000 for each violation, depending on

the seriousness of the violation. A separate penalty may be collected for each day a continuing violation occurs.

Added by Acts 1999, 76th Leg., ch. 442, Sec. 2, eff. June 18, 1999.

Sec. 391.127. SALVAGE VEHICLE DEALER LICENSE. The commission may revoke or suspend a license issued under Chapter 2302, Occupations Code, or place on probation a license holder whose license is suspended, if the license holder violates this chapter or a rule adopted under this chapter.

Added by Acts 1999, 76th Leg., ch. 442, Sec. 2, eff. June 18, 1999.
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.820, eff. Sept. 1, 2003.

SUBCHAPTER F. ACQUISITION FOR SCENIC ENHANCEMENT OR PUBLIC ACCOMMODATION

Sec. 391.151. ACQUISITION FOR SCENIC ENHANCEMENT. The commission may acquire, improve, and maintain a strip of real property adjacent to a federal-aid highway in this state if the property is necessary to restore, preserve, or enhance scenic beauty.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.152. ACQUISITION FOR PUBLIC ACCOMMODATION. The commission may acquire and provide rest and recreation areas or sanitary and other facilities in or adjacent to a highway right-of-way if the area or facility is necessary to accommodate the traveling public.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER G. ACQUISITIONS BY COMMISSION

Sec. 391.181. POWERS AND METHODS OF ACQUISITION. (a) The commission may acquire by gift, purchase, exchange, or condemnation any right or property interest that it considers necessary or convenient to implement this chapter.

(b) The exercise of the power of eminent domain authorized by this chapter is the same as that authorized by Subchapter D, Chapter 203.

(c) Real property owned by the state is subject to this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.182. STATE VOUCHERS AND WARRANTS. (a) On delivery to and acceptance by the commission of an instrument conveying to the state an interest described by Section 391.181(a), the commission shall prepare and transmit to the comptroller a voucher covering the commission's costs in acquiring the interest.

(b) The comptroller shall issue a warrant on the appropriate account covering the state's obligation as evidenced by the voucher.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.183. RECORDING OF INSTRUMENTS. (a) An instrument conveying an interest in real property to the state in connection with the implementation of this chapter must be recorded in the deed records of each county in which the property is situated.

(b) The state shall pay the fee for recording the instrument in the same manner as a fee is paid for the recording of a highway right-of-way instrument and in accordance with the law establishing the fee to be charged by the county clerk for recording a highway right-of-way instrument.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.184. DISPOSAL OF STATE REAL PROPERTY. An interest in real property acquired to implement this chapter that becomes surplus and is determined by the commission as no longer necessary to the state for the purpose for which it was acquired or for a highway purpose shall be disposed of in accordance with Subchapter B, Chapter 202.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER H. REGULATION OF OUTDOOR ADVERTISING ON STATE HIGHWAY 288

Sec. 391.211. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to outdoor advertising that is erected on or after September 1, 1993.

(b) This subchapter does not limit any authority granted to the department under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.212. REGULATION OF CERTAIN OUTDOOR ADVERTISING. The department may license or otherwise regulate the erection of outdoor advertising that is located within 1,000 feet of the center line of that part of State Highway 288 in the unincorporated area of a county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 391.213. VIOLATION OF RULE; OFFENSE. (a) A person commits an offense if the person violates a rule adopted under this subchapter.

(b) An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER I. PROHIBITION OF SIGNS ON CERTAIN HIGHWAYS

Sec. 391.251. DEFINITIONS. In this subchapter:

(1) "Off-premise sign" means an outdoor sign displaying advertising that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

(2) "Advertising" means a message seeking to attract the public or to direct the attention of the public to any goods, services, or merchandise.

Added by Acts 2001, 77th Leg., ch. 1264, Sec. 3, eff. Sept. 1, 2001.

Sec. 391.252. OFF-PREMISE SIGNS PROHIBITED. (a) A person may not erect an off-premise sign that is adjacent to and visible from:

(1) U.S. Highway 290 between the western city limits of the city of Austin and the eastern city limits of the city of Fredericksburg;

(2) State Highway 317 between the northern city limits of the city of Belton to the southern city limits of the city of Valley Mills;

(3) State Highway 16 between the northern city limits of the city of Kerrville and Interstate Highway 20;

(4) U.S. Highway 77 between State Highway 186 and State Highway 44;

(5) U.S. Highway 281 between:

(A) State Highway 186 and Interstate Highway 37, exclusive of the segment of U.S. Highway 281 located in the city limits of Three Rivers; and

(B) the southern boundary line of Comal County and State Highway 306;

(6) State Highway 17 between State Highway 118 and U.S. Highway 90;

(7) State Highway 67 between U.S. Highway 90 and Farm-to-Market Road 170;

(8) Farm-to-Market Road 170 between State Highway 67 and State Highway 118;

(9) State Highway 118 between Farm-to-Market Road 170 and State Highway 17;

(10) State Highway 105 between the western city limits of the city of Sour Lake to the eastern city limits of the city of Cleveland;

(11) State Highway 73 between the eastern city limits of the city of Winnie to the western city limits of the city of Port Arthur;

(12) State Highway 21 between the southern city limits of the city of College Station and U.S. Highway 290;

(13) a highway located in:

(A) the Sabine National Forest;

(B) the Davy Crockett National Forest; or

(C) the Sam Houston National Forest;

(14) Segments 1 through 4 of State Highway 130;

(15) a highway in Bandera County that is part of the state highway system;

(16) Farm-to-Market Road 3238 beginning at State Highway 71 and any extension of that road through Hays and Blanco Counties;

(17) Farm-to-Market Road 2978 between Farm-to-Market Road 1488 and the boundary line between Harris and Montgomery Counties;

(18) U.S. Highway 90 between the western city limits of the city of San Antonio and the eastern city limits of the city of Hondo; or

(19) the following highways in Austin County:

(A) State Highway 159;

(B) Farm-to-Market Road 331;

(C) Farm-to-Market Road 529;

(D) Farm-to-Market Road 1094; and

(E) Farm-to-Market Road 2502.

(b) This section does not affect the ability of a municipality to regulate a sign located on the portion of a roadway listed in Subsection (a) that is within the corporate limits or extraterritorial jurisdiction of the municipality in accordance with Chapter 216, Local Government Code.

(c) This section does not prohibit a person from erecting an off-premise sign permitted by other law, rule, or regulation that is adjacent to and visible from a roadway not listed in this section and is visible from a roadway listed under this section if the intended purpose of the sign is to be visible only from the roadway not listed under this section.

Added by Acts 2001, 77th Leg., ch. 1264, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.78, eff. June 14, 2005.

Acts 2005, 79th Leg., Ch. 352 (S.B. 1206), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 405 (S.B. 1579), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 796 (S.B. 369), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 903 (H.B. 34), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 983 (H.B. 1851), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1046 (H.B. 1248), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1353 (S.B. 1204), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1020 (H.B. 1521), Sec. 1, eff. September 1, 2007.

Sec. 391.253. REERECTION, RECONSTRUCTION, REPAIR, OR REBUILDING OF OFF-PREMISE SIGNS. (a) An off-premise sign that is adjacent to and visible from a highway listed in Section 391.252 that is blown down, destroyed, taken down, or removed for a purpose other than maintenance or to change a letter, symbol, or other matter on the sign may be reerected, reconstructed, repaired, or rebuilt only if the cost of reerecting, reconstructing, repairing, or rebuilding the sign is not more than 60 percent of the cost of erecting a new off-premise sign of the same size, type, and construction at the same location.

(b) The department shall permit the relocation of an off-premise sign adjacent to and visible from a highway listed in Section 391.252 to another location that is adjacent to and visible from the same highway if:

(1) the construction, reconstruction, or expansion of a highway requires the removal of the sign;

(2) the sign is not modified to increase the above-grade height, the area of each sign face, the dimensions of the sign face, the number of sign faces, or the illumination of the sign; and

(3) the department identifies an alternate site for the relocation of the sign adjacent to and visible from the highway listed in Section 391.252.

(c) For purposes of this section, the department shall specify, within 30 days of receipt of a request for a relocation site, a minimum of three alternate sites that meet permitting requirements for an off-premise sign to be reerected, reconstructed, repaired, or rebuilt adjacent to and visible from a highway listed in Section 391.252.

(d) The owner of an off-premise sign that is reerected, reconstructed, repaired, or rebuilt according to Subsection (a) or

relocated according to Subsection (b) may alter the materials and design of the sign to reduce the number of upright supports, subject to other restrictions in this section, in a manner that meets or exceeds the pre-existing structural specifications of the sign.

Added by Acts 2001, 77th Leg., ch. 1264, Sec. 3, eff. Sept. 1, 2001.

Sec. 391.254. CIVIL PENALTY. (a) A person who violates Section 391.252 is liable to the state for a civil penalty of not less than \$500 or more than \$1,000 for each violation, depending on the seriousness of the violation. A separate penalty may be imposed for each day a continuing violation occurs.

(b) The attorney general, the district or county attorney for the county, or the municipal attorney of the municipality in which the violation is alleged to have occurred may bring suit to collect the penalty.

(c) A civil penalty collected by the attorney general under this section shall be deposited to the credit of the state highway fund.

(d) Before a suit may be brought for a violation of Section 391.252, the attorney general, the district or county attorney for the county, or the municipal attorney of the municipality in which the violation is alleged to have occurred shall give the owner of the off-premise sign a written notice that:

(1) describes the violation and specific location of the sign found to be in violation;

(2) states the amount of the proposed penalty for the violation; and

(3) gives the owner 30 days from receipt to remove the sign and cure the violation to avoid the penalty unless the sign owner was given notice and opportunity to cure a similar violation within the preceding 12 months.

Added by Acts 2001, 77th Leg., ch. 1264, Sec. 3, eff. Sept. 1, 2001.

Sec. 391.255. APPLICABILITY OF SUBCHAPTER. The restrictions imposed by this subchapter are in addition to those imposed by the remainder of this chapter.

Added by Acts 2001, 77th Leg., ch. 1264, Sec. 3, eff. Sept. 1, 2001.

CHAPTER 392. HIGHWAY BEAUTIFICATION ON STATE HIGHWAY RIGHT-OF-WAY
SUBCHAPTER A. LANDSCAPE AND MAINTENANCE

Sec. 392.001. PLANTING TREES ON RIGHTS-OF-WAY. (a) The department shall plant and care for a substantial number of pecan trees on United States and state highway rights-of-way throughout the state.

(b) In an area where the climate is unsuitable for pecan trees or where pecan trees present a safety hazard, the department shall plant other indigenous or adaptable trees that do not present a safety hazard.

(c) The cost of acquiring, planting, and caring for the pecan trees shall be paid from the state highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.002. XERISCAPE REQUIREMENTS FOR ROADSIDE PARKS. (a) The department shall use and require the use of xeriscape practices in:

- (1) the construction of roadside parks; and
- (2) the maintenance of roadside parks.

(b) In implementing this section, the department shall follow the guidelines adopted under Section 2166.404, Government Code.

(c) In this section:

(1) "Roadside park" includes a rest area, picnic area, welcome station, or other facility that is:

- (A) provided for the convenience of the traveling public;
- (B) within or adjacent to a highway right-of-way; and
- (C) under the jurisdiction of the department.

(2) "Xeriscape" has the meaning assigned by Section 2166.404, Government Code.

(d) Expired.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(23), eff. Sept. 1, 1997.

Sec. 392.003. DONATIONS FOR LANDSCAPE INSTALLATION OR MAINTENANCE. The commission by rule shall establish a program under which the department may accept from any source, including an individual or a private business or organization, donations of landscape materials for state highways, as authorized by Section 201.206. The program may provide for the department to enter into an agreement with an individual or private business or organization for the individual or entity to provide, at no cost to the department, services for the installation or maintenance of landscaping on state highways.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1083 (H.B. 3422), Sec. 1, eff. June 14, 2013.

Sec. 392.004. REGIONALLY APPROPRIATE LANDSCAPING. The department shall establish guidelines for a beautification project on a state highway right-of-way that require the use of only regionally appropriate plants.

Added by Acts 2015, 84th Leg., R.S., Ch. 939 (H.B. 3302), Sec. 1, eff. September 1, 2015.

SUBCHAPTER B. SIGNS ON STATE HIGHWAY RIGHT-OF-WAY

Sec. 392.031. DEFINITIONS. In this subchapter:

(1) "Sign" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing designed, intended, or used to advertise or inform.

(2) "State highway right-of-way" means the right-of-way of a highway designated as part of the state highway system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.032. OFFENSE. (a) A person may not place or maintain a sign on a state highway right-of-way unless authorized by state law.

(b) A person commits an offense if the person violates this section.

(c) An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.0325. EXCEPTION. (a) A person may submit a request to the department for an exception to this subchapter for a sign that is attached to a building located on property other than a state highway right-of-way and that refers to a commercial activity or business located in the building if the sign:

- (1) consists solely of the name of the establishment;
- (2) identifies the establishment's principal product or services; or
- (3) advertises the sale or lease of the property on which the sign is located.

(b) The department shall approve a request submitted under Subsection (a) if the department:

- (1) determines that the sign will not constitute a safety hazard;
- (2) determines that the sign will not interfere with the construction, reconstruction, operation, or maintenance of the highway facility; and
- (3) obtains the approval of the Federal Highway Administration if approval is required under federal law.

(c) This subchapter does not apply to a temporary directional sign or kiosk erected by a political subdivision as part of a program approved by the department and administered by the political subdivision on a highway within the boundaries of the political subdivision.

(d) This subchapter does not apply to a sign placed in the right-of-way by a public utility or its contractor for purposes of the utility.

Added by Acts 1999, 76th Leg., ch. 442, Sec. 3, eff. June 18, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 612 (H.B. 413), Sec. 1, eff. September 1, 2007.

Sec. 392.033. REMOVAL AND DISPOSAL OF ILLEGAL SIGN. (a) Except as provided by Section 392.034, the department, without prior notice to the owner of the sign, may remove a sign that is placed or

maintained in violation of this subchapter.

(b) If the owner's identity and mailing address are displayed on the sign or are otherwise reasonably ascertainable, the department shall notify the owner in writing that the sign:

(1) has been removed; and

(2) may be disposed of unless the owner claims the sign on or before the 10th day after the removal date.

(c) If the owner of the sign does not claim the sign on or before the 10th day after the removal date, the department may dispose of the sign.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.034. ENCROACHMENT. (a) The department shall give written notice of encroachment to the owner of a sign that:

(1) is on property other than a state highway right-of-way;

(2) is maintained under a written permit or agreement; and

(3) encroaches on the state highway right-of-way.

(b) If the owner of the sign does not correct the encroachment before the 31st day after the date of receipt of the notice, the department may remove the sign under Section 392.033.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.035. REMOVAL COSTS. (a) The owner of a sign removed by the department under Section 392.033 is liable to the department for removal costs.

(b) Removal costs received by the department under this section shall be deposited to the credit of the state highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.0355. CIVIL PENALTY. (a) A person who places or commissions the placement of a sign on a state highway right-of-way that is not otherwise authorized by law may be liable for a civil penalty. The attorney general or a district or county attorney of the county in which the placement of a sign on a state highway right-of-way is alleged to have occurred may sue to collect the penalty.

(b) The amount of the civil penalty is not less than \$500 or more than \$1,000 for each violation, depending on the seriousness of the violation and whether the person has previously violated this chapter. A separate penalty may be collected for each day a continuing violation occurs.

(c) A penalty collected under this section shall be deposited to the credit of the state highway fund if collected by the attorney general and to the credit of the county road and bridge fund of the county in which the violation occurred if collected by a district or county attorney.

Added by Acts 2007, 80th Leg., R.S., Ch. 612 (H.B. 413), Sec. 2, eff. September 1, 2007.

Sec. 392.036. DEFENSE. It is a defense to prosecution or suit for a violation under this chapter if at the time of the alleged violation the defendant is a candidate for elective public office and the sign is placed:

- (1) by a person other than the defendant; and
- (2) in connection with a campaign for an elective public office by the defendant.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 612 (H.B. 413), Sec. 3, eff. September 1, 2007.

Sec. 392.037. RULES. The commission may adopt rules to enforce this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 392.038. EFFECT OF OTHER LAW OR ORDINANCE. If this subchapter conflicts with another law or a local ordinance, the more restrictive provision applies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 393. OUTDOOR SIGNS ON PUBLIC RIGHTS-OF-WAY

Sec. 393.001. DEFINITION. In this chapter, "sign" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, or other thing designed, intended, or used to advertise or inform.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 393.002. SIGN PLACEMENT PROHIBITED. Except as provided by Sections 393.0025 and 393.0026, a person may not place a sign on the right-of-way of a public road unless the placement of the sign is authorized by state law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1393, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 612 (H.B. 413), Sec. 4, eff. September 1, 2007.

Sec. 393.0025. MUNICIPAL AUTHORITY TO REGULATE SIGN PLACEMENT.

(a) A person may not place a sign on the right-of-way of a road or highway maintained by a municipality unless the placement is authorized by the municipality.

(b) This section does not apply to the right-of-way of a road or highway in the state highway system.

Added by Acts 1997, 75th Leg., ch. 1393, Sec. 2, eff. Sept. 1, 1997.

Sec. 393.0026. EXCEPTION. (a) This chapter does not apply to a temporary directional sign or kiosk erected by a political subdivision as part of a program approved by the department and administered by the political subdivision on a highway within the boundaries of the political subdivision.

(b) This chapter does not apply to a sign placed in the right-of-way by a public utility or its contractor for purposes of the utility.

Added by Acts 2007, 80th Leg., R.S., Ch. 612 (H.B. 413), Sec. 5, eff.

September 1, 2007.

Sec. 393.003. CONFISCATION, NOTICE, AND PUBLIC AUCTION. (a) A sheriff, constable, or other trained volunteer authorized by the commissioners court of a county may confiscate a sign placed in violation of Section 393.002.

(b) If the owner of a confiscated sign is known, the sheriff or constable shall notify the owner of the confiscation by certified mail, return receipt requested, not later than the 10th day after the date of the confiscation. If the owner of the sign is not known, the sheriff or constable shall publish notice of the confiscation in a newspaper of general circulation in the county not later than the 10th day after the date of the confiscation.

(c) A notice under Subsection (b) must:

(1) include a description of the sign and the location from which the sign was confiscated;

(2) include a statement that the owner may reclaim the sign before the 21st day after the date the notice was mailed or published if all fines that are imposed under this chapter are paid; and

(3) state the date, time, and location of the public auction where the sign will be sold if the sign is not reclaimed.

(d) A notice by publication under Subsection (b) may contain multiple listings of confiscated signs.

(e) The sheriff or constable may sell a sign at public auction if, before the 21st day after the date notice under Subsection (b) was mailed or published, the sign has not been reclaimed. The sheriff or constable shall sell the sign to the highest bidder at the auction.

(f) The sheriff or constable shall remit the proceeds of an auction under Subsection (e) to the county treasurer for deposit to the credit of a fund in the county treasury designated by the commissioners court.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 612 (H.B. 413), Sec. 6, eff. September 1, 2007.

Sec. 393.004. EXEMPTION FROM NOTICE REQUIREMENTS. (a) The commissioners court of a county by order may:

(1) determine types of signs that are unlikely to be reclaimed if confiscated; and

(2) exempt those types of signs from the notice requirements of Section 393.003.

(b) In determining the types of signs that are unlikely to be reclaimed, the commissioners court may consider:

(1) the value of the materials in the signs; and

(2) the nature of the things advertised by the signs.

(c) If the commissioners court exempts certain types of signs under this section, the sheriff or constable shall store a confiscated sign that is exempted for 21 days after the date the sign is confiscated and shall make the sign available for reclamation by the owner. After that period, the sheriff or constable may discard the sign.

(d) The sheriff, constable, or other trained volunteer authorized by the commissioners court may discard a sign of less than \$25 in value without giving the notice required by Section 393.003.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 612 (H.B. 413), Sec. 7, eff. September 1, 2007.

Sec. 393.005. PLACEMENT OF UNAUTHORIZED SIGN; PENALTY. (a) A person commits an offense if the person places a sign in violation of this chapter.

(b) An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 612 (H.B. 413), Sec. 8, eff. September 1, 2007.

Sec. 393.006. DEFENSE. It is a defense to prosecution or suit under this chapter that the defendant was a candidate for an elective public office and the sign is placed:

(1) by a person other than the defendant; and

(2) in connection with a campaign for an elective public office by the defendant.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 612 (H.B. 413), Sec. 9, eff. September 1, 2007.

Sec. 393.007. CIVIL PENALTY. (a) A person who places or commissions the placement of a sign on the right-of-way of a public road that is not otherwise authorized by law may be liable for a civil penalty. A district or county attorney or a municipal attorney in the jurisdiction in which the placement of a sign on the right-of-way of a public road is alleged to have occurred may sue to collect the penalty.

(b) The amount of the civil penalty is not less than \$500 or more than \$1,000 for each violation, depending on the seriousness of the violation and whether the person has previously violated this chapter. A separate penalty may be collected for each day a continuing violation occurs.

(c) A penalty collected under this section shall be deposited to the credit of the general fund of the municipality in which the violation occurred if collected by a municipal attorney, or to the credit of the county road and bridge fund of the county in which the violation occurred if collected by a district or county attorney.

(d) A district or county attorney or a municipal attorney may recover reasonable attorney's fees incurred in an action brought under Subsection (a).

Added by Acts 2007, 80th Leg., R.S., Ch. 612 (H.B. 413), Sec. 10, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 68 (H.B. 875), Sec. 2, eff. May 20, 2009.

CHAPTER 394. REGULATION OF OUTDOOR SIGNS ON RURAL ROADS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 394.001. DEFINITIONS. In this chapter:

(1) "On-premise sign" means a freestanding sign identifying

or advertising a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity.

(2) "Off-premise sign" means a sign displaying advertising that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

(3) "Person" means an individual, association, or corporation.

(4) "Portable sign" means a sign designed to be mounted on a trailer, bench, wheeled carrier, or other nonmotorized mobile structure.

(5) "Sign" means a structure, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is designed, intended, or used to advertise or inform.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.002. APPLICATION OF CHAPTER. (a) This chapter applies only to a sign that is:

- (1) outdoors; and
- (2) visible from the main-traveled way of a rural road.

(b) In this section, "rural road" means a road, street, way, or bridge:

- (1) that is located in an unincorporated area;
- (2) that is not privately owned or controlled;
- (3) any part of which is open to the public for vehicular traffic; and
- (4) that is under the jurisdiction of this state or a political subdivision of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.003. EXEMPTIONS. (a) This chapter does not apply to:

- (1) a sign that is allowed to be erected and maintained under the highway beautification provisions contained in Chapter 391;
- (2) a sign in existence before September 1, 1985;
- (3) a sign that has as its purpose the protection of life or property;

(4) a directional or other official sign authorized by law, including a sign that pertains to a natural wonder or a scenic or historic attraction;

(5) a sign that gives information about the location of an underground electric transmission line or a telegraph or telephone property or facility, a pipeline, a public sewer, or a waterline;

(6) a sign erected by an agency or political subdivision of the state; or

(7) a sign erected solely for and relating to a public election if the sign:

(A) is on private property;

(B) is erected not earlier than the 90th day before the date of the election and is removed not later than the 10th day after the election date;

(C) is constructed of lightweight material; and

(D) has a surface area not larger than 50 square feet.

(b) Subsection (a)(2) does not exempt a sign from Section 394.048 to the extent that section applies.

Text of subsec. (c) as added by Acts 1997, 75th Leg., ch. 718, Sec. 1

(c) This chapter does not apply to a directional sign for a small business, as defined by Section 2006.011, Government Code, if the sign:

(1) is on private property; and

(2) has a surface area not larger than 50 square feet.

Text of subsec. (c) as added by Acts 1997, 75th Leg., ch. 1171, Sec. 2.05

(c) This chapter does not apply to a directional sign for a small business, as defined by Section 2006.001, Government Code, if the sign:

(1) is on private property; and

(2) has a surface area not larger than 50 square feet.

(d) This chapter does not apply to a temporary directional sign or kiosk erected by a political subdivision as part of a program approved by the department and administered by the political subdivision on a highway within the boundaries of the political subdivision.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.23(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 718, Sec. 1, eff. June 17, 1997; Acts

1997, 75th Leg., ch. 1171, Sec. 2.05, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 611 (H.B. 412), Sec. 4, eff. September 1, 2007.

Sec. 394.004. DUTIES OF COMMISSION. The commission shall:

- (1) administer and enforce this chapter;
- (2) adopt rules to regulate the erection or maintenance of a sign to which this chapter applies; and
- (3) adopt rules under this chapter that specify the:
 - (A) time for and manner of applying for a permit; and
 - (B) form of and information that must be included in a permit application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.005. DISPOSITION OF FEES. Money the commission receives under this chapter shall be deposited to the credit of the state highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 46, eff. September 1, 2011.

Sec. 394.006. COMPLAINTS; RECORDS. (a) The commission by rule shall establish procedures for accepting and resolving written complaints related to signs under this chapter. The rules must include:

- (1) a process to make information available describing the department's procedures for complaint investigation and resolution, including making information about the procedures available on the department's Internet website;
- (2) a system to prioritize complaints so that the most serious complaints receive attention before less serious complaints; and
- (3) a procedure for compiling and reporting detailed annual statistics about complaints.

(b) The department shall develop and provide a simple form for filing complaints with the department.

(c) The department shall provide to each person who files a written complaint with the department, and to each person who is the subject of a complaint, information about the department's policies and procedures relating to complaint investigation and resolution.

(d) The department shall keep, pursuant to the department's approved records retention schedule, an information file about each written complaint filed with the department that the department has authority to resolve. The department shall keep the following information for each complaint for the purpose of enforcing this chapter:

- (1) the date the complaint is filed;
- (2) the name of the person filing the complaint;
- (3) the subject matter of the complaint;
- (4) each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and
- (6) if the department does not take action on the complaint, an explanation of the reasons that action was not taken.

(e) If a written complaint is filed with the department that the department has authority to resolve, the department, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an ongoing department investigation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 47(a), eff. September 1, 2011.

SUBCHAPTER B. LICENSE AND PERMIT FOR OFF-PREMISE SIGN

Sec. 394.0201. ERECTING OFF-PREMISE SIGN WITHOUT LICENSE; OFFENSE. (a) A person commits an offense if the person wilfully erects or maintains an off-premise sign on a rural road without a license under this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day of the proscribed conduct is a separate offense.

(c) A person is not required to obtain a license to erect or maintain an on-premise sign.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 49(a), eff. September 1, 2011.

Sec. 394.0202. ISSUANCE AND PERIOD OF LICENSE. (a) The commission shall issue a license to a person who:

- (1) files with the commission a completed application form within the time specified by the commission;
- (2) pays the appropriate license fee; and
- (3) files with the commission a surety bond.

(b) A license may be issued for one year or longer.

(c) At least 30 days before the date on which a person's license expires, the commission shall notify the person of the impending expiration. The notice must be in writing and sent to the person's last known address according to the records of the commission.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 49(a), eff. September 1, 2011.

Sec. 394.0203. LICENSE FEE. The commission may set the amount of a license fee according to a scale graduated by the number of off-premise signs and units of outdoor advertising under Chapter 391 owned by a license applicant.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 49(a), eff. September 1, 2011.

Sec. 394.0204. SURETY BOND. (a) The surety bond required of an applicant for a license under Section 394.0202 must be:

- (1) in the amount of \$2,500 for each county in the state in which the person erects or maintains an off-premise sign; and
- (2) payable to the commission for reimbursement for removal costs of an off-premise sign that the license holder unlawfully erects or maintains.

(b) A person may not be required to provide more than \$10,000 in surety bonds.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec.

49(a), eff. September 1, 2011.

Sec. 394.0205. RULES; FORMS. (a) The commission may adopt rules to implement Sections 394.0201(a), 394.0202, 394.0203, 394.0204, and 394.0206.

(b) For the efficient management and administration of this chapter and to reduce the number of employees required to enforce this chapter, the commission shall adopt rules for issuing standardized forms that are for submission by license holders and applicants and that provide for an accurate showing of the number, location, or other information required by the commission for each license holder's or applicant's off-premise signs or outdoor advertising under Chapter 391.

(c) The commission may not adopt a rule under this chapter that restricts competitive bidding or advertising by the holder of a license issued under this chapter other than a rule to prohibit false, misleading, or deceptive practices. The limitation provided by this section applies only to rules relating to the occupation of outdoor advertiser and does not affect the commission's power to regulate the orderly and effective display of an off-premise sign under this chapter. A rule to prohibit false, misleading, or deceptive practices may not:

(1) restrict the use of:

(A) any legal medium for an advertisement;

(B) the license holder's advertisement under a trade name; or

(C) the license holder's personal appearance or voice in an advertisement, if the license holder is an individual; or

(2) relate to the size or duration of an advertisement by the license holder.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 49(a), eff. September 1, 2011.

Sec. 394.0206. REVOCATION OR SUSPENSION OF LICENSE; APPEAL.

(a) The commission may revoke or suspend a license issued under this subchapter or place on probation a license holder whose license is suspended if the license holder violates this chapter or a rule

adopted under this chapter. If the suspension of the license is probated, the department may require the license holder to report regularly to the commission on any matter that is the basis of the probation.

(b) The judicial appeal of the revocation or suspension of a license must be initiated not later than the 15th day after the date of the commission's action.

(c) The commission may adopt rules for the reissuance of a revoked or suspended license and may set fees for the reissuance.

(d) The commission may deny the renewal of a license holder's existing license if the license holder has not complied with the permit requirements of this chapter or Chapter 391.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 49(a), eff. September 1, 2011.

Sec. 394.0207. APPLICABILITY OF LICENSE. In addition to authorizing a person to erect or maintain an off-premise sign, a license issued under this chapter authorizes a person to erect or maintain outdoor advertising under Chapter 391.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 49(a), eff. September 1, 2011.

Sec. 394.021. ERECTING OFF-PREMISE SIGN WITHOUT PERMIT; OFFENSE. (a) A person commits an offense if the person erects an off-premise sign unless the person first obtains a permit under this subchapter from the commission.

(b) Except as otherwise authorized by this chapter, the commission may not issue a permit for an off-premise sign unless the sign is to be located:

(1) within 800 feet of a recognized commercial or industrial business activity or the office of a governmental entity; and

(2) on the same side of the road as the business activity or the office of the governmental entity.

(b-1) If the off-premise sign is located within the jurisdiction of a municipality with a population of more than 1.9 million that is exercising its authority to regulate off-premise

signs, the commission may not issue a permit under this section if the municipality has acted to prohibit new off-premise signs within the jurisdiction of the municipality.

(c) A person commits an offense if the person:

(1) allows an off-premise sign to be erected on property owned by the person; and

(2) knows or should have known that the sign was erected in violation of this chapter.

(d) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day of the proscribed conduct is a separate offense.

(e) It is a defense to prosecution for an offense under this chapter that the person removed the unauthorized sign not later than the 45th day after the date the person received a citation for the offense. If the court is satisfied with the evidence produced by the person to establish a defense under this subsection, the court shall dismiss the charge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 2.06, eff. Sept. 1, 1997. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 611 (H.B. 412), Sec. 5, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 611 (H.B. 412), Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1083 (H.B. 2944), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(101), eff. September 1, 2009.

Sec. 394.022. ISSUANCE OF PERMIT. (a) The commission shall issue a permit to a person:

(1) whose application complies with commission rule;

(2) whose sign, if erected, would comply with the requirements of this chapter; and

(3) who, if the off-premise sign is located within the jurisdiction of a municipality with a population of more than 1.9 million that is exercising its authority to regulate off-premise signs, has obtained a permit for the off-premise sign.

(b) Subsection (a)(3) does not apply to the relocation of an off-premise sign to another location if the construction, reconstruction, or expansion of a highway requires the removal of the off-premise sign.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1083 (H.B. 2944), Sec. 3, eff. September 1, 2007.

Sec. 394.023. TIME OF PERMIT. A permit is valid for one year.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.024. BOND. (a) The commission by rule may require an applicant for a permit to file with the commission a surety bond or other security in a reasonable amount.

(b) The bond or other security must be payable to the commission to reimburse the commission for the cost of removing a sign unlawfully erected or maintained by a permit holder.

(c) A rule adopted under Subsection (a) must exempt an applicant from filing a bond or other security if the applicant has:

(1) held at least five permits under this chapter for at least one year; and

(2) not violated this chapter or a rule adopted under this chapter during the preceding 12 months.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.025. FEE. (a) The commission by rule shall prescribe a fee to issue a permit in an amount the commission determines is sufficient to enable the commission to recover the costs of enforcing this chapter.

(b) A political subdivision of this state or its designated agent is exempt from a fee required under this section for a sign containing a noncommercial message or advertisement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.026. REVOCATION OF PERMIT; APPEAL. (a) The commission may revoke a permit if the permit holder violates this chapter or a rule adopted under this chapter.

(b) A person whose permit is revoked may appeal the revocation not later than the 15th day after the date of the revocation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.027. DENIAL OF PERMIT; APPEAL. The commission may create a process by which an applicant may appeal a denial of a permit under this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 49(a), eff. September 1, 2011.

Sec. 394.028. FEE AMOUNTS. The license and permit fees required by this subchapter may not exceed an amount reasonably necessary to cover the administrative costs incurred to enforce this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 49(a), eff. September 1, 2011.

Sec. 394.029. EXCEPTIONS FOR CERTAIN NONPROFIT ORGANIZATIONS. (a) The combined license and permit fees under this subchapter may not exceed \$10 for an off-premise sign erected and maintained by a nonprofit organization in a municipality or a municipality's extraterritorial jurisdiction if the sign relates to or promotes only the municipality or a political subdivision whose jurisdiction is wholly or partly concurrent with the municipality.

(b) The nonprofit organization is not required to file a bond as provided by Section 394.0202(a)(3).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 49(a), eff. September 1, 2011.

SUBCHAPTER C. OTHER GENERAL REGULATIONS

Sec. 394.041. HEIGHT RESTRICTIONS. (a) An on-premise or off-premise sign may not be higher than 42-1/2 feet, excluding a cutout that extends above the rectangular border, measured from the highest point on the sign to the grade level of the road from which the sign is viewed.

(b) No part of a roof sign that has a tight or solid surface may be higher than 24 feet above the roof level.

(c) An open roof sign in which the uniform open area is 40 percent or more of the total gross area may not be higher than 40 feet above the roof level.

(d) The lowest point on a projecting sign may not be lower than 14 feet above grade.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.042. FACE RESTRICTIONS. (a) The face area of an on-premise sign may not be larger than 400 square feet, including a cutout but excluding an upright, trim, or apron.

(b) The face area of an off-premise sign may not be larger than 672 square feet, excluding a cutout, upright, trim, or apron.

(c) The cutout area of an off-premise or on-premise sign may not be larger than 20 percent of the sign's surface copy area.

(d) This section does not apply to:

(1) a sign that advertises the sale or lease of property on which the sign is located; or

(2) an on-premise wall sign.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.043. WIND LOAD PRESSURE RESTRICTIONS. (a) An on-premise or off-premise sign must be designed to resist wind loads as follows:

Height in feet above ground	Wind load pressure in pounds for each square foot
0-5	0
6-30	20
31-50	25

51-99	35
100-199	45
200-299	50
300-399	55
400-500	60
501-800	70
Over 800	77

(b) Under this section, the height of a sign is measured above the average level of the ground adjacent to the structure.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.044. REPLACEMENT OR REPAIR. (a) A sign or a substantial part of a sign that is blown down, destroyed, taken down, or removed for any purpose other than for maintenance or for changing a letter, symbol, or other matter on the sign may not be reerected, reconstructed, or rebuilt unless the sign conforms with this chapter.

(b) For purposes of this section, a sign or substantial part of a sign is considered destroyed only if the cost of repairing the sign is more than 50 percent of the cost of erecting a new sign of the same type at the same location.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.045. SPACE BETWEEN SIGNS. (a) An off-premise sign that has a face area of 301 square feet or more may not be erected within 1,500 feet of another off-premise sign on the same side of the road.

(b) An off-premise sign that has a face area of 100 or more but less than 301 square feet may not be erected within 500 feet of another off-premise sign on the same side of the road.

(c) An off-premise sign that has a face area of less than 100 square feet may not be erected within 150 feet of another off-premise sign on the same side of the road.

(d) A sign located at the same intersection where one or more other signs are located does not violate this section because of its proximity to another sign if each of the signs is located so that the sign's message is directed toward the traffic flowing in a direction

different from the traffic toward which any other sign's message is directed.

(e) In this section, for purposes of measuring distance between signs, each double-faced, back-to-back, or V-type sign is a single sign.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.046. COMPUTING FACE AREA OF CERTAIN SIGNS. Each face area of a double-faced, back-to-back, or V-type sign is considered to be a separate sign for the purpose of computing the face area under Section 394.042 or 394.045.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.047. NUMBER OF SIGNS. A business may not maintain more than five on-premise signs for each frontage on a single road at a single business location.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.048. REGISTRATION OF CERTAIN OFF-PREMISE SIGNS. (a) The owner of an off-premise sign erected before September 1, 1985, and registered with the commission before December 31, 1985, may renew the registration of the sign for an annual fee of \$10.

(b) The commission by rule may provide for a longer renewal period not to exceed five years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.049. PORTABLE SIGNS. A person may not place a portable sign on the property of another person without first obtaining written permission from the owner of the property or the owner's authorized agent.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.050. VARIANCE. The commission or a person designated by the commission, in an appropriate case and subject to an appropriate condition or safeguard, may make a special exception to this chapter regarding a permit for an off-premise outdoor sign on a rural road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 50, eff. September 1, 2011.

Sec. 394.051. BOND FOR CERTAIN BUSINESSES. (a) A person who is engaged primarily in the business of erecting signs that advertise companies located or products sold on the premises on which the signs are erected must file with the commission a surety bond in the amount of \$100,000 or more payable to the commission to reimburse the commission for the cost of removing a sign unlawfully erected or maintained by the person.

(b) The commission may not exempt a person from the requirements of Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. REGULATION OF SIGNS IN POPULOUS COUNTIES

Sec. 394.061. OFF-PREMISE PORTABLE SIGNS. (a) In a county with a population of 3.3 million or more, the commissioners court of the county may:

(1) prohibit off-premise portable signs in the unincorporated area of the county; or

(2) regulate the location, height, size, and anchoring of, or any other matter relating to the use of, off-premise portable signs in the unincorporated area.

(b) A regulation imposed by or adopted under this chapter does not apply to an off-premise portable sign in the unincorporated area of a county with a population of 3.3 million or more.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 129, eff.

September 1, 2011.

Sec. 394.062. CONFLICT WITH OTHER LAWS. (a) A county prohibition or regulation adopted under Section 394.061 prevails over a state law or rule if there is a conflict.

(b) A municipal sign ordinance that has been extended to territory in the municipality's extraterritorial jurisdiction under Section 216.902, Local Government Code, prevails in that territory over a county prohibition or regulation adopted under Section 394.061 if there is a conflict.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.063. ON-PREMISE SIGNS. (a) The commissioners court of a county with a population of more than 3.3 million or of a county that borders a county with that population may regulate, in the unincorporated area of the county, the location, height, size, and anchoring of on-premise signs.

(b) A county regulation adopted under this section may not permit an on-premise sign to be erected if the sign could not have been erected under a previous municipal regulation that applied to the place where the sign is to be erected.

(c) A regulation of an on-premise sign imposed by this chapter, adopted by the commission under this chapter, or adopted by a municipality does not apply in the unincorporated area of a county that adopts a regulation of an on-premise sign under this section.

(d) In lieu of exercising a regulatory power under this section, the commissioners court of the county, by order, may allow the commission to regulate on-premise signs in the unincorporated area of the county in accordance with a municipal or county regulation regarding on-premise signs in the unincorporated area. On adoption of the order, municipal authority to regulate on-premise signs in the unincorporated area is withdrawn.

(e) A regulation adopted under this section applies only to an on-premise sign erected on or after August 31, 1987.

(f) A commissioners court of a county regulating on-premise signs under this section may recover from an applicant for a permit authorized by this section the cost of issuing the permit provided

the following are met:

(1) the auditor for the county shall review the program every two years to ensure that the fees being charged do not exceed the cost of the program; and

(2) the county refunds to the permit holders any revenue determined by the auditor to exceed the cost of the program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 541, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 130, eff. September 1, 2011.

SUBCHAPTER E. ENFORCEMENT

Sec. 394.081. CIVIL PENALTY. (a) In lieu of being subject to a criminal penalty, a person who intentionally violates this chapter or a rule adopted by the commission under this chapter may be liable for a civil penalty of not less than \$150 or more than \$1,000 for each violation, depending on the seriousness of the violation and whether the person has previously violated this chapter. Each day a violation continues is a separate violation.

(b) The attorney general or a district or county attorney may sue to collect the civil penalty.

(c) A civil penalty collected under this section shall be deposited to the credit of the state highway fund if collected by the attorney general and to the credit of the county road and bridge fund if collected by a district or county attorney.

(d) Before a suit may be brought against a property owner for a violation of Section 394.021(c), the attorney general or the district or county attorney for the county in which the violation is alleged to have occurred shall give the person charged with the violation a written notice that:

(1) describes the violation and specific location of the sign found to be in violation;

(2) states the amount of the proposed penalty for the violation; and

(3) gives the owner 45 days from receipt of the notice to remove the sign and cure the violation to avoid the penalty unless the person was found guilty or liable by a court for violating this

chapter within the preceding six months.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 611 (H.B. 412), Sec. 7, eff. September 1, 2007.

Sec. 394.082. ADMINISTRATIVE PENALTY. (a) In lieu of a suit to collect a civil penalty, the commission, after notice and an opportunity for a hearing before the commission, may impose an administrative penalty against a person who violates this chapter or a rule adopted by the commission under this chapter. Each day a violation continues is a separate violation.

(b) The amount of the administrative penalty may not exceed the maximum amount of a civil penalty under Section 394.081.

(c) A proceeding under this section is a contested case under Chapter 2001, Government Code.

(d) Judicial review of an appeal of an administrative penalty imposed under this section is under the substantial evidence rule.

(e) An administrative penalty collected under this section shall be deposited to the credit of the state highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 51, eff. September 1, 2011.

Sec. 394.083. REVOCATION OF PERMIT IN ADDITION TO OTHER PENALTY. (a) A court shall order the revocation of the permit issued under Section 394.022 that a person holds for a location at which a violation under this chapter occurs if it is shown at the trial of the person for the collection of a civil penalty under Section 394.081 or at an appeal of an administrative penalty under Section 394.082 that a judgment for a civil penalty, a judgment for an administrative penalty, or a final order for an administrative penalty that was not timely appealed was previously imposed under this chapter against the person.

(b) The revocation of a permit under this section is in addition to any other penalty that may be imposed under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.084. VIOLATIONS OF REGULATIONS OR PROHIBITIONS IMPOSED BY POPULOUS COUNTIES ON OFF-PREMISE PORTABLE SIGNS. (a) If a county adopts a prohibition or regulation under Section 394.061, the attorney representing the county in district court may seek injunctive relief to prevent the violation or threatened violation of the prohibition or regulation.

(b) The commissioners court of a county that adopts a prohibition or regulation under Section 394.061 by order may define an offense for the violation of the prohibition or regulation.

(c) An offense defined by a commissioners court under Subsection (b) is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.085. VIOLATIONS OF REGULATIONS OR PROHIBITIONS IMPOSED BY POPULOUS COUNTIES ON ON-PREMISE SIGNS. (a) If a county adopts a prohibition or regulation under Section 394.063, the attorney representing the county in district court may seek injunctive relief to prevent the violation or threatened violation of the prohibition or regulation.

(b) A violation of a prohibition or regulation adopted under Section 394.063 is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 394.086. ADMINISTRATIVE PENALTY FOR VIOLATION OF ON-PREMISE SIGN REGULATIONS IN POPULOUS COUNTIES. (a) The commissioners court of a county with a population of more than 3.3 million or of a county that borders a county with that population may authorize a county employee to issue a civil citation to enforce a regulation of the commissioners court adopted under Section 394.063. The commissioners court may designate the county employee as a county inspector.

(b) If a citation is issued under this section, the commissioners court may assess an administrative penalty against the person cited.

(c) The commissioners court may assess the administrative penalty in an amount not to exceed \$100 for each day the violation exists. In determining the amount of the penalty, the commissioners court shall consider the seriousness of the violation.

(d) If, after examination of a possible violation and the facts relating to that possible violation, the commissioners court determines that a violation has occurred, the commissioners court shall issue a preliminary report that states the facts on which the conclusion is based, the fact that an administrative penalty is to be imposed, and the amount to be assessed. Not later than the 10th day after the date on which the commissioners court issues the preliminary report, the commissioners court shall send a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty.

(e) Not later than the 20th day after the date on which the report is sent, the person charged either may make a written request to the county judge or the judge's representative for a hearing or may remit the amount of the administrative penalty to the commissioners court. Failure either to request a hearing or to remit the amount of the administrative penalty within the time provided by this subsection results in a waiver of a right to a hearing under this section. If the person charged requests a hearing, the county judge or the judge's representative shall conduct the hearing in the manner provided for a contested case hearing under Chapter 2001, Government Code, as if the commissioners court were a state agency under that law. If it is determined after hearing that the person has committed the alleged violation, the county judge or the judge's representative shall give written notice to the person of the findings established by the hearing and the amount of the penalty, and the commissioners court shall enter an order requiring the person to pay the penalty. Not later than the 30th day after the date on which the notice is received, the person charged shall pay the administrative penalty in full.

(f) The person charged is entitled to an appeal by trial de novo in district court on the issue of the amount of the penalty or the fact of the violation. If, after judicial review, it is determined that no violation occurred or that the amount of the penalty should be reduced, the commissioners court shall remit any appropriate amount to the person charged with the violation not later

than the 30th day after the date on which the judicial determination becomes final.

(g) An administrative penalty recovered under this section shall be deposited in the county treasury to the credit of the general fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 131, eff. September 1, 2011.

Sec. 394.087. INJUNCTION. (a) A sign that is erected in violation of this chapter is a public nuisance.

(b) On written notice by certified mail from the department or the county, an owner of a sign that is a public nuisance under Subsection (a), or the owner of the property on which the sign is located, shall remove the sign. If the sign is not removed within 45 days of the date of the notice, the department may direct the attorney general to apply for an injunction to require the removal of the sign or a district or county attorney may apply for an injunction to require the removal of the sign.

(c) The state or county is entitled to recover from the owner of a sign, or the owner of the property from which a sign is removed, under an action brought under Subsection (b) all administrative and legal costs and expenses incurred to remove the sign, including court costs and reasonable attorney's fees.

Added by Acts 2007, 80th Leg., R.S., Ch. 611 (H.B. 412), Sec. 8, eff. September 1, 2007.

**CHAPTER 395. OUTDOOR SIGNS AND MOTORIST INFORMATION PANELS ON TOLL
ROADS IN CERTAIN COUNTIES**

SUBCHAPTER A. REGULATION OF OUTDOOR SIGNS BY TOLL ROAD AUTHORITY

Sec. 395.001. APPLICATION OF SUBCHAPTER. (a) This subchapter applies only to:

- (1) the governing body of a toll road authority:
 - (A) in which a county with a population of 3.3 million or more is located; or
 - (B) that is adjacent to a county with a population of

3.3 million or more and in which a municipality with a population of more than 60,000 is located; and

(2) an outdoor sign.

(b) Chapter 393 does not apply to the placement of a sign to which this subchapter applies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.79, eff. June 14, 2005.

Sec. 395.002. DEFINITIONS. In this subchapter:

(1) "Governing body" includes only the governing body of a toll road authority.

(2) "Sign" means a display, light, device, figure, painting, drawing, message, plaque, poster, or other thing designed or used to advertise or inform.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.003. REGULATION OF SIGNS. The governing body of a toll road authority may adopt rules to license, regulate, or prohibit the placement of a sign visible from the main-traveled way of a toll road in the authority and erected for the purpose of having the message seen from the main-traveled way if the authority determines the rules are necessary to restore, preserve, or enhance the scenic beauty of the property within view of the road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.004. MUNICIPAL ORDINANCES. (a) If the governing body adopts a rule under this subchapter that applies to a sign on property located in the territory of a municipality that has adopted an ordinance regulating the placement of a sign on the property, the rule must be at least as stringent as the ordinance.

(b) This subchapter does not affect the authority of a municipality to adopt an ordinance regulating the placement of a sign within the view of a toll road located in the territory of the

municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.005. COMPENSATION FOR SIGNS. (a) If the governing body requires the removal of a sign:

(1) the owner of the sign is entitled to compensation for the cash value for the tangible physical property constituting the sign structure; and

(2) the owner of the real property on which the sign is located is entitled to compensation for the decrease in the value of the real property.

(b) Compensation under this section is determined under the standards and procedures applicable to a proceeding under Chapter 21, Property Code.

(c) The governing body may use only a method or a combination of methods described by this subchapter to pay compensation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.006. TAX ABATEMENT. (a) The governing body, with the approval of the commissioners court and in accordance with Chapter 312, Tax Code, may abate county property taxes owed by the owner of a sign to be removed.

(b) The governing body may declare an area to be a reinvestment zone for the purpose of abating property taxes under this section if the area encompasses a sign to be removed.

(c) The governing body may abate taxes on any real or personal property in the county that is owned by the owner of the sign, except residential property.

(d) The holder of a right of tax abatement may assign the right. An assignee may use the right of tax abatement on any nonresidential property in the county.

(e) In a county in which tax abatement is used to pay compensation under this subchapter, the compensation must include reasonable interest.

(f) A tax abatement period may not exceed five years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.007. SIGN ABATEMENT AND BEAUTIFICATION FUND. (a) The governing body may deposit all or part of the county property tax paid on a sign, on the real property on which a sign is located, or on other real or personal property owned by the owner of a sign to the credit of a sign abatement and community beautification fund in the county treasury.

(b) The governing body may use money in the fund to compensate the owner of a sign required to be removed under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.008. SIGN ABATEMENT REVENUE BONDS. (a) The governing body may issue sign abatement revenue bonds.

(b) The governing body may use the proceeds from the bonds only to compensate the owner of a sign required to be removed under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.009. CASH. The governing body may pay compensation in cash.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.010. PENALTY. (a) A person commits an offense if the person violates a rule adopted under this subchapter that defines an offense.

(b) An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. TOLL ROAD INFORMATIONAL SIGNS

Sec. 395.051. APPLICATION OF SUBCHAPTER. (a) This subchapter applies only to a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3

million in which a municipality with a population of more than 60,000 is located.

(b) Chapter 393 does not apply to the placement of a panel or sign to which this subchapter applies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 136, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.80, eff. June 14, 2005.

Sec. 395.052. DEFINITIONS. In this subchapter:

(1) "Business sign" means a sign that contains the brand, trademark, name, or logo of a qualified business.

(2) "Motorist information panel" means a rectangular panel placed on a highway that contains at least one business sign advertising a business available within a certain distance of that interchange.

(3) "Qualified business" means a business that meets the requirements of rules adopted by the commissioners court of a county under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.053. ERECTION OF MOTORIST INFORMATION PANELS. (a) Except as provided by Subsection (b), the commissioners court of a county by order may erect and maintain motorist information panels in a right-of-way along a toll road in the county.

(b) The commissioners court may not erect a motorist information panel in an area that does not have a qualified business.

(c) The county must erect each panel on and below the exit identification sign preceding the exit direction sign at an interchange.

(d) The county may erect more than one panel for each interchange.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.054. REGULATION OF BUSINESS SIGNS. (a) The commissioners court may adopt orders for administration of this subchapter.

(b) The commissioners court by order shall provide for:

- (1) spacing requirements between signs;
- (2) height and face restrictions for the total panel area;

and

(3) size and face restrictions for each business sign on a motorist information panel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.055. APPLICATION FOR BUSINESS SIGN ON PANEL. (a) The commissioners court by order shall specify:

(1) the time and manner of applying for a business sign on a motorist information panel;

(2) the form of and required information for an application; and

(3) a reasonable annual fee for each business sign on the panel.

(b) To advertise on a motorist information panel, a person must apply to the commissioners court. The person shall comply with each order adopted by the commissioners court regarding business signs.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.056. ACCOUNT. (a) The commissioners court shall deposit money received under this subchapter to the credit of an account in the county general fund.

(b) The commissioners court may use money in the account only to erect, maintain, or regulate motorist information panels.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.057. REGULATION BY TOLL ROAD AUTHORITY. A toll road authority may not regulate a motorist information panel or business sign erected, maintained, or regulated under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 395.058. CONFLICT WITH MUNICIPAL ORDINANCE. (a) This subchapter does not authorize a commissioners court to issue an order or regulation that conflicts with a municipal ordinance pertaining to billboards or outdoor advertising.

(b) An order or regulation issued under this subchapter that conflicts with a municipal ordinance is void.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 396. AUTOMOBILE WRECKING AND SALVAGE YARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 396.001. DEFINITIONS. In this chapter:

(1) "Automotive wrecking and salvage yard" means an outdoor place where a person stores three or more vehicles for the purpose of dismantling or wrecking the vehicles to remove parts for sale or for use in automotive repair or rebuilding.

(2) "Junk" means copper, brass, iron, steel, rope, rags, batteries, tires, or other material that has been discarded or sold at a nominal price by a previous owner of the material. The term does not include a wrecked vehicle.

(3) "Junkyard" means a place where a business that owns junk, and is operated to store, buy, or sell junk, keeps all or part of the junk outdoors until the business disposes of the junk.

(4) "Recycling business" means a business primarily engaged in the business of:

(A) converting metal or other material into raw material products that have:

(i) prepared grades; and

(ii) an existing or potential economic value;

(B) using raw material products described by Paragraph (A) in the production of new products; or

(C) obtaining or storing metal or other material for a purpose described by Paragraph (A) or (B).

(5) "Wrecked vehicle" means a discarded, junked, damaged, or worn-out automotive vehicle that is not in a condition to be lawfully operated on a public road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 13 (S.B. 280), Sec. 1, eff. May 3, 2005.

Acts 2007, 80th Leg., R.S., Ch. 707 (H.B. 2163), Sec. 1, eff. September 1, 2007.

Sec. 396.002. INJUNCTION. (a) A person is entitled to an injunction to prohibit a violation or threatened violation of this chapter or of a county ordinance adopted under this chapter.

(b) The venue for the injunction proceeding is in the county in which any part of the junkyard or automotive wrecking and salvage yard is located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. SCREENING REQUIREMENTS AND LOCATION

Sec. 396.021. SCREENING REQUIREMENTS. (a) This section does not apply to:

- (1) an automotive wrecking and salvage yard as defined by and subject to Chapter 397;
- (2) a junkyard as defined by Section 391.001 and subject to Subchapter E, Chapter 391;
- (3) a recycling business; or
- (4) a junkyard or an automotive wrecking and salvage yard entirely in a municipality and regulated by the municipality.

(b) A person who operates a junkyard or an automotive wrecking and salvage yard shall screen the junkyard or automotive wrecking and salvage yard with a solid barrier fence at least eight feet high. The fence must be painted a natural earth tone color and may not have any sign appear on its surface other than a sign indicating the business name.

(c) A person who operates a junkyard or an automotive wrecking and salvage yard in a county with a population of 200,000 or less shall screen the junkyard or automotive wrecking and salvage yard to at least six feet in height along the portion of the junkyard or automotive wrecking and salvage yard that faces a public road or residence. The person may screen the yard by any appropriate means,

including:

- (1) a fence;
- (2) natural objects; or
- (3) plants.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 396.022. LOCATION OF YARD. (a) A junkyard or an automotive wrecking and salvage yard may not be located:

- (1) within 50 feet of the right-of-way of a public street or state highway; or
- (2) within 50 feet of the nearest property line of a residence.

(b) A person may not accumulate or stack materials associated with a junkyard or an automotive wrecking and salvage yard higher than eight feet above ground level.

(c) This section does not apply to a junkyard or an automotive wrecking and salvage yard used only for farm equipment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1277 (S.B. [1436](#)), Sec. 1, eff. September 1, 2015.

Sec. 396.023. EFFECT OF LOCAL ORDINANCE. A person who operates a junkyard or an automotive wrecking and salvage yard, in screening the yard, shall comply, to the extent practicable, with an applicable ordinance adopted by a political subdivision.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 396.024. PENALTY. (a) A person commits an offense if the person knowingly violates Section 396.021 or 396.022.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$500.

(c) Each day a violation continues is a separate offense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 1997, 75th Leg., ch. 636, Sec. 1, eff. Sept. 1, 1997.

**SUBCHAPTER C. COUNTY REGULATION OF JUNKYARDS OR AUTOMOTIVE WRECKING
AND SALVAGE YARDS**

Sec. 396.041. COUNTY LICENSE. (a) This section does not apply to:

- (1) a recycling business;
- (2) a junkyard or automotive wrecking and salvage yard located entirely in a municipality and subject to regulation by the municipality; or
- (3) a junkyard or automotive wrecking and salvage yard in operation before June 1, 1987.

(b) To protect the public health, safety, or welfare, the commissioners court of a county may by ordinance require a junkyard or automotive wrecking and salvage yard to be licensed by the county.

(c) An ordinance may:

- (1) impose a fee of \$25 for the issuance or renewal of a license;
- (2) impose a fee of not more than:
 - (A) \$150 for the issuance or renewal of a license, if the ordinance is adopted by the commissioners court of a county with a population of one million or more that contains two or more municipalities, each of which has a population of 250,000 or more; or
 - (B) \$500 for the issuance or renewal of a license, if the ordinance is adopted by the commissioners court of a county with a population of 3.3 million or more;
- (3) condition the license on the operation of the junkyard or automotive wrecking and salvage yard only at a location approved by the commissioners court; or
- (4) establish grounds for suspending or revoking a license if the junkyard or automotive wrecking and salvage yard is not screened.

(d) The county shall deposit each license fee received to the credit of the county general fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 636, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 71 (H.B. 178), Sec. 1, eff.

September 1, 2007.

Sec. 396.042. PUBLIC HEARING. (a) Before adopting an ordinance under Section 396.041, the commissioners court must hold a public hearing.

(b) Any interested member of the public may appear and testify at the hearing about the subject of the proposed ordinance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 396.043. NOTICE OF HEARING. (a) The commissioners court shall:

(1) post in a public place in the county courthouse a notice of the time, place, and general subject of the public hearing; and

(2) publish the notice in a newspaper of general circulation in the county.

(b) The notice must be:

(1) posted for the 10 days preceding the date of the public hearing; and

(2) published at least once a week for the three weeks preceding the week the public hearing is held.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 396.044. CONFLICT WITH OTHER LAW. If a requirement, standard, or condition established under this subchapter conflicts with another law of this state, a rule adopted under state law, or a municipal ordinance, the stricter of the two provisions prevails.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 396.045. PENALTY. (a) A person commits an offense if the person violates an ordinance adopted under this subchapter that defines an offense.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 and not more than \$500.

(c) Each day a violation continues is a separate offense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 636, Sec. 3, eff. Sept. 1, 1997.

CHAPTER 397. AUTOMOBILE WRECKING AND SALVAGE YARDS IN CERTAIN COUNTIES

Sec. 397.001. APPLICABILITY OF CHAPTER. This chapter applies only to an automotive wrecking and salvage yard that:

- (1) is in a county with a population of 3.3 million or more;
 - (2) is not located within a municipality in that county;
- and
- (3) is established on or after September 1, 1983.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 137, eff. Sept. 1, 2001.

Sec. 397.002. DEFINITIONS. In this chapter:

(1) "Automotive wrecking and salvage yard" means a lot or tract of land on which three or more abandoned, discarded, junked, wrecked, or worn-out automotive vehicles are kept for the purpose of dismantling or wrecking to extract parts, components, and accessories for use in an automotive repair or rebuilding business or for sale.

(2) "Person" means an individual, corporation, or association.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 397.003. FENCE REQUIRED. (a) An automotive wrecking and salvage yard shall be completely surrounded by a fence as provided by Subsection (b).

(b) A side of the yard that is generally parallel to and within 100 feet of a right-of-way of a public street shall be bounded by a fence at least eight feet in height. Other sides of the yard shall be bounded by a fence at least six feet in height.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 397.004. CONSTRUCTION AND MAINTENANCE OF FENCE. (a) A fence required by Section 397.003 shall be constructed and maintained so that the outer surface is continuous and without spaces.

(b) The fence shall be constructed of wood, masonry, corrugated sheet metal, chain link, or a combination of those materials. Any one side of the fence may be constructed of only one of those materials.

(c) A chain link fence must be galvanized and have wood or metal slats or strips that run through all links of the fence. A properly constructed and maintained chain link fence with slats or strips complies with Subsection (a).

(d) The fence must extend downward to within three inches of the ground and must test plumb and square at all times.

(e) The fence shall be constructed in compliance with all applicable provisions of the building code of a municipality in which the fence is constructed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 397.005. WALL OR DOOR AS PART OF FENCE. A fence required by Section 397.003 may consist in whole or in part of a wall and door of a completely enclosed building on the premises if the wall or door is constructed and maintained as required by this chapter for a fence.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 397.006. GATE REQUIRED. (a) Each opening in a fence that is necessary to permit reasonable access to an automotive wrecking and salvage yard shall be equipped with a gate. The gate shall be constructed and maintained in accordance with the requirements of this chapter for a fence.

(b) A gate shall be closed and securely locked at all times except during normal daytime business hours.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 397.007. DISPLAY OR WORK OUTSIDE FENCE PROHIBITED. An owner or operator of an automotive wrecking and salvage yard or that person's agent or employee may not display, store, or work on a junked or wrecked automotive vehicle or a part, accessory, or junk from the vehicle outside or above the fence required by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 397.008. ACCESS FOR OFFICIALS. All automotive vehicles, parts, and other materials located on an automotive wrecking and salvage yard shall be arranged to allow reasonable access to and inspection of the yard by an authorized fire, health, police, or building official.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 397.009. REMOVAL OF GASOLINE. Gasoline in a fuel tank of a junked, wrecked, or abandoned automotive vehicle shall be completely removed before the vehicle is placed on an automotive wrecking and salvage yard.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 397.010. DRAINAGE. Each portion of a lot or tract used in the operation of an automotive wrecking and salvage yard must have appropriate drainage.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 397.011. LOCATION OF YARD. (a) Except as otherwise provided by this subsection and Subsection (b), an automotive wrecking and salvage yard may not be established within 600 feet of an existing church, school, or residence. A yard may be established within 600 feet of a residence if the same person owns the residence and the yard.

(b) An automotive wrecking and salvage yard that is established on or after September 1, 1983, and before September 1, 2013, may not

be established within 300 feet of an existing church, school, or residence except that a yard may be established within 300 feet of a residence if the same person owns the residence and the yard.

(c) Distance is measured under this section beginning at the wall of the church, school, or residence that is closest to the yard and ending at the fence required by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 232 (H.B. 248), Sec. 1, eff. September 1, 2013.

Sec. 397.012. PENALTY. (a) A person commits an offense if the person operates an automotive wrecking and salvage yard in violation of this chapter.

(b) An offense under this section is a Class C misdemeanor.

(c) Each day a violation continues is a separate offense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 397.0125. CIVIL PENALTY. (a) In addition to the penalty provided by Section 397.012, a person who operates an automotive wrecking and salvage yard in violation of this chapter is liable for a civil penalty of not less than \$500 or more than \$1,000 for each violation. A separate penalty may be imposed for each day a continuing violation occurs.

(b) The district or county attorney for the county, or the municipal attorney of the municipality, in which the violation is alleged to have occurred may bring suit to collect the penalty.

(c) A penalty collected under this section by a district or county attorney shall be deposited in the county treasury. A penalty collected under this section by a municipal attorney shall be deposited in the municipal treasury.

Added by Acts 2009, 81st Leg., R.S., Ch. 562 (S.B. 1992), Sec. 1, eff. September 1, 2009.

Sec. 397.013. REVOCATION OF LICENSE. The appropriate municipal

authority may revoke or refuse to issue or renew a person's municipal license to operate an automotive wrecking and salvage yard if the authority finds the person violated a provision of this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 397.014. INJUNCTION. (a) A person, county, or municipality is entitled to an injunction to prohibit a violation or threatened violation of this chapter.

(b) The venue for the injunction proceeding is in the county to which this chapter applies in which any part of the automotive wrecking and salvage yard is located.

Added by Acts 2005, 79th Leg., Ch. 13 (S.B. 280), Sec. 2, eff. May 3, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 562 (S.B. 1992), Sec. 2, eff. September 1, 2009.

CHAPTER 430. MISCELLANEOUS PROVISIONS

Sec. 430.001. ADVISORY SAFETY OR DIRECTIONAL SIGNS. (a) A political subdivision may place along a public right-of-way under the control of the political subdivision an advisory safety or useful directional sign that cannot be mistaken as an official sign.

(b) The political subdivision may not place the sign along a state highway for revenue purposes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 430.002. SIGNS ERECTED BY NEIGHBORHOOD ASSOCIATION. (a) In this section, "property owners' association" means an association described by Section 204.004, Property Code.

(b) A property owners' association may install a speed feedback sign or a solar-powered light-emitting diode (LED) stop sign on a road, highway, or street in the association's jurisdiction if:

(1) the association receives the consent of the governing body of the political subdivision that maintains the road, highway, or street for the placement of the sign; and

(2) the association pays for the installation of the sign.

(c) A property owners' association that installs a sign under this section is responsible for the maintenance of the sign.

Added by Acts 2011, 82nd Leg., R.S., Ch. 765 (H.B. 1737), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 376 (H.B. 745), Sec. 1, eff. June 10, 2015.

SUBTITLE I. TRANSPORTATION CORPORATIONS
CHAPTER 431. TEXAS TRANSPORTATION CORPORATION ACT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 431.001. SHORT TITLE. This chapter may be cited as the Texas Transportation Corporation Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.002. PURPOSES; LIBERAL CONSTRUCTION. (a) The purposes of this chapter are:

(1) the promotion and development of public transportation facilities and systems by new and alternative means;

(2) the expansion and improvement of transportation facilities and systems;

(3) the creation of corporations to secure and obtain rights-of-way for urgently needed transportation systems and to assist in the planning and design of those systems;

(4) the reduction of burdens and demands on the limited funds available to the commission and an increase in the effectiveness and efficiency of the commission; and

(5) the promotion and development of transportation facilities and systems that are public, not private, in nature, although these facilities and systems may benefit private interests as well as the public.

(b) This chapter shall be liberally construed to give effect to the purposes of this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.003. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of a corporation organized under this chapter.

(2) "Corporation" means a corporation organized under this chapter and includes a local government corporation.

(3) "Local government" means:

(A) a municipality;

(B) a county; or

(C) for purposes of Subchapter D:

(i) a navigation district, hospital district, or hospital authority;

(ii) a regional transportation authority governed by Chapter 452;

(iii) a rapid transit authority governed by Chapter 451; or

(iv) a coordinated county transportation authority governed by Chapter 460.

(4) "Local government corporation" means a corporation incorporated as provided by Subchapter D to act on behalf of a local government.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1370, Sec. 1, eff. June 16, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 241 (H.B. 2090), Sec. 1, eff. May 25, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 422 (S.B. 888), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 71 (S.B. 276), Sec. 1, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 594 (S.B. 948), Sec. 1, eff. September 1, 2013.

Sec. 431.004. OPEN MEETINGS. (a) A corporation is subject to Chapter 551, Government Code.

(b) Except as provided by Subsection (c) or (d), the board shall file notice of each meeting of the board in the same manner and in the same location as is required of a state governmental body under Chapter 551, Government Code.

(c) If the commission designates an area of the state in which a corporation may act on behalf of the commission, the board shall file notice of each meeting of the board in the same manner and in the same location as is required of a governmental body under Section 551.053, Government Code.

(d) The board of a local government corporation shall file notice of each meeting of the board in the same manner and in the same location as is required of the governing body under Chapter 551, Government Code, of the one or more local governments that created the local government corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.005. OPEN RECORDS. The board is subject to Chapter 552, Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.006. APPLICATION OF TEXAS NON-PROFIT CORPORATION ACT. The Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) applies to a corporation to the extent that the provisions of that Act are not inconsistent with this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. CREATION AND OPERATION OF CORPORATION

Sec. 431.021. PURPOSE OF CORPORATION. The purpose of a corporation is limited to the promotion and development of public transportation facilities and systems.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.022. APPLICATION. (a) Three or more individuals may file with the commission an application for the creation of a corporation within a designated area.

(b) Each of the individuals must be a qualified voter.

(c) The application must be in writing.

(d) The application must contain the articles of incorporation proposed to be used in organizing the corporation.

(e) The commission may not charge a filing fee for the application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.023. ADOPTION OF RESOLUTION. (a) A corporation may be created only if the commission adopts a resolution authorizing the creation of a corporation to act on behalf of the commission.

(b) A resolution must state that the commission:

(1) determines that creation of the corporation is advisable; and

(2) approves the articles of incorporation proposed to be used in organizing the corporation.

(c) The commission may designate the area of the state in which the corporation may act on behalf of the commission. The designated area may include the territory of more than one political subdivision of the state.

(d) The commission may authorize the creation of more than one corporation to act within the same designated area. The resolution authorizing each corporation must specify the public purpose of that corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.04, eff. Sept. 1, 1999.

Sec. 431.024. FORM OF CORPORATION. (a) A corporation is a nonmember, nonstock corporation.

(b) A corporation is nonprofit, and its earnings may not benefit a private interest.

(c) A corporation may be created as a perpetual corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.025. ARTICLES OF INCORPORATION. The articles of incorporation must state:

- (1) the name of the corporation;
- (2) that the corporation is a nonprofit corporation;
- (3) the duration of the corporation;
- (4) the specific purpose for which the corporation is organized on behalf of the commission;
- (5) that the corporation does not have any members and is a nonstock corporation;
- (6) the street address of the corporation's initial registered office and the name of its initial registered agent at that address;
- (7) the number of directors of the initial board and the name and address of each director;
- (8) the name and street address of each incorporator;
- (9) any provision for the regulation of the internal affairs of the corporation, including any provision required or permitted by this chapter to be in the bylaws; and
- (10) that the commission has:
 - (A) by resolution specifically authorized the corporation to act on its behalf to further the public purpose stated in the resolution and in the articles of incorporation; and
 - (B) approved the articles of incorporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.026. DELIVERY AND FILING OF CERTIFICATE OF INCORPORATION. (a) After the commission adopts a resolution under Section 431.023, three originals of the articles of incorporation shall be delivered to the secretary of state.

(b) The secretary of state shall determine whether the articles of incorporation conform to this chapter. On determination that the articles conform to this chapter and on receipt of a \$25 fee, the secretary of state shall:

- (1) endorse on each original the word "filed" and the date of the filing;
- (2) file one of the originals in the secretary's office;
- (3) issue two certificates of incorporation;
- (4) attach to each certificate an original of the articles of incorporation; and
- (5) deliver a certificate of incorporation and the attached

articles of incorporation to:

- (A) each incorporator or its representative; and
- (B) the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.027. EFFECT OF ISSUANCE OF CERTIFICATE OF INCORPORATION. (a) A corporation's existence begins when its certificate of incorporation is issued.

(b) After the issuance of the certificate of incorporation, the incorporation may not be contested for any reason.

(c) A certificate of incorporation is conclusive evidence that:

- (1) all conditions for incorporation required of the incorporators and the commission are satisfied; and
- (2) the corporation is incorporated under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.028. BOARD. (a) A corporation must have a board in which the powers of the corporation reside.

(b) The board consists of three or more directors.

(c) The commission shall appoint each director for a term that may not exceed six years.

(d) The commission may remove a director for or without cause.

(e) A director serves without compensation but is entitled to reimbursement from the corporation for expenses incurred in the performance of the director's duties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.029. ADVISORY DIRECTORS. (a) The board may appoint any number of advisory directors.

(b) An advisory director advises and assists the directors in promoting and developing new and expanded transportation facilities and systems.

(c) An advisory director serves until the completion of a particular project or at the will of the directors.

(d) An advisory director does not have a vote in the affairs of

the corporation.

(e) An advisory director serves without compensation. The corporation may not reimburse an advisory director for expenses incurred in the performance of the director's duties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.030. BYLAWS. (a) The board shall adopt the initial bylaws of a corporation. The commission, by resolution, must approve the initial bylaws.

(b) A corporation may change its bylaws only with the approval of the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.031. QUORUM. (a) A quorum of a board is the lesser of:

(1) a majority of:

(A) the membership of the board under the bylaws; or

(B) if the bylaws do not provide the membership of the board, the membership of the board under the articles of incorporation; or

(2) the number, which must be more than two, set as the quorum by the articles of incorporation or the bylaws.

(b) An act of the majority of the directors present at a meeting at which there is a quorum is an act of the board, unless the act of a greater number is required by the articles of incorporation or the bylaws.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.032. INDEMNIFICATION. (a) A corporation may indemnify a director or officer of the corporation for necessary expenses and costs, including attorney's fees, incurred by the director or officer in connection with any claim asserted against the director or officer in a court action or otherwise for negligence or misconduct.

(b) If a corporation does not fully indemnify a director or

officer as provided by Subsection (a), the court in a proceeding in which any claim against the director or officer is asserted or any court with jurisdiction of an action instituted by the director or officer on a claim for indemnity may assess indemnity against the corporation, its receiver, or trustee for the amount paid by the director or officer, including attorney's fees, to pay any judgment or settlement of the claim necessarily incurred by the director or officer in connection with the claim in an amount the court considers reasonable and equitable only if the court finds that, in connection with the claim, the director or officer is not guilty of negligence or misconduct.

(c) A court may not assess indemnity under Subsection (b) for an amount paid by the director or officer to the corporation.

(d) In this section, "director or officer" includes a former director or officer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.033. EXEMPTION FROM TAXATION. A corporation affects all the people in its area by assuming to a material extent what otherwise might be an obligation or duty of the commission and is a purely public charity under Section 2, Article VIII, Texas Constitution. However, a corporation is exempt from the franchise tax under Chapter 171, Tax Code, only if the corporation is exempted by that chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.034. INCOME OF TRANSPORTATION CORPORATION. The commission has the unrestricted right at any time to receive any income earned by a corporation other than a local government corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. CORPORATE POWERS

Sec. 431.061. DEFINITIONS. In this subchapter:

- (1) "Construction" includes improvement and landscaping.

(2) "Highway" includes an improvement to a highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.062. GENERAL POWERS. (a) A corporation has the powers and privileges of a nonprofit corporation incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

(b) A corporation has the powers provided by this subchapter to promote and develop new and expanded transportation facilities and systems on behalf of the commission and powers incidental to or necessary for the performance of that purpose.

(c) A corporation may, at the request of the commission, perform any function not specified by this chapter to promote and develop transportation facilities and systems.

(d) A corporation has the powers necessary to construct or improve transportation facilities and systems approved by the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.063. PROMOTION AND DEVELOPMENT OF TRANSPORTATION FACILITIES AND SYSTEMS. A corporation may work directly with property owners, local and state governmental agencies, and elected officials to support an activity required to promote and develop a transportation facility or system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.064. ALIGNMENT STUDIES. A corporation may perform a preliminary or final alignment study.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.065. CONTRIBUTIONS; EXPENSES. (a) A corporation may receive:

(1) a contribution of real property for a right-of-way;

and

(2) a cash donation for:

(A) the purchase of a right-of-way; or

(B) the design or construction of a transportation facility or system.

(b) A corporation may establish a formula to determine the amount of cash donations from affected property owners and others necessary to cover the cost of a service to be performed by the corporation or its consultants.

(c) A corporation may borrow money to meet any expense or need associated with the regular operation of the corporation or a particular transportation project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.066. EMPLOYEES AND CONSULTANTS. (a) A corporation may employ an administrative staff.

(b) A corporation may retain legal, public relations, and engineering services required to develop a transportation facility or system.

(c) Through its staff and retained consultants, a corporation may prepare an exhibit, right-of-way document, environmental report, schematic, or preliminary or final engineering plan necessary to develop a transportation facility or system.

(d) A corporation may pay an employee or consultant from money donated to develop a transportation facility or system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.067. PROMOTIONAL ACTIVITIES. (a) A corporation may make official presentations to the state and other affected agencies or groups concerning the development of a transportation project.

(b) A corporation may issue a press release or other material to promote the activities of a transportation project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.068. CONSTRUCTION OR IMPROVEMENT CONTRACTS. (a) A

corporation may contract with the commission to:

- (1) construct or improve a transportation project designated by the commission; and
- (2) sell the project or improvement to the commission.

(b) For a transportation project constructed by a corporation, the corporation may contract with the commission for the commission to:

- (1) supervise the construction; or
- (2) provide construction management services.

(c) A corporation and a county, a home-rule municipality, a county road district created under Chapter 257, or a road utility district created under Chapter 441 may contract to pay jointly the cost of a transportation project designated by the commission. The contract may obligate the corporation to design, construct, or improve the transportation project.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.069. LOCATION OF TRANSPORTATION PROJECTS. A corporation may construct or improve a transportation project on real property, including a right-of-way acquired by the corporation, provided to the corporation for that purpose by the commission or a political subdivision of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.070. BONDS AND NOTES. (a) A corporation may issue bonds and notes to carry out its purpose.

(b) The bonds and notes may be issued under any power or authority available to the corporation, including Chapter 1201, Government Code.

(c) A bond or note must state on its face that it is not an obligation of the State of Texas.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.394, eff. Sept. 1, 2001.

Sec. 431.071. APPROVAL OF BONDS AND NOTES BY ATTORNEY GENERAL.

(a) A corporation shall submit a bond or note authorized under Section 431.070 and a contract supporting its issuance to the attorney general for examination.

(b) If the attorney general finds that the bond or note, and any supporting contract are authorized under this chapter, the attorney general shall approve them.

(c) After approval by the attorney general, a bond, note, or contract may not be contested for any reason.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.072. LIMITATION TO FEDERAL OR STATE HIGHWAY SYSTEM. A corporation may plan, design, acquire, construct, improve, extend, or maintain a transportation project only if the project:

(1) is intended by the commission to become part of the federal or state highway system; and

(2) is not intended to:

(A) become a county road or municipal street; or

(B) be owned by a county road district or by a road utility district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.073. PROJECT IN COUNTY OF 500,000 OR MORE OR ADJACENT COUNTY. (a) This section applies only to a corporation that was created by the state or one or more counties or municipalities to implement a transportation project in:

(1) a county with a population of 500,000 or more; or

(2) a county adjacent to a county described by Subdivision

(1).

(b) If approved and authorized by the commission, a corporation created by the state has the rights, powers, privileges, authority, and functions given the department under this title to:

(1) construct, improve, operate, and maintain high occupancy vehicle lanes; and

(2) charge a toll for the use of one or more high occupancy vehicle lanes for the purpose of congestion mitigation.

(c) A corporation in existence on August 31, 1991, has the powers, rights, and privileges of a corporation created under Chapter

11, Title 32, Revised Statutes, as that law existed on August 31, 1991, except that the required right-of-way of any highway, road, street, or turnpike may be of the width required or approved by the commission or each governing body creating the corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.25, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 967, Sec. 6, eff. Sept. 1, 2001.

SUBCHAPTER D. LOCAL GOVERNMENT CORPORATIONS

Sec. 431.101. CREATION OF LOCAL GOVERNMENT CORPORATION. (a) A local government corporation may be created to aid and act on behalf of one or more local governments to accomplish any governmental purpose of those local governments. To be effective, the articles of incorporation and the bylaws of a local government corporation must be approved by ordinance, resolution, or order adopted by the governing body of each local government that the corporation is created to aid and act on behalf of.

(b) A local government corporation has the powers of a corporation authorized for creation by the commission under this chapter.

(c) The provisions of the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) relating to powers, standards of conduct, and interests in contracts apply to the directors and officers of the local government corporation.

(d) A provision of this chapter relating to the creation, dissolution, administration, or supervision of a corporation by the commission does not apply to a local government corporation.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1129, Sec. 5.01(4), eff. September 1, 2011.

(f) A member of the board of directors of a local government corporation:

(1) is not a public official by virtue of that position; and

(2) unless otherwise ineligible, may be appointed to serve concurrently on the board of directors of a reinvestment zone created under Chapter 311, Tax Code.

(g) A local government corporation must comply with all state law related to the design and construction of projects, including the

procurement of design and construction services, that applies to the local government that created the corporation.

(h) A local government corporation formed by a navigation district shall not condemn a right-of-way through any part of a municipality without the consent of the municipality's governing body.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.24, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 983, Sec. 12, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 1370, Sec. 2, 3, eff. June 16, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. 1886), Sec. 15, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 5.01(4), eff. September 1, 2011.

Sec. 431.102. APPLICATION OF CHAPTER 394, LOCAL GOVERNMENT CODE. (a) In the manner in which Chapter 394, Local Government Code, applies to a corporation created under that chapter, that chapter applies to:

(1) the manner in which a local government corporation is created and dissolved;

(2) the appointment of the board of a local government corporation and the members' terms of service;

(3) the manner and the conditions under which the board serves; and

(4) the form, execution, approval, filing, and amending of the articles of incorporation and bylaws of a local government corporation.

(b) The property of a local government corporation and a transaction to acquire the property is exempt from taxation in the same manner as a corporation created under Chapter 394, Local Government Code, except that property of a local government corporation created by a municipal power agency that was created under Subchapter C, Chapter 163, Utilities Code, is not exempt from ad valorem taxation if the property is located outside of the boundaries of each of the municipalities that created the municipal power agency.

(c) The requirement of Section 394.021(a), Local Government Code, that all directors must be residents of the local government shall not be applicable to directors of a local government corporation except that a person may not be appointed to the board of a local government corporation if the appointment of that person would result in less than a majority of the board members being residents of the local government.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 983, Sec. 13, eff. June 18, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 654 (S.B. [1120](#)), Sec. 1, eff. June 17, 2011.

Sec. 431.103. CONTRACTS WITH POLITICAL SUBDIVISIONS. A local government corporation may contract with a political subdivision of this state in the manner and to the same extent as any other corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.104. ASSUMPTION OF POWERS AND DUTIES. (a) The governing body of a local government may assume for the local government the powers and duties of a local government corporation created by the local government.

(b) A local government that assumes the powers and duties of a local government corporation assumes the assets and liabilities of the corporation.

(c) The powers and duties of a local government corporation created by more than one local government may be assumed only if each local government that created the corporation agrees to the assumption.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.105. CONTRACTUAL AUTHORITY. (a) A state agency, including the commission, or a political subdivision may contract with a local government corporation to accomplish a governmental

purpose of the sponsoring local government in the same manner and to the same extent that it:

(1) may contract with any other corporation created under this chapter; and

(2) is authorized to contract under Subchapter A, Chapter 472.

(b) A local government may contract with a corporation to accomplish the purposes of the sponsoring local government in the manner provided under Subchapter C, Chapter 224.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.106. PUBLIC SAFETY RULES. A local government that creates a local government corporation may establish and enforce traffic and other public safety rules on a toll road, toll bridge, or turnpike of the corporation. Local governments that jointly create a local government corporation may jointly establish and enforce those rules.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.107. INCOME OF LOCAL GOVERNMENT CORPORATION. (a) A local government creating a local government corporation is entitled at any time to receive any income earned by the local government corporation that is not needed to pay the corporation's expenses or obligations.

(b) The earnings of a local government corporation may not benefit a private interest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.108. GOVERNMENTAL FUNCTIONS. (a) A local government corporation is a governmental unit as that term is used in Chapter 101, Civil Practice and Remedies Code.

(b) The operations of a local government corporation are governmental, not proprietary, functions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.109. CONTRACTS FOR HISTORICALLY UNDERUTILIZED BUSINESSES. (a) This section applies only to a local government corporation serving a county with a population of more than 3.3 million.

(b) A local government corporation shall set and make a good faith effort to meet or exceed goals for awarding contracts or subcontracts associated with a project it operates, maintains, or constructs to historically underutilized businesses.

(c) The goals must equal or exceed:

(1) the federal requirement on federal money used in highway construction and maintenance; and

(2) the goals adopted by the department under Section 201.702.

(d) The goals apply to the total value of all contracts and subcontracts awarded, including contracts and subcontracts for construction, maintenance, operations, supplies, services, materials, equipment, professional services, the issuance of bonds, and bond counsel.

(e) In this section, "historically underutilized business" means:

(1) a corporation formed for the purpose of making a profit in which at least 51 percent of all classes of the shares of stock or other equitable securities is owned, managed, and in daily operations controlled by one or more persons who have been historically underutilized because of their identification as members of certain groups, including African Americans, Hispanic Americans, women, Asian Pacific Americans, and Native Americans, who have suffered the effects of discriminatory practices or similar invidious circumstances over which they have no control;

(2) a sole proprietorship formed for the purpose of making a profit that is 100 percent owned and in daily operation is controlled by a person described by Subdivision (1);

(3) a partnership formed for the purpose of making a profit in which at least 51 percent of the assets and interest in the partnership are owned by one or more persons described by Subdivision (1) and who also have proportionate interest in the control, daily operation, and management of the partnership's affairs;

(4) a joint venture in which each entity in the joint

venture is a historically underutilized business; or

(5) a supplier contract between a historically underutilized business and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of the supplies or materials or otherwise warehouses and ships the supplies or materials.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 132, eff. September 1, 2011.

Sec. 431.110. COMPETITIVE BIDDING EXCEPTION FOR CERTAIN IMPROVEMENTS. Any competitive bidding requirement or restriction on a local government that created a local government corporation does not apply to an expenditure by the local government corporation for:

(1) an improvement:

(A) that is constructed in a reinvestment zone; and

(B) the construction of which is managed by a private venture participant; or

(2) an improvement constructed by the corporation for which more than 50 percent of the construction is funded by a private entity.

Added by Acts 2007, 80th Leg., R.S., Ch. 1213 (H.B. 1886), Sec. 16, eff. September 1, 2007.

SUBCHAPTER E. AMENDMENT OR RESTATEMENT OF ARTICLES OF INCORPORATION

Sec. 431.141. AMENDMENT. The articles of incorporation of a corporation created under this chapter may be amended only as provided by this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.142. AMENDMENT BY BOARD OF DIRECTORS. (a) The board at any time may file with the commission a written application requesting that the commission approve an amendment to the articles of incorporation.

(b) The application must specify the proposed amendment.

(c) The board shall amend the articles if the commission by resolution:

- (1) determines that it is advisable to adopt the proposed amendment;
- (2) authorizes the adoption of the amendment; and
- (3) approves the form of the amendment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.143. AMENDMENT BY COMMISSION. The commission, at its sole discretion, may amend the articles of incorporation at any time by:

- (1) adopting the amendment by resolution; and
- (2) delivering the articles of amendment to the secretary of state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.144. CONTENTS OF ARTICLES OF AMENDMENT. The articles of amendment must:

- (1) state the name of the corporation;
- (2) if the amendment alters a provision of the articles of incorporation, identify by reference or describe the altered provision and include its text as it is amended;
- (3) if the amendment is an addition to the articles of incorporation, state that fact and include the text of each provision added; and
- (4) state that the amendment was adopted or was approved by the commission and give the date the commission adopted or approved the amendment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.145. EXECUTION AND VERIFICATION OF ARTICLES OF AMENDMENT. (a) Articles of amendment adopted by the board shall be executed by:

- (1) the president or vice-president of the corporation;

and

(2) the secretary or assistant secretary of the corporation.

(b) Articles of amendment adopted by the commission shall be executed by:

- (1) the presiding officer of the commission; and
- (2) the secretary or clerk of the commission.

(c) One of the officers signing the articles shall verify each of the articles of amendment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.146. DELIVERY AND FILING OF ARTICLES OF AMENDMENT.

(a) Three originals of the articles of amendment shall be delivered to the secretary of state.

(b) The secretary of state shall determine whether the articles of amendment conform to this chapter. On determination that the articles conform to this chapter and on receipt of a \$25 fee, the secretary of state shall:

- (1) endorse on each original the word "filed" and the date of the filing;
- (2) file one of the originals in the secretary's office;
- (3) issue two certificates of amendment;
- (4) attach to each certificate one of the originals; and
- (5) deliver a certificate of amendment and the attached articles of amendment to:

- (A) the corporation or its representative; and
- (B) the commission.

(c) On the issuance of the certificate of amendment, the amendment is effective and the articles of incorporation are amended accordingly.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.147. SUITS NOT AFFECTED. (a) An amendment to the articles of incorporation does not affect:

- (1) any existing cause of action in favor of or against the corporation;
- (2) any pending suit to which the corporation is a party;

or

(3) the existing rights of any person.

(b) If an amendment to the articles of incorporation changes the name of the corporation, a suit brought by or against the corporation under its former name does not abate for that reason.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.148. RESTATEMENT OF ARTICLES. A corporation, by following the procedure to amend the articles of incorporation in this subchapter, including obtaining the approval of the commission, may authorize, execute, and file restated articles of incorporation as provided by this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.149. RESTATEMENT WITHOUT ADDITIONAL AMENDMENT. (a) A corporation may, without making any additional amendment, restate the entire text of the articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the secretary of state.

(b) The introductory paragraph of a restatement under this section must contain a statement that the restatement:

(1) accurately copies the articles of incorporation and all amendments to the articles that are in effect; and

(2) does not contain any additional amendments to the articles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.150. RESTATEMENT WITH ADDITIONAL AMENDMENT. (a) A corporation may:

(1) restate the entire text of the articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the secretary of state; and

(2) as part of the restatement, make additional amendments to the articles.

(b) A restatement under this section must:

(1) state that any additional amendment to the articles of incorporation conforms to this chapter;

(2) contain any statement required by this subchapter for articles of amendment except that the full text of any additional amendment is not required to be presented other than in the restatement itself;

(3) contain a statement that:

(A) the restatement is an accurate copy of the articles of incorporation and all amendments to the articles that are in effect and all additional amendments made to the articles; and

(B) the restatement does not contain any other change; and

(4) restate the text of the entire articles of incorporation as amended or supplemented by all certificates of amendment previously issued by the secretary of state and as additionally amended by the restated articles of incorporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.151. CHANGE IN BOARD INFORMATION NOT AMENDMENT. For the purposes of Sections 431.149 and 431.150, substituting in the restated articles of incorporation the number, names, and addresses of the directors for the initial board or omitting the name and address of each incorporator is not an amendment or change in the articles of incorporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.152. EXECUTION AND VERIFICATION OF RESTATEMENT OF ARTICLES. (a) Originals of the restated articles of incorporation shall be executed by:

(1) the president or vice-president of the corporation; and

(2) the secretary or assistant secretary of the corporation.

(b) One of the officers signing the restated articles shall verify each of the restated articles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.153. DELIVERY AND FILING OF RESTATEMENT OF ARTICLES.

(a) Three originals of the restated articles of incorporation shall be delivered to the secretary of state.

(b) The secretary of state shall determine whether the restated articles conform to this chapter. On a determination that the restated articles conform to law and on receipt of a \$50 fee, the secretary of state shall:

- (1) endorse on each original the word "filed" and the date of the filing;
- (2) file one of the originals in the secretary's office;
- (3) issue two restated certificates of incorporation;
- (4) attach to each certificate one of the original restated articles; and
- (5) deliver a restated certificate of incorporation and the attached restated articles to:
 - (A) the corporation or its representative; and
 - (B) the governing body of the entity that created the corporation.

(c) On the issuance of the restated certificate of incorporation, the original articles of incorporation and all amendments to the original articles are superseded. The restated articles of incorporation become the articles of incorporation of the corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. ALTERATION OR DISSOLUTION OF CORPORATION

Sec. 431.181. ALTERATION OR DISSOLUTION BY COMMISSION. (a) At any time the commission in its sole discretion may:

- (1) alter the structure, organization, programs, or activities of a corporation; or
- (2) dissolve a corporation.

(b) The authority of the commission under this section is limited only by:

- (1) any law of this state prohibiting the impairment of a contract entered into by a corporation; and
- (2) any provision of this subchapter relating to alteration

or dissolution.

(c) The commission must make an alteration or dissolution under this section by a written resolution.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.182. DISSOLUTION BY BOARD ON COMPLETION OF PURPOSE.

The board, with the approval by written resolution of the commission, shall dissolve the corporation as provided by this subchapter if the board by resolution determines that:

(1) the purposes for which the corporation was formed have been substantially fulfilled; and

(2) all obligations of the corporation have been fully paid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.183. EXECUTION OF ARTICLES OF DISSOLUTION. Articles of dissolution shall be executed by:

(1) the president or vice-president of the corporation and the secretary or assistant secretary of the corporation; or

(2) any two members of the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.184. DELIVERY AND FILING OF ARTICLES OF DISSOLUTION.

(a) Three originals of the articles of dissolution shall be delivered to the secretary of state.

(b) The secretary of state shall determine whether the articles of dissolution conform to this chapter. On a determination that the articles conform and on receipt of a \$50 fee, the secretary of state shall:

(1) endorse on each original the word "filed" and the date of the filing;

(2) file one of the originals in the secretary's office;

(3) issue two certificates of dissolution;

(4) attach to each certificate an original of the articles of dissolution; and

(5) deliver a certificate and the attached articles of dissolution to:

- (A) the representative of the dissolved corporation;
- and
- (B) the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.185. EFFECT OF ISSUANCE OF CERTIFICATE OF DISSOLUTION. The corporate existence ends on the issuance of the certificate of dissolution except for:

- (1) the purpose of any ongoing suit or other proceeding;
- and
- (2) corporate action by a director or officer under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 431.186. ASSETS ON DISSOLUTION. On dissolution or liquidation of a corporation, the title to all assets, including funds and property, shall be transferred to the commission unless the corporation is a local government corporation, in which case the title shall be transferred to the local governments that created the corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBTITLE J. ROAD UTILITY DISTRICTS
CHAPTER 441. ROAD UTILITY DISTRICTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 441.001. DEFINITIONS. In this chapter:

- (1) "Approval statement" means a statement that a governmental entity issues to a petitioner under Section 441.015.
- (2) "Bonds" includes notes, warrants, or other evidence of indebtedness.
- (3) "District" means a road utility district.
- (4) "Governmental entity" means a municipality, a county, or the department.

(5) "Road" means a graveled or paved road or turnpike that serves or is intended to serve as an arterial or main feeder road under standards the commission prescribes.

(6) "Road facility" means:

(A) a road constructed, acquired, or improved by a district; or

(B) property, an easement, or works constructed, acquired, or improved by a district and necessary or appropriate for or in aid of the improvement of a river, creek, or stream to prevent overflow or the construction and maintenance of a pool, lake, reservoir, dam, canal, or waterway for the purpose of drainage, if the property, easement, or works is related to or in furtherance of the construction, acquisition, or improvement of a road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.002. COMMISSION RULES. The commission may adopt rules to implement this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. CREATION OF DISTRICT

Sec. 441.011. CREATION; PURPOSE. A district may be created under Section 52, Article III, Texas Constitution, to construct, acquire, improve, and provide financing for a road facility as provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.012. TERRITORY. A district may contain all or part of one or more counties.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.013. SUBMISSION OF PRELIMINARY PLAN. Before submitting a petition to create a district under Section 441.018, a person must submit a preliminary plan for each road facility the

district is to construct, acquire, or improve to each governmental entity to which the road facility is to be conveyed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.014. REVIEW OF PRELIMINARY PLAN. (a) Not later than the 120th day and not earlier than the 90th day after the date a preliminary plan is submitted under Section 441.013, the governmental entity shall determine whether:

(1) the plan meets the governmental entity's requirements; and

(2) to approve the plan and accept the conveyance of the road facilities as provided by this chapter.

(b) The governmental entity shall consult with the person submitting the plan and, with that person's agreement, make changes necessary to make the plan comply with the governmental entity's requirements. The governmental entity's requirements may include specific designations of the characters of title to be required on conveyance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.015. GRANTING OR DENYING APPROVAL OF PRELIMINARY PLAN.

(a) The governing body of a governmental entity that approves a preliminary plan and is willing to accept conveyance of the road facilities on acquisition or completion of construction or improvement shall:

(1) issue an order approving the plan; and

(2) give the person who submitted the plan a written approval statement.

(b) An approval statement must state that the governmental entity approves the preliminary plan and will accept conveyance of the road facilities on acquisition or on completion of construction or improvement.

(c) If the governmental entity does not approve the plan and is not willing to accept a conveyance of the road facilities, the governing body of the governmental entity shall issue an order denying approval of the preliminary plan and refusing conveyance of the road facilities.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.016. APPROVAL OF MULTIPLE GOVERNMENTAL ENTITIES. (a) If road facilities constructed, acquired, or improved by a district are to be conveyed to more than one governmental entity, each governmental entity must:

- (1) approve the plans for the road facilities to be conveyed to it; and
- (2) issue an approval statement for those road facilities.

(b) The procedures in this chapter relating to approval and conveyance of a road facility to a governmental entity apply to each governmental entity to which a road facility is to be conveyed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.017. APPROVAL OF PRELIMINARY PLAN FOR ROAD FACILITY IN MUNICIPALITY OR MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION. (a) This section applies only to a district that:

- (1) is located in whole or part in a municipality or the extraterritorial jurisdiction of a municipality; and
- (2) constructs, acquires, or improves a road facility that is to be:

(A) located in a municipality or a municipality's extraterritorial jurisdiction; and

(B) conveyed to the county under Section 441.133.

(b) A county may not approve a preliminary plan or issue an approval statement for a road facility to which this section applies unless the person who seeks the approval agrees in writing to comply with the municipality's requirements for construction, acquisition, or improvement of a road facility in the municipality or the municipality's extraterritorial jurisdiction. The county shall consult the municipality to ensure that the preliminary plan complies with those requirements.

(c) Not later than the 55th day after the date the plan is filed with the county, a municipality must complete its review of the plan and issue to the county and the person who submitted the plan a written statement approving the plan as complying with the municipality's requirements. Except as provided by Subsection (d):

(1) the county may not issue an approval statement under Section 441.015 until it receives the written statement from each municipality; and

(2) the person petitioning for creation of the district must submit the municipality's written statement in addition to other required documents.

(d) If a municipality does not timely file its statement with the county:

(1) the municipality waives its right to review and approve the plan;

(2) the county may issue the approval statement without the municipality's statement;

(3) the person who submitted the plan may petition for creation of the district without the municipality's statement; and

(4) the county shall issue to the person who submitted the plan a letter explaining that the municipality's statement was not timely filed, and the person shall submit the letter with the petition to the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.018. PETITION REQUIRED. To create a district a person must file with the commission a petition requesting creation of the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.019. CONTENTS OF PETITION. (a) The petition must include:

(1) the district's name;

(2) the name of each county in which the district will be located;

(3) a description of the district's boundaries;

(4) each petitioner's name;

(5) a statement that the petitioners hold title to all real property in the district, as shown on county tax rolls;

(6) the names of suggested temporary directors;

(7) a brief description of any road facility that the district is to construct, acquire, or improve;

(8) the amount of bonds estimated to be necessary to finance the proposed construction, acquisition, or improvement;

(9) the current appraised value of all real property in the district;

(10) the name of each governmental entity to which the district will convey a road facility; and

(11) other information that the commission considers necessary.

(b) The petition must be signed by the persons holding title to all real property in the district, as shown on county tax rolls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.020. FILING OF PRELIMINARY PLAN AND APPROVAL STATEMENT. (a) The petition must be accompanied by a copy of:

(1) the preliminary plan for any road facility the district is to construct, acquire, and improve; and

(2) each required approval statement.

(b) The commission may not consider a petition or approve a district unless each required approval statement for the district is filed with the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.021. PETITION FEE. (a) The petition must be accompanied by a reasonable fee in an amount determined by the commission not to exceed \$5,000. The commission may not refund the fee or any part of the fee.

(b) The commission shall use the fee to pay costs of processing the petition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.022. HEARING REQUIRED. (a) As soon as practicable after the petition, preliminary plan, and each required approval statement is filed with the commission, the commission shall call and hold a hearing on the petition and preliminary plan.

(b) The hearing may be in Travis County or in a county in which

all or part of the district is to be located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.023. NOTICE OF HEARING. (a) In addition to the notice requirements of Chapter 2001, Government Code, and not later than the 10th day before the date of the hearing, the commission shall give written notice of the hearing to:

(1) the commissioners court of each county in which all or part of the district is to be located; and

(2) the governing body of each municipality in which or in the extraterritorial jurisdiction of which the district is to be located.

(b) Once a week for two consecutive weeks the commission shall publish notice of the hearing in a newspaper of general circulation in each county in which the district is to be located. The first publication must be not later than 30 days before the date of the hearing.

(c) Not later than 30 days before the date of the hearing, the commission shall mail notice of the hearing by first class mail to each owner of real property to be included in the district, as shown on the county tax rolls.

(d) A county, municipality, or property owner receiving notice under Subsection (a) or (c) may appear at the hearing through an official representative or in person and may present testimony and evidence relating to the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.024. GRANTING OR DENYING PETITION. As soon as practicable after conclusion of the hearing, the commission shall adopt an order:

(1) granting the creation of the district and approving the plan; or

(2) denying the petition and disapproving the plan.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.025. GROUND REQUIREING GRANTING OF PETITION. The commission shall grant the creation of the district and approve the plan if it finds that:

- (1) the creation of the district will benefit the real property in the district;
- (2) each proposed road facility is feasible, practicable, and necessary and will benefit the district and the real property in the district;
- (3) each governmental entity to which a road facility is to be conveyed has approved the preliminary plan for the road facility;
- (4) the person seeking approval has agreed in writing to comply with the requirements of each municipality in which or extraterritorial jurisdiction of which a road facility is to be located, if the road facility is to be conveyed to a county;
- (5) each governmental entity to which a road facility is to be conveyed has agreed, by issuing an approval statement, to accept the conveyance; and
- (6) the district will be financially able to issue and pay its bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.026. GROUND REQUIREING DENIAL OF PETITION. The commission shall refuse to authorize creation of the district if the commission:

- (1) finds that creation of the district will benefit none of the real property to be included in the district; or
- (2) is unable to make any of the findings listed in Sections 441.025(2)-(6).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.027. OTHER CONSIDERATIONS IN GRANTING OR DENYING PETITION. Before the commission adopts an order under Section 441.024, it may:

- (1) consult with each governmental entity that has submitted an approval statement regarding suggested changes in the plan;
- (2) suggest or direct that the petitioners change the plan

for a district road facility, including deleting a road facility, so as to make the plan acceptable to the commission; and

(3) consider the environmental effects of the proposals in the preliminary plan.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.028. ADJUSTMENT OF BOUNDARIES. If the commission finds that not all of the real property proposed to be included in the district will be benefitted by the creation of the district, the commission shall:

(1) make a finding on the lack of benefit;

(2) exclude from the district real property that will not be benefitted by creation of the district; and

(3) redefine the proposed district's boundaries according to the commission's changes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.029. TEMPORARY DIRECTORS. (a) If the commission authorizes the creation of the district, it shall appoint five persons from those suggested in the petition to serve as temporary directors of the district. Not later than the 10th day after the date of appointment, a temporary director shall take the oath of office.

(b) Temporary directors serve until the directors are elected and have qualified for office.

(c) If a person appointed by the commission fails to qualify or if a vacancy occurs in the office of temporary director, the commission shall appoint another person to serve as temporary director.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.030. CONFIRMATION ELECTION. (a) Not later than the 15th day after the date that all temporary directors have been appointed and have qualified, the temporary directors shall meet and order an election in the boundaries of the proposed district to

confirm the creation of the district and elect the directors of the district.

(b) Section 41.001, Election Code, does not apply to an election under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.031. NOTICE OF CONFIRMATION ELECTION. (a) Not later than the 36th day before the date of the confirmation election, the temporary directors shall publish notice of the election once in one or more newspapers of general circulation in the proposed district.

(b) The notice must state:

- (1) the date and places for holding the election;
- (2) the proposition to be voted on; and
- (3) the candidates for director.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.032. BALLOT FOR CONFIRMATION ELECTION. (a) To have a person's name printed on the ballot as a candidate for director, the person must file a petition with the temporary directors not later than the 31st day before the date of the election.

(b) The ballot for the election shall be printed to provide for voting for or against the creation of the district and include the names of the persons who have filed as candidates for director.

(c) A voter is entitled to vote for five candidates for director.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.033. CANVASS. The temporary directors shall canvass the returns and declare the results.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.034. EFFECT OF CONFIRMATION ELECTION. (a) If the majority of the votes received in the election favor creation of the

district, the temporary directors shall declare the district created. If the majority of the votes received in the election are against the creation of the district, the temporary directors shall declare the district defeated. The temporary directors shall enter the results in their minutes and file a copy of the results with the commission.

(b) If the district is created, the temporary directors shall declare the five candidates who received the highest number of votes to be elected as the directors of the district. If two or more candidates tie for the fifth highest number of votes, the temporary directors shall select the fifth director by lot from those tying for that position.

(c) The two directors elected with the fewest votes serve until the qualification of two directors elected at the next regular directors' election. The three other directors serve until the qualification of three directors elected at the second regular directors' election.

(d) If the district is defeated, another election may not be held to create the district, except that owners of the real property in the proposed district may petition the commission again for creation of a district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.035. INCLUDING BOND PROPOSITION AT ELECTION. (a) At the election, the temporary directors may include a separate ballot proposition to approve the issuance by the district of bonds payable from ad valorem taxes.

(b) If a bond proposition is to be included, the election notice under Section 441.031 must state the bond proposition.

(c) The bond proposition shall be printed to provide for voting for or against the issuance of bonds and the imposition of ad valorem taxes for payment of the bonds.

(d) The temporary directors shall file a copy of the bond election results in their records and with the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. GOVERNANCE

Sec. 441.071. BOARD OF DIRECTORS. Except as provided by

Section 441.072, a district is governed by a board of directors composed of five members elected as provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.072. BOARD OF DIRECTORS IN CERTAIN DISTRICTS. (a) The governing body of a governmental entity to which a road facility has been conveyed under Section 441.133 is the ex officio board of directors of the district making the transfer if:

(1) all district road facilities are conveyed only to that governmental entity;

(2) all construction, acquisition, and improvement of road facilities provided for in the plan approved by the commission have been completed;

(3) the board of directors consents to the transfer of powers and duties to the governing body of the governmental entity;

(4) the governing body of the governmental entity consents to assuming the administrative powers and duties of the district; and

(5) the commission approves the transfer of the powers and duties.

(b) On the effective date of the transfer of the powers and duties, the board of directors from whom the transfer is made is dissolved. On and after that date the administrative powers and duties transferred are the powers and duties of the governing body of the governmental entity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.073. ELECTION OF DIRECTORS. (a) In each year on a uniform election date as provided by Chapter 41, Election Code, an election shall be held in the district to elect the appropriate number of directors.

(b) To have a person's name printed on the ballot at a directors' election as a candidate for director, the person must file a petition with the secretary of the district not later than the 36th day before the date of the election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.074. TERM; TAKING OFFICE. (a) A director serves a two-year term.

(b) A director takes office at the first regular meeting of the board after the director's election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.075. COMPENSATION. A director is entitled to receive for the director's services:

(1) not more than \$25 a day for each meeting of the board that the director attends; and

(2) reimbursement for expenses incurred while engaged in the director's duties for the district as approved by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.076. VACANCY. A vacancy on the board shall be filled for the unexpired term by a person appointed by the remaining directors.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.077. OFFICERS. (a) After each directors' election, the board shall hold a regular meeting at a district office and elect from the directors a presiding officer, assistant presiding officer, secretary, and treasurer. A person elected under this subsection serves until the first regular board meeting following the next directors' election, and shall perform the duties and may exercise the powers specifically provided by this chapter or the board's orders.

(b) The presiding officer shall preside over board meetings. If the presiding officer is absent, the assistant presiding officer shall preside.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.078. GENERAL MANAGER. The board may employ a general manager and delegate to the general manager full authority to manage and operate the affairs of the district, subject only to board orders. The general manager is the chief administrative officer of the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.079. OTHER OFFICERS. The board may appoint or employ an engineer, attorney, or accountant. A person appointed or employed under this section is entitled to compensation provided by the district's budget.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.080. PERSONNEL. (a) The board or the general manager, if the district has a general manager, may:

(1) employ persons necessary to carry out the business and operation of the district; and

(2) employ or contract with personnel necessary to carry out this chapter.

(b) The board shall determine the employees' terms of employment and compensation.

(c) A majority of the members of the board or the general manager, if the district has a general manager, may dismiss an employee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.081. OFFICER'S, EMPLOYEE'S, OR CONTRACTOR'S BOND. (a) The board shall require each officer, employee, or person under contract to the district who collects, pays, or handles district money to furnish a bond.

(b) The bond must be:

(1) payable to the district;

(2) for an amount sufficient to protect the district from financial loss resulting from the person's actions; and

(3) conditioned on the faithful performance of the person's

duties and on accounting for all district money and other property under the person's control.

(c) The district shall pay for the bond.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.082. MEETINGS. (a) The board shall hold regular meetings on dates established by board order.

(b) The board may hold special meetings at the call of the presiding officer or on request of three members of the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.083. VOTE REQUIRED FOR ACTION. An action of the board requires the affirmative vote of a majority of the board members.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.084. RECORDS. The district shall keep a complete written account of all of its proceedings and securely maintain district records.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.085. OFFICE. The board shall maintain one or more offices for conducting district business.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.086. SEAL. The board shall adopt a seal for the district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. POWERS AND DUTIES

Sec. 441.101. GENERAL POWERS AND DUTIES. (a) A district may:

(1) acquire a road facility, acquire property for a road facility, and construct or improve a road facility, inside or outside district boundaries, as provided by this chapter;

(2) provide financing for a road facility or for construction, acquisition, or improvement of a road facility from money available to the district under this chapter;

(3) advise any person and consult, cooperate, or enter an agreement with any person;

(4) apply for, accept, receive, and administer a gift, grant, loan, or money available from any source;

(5) reimburse a private entity for money spent to construct a road or improvement that has been or will be dedicated or otherwise transferred to public use, or purchase a road or improvement constructed by a private entity, regardless of whether the construction occurs before or after the creation of the district; and

(6) exercise other powers and duties to accomplish the purposes for which the district was created.

(b) The board may contract with any person to carry out the powers and duties under this chapter. The board shall execute the contract in the name of the district.

(c) The district may assume a contract or other obligation of a previous owner of a road facility or property acquired by the district and perform the contract or obligation in the same manner as any other purchaser or assignee, if the contract or obligation was created as provided by the competitive bidding requirements of Subchapter B, Chapter 271, Local Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.102. RULES. After notice and hearing, the board shall adopt rules to carry out this chapter, including rules providing procedures for giving notice and holding hearings before the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.103. SUIT AND JUDGMENT. (a) A district, through its board and in the name of the district, may sue and be sued in a state court. Process in a suit may be served on the presiding officer of

the board.

(b) A state court shall take judicial notice of the creation of the board.

(c) A state court that renders a money judgment against a district may require the board to pay the judgment from money in the district depository that is not dedicated to the payment of district indebtedness.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. ROAD FACILITIES

Sec. 441.111. CONSTRUCTION, ACQUISITION, OR IMPROVEMENT OF ROAD FACILITY. (a) A district shall construct, acquire, and improve a road facility included in the plan the commission approves so that the road facility meets the requirements of the plan.

(b) A district may not construct, acquire, or improve a road facility outside the district boundaries unless:

(1) the district presents to the commission sufficient evidence that the construction, acquisition, or improvement is of benefit to the district; and

(2) the commission and the governmental entity to which the road facility is to be conveyed approve the construction, acquisition, or improvement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.112. PROGRESS PAYMENTS. A contract of the district for the construction or improvement of a road facility may include a procedure for paying for the construction or improvement as work progresses.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.113. JOINT PROJECT. (a) A district contract with a state agency, a political subdivision, or a corporation created by the commission under Chapter 431 may:

(1) provide for joint payment of the costs of a project; and

(2) require the state agency, political subdivision, or corporation to design, construct, or improve, including landscape, a project as provided by the contract.

(b) The district may issue bonds to pay all or part of the costs of the project and any other payments required under the contract.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.114. COMPETITIVE BIDS. A district may enter a construction or improvement contract requiring an expenditure of more than \$15,000 only after competitive bidding as provided by Subchapter B, Chapter 271, Local Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.115. CONTRACTOR BOND. A contractor shall execute a bond for the amount of the contract price. The bond must be payable to and approved by the board and conditioned on:

- (1) faithful performance of the contract obligations; and
- (2) payment to the district of damages resulting from any default.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.116. CHANGES TO ROAD FACILITIES. (a) Before a road facility is conveyed to a governmental entity, a district may make a change to the road facility that is not included in the plan approved by the commission if:

- (1) the board determines that the change is necessary to:
 - (A) comply with the requirements of the governmental entity to which the road facility is to be conveyed;
 - (B) comply with the requirements of each municipality in which or extraterritorial jurisdiction of which the road facility is to be located, if the road facility is to be conveyed to a county;
 - (C) provide an adequate and efficient road system for travelers in the district; or
 - (D) adjust to circumstances or requirements that did

not exist when the commission approved the original plan; and

(2) the commission approves the change in writing.

(b) Before approving the change, the commission shall consult the governmental entity to which the road facility is to be conveyed regarding the proposed change.

(c) Before making a change, a district to which Section 441.017 applies must receive written permission from the governmental entity assuming maintenance and any municipality in the extraterritorial jurisdiction of which the district is located.

(d) The commission shall adopt rules of procedure for:

(1) filing a request for a change; and

(2) approving a change.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.117. MONITORING WORK. (a) The board controls the construction, acquisition, and improvement of a district road facility until it is conveyed under Section 441.133. The board shall monitor a contractor's work as it is performed on the road facility and shall immediately act as necessary to ensure compliance with the contract. The board may use inspectors, engineers, or other district personnel as monitors.

(b) The board shall adopt a procedure for periodic reporting by the monitors.

(c) On completion of construction, acquisition, or improvement of the road facility, the monitors shall submit a written report to the board and the governmental entity to which the road facility is to be conveyed. The report must show whether the road facility complies with:

(1) the district's plan approved by the commission;

(2) the contract; and

(3) the requirements of the governmental entity to which the road facility is to be conveyed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER G. CONVEYANCE OF ROAD FACILITY

Sec. 441.131. HEARING ON FINAL APPROVAL. (a) After receiving the report under Section 441.117(c), the board shall give notice of

and hold a public hearing to determine whether a road facility:

(1) is complete as required by the district's plans and the contract; and

(2) should be conveyed to the governmental entity.

(b) At the hearing, the board may require the presentation of additional information or testimony necessary to make a determination.

(c) A representative of the governing body of the governmental entity to which the road facility is to be conveyed may present information and testimony that the governmental entity considers necessary.

(d) If the road facility is to be conveyed to a county, a representative of any municipality in which or extraterritorial jurisdiction of which the road facility is located may present information and testimony that the municipality considers necessary.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.132. DECISION ON APPROVAL. (a) If the board determines at the end of a hearing under Section 441.131 that the work on the road facility is complete and the road facility should be conveyed to the governmental entity, the board shall order the conveyance subject to the requirements of this chapter. The board shall file with the commission a copy of the order and the proposed conveyance instrument.

(b) If the board determines that the work on the road facility has not been completed satisfactorily, the board shall act as necessary to complete the road facility as required by the district's plans and the contract. The district shall follow the procedures and requirements of Sections 441.117 and 441.131 before conveying the road facility to the governmental entity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.133. CONVEYANCE REQUIRED. (a) A district shall convey a road facility to the governmental entity designated in the district's petition to the commission on completion and approval by the board of the construction, acquisition, or improvement and on approval by the commission.

(b) The district shall convey the road facility free and clear of district indebtedness and may not convey a road that is encumbered.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.134. COMMISSION CONVEYANCE ORDER. (a) Except as provided by Subsections (b) and (c), the commission by order shall authorize the conveyance of a road facility to a governmental entity not later than the 15th day after the date that it receives a board's order to convey.

(b) The commission by order shall delay the conveyance until the district complies with the plans and written commission approvals if:

(1) the commission considers the road facility not to be completed according to the plans and written commission approvals;

(2) the governmental entity to which the road facility is being conveyed files a written protest; or

(3) a municipality in which or extraterritorial jurisdiction of which the road facility is located, if the road facility is being transferred to a county, files a written protest.

(c) An order under Subsection (b) must be issued not later than the 15th day after the later of the date that the commission receives the board's conveyance order or the date a protest is filed.

(d) The commission is not required to hold a hearing before making an order under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.135. TRANSFER OF OWNERSHIP AND RESPONSIBILITY. (a) The governmental entity to which a road facility is conveyed is the owner of and has jurisdiction and sole control over the road facility.

(b) After the conveyance, the governmental entity is responsible for all maintenance of the road facility and the district is not responsible for the road facility or its maintenance.

(c) This section does not affect the governmental entity's authority to alter, relocate, close, or discontinue maintenance of the road facility as provided by law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.136. EFFECT OF CONVEYANCE ON INDEBTEDNESS. Conveyance of a road facility to a governmental entity under this subchapter does not affect:

(1) the sole responsibility of the district to pay in full the principal of and interest and any premium on any outstanding district bonds or other indebtedness; or

(2) the district's responsibility to perform the obligations provided by the orders or resolutions authorizing the bonds or other indebtedness.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.137. PARTIAL CONVEYANCE. This chapter does not prevent conveyance of part of the road facilities that a district constructs in stages.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER H. FINANCIAL PROVISIONS

Sec. 441.151. FISCAL YEAR. (a) The board shall establish a fiscal year for the district.

(b) The board may not change the fiscal year more than once in a 24-month period.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.152. BUDGET. (a) The board shall prepare and approve an annual budget.

(b) The budget must contain a complete financial statement, including a statement of:

(1) the outstanding obligations of the district;

(2) the amount of cash credited to each district fund;

(3) the amount of money the district received from all sources during the previous year;

(4) the amount of money available to the district from all

sources during the ensuing year;

(5) the balances expected at the end of the year in which the budget is being prepared;

(6) the estimated revenue and balances available to cover the proposed budget; and

(7) the estimated tax rate that will be required.

(c) The board may amend the budget after adoption.

(d) Money may not be spent for an expense not included in the budget or an amendment to it unless the board by order declares the expense to be necessary.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.153. AUDIT. The board shall have an annual audit made of the district's financial condition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.154. DEPOSITORY. (a) The board shall name one or more banks to serve as depository for district money.

(b) The district shall deposit money, other than money transmitted to a bank of payment for district bonds, with the depository bank as received. The money shall remain on deposit, except that this section does not limit the board's power to invest district money as provided by Section 441.156.

(c) The district may not deposit money in a bank in an amount that exceeds the maximum amount secured by the Federal Deposit Insurance Corporation unless the bank executes a bond or provides other security in an amount sufficient to secure from loss district money that exceeds the amount secured by the Federal Deposit Insurance Corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.155. PAYMENT OF EXPENSES. (a) The district's directors may pay:

(1) costs and expenses necessarily incurred in the district's creation, organization, and operation;

- (2) legal fees; and
- (3) other incidental expenses.

(b) The district's directors may reimburse a person for money advanced for a purpose under Subsection (a).

(c) A payment may be made from the proceeds of district bonds, taxes, fees, or other district revenue.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.156. AUTHORIZED INVESTMENTS. (a) The board may invest the district's money in:

- (1) a direct obligation of or obligation guaranteed directly or indirectly by the United States;
- (2) an obligation, debenture, note, or other evidence of indebtedness issued or guaranteed directly or indirectly by the Association for Cooperatives, Federal Home Loan Association System, Export-Import Association of the United States, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Farmers' Home Administration, Tennessee Valley Authority, Farm Credit System, or Government National Mortgage Association, or by successor agencies;
- (3) an obligation issued by a public agency or municipality and fully secured as to the payment of principal and interest by a pledge of annual contributions under an annual contributions contract with the United States;
- (4) a temporary note, preliminary loan note, or project note issued by a public agency or municipality that is fully secured as to the payment of principal and interest by a requisition or payment agreement with the United States;
- (5) a direct or general obligation of or obligation guaranteed by this state if the payment of the principal and interest is a general obligation of this state;
- (6) a demand deposit or interest-bearing time deposit, certificate of deposit, or other similar banking arrangement that is made with a member of the Federal Deposit Insurance Corporation, if the deposit, to the extent not insured to its full amount, is fully secured by obligations of the types specified by Subdivision (1), (2), (3), (4), (5), (9), or (10) that have a fair market value at least equal at all times to the amount of the deposit;

(7) a repurchase agreement with a bank that is a member of the Federal Deposit Insurance Corporation or with a member of the Public Securities Association, if the underlying securities are of the type described by Subdivision (1) or (2) and each is fully secured at all times by obligations of the same type that have a fair market value, including accrued interest, at least equal to the amount of the repurchase agreement including accrued interest;

(8) an interest-bearing time deposit or repurchase agreement with an agency or intermediary of the United States and that is described by Subdivision (1) or (2);

(9) an obligation of this state, another state of the United States, a nonprofit corporation, or an instrumentality of this state, another state, or a nonprofit corporation, if at the time of its purchase under the indenture, the obligation is rated in one of the two highest letter-rating categories by a nationally recognized securities credit rating agency; and

(10) an obligation issued by a political subdivision of this state, another state of the United States, a nonprofit corporation, or an instrumentality of this state, another state, or a nonprofit corporation, that is rated in one of the two highest letter-rating categories by a nationally recognized securities credit rating agency.

(b) The board may place the district's money in a certificate of deposit of a state or national bank or state or federal savings and loan association in this state if the money is secured in the manner required for security of the money of a county of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.157. INVESTMENT REPRESENTATIVE. The board by resolution may provide that an authorized representative of the district may invest the district's money and provide for money to be withdrawn from the appropriate accounts of the district for investment on terms the board considers advisable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.158. BORROWING MONEY. The district may borrow money for any purpose authorized under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER I. BONDS

Sec. 441.171. ISSUANCE OF BONDS. The board may issue and sell bonds in the name of the district to construct, acquire, or improve district road facilities as provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.172. TAX BOND ELECTION. (a) The district may not issue bonds secured by taxes unless the issuance of the bonds is approved at an election ordered by the board within the district boundaries for that purpose.

(b) The district may issue bonds not secured by taxes without an election.

(c) In addition to the requirements of the Election Code, the order shall state:

- (1) the nature of the election;
- (2) the hours during which polls will be open;
- (3) the location of polling places;
- (4) the amount of the bonds to be authorized; and
- (5) the maximum maturity of the bonds.

(d) Notice of the election must be given as provided by Section 441.031 for a confirmation and directors' election.

(e) The ballot at the election must be printed to provide for voting for or against the issuance of the bonds and the imposition of ad valorem taxes for payment of the bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.173. FORM AND PROVISIONS OF BONDS. (a) The district may issue the bonds in various series or issues. The bonds may mature serially or otherwise not more than 50 years after their date. The bonds may be made redeemable before maturity at the option of the district or may contain a mandatory redemption provision.

(b) An order or resolution of the board authorizing the issuance of the bonds, including refunding bonds, may:

- (1) provide for the management of money;

(2) provide for the establishment and maintenance of an interest and sinking fund, a reserve fund, and other funds;

(3) prohibit further issuance of bonds or other obligations payable from pledged fees or reserve the right to issue additional bonds secured by a pledge of and payable from the fees on a parity with or subordinate to the pledge in support of the bonds being issued; and

(4) contain other covenants and provisions as the board determines.

(c) The board may adopt and have executed other proceedings or instruments necessary and convenient in connection with the issuance of bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.174. EXAMINATION. District bonds and the records relating to their issuance shall be submitted to the attorney general for examination.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.175. REFUNDING BONDS. The district may issue refunding bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.176. TAX EXEMPTION. District bonds, a transaction relating to the bonds, and a profit made in the sale of the bonds are exempt from state or local taxation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.177. BONDHOLDER MANDAMUS. A holder of a district bond is entitled, in addition to any other right or remedy provided by state law, to a writ of mandamus requiring the district and its officials to perform any obligation that:

(1) is provided by the order or resolution authorizing

issuance of the bond; and

(2) the district fails to perform, including:

(A) defaulting in the payment of principal, interest, or redemption price on the bond when due; and

(B) failing to make payment into any fund created in the order or resolution.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.178. USE OF BOND PROCEEDS. The district may use bond proceeds to:

(1) construct, acquire, or improve a road facility;

(2) pay an expense related to the road facility;

(3) pay, or establish a reasonable reserve to pay, not more than three years' interest on the district's bonds; and

(4) pay an expense related to issuance and sale of bonds as provided by the bond orders or resolutions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.179. DISPOSITION OF PROCEEDS. The district shall deposit the part of the purchase money of bonds that represents capitalized interest in a special account in the district depository and use that money to pay interest that comes due on bonds. Money remaining in that account after payment of the costs of issuance of the bonds shall be transferred to the credit of the regular account of the district in the district depository.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.180. MANNER OF REPAYMENT. (a) The board may provide for the payment of the principal of and interest on the bonds by one or more of the following methods:

(1) imposition and collection of ad valorem taxes;

(2) adoption of a plan of taxation authorized by Sections 51.502-51.506, Water Code, as provided by those sections; or

(3) pledging all or part of the fees under Section 441.197.

(b) In this chapter, a reference to ad valorem taxes includes a

reference to any other tax the board imposes as provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER J. TAXES

Sec. 441.191. IMPOSITION OF TAXES. The board may annually impose taxes to pay the principal of and interest on district bonds and the expense of assessing and collecting taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.192. MAINTENANCE TAX. (a) A district may impose a maintenance tax to pay the district's operating expenses if, at an election in the district ordered for that purpose, a majority of the votes received favor the imposition of the tax.

(b) The amount of the tax may not exceed 25 cents on each \$100 of assessed valuation of property in the district.

(c) The election shall be held as provided for a confirmation and directors' election under Sections 441.030-441.035.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.193. TAX RATE. In setting a tax rate, the board shall consider the district's income from sources other than taxation. On determination of the amount of tax needed to be imposed, the board shall adopt a tax rate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.194. APPOINTMENT OF TAX ASSESSOR-COLLECTOR. The board may appoint a tax assessor-collector.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.195. IMPOSITION OF TAXES DURING FIRST YEAR. The board

may impose taxes for the entire year in which the district is created.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.196. ALL PROPERTY TAXED. The board shall impose taxes on all property in the district subject to taxation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.197. FEES. (a) A district may adopt and enforce fees in addition to taxes to provide the district revenue to operate the district and secure district bonds.

(b) A district may file a suit to recover an unpaid fee under this section. The suit must be filed in a county in which the district is located.

(c) Except as provided by Section 365.040, a fee may not be imposed on or collected for travel on a road constructed, acquired, or improved by the district.

(d) A road facility may not be encumbered by a district fee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.198. BOND ANTICIPATION NOTES. (a) A district may issue bond anticipation notes:

(1) for any purpose for which district bonds have been previously voted; or

(2) to refund previously issued bond anticipation notes.

(b) A district may contract with purchasers of bond anticipation notes that the proceeds from the sale of bonds that are issued to refund the bond anticipation notes shall be used only to pay the principal of or interest or redemption price on the bond anticipation notes.

(c) A district may secure the repayment of the principal of and interest and redemption premium on the bond anticipation notes from any source available for that repayment, including a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract,

commitment to purchase bond anticipation notes, purchase or sale agreement, or another agreement authorized and approved by the district in connection with the authorization, issuance, security, or repayment of bond anticipation notes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER K. ANNEXATION

Sec. 441.211. PETITION FOR ANNEXATION. (a) Any property owner may file with the board a petition requesting that the real property be annexed to the district. The property is not required to be contiguous to the district.

(b) The petition must:

(1) describe the property by metes and bounds, or if there is a recorded plat of the property, by lot and block number; and

(2) be executed as provided by law for the conveyance of real property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.212. BOARD DECISION. The board shall hear and consider the petition and may annex the real property to the district if the board considers the annexation to be to the district's advantage.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.213. COMMISSION APPROVAL. A board order annexing real property to the district is final only on written consent of the commission after the commission consults with the governmental entity to which the completed road facility will be conveyed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.214. RECORDING PETITION. The board shall record a petition that is granted in the office of the county clerk of each county in which annexed real property is located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.215. ASSUMPTION OF DEBT SHARE. The board may require each petitioner to:

- (1) assume the petitioner's share of any outstanding district bonds or voted but unissued bonds; and
- (2) authorize the board to impose a tax on the petitioner's property in each year that any of those bonds are outstanding.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.216. UNISSUED BONDS. The board may issue bonds that have been voted but not issued at the time of an annexation, regardless of the alteration of the district boundaries after the bond's authorization, if each petitioner assumes the debt and authorizes the tax under Section 441.215.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER L. DISSOLUTION

Sec. 441.231. PETITION FOR DISSOLUTION. (a) A district shall submit to the commission a petition for dissolution of the district after:

- (1) the district has completed each construction, acquisition, and improvement of a road facility provided in the plan approved by the commission;
- (2) the district has conveyed each road facility to a governmental entity; and
- (3) all bonds and other district indebtedness are paid in full.

(b) The district shall submit with the petition evidence that the commission by rule or order requires to show that each proposal in the plan has been completed and all bonds and other district indebtedness have been paid in full.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.232. COMMISSION DISSOLUTION ORDER. (a) The commission shall order the district dissolved if, after considering the petition and the accompanying evidence, the commission finds that:

(1) the work is completed according to the plan;
 (2) each road facility has been conveyed; and
 (3) all bonds and other indebtedness have been paid in full.

(b) If the commission finds that one or more of these conditions has not been met, the commission shall adopt an order that will ensure that that condition is met. On compliance with this order, the commission shall order the district dissolved.

(c) On issuance of the commission's dissolution order, the dissolved district ceases as a governmental entity, and the board continues in existence only to transfer district money and dispose of district assets.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 441.233. TRANSFER OF DISTRICT MONEY. (a) On dissolution of the district, the board shall transfer the district's money to the governmental entity to which the road facility was conveyed. If road facilities were conveyed to more than one governmental entity, the board shall distribute the money among those governmental entities in proportion to the proceeds of all indebtedness that the district incurred to construct, purchase, or improve the road facilities conveyed to each respective governmental entity.

(b) A governmental entity shall use the money to maintain the road facility.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBTITLE K. MASS TRANSPORTATION
CHAPTER 451. METROPOLITAN RAPID TRANSIT AUTHORITIES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 451.001. DEFINITIONS. In this chapter:

- (1) "Alternate municipality" means a municipality that:
 (A) has a population of more than 60,000;
 (B) is located in a metropolitan area the principal

municipality of which has a population of more than 1.9 million; and

(C) is not part of the territory of another authority.

(2) "Authority" means a rapid transit authority created under this chapter or under Chapter 141, Acts of the 63rd Legislature, Regular Session, 1973.

(3) "Board" means the governing body of an authority.

(4) "Mass transit" means the transportation of passengers and hand-carried packages or baggage of a passenger by a surface, overhead, or underground means of transportation, or a combination of those means, including motorbus, trolley coach, rail, and suspended overhead rail transportation. The term does not include taxicab transportation.

(5) "Metropolitan area" includes only an area in this state that has a population density of not less than 250 persons for each square mile and contains not less than 51 percent of the incorporated territory of a municipality having a population of 230,000 or more. The area may contain other municipalities and the suburban area and environs of other municipalities.

(6) "Motor vehicle" includes only a vehicle that is self-propelled:

(A) by an internal combustion engine or motor;

(B) on two or more wheels; and

(C) over a roadway other than fixed rails and tracks.

(7) "Principal municipality" means the municipality having the largest population in a metropolitan area.

(8) "Transit authority system" means property:

(A) owned, rented, leased, controlled, operated, or held for mass transit purposes by an authority; and

(B) situated on property of the authority for mass transit purposes, including:

(i) for an authority created before 1980 in which the principal municipality has a population of less than 1.9 million, public parking areas and facilities; and

(ii) for an authority in which the principal municipality has a population of more than 1.9 million, the area in boundaries in which service is provided or supported by a general sales and use tax.

(9) "Transportation disadvantaged" means the elderly, persons with disabilities, and low-income individuals.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1038, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 133, eff. September 1, 2011.

Sec. 451.002. LIBERAL CONSTRUCTION. This chapter is to be construed liberally to carry out its purposes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.003. CHAPTER NOT APPLICABLE TO BICOUNTY AREA. This chapter does not apply to an area composed of the territory of two contiguous counties each of which contains a municipality having a population of 350,000 or more.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. POWERS OF AUTHORITIES

Sec. 451.051. POWERS APPLICABLE TO CONFIRMED AUTHORITY. This subchapter applies only to an authority that has been confirmed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.052. NATURE OF AUTHORITY. (a) An authority:

- (1) is a public political entity and corporate body;
- (2) has perpetual succession; and
- (3) exercises public and essential governmental functions.

(b) The exercise of a power granted by this chapter, including a power relating to a station or terminal complex, is for a public purpose and is a matter of public necessity.

(c) An authority is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the authority are not proprietary functions for any purpose, including the application of Chapter 101, Civil Practice and Remedies Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.053. RESPONSIBILITY FOR CONTROL OF AUTHORITY. Except as provided by Section 451.106, the board is responsible for the management, operation, and control of an authority and its property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.054. GENERAL POWERS OF AUTHORITY. (a) An authority has any power necessary or convenient to carry out this chapter or to effect a purpose of this chapter.

(b) An authority created by an alternate municipality has the powers and duties of an authority in which the principal municipality has a population of more than 1.9 million.

(c) An authority may sue and be sued. An authority may not be required to give security for costs in a suit brought or prosecuted by the authority and may not be required to give a supersedeas or cost bond in an appeal of a judgment.

(d) An authority may hold, use, sell, lease, dispose of, and acquire, by any means, property and licenses, patents, rights, and other interests necessary, convenient, or useful to the exercise of any power under this chapter. Before an authority acquires an interest in real property for more than \$20,000, the board shall have the property appraised by two appraisers working independently of each other.

(e) An authority may sell, lease, or dispose of in another manner:

(1) any right, interest, or property of the authority that is not needed for, or, if a lease, is inconsistent with, the efficient operation and maintenance of the transit authority system; or

(2) at any time, surplus materials or other property that is not needed for the requirements of the authority or for carrying out a power under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 134, eff. September 1, 2011.

Sec. 451.055. CONTRACTS; GRANTS AND LOANS. (a) An authority may contract with any person.

(b) An authority may accept a grant or loan from any person.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.056. OPERATION OF TRANSIT AUTHORITY SYSTEM. (a) An authority may:

(1) acquire, construct, develop, own, operate, and maintain a transit authority system in the territory of the authority, including the territory of a political subdivision;

(2) contract with a municipality, county, or other political subdivision for the authority to provide public transportation services outside the authority; and

(3) lease all or a part of the transit authority system to, or contract for the operation of all or a part of the transit authority system by, an operator.

(b) An authority may not lease the entire transit authority system under Subsection (a)(3) without the written approval of the governing body of the principal municipality of the authority.

(c) An authority created by an alternate municipality and an authority in which the principal municipality has a population of more than 1.9 million may contract for service outside each of their respective territories to provide access between the two authorities.

(d) An authority, as the authority determines advisable, shall determine routes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 135, eff. September 1, 2011.

Sec. 451.057. ACQUISITION OF PROPERTY BY AGREEMENT. An authority may acquire rolling stock or other property under a contract or trust agreement, including a conditional sales contract, lease, and equipment trust certificate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.058. USE AND ACQUISITION OF PROPERTY OF OTHERS. (a) For a purpose described by Section 451.056(a)(1) and as necessary or useful in the construction, repair, maintenance, or operation of the transit authority system, an authority may:

(1) use a public way, including an alley; and

(2) directly, or indirectly by another person, relocate or reroute the property of another person or alter the construction of the property of another person.

(b) For an act authorized by Subsection (a)(2), an authority may contract with the owner of the property to allow the owner to make the relocation, rerouting, or alteration by the owner's own means or through a contractor of the owner. The contract may provide for reimbursement of the owner for costs or payment to the contractor.

(c) An authority may acquire by eminent domain any interest in real property, including a fee simple interest and the use of air or subsurface space. The exercise of the right of eminent domain may not unduly interfere with interstate commerce or authorize the authority to run an authority vehicle on a railroad track that is used to transport property.

(d) If an authority, through the exercise of a power under this chapter, makes necessary the relocation or rerouting of, or alteration of the construction of, a road, alley, overpass, underpass, railroad track, bridge or associated property, an electric, telegraph, telephone, or television cable line, conduit, or associated property, or a water, sewer, gas, or other pipeline or associated property, the relocation or rerouting or alteration of the construction must be accomplished at the sole cost and expense of the authority, and damages that are incurred by an owner of the property must be paid by the authority.

(e) Unless the power of eminent domain is exercised, an authority may not begin an activity authorized under Subsection (a) to alter or damage the property of this state, a political subdivision of this state, or a person providing a public service, inconvenience the owners of property of this state, a political subdivision of this state, or a person providing a public service, or disrupt the provision of a public service without having first received written permission from the owner of the property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.059. EMINENT DOMAIN PROCEEDINGS. (a) An eminent domain proceeding by an authority is initiated by the adoption by the board of a resolution that:

(1) describes the property interest to be acquired by the authority;

(2) declares the public necessity for and interest in the acquisition; and

(3) states that the acquisition is necessary and proper for the construction, extension, improvement, or development of the transit authority system.

(b) At least 30 days before the date of the adoption of a resolution under Subsection (a), the board shall hold a public hearing on the question of the acquisition. The hearing must be held at a place convenient to the residents of the area where the property to be acquired is located.

(c) The board shall publish notice of the hearing in a newspaper of general circulation in the county where the property is located at least once each week for two weeks before the date of the hearing.

(d) A resolution adopted under this section is conclusive evidence of the public necessity for the acquisition described in the resolution and that the property interest is necessary for public use.

(e) Except as otherwise provided by this chapter, Chapter 21, Property Code, applies to an eminent domain proceeding by an authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.060. AGREEMENT WITH UTILITIES, CARRIERS. An authority may agree with any other public or private utility, communication system, common carrier, or transportation system for:

(1) the joint use of the property of the agreeing entities in the authority; or

(2) the establishment of through routes, joint fares, or transfers of passengers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.061. FARES AND OTHER CHARGES. (a) An authority shall impose reasonable and nondiscriminatory fares, tolls, charges, rents, and other compensation for the use of the transit authority system sufficient to produce revenue, together with tax revenue received by the authority, in an amount adequate to:

(1) pay all the expenses necessary to operate and maintain the transit authority system;

(2) pay when due the principal of and interest on, and sinking fund and reserve fund payments agreed to be made with respect to, all bonds that are issued by the authority and payable in whole or part from the revenue; and

(3) fulfill the terms of any other agreement with the holders of bonds described by Subdivision (2) or with a person acting on behalf of the bondholders.

(b) It is intended by this chapter that the compensation imposed under Subsection (a) and taxes imposed by the authority not exceed the amounts necessary to produce revenue sufficient to meet the obligations of the authority under this chapter.

(c) Fares for passenger transportation may be set according to a zone system or other classification that the authority determines to be reasonable.

(d) Except as provided by Subsection (d-1), the fares, tolls, charges, rents, and other compensation established by an authority in which the principal municipality has a population of less than 1.9 million may not take effect until approved by a majority vote of a committee composed of:

(1) five members of the governing body of the principal municipality, selected by that governing body;

(2) three members of the commissioners court of the county having the largest portion of the incorporated territory of the principal municipality, selected by that commissioners court; and

(3) three mayors of municipalities, other than the principal municipality, located in the authority, selected by:

(A) the mayors of all the municipalities, except the principal municipality, located in the authority; or

(B) the mayor of the most populous municipality, other than the principal municipality, in the case of an authority in which the principal municipality has a population of less than 320,000.

(d-1) The establishment of or a change to fares, tolls, charges, rents, and other compensation by an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 850,000, takes effect immediately on approval by a majority vote of the board, except that the establishment of or a change to a single-ride base fare takes effect on the 60th day after the date the board approves the fare or change to the fare, unless the policy board of the metropolitan planning organization that serves the area of the authority disapproves the fare or change to the fare by a majority vote.

(e) This section does not limit the state's power to regulate taxes imposed by an authority or other compensation authorized under this section. The state agrees with holders of bonds issued under this chapter, however, not to alter the power given to an authority under this section to impose taxes, fares, tolls, charges, rents, and other compensation in amounts sufficient to comply with Subsection (a), or to impair the rights and remedies of an authority bondholder, or a person acting on behalf of a bondholder, until the bonds, interest on the bonds, interest on unpaid installments of interest, costs and expenses in connection with an action or proceeding by or on behalf of a bondholder, and other obligations of the authority in connection with the bonds are discharged.

(f) Personal identifying information collected by an authority is confidential and not subject to disclosure under Chapter 552, Government Code, including a person's:

- (1) name, address, e-mail address, and phone number;
- (2) account number, password, payment transaction activity, toll or charge record, or credit, debit, or other payment card number; and
- (3) other personal financial information.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1221 (S.B. [1263](#)), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 136, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1129 (S.B. [57](#)), Sec. 6, eff. June 19, 2015.

Sec. 451.0611. ENFORCEMENT OF FARES AND OTHER CHARGES; PENALTIES. (a) A board by resolution may prohibit the use of the public transportation system by a person who fails to possess evidence showing that the appropriate fare for the use of the system has been paid and may establish reasonable and appropriate methods to ensure that persons using the public transportation system pay the appropriate fare for that use.

(b) A board by resolution may provide that a fare for or charge for the use of the public transportation system that is not paid incurs a penalty, not to exceed \$100.

(c) The authority shall post signs designating each area in which a person is prohibited from using the transportation system without possession of evidence showing that the appropriate fare has been paid.

(d) A person commits an offense if:

(1) the person or another for whom the person is criminally responsible under Section 7.02, Penal Code, uses the public transportation system and does not possess evidence showing that the appropriate fare has been paid; and

(2) the person fails to pay the appropriate fare or other charge for the use of the public transportation system and any penalty on the fare on or before the 30th day after the date the authority notifies the person that the person is required to pay the amount of the fare or charge and the penalty.

(e) The notice required by Subsection (d)(2) may be included in a citation issued to the person under Article 14.06, Code of Criminal Procedure, or under Section 451.0612, in connection with an offense relating to the nonpayment of the appropriate fare or charge for the use of the public transportation system.

(f) An offense under Subsection (d) is:

(1) a Class C misdemeanor; and

(2) not a crime of moral turpitude.

(g) An authority created before 1980 in which the principal municipality has a population of less than 1.9 million may allow peace officers of another political subdivision serving under a contract with the authority to enforce a resolution passed by a board under this section.

Added by Acts 2003, 78th Leg., ch. 1113, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1072 (H.B. 2715), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1221 (S.B. 1263), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 137, eff. September 1, 2011.

Sec. 451.0612. FARE ENFORCEMENT OFFICERS. (a) An authority may employ persons to serve as fare enforcement officers to enforce the payment of fares for use of the public transportation system by:

(1) requesting and inspecting evidence showing payment of the appropriate fare from a person using the public transportation system; and

(2) issuing a citation to a person described by Section 451.0611(d)(1).

(b) Before commencing duties as a fare enforcement officer, a person must complete a 40-hour training course approved by the authority that is appropriate to the duties required of a fare enforcement officer.

(c) While performing duties, a fare enforcement officer shall:

(1) wear a distinctive uniform that identifies the officer as a fare enforcement officer; and

(2) work under the direction of the authority's manager of safety and security.

(d) A fare enforcement officer may:

(1) request evidence showing payment of the appropriate fare from passengers of the public transportation system;

(2) request personal identification from a passenger who does not produce evidence showing payment of the appropriate fare on request by the officer;

(3) request that a passenger leave the public transportation system if the passenger does not possess evidence of payment of the appropriate fare; and

(4) file a complaint in the appropriate court that charges the person with an offense under Section 451.0611(d).

(e) A fare enforcement officer may not carry a weapon while performing duties under this section.

(f) A fare enforcement officer is not a peace officer and has no authority to enforce a criminal law, other than the authority

possessed by any other person who is not a peace officer.

Added by Acts 2009, 81st Leg., R.S., Ch. 1221 (S.B. 1263), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 138, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 372 (H.B. 3031), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 372 (H.B. 3031), Sec. 2, eff. September 1, 2013.

Sec. 451.062. POWER TO ENTER REAL PROPERTY. (a) The engineers, employees, and other representatives of an authority may go on any real property within the boundaries of the authority to:

(1) make surveys and examine the property with reference to the location of works, improvements, plants, facilities, equipment, or appliances of the authority; and

(2) attend to any authority business.

(b) Before a person described by Subsection (a) goes on any property under the authority of that subsection, at least two weeks' notice shall be given to the owners in possession.

(c) Property damaged by any authority activity under this section shall be restored as nearly as possible to the original state at the sole expense of the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.063. TAX EXEMPTION. The property, revenue, and income of an authority are exempt from state and local taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.064. PARKING AREAS: CERTAIN AUTHORITIES. (a) An authority created before 1980 in which the principal municipality has a population of less than 1.9 million may, with the approval of the governing body of the principal municipality:

(1) establish, operate, and improve a public parking area

or facility in the authority; and

(2) set and collect reasonable charges for the use of a parking area or facility.

(b) An authority described by Subsection (a) may regulate public parking in public parking areas or facilities in the principal municipality under an interlocal agreement with the principal municipality according to which that power is delegated to the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 139, eff. September 1, 2011.

Sec. 451.065. ROADWAYS, TRAILS, LIGHTING: CERTAIN AUTHORITIES.

(a) An authority confirmed before July 1, 1985, may, in the authority:

(1) construct or maintain a highway, local or arterial street, thoroughfare, or other road, including a bridge or grade separation; and

(2) install or operate traffic control improvements, including signals.

(b) An authority confirmed before 1985 may, in the authority:

(1) construct or maintain a sidewalk, hiking trail, or biking trail;

(2) install or maintain streetlights; and

(3) in performing an activity under Subdivision (1) or (2), make drainage improvements and take drainage-related measures as reasonable and necessary for the effective use of the transportation facility being constructed or maintained.

(c) An authority may perform an activity authorized by this section through an agreement with another governmental entity, including an agreement under Chapter 791, Government Code, with a state agency listed under Section 771.002, Government Code.

(d) An authority may not perform an activity authorized by this section in a municipality without:

(1) the consent of the governing body of the municipality;

or

(2) a contract with the municipality specifying the actions

that the authority may undertake.

(e) Subsection (a) does not apply to the performance of an action undertaken by the authority under Section 451.056(a)(1) or 451.058.

(f) This section does not apply to an authority created before 1980 in which the principal municipality has a population of less than 1.9 million.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 140, eff. September 1, 2011.

Sec. 451.066. SPENDING LIMITATION: TRAILS AND LIGHTING IN CERTAIN AUTHORITIES. (a) An authority confirmed before 1980 in which the principal municipality has a population of more than 1.9 million may not spend, during any five-year period, more than seven percent of its revenue from sales and use taxes and interest income during that period for all items described by Section 451.065(b).

(b) For a fiscal year in which an authority described by Subsection (a) spends an amount that exceeds the limit in Subsection (a), the registered voters of the authority, by petition, may require that an election be held on the question of eliminating or reducing expenditures in any category authorized by Section 451.065(b) and not otherwise authorized by Section 451.065(a). The board shall call an election in the authority to be held on the first uniform election date at least 60 days after the date the election order is issued if the secretary of state:

- (1) finds that a petition for the election is valid; or
- (2) fails to act within the time required by Subsection

(d).

(c) A petition under this section is valid if:

- (1) it is signed by registered voters of the authority in a number equal to at least 10 percent of the number of votes cast in the authority in the preceding gubernatorial election;
- (2) the signatures meeting the requirement in Subdivision (1) are collected not earlier than the 90th day before the date the petition is presented to the board; and
- (3) it is presented to the board on or before the second

anniversary of the last day of the fiscal year during which the expenditures exceeded the limitation.

(d) After receiving a petition under this section, the board shall send it to the secretary of state. The secretary of state shall, not later than the 30th day after the date the petition is received, determine whether the petition is valid and notify the board of the determination.

(e) The ballots for the election must provide for voting for or against the following proposition: "The (reduction or elimination) of expenditures for _____ (category of spending to be reduced or eliminated)."

(f) A reduction or elimination of expenditures that is approved by a majority of the votes received on the measure in the election is effective.

(g) The authority shall pay the costs of:

- (1) determining the validity of a petition; and
- (2) conducting the election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 141, eff. September 1, 2011.

Sec. 451.067. EMERGENCY MEDICAL SERVICES: CERTAIN AUTHORITIES. An authority in which the principal municipality has a population of less than 320,000 may provide emergency medical services.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 142, eff. September 1, 2011.

Sec. 451.068. FREE FARES PROGRAM: CERTAIN AUTHORITIES. (a) An authority confirmed before July 1, 1985, and in which the principal municipality has a population of less than 850,000 may, through the operation of a program, charge no fares.

(b) A program under this section:

- (1) must have clearly defined goals adopted by the authority;

- (2) expires annually, unless renewed; and
- (3) may be renewed only after the program's costs and benefits are evaluated.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 143, eff. September 1, 2011.

Sec. 451.070. ELECTIONS. (a) In an election ordered by a board:

(1) the board shall give notice of the election by publication in a newspaper of general circulation in the authority at least once each week for three consecutive weeks, with the first publication occurring at least 21 days before the date of the election; and

(2) a resolution ordering the election and the election notice must show, in addition to the requirements of the Election Code, the hours of the election and polling places in election precincts.

(b) Subsection (a) does not apply to an election under Subchapter N.

(c) An election contest may not be heard unless the comptroller is timely notified as required by Section 451.413.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.071. REFERENDUM FOR RAIL PLAN; CERTAIN AUTHORITIES.

(a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 850,000.

(b) The authority may hold a referendum on whether the authority may operate a fixed rail transit system. At the election the ballots shall be printed to permit voting for or against the following proposition: "The operation of a fixed rail system by (name of authority)."

(c) The notice of an election called under this section must include a general description of the form of the fixed rail transit system, including the general location of any proposed routes.

(d) If a majority of the votes cast are in favor of the proposition, the authority may build and operate the system as provided in the notice for the election. If less than a majority of the votes cast are in favor of the proposition, the authority may not expend funds of the authority to purchase, acquire, construct, operate, or maintain any form of a fixed rail transit system unless the system is approved by a majority of the votes cast at a referendum held by the authority for that purpose.

(e) A subsequent referendum under Subsection (d):

- (1) may be held more than once;
- (2) is held in the same manner as the initial referendum;

and

(3) must be held at the general election in November of an even-numbered year.

(f) A referendum on a proposal to expand a system approved under this section may be held on any date specified in Section 41.001, Election Code, or a date chosen by order of the board of the authority, provided that:

- (1) the referendum is held no earlier than the 62nd day after the date of the order; and
- (2) the proposed expansion involves the addition of not more than 12 miles of track to the system.

(g) This section does not require the authority to hold a referendum on a proposal to enter into a contract or interlocal agreement to build, operate, or maintain a fixed rail transit system for another entity. Notwithstanding Subsection (d), the authority may spend funds of the authority to enter into a contract and operate under that contract to build, operate, or maintain a fixed rail transit system if the other entity will reimburse the authority for the funds.

(h) A referendum held by a political subdivision, the authority, or an entity other than the authority at which funding is approved for a fixed rail transit system is considered to meet the requirements of Subsections (d) and (e) and Section 451.3625 if the notice for the election called by the political subdivision, the authority, or other entity contains the description required by Subsection (c). The referendum may allow for financial participation of more than one political subdivision or entity. The authority may only spend funds of the authority if the referendum authorizes that expenditure.

Added by Acts 1997, 75th Leg., ch. 472, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 542, Sec. 1, eff. June 11, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.84, eff. June 14, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1221 (S.B. 1263), Sec. 5, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 144, eff. September 1, 2011.

Sec. 451.072. GENERAL AUTHORITY TO CALL ELECTION: CERTAIN AUTHORITIES. (a) This section applies only to an authority in which the principal municipality has a population of more than 1.9 million.

(b) The board of an authority may call an election to determine the voters' will on any issue that the board is authorized to decide under this chapter or on the exercise of any discretionary power of the board under this chapter. At the time the board orders the election, the board shall specify whether the results of the election are binding on the authority.

(c) The board shall specify the ballot proposition for an election called under this section. A ballot proposition is approved if a majority of the voters voting at the election favor the proposition.

Added by Acts 2001, 77th Leg., ch. 612, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 145, eff. September 1, 2011.

SUBCHAPTER C. MANAGEMENT OF AUTHORITY

Sec. 451.101. BOARD POWERS. A board may:

- (1) employ a general manager and other persons necessary for the conduct of the affairs of the authority, including operating or management companies;
- (2) prescribe the duties, compensation, and tenure of persons employed;
- (3) remove an employee;
- (4) adopt a seal for the authority;

- (5) set the fiscal year for the authority;
- (6) establish a complete system of accounts for the authority;
- (7) invest the funds of the authority in direct or indirect obligations of the United States, this state, or a political subdivision of this state;
- (8) purchase, with funds of the authority, certificates of deposit of state or national banks or savings and loan associations in this state if the certificates are secured in the same manner that the funds of a county of this state are required to be secured;
- (9) designate by resolution an authorized representative of the authority to, according to terms prescribed by the board:
 - (A) invest authority funds; and
 - (B) withdraw money from authority accounts for investments; and
- (10) designate by resolution an authorized representative of the authority to supervise the substitution of securities pledged to secure authority funds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.102. BUDGET. (a) A board shall adopt an annual operating budget of all major expenditures by type and amount. The board shall adopt the budget before the beginning of the fiscal year to which the budget applies and before the authority may conduct any business in the fiscal year.

(b) The board shall hold a public hearing on a proposed annual operating budget before adopting the budget and shall, at least 14 days before the date of the hearing, make the proposed budget available to the public.

(c) The board after public notice and a hearing may by order amend an annual operating budget.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.103. OPERATING EXPENDITURES. An authority may not spend for operations money in excess of the total amount specified for operating expenses in the annual operating budget.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.104. INVESTMENT POWERS: CERTAIN AUTHORITIES. An authority created before 1980 and in which the principal municipality has a population of less than 1.9 million has the same investment powers as an entity under Subchapter A, Chapter 2256, Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 146, eff. September 1, 2011.

Sec. 451.105. DEPOSITORY; DEPOSIT OF FUNDS. (a) A board shall designate one or more banks as depositories for authority funds.

(b) All funds of an authority shall be deposited in one or more of the authority's depository banks unless an order or resolution authorizing the issuance of an authority bond or note requires otherwise.

(c) Funds in a depository, to the extent that those funds are not insured by the Federal Deposit Insurance Corporation, shall be secured in the manner provided by law for the security of county funds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.106. GENERAL MANAGER; MANAGEMENT POLICIES: CERTAIN AUTHORITIES. (a) The board of an authority in which the principal municipality has a population of less than 850,000 or more than 1.9 million shall employ a general manager to administer the daily operation of the authority. The general manager may, subject to the annual operating budget and to the personnel policies adopted by the board, employ persons to conduct the affairs of the authority and prescribe their duties and compensation.

(b) Only the general manager may remove an employee. A removal is subject to board personnel policies.

(c) With the approval of the board, the general manager may

contract with others for the performance of work or provision of materials for the authority.

(d) The board shall adopt policies clearly defining the respective duties of the board and the authority's staff.

(e) This section applies only to an authority described by Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 147, eff. September 1, 2011.

Sec. 451.107. RULES. (a) The board by resolution may adopt rules for:

(1) the safe and efficient operation and maintenance of the transit authority system;

(2) the use of the transit authority system and the authority's services by the public and the payment of fares, tolls, and other charges; and

(3) the regulation of privileges on property owned, leased, or otherwise controlled by the authority.

(b) A notice of each rule adopted by the board shall be published in a newspaper with general circulation in the area in which the authority is located once each week for two consecutive weeks after adoption of the rule. The notice must contain a condensed statement of the substance of the rule and must advise that a copy of the complete text of the rule is filed in the principal office of the authority, where the text may be read by any person.

(c) A rule becomes effective 10 days after the date of the second publication of the notice under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.1075. PROHIBITION OF CONSUMPTION OF ALCOHOLIC BEVERAGE. (a) A board by resolution may prohibit the consumption of an alcoholic beverage on property an authority possesses or controls. The resolution must describe with particularity each place where consumption of an alcoholic beverage is prohibited.

(b) The authority shall post a sign in each place where

consumption of an alcoholic beverage is prohibited under this section. The sign must indicate that a person may not consume an alcoholic beverage in that place.

(c) A person commits an offense if the person consumes an alcoholic beverage in a place where the consumption of an alcoholic beverage is prohibited under this section.

(d) An offense under this section is a Class C misdemeanor.

(e) In this section, "alcoholic beverage" has the meaning assigned by Section 1.04, Alcoholic Beverage Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.25(a), eff. Sept. 1, 1997.

Sec. 451.108. PEACE OFFICERS. (a) An authority may commission and employ peace officers.

(b) An authority created before 1980 in which the principal municipality has a population of less than 1.9 million may establish a security force, employ security personnel, and commission security personnel as peace officers.

(c) A peace officer commissioned under this section, except as provided by Subsections (d) and (e), or a peace officer contracted for employment by an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 850,000, may:

(1) make an arrest in any county in which the transit authority system is located as necessary to prevent or abate the commission of an offense against the law of this state or a political subdivision of this state if the offense or threatened offense occurs on or involves the transit authority system;

(2) make an arrest for an offense involving injury or detriment to the transit authority system;

(3) enforce traffic laws and investigate traffic accidents that involve or occur in the transit authority system; and

(4) provide emergency and public safety services to the transit authority system or users of the transit authority system.

(d) A peace officer who holds a commission under this section from an authority in which the principal municipality has a population of more than 1.9 million and who has filed with the authority the oath of a peace officer has all the powers, privileges,

and immunities of peace officers in the counties in which the transit authority system is located, provides services, or is supported by a general sales and use tax.

(e) A peace officer who holds a commission under this section from an authority created before 1980 in which the principal municipality has a population of less than 1.9 million and who has filed with the authority the oath of a peace officer has all the powers, privileges, and immunities of peace officers in the counties in which the transit authority system is located, provides services, or is supported by a general sales and use tax while the peace officer is on the transit authority system property or performing duties in connection with the transit authority system or its users.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 142, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1221 (S.B. [1263](#)), Sec. 3, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 148, eff. September 1, 2011.

Sec. 451.109. ADVISORY COMMITTEE. (a) A board may establish one or more advisory committees to make recommendations to the board or the general manager on the operation of the authority. A committee has the purposes, powers, and duties, including the manner of reporting its work, prescribed by the board. A committee and each committee member serves at the will of the board.

(b) The board shall appoint persons to the advisory committee who:

(1) are selected from a list provided by the general manager; and

(2) have knowledge about and interests in, and represent a broad range of viewpoints about, the work of the committee.

(c) A member of an advisory committee may not be compensated by the authority for committee service but is entitled to reimbursement for actual and necessary expenses incurred in the performance of committee service.

(d) This section does not apply to an authority in which the principal municipality has a population of 850,000 or more but not

more than 1.9 million.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 149, eff. September 1, 2011.

Sec. 451.110. PURCHASES: COMPETITIVE BIDDING. (a) Except as provided by Subsection (c) and by Subchapter Q, a board may not contract for the construction of an improvement or the purchase of any property, except through competitive bidding after notice of the contract proposal. The notice must be published in a newspaper of general circulation in the area in which the authority is located at least once each week for two consecutive weeks before the date set for receiving the bids. The first notice must be published at least 15 days before the date set for receiving bids.

(b) The board may adopt rules on:

- (1) the taking of bids;
- (2) the awarding of contracts; and
- (3) the waiver of the competitive bidding requirement:
 - (A) if there is an emergency;
 - (B) if there is only one source for the purchase; or
 - (C) except for a contract for construction of an

improvement on real property, if:

(i) competitive bidding is inappropriate because the procurement requires design by the supplier and if competitive negotiation, with proposals solicited from an adequate number of qualified sources, will permit reasonable competition consistent with the procurement; or

(ii) it is ascertained after solicitation that there will be only one bidder.

(c) Subsection (a) does not apply to a contract for:

- (1) \$50,000 or less;
- (2) the purchase of real property;
- (3) personal or professional services; or
- (4) the acquisition of an existing transit system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1479, Sec. 1, eff. June 19, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1277 (H.B. 2300), Sec. 2, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 801 (H.B. 2325), Sec. 1, eff. September 1, 2011.

Sec. 451.111. PURCHASES: NOTICE OF NONCOMPETITIVE BID PROPOSALS. (a) Except as provided by Subchapter Q, unless the posting requirement in Subsection (b) is satisfied, a board may not let a contract that is:

- (1) for more than \$50,000; and
- (2) for:
 - (A) the purchase of real property; or
 - (B) consulting or professional services.

(b) An announcement that a contract to which this section applies is being considered must be posted in a prominent place in the principal office of the authority for at least two weeks before the date the contract is awarded.

(c) This section does not apply to a contract that must be awarded through competitive bidding or for the purchase of an existing transit system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1479, Sec. 2, eff. June 19, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1277 (H.B. 2300), Sec. 3, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 801 (H.B. 2325), Sec. 2, eff. September 1, 2011.

Sec. 451.112. CONFLICTS OF INTEREST: BOARD MEMBERS. Chapter 171, Local Government Code, applies to a board member of an authority, except that an authority created before 1980 in which the principal municipality has a population of less than 1.9 million may not enter into a contract or agreement with a business entity in which a board member or the general manager owns five percent or more of the voting stock or shares of the entity or receives funds from the entity exceeding five percent of the member's or general manager's gross income. A contract executed by an authority in

violation of this section is voidable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 150, eff. September 1, 2011.

Sec. 451.113. DRIVING ON CERTAIN AUTHORITY RIGHT-OF-WAY; PENALTY. (a) A person commits an offense if, as the operator of a motor vehicle, the person drives on a designated right-of-way of an authority that is used in connection with a motor bus rapid transit system.

(b) It is an exception to the application of Subsection (a) that the person:

(1) was driving a motor vehicle owned or under the control of the authority and was authorized to drive the vehicle on the designated right-of-way; or

(2) was driving an authorized emergency vehicle, as defined by Section 541.201, and responding to a call.

(c) Subsection (a) may be enforced by any peace officer listed in Article 2.12, Code of Criminal Procedure, in whose jurisdiction the offense is committed.

(d) An offense under this section is a Class C misdemeanor.

Added by Acts 2007, 80th Leg., R.S., Ch. 1209 (H.B. 1798), Sec. 1, eff. September 1, 2007.

SUBCHAPTER C-1. ADDITIONAL MANAGEMENT PROVISIONS FOR CERTAIN AUTHORITIES

Sec. 451.131. APPLICABILITY. This subchapter applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than one million.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1327 (S.B. 650), Sec. 1, eff. June 17, 2011.

Sec. 451.132. FIVE-YEAR CAPITAL IMPROVEMENT PLAN. (a) The board shall adopt a five-year plan for capital improvement projects

that supports the strategic goals outlined in Section 451.135 and that:

- (1) describes planned projects, including type and scope;
- (2) prioritizes the projects;
- (3) addresses proposed project financing, including any effect a project may have on ongoing operational costs;
- (4) identifies sources of funding for projects, including local and federal funds; and
- (5) establishes policies for projects, including policies on:
 - (A) planning;
 - (B) approval;
 - (C) cost estimation;
 - (D) project reports;
 - (E) expense tracking;
 - (F) participation of historically underutilized businesses; and
 - (G) cost-benefit analyses.

(b) The board shall hold a public meeting on a proposed capital improvement plan before adopting the plan and must make the proposed plan available to the public for review and comment.

(c) The board shall annually reevaluate and, if necessary, amend the capital improvement plan to ensure compliance with this section.

(d) The capital improvement plan should, as appropriate, align with the long-range transportation plan of the metropolitan planning organization that serves the area of the authority.

(e) The board may not adopt a plan for participation of historically underutilized businesses in capital improvement projects that require a quota or any similar requirement. The board may not conduct a capital improvement project in a way that has the effect of creating a quota for the participation of historically underutilized businesses.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1327 (S.B. 650), Sec. 1, eff. June 17, 2011.

Sec. 451.133. OPERATING EXPENSES AND CAPITAL EXPENDITURES. (a) An authority may not spend for capital improvements money in excess

of the total amount allocated for major capital expenditures in the annual budget.

(b) The board shall adopt rules requiring each major department of the authority to report quarterly on operating expenses and capital expenditures of the department.

(c) The board shall establish a system for tracking the progress of the authority's capital improvement projects.

(d) The board shall maintain, update, and post on the authority's Internet website accounting records for each authority account, including:

- (1) the account's balance at the end of the fiscal year;
- (2) deposits to the account;
- (3) account expenditures; and
- (4) interest income to the account.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1327 (S.B. 650), Sec. 1, eff. June 17, 2011.

Sec. 451.134. OPERATING RESERVE ACCOUNT. (a) The board shall establish, in an account separate from other funds, a reserve account in an amount that is not less than an amount equal to actual operating expenses for two months.

(b) The board shall adjust the amount held in the reserve account at least once annually based on the authority's actual operating reserves for the 12 months immediately preceding the adjustment.

(c) The board may make an expenditure from the reserve account that causes the balance in the account to be less than the amount required under Subsection (b) only if the board considers the expense necessary to address circumstances that could not have been planned for or anticipated. The board shall adopt criteria for expenditures under this subsection.

(d) If reserve funds are spent under Subsection (c), the board shall, as soon as practicable, restore the balance of the reserve account to at least the amount in the account at the beginning of the fiscal year in which the spending occurred.

(e) The board shall maintain, update, and post on the authority's Internet website accounting records of the reserve account's:

- (1) balance at the end of the fiscal year;
- (2) deposits;
- (3) expenditures; and
- (4) interest income.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1327 (S.B. 650), Sec. 1, eff. June 17, 2011.

Sec. 451.135. STRATEGIC PLAN. (a) The board shall adopt a strategic plan that establishes the authority's mission and goals and summarizes planned activities to achieve the mission and goals.

(b) The plan must set policies and service priorities to guide the authority in developing a budget and allocating resources.

(c) The plan should, as appropriate, align with the long-range transportation plan of the metropolitan planning organization that serves the area of the authority.

(d) The board shall annually reevaluate and, if necessary, amend the plan to ensure compliance with this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1327 (S.B. 650), Sec. 1, eff. June 17, 2011.

Sec. 451.136. RAIL SAFETY PLAN AND REPORTS. (a) The board shall adopt and the general manager shall implement a rail safety plan in accordance with federal and industry standards for all authority rail activities, including commuter and freight rail activities.

(b) The plan must address and emphasize ongoing maintenance and safety of the authority's railroad bridges.

(c) To ensure that contractor services on the authority's rail system meet safety obligations, the plan must include specifics regarding monitoring of contractors for safety-related performance, including regular:

- (1) hazard analyses;
- (2) risk assessments; and
- (3) safety audits.

(d) The general manager shall report quarterly to the board on the safety of the authority's rail system. The authority shall provide to the Texas Department of Transportation all reports

provided to the Federal Railroad Administration or Federal Transit Administration regarding any aspect of the rail system's safety at the time the reports are delivered to the Federal Railroad Administration or Federal Transit Administration.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1327 (S.B. 650), Sec. 1, eff. June 17, 2011.

Sec. 451.137. COMPETITIVE BIDS FOR AND PURCHASE OF TRANSIT SERVICES. (a) Except as provided by Subsection (f), after providing notice of a proposal, a board must submit to competitive bids a contract for and must purchase transit services that:

(1) include:

- (A) administration of motor bus or sedan transit services;
- (B) motor bus or sedan driving, maintenance, or repair;
- (C) transit services for persons who have disabilities, including through a program established under Section 451.254; or
- (D) rail transit services; and

(2) are not provided wholly by an employee of the authority who is directly paid by the authority and works under the daily supervision of the authority's general manager.

(b) For the purposes of Subsection (a)(2), services are not provided wholly by an employee of the authority if the person is an employee of an entity incorporated as a state nonprofit by the board of the authority and with which the authority contracts for transit or employee services.

(c) Notice under Subsection (a) must be published in a newspaper of general circulation in the area in which the authority is located at least once each week for eight consecutive weeks before the date set for receiving the bids. The first notice must be published at least 60 days before the date set for receiving bids.

(d) A contract let under this section must include:

- (1) performance control measures;
- (2) incentives for performance;
- (3) penalties for noncompliance; and
- (4) a contract termination date.

(e) The board shall adopt rules on:

- (1) the taking of bids;

- (2) the awarding of contracts; and
- (3) the waiver of the competitive bidding requirement if there is:
 - (A) an emergency; or
 - (B) only one source for the service or purchase.
- (f) Subsection (a) does not apply to a contract or purchase:
 - (1) in an amount of \$25,000 or less;
 - (2) for personal or professional services; or
 - (3) for the acquisition of an existing transit system.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1327 (S.B. 650), Sec. 1, eff. June 17, 2011.

Sec. 451.138. PUBLIC INVOLVEMENT POLICY. (a) The board shall adopt a policy of involving the public in board decisions regarding authority policies. The policy must:

- (1) ensure that the public has an opportunity to comment on board matters before a vote on the matters;
- (2) ensure that any consent agenda or expedition of consideration of board matters at board meetings is used only for routine, noncontroversial matters;
- (3) establish a time frame and mechanism for the board to obtain public input throughout the year; and
- (4) plan for dissemination of information on how the public can be involved in board matters.

(b) The board shall post the policy adopted under this section on the authority's Internet website.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1327 (S.B. 650), Sec. 1, eff. June 17, 2011.

Sec. 451.139. ISSUANCE OF BONDS FOR SELF-INSURANCE OR RETIREMENT OR PENSION FUND RESERVES. (a) An authority may issue bonds only in an amount necessary for managing or funding retiree pension benefit obligations for pension plans existing as of January 1, 2011, and that result from the competitive bidding of transit services required by Section 451.137.

(b) Section 451.352(c) does not apply to bonds described by Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1327 (S.B. 650), Sec. 1, eff. June 17, 2011.

SUBCHAPTER D. STATION OR TERMINAL COMPLEX SYSTEMS

Sec. 451.151. STATION OR TERMINAL COMPLEX: SYSTEM PLAN. (a) An authority may not acquire an interest in real property for a station or terminal complex unless the station or terminal complex is included in the transit authority system in a comprehensive transit plan approved by a resolution of the board. A mass transit facility of an authority is not a station or terminal complex under this subchapter unless the facility is included in the authority's comprehensive transit plan under this section.

(b) A station or terminal complex may not be included in a transit authority system unless the board first finds that the station or complex:

(1) will encourage and provide for efficient and economical mass transit;

(2) will facilitate access to mass transit and provide for other mass transit purposes;

(3) will reduce vehicular congestion and air pollution in the metropolitan area; and

(4) is reasonably essential to the successful operation of the transit authority system.

(c) On making a finding under Subsection (b), the board may amend the authority's comprehensive transit plan to include a station or terminal complex.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.152. STATION OR TERMINAL COMPLEX: FACILITIES. A station or terminal complex of an authority:

(1) must include adequate provision for the transfer of passengers among the various means of transportation available to the complex; and

(2) may include provision for residential, institutional, recreational, commercial, and industrial facilities.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.153. APPROVAL OF MUNICIPALITY. The location of a station or terminal complex in a municipality or in the extraterritorial jurisdiction of a municipality must be approved, as to conformity with the comprehensive or general plan of the municipality, by a motion, resolution, or ordinance adopted by the governing body of the municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.154. STATION OR TERMINAL COMPLEX: LIMITATION ON REAL PROPERTY ACQUISITION. (a) An interest in real property may not be acquired for station or terminal complex facilities described by Section 451.152(2) unless the property:

(1) is 1,500 feet or less from the center point of the station or terminal complex; or

(2) if farther than 1,500 feet from the center point of the station or terminal complex, is included in a master development plan adopted by the board and not acquired by eminent domain.

(b) Notwithstanding Subsection (a), an authority created before 1980 in which the principal municipality has a population of less than 1.9 million may acquire, including through the use of eminent domain, an interest in real property for facilities if the property:

(1) is 2,500 feet or less from the center point of the station or terminal complex; or

(2) is included in a master development plan adopted by the board.

(c) Before the commencement of an eminent domain proceeding to which this section applies, the board shall designate the center point of the station or terminal complex.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 151, eff. September 1, 2011.

Sec. 451.155. TRANSFER OF REAL PROPERTY IN STATION OR TERMINAL COMPLEX. (a) An authority may transfer to any person by any means, including a sale or lease, an interest in real property in a station or terminal complex and may contract with respect to it, in

accordance with the comprehensive transit plan approved by the board and subject to terms:

(1) the board finds to be in the public interest or necessary to carry out this section; and

(2) the instrument transferring the title or right of use specifies.

(b) A transfer must be at the fair value of the interest transferred considering the use designated for the real property in the authority's comprehensive transit plan.

(c) A person from whom property offered for sale under this section was acquired by eminent domain or the threat of eminent domain has a first right to purchase the property at the price for which the property is offered to the public.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**SUBCHAPTER E. REGIONAL ECONOMIC DEVELOPMENT FACILITIES IN STATIONS OR
TERMINAL COMPLEXES**

Sec. 451.201. DEFINITION. In this subchapter, "regional economic development facilities" includes only those facilities that will lead to the creation of new jobs, maintain existing jobs, or generally improve the conditions under which a local economy may prosper. The term includes facilities primarily used for conventions, entertainment, special events, or professional or amateur sports.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.202. APPLICATION OF SUBCHAPTER LIMITED TO CERTAIN AUTHORITIES. This subchapter applies only to an authority created before 1980 in which the principal municipality has a population of less than 1.9 million.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 152, eff. September 1, 2011.

Sec. 451.203. STATION OR TERMINAL COMPLEX: REGIONAL ECONOMIC DEVELOPMENT FACILITIES IN CERTAIN AUTHORITIES. In addition to other facilities authorized by Subchapter D, a station or terminal complex may include regional economic development facilities that are approved by:

- (1) the board;
- (2) the governing body of the principal municipality in the authority; and
- (3) the governing body of the municipality, other than the principal municipality, in which the station or terminal complex containing the facilities is located or in whose extraterritorial jurisdiction the station or terminal complex is located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.204. CONTRACTS FOR REGIONAL ECONOMIC DEVELOPMENT FACILITIES. (a) An authority may:

- (1) plan, acquire, establish, develop, construct, improve, maintain, operate, regulate, protect, and police the regional economic development facility portion of a station or terminal complex; or
- (2) agree with any person for the execution, in whole or part, of the activities described by Subdivision (1).

(b) An agreement made under Subsection (a)(2) is not effective unless the governing body of the principal municipality in the authority approves the agreement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.205. STATION OR TERMINAL COMPLEX: REGIONAL ECONOMIC DEVELOPMENT FACILITIES ADDITIONAL TAX. (a) An authority may increase its sales and use tax rate, not to exceed the rate authorized by Sections 451.404 and 451.405, to provide for the planning, acquisition, establishment, development, and construction of a station or terminal complex that includes regional economic development facilities if a majority of the votes received in an election called for that purpose approve the increase.

(b) An election under Subsection (a) may be called only if both the governing body of the principal municipality and the board by

resolution order the election after:

(1) a petition requesting an election is submitted to the board;

(2) the board and the governing body hold separate public hearings on the ballot proposition; and

(3) notice is given of the intent to vote on the tax rate increase.

(c) The notice provided under Subsection (b)(3) must include:

(1) a statement or description of the purpose of the tax rate increase; and

(2) a statement that after five years the revenue from the tax rate increase may be used only for mass transit purposes other than the regional economic development facilities portion of the station or terminal complex, and then only if approved by the voters at an election held at that time.

(d) To be valid, a petition under Subsection (b) must:

(1) contain signatures of at least 10 percent of the registered voters of the authority collected not earlier than the 180th day before the date the petition is submitted to the board;

(2) state that the petition is intended to initiate an election to increase the rate of the sales and use tax of the authority for the purpose of establishing and operating a regional economic development facility; and

(3) include the ballot proposition for the election.

(e) The ballot proposition must contain a specific description of the regional economic development facilities projects to be financed by the revenue from the tax rate increase.

(f) A petition is considered to be valid if the board fails to act on the petition before the 31st day after the date the petition is submitted to the board.

(g) An election under this section may not be held earlier than the first anniversary after the date of a previous election to approve a tax rate increase under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.206. USE OF REVENUE FOR REGIONAL ECONOMIC DEVELOPMENT FACILITIES. (a) Revenue received from the collection of the authority's sales and use tax at the rate equal to the amount of the

rate increase adopted under this subchapter may be used only to finance a project described in the ballot proposition.

(b) The dedication of revenue under Subsection (a) expires on the fifth anniversary of the date the sales and use tax rate increase takes effect in the authority.

(c) Money not used for the regional economic development facilities portion of a station or terminal complex may be used for other purposes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.207. CONTINUATION OF TAX RATE INCREASE. On the expiration of the dedication of an authority's sales and use tax rate increase revenue as provided by Section 451.206, the board shall decrease the authority's sales and use tax rate to its previous rate unless:

(1) the board determines that the revenue from the increased rate is necessary for purposes other than the regional economic development facilities portion of the station or terminal complex;

(2) the board submits the question of the continuation of the increased rate to the voters of the authority at an election held as provided by this chapter; and

(3) at the election, a majority of the votes received on the measure favor the continuation of the increased tax rate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. SPECIAL PROGRAMS AND SERVICES

Sec. 451.251. CONTRACT GOALS FOR DISADVANTAGED BUSINESSES. An authority that does not have an up-to-date disadvantaged business enterprise program, as defined by 49 C.F.R. Part 23, to assist minorities and women in participating in authority contracts should establish goals for that participation. The recommended contract goals are:

(1) 17 percent for construction, 11 percent for purchasing, and 24 percent for professional services; or

(2) the weighted average equivalent of the categories in Subdivision (1).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.252. MINORITY AND DISADVANTAGED INDIVIDUALS PROGRAM: CERTAIN AUTHORITIES. (a) The board of an authority confirmed before July 1, 1985, shall establish a program to encourage participation in contracts of the authority by businesses owned by minorities or disadvantaged individuals.

(b) This section does not apply to an authority created before 1980 in which the principal municipality has a population of less than 1.9 million.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 153, eff. September 1, 2011.

Sec. 451.253. MINORITY AND WOMEN-OWNED BUSINESS PROGRAM: CERTAIN AUTHORITIES. (a) An authority with a regional economic development facility approved under Subchapter E may establish a program reasonably designed to increase the participation of minority and women-owned businesses in public contracts awarded by the authority, and if the program is established, the board shall provide a plan to assist minority and women-owned businesses in the area served by the authority to achieve the purposes of the program. If the board establishes an overall minority and women-owned business contract percentage goal as a part of the program, the goal may not exceed the capability of the minority and women-owned businesses in the area served by the authority to perform the number and type of contracts awarded by the authority, as determined by a qualified, independent source.

(b) The board shall periodically review the effectiveness of the program and the reasonableness of the program goals.

(c) This section does not affect Sections 451.110 and 451.111, but prospective bidders may be required to meet uniform standards designed to assure a reasonable degree of participation by minority and women-owned businesses in the performance of any contract.

(d) In this section:

(1) "Minority" includes blacks, Hispanics, Asian Americans,

American Indians, and Alaska natives.

(2) "Minority business" means a business concern more than 50 percent of which is owned and controlled in management and daily operations by members of one or more minorities.

(3) "Women-owned business" means a business concern more than 50 percent of which is owned and controlled in management and daily operations by one or more women.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.254. PROGRAM FOR PERSONS WITH PHYSICAL DISABILITIES: CERTAIN AUTHORITIES. (a) The board of an authority confirmed before July 1, 1985, shall promote the availability and use of transportation services of the authority by persons who have physical disabilities by establishing a program that:

(1) is designed to meet the specific transportation problems of those persons; and

(2) establishes the means by which transportation services are to be provided to those persons.

(b) Before establishing a program under this section, the board shall hold public hearings relating to the establishment and operation of the program.

(c) This section does not apply to an authority created before 1980 in which the principal municipality has a population of less than 1.9 million.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 154, eff. September 1, 2011.

Sec. 451.255. TRANSPORTATION FOR JOBS PROGRAM PARTICIPANTS.

(a) An authority shall contract with the Texas Department of Human Services to provide, in accordance with federal law, transportation services to a person who:

(1) resides in the area served by the authority;

(2) is receiving financial assistance under Chapter 31, Human Resources Code; and

(3) is registered in the jobs opportunities and basic

skills training program under Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 682).

(b) The contract must include provisions to ensure that:

(1) the authority is required to provide transportation services only to a location:

(A) to which the person travels in connection with participation in the jobs opportunities and basic skills training program; and

(B) that the authority serves under the authority's authorized rate structure and existing services;

(2) the authority provides directly to the Texas Department of Human Services trip vouchers for distribution by the department to a person who is eligible under this section to receive transportation services;

(3) the Texas Department of Human Services reimburses the authority for allowable costs, at the applicable federal matching rate; and

(4) the Texas Department of Human Services may return undistributed trip vouchers to the authority.

(c) An authority shall certify the amount of public funds spent by the authority under this section for the purpose of obtaining federal funds under the jobs opportunities and basic skills training program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.256. WAIVER OF FEDERAL REQUIREMENTS. If, before implementing Section 451.255, the Texas Department of Human Services determines that a waiver or authorization from a federal agency is necessary for implementation, the Texas Department of Human Services shall request the waiver or authorization, and the department and an authority may delay implementing Section 451.255 until the waiver or authorization is granted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER H. BONDS

Sec. 451.351. DEFINITION. In this subchapter, "bond" includes a note.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.352. POWER TO ISSUE BONDS. (a) An authority may issue bonds at any time and for any amounts it considers necessary or appropriate for the acquisition, construction, repair, equipping, improvement, or extension of its transit authority system.

(b) The board, by resolution, may authorize the issuance of bonds payable solely from revenue.

(c) Bonds, any portion of which is payable from taxes, may not be issued until authorized by a majority of the votes received in an election ordered and held for that purpose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.353. BOND TERMS. (a) An authority's bonds are fully negotiable. An authority may make the bonds redeemable before maturity at the price and subject to the terms and conditions that are provided in the authority's resolution authorizing the bonds.

(b) A revenue bond indenture may limit a power of the authority provided by Sections 451.054-451.060, 451.061(a) or (b), 451.064-451.069, 451.107(a), or 451.251 as long as the bonds issued under the indenture are outstanding.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.354. SALE. An authority's bonds may be sold at a public or private sale as determined by the board to be the more advantageous.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.355. APPROVAL; REGISTRATION. (a) An authority's bonds and the records relating to their issuance shall be submitted to the attorney general for examination before the bonds may be delivered.

(b) If the attorney general finds that the bonds have been issued in conformity with the constitution and this chapter and that

the bonds will be a binding obligation of the issuing authority, the attorney general shall approve the bonds.

(c) After the bonds are approved by the attorney general, the comptroller shall register the bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.356. INCONTESTABILITY. Bonds are incontestable after they are:

- (1) approved by the attorney general;
- (2) registered by the comptroller; and
- (3) sold and delivered to the purchaser.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.357. SECURITY PLEDGED. (a) To secure the payment of an authority's bonds, the authority may:

- (1) pledge all or part of revenue realized from any tax that the authority may impose;
- (2) pledge all or part of the revenue of the transit authority system; and
- (3) mortgage all or part of the transit authority system, including any part of the system subsequently acquired.

(b) Under Subsection (a)(3) an authority may, subject to the terms of the bond indenture or the resolution authorizing the issuance of the bonds, encumber a separate item of the transit authority system and acquire, use, hold, or contract for the property by lease, chattel mortgage, or other conditional sale including an equipment trust transaction.

(c) An authority may not issue bonds secured by ad valorem tax revenue.

(d) An authority is not prohibited by this subchapter from encumbering one or more transit authority systems to purchase, construct, extend, or repair one or more other transit authority systems.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.358. PLEDGE OF REVENUE LIMITED. The expenses of operation and maintenance of a transit authority system, including salaries, labor, materials, and repairs necessary to provide efficient service and every other proper item of expense, are a first lien and charge against any revenue of a transit authority system that is encumbered under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.359. REFUNDING BONDS. An authority may issue refunding bonds for the purposes and in the manner authorized by general law, including Chapter 1207, Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.395, eff. Sept. 1, 2001.

Sec. 451.360. BONDS AS AUTHORIZED INVESTMENTS. (a) An authority's bonds are authorized investments for:

- (1) a bank;
- (2) a savings bank;
- (3) a trust company;
- (4) a savings and loan association; and
- (5) an insurance company.

(b) The bonds, when accompanied by all appurtenant, unmatured coupons and to the extent of the lesser of their face value or market value, are eligible to secure the deposit of public funds of this state, a political subdivision of this state, and any other political corporation of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.361. EXCHANGE OF BONDS FOR EXISTING SYSTEM. An authority's revenue bonds may be exchanged, in lieu of cash, for the property of all or part of an existing transit authority system to be acquired by the authority. If the property is owned by a corporation that will dissolve simultaneously with the exchange, the authority may acquire the stock of the corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.362. SHORT-TERM BONDS. (a) Notwithstanding other provisions of this chapter and except as provided by Subsections (c) and (d), the board, by order or resolution, may issue bonds that are secured by revenue or taxes of the authority if the bonds:

(1) have a term of not more than 12 months; and

(2) are payable only from revenue or taxes received on or after the date of their issuance and before the end of the fiscal year following the fiscal year in which the bonds are issued.

(b) A bond issued under this section need not be approved by the attorney general or registered with the comptroller.

(c) In an authority in which the principal municipality has a population of 1.5 million or more, bonds may have a term of not more than five years. The bonds are payable only from revenue or taxes received on or after the date of their issuance.

(d) In an authority created before 1980 in which the principal municipality has a population of less than 1.9 million, bonds may have a term of not more than 10 years. The bonds are payable only from fee revenue received on or after the date the bonds are issued.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 19.09, eff. Sept. 1, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 89 (S.B. [1074](#)), Sec. 1, eff. May 14, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 155, eff. September 1, 2011.

Sec. 451.3625. BONDS FOR RAIL SYSTEM; CERTAIN AUTHORITIES.

(a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 850,000.

(b) An authority may not issue short-term debt under Section 451.362 or bonds secured by the revenue of the authority to finance any portion of the purchase, acquisition, construction, operation, or maintenance of a fixed rail transit system unless the system is approved at a referendum under Section 451.071.

(c) If a referendum is approved under Section 451.071, the term for which short-term debt may be issued under Section 451.362 is increased to five years if the purpose of the debt is the purchase, acquisition, construction, operation, or maintenance of the fixed rail transit system approved at the referendum.

Added by Acts 1997, 75th Leg., ch. 472, Sec. 2, eff. Sept. 1, 1997.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 156, eff. September 1, 2011.

Sec. 451.363. TAX EXEMPTION. The interest on an authority's bonds is exempt from state and local taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER I. TAXATION

Sec. 451.401. GENERAL POWER OF TAXATION. An authority may impose any kind of tax except an ad valorem property tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.402. VOTER APPROVAL REQUIRED FOR TAX. (a) An authority may not impose a tax or increase the rate of an existing tax unless a proposition proposing the imposition or rate increase is approved by a majority of the votes received at an election held for that purpose.

(b) Each new tax or rate increase must be expressed in a separate proposition consisting of a brief statement of the nature of the proposed tax. The board may submit propositions in the alternative with provision for the method of determining the result of the election.

(c) The notice of the election must contain a statement of the base or rate of the proposed tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.403. AUTHORITY TAX CODE AND RULES. (a) The board shall, before an election to authorize a tax, adopt a complete tax code and rules providing for the nature of the tax, the tax rate, and the administration and enforcement of the tax. The code and rules must include provisions for:

- (1) the time and manner of payment;
- (2) exemptions;
- (3) liens;
- (4) interest;
- (5) penalties;
- (6) discounts for prepayment;
- (7) refunds for erroneous payment;
- (8) fees for collection;
- (9) collection procedures;
- (10) manner of enforcement;
- (11) required returns;
- (12) registration and reports of taxpayers;
- (13) the duties and responsibilities of tax officers and taxpayers; and
- (14) the delegation to tax officers of the power to make determinations and additional rules and obtain records as appropriate.

(b) The tax code and rules may contain other provisions, including the incorporation of other tax laws and remedies for tax administration and enforcement that are available to the state or another political subdivision under general law.

(c) The board, after an election approving the tax, may amend the tax code and rules. The board may not increase the amount of the tax by amendment unless the increase is approved under Section 451.402.

(d) This section does not apply to an authority's sales and use tax or motor vehicle emissions tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.404. SALES AND USE TAX. (a) The board, subject to Section 451.402, may impose for an authority a sales and use tax at the rate of:

- (1) one-quarter of one percent;

- (2) one-half of one percent;
- (3) three-quarters of one percent; or
- (4) one percent.

(b) Chapter 322, Tax Code, applies to an authority's sales and use tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.405. MAXIMUM TAX RATE IN AUTHORITY AREA. (a) An authority may not adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by other political subdivisions of the state having territory in the authority exceeds two percent in any location in the authority.

(b) An election by an authority to adopt a sales and use tax or to increase the rate of the authority's sales and use tax has no effect if:

(1) the voters of the authority approve the authority's sales and use tax rate or rate increase at an election held on the same day on which a municipality or county having territory within the authority adopts a sales and use tax or an additional sales and use tax; and

(2) the combined rates of all sales and use taxes imposed by the authority and other political subdivisions of the state would exceed two percent in any location in the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.406. INITIAL SALES TAX: EFFECTIVE DATE. The adoption of an authority's sales and use tax takes effect on the first day of the second calendar quarter beginning after the date the comptroller receives a copy of the order required to be filed under Section 451.661.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.407. RATE DECREASE: SALES AND USE TAX. The board may:

- (1) decrease by order the authority's sales and use tax rate; or
- (2) order an election to decrease the rate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.408. RATE INCREASE: SALES AND USE TAX. (a) The board may order an election to increase the authority's sales and use tax rate.

(b) The registered voters of an authority, by petition, may require an election to increase the authority's sales and use tax rate.

(c) If the board has reduced the rate of the authority's sales and use tax without election, the board, by order, may increase the rate to a rate not in excess of the rate before the ordered decrease.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.409. SALES AND USE TAX RATE INCREASE: PETITION AND ELECTION. (a) A petition to increase the rate of an authority's sales and use tax is valid only if it is submitted to the board and signed by at least 10 percent of the authority's registered voters as determined by the most recent official list of registered voters.

(b) The board shall submit a petition for an election to increase the authority's sales and use tax rate to the secretary of state.

(c) The secretary of state shall determine the validity of a petition not later than the 30th day after the date the petition is received by the secretary and shall notify the board of the result of the determination.

(d) The board shall call an election to increase the tax rate if the secretary determines that a petition is valid or if the secretary fails to act within the period required by Subsection (c).

(e) The authority shall pay the costs of determining the validity of a petition and the costs of the election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.410. SALES AND USE TAX INCREASE OR DECREASE: BALLOTS. In an election for the increase or decrease of an authority's sales and use tax, the ballots shall be printed to provide for voting for or against the following proposition: "The (increase or decrease) of the local sales and use tax rate to (percentage)."

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.411. RESULTS OF ELECTION; NOTICE. (a) If a majority of the votes received in an election to increase or decrease the rate of an authority's sales and use tax favor the proposition, the rate change takes effect as provided by Section 451.412.

(b) The authority shall send a notice of the election and a certified copy of the order canvassing the results of the election to the Texas Department of Transportation and the comptroller. The authority shall file a notice and a certified copy of the order in the deed records of each county in which the authority is located in the same manner as the results of a confirmation election are filed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.412. EFFECTIVE DATE OF TAX RATE CHANGE. A rate increase or decrease in an authority's sales and use tax takes effect on:

(1) the first day of the first calendar quarter that begins after the date the comptroller receives the notice provided under Section 451.411(b); or

(2) the first day of the second calendar quarter that begins after the date the comptroller receives the notice, if within 10 days after the date of receipt of the notice the comptroller gives written notice to the presiding officer of the board that the comptroller requires more time to implement tax collection and reporting procedures.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.413. TAX EFFECTIVE DATES AFTER ELECTION CONTEST. (a) The contestant of an election under this subchapter shall send the

comptroller by registered or certified mail within 10 days after the date the contest is filed a copy of the notice of contest that shows:

- (1) the style of the contest;
- (2) the date the contest is filed;
- (3) the case number; and
- (4) the court in which the contest is pending.

(b) On receipt of the notice under Subsection (a), the effective date of an authority's sales and use tax or change in the rate of an authority's sales and use tax to result from the election is suspended.

(c) The presiding officer of the board shall notify by registered or certified mail the comptroller when a final judgment of a contest to an election under this subchapter is entered and enclose with the notice a certified copy of the final judgment.

(d) If the result of the election adopting the authority's local sales and use tax or changing the tax rate is sustained, the comptroller, in determining the effective date of the tax, shall substitute the date of receipt of the notice of the final judgment for the date of receipt of the notice of election results.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.414. MAXIMUM RATE OF VEHICLE EMISSIONS TAX. (a) Each year that a board imposes a motor vehicle emissions tax, the board shall set the motor vehicle emissions tax rate as a percentage of the maximum tax rate specified for each class of vehicles in the following table:

Cubic Inches of Cylinder Displacement	Annual Tax for Each Vehicle
0-50	\$4
51-100	6
101-200	7
201-300	8
301-900	10
901 or more	15

(b) The rate of the tax may not exceed 100 percent of the amount specified by the table and applies equally and uniformly to all classes and to all members of each class.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.415. EXEMPTIONS. (a) The following vehicles are exempt from a vehicle emissions tax imposed by an authority on the owner of the vehicle:

(1) a vehicle that is the property of and used exclusively in the service of the United States, this state, or a county, municipality, school district, or authority of this state;

(2) a vehicle used exclusively for fire fighting; and

(3) a vehicle that:

(A) is owned by a person doing business both in and outside the authority or only outside the authority;

(B) is not stationed or customarily kept in the authority; and

(C) is operated in the authority for an average period of less than two days each calendar week during a tax year or portion of a tax year during which the tax accrues.

(b) To receive the exemption under Subsection (a)(3), the owner of a vehicle must file with the county assessor-collector an affidavit specifying each vehicle for which the exemption is claimed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.416. EMISSIONS TAX YEAR. (a) A motor vehicle emissions tax year begins on April 1 of each year and is divided into quarters.

(b) A tax accruing during the second quarter of the tax year is three-fourths of the amount of the annual tax. A tax accruing during the third quarter is one-half of the amount of the annual tax. A tax accruing during the fourth quarter is one-fourth of the amount of the annual tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.417. EMISSIONS TAX PAYMENTS: DELINQUENCY. Motor vehicle emissions taxes for a tax year become payable on February 1 and become delinquent if not paid by April 1 of the tax year. The taxes on a motor vehicle that becomes subject to the tax on or after

April 1 of the tax year become delinquent if not paid by the 61st day after the date the taxes accrue.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.418. COLLECTION OF EMISSIONS TAXES BY COUNTY ASSESSOR-COLLECTOR. (a) The county assessor-collector of a county in which an authority has territory shall collect the authority's motor vehicle emissions taxes from residents of the authority who reside in that county.

(b) A resident of an authority shall pay the motor vehicle emissions tax for each motor vehicle owned or controlled by the resident to the county assessor-collector at the time and with whom the resident applies for registration of the resident's motor vehicle for the ensuing registration year. An applicant for registration shall pay the full amount of the motor vehicle emissions tax for the tax year unless application is made after June 30 of the tax year and the applicant files with the county assessor-collector an affidavit that the vehicle has not for any previous quarter of the tax year been operated in the authority. The county assessor-collector shall issue to each taxpayer, on payment of the tax, the original motor vehicle emissions tax receipt bearing an identifying number or symbol for the motor vehicle for which the tax is paid. One copy of the receipt shall be retained by the county assessor-collector.

(c) A county assessor-collector may not register a motor vehicle subject to an authority's motor vehicle emissions tax until the motor vehicle emissions tax is paid for the tax year or other period that the motor vehicle emissions tax is due.

(d) The board shall, on or before November 1 of each year, certify to the county assessor-collector of each county having territory in the authority the motor vehicle emissions tax rate for each class of motor vehicles for the succeeding tax year. The board shall furnish to the county assessor-collector motor vehicle emissions tax receipts in triplicate.

(e) A county assessor-collector is entitled to a fee of 45 cents for each motor vehicle emissions tax receipt issued by the assessor-collector to be used for paying the expenses incurred in collecting the tax and issuing the tax receipts under this section.

(f) After deducting the fee authorized by Subsection (e), the

county assessor-collector shall, on or before the 15th day of each month, send to the authority all taxes, penalties, and interest collected on behalf of the authority during the preceding calendar month. The county assessor-collector and the authority may agree to a payment schedule and interval other than the schedule and interval specified by this subsection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.419. PENALTIES AND INTEREST: EMISSIONS TAXES. (a) The following penalties apply to the late payment of motor vehicle emissions taxes:

Date Tax Paid	Penalty
during the first month of delinquency	one percent
during the second month of delinquency	two percent
during the third month of delinquency	three percent
during the fourth month of delinquency	four percent
during the fifth month of delinquency	five percent
after the fifth month of delinquency	eight percent

(b) A delinquent motor vehicle emissions tax bears interest at six percent a year from the date of delinquency until the tax is paid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.420. BOARD RULES: EMISSIONS TAXES. The board may adopt rules relating to the collection and payment of the authority's motor vehicle emissions taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER J. FINANCIAL AND PERFORMANCE AUDITS

Sec. 451.451. FINANCIAL AUDITS. (a) The board of an authority shall have an annual audit of the affairs of the authority prepared by an independent certified public accountant or a firm of

independent certified public accountants.

(b) The audit is open to public inspection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.452. REVIEW OF AUDIT: CERTAIN AUTHORITIES. (a) The board shall deliver a copy of each audit prepared under Section 451.451 to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) the state auditor;
- (5) the county judge of each county having territory in the authority; and
- (6) the presiding officer of the governing body of each municipality having territory in the authority.

(b) The state auditor may elect to file any comments about the audit with the legislative audit committee and the board, subject to a risk assessment performed by the state auditor and to the legislative audit committee's approval of including the preparation of the comments in the audit plan under Section 321.013, Government Code.

(c) The state auditor may:

- (1) examine any work papers from the audit; or
- (2) audit the financial transactions of the authority if the state auditor determines an audit is necessary.

(d) This section applies only to an authority in which the principal municipality has a population of more than 1.9 million or less than 850,000, except that Subsections (a)(5) and (6) do not apply to an authority in which the principal municipality has a population of more than 1.9 million.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 69, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 157, eff. September 1, 2011.

Sec. 451.454. PERFORMANCE AUDITS: CERTAIN AUTHORITIES. (a)

The board of an authority in which the principal municipality has a population of more than 1.9 million or less than 850,000 shall contract at least once every four years for a performance audit of the authority to be conducted by a firm that has experience in reviewing the performance of transit agencies.

(b) The purposes of the audit are to provide:

(1) evaluative information necessary for the performance of oversight functions by state and local officers; and

(2) information to the authority to assist in making changes for the improvement of the efficiency and effectiveness of authority operations.

(c) Each audit must include an examination of:

(1) one or more of the following:

(A) the administration and management of the authority;

(B) transit operations; or

(C) transit authority system maintenance;

(2) the authority's compliance with applicable state law, including this chapter; and

(3) the following performance indicators:

(A) operating cost per passenger, per revenue mile, and per revenue hour;

(B) sales and use tax receipts per passenger;

(C) fare recovery rate;

(D) average vehicle occupancy;

(E) on-time performance;

(F) number of accidents per 100,000 miles; and

(G) number of miles between mechanical road calls.

(d) A subject described under Subsection (c)(1) must be examined at least once in every third audit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 158, eff. September 1, 2011.

Sec. 451.455. COMPUTATION OF PERFORMANCE INDICATORS. (a) An authority's operating cost per passenger is computed by dividing the authority's annual operating cost by the passenger trips for the same period.

(b) The sales and use tax receipts per passenger are computed by dividing the annual receipts from authority sales and use taxes by passenger trips for the same period.

(c) The operating cost per revenue hour is computed by dividing the annual operating cost by the total of scheduled hours that authority revenue vehicles are in revenue service for the same period.

(d) The operating cost per revenue mile is computed by dividing the annual operating cost by the number of miles traveled by authority revenue vehicles while in revenue service for the same period.

(e) The fare recovery rate is computed by dividing the annual revenue, including fares, tokens, passes, tickets, and route guarantees, provided by passengers and sponsors of passengers of revenue vehicles, by the operating cost for the same period. Charter revenue, interest income, advertising income, and other operating income are excluded from revenue provided by passengers and sponsors of passengers.

(f) The average vehicle occupancy is computed by dividing the annual passenger miles by the number of miles traveled by authority revenue vehicles while in revenue service for the same period. The annual passenger miles are computed by multiplying the annual passenger trips and the average distance ridden by passengers during the same period.

(g) On-time performance is computed by determining an annual percentage of revenue vehicle trips of revenue vehicles that depart from selected locations at a time not earlier than the published departure time and not later than five minutes after that published time.

(h) The number of accidents per 100,000 miles is computed by multiplying the annual number of accidents by 100,000 and dividing the product by the number of miles for all service, including charter and nonrevenue service, directly operated by the authority for the same period. In this subsection, "accident" includes:

(1) a collision that involves an authority's revenue vehicle, other than a lawfully parked revenue vehicle, and that results in property damage, injury, or death; and

(2) an incident that results in the injury or death of a person on board or boarding or alighting from an authority's revenue vehicle.

(i) The number of miles between mechanical road calls is computed by dividing the annual number of miles for all service directly operated by an authority, including charter and nonrevenue service, by the number of mechanical road calls for the same period. In this subsection, "mechanical road call" means an interruption in revenue service that is caused by revenue vehicle equipment failure that requires assistance from a person other than the vehicle operator before the vehicle can be operated normally.

(j) In this section:

(1) "Operating cost" means an authority's costs of providing public transit service, including purchased transit service not performed by the authority, but excluding the costs of:

(A) depreciation, amortization, and capitalized charges;

(B) charter bus operations; and

(C) coordination of carpool and vanpool activities.

(2) "Passenger trips" means the number of all passenger boardings, including transfers, but excluding charter passengers and carpool and vanpool passengers whose trips are only coordinated by an authority.

(3) "Revenue service" means the time an authority revenue vehicle is in service to carry passengers, other than charter passengers.

(4) "Revenue vehicle" means a vehicle that is:

(A) used to carry paying passengers; and

(B) operated by an authority or as a purchased service.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.456. PERFORMANCE AUDIT RESPONSE; HEARING. (a) An authority for which a performance audit is conducted under Section 451.454 shall prepare a written response to the audit report. The response must include each proposal for action relating to recommendations included in the report, whether the proposal for action is pending, adopted, or rejected.

(b) The authority shall make copies of the report and the response available for public inspection at the offices of the authority during normal business hours.

(c) The authority shall conduct a public hearing on each

performance audit report and the authority's response under Subsection (a). The authority shall give notice of the hearing by publication of the notice in a newspaper of general circulation in the area included in the authority at least 14 days before the date of the hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.457. DELIVERY OF REPORT AND RESPONSE. An authority required by Section 451.454 to contract for a performance audit shall, before February 1 of every second odd-numbered year, deliver a copy of each audit report and of the authority's response to the report to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) each member of the legislature whose district includes territory in the authority;
- (5) the state auditor;
- (6) the county judge of each county having territory in the authority; and
- (7) the presiding officer of the governing body of each municipality having territory in the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.458. INTERNAL AUDITOR. (a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 850,000.

(b) The board shall appoint a qualified individual to perform internal auditing services for a term of five years. The board may remove the auditor only on the affirmative vote of at least three-fourths of the members of the board.

(c) The auditor shall report directly to the board.

Added by Acts 2009, 81st Leg., R.S., Ch. 1221 (S.B. [1263](#)), Sec. 6, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 159, eff.

September 1, 2011.

Sec. 451.460. ANNUAL REPORT. (a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 850,000.

(b) The authority shall provide an annual report to each governing body of a municipality or county in the authority regarding the status of any financial obligation of the authority to the municipality or county.

Added by Acts 2009, 81st Leg., R.S., Ch. 1221 (S.B. 1263), Sec. 6, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 161, eff. September 1, 2011.

SUBCHAPTER K. BOARDS

Sec. 451.501. BOARD MEMBERSHIP. (a) Except as provided by Subsection (b), a board is composed of:

(1) five members; plus

(2) the number of additional members determined under Subsection (c), (d), or (e).

(b) The board of an authority created by an alternate municipality is composed of five members.

(c) If less than 50 percent of the population of the principal county, excluding the population of the principal municipality, reside in the authority, the board has two additional members.

(d) If 50 percent or more but less than 75 percent of the population of the principal county, excluding the population of the principal municipality, reside in the authority, the board has four additional members.

(e) If 75 percent or more of the population of the principal county, excluding the population of the principal municipality, reside in the authority, the board has six additional members.

(f) In this section and Section 451.502, "principal county" means the county in which not less than 51 percent of the territory of the principal municipality is located.

(g) This section does not apply to the board of an authority

described by Section 451.5021(a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 240, Sec. 1, eff. Aug. 15, 1997.

Sec. 451.502. APPOINTMENT OF MEMBERS. (a) The five board members under Section 451.501(a)(1) are appointed by the governing body of the principal municipality, except in an authority having a principal municipality with a population of more than 1.9 million, the five board members are appointed by the mayor of the principal municipality and are subject to confirmation by the governing body of the principal municipality.

(b) In an authority created by an alternate municipality, the board members are appointed by the mayor of the alternate municipality and are subject to confirmation by the governing body of the alternate municipality.

(c) In an authority having two additional members, the additional members are appointed as follows:

(1) one member appointed by a panel composed of:

(A) the mayors of the municipalities in the authority, excluding the mayor of the principal municipality; and

(B) the county judges of the counties having unincorporated area in the authority, excluding the county judge of the principal county; and

(2) one member appointed by the commissioners court of the principal county.

(d) In an authority having four additional members, the additional members are appointed as follows:

(1) two members appointed by a panel composed of:

(A) the mayors of the municipalities in the authority, excluding the mayor of the principal municipality; and

(B) the county judges of the counties having unincorporated area in the authority, excluding the county judge of the principal county; and

(2) two members appointed by the commissioners court of the principal county.

(e) In an authority having six additional members, the additional members are appointed as follows:

(1) two members appointed by a panel composed of:

(A) the mayors of the municipalities in the authority, excluding the mayor of the principal municipality; and

(B) the county judges of the counties having unincorporated area in the authority, excluding the county judge of the principal county;

(2) three members appointed by the commissioners court of the principal county; and

(3) one member, who serves as presiding officer of the board, appointed by a majority of the board.

(f) This section does not apply to the board of an authority described by Section 451.5021(a).

(g) The principal municipality shall make its appointments to the board so that at least one of the appointees is designated to represent the interests of the transportation disadvantaged.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 240, Sec. 2, eff. Aug. 15, 1997; Acts 2001, 77th Leg., ch. 1038, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 162, eff. September 1, 2011.

Sec. 451.5021. BOARD COMPOSITION; CERTAIN AUTHORITIES. (a) This section applies only to the board of an authority created before July 1, 1985, in which the principal municipality has a population of less than 850,000.

(b) Members of the board are appointed as follows:

(1) one member, who is an elected official, appointed by the metropolitan planning organization designated by the governor that serves the area of the authority;

(2) two members, one who must be and one who may be an elected official, appointed by the governing body of the principal municipality;

(3) one member appointed by the commissioners court of the principal county;

(4) one member appointed by the commissioners court of the county, excluding the principal county, that has the largest population of the counties in the authority;

(5) one member, who is an elected official, appointed by a

panel composed of the mayors of all municipalities in the authority, excluding the mayor of the principal municipality;

(6) one member, who has at least 10 years of experience as a financial or accounting professional, appointed by the metropolitan planning organization that serves the area in which the authority is located;

(7) one member, who has at least 10 years of experience in an executive-level position in a public or private organization, including a governmental entity, appointed by the metropolitan planning organization that serves the area in which the authority is located; and

(8) two members appointed by the metropolitan planning organization that serves the area in which the authority is located, if according to the most recent federal decennial census more than 35 percent of the population in the territory of the authority resides outside the principal municipality.

(b-1) Notwithstanding Section 451.505, members of the board serve staggered three-year terms, with the terms of two or three members, as applicable, expiring June 1 of each year.

(c) Only a member of a metropolitan planning organization who is an elected officer of a political subdivision in which a tax of the authority is collected is entitled to vote on an appointment under Subsection (b)(1).

(d) A person appointed under Subsection (b)(1), (2), or (5), except as provided by Subsection (b)(2):

(1) must be a member of the governing body:

(A) of the political subdivision that is entitled to make the appointment; or

(B) over which a member of the panel entitled to make an appointment presides;

(2) vacates the office of board member if the person ceases to be a member of the governing body described by Subdivision (1);

(3) serves on the board as an additional duty of the office held on the governing body described by Subdivision (1); and

(4) is not entitled to compensation for serving as a member of the board.

(d-1) At least two members appointed under Subsections (b)(1), (6), and (7) must be qualified voters residing in the principal municipality.

(d-2) A person appointed under Subsection (b)(3) must:

(1) have the person's principal place of occupation or employment in the portion of the authority's service area that is located in the principal county; or

(2) be a qualified voter of the principal county.

(d-3) A person appointed under Subsection (b)(4) must:

(1) have the person's principal place of occupation or employment in the portion of the authority's service area that is located in the county, other than the principal county, that has the largest population of the counties in the authority; or

(2) be a qualified voter of the county, other than the principal county, that has the largest population of the counties in the authority.

(e) A panel appointing a member under Subsection (b)(5) operates in the manner prescribed by Section 451.503.

(f) In this section, "principal county" has the meaning assigned by Section 451.501(f).

(g) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1221, Sec. 9, eff. September 1, 2009.

(h) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1221, Sec. 9, eff. September 1, 2009.

Added by Acts 1997, 75th Leg., ch. 240, Sec. 3, eff. Aug. 15, 1997.

Amended by Acts 1999, 76th Leg., ch. 652, Sec. 1, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 1038, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1221 (S.B. [1263](#)), Sec. 7, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1221 (S.B. [1263](#)), Sec. 9, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 163, eff. September 1, 2011.

Sec. 451.503. APPOINTMENTS PANEL. (a) The mayor of the most populous municipality represented on a panel under Section 451.502 serves as the presiding officer of the panel.

(b) The presiding officer shall, by giving written notice to each member, call a meeting of the panel as necessary to make an appointment. An appointment shall be made not later than the 60th day after the date a position becomes vacant, including the initial

vacancy on the creation of the position.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.5035. DESIGNATION OF ALTERNATE BY MAYOR. (a) This section applies only to an authority in which the principal municipality has a population of less than 320,000.

(b) The mayor of a municipality who is unable to attend a meeting of an appointments panel may designate a person to:

- (1) represent the municipality at the meeting; and
- (2) vote at the meeting.

(c) To be eligible to be designated under Subsection (b), a person must be a council member, alderman, commissioner, or other officer of the municipality.

(d) A designation under Subsection (b) must:

- (1) be in writing;
- (2) be signed by the mayor; and
- (3) be filed with the minutes of the appointments panel kept by the authority.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.27(a), eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 164, eff. September 1, 2011.

Sec. 451.504. BOARD VACANCIES. (a) A vacancy on a board is filled by the person or entity that appointed the member who was in the position that is vacant. If confirmation of the previous position was required, confirmation of the vacancy appointment is required in the same manner.

(b) A vacancy for an unexpired term is for the remainder of the term only.

(c) A member of the board who is appointed as presiding officer under Section 451.502(e)(3) vacates the previous board position.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.505. BOARD TERMS. (a) The term of board membership is two years.

(b) The terms of members of a board are staggered if the authority was created before 1980 and has a principal municipality with a population of less than 1.9 million.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1221 (S.B. 1263), Sec. 8, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 165, eff. September 1, 2011.

Sec. 451.506. TERM LIMITATIONS. (a) A member of the board may be reappointed except as provided by this section.

(b) An individual may not serve more than eight years on the same board and may not be appointed to a term for which service to the completion of the term would exceed this limitation. This subsection applies only to a board of an authority:

(1) in which the principal municipality has a population of more than 1.9 million or less than 320,000; or

(2) created before 1980 and in which the principal municipality has a population of less than 1.9 million.

(c) An individual may serve two terms as presiding officer under Section 451.502(e)(3), in addition to any service on the board before being appointed under that subsection. This subsection does not apply to an individual serving on the board of an authority described by Subsection (b) or an authority confirmed before July 1, 1985, and in which the principal municipality has a population of less than 850,000.

(d) A term limitation provided by this section does not apply to service on the board by a holdover pending the qualification of a successor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 22 (H.B. 1815), Sec. 1, eff. May 9, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 166, eff. September 1, 2011.

Sec. 451.507. BOARD MEMBERSHIP: RESIDENCY IN AUTHORITY. A member of the board must be a qualified voter residing in the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.508. REMOVAL BY BOARD. A board member may be removed from office by the other members of the board because of a ground for removal described by Section 451.510.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.28(a), eff. Sept. 1, 1997.

Sec. 451.509. REMOVAL BY APPOINTING PERSON OR ENTITY. (a) In an authority in which the principal municipality has a population of less than 850,000 and in which the authority's sales and use tax is imposed at a rate of one percent, a member of the board may be removed from office for any ground described by Section 451.510 by a majority vote of the entity that appointed the member.

(b) In an authority in which the principal municipality has a population of less than 320,000, a member of the board may be removed for any ground described by Section 451.510 by the entity that appointed the member. This subsection does not apply to the removal of a member serving as the presiding officer appointed by the board.

(c) In an authority in which the principal municipality has a population of more than 850,000, a member of the board may be removed for any ground described by Section 451.510 by the person or entity that appointed the member. If the person who appointed the member is the mayor of the principal municipality, the removal is by recommendation of the mayor and confirmation by the municipality's governing body. If the member to be removed was appointed by the mayor of the principal municipality, the statement required by Section 451.511(a) shall be given by the mayor, and confirmation of removal by the governing body of the municipality is necessary.

(d) In an authority in which the principal municipality has a population of less than 850,000 or more than 1.9 million, a general manager who has knowledge that a potential ground for removal

applicable to a member of the authority's board exists shall notify the presiding officer of the board of the ground, and the presiding officer shall notify the person that appointed the member against whom the potential ground applies of the ground.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.28(b), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 669, Sec. 138, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 167, eff. September 1, 2011.

Sec. 451.510. GROUND FOR REMOVAL FROM BOARD. The grounds for removal of a member of a board are:

- (1) inefficiency in office;
- (2) nonfeasance or malfeasance in office;
- (3) not having at the time of appointment or not maintaining during service on the board the qualifications for office described by Section 451.507;
- (4) a violation of Chapter 171, Local Government Code, or Section 451.112;
- (5) the inability, because of illness or disability, to discharge the member's duties of office during a substantial part of the term for which the member is appointed; and
- (6) absence, without having been excused by a majority vote of the board, from more than one-half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.511. REMOVAL OF BOARD MEMBER: NOTICE AND HEARING.

(a) The person or entity proposing to remove a board member under Section 451.508 or 451.509 shall give the member a written statement of the grounds for removal. The member is entitled to a hearing before the board or entity if, before the 11th day after the date the statement is received, the member requests a hearing. The member may be represented by counsel at the hearing.

(b) At a hearing under this section, the board or entity shall

confirm the removal of the member if the board or entity finds that the charges are true.

(c) A removal by the board is by a majority vote of the other members.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.512. GROUND FOR REMOVAL: VALIDITY OF BOARD ACTS. (a) Except as provided by Subsection (b), in an authority in which the principal municipality has a population of less than 850,000 or more than 1.9 million, an action of the board is not invalid because a ground for removal of a board member exists.

(b) An action that was taken when a ground for removal under Section 451.510(4) existed and that would not have passed the board without the vote of the person who is the subject of the ground for removal is voidable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 168, eff. September 1, 2011.

Sec. 451.513. RECALL OF MEMBERS: CERTAIN AUTHORITIES. (a) A board member of an authority that has a principal municipality with a population of more than 850,000 may be removed, as provided by this section, on a petition for the recall of the member submitted by the registered voters of the authority. Recall of a member under this section is in addition to any other method for removal under this subchapter.

(b) The entity that confirmed a board member, or if there is no confirmation, the entity that appointed a board member, shall take action under this section to remove the member or to reconfirm the member's appointment:

(1) on receipt of notice from the secretary of state that a valid recall petition was presented to the entity; or

(2) if the secretary of state fails to notify the entity as required by Subsection (d).

(c) A recall petition under this section is valid if:

(1) it states that the petition is to require the

consideration of the removal of a specified board member;

(2) it is signed by registered voters of the authority in a number equal to or greater than 10 percent of the number of votes cast in the authority in the preceding gubernatorial election;

(3) the signatures meeting the requirement in Subdivision (2) are collected not earlier than the 90th day before the date the petition is presented to the entity; and

(4) it is presented to the entity before the first day of the final six months of the term of the member who is the subject of the petition.

(d) After receiving a petition under this section the entity shall send it to the secretary of state. The secretary of state shall, not later than the 10th day after the date the petition is received, determine whether the petition is valid and notify the entity of the determination.

(e) Not later than the 30th day after the date a member is removed under this section, the vacancy shall be filled as otherwise provided by this chapter, except that the individual removed by recall may not be reappointed to fill the vacancy. Beginning on the day after the date of the removal, the individual removed may not be appointed to any other position on the board for a period equal to the normal term of office for a board member.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.28(c), eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 169, eff. September 1, 2011.

Sec. 451.514. BOARD MEETINGS: WHEN HELD. (a) A board shall hold at least one regular meeting each month to transact the business of the authority. The board by resolution recorded in the minutes of the board's meetings shall set the place, date, and time for each regular meeting.

(b) The presiding officer of the board or the general manager of the authority may by written notice call a special meeting of the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.515. BOARD MEETINGS: VOTING. (a) An action of a board requires a vote of a majority of the members of the board present at a board meeting unless the bylaws of the board require a larger number for a particular action.

(b) This section does not permit a board action in the absence of a quorum.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.516. INCREASE OF MEMBERSHIP: CONTINUITY. If the membership of a board is increased under Section 451.501, the board as constituted immediately before the increase may continue as the board of the authority until the additional members are appointed and seated.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.517. BOARD MEETINGS: RULES AND BYLAWS. A board by resolution may adopt rules and bylaws for the conduct of board meetings. These rules and bylaws shall be recorded in the minutes of board meetings.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.518. BOARD MEETINGS: NOTICE. In addition to notice required by Chapter 551, Government Code, a board shall post a board meeting notice in the authority's administrative offices and at the courthouse of the most populous county in which the principal municipality of the authority is located, each on a bulletin board at a place convenient to the public.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.519. BOARD MEMBERS: EXPENSES; PER DIEM. (a) An authority shall reimburse a board member for all necessary expenses incurred in the discharge of official authority duties.

(b) Except as provided by Subsection (c), an authority in which

the principal municipality has a population of more than 1.1 million shall pay a member \$50 for each meeting of the board attended by the member not exceeding five meetings in a calendar month.

(c) A board member in an authority created by an alternate municipality receives no compensation for attending a board meeting.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 139, eff. Sept. 1, 2001.

Sec. 451.520. BOARD OFFICERS AND SECRETARIES. (a) The board shall elect from among its membership a presiding officer, an assistant presiding officer, and a secretary. This subsection does not apply to the selection of a presiding officer who is appointed under Section 451.502(e)(3).

(b) The board may appoint one or more assistant secretaries, who are not required to be members.

(c) The secretary and assistant secretaries shall keep a permanent record of the proceedings and transactions of the board and perform other duties required by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER L. ADDITION OF TERRITORY

Sec. 451.551. ADDITION OF TERRITORY BY MUNICIPAL ANNEXATION. When a municipality that is part of an authority annexes territory that before the annexation is not part of the authority, the annexed territory becomes part of the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.552. ADDITION OF MUNICIPALITY BY ELECTION. (a) The territory of a municipality that is not a part of an authority may be added to an authority if:

(1) any part of the municipality is located in a county, or in any county adjacent to a county, in which the authority is located;

(2) the governing body of the municipality orders an election under this section on whether the territory of the

municipality should be added to the authority; and

(3) a majority of the votes received in the election favor the measure.

(b) The governing body of the municipality shall certify to the authority the result of an election in which the addition is approved.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.553. ADDITION OF COUNTY AREA BY ELECTION. (a) The territory of a part of a county that is not a part of an authority and that is designated by the commissioners court of the county may be added to an authority if:

(1) any part of the county is located in the authority or any part of an adjacent county is located in the authority;

(2) the commissioners court orders an election in the designated area under this section on whether the area should be added to the authority; and

(3) a majority of the votes received in the election favor the measure.

(b) In designating an area under this section, the commissioners court may not, to the extent practicable, divide a county election precinct.

(c) The commissioners court shall certify to the authority the result of an election in which the addition is approved.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.554. BOARD APPROVAL OF ANNEXATION: EFFECTIVE DATE.

(a) The addition of territory annexed under Section 451.551, or approved under Section 451.552 or 451.553, does not take effect if, before the effective date of the addition under Subsection (b), the board of the authority gives written notice to the governing body of the municipality that added new territory to the authority by virtue of annexation, or to the governing body of the municipality or the commissioners court of the county that held the election, that the addition would create a financial hardship on the authority because:

(1) the territory to be added is not contiguous to the territory of the existing authority; or

(2) the addition of the territory would impair the imposition of the sales and use tax authorized by this chapter.

(b) In the absence of a notice under Subsection (a), the addition of territory takes effect on the 31st day after the date of the:

(1) municipal ordinance, if annexed by a municipality under Section 451.551; or

(2) election, if approved under Section 451.552 or 451.553.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.81, eff. June 14, 2005.

Sec. 451.555. ADDED TERRITORY: EFFECTIVE DATE OF TAXES. (a) Except as provided by Subsection (b), a tax imposed by an authority takes effect in territory added to the authority when the addition takes effect.

(b) A sales and use tax imposed by an authority under Subchapter I takes effect in territory added to the authority under this subchapter on the first day of the first calendar quarter that begins after the date the comptroller receives:

(1) a certified copy of an order adding the territory or of an order canvassing the returns and declaring the result of the election; and

(2) a map of the authority showing clearly the territory added.

(c) The presiding officer of the board shall send the order and map required under Subsection (b) to the comptroller by certified or registered mail.

(d) The order must include the effective date of the tax.

(e) The comptroller may delay implementation of the sales and use tax in the added territory for one calendar quarter by notifying the presiding officer of the board before the 11th day after the date the comptroller receives the order and map under this section that the comptroller requires more time. If implementation is delayed, the tax takes effect on the first day of the second calendar quarter that begins after the date the comptroller receives the order and map.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER M. WITHDRAWAL OF TERRITORY FROM AUTHORITY

Sec. 451.601. UNIT OF ELECTION DEFINED. In this subchapter, "unit of election" means:

- (1) a municipality, including a principal municipality;
- (2) an unincorporated area designated by a commissioners court under Section 451.657 as a discrete unit for the purposes of a confirmation election; or
- (3) an emergency services district operating under Chapter 775, Health and Safety Code, that:
 - (A) borders Lake Travis; and
 - (B) is located in or borders two municipalities with a population of more than 45,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 876 (H.B. [3666](#)), Sec. 1, eff. September 1, 2015.

Sec. 451.602. AUTHORITIES COVERED BY SUBCHAPTER. Except as provided by Section 451.617, this subchapter applies only to an authority in which the principal municipality has a population of less than 850,000 and that was confirmed before July 1, 1985.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 170, eff. September 1, 2011.

Sec. 451.603. WITHDRAWAL OF UNIT OF ELECTION. (a) The governing body of a unit of election may order an election to withdraw the unit of election from an authority.

(b) On the determination by a governing body of a unit of election that a petition for withdrawal under this subchapter is valid, the governing body shall order an election to withdraw the unit of election from the authority.

(c) An election to withdraw may not be ordered, and a petition

for an election to withdraw may not be accepted for filing, on or before the fifth anniversary after the date of a previous election in the unit to withdraw from the authority.

(d) An attempt by a unit of election to withdraw from an authority in a manner other than as provided by this subchapter is void.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.604. PETITION FOR WITHDRAWAL ELECTION. (a) At the request of a registered voter of a unit of election in an authority, the municipal secretary or other clerk or administrator of the unit of election shall deliver to the voter, in the number requested, petition signature sheets for a petition to withdraw from the authority prepared by, numbered, and authenticated by the municipal secretary or other official. During the period that signatures on the petition may be obtained, the official shall authenticate and deliver additional petition signature sheets as requested by the voter. Only one petition for withdrawal may be in circulation at a time.

(b) Each sheet of a petition must have a heading in capital letters as follows:

"THIS PETITION IS TO REQUIRE AN ELECTION TO BE HELD IN (name of the unit of election) TO DISSOLVE (name of authority) IN (name of the unit of election) SUBJECT TO THE CONTINUED COLLECTION OF SALES TAXES FOR THE PERIOD REQUIRED BY LAW."

(c) In addition to the requirements of Section 277.002, Election Code, to be valid a petition must:

(1) be signed on authenticated petition sheets by not less than 20 percent of the number of registered voters of the unit of election as shown on the voter registration list of each county in which the unit of election is located;

(2) be filed with the secretary, clerk, or administrator of the unit of election not later than the 60th day after the date the first sheet of the petition was received under Subsection (a);

(3) contain signatures that are signed in ink or indelible pencil by the voter; and

(4) have affixed or printed on each sheet an affidavit that

is executed before a notary public by the person who circulated the sheet and that is in the following form and substance:

"STATE OF TEXAS

"COUNTY OF _____

"I, _____, affirm that I personally witnessed each signer affix his or her signature to this page of this petition for the dissolution of (name of authority) in the (name of unit of election). I affirm to the best of my knowledge and belief that each signature is the genuine signature of the person whose name is signed and that the date entered next to each signature is the date the signature was affixed to this page.

 "Sworn to and subscribed before me this the ____ day of _____,
 _____.

(SEAL) _____

Notary Public, State of Texas"

(d) Each sheet of the petition must be filed under Subsection (c)(2) at the same time as a single filing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.605. REVIEW OF PETITION. (a) The secretary, clerk, or administrator of a unit of election in which a petition for withdrawal from an authority is filed shall examine the petition and file with the governing body of the unit a report stating whether the petition, in the opinion of the secretary, clerk, or administrator, is valid.

(b) On receipt of a petition and a report under Subsection (a), the governing body shall examine the petition to determine whether the petition is valid. The governing body may hold public hearings and conduct or order investigations as appropriate to make the determination. The governing body's determination is conclusive of the issues.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.606. INVALID PETITION. (a) The governing body of a unit of election that receives an invalid petition shall reject the

petition.

(b) A petition that is rejected is void and the petition and each sheet of the rejected petition may not be used in connection with a subsequent petition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.607. ELECTION. (a) An election to withdraw from an authority ordered under this subchapter must be held on the first applicable uniform election date occurring after the expiration of 90 days after the date the governing body orders the election.

(b) The governing body shall give notice of the election to the board, the Texas Department of Transportation, and the comptroller immediately on calling the election.

(c) At the election the ballot shall be printed to provide for voting for or against the proposition: "Shall the (name of authority) be continued in (name of unit of election)?"

(d) The election shall be held in the regular precincts and at the regular voting places.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.608. RESULT OF WITHDRAWAL ELECTION. (a) If a majority of the votes received on the measure in an election held under Section 451.607 favor the proposition, the authority continues in the unit of election.

(b) If less than a majority of the votes received on the measure in the election favor the proposition, the authority ceases in the unit of election on the day after the day the election returns are canvassed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.609. EFFECT OF WITHDRAWAL. (a) On the effective date of a withdrawal from an authority:

(1) the authority shall, except as provided by Section 451.610, cease providing transportation services in the withdrawn unit of election; and

(2) the financial obligations of the authority attributable to the withdrawn unit of election cease to accrue.

(b) Withdrawal from an authority does not affect the right of the authority to travel through the territory of the unit of election to provide service to a unit of election that is a part of the authority.

(c) Taxes of the authority continue to be collected in the territory of a withdrawn unit of election after withdrawal until the net financial obligation of the unit of election to the authority has been collected.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.610. CONTINUATION OF SERVICES TO PERSONS WITH DISABILITIES. (a) An authority shall continue to provide transportation services for persons with disabilities in a withdrawn unit of election. The authority may not charge a fare for transportation services to persons with disabilities in the withdrawn unit that is more than the fare for those services for persons in the authority.

(b) An authority shall provide the same level of transportation services under Subsection (a) to persons with disabilities in a unit of election that withdrew from the authority before January 1, 2011, as those persons received on January 1, 2011. This subsection applies only to an authority to which Subchapter C-1 applies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1327 (S.B. 650), Sec. 2, eff. June 17, 2011.

For expiration of this section, see Subsection (j).

Sec. 451.6101. CONTINUATION OF SERVICES TO PERSONS WITH DISABILITIES; ALTERNATIVE PROGRAM. (a) This section applies only to an authority to which Subchapter C-1 applies.

(b) Notwithstanding Section 451.610, an authority shall establish an alternative program to provide transportation services to persons with disabilities in a withdrawn unit of election who are

eligible to receive services under the program. An authority shall require interested persons with disabilities to apply to be program participants. The program must be available to a person with a disability who:

(1) resides, at the time of application to the program, in a withdrawn unit of election;

(2) can prove, at the time of application, residence in the corporate limits of the withdrawn unit of election as those limits existed at the time of the withdrawal and continuous residence in the corporate limits of the withdrawn unit of election since withdrawal;

(3) meets eligibility criteria established by the authority for demand-responsive transportation service for persons with disabilities and can prove, at the time of application, that the person has had the same disability since the unit of election withdrew; and

(4) applies to the program before January 1, 2012.

(c) The program must:

(1) include only transportation services that meet the requirements of all applicable federal laws, rules, or regulations; and

(2) include transportation services between the residence of a program participant and a destination within the authority's service area or a destination within the withdrawn unit of election where the person with a disability resides that is:

(A) the participant's place of work or a place where the participant is seeking employment;

(B) a physician's office;

(C) a pharmacy;

(D) the participant's place of voting;

(E) a grocery store within five miles of the participant's residence or within the withdrawn unit of election; or

(F) a government building.

(d) Subsection (c)(1) does not expand the service area or add to the destinations in Subsection (c)(2).

(e) The requirement for transportation services to a grocery store under Subsection (c)(2)(E) is for services once per week. The requirement for transportation services to a government building under Subsection (c)(2)(F) is for services twice per week.

(f) A withdrawn unit of election must reimburse the authority for the costs of all services in the manner provided by Section

451.616 unless otherwise agreed to in a memorandum of understanding between the authority and the withdrawn unit of election.

(g) A withdrawn unit of election that does not provide transportation services to a program participant in the withdrawn unit of election through a third-party service provider shall provide the participant with use of the authority's transportation services. If a withdrawn unit of election chooses to have a third-party service provider provide services under this subsection, the authority may, with the withdrawn unit's consent:

(1) provide necessary dispatch services; and

(2) ensure the provider receives payment from the withdrawn unit of election.

(h) An individual may not receive transportation services under the program and subsequently receive transportation services under Section 451.610.

(i) A person who ceases to reside in the withdrawn unit of election may not continue as a program participant.

(j) This section and any program established under this section expire on January 1, 2020.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1327 (S.B. 650), Sec. 3, eff. June 17, 2011.

Sec. 451.611. DETERMINATION OF TOTAL AMOUNT OF FINANCIAL OBLIGATIONS OF WITHDRAWN UNIT. (a) The net financial obligation of a withdrawn unit of election to the authority is an amount equal to:

(1) the gross financial obligations of the unit, which is the sum of:

(A) the unit's apportioned share of the authority's outstanding obligations; and

(B) the amount, not computed in Subdivision (1)(A), that is necessary and appropriate to allocate to the unit because of financial obligations of the authority that specifically relate to the unit; minus

(2) the unit's apportioned share of the unencumbered assets of the authority that consist of cash, cash deposits, certificates of deposit, and bonds, stocks, and other negotiable securities.

(b) An authority's outstanding obligations under Subsection (a)(1)(A) is the sum of:

(1) the obligations of the authority authorized in the budget of, and contracted for by, the authority;

(2) outstanding contractual obligations for capital or other expenditures, including expenditures for a subsequent year, the payment of which is not made or provided for from the proceeds of notes, bonds, or other obligations;

(3) payments due or to become due in a subsequent year on notes, bonds, or other securities or obligations for debt issued by the authority;

(4) the amount required by the authority to be reserved for all years to comply with financial covenants made with lenders, note or bond holders, or other creditors or contractors; and

(5) the amount necessary for the full and timely payment of the obligations of the authority, to avoid a default or impairment of those obligations, including contingent liabilities.

(c) The apportioned share of a unit's obligation or assets is the amount of the obligation or assets times a fraction, the numerator of which is the number of inhabitants of the withdrawing unit of election and the denominator of which is the number of inhabitants of the authority, including the number of inhabitants of the unit.

(d) The board shall determine the amount of each component of the computations required under this section, including the components of the unit's apportioned share, as of the effective date of withdrawal. The number of inhabitants shall be determined according to the most recent and available applicable data of an agency of the United States.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.612. CERTIFICATION OF NET FINANCIAL OBLIGATION OF UNIT. (a) The board shall certify to the governing body of a withdrawn unit of election and to the comptroller the net financial obligation of the unit to the authority as determined under this subchapter.

(b) If there is no net financial obligation of the unit, the certification must show that fact.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.613. COLLECTION OF SALES AND USE TAX AFTER WITHDRAWAL.

(a) Until the amount of revenue from an authority's sales and use tax collected in a withdrawn unit of election after the effective date of withdrawal and paid to the authority equals the net financial obligation of the unit, the sales and use tax continues to be collected in the territory of the unit of election.

(b) After the amount described by Subsection (a) has been collected or if the share of the authority's assets computed for the unit of election under Section 451.611 is greater than the gross financial obligation of the unit to the authority, the comptroller shall discontinue collecting the tax in the territory of the unit of election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.614. REFUNDS OF EXCESS SALES AND USE TAX REVENUE. (a)

The comptroller shall refund to the unit of election the amount of the authority's sales and use tax revenue:

(1) that is in excess of the net financial obligation of the unit and was collected in the unit after the date of withdrawal; or

(2) if the unit's share of authority assets exceeded the unit's gross financial obligation to the authority, that was collected in the unit after the date of withdrawal.

(b) The comptroller may:

(1) determine the amount refundable under Subsection (a) in any reasonable manner;

(2) subtract any deduction otherwise allowed by law; and

(3) determine whether to pay a refund under this section from the suspense account of the authority or from other sales and use tax revenue of the authority.

(c) If the withdrawn unit of election has continuously been a part of the authority since the authority was confirmed at the initial confirmation election, the comptroller shall also refund to the governing body of the unit an amount equal to the amount by which the unit's apportioned share of the authority's assets exceeds the gross financial obligation of the unit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.615. USE OF REFUNDED REVENUE. (a) The governing body of a unit of election that receives a refund under Section 451.614 may use the refund only for public purposes directly related to the functions of government that will benefit the residents of the unit as a whole.

(b) If the governing body distributes refund revenue to any other person, the governing body shall:

(1) ensure that the recipient spends the amount received to benefit the residents of the unit of election as a whole;

(2) ensure that the amount distributed is spent for public purposes that are the predominant purpose of the distribution; and

(3) condition the distribution by contract or other legal manner to provide the governing body with sufficient control of the use of the amounts distributed to ensure that the public purposes for which the distribution is made are carried out and to protect the public investment in the revenue.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.616. REVENUE FROM WITHDRAWN UNIT FOR PROVIDING SERVICES FOR PERSONS WITH DISABILITIES. (a) The comptroller shall withhold from the amount of sales and use tax revenue refunded to a unit of election that has withdrawn from an authority the full amount of the difference between the cost of providing services to persons with disabilities in the unit of election and the fares charged during the period in which the sales and use tax was collected and remit this amount to the authority providing the services.

(b) The authority and the unit of election that has withdrawn shall determine the amount of the cost of providing services to persons with disabilities. If the authority and the unit of election cannot agree on the amount, the comptroller shall determine the amount.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 76 (H.B. 504), Sec. 1, eff. May 14, 2007.

Sec. 451.617. WITHDRAWAL: ALTERNATIVE METHOD FOR CERTAIN

AUTHORITIES. (a) In an authority created before 1980 in which the principal municipality has a population of less than 1.9 million, a unit of election, other than the principal municipality, may withdraw from the authority, in addition to any other manner provided by law, by a vote of a majority of the registered voters of the unit of election voting at an election on the question of withdrawing from the authority.

(b) The governing body of a unit of election in the authority, other than the principal municipality, shall call an election under this section in a unit of election if a petition requesting that an election to withdraw from the authority be held is submitted to the governing body and is signed by at least 10 percent of the registered voters of the unit of election on the date the petition is submitted. To be counted for purposes of validating the petition, a signature on the petition must have been inscribed not earlier than the 120th day before the date the petition is submitted to the governing body.

(c) The governing body, before the 31st day after the date the petition is submitted to the governing body, shall determine whether a petition under this section is valid, and if the governing body fails to act on the petition before the expiration of that period, the petition is valid.

(d) Sections 451.601, 451.607, 451.608, 451.609, 451.611, 451.612(a), and 451.613 apply to the withdrawal of a unit of election under this section.

(e) An election may not be held under this section on a date earlier than the first anniversary of the date of the most recent election held under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 171, eff. September 1, 2011.

Sec. 451.618. WITHDRAWAL: ALTERNATIVE METHOD FOR CERTAIN EMERGENCY SERVICES DISTRICTS. (a) An emergency services district described by Section 451.601(3) may withdraw from an authority, in addition to any other manner provided by law, by a vote of a majority of the registered voters of the district voting at an election on the question of withdrawing from the authority.

(b) The governing body of the emergency services district shall call an election under this section if a petition requesting that an election to withdraw from the authority be held is submitted to the governing body and is signed by at least 10 percent of the registered voters of the district on the date the petition is submitted. To be counted for purposes of validating the petition, a signature on the petition must have been inscribed not earlier than the 120th day before the date the petition is submitted to the governing body.

(c) The governing body, before the 31st day after the date the petition is submitted to the governing body, shall determine whether a petition under this section is valid, and if the governing body fails to act on the petition before the expiration of that period, the petition is valid.

(d) Sections 451.601, 451.607, 451.608, 451.609, 451.611, 451.612(a), and 451.613 apply to the withdrawal of an emergency services district under this section.

(e) An election may not be called under this section to be held on a date earlier than the first anniversary of the date of the most recent election held under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 876 (H.B. 3666), Sec. 2, eff. September 1, 2015.

SUBCHAPTER N. CREATION OF AUTHORITY

Sec. 451.651. INITIAL PROCEEDINGS TO CREATE AUTHORITY. (a) The governing body of an alternate municipality shall, on receipt of a petition requesting the creation of an authority and signed by not fewer than 500 registered voters of the municipality, initiate proceedings to create the authority. The governing body of an alternate municipality may initiate those proceedings without a petition.

(b) To initiate proceedings to create an authority, the governing body of an alternate municipality, by ordinance or resolution, must set a time and place for holding a public hearing and must define the boundaries of the areas proposed to be included in the authority.

(c) All the territory in the alternate municipality must be included in the initial authority, and the authority may include an area that is:

- (1) completely surrounded by the alternate municipality;
and
(2) designated by the alternate municipality as an industrial district.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.652. NOTICE OF HEARING. (a) Notice of the time and place of the hearing on the creation of an authority, including a description of the area proposed to be included in the authority, shall be published once each week for two consecutive weeks in a newspaper of general circulation in the alternate municipality. The first publication of the notice must be published not later than 15 days before the date scheduled for the hearing.

(b) The governing body of the alternate municipality shall furnish a copy of the notice under Subsection (a) to the Texas Department of Transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.653. CONDUCT OF HEARING. (a) The governing body of the alternate municipality shall conduct the hearing on the creation of the authority at the place and time specified in the notice of the hearing. The hearing may be continued during the periods necessary to complete the hearing.

(b) Any interested person may appear at the hearing and offer:

- (1) evidence on the issues described by Section 451.654(a);
or
(2) other facts bearing on the creation, construction, or operation of the proposed transit authority system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.654. ORDINANCE OF CREATION; FINDINGS. (a) The governing body of an alternate municipality, after hearing the evidence presented at the hearing, shall adopt an ordinance creating an authority if the governing body finds that the creation of the authority and the operation of a transit authority system would be:

- (1) of benefit to the persons and property in the boundaries of the proposed authority;
 - (2) of public utility; and
 - (3) in the public interest.
- (b) An ordinance creating an authority must:
- (1) contain a description of the territory to be in the authority; and
 - (2) provide a name for the authority.
- (c) After the hearing, the governing body shall submit the proposed plan to the governor's interagency council for transportation for review and comment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.655. MUNICIPALITY TO FUND BOARD. The alternate municipality shall fund the board for research and planning purposes until the confirmation and tax election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.656. BOARD TO ORDER ELECTION. The original board shall order a confirmation and tax election:

- (1) when the board determines that implementation of the authority is feasible;
- (2) after the board, by order recorded in its minutes, has determined the nature and rate of any tax proposed to be imposed; and
- (3) after the board has notified the commissioners court of each county included in whole or part within the initial territory of the authority of the board's intention to order the election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.657. COMMISSIONERS COURT TO DESIGNATE ELECTION AREAS.

- (a) Before the 31st day after the date a commissioners court receives a notice under Section 451.656(3), the commissioners court by order shall designate not more than five election areas in the unincorporated area of the county. The designated areas must include

all of the unincorporated area of that county proposed to be included in the authority.

(b) To the extent practicable, each designated area must coincide with a boundary of a county election precinct so that no county election precinct is divided between two designated areas.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.658. ELECTION NOTICE. In addition to notice required by the Election Code, an election notice must contain a description of the nature and rate of any proposed tax. A copy of the election notice must be delivered to the Texas Department of Transportation and the comptroller.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.659. PROPOSITION. The board, in ordering an election under this subchapter, shall submit to the voters the following proposition: "Shall the creation of (name of authority) be confirmed and shall the levy of the proposed tax be authorized?"

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.660. CONDUCT OF ELECTION: SEPARATE RESULTS FOR UNIT OF ELECTION. The election shall be conducted so that votes are separately tabulated and canvassed and that the result is declared in each unit of election in the authority as follows:

- (1) the alternate city; and
- (2) each election area designated under Section 451.657.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.661. RESULTS OF ELECTION; ORDER. (a) The board shall declare the results of the election separately by each unit of election. In each unit of election in which a majority of the votes received favor the proposition, the authority is confirmed and continues in each of those units, except that if the authority is not

confirmed in the alternate municipality, the authority ceases in every unit of election. In each unit of election in which a majority of the votes received do not favor the confirmation of the authority, the authority ceases.

(b) If the authority continues, the board shall record the results in its minutes and adopt an order:

- (1) declaring that the creation of the authority is confirmed;
- (2) describing the territory of the authority;
- (3) stating the date of the election;
- (4) containing the proposition;
- (5) showing the number of votes cast for or against the proposition in each unit of election; and
- (6) showing the number of votes by which the proposition was approved in each unit of election in which the proposition was approved.

(c) The order must be accompanied with a map of the authority that shows the boundaries of the authority.

(d) A certified copy of the order and map shall be filed:

- (1) with the Texas Department of Transportation;
- (2) with the comptroller; and
- (3) in the deed records of each county in which the authority is located.

(e) If the authority does not continue, the board shall adopt an order declaring that the result of votes cast at the election is that the authority ceases in the entirety. A certified copy of the order shall be filed with the Texas Department of Transportation and the comptroller, and the authority is dissolved.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.662. COSTS OF BOARD. (a) The alternate municipality shall pay the costs incurred under Section 451.519(a) by members of the board before the authority receives revenue.

(b) The authority, after receiving revenue, shall reimburse the alternate municipality for costs paid under Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.663. COMPOSITION OF BOARD ON CONFIRMATION. Except as required by Subchapter K, the composition of the board is not changed by confirmation of the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.664. COST OF ELECTION. The alternate municipality shall pay the cost of the confirmation and tax election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 451.665. EXPIRATION OF UNCONFIRMED AUTHORITY. An authority, the existence of which has not been confirmed, ceases on the earlier of:

(1) the third anniversary of the effective date of the ordinance creating the authority; or

(2) the date the governing body of the alternate municipality, with the consent of the board, abolishes the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER O. ADVANCED TRANSPORTATION DISTRICT

Sec. 451.701. DEFINITIONS. In this subchapter:

(1) "Advanced transportation" means light rail, commuter rail, fixed guideways, traffic management systems, bus ways, bus lanes, technologically advanced bus transit vehicles and systems, bus rapid transit vehicles and systems, passenger amenities, transit centers, stations, electronic transit-related information, fare, and operating systems, high occupancy vehicle lanes, traffic signal prioritization and coordination systems, monitoring systems, and other advanced transportation facilities, equipment, operations, systems, and services, including planning, feasibility studies, operations, and professional and other services in connection with such facilities, equipment, operations, systems, and services.

(2) "District" means an advanced transportation district created under this subchapter.

(3) "Participating unit" means a municipality or the unincorporated area of a county that joins a district under this

subchapter.

(4) "Mobility enhancement" means the design, construction, reconstruction, alteration, financing, and maintenance of:

(A) streets, roads, highways, high occupancy vehicle lanes, toll lanes, sidewalks, and infrastructure designed to improve mobility;

(B) traffic signal prioritization and coordination systems;

(C) monitoring systems;

(D) other mobility enhancement facilities, equipment, systems, and services; and

(E) any debt service requirement, capitalized interest, reserve fund requirement, credit agreement as defined by Section 1371.001, Government Code, administrative cost, or other bond-related cost incurred by or relating to the issuance of obligations by a county or municipality or by a local government corporation created under Chapter 431 acting on behalf of a county or municipality relating to the design, construction, reconstruction, alteration, financing, and maintenance of mobility enhancement projects.

Added by Acts 1999, 76th Leg., ch. 155, Sec. 1, eff. May 21, 1999.

Amended by Acts 2003, 78th Leg., ch. 336, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 382 (S.B. [1434](#)), Sec. 1, eff. June 17, 2005.

Sec. 451.702. ELECTION AUTHORIZED. (a) The board of an authority in which the sales and use tax is imposed at a rate of one-half of one percent and in which the principal municipality has a population of more than 1.3 million may order an election to create an advanced transportation district within the authority's boundaries and to impose a sales and use tax for advanced transportation and mobility enhancement under this subchapter. If approved at the election, the rate of the sales and use tax for advanced transportation and mobility enhancement shall be set by the governing body of the district at a rate of:

(1) one-eighth of one percent;

(2) one-fourth of one percent;

(3) three-eighths of one percent; or

(4) one-half of one percent.

(b) The board shall provide written notice of the board's intention to call an election under Subsection (a) to the governing body of each municipality and the commissioners court of each county any part of which is in the authority at least 120 days before the date of the proposed election.

(c) The authority shall pay the costs of an election ordered by the board under this section.

(d) At the election, the ballots shall be prepared to permit voting for or against the proposition: "The creation of an advanced transportation district and the imposition of a sales and use tax for advanced transportation and mobility enhancement within the district at the rate to be set by the governing body of the advanced transportation district."

(e) The proceeds of the sales and use tax imposed under this section shall be used by the district only for:

(1) advanced transportation and mobility enhancement purposes as provided by Subsections (f)-(j); and

(2) reimbursement to the authority for the cost of an election held under this section.

(f) The district shall use one-half of the proceeds of the sales and use tax only for advanced transportation purposes as determined by the governing body of the district. Those purposes may include a debt service requirement, capitalized interest, reserve fund requirement, credit agreement as defined by Section 1371.001, Government Code, administrative cost, or other bond-related cost incurred by or relating to the issuance of obligations by the district relating to the purchase, design, construction, reconstruction, alteration, financing, and maintenance of advanced transportation facilities, equipment, operations, systems, and services, including a feasibility study, operation, or professional or other service in connection with the facilities, equipment, operations, systems, and services.

(g) The governing body of the district shall remit one-fourth of the proceeds of the sales and use tax to each participating unit in proportion to the amount of the sales and use tax proceeds that were collected in that participating unit. A participating unit may use proceeds received under this subsection only for advanced transportation or mobility enhancement purposes in the territory of the authority.

(h) Payments under Subsection (g) shall be made monthly beginning the first day of the month after the month in which the authority receives proceeds of the sales and use tax imposed under this section.

(i) The governing body of the district shall place one-fourth of the proceeds of the sales and use tax in a separate account. Funds in the account, together with interest or other revenues earned on those funds, may be used as determined by the governing body of the district only to provide the appropriate amount to the Texas Department of Transportation, a county or municipality in which the district is located, or a local government corporation created under Chapter 431 as the local share of a state or federal grant, including a transfer of money by the Texas Department of Transportation or another state or federal entity under an agreement with a county, municipality, or local government corporation created by the county or municipality under Chapter 431, for advanced transportation or mobility enhancement purposes in the territory of the district.

(j) For projects to be funded under Subsection (i), the governing body of the district shall:

(1) obtain recommendations from the appropriate metropolitan planning organization;

(2) prioritize projects eligible for funding under that subsection; and

(3) consider in the selection and prioritization process the geographic location of other state or federally funded transportation projects, advanced transportation projects, and mobility enhancement projects so as to foster geographic equity in the planning and development of the projects.

(k) Pursuant to its authority under Subsection (i), the governing body of the district may enter into an agreement or other contractual arrangement with a county, municipality, or local government corporation created under Chapter 431 by a county or municipality to transfer proceeds of the district's sales and use tax identified in Subsection (i) to the county, municipality, or local government corporation to finance any cost relating to mobility enhancement purposes in the territory of the district. The county, municipality, or local government corporation may pledge and create a lien on the proceeds transferred. The lien and pledge are subject to Chapter 1208, Government Code. Money of the district other than the portion of the district's sales and use tax identified in Subsection

(i) may not be used or obligated for purposes identified in Subsection (i).

(1) Notwithstanding any other provision of this chapter, the governing body of a district may, by order or resolution, without the necessity of an election specifically concerning the matter:

(1) pledge the sales and use tax proceeds identified in Subsection (f) from a sales and use tax imposed by an election held under this section after May 21, 1999, to one or more series of sales and use tax revenue bonds issued under Subchapter H, subject to Subsection (1-1); and

(2) enter into an agreement or contractual arrangement under Subsection (k).

(1-1) The governing body of a district may not pledge sales and use tax proceeds under Subsection (1) unless the board has conducted a public hearing concerning the issuance of the bonds to which the proceeds are pledged and published notice of the hearing at least 14 days before the date of the hearing in a newspaper of general circulation in the principal municipality of the authority.

(m) As a condition of a payment under Subsection (i), the county, municipality, or local government corporation shall provide the governing body of the district a certificate indicating that the county, municipality, or local government corporation will use the money in conformity with this subchapter.

Added by Acts 1999, 76th Leg., ch. 155, Sec. 1, eff. May 21, 1999.

Amended by Acts 2003, 78th Leg., ch. 336, Sec. 2, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 382 (S.B. 1434), Sec. 2, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 806 (H.B. 2396), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 172, eff. September 1, 2011.

Sec. 451.703. CONDUCT OF INITIAL ELECTION: SEPARATE RESULT.

The election shall be conducted so that votes are separately tabulated and canvassed and that the result is declared in each unit of election in the authority as follows:

(1) in each municipality in the authority; and

(2) in the unincorporated area of each county in the authority.

Added by Acts 1999, 76th Leg., ch. 155, Sec. 1, eff. May 21, 1999.

Sec. 451.704. RESULTS OF ELECTION; ORDER. (a) If a majority of the votes cast in the principal municipality of the authority are in favor of the proposition, the district is created and includes:

- (1) the principal municipality;
- (2) each municipality in which a majority of the votes cast favor the proposition; and
- (3) the unincorporated area of each county in which a majority of the votes cast favor the proposition.

(b) If the district is created, the board shall record the results in its minutes and adopt an order:

- (1) declaring that the district is created;
- (2) describing the territory of the district;
- (3) stating the date of the election;
- (4) containing the proposition;
- (5) showing the number of votes cast for or against the proposition in each unit of election; and
- (6) showing the number of votes by which the proposition was approved in each unit of election in which the proposition was approved.

(c) The order must be accompanied by a map of the district that shows the boundaries of the district.

(d) A copy of the order and map shall be filed:

- (1) with the department;
- (2) with the comptroller; and
- (3) in the deed records of each county in which the district is located.

Added by Acts 1999, 76th Leg., ch. 155, Sec. 1, eff. May 21, 1999.

Sec. 451.705. SUBSEQUENT ELECTIONS. (a) If the initial election under Section 451.702 is held only in the principal municipality, or if the voters of another municipality or the unincorporated area of a county do not vote to join the district at the initial election under Section 451.702, the governing body of the

other municipality or the commissioners court of the county may order an election in the municipality or the county at a later date on the question of joining the district, except that the election may not be held if the governing body of the district determines that the addition of the municipality or unincorporated area would create a financial hardship on the district because:

(1) the territory to be added is not contiguous to the territory of the existing district; or

(2) the addition of the territory would impair the imposition of the sales and use tax authorized by this subchapter.

(b) An election ordered under this section shall be held in the same manner as the initial election, except that the governmental entity ordering the election shall pay the costs of the election, and the governing body of that entity shall canvass the vote, declare the results, and notify the district of the results of the election.

(c) If after an election held under this subchapter, the imposition of the district's tax would not exceed the limit imposed by Section 451.706(a), at the election the ballot shall be prepared to permit voting for or against substantially the following proposition: "Joining the Advanced Transportation District and authorizing a sales and use tax at the rate of ____ (rate imposed elsewhere in the district)."

Added by Acts 1999, 76th Leg., ch. 155, Sec. 1, eff. May 21, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 369 (S.B. [1339](#)), Sec. 1, eff. June 17, 2005.

Sec. 451.706. LIMITATION ON TAX RATE. (a) The combined rate of all sales and use taxes imposed by the district and all other political subdivisions of this state may not exceed two percent in any location in the district.

(b) If the approval of the district's tax at an election held under Section 451.705 would cause the tax in a political subdivision to exceed the limit imposed under Subsection (a), the governing body of the political subdivision holding an election under Section 451.705 shall prepare the ballot to allow the voters of the subdivision to determine which portion of other sales taxes of that subdivision will be repealed if the voters approve joining the

district, except that the following may not be reduced:

- (1) the sales and use tax of the authority; and
- (2) a sales and use tax of not more than one percent imposed by a municipality under Section 321.101(a) or 321.103(a), Tax Code.

(c) The sales and use tax authorized by this subchapter and the repeal of any local sales and use taxes under this section take effect on the first day of the second calendar quarter beginning after the date the comptroller receives a copy of the order canvassing the results of the election.

(d) At an election held under Subsection (b), the ballot shall be prepared to permit voting for or against substantially the following proposition: "Joining the Advanced Transportation District, authorizing a sales and use tax at the rate of ___ (rate imposed elsewhere in the district), and repealing ___ cents of the following sales and use taxes used for _____." Not later than the 45th day before the election date, the governing body of the political subdivision shall submit the ballot language to the authority for approval.

Added by Acts 1999, 76th Leg., ch. 155, Sec. 1, eff. May 21, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 369 (S.B. [1339](#)), Sec. 2, eff. June 17, 2005.

Sec. 451.707. GOVERNANCE OF DISTRICT. (a) The board of the authority shall act as the governing body of the district and is responsible for the management, operation, and control of the district.

(b) The business of the district is conducted through its governing body and by the employees of the authority acting under the control and direction of the general manager of the authority.

(c) The district may enter into contracts with the authority or other private or public entities to conduct the business of the district.

(d) Except as otherwise provided by this subchapter, the district has the same powers of the authority that called the election creating the district as provided by Subchapters B, C, F, H, I, and K.

Added by Acts 1999, 76th Leg., ch. 155, Sec. 1, eff. May 21, 1999.

Sec. 451.708. DISTRICT ASSETS AND RECORDKEEPING. (a) An asset of the district shall be held in the name of the authority.

(b) The authority shall keep separate books and accounting records for the funds, revenues, expenses, and other property of the district.

Added by Acts 1999, 76th Leg., ch. 155, Sec. 1, eff. May 21, 1999.

Sec. 451.709. NATURE OF DISTRICT. The district is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the district are not proprietary functions for any purpose, including the application of Chapter 101, Civil Practice and Remedies Code.

Added by Acts 1999, 76th Leg., ch. 155, Sec. 1, eff. May 21, 1999.

Sec. 451.710. ANNEXATION OF TERRITORY BY MUNICIPALITY. On annexation by a municipality that is in the district, territory that is not in the district becomes part of the district.

Added by Acts 1999, 76th Leg., ch. 155, Sec. 1, eff. May 21, 1999.

SUBCHAPTER P. LOCAL CONTROL OF PEACE OFFICER EMPLOYMENT MATTERS IN CERTAIN AUTHORITIES

Sec. 451.751. APPLICABILITY. This subchapter applies only to an authority in which the principal municipality has a population of more than 1.5 million.

Added by Acts 2001, 77th Leg., ch. 186, Sec. 1, eff. Sept. 1, 2001.

Sec. 451.752. DEFINITIONS. In this subchapter:

(1) "Association" means an organization in which peace officers employed by the authority participate and that exists for the purpose, wholly or partly, of dealing with the authority

concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting peace officers.

(2) "Public employer" means an authority that is required to establish the wages, salaries, rates of pay, hours of work, working conditions, and other terms and conditions of employment of peace officers employed by the authority.

Added by Acts 2001, 77th Leg., ch. 186, Sec. 1, eff. Sept. 1, 2001.

Sec. 451.753. GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES. (a) An authority may not be denied local control over the wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent the public employer and the association recognized as the sole and exclusive bargaining agent under Section 451.754 agree as provided by this subchapter. Applicable statutes and applicable local rules and regulations apply to an issue not governed by the agreement.

(b) An agreement under this subchapter must be written.

(c) This subchapter does not require a public employer or a recognized association to meet and confer on any issue or reach an agreement.

(d) A public employer and the recognized association may meet and confer only if the association does not advocate an illegal strike by public employees.

(e) A peace officer of an authority may not engage in a strike or organized work stoppage against this state or a political subdivision of this state. A peace officer who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the peace officer may have as a result of the person's employment or prior employment with the authority. This subsection does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

(f) The public employer's chief executive officer or the chief executive officer's designee shall select a group of persons to represent the public employer as its sole and exclusive bargaining agent for issues related to the employment of peace officers by the authority.

Added by Acts 2001, 77th Leg., ch. 186, Sec. 1, eff. Sept. 1, 2001.

Sec. 451.754. RECOGNITION OF PEACE OFFICER ASSOCIATION. (a)

In an authority that chooses to meet and confer under this subchapter, the public employer shall recognize an association submitting a petition for recognition signed by a majority of the peace officers employed by the authority, excluding the head of the peace officer department of the authority and the assistant department heads in the rank or classification immediately below that of the department head, as the sole and exclusive bargaining agent for all of the peace officers employed by the authority, excluding the department head and assistant department heads, until recognition of the association is withdrawn by a majority of the peace officers eligible to sign a petition for recognition.

(b) Whether an association represents a majority of the covered peace officers shall be resolved by a fair election conducted according to procedures agreeable to the parties. If the parties are unable to agree on election procedures, either party may request the American Arbitration Association to conduct the election and to certify the results. Certification of the results of an election under this subsection resolves the question concerning representation. The association is liable for the expenses of the election, except that if two or more associations seeking recognition as the bargaining agent submit petitions signed by a majority of the peace officers eligible to sign the petition, the associations shall share equally the costs of the election.

Added by Acts 2001, 77th Leg., ch. 186, Sec. 1, eff. Sept. 1, 2001.

Sec. 451.755. OPEN RECORDS. (a) A proposed agreement and a document prepared and used by the authority in connection with a proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ratified by the governing body of the authority.

(b) This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used by the authority in connection with the agreement.

Added by Acts 2001, 77th Leg., ch. 186, Sec. 1, eff. Sept. 1, 2001.

Sec. 451.756. RATIFICATION AND ENFORCEABILITY OF AGREEMENT.

(a) An agreement under this subchapter is enforceable and binding on the public employer, the recognized association, and the peace officers covered by the agreement only if:

(1) the authority's governing body ratified the agreement by a majority vote; and

(2) the recognized association ratified the agreement by conducting a secret ballot election at which only the peace officers of the authority in the association were eligible to vote, and a majority of the votes cast at the election favored ratifying the agreement.

(b) An agreement ratified as described by Subsection (a) may establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on a question involving interpretation of the agreement.

(c) A state district court of a judicial district in which the majority of the territory within the corporate limits of the principal municipality in the authority is located has jurisdiction to hear and resolve a dispute under the ratified agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by the agreement. The court may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

Added by Acts 2001, 77th Leg., ch. 186, Sec. 1, eff. Sept. 1, 2001.

Sec. 451.757. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a)

A written agreement ratified under this subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the state, by the authority or another political subdivision, or by a division or agent of the authority or other political subdivision, such as a personnel board or a civil service commission.

(b) An agreement ratified under this subchapter may not interfere with the right of a member of a bargaining unit to pursue

allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Commission on Human Rights or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 2001, 77th Leg., ch. 186, Sec. 1, eff. Sept. 1, 2001.

Sec. 451.758. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date an agreement is ratified by the public employer and the association, a petition signed by a number of registered voters who reside in the authority service area equal to 10 percent of the votes cast at the most recent general election in the county in which a majority of the territory within the corporate limits of the principal municipality in the authority is located may be presented to the county clerk of that county calling for the repeal of the agreement.

(b) If a petition is presented to the county clerk under Subsection (a), the authority shall:

(1) repeal the agreement; or

(2) certify that it is not repealing the agreement to the commissioners court of the county described by Subsection (a), which shall then call an election in the county to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election or at a special election called by the commissioners court for that purpose. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the agreement ratified on _____ (date agreement was ratified) by the _____ (name of authority) and the peace officers employed by the authority concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Added by Acts 2001, 77th Leg., ch. 186, Sec. 1, eff. Sept. 1, 2001.

CHAPTER 452. REGIONAL TRANSPORTATION AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 452.001. DEFINITIONS. In this chapter:

(1) "Authority" means a regional transportation authority created under this chapter or Chapter 683, Acts of the 66th Legislature, Regular Session, 1979. The term includes:

(A) when used in Subchapters B, C, D, F, H, and I and Sections 452.201 and 452.451, a subregional authority created by a contiguous municipality; and

(B) as appropriate, an authority, other than an authority created by a contiguous municipality, consisting of one subregion.

(2) "Complementary transportation services" includes:

(A) special transportation services for a person who is elderly or has a disability;

(B) medical transportation services;

(C) assistance in street modifications as necessary to accommodate the public transportation system;

(D) construction of new general aviation facilities or renovation or purchase of existing facilities not served by certificated air carriers to relieve air traffic congestion at existing facilities; and

(E) any other service that complements the public transportation system, including providing parking garages.

(3) "Contiguous municipality" means a municipality that has a boundary contiguous with a principal municipality and having:

(A) a population of more than 250,000, according to the most recent population estimate of the appropriate metropolitan planning organization; or

(B) boundaries extending into two or more adjacent counties, two of which counties include a principal municipality.

(4) "County of a principal municipality" means the county having a majority of the territory of a principal municipality.

(5) "Executive committee" means the authority directors who serve as the governing body of the authority.

(6) "Light rail mass transit system" means a system that:

(A) uses a fixed guideway rail with electric power propelling mass transit passenger vehicles; and

(B) is constructed by an authority.

(7) "Metropolitan area" means a federal standard metropolitan statistical area having a population of more than 500,000, not more than 60 percent of which resides in municipalities having a population of more than 350,000.

(8) "Principal municipality" means a municipality having a population of at least 350,000.

(9) "Public transportation" means the conveyance of passengers and hand-carried packages or baggage of a passenger by any means of transportation.

(10) "Public transportation system" means:

(A) all property owned or held by an authority for public transportation or complementary transportation service purposes, including vehicle parking areas and facilities and other facilities necessary or convenient for the beneficial use of, and the access of persons and vehicles to, public transportation;

(B) real property, facilities, and equipment for the protection and environmental enhancement of all the facilities; and

(C) property held:

(i) in accordance with a contract with the owner making the property subject to the control of or regulation by the authority; and

(ii) for public transportation or complementary transportation service purposes.

(11) "Service plan" means an outline of the service that would be provided by the authority to those units of election confirmed at an election.

(12) "Subregion" means a principal municipality, the county of the principal municipality, and any municipality or unit of election included in the boundaries of a subregion by the creating entity of that subregion and confirmed at an election.

(13) "Subregional board" means a board created under Subchapter N or O to represent a subregion.

(14) "Unit of election" means:

(A) a principal municipality;

(B) a designated unincorporated area created by the commissioners court of a county of a principal municipality; or

(C) any other municipality located in the territory of an authority.

(15) "Transportation disadvantaged" has the meaning assigned by Section 451.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 140, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1038, Sec. 4, eff. Sept. 1, 2001.

Sec. 452.002. DETERMINATION OF POPULATION. In this chapter, population of a municipality or area is determined by the most recent federal census unless there has been no federal census in the preceding five years, in which case the population is the latest population estimate of the appropriate metropolitan planning organization.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.003. MUNICIPALITIES MAY PROVIDE TRANSPORTATION SERVICES. This chapter does not prohibit a municipality from providing public or complementary transportation services.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.004. EXECUTIVE COMMITTEE OF AUTHORITY CONSISTING OF ONE SUBREGION. The executive committee of an authority that consists of one subregion, other than an authority created by a contiguous municipality, is the board for the subregion and the members of the executive committee are selected in the manner prescribed for selection of the members of the board for that subregion.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. POWERS OF AUTHORITIES

Sec. 452.051. POWERS APPLICABLE TO CONFIRMED AUTHORITY. This subchapter applies only to an authority that has been confirmed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

- Sec. 452.052. NATURE OF AUTHORITY. (a) An authority:
- (1) is a public political entity and corporate body;
 - (2) has perpetual succession; and
 - (3) exercises public and essential governmental functions.
- (b) The exercise of a power granted by this chapter, including

a power relating to a station or terminal complex, is for a public purpose and is a matter of public necessity.

(c) An authority is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the authority are not proprietary functions for any purpose including the application of Chapter 101, Civil Practice and Remedies Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.053. RESPONSIBILITY FOR CONTROL OF AUTHORITY. Except as provided by Section 452.104, the executive committee is responsible for the management, operation, and control of an authority and its property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.054. GENERAL POWERS OF AUTHORITY. (a) An authority has any power necessary or convenient to carry out this chapter or to effect a purpose of this chapter.

(b) An authority may sue and be sued. An authority may not be required to give security for costs in a suit brought or prosecuted by the authority and may not be required to give a supersedeas or cost bond in an appeal of a judgment.

(c) An authority may hold, use, sell, lease, dispose of, and acquire, by any means, property and licenses, patents, rights, and other interests necessary, convenient, or useful to the exercise of any power under this chapter.

(d) An authority may sell, lease, or dispose of in another manner:

(1) any right, interest, or property of the authority that is not needed for, or, if a lease, is inconsistent with, the efficient operation and maintenance of the public transportation system; or

(2) at any time, surplus materials or other property that is not needed for the requirements of the authority or for carrying out a power under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.055. CONTRACTS; GRANTS AND LOANS. (a) An authority may contract with any person.

(b) An authority may accept a grant or loan from any person.

(c) An authority may enter one or more agreements with any municipality included in the area of the authority for the distribution of the authority's revenues.

(d) The terms of a contract between a regional authority and a subregional authority created by a contiguous municipality or between a regional authority and a joint subregional authority must be approved by the governing body of each municipality participating in the subregional or joint subregional authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.056. OPERATION OF PUBLIC TRANSPORTATION SYSTEM. (a) An authority may:

(1) acquire, construct, develop, plan, own, operate, and maintain a public transportation system in the territory of the authority, including the territory of a political subdivision;

(2) contract with a municipality, county, or other political subdivision for the authority to provide public transportation services outside the authority; and

(3) lease all or a part of the public transportation system to, or contract for the operation of all or a part of the public transportation system by, an operator.

(b) An authority, as the authority determines advisable, shall determine routes.

(c) The executive committee may submit a referendum for the approval of a power granted by Subsection (a) or (b).

(d) A private operator who contracts with an authority under this chapter is not a public entity for purposes of any law of this state except that an independent contractor of the authority that, on or after June 14, 1989, performs a function of the authority or an entity described by Section 452.0561 that is created to provide transportation services is liable for damages only to the extent that the authority or entity would be liable if the authority or entity itself were performing the function and only for a cause of action that accrues on or after that date.

(e) An authority consisting of one subregion governed by a

subregional board created under Subchapter O shall, at least once every five years, evaluate each distinct transportation service the authority provides that generates revenue, including light rail, bus, van, taxicab, and other public transportation services, and determine whether the authority should solicit competitive, sealed bids from other entities to provide these transportation services.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 4.10, eff. April 1, 2011.

Sec. 452.0561. LIABILITY OF TRANSPORTATION ENTITY PROVIDING PUBLIC TRANSPORTATION. (a) This section applies only to a transportation entity created under:

(1) Subtitle C or D of Title 5 or Chapter 172, 173, or 174;
or

(2) former Title 112, Revised Statutes.

(b) A transportation entity created for the purpose of providing public transportation is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the entity are essential governmental functions and not proprietary functions for any purpose, including the application of Chapter 101, Civil Practice and Remedies Code.

(c) An independent contractor of a transportation entity performing a function of the entity or an authority is liable for damages only to the extent that the entity or authority would be liable if the entity or authority itself were performing the function.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.05, eff. April 1, 2011.

Sec. 452.057. ACQUISITION OF PROPERTY BY AGREEMENT. An authority may acquire rolling stock or other property under a contract or trust agreement, including a conditional sales contract, lease, and equipment trust certificate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.058. USE AND ACQUISITION OF PROPERTY OF OTHERS. (a) For a purpose described by Section 452.056(a)(1) and as necessary or useful in the construction, repair, maintenance, or operation of the public transportation system, an authority may:

(1) use a public way, including an alley; and

(2) directly, or indirectly by another person, relocate or reroute the property of another person or alter the construction of the property of another person.

(b) For an act authorized by Subsection (a)(2), an authority may contract with the owner of the property to allow the owner to make the relocation, rerouting, or alteration by the owner's own means or through a contractor of the owner. The contract may provide for reimbursement of the owner for costs or payment to the contractor.

(c) An authority may acquire by eminent domain any interest in real property, including a fee simple interest and the use of air or subsurface space, except the right of eminent domain may not be exercised:

(1) in a municipality without the approval of each proposed acquisition by the governing body of the municipality or in an unincorporated area without the approval of each proposed acquisition by the commissioners court of the county in which the property to be condemned is located; or

(2) in a manner that would:

(A) unduly impair the existing neighborhood character of property surrounding, or adjacent to, the property to be condemned;

(B) unduly interfere with interstate commerce; or

(C) authorize the authority to run an authority vehicle on a railroad track that is used to transport property.

(d) If an authority, through the exercise of a power under this chapter, makes necessary the relocation or rerouting of, or alteration of the construction of, a road, alley, overpass, underpass, railroad track, bridge, or associated property, an electric, telegraph, telephone, or television cable line, conduit, or associated property, or a water, sewer, gas, or other pipeline, or associated property, the relocation or rerouting or alteration of the construction must be accomplished at the sole cost and expense of the

authority, and damages that are incurred by an owner of the property must be paid by the authority.

(e) Unless the power of eminent domain is exercised, an authority may not begin an activity authorized under Subsection (a) to alter or damage property of others, including this state or a political subdivision of this state, without having first received the written permission of the owner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.059. EMINENT DOMAIN PROCEEDINGS. (a) An eminent domain proceeding by an authority is initiated by the adoption by the executive committee of a resolution that:

(1) describes the property interest to be acquired by the authority;

(2) declares the public necessity for and interest in the acquisition; and

(3) states that the acquisition is necessary and proper for the construction, extension, improvement, or development of the public transportation system.

(b) A resolution adopted under this section and approved by resolution of the appropriate municipal governing body or commissioners court is conclusive evidence of the public necessity for the acquisition described in the resolution and that the property interest is necessary for public use.

(c) Except as otherwise provided by this chapter, Chapter 21, Property Code, applies to an eminent domain proceeding by an authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.060. AGREEMENT WITH UTILITIES, CARRIERS. An authority may agree with any other public or private utility, communication system, common carrier, or transportation system for:

(1) the joint use in the authority of the property of the agreeing entities; or

(2) the establishment of through routes, joint fares, or transfers of passengers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.061. FARES AND OTHER CHARGES. (a) An authority shall impose reasonable and nondiscriminatory fares, tolls, charges, rents, and other compensation for the use of the public transportation system sufficient to produce revenue, together with tax revenue and grants received by the authority, in an amount adequate to:

(1) pay all the expenses necessary to operate and maintain the public transportation system;

(2) pay when due the principal of and interest on, and sinking fund and reserve fund payments agreed to be made with respect to, all bonds that are issued by the authority and payable in whole or part from the revenue; and

(3) fulfill the terms of any other agreement with the holders of bonds described by Subdivision (2) or with a person acting on behalf of the bondholders.

(b) It is intended by this chapter that the compensation imposed under Subsection (a) and taxes imposed by the authority not exceed the amounts necessary to produce revenue sufficient to meet the obligations of the authority under this chapter.

(c) Compensation for the use of the public transportation system, including parking fees and passenger transportation fares, may be set according to a zone system or to another classification that the authority determines to be reasonable.

(d) This section does not limit the state's power to regulate taxes imposed by an authority or other compensation authorized under this section. The state agrees with holders of bonds issued under this chapter, however, not to alter the power given to an authority under this section to impose taxes, fares, tolls, charges, rents, and other compensation in amounts sufficient to comply with Subsection (a), or to impair the rights and remedies of an authority bondholder, or a person acting on behalf of a bondholder, until the bonds, interest on the bonds, interest on unpaid installments of interest, costs and expenses in connection with an action or proceeding by or on behalf of a bondholder, and other obligations of the authority in connection with the bonds are discharged.

(e) Personal identifying information collected by an authority is confidential and not subject to disclosure under Chapter 552, Government Code, including a person's:

- (1) name, address, e-mail address, and phone number;
- (2) account number, password, payment transaction activity, toll or charge record, or credit, debit, or other payment card number; and
- (3) other personal financial information.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 48 (S.B. 405), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1129 (S.B. 57), Sec. 7, eff. June 19, 2015.

Sec. 452.0611. ENFORCEMENT OF FARES AND OTHER CHARGES; PENALTIES. (a) An executive committee by resolution may prohibit the use of the public transportation system by a person who fails to possess evidence showing that the appropriate fare for the use of the system has been paid and may establish reasonable and appropriate methods, using transit police officers or fare enforcement officers under Section 452.0612, to ensure that persons using the public transportation system pay the appropriate fare for that use.

(b) An executive committee by resolution may provide that a fare for or charge for the use of the public transportation system that is not paid incurs a penalty, not to exceed \$100.

(c) The authority shall post signs designating each area in which a person is prohibited from using the transportation system without possession of evidence showing that the appropriate fare has been paid.

(d) A person commits an offense if:

(1) the person or another for whom the person is criminally responsible under Section 7.02, Penal Code, uses the public transportation system and does not possess evidence showing that the appropriate fare has been paid; and

(2) the person fails to pay the appropriate fare or other charge for the use of the public transportation system and any penalty on the fare on or before the 30th day after the date the authority notifies the person that the person is required to pay the amount of the fare or charge and the penalty.

(e) The notice required by Subsection (d)(2) may be included in

a citation issued to the person by a peace officer under Article 14.06, Code of Criminal Procedure, or by a fare enforcement officer under Section 452.0612, in connection with an offense relating to the nonpayment of the appropriate fare or charge for the use of the public transportation system.

(f) An offense under Subsection (d) is a Class C misdemeanor.

(g) An offense under Subsection (d) is not a crime of moral turpitude.

Added by Acts 2003, 78th Leg., ch. 1113, Sec. 1, eff. Sept. 1, 2003.

Sec. 452.0612. FARE ENFORCEMENT OFFICERS. (a) The authority may employ persons to serve as fare enforcement officers to enforce the payment of fares for use of the public transportation system by:

(1) requesting and inspecting evidence showing payment of the appropriate fare from a person using the public transportation system; and

(2) issuing a citation to a person described by Section 452.0611(d)(1).

(b) Before commencing duties as a fare enforcement officer a person must complete a 40-hour training course approved by the authority that is appropriate to the duties required of a fare enforcement officer.

(c) While performing duties, a fare enforcement officer shall:

(1) wear a distinctive uniform that identifies the officer as a fare enforcement officer; and

(2) work under the direction of the chief of police of the authority.

(d) A fare enforcement officer may:

(1) request evidence showing payment of the appropriate fare from passengers of the public transportation system;

(2) request personal identification from a passenger who does not produce evidence showing payment of the appropriate fare on request by the officer;

(3) request that a passenger leave the public transportation system if the passenger does not possess evidence of payment of the appropriate fare; and

(4) file a complaint in the appropriate court that charges the person with an offense under Section 452.0611(d).

(e) A fare enforcement officer may not carry a weapon while performing duties under this section.

(f) A fare enforcement officer is not a peace officer and has no authority to enforce a criminal law, other than the authority possessed by any other person who is not a peace officer.

Added by Acts 2003, 78th Leg., ch. 1113, Sec. 1, eff. Sept. 1, 2003.

Sec. 452.0613. ENFORCEMENT OF HIGH OCCUPANCY VEHICLE LANE USAGE; PENALTIES. (a) An executive committee by resolution may regulate or prohibit improper entrance into, exit from, and vehicle occupancy in high occupancy vehicle lanes operated, managed, or maintained by the authority.

(b) An executive committee by resolution may establish reasonable and appropriate methods to enforce regulations or prohibitions established under Subsection (a).

(c) An executive committee by resolution may provide that violations regarding improper entrance into, exit from, or vehicle occupancy in high occupancy vehicle lanes operated, managed, or maintained by the authority incur a penalty, not to exceed \$100.

(d) A person commits an offense if the person fails to pay any designated penalty on or before the 30th day after the date the authority notifies the person that the person is required to pay a penalty for:

(1) exiting or entering a high occupancy vehicle lane operated, managed, or maintained by an authority at a location not designated for exit or entrance; or

(2) operating a vehicle in or entering a high occupancy vehicle lane operated, managed, or maintained by an authority with fewer than the required number of occupants.

(e) The notice required by Subsection (d) may be included in a citation issued to the person by a peace officer under Article 14.06, Code of Criminal Procedure, in connection with an offense relating to improper use of a high occupancy vehicle lane.

(f) An offense under Subsection (d) is a Class C misdemeanor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 644 (S.B. 990), Sec. 1, eff. September 1, 2011.

Sec. 452.062. INSURANCE. (a) An authority may insure, through purchased insurance policies or self-insurance programs, or both, the legal liability of the authority and of its contractors and subcontractors arising from the acquisition, construction, or operation of the programs and facilities of the authority for:

- (1) personal or property damage; and
- (2) officers' and employees' liability.

(b) An authority may use contracts, rating plans, and risk management programs designed to encourage accident prevention.

(c) In developing an insurance or self-insurance program, an authority may consider the peculiar hazards, indemnity standards, and past and prospective loss and expense experience of the authority and of its contractors and subcontractors.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.063. TAX EXEMPTION. The property, revenue, and income of an authority are exempt from state and local taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.064. LIGHT RAIL SYSTEM: REGULATORY EXEMPTION. (a) An authority that constructs or operates or contracts with another entity to construct or operate a light rail mass transit system is not subject to any state law regulating or governing the design, construction, or operation of a railroad, railway, street railway, street car, or interurban railway.

(b) For purposes of ownership or transfer of ownership of an interest in real property, a light rail mass transit system line operating on property previously used by a railroad, railway, street railway, or interurban railway is a continuation of existing rail use.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.065. ELECTRIC POWER FOR RAIL SYSTEM: CERTAIN AUTHORITIES. (a) An authority in which the public transportation system includes or is to include passenger rail service propelled by

electric power and in which all or a part of the service area is served by the electric power distribution systems of more than one electric utility company or municipally owned electric utility system may:

(1) acquire, construct, own, and operate, for the sole purpose of powering its rail vehicles over its rail transportation system, sources of electric power, including wholly owned or partially owned generating facilities of any type and at any location, including fuel reserves and supplies;

(2) in conjunction with owning a generating facility, acquire, construct, own, and operate transmission and distribution facilities needed to deliver power from the generating facility to its public transportation system; and

(3) contract for the purchase of power and energy with any supplier of power and energy that serves any part of the authority's public transportation service area for the sole purpose of supplying the power and energy necessary to operate the authority's rail vehicles.

(b) The parties to a contract made under Subsection (a)(3) may fulfill the terms of the contract notwithstanding any order or rule of the Public Utility Commission of Texas with respect to certification, except that any supply of power or energy by one utility into the service area of another utility must be provided over transmission or distribution lines owned by the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.066. ELECTIONS. (a) In an election ordered by the executive committee:

(1) the executive committee shall give notice of the election by publication in a newspaper of general circulation in the authority at least once each week for three consecutive weeks, with the first publication occurring at least 21 days before the date of election; and

(2) a resolution ordering the election and the election notice must show, in addition to the requirements of the Election Code, the hours of the election and polling places in election precincts.

(b) Subsection (a) does not apply to an election under Section

452.715.

(c) A copy of the notice of each election held under this chapter shall be furnished to the Texas Transportation Commission and the comptroller.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. MANAGEMENT OF AUTHORITY

Sec. 452.101. EXECUTIVE COMMITTEE: POWERS. The executive committee may:

(1) employ and prescribe the compensation for a chief executive officer whom the committee may designate as the general manager or the executive director;

(2) appoint auditors and attorneys and prescribe their duties, compensation, and tenure;

(3) adopt a seal for the authority;

(4) set the fiscal year for the authority;

(5) establish a complete system of accounts for the authority;

(6) designate by resolution an authorized representative of the authority to, according to terms prescribed by the executive committee:

(A) invest authority funds; and

(B) withdraw money from authority accounts for investments; and

(7) designate by resolution an authorized representative of the authority to supervise the substitution of securities pledged to secure authority funds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.102. INVESTMENTS. (a) The executive committee may invest authority funds in:

(1) direct and indirect obligations, including treasury receipts evidencing ownership of future interest and principal payments on their receipts, of the United States and of its instrumentalities, including a Federal Home Loan Bank, Federal Farm Credit Bank, Federal Home Loan Mortgage Association, Federal National Mortgage Association, Government National Mortgage Association,

Student Loan Marketing Association, and International Bank for Reconstruction and Development;

(2) an obligation that:

(A) is of any state, or of a state agency, or of a county, municipality, or other political subdivision of a state;

(B) pays the principal and interest from taxes or revenues, or both taxes and revenues; and

(C) has a rating of not less than "A" or an equivalent rating by a nationally recognized rating firm;

(3) direct repurchase agreements and reverse repurchase agreements that:

(A) have defined termination dates secured by obligations described by Subdivision (1) or (2); and

(B) are executed with a bank or trust company organized under the laws of this state, any national banking association, or any government bond dealer reporting to and recognized as a primary dealer by the Federal Reserve Bank of New York;

(4) the common trust funds of a bank and money market mutual funds that consist solely of assets described by Subdivision (1) or (2);

(5) a certificate of deposit of a state or national bank guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or secured by obligations described by Subdivision (1) or (2) with a market value of not less than the principal amount of the certificate;

(6) commercial paper rated "A1" or "P1" by a nationally recognized rating firm;

(7) a foreign currency and any currency-swap agreement to the extent necessary to pay nondollar-denominated obligations; and

(8) any other investment authorized by resolution of the executive committee of the authority.

(b) An authority, by contract the terms of which are appropriate and approved by the executive committee, may enter into:

(1) an investment agreement relating to any investment described by this section; and

(2) an interest-rate swap or a similar agreement.

(c) In addition to the other investments authorized by this section, the executive committee may invest authority funds in any investment authorized for an entity under Chapter 2256, Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1028, Sec. 1, eff. June 19, 1997.

Sec. 452.103. DEPOSITORY; DEPOSIT OF FUNDS. (a) The executive committee shall designate one or more banks as depositories for authority funds.

(b) All funds of an authority that are not otherwise invested shall be deposited in one or more of the authority's depository banks unless otherwise required by an order or resolution authorizing the issuance of an authority bond or note or other contractual undertaking.

(c) Funds in a depository, to the extent that those funds are not insured by the Federal Deposit Insurance Corporation, shall be secured in the manner provided by law for the security of county funds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.104. CHIEF EXECUTIVE: DUTIES. (a) The general manager or executive director shall administer the daily operation of an authority.

(b) In conformity with the policy of the executive committee, the general manager or executive director may:

- (1) employ persons to conduct the affairs of the authority, including any operating or management company; and
- (2) remove any employee.

(c) The general manager or executive director shall prescribe the duties, tenure, and compensation of each person employed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.105. RULES. (a) The executive committee by resolution may adopt rules for the:

- (1) safe and efficient operation and maintenance of the public transportation system;
- (2) use of the public transportation system and the authority's services by the public and the payment of fares, tolls, and other charges; and

(3) regulation of privileges on property owned, leased, or otherwise controlled by the authority.

(b) The authority shall encourage to the maximum extent feasible the participation of private enterprise.

(c) A notice of each rule adopted by the executive committee shall be published in a newspaper with general circulation in the area in which the authority is located once each week for two consecutive weeks after adoption of the rule. The notice must contain a condensed statement of the substance of the rule and must advise that a copy of the complete text of the rule is filed in the principal office of the authority where the text may be read by any person.

(d) A rule becomes effective 10 days after the date of the second publication of the notice under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.1055. PROHIBITION OF CONSUMPTION OF ALCOHOLIC BEVERAGE. (a) A board by resolution may prohibit the consumption of an alcoholic beverage on property an authority possesses or controls. The resolution must describe with particularity each place where consumption of an alcoholic beverage is prohibited.

(b) The authority shall post a sign in each place where consumption of an alcoholic beverage is prohibited under this section. The sign must indicate that a person may not consume an alcoholic beverage in that place.

(c) A person commits an offense if the person consumes an alcoholic beverage in a place where the consumption of an alcoholic beverage is prohibited under this section.

(d) An offense under this section is a Class C misdemeanor.

(e) In this section, "alcoholic beverage" has the meaning assigned by Section 1.04, Alcoholic Beverage Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.29(a), eff. Sept. 1, 1997.

Sec. 452.106. PROCUREMENT RULES. (a) The executive committee may adopt and enforce procurement procedures, guidelines, and rules:

(1) defining the terms in and implementing Sections 452.107

and 452.108(a) and (b); or

(2) covering:

(A) the appointment of contracting officers;

(B) the solicitation for and award of contracts, including the electronic transmission of bids and proposals and the use of the reverse auction procedure, as defined by Section 2155.062, Government Code;

(C) the resolution of protests and contract disputes;

(D) foreign currency transactions and conversions and foreign exchange rate risk management; or

(E) other aspects of the procurement process for domestic and international contracts.

(b) Sections 452.107 and 452.108(a) and (b) and the procedures, guidelines, or rules adopted under this section confer no rights on an actual or potential bidder, offeror, contractor, or other person except as expressly stated in the procedures, guidelines, or rules.

(c) A procurement procedure, guideline, or rule covering the electronic transmission of bids and proposals must provide:

(1) for the identification, security, and confidentiality of an electronic bid or proposal;

(2) that an electronic bid or proposal is not required to be sealed; and

(3) that an electronic bid or proposal remains effectively unopened until the appropriate time.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 63, Sec. 1, eff. Sept. 1, 2003.

Sec. 452.107. PURCHASES: COMPETITIVE BIDDING. (a) Except as provided by Subsection (c), an authority may not award a contract for construction, services, or property, other than real property, except through the solicitation of competitive sealed bids or proposals, including the reverse auction procedure, ensuring full and open competition.

(b) The authority shall describe in a solicitation each factor to be used to evaluate a bid or proposal and give the factor's relative importance.

(c) The executive committee may authorize the negotiation of a contract without competitive sealed bids or proposals if:

(1) the aggregate amount involved in the contract is \$50,000 or less;

(2) the contract is for construction for which not more than one bid or proposal is received;

(3) the contract is for services or property for which there is only one source or for which it is otherwise impracticable to obtain competition;

(4) the contract is to respond to an emergency for which the public exigency does not permit the delay incident to the competitive process;

(5) the contract is for personal or professional services or services for which competitive bidding is precluded by law; or

(6) the contract, without regard to form and which may include bonds, notes, loan agreements, or other obligations, is for the purpose of borrowing money or is a part of a transaction relating to the borrowing of money, including:

(A) a credit support agreement, such as a line or letter of credit or other debt guaranty;

(B) a bond, note, debt sale or purchase, trustee, paying agent, remarketing agent, indexing agent, or similar agreement;

(C) an agreement with a securities dealer or investment adviser, broker, or underwriter; and

(D) any other contract or agreement considered by the executive committee to be appropriate or necessary in support of the authority's financing activities.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1479, Sec. 3, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 1091, Sec. 4.05, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 63, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 794 (H.B. [2223](#)), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 801 (H.B. [2325](#)), Sec. 3, eff. September 1, 2011.

Sec. 452.108. DURATION OF CONTRACTS AND DELEGATION OF POWERS.

(a) An authority may contract for payment with debt obligations and

for performance and payments to extend longer than one fiscal year if the contract provides for the discharge of the authority's contractual obligations by any method, including:

(1) committing current year funds, future tax revenues, or cancellation charges; and

(2) making the contract subject to the future availability of funds.

(b) The executive committee may delegate to designated persons the power to contract for construction, services, and property, within budgeted amounts approved by the executive committee.

(c) Except as provided by Subsection (d), an authority consisting of one subregion governed by a subregional board created under Subchapter O may not enter a lease or financing agreement secured wholly or partially by the assets of the authority if the duration of the lease or financing agreement is longer than five years unless the lease or agreement is approved by the voters of the authority in the manner provided for the issuance of bonds and notes under Subchapter H.

(d) To provide tax benefits to another party that are available with respect to property under the laws of a foreign country or to encourage private investment with a transportation authority in the United States, and notwithstanding any other provision of this chapter, an authority consisting of one subregion governed by a subregional board created under Subchapter O may enter into and execute, as it considers appropriate, contracts, agreements, notes, security agreements, conveyances, bills of sale, deeds, leases as lessee or lessor, and currency hedges, swap transactions, or agreements relating to foreign and domestic currency. The agreements or instruments may have the terms, maturities, duration, provisions as to governing law, indemnities, and other provisions that are approved by the subregional board. In connection with any transaction authorized by this subsection, the authority may deposit in trust, escrow, or similar arrangement cash or lawful investments securities, or may enter into one or more payment agreements, financial guarantees, or insurance contracts with counterparties having either a corporate credit or debt rating in any form, a claims-paying ability, or a rating for financial strength of "AA" or better by Moody's Investors Service, Inc. or by Standard & Poor's Corporation or of "A (Class XII)" or better by Best's rating system, that by their terms, including interest to be earned on the cash or

securities, or payment obligations, are sufficient in amount to pay when due all amounts required to be paid by the authority as rent over the full term of the transaction plus any optional purchase price or other obligation due under the transaction.

(e) Property sold, acquired, or otherwise transferred under Subsection (d) is considered for all purposes to be property owned and held by the authority and used for public purposes. The property is exempt from ad valorem taxes imposed in this state. A leasehold interest in the property is exempt from Section 25.07(a), Tax Code. A sale, lease, sublease, or other transfer of personal property by or to the authority under Subsection (d) is exempt from all sales, use, and motor vehicle taxes imposed by this state or a political subdivision of this state.

(f) Subsection (c) does not apply to a lease or financing agreement that is payable from or secured by a pledge of funds described by Section 452.357(a)(4).

(g) Subsection (c) does not apply to a multiyear commodity or utility service purchase arrangement or agreement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1028, Sec. 2, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1284, Sec. 2, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 509, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 792 (H.B. 2195), Sec. 1, eff. June 17, 2011.

Sec. 452.109. EXPLANATION OF CONTRACT AWARDS IN CERTAIN AUTHORITIES. (a) A subregional board created under Subchapter O that governs an authority consisting of one subregion shall document the reasons for the award of a contract for:

- (1) professional services awarded to a person other than the person proposing to deliver the services at the lowest cost; or
- (2) construction, services, or property awarded to a person other than the person recommended by the staff of the authority.

(b) The documentation required by Subsection (a) must include all of the reasons for not selecting, as appropriate, the person proposing to deliver the services at the lowest cost or the person recommended by the staff.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.1095. EXEMPTION FROM OTHER CONTRACTING LAW FOR CERTAIN AUTHORITIES. (a) Chapter 2269, Government Code, does not apply to an authority consisting of one subregion governed by a subregional board created under Subchapter O.

(b) An authority to which this section applies may adopt design-build procedures that do not materially conflict with Subchapter H, Chapter 2269, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 3.07, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(35), eff. September 1, 2013.

Sec. 452.110. PEACE OFFICERS. (a) The executive committee may establish a security force and provide for the employment of security personnel.

(b) The executive committee may commission an employee of a security force established under Subsection (a) as a peace officer.

(c) A peace officer commissioned under Subsection (b), except as provided by Subsection (e), has all the rights, privileges, obligations, and duties of any other peace officer in this state while on the property under the control of the authority or in the actual course and scope of the officer's employment.

(d) A person commissioned under Subsection (b) must give an oath and make bond for the faithful performance of the officer's duties as the executive committee may require. The bond shall be filed with the executive committee and made payable to the authority. The bond must be approved by the executive committee.

(e) A law enforcement power granted under this section is subordinate to the law enforcement power of a municipality in which the power is attempted to be exercised.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.111. EXTRAORDINARY VOTE REQUIRED IN CERTAIN

AUTHORITIES. A subregional board created under Subchapter O that governs an authority consisting of one subregion may not, except by a two-thirds vote of the board:

- (1) issue any debt allowed by law;
- (2) enter a lease as lessee or financing agreement as obligor if the lease or agreement is secured by the other assets of the authority;
- (3) effect a major change as described by Section 452.303 in a service plan;
- (4) approve the financial plan for the authority; or
- (5) enter an agreement under Section 452.055(c).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.112. ADVISORY COMMITTEES IN CERTAIN AUTHORITIES. (a) A subregional board created under Subchapter O that governs an authority consisting of one subregion may appoint one or more committees for any purpose for which a vote of the board is not required.

(b) A committee may consist of members of the subregional board and members of the general public, but the number of public members on a committee may not exceed the number of members of the subregional board on the committee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.113. BUDGET RECOMMENDATIONS. The executive committee shall:

- (1) receive recommendations for the annual budget from each subregional board;
- (2) obtain approval from each subregional board of the final annual budget as it pertains to that board's subregion; and
- (3) make the proposed annual budget available to the governing bodies of each municipality in the authority at least 30 days before the date of the adoption of the final annual budget.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.114. BUDGET IN AUTHORITY CREATED BY CONTIGUOUS MUNICIPALITY. (a) The executive committee of an authority created by a contiguous municipality shall, not later than the 60th day before the beginning of the authority's fiscal year, deliver to the governing body of the contiguous municipality a proposed budget for the authority's fiscal year.

(b) The budget for the authority is not effective until the budget is approved by the governing body of the contiguous municipality. An approved budget is the budget for the authority for the fiscal year, and each change in the budget must be approved by the governing body of the contiguous municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.115. PUBLIC HEARING ON FARE AND SERVICE CHANGES IN CERTAIN AUTHORITIES. (a) An authority consisting of one subregion governed by a subregional board created under Subchapter O must hold a public hearing on:

(1) any fare change;

(2) a service change involving:

(A) 25 percent or more of the number of transit route miles of a transit route; or

(B) 25 percent or more of the number of transit revenue vehicle miles of a transit route, computed daily, for the day of the week for which the change is made; or

(3) the establishment of a new transit route.

(b) When the number of changes of a type described by Subsection (a)(2) in a fiscal year would equal the percentage applicable in that subsection, the public hearing must be held before the change that would equal or exceed the percentage.

(c) In this section:

(1) "Transit route" means a route over which a transit vehicle travels and that is specifically labeled or numbered for the purpose of picking up or discharging passengers at regularly scheduled stops and intervals.

(2) "Transit route mile" means one mile along a transit route regularly traveled by transit vehicles while available for the general public to carry passengers.

(3) "Transit revenue vehicle mile" means one mile traveled

by a transit vehicle while the vehicle is available to the general public to carry passengers.

(4) "Service change" means any addition or deletion resulting in the physical realignment of a transit route or a change in the type or frequency of service provided in a specific, regularly scheduled transit route.

(d) The length of a transit route is the distance traversed in traveling completely over the route and returning to the starting point to begin another circuit of the route. If a route is defined in one direction only, the one-directional distance is the route length.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.116. PUBLIC HEARING ON FARE AND SERVICE CHANGES IN CERTAIN AUTHORITIES: EXCEPTIONS. (a) A public hearing under Section 452.115 is not required for:

(1) a reduced or free promotional fare that is instituted daily or periodically within 180 days;

(2) a headway adjustment of not more than five minutes during peak-hour service and not more than 15 minutes during non-peak-hour service;

(3) a standard seasonal variation unless the number, timing, or type of the standard seasonal variation changes; or

(4) an emergency or experimental service change in effect for 180 days or less.

(b) In this section, "experimental service change" means an addition of service to an existing transit route or the establishment of a new transit route.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.117. PUBLIC HEARING ON EXPERIMENTAL SERVICE CHANGE. A hearing on an experimental service change as described by Section 452.116 to remain in effect for more than 180 days may be held before or during the experimental service change period and satisfies the requirement for a public hearing if the hearing notice required by Section 452.118 states that the experiment may become permanent at the end of the period. If a hearing is not held before or during the

experimental service change period, the service that existed before the change must be reinstated at the end of 180 days and a public hearing held in accordance with Section 452.118 before the experimental service may be continued.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.118. NOTICE OF HEARING ON FARE OR SERVICE CHANGE IN CERTAIN AUTHORITIES. (a) The subregional board shall call a public hearing required by Section 452.115 and:

(1) publish at least 30 days before the date of the hearing notice of the hearing at least once in a newspaper of general circulation in the territory of the authority; and

(2) post notice in each transit vehicle in service on any transit route affected by the proposed change for at least two weeks within 30 days before the date of the hearing.

(b) The notice must contain:

(1) a description of each proposed fare or service change, as appropriate;

(2) the time and place of the hearing; and

(3) if the hearing is required under Section 452.115(b), a description of the latest proposed change and the previous changes.

(c) The requirement of Section 452.115 for a public hearing is satisfied at a public hearing required by federal law if:

(1) the notice requirements of this section are met; and

(2) the proposed fare or service change is addressed at the meeting.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. STATION OR TERMINAL COMPLEX SYSTEMS

Sec. 452.151. STATION OR TERMINAL COMPLEX: SYSTEM PLAN. (a) An authority may not acquire an interest in real property for a station or terminal complex unless the station or terminal complex is included in the public transportation system in a comprehensive service plan approved by a resolution of the executive committee. A mass transit facility of an authority is not a station or terminal complex under this subchapter unless the facility is included in the authority's comprehensive service plan under this section.

(b) A station or terminal complex may not be included in a public transportation system unless the executive committee first finds that the station or complex:

(1) will encourage and provide for efficient and economical public transportation;

(2) will facilitate access to public transportation and provide for other public transportation purposes;

(3) will reduce vehicular congestion and air pollution in the metropolitan area; and

(4) is reasonably essential to the successful operation of the public transportation system.

(c) On making a finding under Subsection (b), the executive committee may amend the authority's comprehensive service plan to include a station or terminal complex.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.152. STATION OR TERMINAL COMPLEX: FACILITIES. A station or terminal complex of an authority:

(1) must include adequate provision for the transfer of passengers among the various means of transportation available to the complex; and

(2) may include provision for residential, institutional, recreational, commercial, and industrial facilities.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.153. APPROVAL OF MUNICIPALITY. The location of a station or terminal complex in a municipality or in the extraterritorial jurisdiction of a municipality must be approved, as to conformity with the comprehensive or general plan of the municipality, by a motion, resolution, or ordinance adopted by the governing body of the municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.154. STATION OR TERMINAL COMPLEX: LIMITATION ON REAL PROPERTY ACQUISITION BY CONDEMNATION. (a) An interest in real

property that is more than 1,500 feet from the center point of a station or terminal complex may not be acquired for a station or terminal complex facility by eminent domain.

(b) Before the commencement of an eminent domain proceeding to acquire an interest in real property for a station or terminal complex facility, the executive committee shall designate the center point of the station or terminal complex.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.155. TRANSFER OF REAL PROPERTY IN STATION OR TERMINAL COMPLEX. (a) An authority may transfer to any person by any means, including a sale or lease, an interest in real property in a station or terminal complex and may contract with respect to it, in accordance with the comprehensive service plan approved by the executive committee, and subject to terms:

(1) the executive committee finds to be in the public interest or necessary to carry out this section; and

(2) specified in the instrument transferring the title or right of use.

(b) A transfer must be at the fair value of the interest transferred considering the use designated for the real property in the authority's comprehensive service plan.

(c) A person from whom property offered for sale under this section was acquired by eminent domain or the threat of eminent domain has a first right to purchase the property at the price for which the property is offered to the public.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. SPECIAL PROGRAMS AND SERVICES

Sec. 452.201. MINORITY AND WOMEN-OWNED BUSINESS PROGRAM IN CERTAIN AUTHORITIES. (a) An authority consisting of one subregion governed by a subregional board created under Subchapter O may establish a program reasonably designed to increase the participation of minority and women-owned business enterprises in contracts awarded by the authority. If the program is established, the board shall provide a program outlining acceptable assistance to be given minority and women-owned business enterprises in the area served by

the authority to achieve the purposes of the program.

(b) An overall minority and women-owned business enterprise contract percentage goal may be established as a part of the program only after reasonable consultation with affected organizations and a qualified independent source and after public comment. In establishing a goal, the authority shall consider the various types of construction contracts the authority expects to award and the effect of market conditions on the feasibility of attaining the goals.

(c) The authority shall periodically review the effectiveness of the program and the reasonableness of the program goals.

(d) This section does not affect Sections 452.106, 452.107, and 452.108(a) and (b), but prospective bidders may be required to meet uniform standards designed to assure a reasonable degree of participation by minority and women-owned business enterprises in the performance of any contract.

(e) In this section:

(1) "Minority" includes blacks, Hispanics, Asian Americans, American Indians, and Alaska natives.

(2) "Minority business enterprise" means a small business concern at least 51 percent of which is owned and controlled in management and daily operations by members of one or more minorities.

(3) "Women-owned business enterprise" means a small business concern at least 51 percent of which is owned and controlled in management and daily operations by one or more women.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.202. TRANSPORTATION FOR JOBS PROGRAM PARTICIPANTS.

(a) An authority shall contract with the Texas Department of Human Services to provide, in accordance with federal law, transportation services to a person who:

(1) resides in the area served by the authority;

(2) is receiving financial assistance under Chapter 31, Human Resources Code; and

(3) is registered in the jobs opportunities and basic skills training program under Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 682).

(b) The contract must include provisions to ensure that:

(1) the authority is required to provide transportation services only to a location:

(A) to which the person travels in connection with participation in the jobs opportunities and basic skills training program; and

(B) that the authority serves under the authority's authorized rate structure and existing services;

(2) the authority provides directly to the Texas Department of Human Services trip vouchers for distribution by the department to a person who is eligible under this section to receive transportation services;

(3) the Texas Department of Human Services reimburses the authority for allowable costs, at the applicable federal matching rate; and

(4) the Texas Department of Human Services may return undistributed trip vouchers to the authority.

(c) An authority shall certify the amount of public funds spent by the authority under this section for the purpose of obtaining federal funds under the jobs opportunities and basic skills training program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.203. WAIVER OF FEDERAL REQUIREMENTS. If, before implementing Section 452.202, the Texas Department of Human Services determines that a waiver or authorization from a federal agency is necessary for implementation, the Texas Department of Human Services shall request the waiver or authorization, and the department and an authority may delay implementing Section 452.202 until the waiver or authorization is granted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER G. SERVICE PLANS

Sec. 452.301. IMPLEMENTATION OF SERVICE PLAN: CERTAIN AUTHORITIES. A subregional board created under Subchapter O that governs an authority consisting of one subregion shall implement the service plan as approved under Section 452.713 without change unless the change is made in the manner required by this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.302. CHANGE IN SERVICE PLAN: GENERAL RULE. A service plan may be changed by a majority vote of the members of the subregional board described by Section 452.301 at a meeting at which a quorum of the board is present.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.303. MAJOR SERVICE PLAN CHANGE: NOTICE AND HEARING.

(a) The subregional board of an authority described by Section 452.301 may not, without holding a public hearing on the proposed change, consider a change in the service plan that would:

- (1) change the location of a right-of-way of a fixed guideway system;
- (2) change or add a width of a right-of-way of a fixed guideway system;
- (3) change a grade separation or add a grade separation to a fixed guideway system;
- (4) move the location of a station of a fixed guideway system;
- (5) reclassify the aerial, at-grade, or subgrade vertical alignment of a fixed guideway or establish the vertical alignment of a fixed guideway;
- (6) move the location of:
 - (A) a parking lot;
 - (B) a maintenance facility; or
 - (C) an off-street transfer center;
- (7) add a facility listed in Subdivisions (1)-(6); or
- (8) add a route for a fixed guideway system.

(b) Before holding a public hearing required under Subsection (a), the subregional board shall in writing notify:

- (1) each owner of real property located within 400 feet, including streets and alleys, of the boundary of the proposed right-of-way or the boundary of property on which the facility is proposed to be located; and
- (2) the governing body of each municipality and the commissioners court of each county in which the changed or additional

right-of-way or facility is to be located.

(c) The notice required by this section must be given to each governing body and to the property owners shown by the municipal or county tax roll at least 20 days before the date of the hearing by depositing the notice in the United States mail.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.304. ADOPTION OF MAJOR SERVICE PLAN CHANGE. (a) After a public hearing, the subregional board described by Section 452.301 may approve a change described by Section 452.303(a) in the service plan by a favorable vote of two-thirds of the members present.

(b) If the change in the plan includes the addition of a fixed guideway route, including a route to be added under an agreement under Section 452.060, the governing body of each municipality through which the route would pass must approve the route before the subregional board may add the route to the service plan.

(c) The subregional board shall give notice of a change in the service plan adopted under this section to:

(1) the commissioners court of each county in which the changed or additional right-of-way or facility is to be located if the change is located in an unincorporated area; and

(2) the governing body of each municipality in which the changed or additional right-of-way or facility is to be located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.305. SERVICE PLAN CHANGE: AUTHORITY CREATED BY CONTIGUOUS MUNICIPALITY. The service plan of an authority created by a contiguous municipality and confirmed may be changed only with the approval of the governing body of the contiguous municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER H. BONDS

Sec. 452.351. DEFINITION. In this subchapter, "bond" includes a note.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.352. POWER TO ISSUE BONDS. (a) An authority may issue bonds at any time and for any amounts it considers necessary or appropriate for:

(1) the acquisition, construction, repair, equipping, improvement, or extension of its public transportation system; or

(2) creating or funding self-insurance or retirement or pension fund reserves.

(b) A bond any portion of which is secured by a pledge of sales and use tax revenues and that has a maturity longer than five years from the date of issuance may not be issued by an authority until an election has been held and the proposition proposing the issue has been approved by a majority of the votes received on the issue in accordance with either Section 452.362 or 452.363.

(c) A subregional authority created by a contiguous municipality may not issue a document of indebtedness, including a bond, unless the document is approved by the governing body of the contiguous city.

(d) Subsection (b) does not apply to:

(1) refunding bonds;

(2) bonds described by Subsection (a)(2); or

(3) commercial paper notes having maturities of 270 days or less that are authorized to be issued and reissued from time to time under a commercial paper program in a maximum principal amount that the chief financial officer certifies, based on reasonable estimates of pledged sales and use tax revenue, can be repaid in full within five years after the date of authorization of the commercial paper program, taking into consideration any other bonds or notes having a prior or parity lien on the pledged revenue, regardless of the final date of the commercial paper program.

(e) A commercial paper program described by Subsection (d)(3) may not be continued beyond five years unless, before issuing any note with a maturity exceeding five years from the date of the initial authorization of the program or five years from the date of any new certification, the chief financial officer provides a new certification that the maximum principal amount of the program, based on reasonable estimates of pledged sales and use tax revenue, can be repaid in full within five years after the date of the most recent

new certification, taking into consideration any other bonds or notes having a prior or parity lien on the pledged revenue.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 54 (S.B. 1375), Sec. 1, eff. September 1, 2007.

Sec. 452.353. BOND TERMS. (a) An authority's bonds are fully negotiable. An authority may make the bonds redeemable before maturity at the price and subject to the terms and conditions that are provided in the authority's resolution authorizing the bonds.

(b) A revenue bond indenture may limit a power of the authority provided by Section 452.052, 452.054, 452.055(a), (b), or (c), 452.056(a) or (b), 452.057, 452.058, 452.059, 452.060, 452.061(a), (b), (d), or 452.062, as long as the bonds issued under the indenture are outstanding.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.354. SALE. An authority's bonds may be sold at a public or private sale as determined by the executive committee to be the more advantageous.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.355. APPROVAL; REGISTRATION. (a) An authority's bonds and the records relating to their issuance shall be submitted to the attorney general for examination before the bonds may be delivered.

(b) If the attorney general finds that the bonds have been issued in conformity with the constitution and this chapter and that the bonds will be a binding obligation of the issuing authority, the attorney general shall approve the bonds.

(c) After the bonds are approved by the attorney general, the comptroller shall register the bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.356. INCONTESTABILITY. Bonds are incontestable after they are:

- (1) approved by the attorney general;
- (2) registered by the comptroller; and
- (3) sold and delivered to the purchaser.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.357. SECURITY PLEDGED. (a) To secure the payment of an authority's bonds, the authority may:

- (1) pledge all or part of revenue realized from any tax that the authority may impose;
- (2) pledge any part of the revenue of the public transportation system;
- (3) mortgage any part of the public transportation system, including any part of the system subsequently acquired;
- (4) pledge all or part of funds the federal government has committed to the authority as grants in aid; and
- (5) provide that a pledge of revenue described by Subdivision (1) or (2) is a first lien or charge against that revenue.

(b) Under Subsection (a)(3) an authority may, subject to the terms of the bond indenture or the resolution authorizing the issuance of the bonds, encumber a separate item of the public transportation system and acquire, use, hold, or contract for the property by lease, chattel mortgage, or other conditional sale including an equipment trust transaction.

(c) An authority may not issue bonds secured by ad valorem tax revenue.

(d) An authority is not prohibited by this subchapter from encumbering one or more public transportation systems to purchase, construct, extend, or repair one or more other public transportation systems of the authority.

(e) The authority may pledge funds described by Subsection (a)(4):

- (1) as the sole security for the bonds; or
- (2) in addition to any other security described by this

section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 509, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 47 (S.B. 293), Sec. 1, eff. May 19, 2009.

Sec. 452.358. USE OF REVENUE. Revenue in excess of amounts pledged under Section 452.357(a)(1) or (2) shall be used to:

(1) pay the expenses of operation and maintenance of a public transportation system, including salaries, labor, materials, and repairs necessary to provide efficient service and every other proper item of expense; and

(2) fund operating reserves.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 47 (S.B. 293), Sec. 2, eff. May 19, 2009.

Sec. 452.359. REFUNDING BONDS. An authority may issue refunding bonds for the purposes and in the manner authorized by general law, including Chapter 1207, Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.396, eff. Sept. 1, 2001.

Sec. 452.360. BONDS AS AUTHORIZED INVESTMENTS. (a) An authority's bonds are authorized investments for:

(1) a bank;

(2) a savings bank;

(3) a trust company;

(4) a savings and loan association; and

(5) an insurance company.

(b) The bonds, when accompanied by all appurtenant, unmatured coupons and to the extent of the lesser of their face value or market value, are eligible to secure the deposit of public funds of this

state, a political subdivision of this state, and any other political corporation of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.361. EXCHANGE OF BONDS FOR EXISTING SYSTEM. An authority's revenue bonds may be exchanged, in lieu of cash, for the property of all or part of an existing public transportation system to be acquired by the authority. If the property is owned by a corporation that will dissolve simultaneously with the exchange, the authority may acquire the stock of the corporation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.362. ELECTION TO PLEDGE TAXES. (a) The executive committee may order an election to authorize the pledge of sales and use tax revenue to the payment of a specified amount of long-term bonds for the authority's public transportation system.

(b) Sales and use tax revenue at a rate higher than the previously approved rate may not be pledged.

(c) The notice of election shall be published, the proposition and ballot prepared, and the election held in accordance with and at the times permitted by the law applicable to a municipal bond election. The authority may publish, or distribute in another manner, additional copies of the election order to inform the voters fully of its content.

(d) If the proposition is approved, the authority may issue bonds in an amount not exceeding the amount approved.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.363. ALTERNATE ELECTION PROCEDURES FOR CERTAIN AUTHORITIES. (a) The executive committee of an authority in which more than one municipality is holding an election under Section 452.362 may provide for a proposition, ballot, and election order under this section if the committee finds that:

(1) the proceeds of long-term bonds are needed continuously to acquire, construct, and equip the public transportation system;

(2) financing through the issuance of bonds is the best available method to provide transportation services at the earliest practicable date for the residents of its service area, including all municipalities; and

(3) the construction needed to provide those services will take longer than five years.

(b) The official proposition must read substantially as follows:

"PROPOSITION

"Shall (name of authority) be authorized to pledge its _____ cent (insert amount) sales and use tax revenues to the payment of bonds or notes having a maturity longer than five years for the purpose of acquiring, constructing, and equipping the authority's transportation system in order to provide transportation services for the residents of the cities of (list cities included in service area)?"

(c) The ballot shall be arranged in a manner to permit the voters to vote "For" or "Against" the following summary of the proposition:

"The pledge by (insert name of authority) of its _____ cent (insert amount) sales and use tax revenues to the payment of bonds or notes in order to provide transportation services for the residents of the cities of (list cities included in service area)."

(d) The election order may contain additional information about the authority's plans and programs, such as:

(1) identification of the service area of the authority and a general description of the system expected to be constructed and provided according to the service plan, including, if appropriate, graphic materials and location maps and charts indicating the proposed locations and timing of any rail or similar lines or routes proposed to be provided;

(2) the estimates of costs of the public transportation system to be provided, and the estimates of the amount of long-term bonds expected to be issued under the voted proposition that will be needed, considering other estimated sources of payment such as fares and other revenues, short-term borrowing, vendor-supplied financing, and revenue bonds, other than those secured by sales and use tax revenues, to pay the costs; and

(3) any other matter appropriate to inform the voters of

the details of the proposed system and the financing plans of the authority.

(e) If a majority of the votes received at the election favor the summary of the proposition in Subsection (c), the authority may issue bonds in amounts and at times as the executive committee considers appropriate to provide transportation services for the residents of its service area in accordance with its service plan in effect on the date of the election, and as the service plan may be amended in accordance with Subchapter G, without the necessity of an additional election. The rate of sales and use tax that is pledged to the bonds may not exceed the previously voted authorized tax rate permitted on the date of the election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.364. TAX EXEMPTION. The interest on bonds issued by an authority is exempt from state and local taxes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER I. TAXATION

Sec. 452.401. SALES AND USE TAX. (a) The executive committee may impose for an authority a sales and use tax at the rate of:

- (1) one-quarter of one percent;
- (2) one-half of one percent;
- (3) three-quarters of one percent; or
- (4) one percent.

(b) The imposition of an authority's sales and use tax must be approved at an election under this chapter and may not be imposed in a unit of election that has not confirmed the authority. The tax rate in an authority created by a contiguous municipality must be approved by the governing body of the contiguous municipality.

(c) Chapter 322, Tax Code, applies to an authority's sales and use tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.402. RATE INCREASE: SALES AND USE TAX. The executive

committee may not increase the tax rate to a rate higher than the rate approved by the voters at the confirmation election without first receiving a majority vote in favor of the increase at an authority-wide election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.403. MAXIMUM TAX RATE IN AUTHORITY AREA. (a) An authority may not adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by other political subdivisions of the state having territory in the authority exceeds two percent in any location in the authority.

(b) An election by an authority to adopt a sales and use tax or increase the rate of the authority's sales and use tax has no effect if:

(1) the voters of the authority approve the authority's sales and use tax rate or rate increase at an election held on the same day on which a municipality or county having territory within the authority adopts a sales and use tax or an additional sales and use tax; and

(2) the combined rates of all sales and use taxes imposed by the authority and other political subdivisions of this state would exceed two percent in any location in the authority.

(c) If an authority consisting of one subregion governed by a subregional board created under Subchapter O adds territory that is a municipality, any additional sales and use tax under Chapter 321, Tax Code, imposed by that municipality is repealed as provided by Section 321.1025, Tax Code. The effective date of the repeal and for the imposition of the tax authorized to be collected under Section 452.401 in the added territory is the date that, under Section 321.102(b), Tax Code, the repeal of the additional sales and use tax is effective in the territory.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.404. INITIAL SALES TAX: EFFECTIVE DATE. The adoption of or the increase or decrease in the rate of an authority's sales and use tax takes effect on the first day of the second calendar

quarter beginning after the date that the comptroller receives a copy of the order required to be sent under Section 452.717.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.405. RATE DECREASE: SALES AND USE TAX. (a) The executive committee by order may direct the comptroller to collect the authority's sales and use tax at a rate that is lower than the rate approved by the voters at the confirmation election.

(b) The executive committee must file a certified copy of the order with the comptroller.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.406. DIFFERENT SUBREGIONAL SALES AND USE TAX RATES.

(a) The executive committee by order may direct the comptroller to collect the authority's sales and use tax at different rates in different subregions of the authority, but a rate may not be higher than the maximum rate approved by the voters.

(b) The executive committee must file a certified copy of the order and a map of the boundaries of the subregions with the comptroller.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.407. PROPERTY TAXES. An authority may not impose an ad valorem property tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER J. FINANCIAL AND PERFORMANCE AUDITS

Sec. 452.451. FINANCIAL AUDITS. (a) The executive committee of an authority shall have an annual audit of the affairs of the authority prepared by an independent certified public accountant or a firm of independent certified public accountants.

(b) The audit is open to public inspection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.452. REVIEW OF AUDIT: CERTAIN AUTHORITIES. (a) The subregional board of an authority consisting of one subregion governed by a subregional board created under Subchapter O shall deliver a copy of each audit prepared under Section 452.451 to the state auditor.

(b) The state auditor may elect to file any comments about the audit with the legislative audit committee and the subregional board, subject to a risk assessment performed by the state auditor and to the legislative audit committee's approval of including the preparation of the comments in the audit plan under Section 321.013, Government Code.

(c) The state auditor may:

- (1) examine any work papers from the audit; or
- (2) audit the financial transactions of the authority if the state auditor determines an audit is necessary.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 785, Sec. 70, eff. Sept. 1, 2003.

Sec. 452.454. PERFORMANCE AUDITS: CERTAIN AUTHORITIES. (a) A subregional board created under Subchapter O governing an authority consisting of one subregion shall contract every fourth state fiscal year beginning with the 1995-1996 fiscal year for a performance audit of the authority to be conducted by a firm that has experience in reviewing the performance of transit agencies.

(b) The purposes of the audit are to provide:

- (1) evaluative information necessary for the performance of oversight functions by state and local officers; and
- (2) information to the authority to assist in making changes for the improvement of the efficiency and effectiveness of authority operations.

(c) Each audit must include an examination of:

- (1) one or more of the following:
 - (A) the administration and management of the authority;
 - (B) transit operations; or
 - (C) transit authority system maintenance;

(2) the authority's compliance with applicable state law, including this chapter; and

(3) the following performance indicators:

(A) subsidy per passenger, operating cost per revenue mile, and operating cost per revenue hour;

(B) sales and use tax receipts per passenger;

(C) fare recovery rate;

(D) number of passengers per hour;

(E) on-time performance;

(F) number of accidents per 100,000 miles; and

(G) number of miles between mechanical service calls.

(d) A subject described under Subsection (c)(1) must be examined at least once in every third audit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 118 (S.B. [1077](#)), Sec. 1, eff. May 17, 2007.

Sec. 452.455. COMPUTATION OF PERFORMANCE INDICATORS. (a) This section applies to an authority required under Section 452.454 to contract for a performance audit.

(b) An authority's operating cost per passenger is computed by dividing the authority's annual operating cost by the passenger trips for the same period.

(c) The sales and use tax receipts per passenger are computed by dividing the annual receipts from authority sales and use taxes by passenger trips for the same period.

(c-1) The subsidy per passenger is computed by subtracting annual operating revenues from annual operating costs and dividing that amount by the total number of passengers for the same period.

(d) The operating cost per revenue hour is computed by dividing the annual operating cost by the total of scheduled hours that authority revenue vehicles are in revenue service for the same period.

(e) The operating cost per revenue mile is computed by dividing the annual operating cost by the number of miles traveled by authority revenue vehicles while in revenue service.

(f) The fare recovery rate is computed by dividing the annual

revenue, including fares, tokens, passes, tickets, and route guarantees, provided by passengers and sponsors of passengers of revenue vehicles, by the operating cost for the same period. Charter revenue, interest income, advertising income, and other operating income are excluded from revenue provided by passengers and sponsors of passengers.

(g) The number of passengers per hour is computed by dividing the total number of annual passengers by the total number of revenue vehicle hours for the same period.

(h) On-time performance is computed by determining an annual percentage of revenue vehicle trips of revenue vehicles that depart from selected locations at a time not earlier than the published departure time and not later than five minutes after that published time. On-time performance is computed only for fixed route revenue service.

(i) The number of accidents per 100,000 miles is computed by multiplying the annual number of accidents by 100,000 and dividing the product by the number of miles for all service, including charter and nonrevenue service for the same period. In this subsection, "accident" includes:

(1) a collision that involves an authority's revenue vehicle, other than a lawfully parked revenue vehicle, and results in property damage, injury, or death; and

(2) an operating incident resulting in the injury or death of a person on board or boarding or alighting from an authority's revenue vehicle.

(j) The number of miles between mechanical service calls is computed by dividing the annual number of miles for all service, including charter service and nonrevenue service, by the number of mechanical service calls for the same period. In this subsection, "mechanical service call" means an interruption in revenue service that is caused by revenue vehicle equipment failure that requires assistance from a person other than the vehicle operator before the vehicle can be operated normally.

(k) In this section:

(1) "Operating cost" means an authority's costs of providing public transit service, including purchased transit service not performed by the authority, but excluding the costs of:

(A) depreciation, amortization, and capitalized charges;

- (B) charter bus operations; and
- (C) coordination of carpool and vanpool activities.

(2) "Passenger" or "passenger trips" means the number of all passenger boardings, including transfers, but excluding charter passengers and carpool and vanpool passengers whose trips are only coordinated by the authority.

(3) "Revenue service" means the time an authority revenue vehicle is in service to carry passengers, other than charter passengers.

(4) "Revenue vehicle" means a vehicle, or a combination of rail vehicles comprising a train, that is:

- (A) used to carry paying passengers; and
- (B) operated by an authority or as a purchased service.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 118 (S.B. 1077), Sec. 2, eff. May 17, 2007.

Acts 2007, 80th Leg., R.S., Ch. 118 (S.B. 1077), Sec. 3, eff. May 17, 2007.

Sec. 452.456. PERFORMANCE AUDIT RESPONSE; HEARING. (a) An authority for which a performance audit is conducted under Section 452.454 shall prepare a written response to the performance audit report. The response must include each proposal for action relating to recommendations included in the report, whether the proposal for action is pending, adopted, or rejected.

(b) The authority shall make copies of the report and the response available for public inspection at the offices of the authority during normal business hours.

(c) The authority shall conduct a public hearing on each performance audit report and the authority's response under Subsection (a). The authority shall give notice of the hearing by publication of the notice in a newspaper of general circulation in the area included in the authority at least 14 days before the date of the hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.457. DELIVERY OF REPORT AND RESPONSE. An authority required by Section 452.454 to contract for a performance audit shall, before February 1 of the year after the fiscal year in which the performance audit is conducted, deliver a copy of each performance audit report and of the authority's response to the report to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives;
- (4) each member of the legislature whose district includes territory in the authority;
- (5) the state auditor;
- (6) the county judge of each county having territory in the authority; and
- (7) the presiding officer of the governing body of each municipality having territory in the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER K. PROVISIONS GENERALLY APPLICABLE TO EXECUTIVE COMMITTEES

Sec. 452.501. APPLICABILITY OF SUBCHAPTER. This subchapter does not apply to the executive committee of an authority created by a contiguous municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.502. EXECUTIVE COMMITTEE OF REGIONAL AUTHORITY. (a) The executive committee of a regional transportation authority confirmed in more than one subregion is composed of 11 members selected as follows:

(1) seven members from the membership of the subregional board in the subregion that has a principal municipality with a population of more than 1.1 million according to the most recent federal decennial census; and

(2) four members from the membership of the subregional board in the subregion that has no principal municipality with a population of more than 1.1 million according to the most recent federal decennial census.

(b) The subregional boards shall select their representatives

to the executive committee from their membership by a vote of the members.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1122 (H.B. 3777), Sec. 3, eff. September 1, 2015.

Sec. 452.503. TERMS; VACANCY. (a) A member of the executive committee serves at the pleasure of the subregional board. Each September 1 the confirmation of each appointment of a member must be considered.

(b) To remain on the executive committee a person must maintain membership on a subregional board.

(c) A vacancy on the executive committee is filled in the same manner as the original appointment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.504. OFFICERS. (a) The members of the executive committee shall elect from among its membership a presiding officer, assistant presiding officer, and secretary.

(b) The executive committee may appoint, as necessary, members or nonmembers as assistant secretaries.

(c) The secretary or assistant secretary shall:

(1) keep permanent records of each proceeding and transaction of the authority; and

(2) perform other duties assigned by the executive committee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.505. CONFLICTS OF INTEREST. Members of the executive committee and officers of the authority are subject to Chapter 171, Local Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.506. MEETINGS. (a) The executive committee shall hold at least one regular meeting each month to transact the business of an authority.

(b) On written notice, the presiding officer may call special meetings as necessary.

(c) The executive committee by resolution shall:

(1) set the time, place, and day of the regular meetings;
and

(2) adopt rules and bylaws as necessary to conduct meetings.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.507. QUORUM; VOTING REQUIREMENTS. (a) Eight members are a quorum of the executive committee.

(b) An action of the executive committee requires a vote of a majority of the members present unless the bylaws require a larger number for a particular action.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER L. EXECUTIVE COMMITTEE OF AUTHORITY CREATED BY CONTIGUOUS MUNICIPALITY

Sec. 452.521. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to the executive committee of an authority created by a contiguous municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.522. EXECUTIVE COMMITTEE. (a) The executive committee of an authority is composed of five members.

(b) Each member is appointed by the governing body of the contiguous municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.523. MEMBERSHIP TERMS; VACANCIES. (a) Each member

of the executive committee serves a term of two years except the initial terms of two members are for one year. The subsequent terms are staggered.

(b) A vacancy on the committee may be filled by appointment of the governing body of the contiguous municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.524. OFFICERS. (a) The members of the executive committee shall elect from among its membership a presiding officer, assistant presiding officer, and secretary and other officers the members determine are appropriate.

(b) The executive committee may appoint, as necessary, members or nonmembers as assistant secretaries.

(c) The secretary or assistant secretary shall:

(1) keep permanent records of each proceeding and transaction of the authority; and

(2) perform other duties assigned by the executive committee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.525. REMOVAL OF MEMBERS. The governing body of the contiguous municipality may remove a member of the executive committee at any time for, or without, cause.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.526. CONFLICTS OF INTEREST. A member of the executive committee or an officer of the subregional authority may not have a pecuniary interest or receive a direct or indirect benefit in any agreement to which the authority is a party.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.527. MEETINGS. (a) The executive committee shall hold at least one regular meeting each month to transact the business

of the subregional authority.

(b) The presiding officer may call special meetings as necessary.

(c) The executive committee by resolution shall:

- (1) set the time, place, and day of regular meetings; and
- (2) adopt rules and bylaws as necessary to conduct meetings.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.528. QUORUM; VOTING REQUIREMENT. (a) Three members are a quorum of the executive committee.

(b) An action of the executive committee requires a vote of a majority of the members present unless the bylaws require a larger number for a particular action.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER M. PROVISIONS GENERALLY APPLICABLE TO SUBREGIONAL BOARDS

Sec. 452.541. BOARD MEMBERSHIP: RESIDENCY IN AUTHORITY. (a) Except as provided by Subsection (b), a member of a subregional board must be a qualified voter residing in the authority.

(b) An individual who does not reside in the authority may be appointed to the board under Section 452.562(c)(1) if the individual is a qualified voter of and resides in a municipality that:

- (1) has entered into a contract with the authority to receive services; and
- (2) has adopted a sales tax to participate in the funding of a transportation project being planned, developed, or operated by the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 360 (H.B. [2536](#)), Sec. 1, eff. June 14, 2013.

Sec. 452.542. SERVICE ON BOARD; VACANCIES. (a) A member of a subregional board serves at the pleasure of the appointing governing

body.

(b) Each September each appointment must be reaffirmed.

(c) A vacancy on a subregional board is filled in the same manner as the original appointment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.543. BOARD OFFICERS. (a) A subregional board shall elect from its membership a presiding officer, assistant presiding officer, and secretary.

(b) The board may appoint, as necessary, members or nonmembers as assistant secretaries.

(c) The secretary or assistant secretary shall:

(1) keep permanent records of each proceeding and transaction of the board; and

(2) perform other duties assigned by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.544. CONFLICTS OF INTEREST. A member of a subregional board is subject to Chapter 171, Local Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.545. DUTIES. A subregional board shall:

(1) develop, recommend, and approve the annual budget for its subregion; and

(2) if the subregion is a part of a regional authority, make recommendations to the executive committee for:

(A) the overall budget; and

(B) the operation of services provided by the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.546. BOARD MEETINGS. (a) A subregional board, by resolution, shall:

(1) set the time, place, and day of regular meetings; and
 (2) adopt rules and bylaws as necessary to conduct meetings.

(b) A special meeting must be called by written notice of the presiding officer or assistant presiding officer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.547. COMPENSATION; EXPENSES. Each member of a subregional board is entitled to:

(1) reimbursement for necessary and reasonable expenses incurred in the discharge of duties; and

(2) \$50 for each meeting of the executive committee or subregional board attended.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER N. SUBREGIONAL BOARD IN AUTHORITY HAVING NO MUNICIPALITY WITH POPULATION OF MORE THAN 1.1 MILLION

Sec. 452.561. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to the board of a subregion that has no principal municipality with a population of more than 1.1 million according to the most recent federal decennial census.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1122 (H.B. [3777](#)), Sec. 5, eff. September 1, 2015.

Sec. 452.562. BOARD MEMBERSHIP; APPOINTMENTS. (a) A subregional board is composed of 11 members.

(b) If the entire county of the principal municipality is included in the authority, the subregional board consists of:

(1) five members appointed by the governing body of the principal municipality;

(2) five members appointed by the commissioners court of the county of the principal municipality; and

(3) one member appointed by the governing body of a

municipality that is in the authority and has a population of more than 100,000.

(c) If Subsection (b) does not apply, the subregional board shall be appointed as follows:

(1) the commissioners court of the county of the principal municipality shall appoint at least three members to represent:

(A) the unincorporated areas and municipalities in the county that are not otherwise represented on the subregional board; and

(B) the municipalities that have entered into a contract with the authority to receive services; and

(2) the remaining members shall be apportioned to the municipalities confirmed as all or part of the subregion according to the ratio that the population of each unit of election bears to the total population of the area confirmed as the subregion.

(d) Units of election that do not receive at least one member are to be aggregated with the county to determine population represented by the county, and appropriate additional members, if any, are to be so apportioned to the county.

(e) Units of election that are entitled to one or more members are to have the number of members rounded to the nearest whole number to determine actual apportionment.

(f) The principal municipality shall make its appointments to the board so that at least one of the appointees is designated to represent the interests of the transportation disadvantaged.

(g) An elected officer of the state or a political subdivision of this state who is not prohibited by the Texas Constitution from serving on the board is eligible, as an additional duty of office, to serve on the board. An elected officer who is a board member is not entitled to receive compensation for serving as a member but is entitled to reimbursement for reasonable expenses incurred in performing duties as a member.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1038, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 360 (H.B. [2536](#)), Sec. 2, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1122 (H.B. [3777](#)), Sec. 6, eff. September 1, 2015.

Sec. 452.563. QUORUM. (a) Six members of the subregional board are a quorum.

(b) An action of the board requires a majority vote of the members present.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER O. SUBREGIONAL BOARD IN SUBREGION HAVING PRINCIPAL MUNICIPALITY WITH POPULATION OF MORE THAN 1.1 MILLION

Sec. 452.571. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to the board of a subregion that has a principal municipality with a population of more than 1.1 million according to the most recent federal decennial census.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1122 (H.B. 3777), Sec. 8, eff. September 1, 2015.

Sec. 452.572. BOARD MEMBERSHIP; MUNICIPAL REPRESENTATION. (a) The subregional board is composed of 15 members appointed by the governing bodies of the municipalities in the subregional authority.

(b) The governing body of a municipality entitled to appoint more than one board member may appoint a number of members less than the number allocated to the municipality. Those appointed members may cast the same number of votes as the number of members allocated, but a member may not cast a divided vote.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.573. ALLOCATION OF MEMBERSHIP AMONG MUNICIPALITIES.

(a) A governing body of a municipality in a subregion may make appointments to the subregional board in the same ratio as the population of the appointing municipality bears to the population of the subregion.

(b) A municipality the population of which entitles it to make

a fraction of an appointment may combine that fraction with one or more other municipalities in the subregion to be entitled to make one appointment.

(c) Municipalities combining population under Subsection (b) must agree on the method of making the appointment.

(d) A municipality may not combine its population with another municipality for the purpose of minimizing the representation on the board of a racial or ethnic minority.

(e) A combination under Subsection (b) of two or more municipalities having insufficient population to receive an allocation of one membership must be made before the 61st day after the date for establishing or restructuring a board under Section 452.577.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.574. BOARD MEMBERSHIP: ELIGIBILITY. (a) To be eligible for appointment to a subregional board, a person must reside in the municipality making the appointment.

(b) An elected officer of the state or a political subdivision of this state who is not prohibited by the Texas Constitution from serving on the board is eligible, as an additional duty of office, to serve on the board. An elected officer who is a board member is not entitled to receive compensation for serving as a member but is entitled to reimbursement for reasonable expenses incurred in performing duties as a member.

(c) The principal municipality shall make its appointments to the board so that at least one of the appointees is designated to represent the interests of the transportation disadvantaged.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1038, Sec. 6, eff. Sept. 1, 2001.

Sec. 452.575. APPOINTMENTS TO REFLECT COMPOSITION OF MUNICIPALITY. The governing body of a municipality that makes more than one appointment shall, to the greatest extent practicable, select persons who accurately reflect the racial and ethnic composition of the municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.576. MAXIMUM MUNICIPAL MEMBERSHIP ENTITLEMENT; REALLOCATION. (a) A municipality may not make more than 65 percent of the appointments to the subregional board.

(b) If the number of appointments to which a municipality would be entitled under Section 452.573 exceeds the limitation provided by Subsection (a), the excess is apportioned according to that section among the other municipalities in the subregion.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.577. REAPPORTIONMENT. As needed because of the withdrawal or addition of a municipality or unincorporated area, population changes, or changes in combinations established under Section 452.573(b), the board of a subregional authority shall be restructured under Section 452.573(a):

(1) each fifth year as of September 1 after the date that the census data or population estimates become available; or

(2) when a municipality or unincorporated area withdraws from or joins the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.578. TERMS OF BOARD MEMBERS. (a) Each member of the subregional board serves a staggered term of two years. Eight of the terms begin on July 1 of odd-numbered years, and seven terms begin on July 1 of even-numbered years.

(b) The term of a member does not end because of a reapportionment under Section 452.577, and the board shall have a plan for filling vacancies after a reapportionment to ensure that each municipality maintains the representation to which it is entitled.

(c) The governing body of a principal municipality may not limit the number of terms that members of the board may serve.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.579. QUORUM; ACTIONS. (a) Sixty-five percent of the members is a quorum.

(b) An action of the subregional board requires a majority vote of the members present.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.580. CHANGE OF BUDGETING POLICY. A subregional board may adopt on a two-thirds vote of the board a budgeting policy for the authority that provides for the adoption and implementation of a budget that extends for two fiscal years, with annual reviews as needed.

Added by Acts 2001, 77th Leg., ch. 509, Sec. 3, eff. Sept. 1, 2001.

SUBCHAPTER P. ADDITION OF TERRITORY

Sec. 452.601. ADDITION OF TERRITORY BY MUNICIPAL ANNEXATION.

(a) When a municipality that is part of an authority annexes territory that before the annexation is not part of the authority, the annexed territory becomes part of the authority.

(b) When a contiguous municipality annexes additional territory, the annexed territory becomes a part of the subregional authority created by the contiguous municipality.

(c) Except for Subsection (b), this subchapter does not apply to an authority created by a contiguous municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.602. ADDITION OF MUNICIPALITY BY ELECTION. (a) The territory of a municipality that is not part of an authority may be added to an authority if:

(1) any part of the municipality is located in a county in which the authority is located;

(2) the governing body of the municipality orders an election under this section on whether the territory of the municipality should be added to the authority; and

(3) a majority of the votes received in the election favor the measure.

(b) The governing body of the municipality shall certify to the executive committee the result of an election in which the addition is approved.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.6025. ADDITION OF CERTAIN MUNICIPALITIES BY ELECTION.

(a) In this section, "special sales and use tax" means a sales and use tax levied by a municipality that is in excess of one percent.

(b) This section applies only to a municipality that levies a special sales and use tax that, when combined with the authority's sales and use tax, would result in a sales and use tax rate of more than two percent in the territory of the municipality.

(c) A municipality that does not have territory that is part of an authority may be added to the territory of an authority on a date determined by the executive committee if:

(1) any part of the territory of the municipality is located in a county in which the authority has territory or in a county that is adjacent to a county in which the authority has territory;

(2) the executive committee states, by resolution, the authority's intention to provide transportation services in the territory of the municipality;

(3) the governing body of the municipality calls an election on the addition of the territory of the municipality to the territory of the authority; and

(4) a majority of the votes cast in the election favor the proposition.

(d) The election in a municipality to approve the addition of the territory of the municipality to the territory of the authority is to be treated for all purposes as an election to reduce the rate of the municipality's special sales and use tax, on the effective date determined by the executive committee, to the highest rate that will not impair the imposition of the authority's sales and use tax.

(e) At any time after the date of the election approving the addition of the territory of the municipality to the territory of the authority, the executive committee and the governing body of the municipality may enter into an interlocal agreement that provides for the eventual admission of the territory of the municipality to the

territory of the authority.

(f) Notwithstanding Section 452.607, a sales and use tax imposed by the authority takes effect in the territory of the municipality on the first day of the first calendar quarter that begins after the date the comptroller receives a certified copy of an order adopted by the executive committee adding the territory of the municipality, accompanied by a map of the authority clearly showing the territory added.

Added by Acts 2003, 78th Leg., ch. 915, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.74, eff. April 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 794 (S.B. 1461), Sec. 1, eff. June 14, 2013.

Sec. 452.603. ADDITION OF COUNTY AREA BY ELECTION. (a) Unincorporated territory that is a part of a county, not a part of an authority, and designated by the commissioners court of the county may be added to an authority if:

(1) any part of the county is located in the authority or any part of an adjacent county is located in the authority;

(2) the commissioners court orders an election in the designated area under this section on whether the area should be added to the authority; and

(3) a majority of the votes received in the election favor the measure.

(b) In designating an area under this section, the commissioners court may not, to the extent practicable, divide a county election precinct.

(c) The commissioners court shall certify to the authority the result of an election in which the addition is approved.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.604. PROCEDURE FOR ANNEXATION OF ALL OR PART OF ANOTHER SUBREGION. (a) The procedures provided by Section 452.701(a) or (b) and Sections 452.703-452.708 apply to the addition to an authority of a municipality located in another subregion or the

addition of another subregion.

(b) After an election as provided by Section 452.715(a), a subregional board shall be appointed under Subchapter N or O, as applicable, and the executive committee existing before the additional subregional board is appointed shall be modified to conform with Subchapter K.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.605. JOINING AUTHORITY: CERTAIN AUTHORITIES. (a) A municipality with a population of at least 250,000 according to the most recent federal decennial census and located in a county that has no principal municipality with a population of more than 1.1 million according to the most recent federal decennial census may join a separate authority by complying with this chapter.

(b) If a municipality described by Subsection (a) joins a separate authority and another separate authority is subsequently established in a county that has no principal municipality with a population of more than 1.1 million according to the most recent federal decennial census, any municipality in that county that has voted to participate with any authority created under this chapter may at the time of the creation of the new authority:

- (1) remain in the authority that was created first;
- (2) join the new authority in the county in which the municipality is located; or
- (3) participate with both authorities.

(c) A municipality in which capital improvements have been made at its request by an authority must on its transfer to a different authority or participation with more than one authority continue to honor reimbursement obligations resulting from the improvements.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1122 (H.B. [3777](#)), Sec. 9, eff. September 1, 2015.

Sec. 452.606. EXECUTIVE COMMITTEE APPROVAL OF ANNEXATION: EFFECTIVE DATE. (a) The addition of territory approved under Section 452.602 or 452.603 does not take effect if, before the

effective date of the addition under Subsection (b), the executive committee of the authority gives written notice to the governing body of the municipality or the commissioners court of the county that held the election that the addition would create a financial hardship on the authority because:

(1) the territory to be added is not contiguous to the territory of the existing authority; or

(2) the addition of the territory would impair the imposition of the sales and use tax authorized by this chapter.

(b) In the absence of a notice under Subsection (a), the addition of territory approved under Section 452.602 or 452.603 takes effect on the 31st day after the date of the election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.607. ADDED TERRITORY: EFFECTIVE DATE OF TAXES. (a) A sales and use tax imposed by an authority under Subchapter I, other than a tax imposed by an authority created by a contiguous municipality and except as provided by Section 452.403, takes effect in territory added to the authority under this subchapter on the first day of the first calendar quarter that begins after the date the comptroller receives:

(1) a certified copy of an order adding the territory or of an order canvassing the returns and declaring the result of the election; and

(2) a map of the authority showing clearly the territory added.

(b) The presiding officer of the executive committee shall send the order and map required under Subsection (a) to the comptroller by certified or registered mail.

(c) The order must include the effective date of the tax.

(d) The comptroller may delay implementation of the sales and use tax in the added territory for one calendar quarter by notifying the presiding officer of the executive committee before the 11th day after the date on which the comptroller receives the order and map under this section that the comptroller requires more time. If implementation is delayed, the tax takes effect on the first day of the second calendar quarter that begins after the date on which the comptroller receives the order and map. This subsection does not

apply to an authority created by a contiguous municipality.

(e) On the date of annexation of territory to a subregional authority created by a contiguous municipality, a tax imposed by the authority takes effect in the added territory.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER Q. WITHDRAWAL OF TERRITORY FROM AUTHORITY; DISSOLUTION

Sec. 452.651. WITHDRAWAL OF UNIT OF ELECTION. (a) The governing body of a unit of election may order an election to withdraw the unit from an authority. An election ordered under this subsection for a unit of election located in an authority consisting of one subregion governed by a subregional board created under Subchapter O may not be held if the governing body rescinds the order and notice of the election before the 45th day before election day. The governing body shall promptly give notice of the rescission in the same manner as the notice of election given under Section 452.655.

(b) On the determination by a governing body of a unit of election that a petition for withdrawal under this chapter is valid, the governing body shall order an election to withdraw the unit of election from the authority.

(c) An election to withdraw may not be ordered, and a petition for an election to withdraw may not be accepted for filing, more frequently than once during each period of 12 months preceding the anniversary of the date of the election confirming the authority. If the unit of election is located in an authority consisting of one subregion governed by a subregional board created under Subchapter O, an election for withdrawal of the unit of election under this section may not be ordered, and a petition for withdrawal may not be accepted, more frequently than once during 1996 and during each sixth calendar year after that year.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.652. PETITION FOR WITHDRAWAL ELECTION. (a) At the request of a qualified voter of a unit of election in an authority, the municipal secretary or other clerk or administrator of the unit of election shall deliver to the voter, in the number requested,

petition signature sheets for a petition to withdraw from the authority prepared by, numbered, and authenticated by the municipal secretary or other official. During the period that signatures on the petition may be obtained, the official shall authenticate and deliver additional petition signature sheets as requested by the voter. Only one petition for withdrawal may be in circulation at a time.

(b) Each sheet of a petition must have a heading in capital letters as follows:

"THIS PETITION IS TO REQUIRE AN ELECTION TO BE HELD IN (name of the unit of election) TO DISSOLVE (name of authority) IN (name of the unit of election) SUBJECT TO THE CONTINUED COLLECTION OF SALES TAXES FOR THE PERIOD REQUIRED BY LAW."

(c) In addition to the requirements of Section 277.002, Election Code, to be valid a petition must:

(1) be signed on authenticated petition sheets by not less than 20 percent, or not less than eight percent in a unit of election in an authority consisting of one subregion governed by a subregional board created under Subchapter O, of the number of registered voters of the unit of election as shown on the voter registration list of each county in which the unit of election is located;

(2) be filed with the secretary, clerk, or administrator of the unit of election not later than the 60th day after the date that the first sheet of the petition was received under Subsection (a);

(3) contain signatures that are signed in ink or indelible pencil by the voter; and

(4) have affixed or printed on each sheet an affidavit that is executed before a notary public by the person who circulated the sheet and that is in the following form and substance:

(A) for a unit of election in an authority not described by Paragraph (B):

"STATE OF TEXAS

"COUNTY OF _____

"I, _____, affirm that I personally witnessed each signer affix his or her signature to this page of this petition for the dissolution of (name of authority) in the (name of unit of election). I affirm to the best of my knowledge and belief that each signature is the genuine signature of the person whose name is signed and that the date entered next to each signature is the date the

signature was affixed to this page.

"Sworn to and subscribed before me this the ____ day of ____,
_____.
(SEAL)

Notary Public, State of Texas"

(B) for a unit of election in an authority consisting of one subregion governed by a subregional board created under Subchapter O:

"STATE OF TEXAS

"COUNTY OF _____

"I, _____, affirm that I personally witnessed each signer affix his or her signature to this page of this petition for the dissolution of (name of authority) in the (name of unit of election). I affirm to the best of my knowledge and belief that each signature is the genuine signature of the person whose name is signed and that the date entered next to each signature is the date the signature was affixed to this page. I further affirm that I have verified that the signer is a registered voter and that the voter registration number on the petition is correct.

"Sworn to and subscribed before me this the ____ day of ____,
_____.
(SEAL)

Notary Public, State of Texas"

(d) Each sheet of the petition must be filed under Subsection (c)(2) at the same time as a single filing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.653. REVIEW OF PETITION. (a) The secretary, clerk, or administrator of a unit of election in which a petition for withdrawal from an authority is filed shall examine the petition and file with the governing body of the unit a report stating whether the petition, in the opinion of the secretary, clerk, or administrator, is valid.

(b) On receipt of a petition and a report under Subsection (a),

the governing body shall examine the petition to determine whether the petition is valid. The governing body may hold public hearings and conduct or order investigations as appropriate to make the determination. The governing body's determination is conclusive of the issues.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.654. INVALID PETITION. (a) The governing body of a unit of election that receives an invalid petition shall reject the petition.

(b) A petition that is rejected is void and the petition and each sheet of the rejected petition may not be used in connection with a subsequent petition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.655. ELECTION. (a) Except as provided by Subsection (b), an election to withdraw from an authority ordered under this subchapter must be held on the first applicable uniform election date occurring after the expiration of 12 calendar months after the date on which the governing body orders the election.

(b) A unit of election that is located in an authority consisting of one subregion governed by a subregional board created under Subchapter O shall hold the election on the applicable first uniform election date occurring after the expiration of 45 days after the date the governing body orders the election.

(c) The governing body shall give notice of the election to the executive committee of the authority, the Texas Department of Transportation, and the comptroller immediately on calling the election.

(d) At the election the ballot shall be printed to provide for voting for or against the proposition: "Shall the (name of authority) be continued in (name of unit of election)?"

(e) The election shall be held in the regular precincts and at the regular voting places.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.656. RESULT OF WITHDRAWAL ELECTION. (a) If a majority of the votes received on the measure in an election held under Section 452.655 favor the proposition, the authority continues in the unit of election.

(b) If less than a majority of the votes received on the measure in the election favor the proposition, the authority ceases in the unit of election on the day after the date of the canvass of the election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.657. EFFECT OF WITHDRAWAL. (a) On the effective date of a withdrawal from an authority:

(1) the authority shall cease providing transportation services in the withdrawn unit of election; and

(2) the financial obligations of the authority attributable to the withdrawn unit of election cease to accrue.

(b) Withdrawal from an authority does not affect the right of the authority to travel through the territory of the unit of election to provide service to a unit of election that is a part of the authority.

(c) In a unit of election that withdraws from an authority consisting of one subregion governed by a subregional board created under Subchapter O, title to all real estate in the unit of election, including improvements made by the authority, except a right-of-way or an improvement to a right-of-way, vests in the unit of election if the unit of election by resolution claims the real estate and improvements within 30 days after the effective date of the election.

(d) If the real estate and improvements are within 30 days after the effective date of the election determined by the authority to be necessary for the continuation of service to the remaining units of election, the authority may retain the use of the real estate and improvements for not longer than 15 years or the duration of the authority's remaining federal grant obligation for the facility, whichever is longer. If the authority retains the use, the authority is responsible for all operation and maintenance costs of the facility.

(e) In a unit of election with a population of less than 10,000 according to the most recent federal decennial census that withdraws

from an authority consisting of one subregion governed by a subregional board created under Subchapter N, title to all real estate in the unit of election owned or partially owned by the authority, including improvements made by the authority, except a right-of-way or an improvement to a right-of-way, shall immediately vest in the authority, and the authority may continue to use the real estate and improvements in the withdrawn unit of election as may be determined by the authority to be necessary:

(1) for the continuation of service to other units of election;

(2) to satisfy the authority's remaining federal grant obligation for the real estate and improvements; or

(3) for the operation of a public transportation system as provided by Section 452.056(a).

(f) An authority is responsible for all operation and maintenance costs of the property and improvements located in the withdrawn unit of election that are owned or partially owned by the authority as described by Subsection (e).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1122 (H.B. 3777), Sec. 10, eff. September 1, 2015.

Sec. 452.658. COLLECTION OF SALES AND USE TAX AFTER WITHDRAWAL.

(a) Until the amount of revenue from an authority's sales and use tax collected in a withdrawn unit of election after the effective date of withdrawal and paid to the authority equals the total financial obligation of the unit, the sales and use tax continues to be collected in the territory of the election unit.

(b) After the amount described by Subsection (a) has been collected, the comptroller shall discontinue collecting the tax in the territory of the unit of election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.659. DETERMINATION OF TOTAL AMOUNT OF FINANCIAL OBLIGATIONS OF WITHDRAWN UNIT. (a) Except as provided by Section 452.660, the total financial obligation of a withdrawn unit of

election to the authority is an amount equal to:

(1) the unit's apportioned share of the authority's outstanding obligations; and

(2) the amount, not computed in Subsection (a)(1), that is necessary and appropriate to allocate to the unit because of financial obligations of the authority that specifically relate to the unit.

(b) An authority's outstanding obligations under Subsection (a)(1) is the sum of:

(1) the obligations of the authority authorized in the budget of, and contracted for by, the authority;

(2) outstanding contractual obligations for capital or other expenditures, including expenditures for a subsequent year, the payment of which is not made or provided for from the proceeds of notes, bonds, or other obligations;

(3) payments due or to become due in a subsequent year on notes, bonds, or other securities or obligations for debt issued by the authority;

(4) the amount required by the authority to be reserved for all years to comply with financial covenants made with lenders, note or bond holders, or other creditors or contractors; and

(5) the amount necessary for the full and timely payment of the obligations of the authority, to avoid a default or impairment of those obligations, including contingent liabilities.

(c) The apportioned share of a unit's obligation or assets is the amount of the obligation or assets times a fraction, the numerator of which is the number of inhabitants of the withdrawing unit of election and the denominator of which is the number of inhabitants of the authority, including the number of inhabitants of the unit.

(d) The executive committee shall determine the amount of each component of the computations required under this section, including the components of the unit's apportioned share, as of the effective date of withdrawal. The number of inhabitants shall be determined according to the most recent and available applicable data of an agency of the United States.

(e) Notwithstanding any other provision of this chapter, in determining the total financial obligation of a withdrawn unit of election to an authority consisting of one subregion governed by a subregional board created under Subchapter N, Subsection (a)(2) does

not apply, and the amounts calculated under Subsection (a)(1) do not include any financial, contractual, or other obligations incurred by the authority between the date that an election to withdraw is ordered and the date of the canvass of the election. The executive committee shall determine the total financial obligation of the withdrawn unit of election not later than the 180th day after the date the election is called. This subsection:

- (1) applies to an election to withdraw that is ordered before, on, or after September 1, 2015; and
- (2) expires August 31, 2016.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1122 (H.B. 3777), Sec. 11, eff. September 1, 2015.

Sec. 452.660. ADDITIONAL COMPUTATIONS FOR CERTAIN AUTHORITIES.

(a) In addition to the amount determined under Sections 452.659(a)(1) and (2), the total financial obligations of a unit of election withdrawn from an authority consisting of one subregion governed by a subregional board created under Subchapter O include the amount of the cost incurred by the authority for any capital improvements transferred to the unit of election under Section 452.657(c), less the unit of election's share of the total amount of the unencumbered assets of the authority that consist of cash, cash deposits, certificates of deposit, and bonds, stocks, and other negotiable securities.

(b) The unit of election's share of the unencumbered assets of the authority under Subsection (a) is determined by the subregional board as an amount equal to the authority's total unencumbered assets described by Subsection (a), multiplied by the average of:

- (1) the number of inhabitants of the unit of election divided by the number of inhabitants of all units of election of the authority; and
- (2) the total sales tax contributed by the unit of election to the authority divided by the total sales tax contributed to the authority by all units of election of the authority.

(c) The number of inhabitants is determined as provided by Section 452.559(d).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.661. CERTIFICATION OF NET FINANCIAL OBLIGATION OF UNIT. The executive committee shall certify to a withdrawn unit of election and to the comptroller the total financial obligation of the unit to the authority as determined under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.662. DISSOLUTION OF AUTHORITY CREATED BY CONTIGUOUS MUNICIPALITY. (a) The governing body of a contiguous municipality, at any time after confirmation of a subregional authority, may order an election for the dissolution of the authority.

(b) The governing body of a contiguous municipality, before the first anniversary of the confirmation election confirming an authority created by the municipality, shall on receipt of a petition containing the signatures of at least 20 percent of the registered voters of the contiguous municipality order an election for the dissolution of the authority.

(c) In an election ordered under Subsection (a) or (b) the following proposition shall be submitted to the voters: "Shall the (name of authority) be continued in the city of (name of city)?"

(d) If the majority of votes received in the election do not favor the proposition, the subregional authority ceases to exist on the day after the date of the canvass of the election and all financial obligations of that unit of election stop accruing at that time.

(e) Taxes shall continue to be collected until all financial obligations of the subregional authority are paid and may not be collected after the payment of those obligations.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER R. CREATION OF AUTHORITIES

Sec. 452.701. CREATION OF REGIONAL OR SUBREGIONAL AUTHORITY AUTHORIZED. (a) The governing body of a principal municipality, the commissioners court of the county of the principal municipality, or both of these bodies, from each subregion of a metropolitan area, may

agree to initiate the process to create, by a motion of the body, a regional transportation authority to provide public and complementary transportation services in the area. The principal municipality, the county of the principal municipality, or both entities, in each subregion, may become the creating entity.

(b) The governing body of a principal municipality, the commissioners court of the county of the principal municipality, or both of these bodies, from any subregion of a metropolitan area, shall initiate the process to create a regional transportation authority to provide public and complementary transportation services for a metropolitan area on receipt of a petition requesting creation of an authority signed by at least five percent of the registered voters of the principal municipality, county, or both, as appropriate. The entity to which a petition is presented has the primary responsibility for initiating the authority within a subregion. The principal municipality and the county of the principal municipality of any subregion, however, may by agreement share the responsibility or shift it from one to the other.

(c) If one subregion establishes an authority, the remaining subregion may establish a separate subregional authority as provided by this chapter. This subsection does not apply to an authority created by a contiguous municipality.

(d) The governing body of a contiguous municipality on its own motion may, and on presentation of a petition requesting the creation of a subregional authority and signed by at least five percent of the voters of the contiguous municipality shall, initiate the process to create a subregional authority:

(1) as an alternative to participation in a regional transportation authority;

(2) if the creation of a regional transportation authority in which the contiguous municipality could participate is not confirmed;

(3) if the contiguous municipality withdraws from a regional transportation authority and:

(A) the regional transportation authority in which the municipality had participated is abolished by act of the legislature or by a vote of the voters of the entire service area; or

(B) the sales tax authorized to be collected by the regional transportation authority of which the contiguous municipality was formerly a member is modified in a manner that would

reduce the authority's annual revenue yield by one-half or more; or
(4) if a regional transportation authority in which the contiguous municipality could participate is dissolved.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.702. JOINT OR MERGED SUBREGIONAL AUTHORITIES. (a) Separate subregional authorities may agree to merge.

(b) Two or more subregional authorities created by contiguous municipalities, by contract, may establish a joint subregional authority having terms approved by the governing bodies of the municipalities.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.703. INITIATING ORDER OR RESOLUTION: CONTENTS. To initiate the process of creating an authority, the governing body or commissioners court or both must adopt a resolution or order containing:

(1) a description of the boundaries of the territory proposed to be included in each subregion; and

(2) the designation of each time and place for holding public hearings on the proposal to create the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.704. BOUNDARIES OF AUTHORITY. (a) Except as provided by Section 452.707, the territory proposed to be included in an authority must contain all territory:

(1) in the county of the principal municipality; and

(2) in each unit of election that has the majority of its population in the county of the principal municipality.

(b) The territory may include territory in a county having a population of more than 52,000 adjacent to the county of the principal municipality.

(c) Notwithstanding Section 311.032, Government Code, or other law, this section is not severable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.705. NOTICE OF HEARING. (a) Notice of the time and place of the public hearings on the creation of the authority, including a description of the territory proposed to be included in the authority, shall be published, beginning at least 30 days before the date of the hearing, once a week for two consecutive weeks in a newspaper of general circulation in each county of each principal municipality or contiguous municipality.

(b) The creating entities shall give a copy of the notice to the Texas Transportation Commission and the comptroller.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.706. CONDUCT OF HEARING. (a) The entity or entities creating an authority shall conduct the public hearings on the creation.

(b) Any person may appear at a hearing and offer evidence on:

- (1) the creation and boundaries of the authority;
- (2) the operation of a public transportation system;
- (3) the public utility and public interest served in the creation of an authority; or
- (4) other facts bearing on the creation of an authority.

(c) A hearing may be continued until completed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.707. PARTICIPATION BY OTHER ENTITIES. (a) Before the confirmation election, the governing body of each municipality located in the proposed authority, by resolution, and the commissioners court of each county in which unincorporated areas are located in the proposed authority, by order, may confirm the participation of the municipality or county in the process of developing an initial service plan and rate of tax.

(b) This chapter does not require a contiguous municipality to be a part of or participate in a regional transportation authority. Within 60 days after the date of initiation of the process provided by Section 452.701 by a principal municipality or a county of the

principal municipality, a contiguous city may by resolution of its governing body refuse to participate in the proposed regional transportation authority. If a contiguous city refuses to participate in the regional transportation authority, the boundaries of the contiguous municipality shall be excluded from the regional transportation authority proposed or created by the principal municipality or county of the principal municipality and may not be included in the initiating process or the confirmation procedure for the proposed authority.

(c) If proceedings to create a regional transportation authority are begun, the territory included in a subregional transportation authority created by a contiguous municipality is excluded from the proceedings and the contiguous municipality need not comply with Subsection (b).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.708. RESOLUTION OR ORDER. (a) After hearing the evidence presented at the hearings, but not earlier than 75 days after the date the process is initiated by the creating entity, each creating entity may adopt a resolution or order:

- (1) designating the name of the authority;
- (2) listing the names of the municipalities the governing bodies of which, and listing the unincorporated areas the county commissioners courts of which, have confirmed initial inclusion in the authority; and
- (3) authorizing the appointment of the interim subregional boards and interim executive committee.

(b) After the hearing, the results of the hearing and the boundaries set by the creating entities shall be sent to the Texas Department of Transportation and the comptroller.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.709. FAILURE OF OTHER ENTITIES TO JOIN. A creating entity may continue the initiation or creation process alone if:

- (1) any other entity that is in another subregion and that is authorized under Section 452.701(a) or (b) to initiate the process does not initiate the process within 60 days after the date the first

creating entity initiates the process;

(2) the governing body of a municipality, or the commissioners court of an unincorporated area, in a proposed authority does not confirm participation under Section 452.707; or

(3) the governing body of another creating entity does not adopt the resolution or order described by Section 452.708(a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.710. INTERIM SUBREGIONAL BOARD. (a) After the adoption of the resolution or order authorizing the appointment of the interim subregional board, the appointments shall be made.

(b) The interim subregional board of a subregion that has no principal municipality with a population of more than 1.1 million according to the most recent federal decennial census is composed of 11 members appointed as provided by Section 452.562(b).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1122 (H.B. [3777](#)), Sec. 12, eff. September 1, 2015.

Sec. 452.711. INTERIM EXECUTIVE COMMITTEE. (a) Each subregional board shall select its representative to the interim executive committee before the confirmation election.

(b) The interim executive committee, after its organization, shall develop a service plan and determine a proposed tax rate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.712. APPROVAL OF SERVICE PLAN AND TAX RATE. (a) Not later than the 45th day after the date the interim executive committee approves the service plan and tax rate, the governing body of each municipality having territory in the authority and the commissioners court of each county having unincorporated area in the authority must approve, by resolution or order, the service plan and tax rate.

(b) A municipality or unincorporated area that does not give

its approval under Subsection (a) may not participate in the service plan or the confirmation election order for the authority.

(c) The interim executive committee may not order a confirmation election in a subregion for which the governing body of the principal municipality does not approve the service plan and tax rate.

(d) In a subregion that has no principal municipality with a population of more than 1.1 million according to the most recent federal decennial census, the tax rate must be approved by the commissioners court before the confirmation election.

(e) Subsections (a)-(d) do not apply to an authority created by a contiguous municipality. The interim executive committee of a subregional authority created by a contiguous municipality shall submit the proposed plan and proposed tax rate to the governing body of the contiguous municipality. The governing body may:

- (1) change the proposed plan or tax rate, or both the proposed plan and tax rate; or
- (2) approve the proposed plan and tax as submitted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1122 (H.B. 3777), Sec. 13, eff. September 1, 2015.

Sec. 452.713. APPROVAL OF SERVICE PLAN AND NOTICE OF INTENT TO ORDER ELECTION. (a) Not earlier than the 61st day after the date the interim executive committee approves a service plan and tax rate, the interim executive committee shall:

- (1) modify the approved service plan and tax rate only as necessary to conform to the nonparticipation of municipalities or unincorporated areas in the service plan and approve the modified service plan and tax rate; and
- (2) notify the commissioners court of each county included in whole or in part within the initial boundaries of the authority of the interim executive committee's intention to call a confirmation election.

(b) A changed service plan and rate of tax must be approved by the governing body of a contiguous municipality creating a subregional authority. Subsection (a) does not apply to an authority

created by a contiguous municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.714. CREATION OF UNITS OF ELECTION. (a) Within 30 days after the date the commissioners court receives a notice under Section 452.713(a)(2), the commissioners court, by order, shall designate not more than five units of election in the unincorporated area of the county.

(b) The boundaries of each designated unit of election must coincide with a county voting precinct so that, to the extent practicable, no county voting precinct is divided between two or more designated units of election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.715. CONFIRMATION ELECTION. (a) The interim executive committee, or the governing body of a contiguous municipality for the creation of a subregional authority by that municipality, in ordering the confirmation election shall submit to the qualified voters of each municipality and unincorporated area participating in the election in the authority the following proposition:

"Shall the creation of (name of authority) be confirmed and shall the levy of the proposed tax, not to exceed (rate), be authorized?"

(b) In addition to other information required by law, the notice of the election must include a description of the nature and rate of the proposed tax.

(c) An election to confirm an authority created by a contiguous municipality may not be held on the same day as a withdrawal election held in accordance with Subchapter Q.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.716. CONDUCT OF ELECTION: SEPARATE TABULATIONS. (a) A confirmation election shall be conducted so that the votes are separately tabulated and canvassed in each participating unit of

election in the authority.

(b) The executive committee shall canvass the returns and declare the results of the election separately with respect to each unit of election.

(c) The governing body of a contiguous municipality shall canvass the returns of the confirmation election ordered by the municipality to create an authority and declare the results of the election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.717. RESULTS OF ELECTION; ORDER. (a) In each unit of election in which a majority of the votes received in the unit favor the proposition, the authority is confirmed and continues inclusive of each of those units, except that the authority ceases in every unit of election in a subregion if the authority is not confirmed:

(1) in the principal municipality of the subregion; or
 (2) in contiguous units of election in the subregion in which the population when aggregated in all those units exceeds 300,000.

(b) The interim executive committee may exclude from the authority and proposed tax a unit of election because the unit is not contiguous to the existing authority and would create a fiscal hardship on the authority. The committee shall notify the appropriate governing body in writing that the unit is excluded under this subsection.

(c) If the authority continues, the interim executive committee shall record the results in its minutes and adopt an order:

(1) declaring that the creation of the authority is confirmed;
 (2) describing the territory of the authority;
 (3) stating the date of the election;
 (4) containing the proposition;
 (5) showing the number of votes cast for or against the proposition in each unit of election; and
 (6) showing the number of votes by which the proposition was approved in each unit of election in which the proposition was approved.

(d) The order must be accompanied with a map of the authority that shows the boundaries of the authority.

(e) A certified copy of the order and map shall be filed with:

- (1) the Texas Department of Transportation; and
- (2) the comptroller.

(f) If the authority does not continue, the interim executive committee shall enter an order declaring that the result of votes cast at the election is that the authority ceases in its entirety. The order shall be filed with the Texas Department of Transportation and the comptroller, and the authority is dissolved.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.718. RESULTS OF ELECTION IN CONTIGUOUS MUNICIPALITIES. After the confirmation election for a subregional authority created by a contiguous municipality, the governing body of the contiguous municipality shall adopt an order declaring, according to the results of the confirmation election, that the subregional authority is confirmed or ceases to exist. If the subregional authority ceases to exist, the governing body of the contiguous municipality shall record an order in its minutes so declaring and file a certified copy of the order with the Texas Department of Transportation. On the filing the subregional authority is dissolved.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.719. COST OF ELECTION. A creating entity shall pay the cost of the confirmation election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 452.720. EXPIRATION OF UNCONFIRMED AUTHORITY. An authority that has not been confirmed expires on the third anniversary of the effective date of the resolutions or orders initiating the process to create the authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 453. MUNICIPAL TRANSIT DEPARTMENTS**SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 453.001. DEFINITIONS. In this chapter:

(1) "Board" means the governing body of a transit department.

(2) "Mass transit" means the transportation of passengers and hand-carried packages or baggage of a passenger by any means of surface, overhead, or underground transportation, other than an aircraft or taxicab.

(3) "Transit department" means a mass transit department created under this chapter or under former Article 1118z, Revised Statutes, enacted by Section 34, Article 1, Chapter 10, Acts of the 69th Legislature, 3rd Called Session, 1986.

(4) "Transit department system" means:

(A) property owned or held by a municipality and used by a transit department for mass transit purposes; and

(B) facilities necessary or convenient for:

(i) the use of or access to mass transit by persons or vehicles; or

(ii) the protection or environmental enhancement of mass transit.

(5) "Transportation disadvantaged" has the meaning assigned by Section 451.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1038, Sec. 7, eff. Sept. 1, 2001.

Sec. 453.002. EXCLUDED MUNICIPALITIES. (a) This chapter does not apply to a municipality any part of which is located in:

(1) a county that contains territory within the corporate limits of a principal municipality that is a part of an authority operating under Chapter 451 or 452; or

(2) a federal metropolitan statistical area or primary metropolitan statistical area that contains a principal municipality that is a part of an authority operating under Chapter 451 or 452.

(b) For the purpose of this section "principal municipality" has the meaning assigned by Section 451.001 or 452.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.003. CONTINUING APPLICATION OF CHAPTER. The continuation of a transit department created in compliance with, and for which a tax has been approved under, this chapter is not affected by a later failure of the municipality that created the transit department to meet a requirement of Section 453.002(a) or 453.051(a)(2).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. CREATION AND ADMINISTRATION OF TRANSIT DEPARTMENT

Sec. 453.051. CREATION OF TRANSIT DEPARTMENT. (a) The governing body of a municipality, by ordinance or resolution, may create a transit department if:

- (1) the municipality operates a mass transportation system;
- (2) the municipality has a population of 50,000 or more;

and

(3) the governing body determines that the creation of a transit department and operation of a transit department system would be in the public interest and of benefit to persons residing in the municipality.

(b) The jurisdiction of a transit department is coextensive with the territory of the municipality that creates the transit department.

(c) The jurisdiction of a transit department created by a municipality with a population of more than 500,000 that borders the United Mexican States does not include any territory within the boundaries of a federal military installation that is located in that municipality's extraterritorial jurisdiction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.31(a), eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 146 (H.B. 205), Sec. 2, eff. July 1, 2011.

Sec. 453.052. ADMINISTRATION OF TRANSIT DEPARTMENT. The board of a transit department shall administer and operate the transit department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.053. BOARD. (a) The board of a transit department consists of the members of the governing body of the municipality that creates the transit department.

(b) Service as a member of the board is an additional duty of the office of a member of the governing body and is without compensation.

(c) The presiding officers of the governing body of the municipality that creates a transit department are the presiding officers of the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.054. BOARD MEETINGS. (a) The board shall hold at least one regular meeting each month for the purpose of transacting business of the transit department.

(b) The presiding officer may call a special meeting of the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.055. CONFLICTS OF INTEREST: TRANSIT DEPARTMENT EMPLOYEES. An employee of a transit department may not have a pecuniary interest in, or receive a benefit from, an agreement to which the transit department is a party.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.056. TRANSFER OF MUNICIPAL RESOURCES TO TRANSIT DEPARTMENT. (a) The governing body of a municipality may transfer to a transit department created by the municipality:

(1) property and employees of a division of the municipality that before the creation of the transit department was responsible for municipal public transportation; and

(2) municipal funds that may be used for mass transit.

(b) The governing body may abolish or change the functions of

the municipal division formerly responsible for municipal public transportation.

(c) If a transit department is required to be dissolved under this chapter, the board, on dissolution of the transit department, shall transfer to the municipality the funds, property, and employees that were transferred to the transit department under this section. The governing body of the municipality may then recreate or change the duties of any municipal division abolished or changed as a result of transfers made under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.057. INVESTMENTS. (a) A board may invest transit department funds in any obligation, security, or evidence of indebtedness in which the municipality for which the transit department was created may invest municipal funds.

(b) In making an investment of transit department funds, a board shall exercise the judgment and care, under the circumstances prevailing at the time of making the investment, that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs in making a permanent and nonspeculative disposition of their funds, considering the probable income from the disposition and the probable safety of their capital.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.058. ACCOUNTS AND DEPOSIT OF MONEY; DEDICATION OF MONEY. (a) The board shall deposit all transit department money, other than money invested as provided by Section 453.057, with the treasurer of the creating municipality to the credit of the accounts described by Subsection (b).

(b) All money received from the collection of the sales and use tax under Subchapter H shall be credited to an account separate from an account to which all other money governed by Subsection (a) shall be credited.

(c) Sales and use tax collections under Subchapter H may be used only for mass transit.

(d) The board may transfer money credited to the account that does not contain sales and use tax collections back to the

municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.059. LIABILITY OF CREATING MUNICIPALITY. A municipality that creates a transit department is liable for an expense the transit department incurs before the date a sales and use tax is approved for the transit department under Subchapter D, including the costs of holding the election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.060. PROHIBITION OF CONSUMPTION OF ALCOHOLIC BEVERAGE.

(a) A board by resolution may prohibit the consumption of an alcoholic beverage on property a transit department possesses or controls. The resolution must describe with particularity each place where consumption of an alcoholic beverage is prohibited.

(b) The transit department shall post a sign in each place where consumption of an alcoholic beverage is prohibited under this section. The sign must indicate that a person may not consume an alcoholic beverage in that place.

(c) A person commits an offense if the person consumes an alcoholic beverage in a place where the consumption of an alcoholic beverage is prohibited under this section.

(d) An offense under this section is a Class C misdemeanor.

(e) In this section, "alcoholic beverage" has the meaning assigned by Section 1.04, Alcoholic Beverage Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.32(a), eff. Sept. 1, 1997.

Sec. 453.061. TRANSPORTATION DISADVANTAGED. The board shall consider the interests of the transportation disadvantaged in making decisions under this chapter.

Added by Acts 2001, 77th Leg., ch. 1038, Sec. 8, eff. Sept. 1, 2001.

SUBCHAPTER C. POWERS OF TRANSIT DEPARTMENT

Sec. 453.101. POWERS APPLICABLE TO TRANSIT DEPARTMENT HAVING TAX. Except for the administration of assets transferred under Section 453.056, this subchapter applies only to a transit department that has a local sales and use tax approved under Subchapter D.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.102. ACQUIRING AND DISPOSING OF PROPERTY. (a) A transit department may acquire, hold, use, sell, lease, or dispose of property, including licenses, patents, rights, and other interests, necessary, convenient, or useful for the full exercise of any of its powers under this chapter.

(b) The transit department may acquire property described in Subsection (a) in any manner, including by gift or devise.

(c) An acquisition made or other action taken under Subsection (a) shall be in the name of the municipality that created the transit department.

(d) A transit department may dispose of, by sale, lease, or other conveyance:

(1) any property of the transit department not needed for the efficient operation and maintenance of the transit department system; and

(2) any surplus property not needed for its requirements or for the purpose of carrying out its powers under this chapter.

(e) The lease of unneeded property under Subsection (c) must be consistent with the efficient operation and maintenance of the transit department system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.103. TRANSIT DEPARTMENT SYSTEM. (a) A transit department may in the municipality creating the transit department:

(1) acquire, construct, own, operate, and maintain a transit department system;

(2) use any public way; and

(3) construct, repair, and maintain a municipal street, as authorized by the governing body of the municipality.

(b) In the exercise of a power under Subsection (a), a transit

department may relocate or reroute, or alter the construction of, any public or private property, including:

- (1) an alley, road, street, or railroad;
- (2) an electric line and facility;
- (3) a telegraph and telephone property and facility;
- (4) a pipeline and facility; and
- (5) a conduit and facility.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.104. FARES AND OTHER CHARGES. The board shall, after a public hearing, impose reasonable and nondiscriminatory fares, tolls, charges, rents, or other compensation for the use of the transit department system sufficient to produce revenue, together with receipts from taxes imposed by the transit department, in an amount adequate to:

- (1) pay all the expenses necessary to operate and maintain the transit department system;
- (2) pay when due the principal of and interest on, and sinking fund and reserve fund payments agreed to be made with respect to, all bonds that are issued by the board and payable in whole or part from the revenue; and
- (3) fulfill the terms of any other agreement with the holders of bonds described by Subdivision (2) or with a person acting on behalf of the bondholders.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.105. AGREEMENT WITH UTILITIES, CARRIERS. A transit department may agree with a public or private utility, communication system, common carrier, or transportation system for:

- (1) the joint use of the property of the agreeing entities in the municipality; or
- (2) the establishment of through routes, joint fares, or transfers of passengers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.106. CONTRACTS; ACQUISITION OF PROPERTY BY AGREEMENT.

(a) A transit department may contract with any person and may accept a grant or loan from any person.

(b) A transit department may acquire rolling stock or other property under a contract or trust agreement, including a conditional sales contract, lease, and equipment trust certificate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.107. USE AND ACQUISITION OF PROPERTY OF OTHERS. (a)

A transit department may not alter or damage any property of this state or a political subdivision of this state or owned by a person rendering public services and may not disrupt services being provided by others or inconvenience in any other manner an owner of property, without first having obtained:

(1) the written consent of the owner; or

(2) the right from the governing body of the municipality to take the action under the municipality's power of eminent domain.

(b) A transit department may agree with an owner of property to provide for:

(1) a necessary relocation or alteration of property by the owner or a contractor chosen by the owner; and

(2) the reimbursement by the transit department to the owner of the costs incurred by the owner in making the relocation or alteration.

(c) The transit department shall pay the cost of any relocation, rerouting, or other alteration in the construction made under this chapter and is liable for any damage to property occurring because of the change.

(d) The department shall permit a transit department to construct a separate area adjacent to a highway under the jurisdiction of the department so that buses may safely board and discharge passengers without impeding the flow of traffic. The location, design, and construction standards of an area constructed under this subsection must be approved by the department to ensure the safety of the traveling public.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1281 (H.B. [2348](#)), Sec. 1, eff. June 18,

2005.

Sec. 453.108. ROUTES. A transit department shall determine each route, including route changes, as the board considers advisable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.109. TORT LIABILITY AND GOVERNMENTAL IMMUNITY. (a) A transit department is a separate governmental unit for purposes of Chapter 101, Civil Practice and Remedies Code, and operations of a transit department are essential governmental functions and not proprietary functions for all purposes, including the purposes of that chapter.

(b) This chapter does not create or confer any governmental immunity or limitation of liability on any entity that is not a governmental unit, governmental entity or authority, or public agency or a subdivision of one of those persons. In this subsection "governmental unit" has the meaning assigned by Section 101.001, Civil Practice and Remedies Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.110. TAX EXEMPTION. The assets of a transit department are exempt from any tax of the state or a state taxing authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. TRANSIT DEPARTMENT TAX ELECTION

Sec. 453.151. BOARD TO ORDER TAX ELECTION. (a) If the board determines that implementation of a mass transit plan developed by the transit department is feasible, the board shall order an election to approve a local sales and use tax at the rate determined by the board under Section 453.401 unless the municipality that created the transit department imposes an additional sales and use tax under Section 321.101(b), Tax Code.

(b) The board may not order an election under this section to be held on the same day as an election held by the creating municipality to approve an additional sales and use tax under Section 321.101(b), Tax Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.152. NOTICE OF ELECTION. (a) Notice of the election must include a description of the nature and rate of the proposed tax.

(b) The board shall send a copy of the notice to the Texas Department of Transportation and to the comptroller.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.153. BALLOT PROPOSITION. At an election under this subchapter, the ballots shall be prepared to provide for voting for or against the proposition: "Levy of a proposed local sales and use tax at the rate of _____ (insert appropriate rate) percent."

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.154. RESULTS OF ELECTION. (a) If a majority of the votes received at the election favor the proposition, the board shall:

- (1) record the result in its minutes; and
- (2) adopt an order requiring implementation of the mass transit plan.

(b) If a majority of the votes received at the election do not favor the proposition, the board shall:

- (1) record in its minutes an order declaring the result;
- and
- (2) dissolve the transit department as soon as practicable.

(c) The board shall file a certified copy of an order under this section with the Texas Department of Transportation, with the comptroller, and in the deed records of the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. SPECIAL TRANSPORTATION PROGRAMS

Sec. 453.201. TRANSPORTATION FOR JOBS PROGRAM PARTICIPANTS.

(a) A transit department shall contract with the Texas Department of Human Services to provide, in accordance with federal law, transportation services to a person who:

(1) resides in the area served by the transit department;

(2) is receiving financial assistance under Chapter 31, Human Resources Code; and

(3) is registered in the jobs opportunities and basic skills training program under Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 682).

(b) The contract must include provisions to ensure that:

(1) the transit department is required to provide transportation services only to a location:

(A) to which the person travels in connection with participation in the jobs opportunities and basic skills training program; and

(B) that the transit department serves under the transit department's authorized rate structure and existing services;

(2) the transit department is to provide directly to the Texas Department of Human Services trip vouchers for distribution by the Texas Department of Human Services to a person who is eligible under this section to receive transportation services;

(3) the Texas Department of Human Services reimburses the transit department for allowable costs, at the applicable federal matching rate; and

(4) the Texas Department of Human Services may return undistributed trip vouchers to the transit department.

(c) A transit department shall certify the amount of public funds spent by the transit department under this section for the purpose of obtaining federal funds under the jobs opportunities and basic skills training program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.202. WAIVER OF FEDERAL REQUIREMENTS. If, before implementing Section 453.201, the Texas Department of Human Services

determines that a waiver or authorization from a federal agency is necessary for implementation, the Texas Department of Human Services shall request the waiver or authorization, and the Texas Department of Human Services and a transit department may delay implementing Section 453.201 until the waiver or authorization is granted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER G. BONDS

Sec. 453.301. DEFINITION. In this subchapter, "bond" includes a note.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.302. POWER TO ISSUE BONDS. (a) A transit department may issue revenue bonds at any time and for any amounts it considers necessary or appropriate for:

(1) the acquisition, construction, repair, equipping, improvement, or extension of its transit system; or

(2) the construction or general maintenance of streets of the creating municipality.

(b) Bonds payable solely from revenues may be issued by resolution of the board.

(c) Bonds, other than refunding bonds, any portion of which is payable from tax revenue, may not be issued until authorized by a majority vote of the voters of the municipality voting in an election.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.303. BOND TERMS. (a) A transit department's bonds are fully negotiable.

(b) The transit department may make the bonds redeemable before maturity at the price and subject to the terms and conditions that are provided in the resolution authorizing the bonds.

(c) A revenue bond indenture may limit a power of the transit department provided by Sections 453.101-453.108 or 453.109(b) as long as the bond containing the indenture is outstanding and unpaid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.304. SALE. Bonds may be sold at a public or private sale as determined by the board.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.305. APPROVAL; REGISTRATION. (a) A transit department's bonds and the records relating to their issuance shall be submitted to the attorney general for examination before the bonds may be delivered.

(b) If the attorney general finds that the bonds have been issued in conformity with the constitution and this chapter and that the bonds will be a binding obligation of the issuing transit department, the attorney general shall approve the bonds.

(c) After the bonds are approved by the attorney general, the comptroller shall register the bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.306. INCONTESTABILITY. Bonds are incontestable after they are:

- (1) approved by the attorney general;
- (2) registered by the comptroller; and
- (3) sold and delivered to the purchaser.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.307. SECURITY PLEDGED. (a) To secure the payment of a transit department's bonds, the transit department may:

- (1) pledge all or part of revenue received from any tax that the transit department may impose;
- (2) pledge all or part of the revenue of the transit department system; and
- (3) mortgage all or part of the transit department system, including any part of the system subsequently acquired.

(b) Under Subsection (a)(3), the transit department may,

subject to the terms of the bond indenture or resolution authorizing the issuance of the bonds, encumber a separate item of the transit department system and acquire, use, hold, or contract for any property by lease, chattel mortgage, or other conditional sale, including an equipment trust transaction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.308. PLEDGE OF REVENUE LIMITED. The expenses of operation and maintenance of a transit department system, including salaries, labor, materials, and repairs necessary to provide efficient service and every other proper item of expense, are a first lien and charge against any revenue of a transit department that is encumbered under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.309. REFUNDING BONDS. A transit department may issue refunding bonds for the purposes and in the manner authorized by Chapter 1207, Government Code, or other law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.397, eff. Sept. 1, 2001.

Sec. 453.310. BONDS AS AUTHORIZED INVESTMENTS. (a) A transit department's bonds are authorized investments for:

- (1) a bank;
- (2) a trust company;
- (3) a savings and loan association; and
- (4) an insurance company.

(b) The bonds, when accompanied by all appurtenant, unmatured coupons and to the extent of the lesser of their face value or market value, are eligible to secure the deposit of public funds of this state, a political subdivision of this state, and any other political corporation of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.311. INTEREST EXEMPTION. Interest on bonds issued by a transit department is exempt from any tax of the state or a state taxing authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER H. TAXES

Sec. 453.401. SALES AND USE TAX. (a) The board may impose for the transit department a sales and use tax at a permissible rate that does not exceed the rate approved by the voters at an election under this chapter.

(b) The board by order may:

(1) decrease the rate of the sales and use tax for the transit department to a permissible rate; or

(2) call an election for the increase or decrease of the sales and use tax to a permissible rate.

(c) The permissible rates for a sales and use tax imposed under this chapter are:

(1) one-quarter of one percent; and

(2) one-half of one percent.

(d) Chapter 322, Tax Code, applies to a transit department's sales and use tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.402. MAXIMUM TAX RATE. (a) A board may not adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by all political subdivisions of this state having territory in the municipality exceeds two percent in any location in the municipality.

(b) An election by a transit department to approve a sales and use tax or increase the rate of the transit department's sales and use tax has no effect if:

(1) the voters of the transit department approve the department's sales and use tax rate or rate increase at an election held on the same day on which the municipality or county having territory in the jurisdiction of the transit department adopts a sales and use tax or an additional sales and use tax; and

(2) the combined rates of all sales and use taxes imposed

by the transit department and all political subdivisions of this state would exceed two percent in any part of the territory in the jurisdiction of the transit department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.403. ELECTION TO CHANGE TAX RATE. (a) At an election ordered under Section 453.401(b)(2), the ballots shall be prepared to permit voting for or against the proposition: "The increase (decrease) of the local sales and use tax rate of (name of transit department) to (percentage)."

(b) The increase or decrease in the tax rate becomes effective if it is approved by a majority of the votes cast.

(c) A notice of the election and a certified copy of the order canvassing the election results shall be:

(1) sent to the Texas Department of Transportation and the comptroller; and

(2) filed in the deed records of the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.404. SALES TAX: EFFECTIVE DATES. (a) A transit department's sales and use tax takes effect on the first day of the second calendar quarter that begins after the date the comptroller receives a copy of the order required to be sent under Section 453.154.

(b) An increase or decrease in the rate of a transit department's sales and use tax takes effect on:

(1) the first day of the first calendar quarter that begins after the date the comptroller receives the notice provided under Section 453.403(c); or

(2) the first day of the second calendar quarter that begins after the date the comptroller receives the notice if within 10 days after the date of receipt of the notice the comptroller gives written notice to the presiding officer of the board that the comptroller requires more time to implement tax collection and reporting procedures.

(c) The presiding officer of the board of a transit department that imposes a sales and use tax under this chapter shall send to the

comptroller by United States registered or certified mail a certified copy of each order of the municipality that created the transit department that adds territory to, or removes territory from, the municipality unless notice of the boundary change is given under Chapter 321, Tax Code. The order must give the effective date of the change and be accompanied by a map of the municipality clearly showing the territory added or removed. The tax is effective in the added territory or is excluded from the removed territory in the same manner as provided for a change of tax rate in Subsection (b).

(d) If the notice of a boundary change is given as provided by Chapter 321, Tax Code, the tax imposed under this chapter takes effect at the same time that the municipal tax takes effect under that notice.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER I. DISSOLUTION OF TRANSIT DEPARTMENT

Sec. 453.451. ELECTION TO DISSOLVE TRANSIT DEPARTMENT. (a) A board may order an election on the question of dissolving the transit department.

(b) The board shall dissolve the transit department if the dissolution is approved by a majority of the votes cast.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.452. ELECTION PROCEDURES. (a) The provisions of Subchapter D that relate to the notice and conduct of an election under that subchapter apply to an election to dissolve a transit department unless a different requirement is specified in this subchapter.

(b) The board shall send a notice of the election to the Texas Department of Transportation and the comptroller.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.453. BALLOTS; NOTICE OF ELECTION RESULTS. (a) At the election, the ballots shall be prepared to provide for voting for or against the proposition: "Dissolution of (name of transit

department)."

(b) The board shall send a certified copy of the order canvassing the election results to the Texas Department of Transportation and the comptroller and file a copy in the deed records of the county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 453.454. EFFECTIVE DATE OF DISSOLUTION. The repeal of a transit department's sales and use tax under this subchapter takes effect on:

(1) the first day of the first calendar quarter that begins after the date the comptroller receives the notice of the dissolution of the transit department; or

(2) the first day of the second calendar quarter that begins after the date the comptroller receives the notice, if within 10 days after the date of receipt of the notice the comptroller gives written notice to the presiding officer of the board that the comptroller requires more time to implement the repeal of the tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 454. MUNICIPAL MASS TRANSPORTATION SYSTEMS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 454.001. AUTHORITY. (a) A municipality may own, purchase, construct, improve, extend, and operate a mass transportation system to carry passengers for hire within the municipality, its suburbs, and adjacent areas.

(b) A municipality, individually or in cooperation with the United States, may:

(1) undertake research, development, and demonstration projects for a mass transportation system in the municipality, its suburbs, and adjacent areas; and

(2) acquire, construct, and improve a facility or equipment for use, by operation, lease, or otherwise, in mass transportation service in those areas on, under, over, along, or across a public street or highway and on real property, an easement, or a right-of-way acquired for that purpose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.002. ESSENTIAL GOVERNMENTAL FUNCTIONS. (a) Mass transportation service provided by a municipality directly or through another entity by lease, contract, or other manner is an essential governmental function and not a proprietary function for all purposes, including the application of Chapter 101, Civil Practice and Remedies Code, if the service is provided:

(1) on a fixed rail or other designated and dedicated route;

(2) over a distance of less than 20 miles; and

(3) primarily for travel through or to an area of historical, architectural, recreational, or cultural interest.

(b) An independent contractor that on behalf of a municipality provides mass transportation service that is an essential governmental function under Subsection (a) is liable for damages only to the extent that the municipality would be liable if the municipality were performing the function.

(c) This section does not apply to taxicab transportation service.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.003. FEDERAL GRANTS AND LOANS. (a) A municipality may accept a grant or loan from the United States to finance all or part of the cost of acquiring, constructing, or improving a facility or equipment for use, by operation, lease, or otherwise, in mass transportation service in the municipality, its suburbs, and adjacent areas and in coordinating mass transportation service with highway and other transportation in those areas.

(b) Ratification by referendum of a regional authority under Chapter 451 by less than all municipalities in the metropolitan area as defined in that chapter does not affect the eligibility of an excepted municipality to receive federal transit grants under the National Mass Transportation Assistance Act of 1974 or subsequent federal statute.

(c) Ratification by referendum of an authority under Chapter 452 by less than all municipalities in the metropolitan area as

defined in that chapter does not affect the eligibility of an excepted municipality to receive federal transit grants under the Surface Transportation Assistance Act of 1978 or subsequent federal statute.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.004. MANAGEMENT. (a) By the terms of an instrument evidencing an encumbrance of a mass transportation system or the terms of an ordinance, a municipality may place the management of a mass transportation system with the governing body of the municipality or a board of trustees named in the instrument or ordinance.

(b) A board of trustees of a mass transportation system must consist of three to nine members, one of whom must be the mayor of the municipality. The instrument or ordinance must set the trustees' compensation, which may not exceed two percent of the gross annual receipts of the system. The instrument or ordinance may specify:

- (1) the term of office of the board of trustees;
- (2) the board's powers and duties;
- (3) the manner in which the board may exercise its powers and duties;
- (4) the election of the trustees' successors; and
- (5) any matter relating to the board's organization.

(c) On any matter not covered by the instrument or ordinance, the board is governed by the laws and rules controlling the governing body of the municipality to the extent applicable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.005. LEASE OF SYSTEM. (a) In lieu of operating a mass transportation system, the governing body of a municipality or a board of trustees managing the system, with the approval of the municipality's governing body by resolution, may enter into a lease or other contractual arrangement for the operation of the system by a privately owned and operated corporation.

(b) The guaranteed or contingent payment of rentals, computed on revenue or gross or net profits or determined by any other method of compensation the governing body or board of trustees determines to

be reasonable, may be the consideration for a lease or other contract under this section.

(c) The municipality must give public notice and make a request for the submission of bids in the manner required by law for the taking of bids for a public construction contract before entering into a lease or other contract under this section. The municipality shall accept the best bid submitted, considering the rentals to be paid and the experience and financial responsibility of the corporations submitting the bids.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.006. FARES. (a) Fares charged by a mass transportation system may be set according to a zone system or other classification that the municipality determines to be reasonable.

(b) Unless otherwise considered necessary by the governing body of the municipality to maintain the level and quality of service desired, a mass transportation system shall charge and collect fares that are sufficient to:

(1) pay all operating, maintenance, depreciation, and replacement charges;

(2) provide for extensions to the extent permitted by this chapter; and

(3) provide and maintain in the time and manner prescribed by the applicable ordinances, deeds of trust, and indentures money sufficient to pay for debt service and reserves for the security and orderly payment of bonds or notes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.007. USE OF REVENUE TO PAY OTHER MUNICIPAL DEBTS PROHIBITED. (a) Except as permitted by the ordinance authorizing the bonds or notes or the deed of trust or indenture securing the bonds or notes or as provided by Subsection (b), the revenue of a mass transportation system may not be used to pay any other debt, expense, or obligation of the municipality.

(b) An acquired mass transportation system may pay the municipality that acquired the system for the loss of ad valorem taxes previously paid by the owners of the system until the

indebtedness secured by the taxes is paid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.008. RECORDS AND ACCOUNTS. (a) The mayor of a municipality shall install and maintain a complete system of records and accounts showing the revenue collected and showing separately the amount spent or set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, extensions, and debt service on bonds or notes issued under this chapter.

(b) A mayor commits an offense if the mayor fails to install and maintain a system of records and accounts as required by Subsection (a) on or before the 90th day after the date the mass transportation system is completed. An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$1,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.009. ANNUAL REPORT. (a) Not later than February 1 of each year, the superintendent or manager of a mass transportation system shall file with the mayor of the municipality a detailed report of the operations for the year ending the preceding January 1, showing the total sums collected, the balance due, the total disbursements made, and amounts remaining unpaid as a result of the operation of the system during the year.

(b) A superintendent or manager commits an offense if the superintendent or manager fails to file as required by Subsection (a). An offense under this section is a misdemeanor punishable by a fine of not less than \$100 or more than \$1,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.010. ENFORCEMENT. A taxpayer or holder of indebtedness of a mass transportation system residing within the municipality may enforce this chapter by appropriate civil action in a district court of the county in which the municipality is located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. REVENUE BONDS AND NOTES

Sec. 454.021. AUTHORITY TO ISSUE. (a) A municipality may issue bonds and notes from time to time and in the amounts it considers necessary or appropriate for acquiring, constructing, improving, or extending a mass transportation system.

(b) Bonds or notes issued under this chapter are fully negotiable and may be made redeemable before maturity, at the option of the issuing municipality, at the price and under the terms fixed by the issuing municipality in the ordinance authorizing the bonds or notes.

(c) Bonds or notes issued under this chapter shall be sold for the price the governing body of the municipality determines to be in the best interest of the municipality.

(d) Subject to the restrictions in this chapter, the governing body of a municipality may fix the form, conditions, and details of bonds and notes issued under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.022. NOTICE OF ORDINANCE AUTHORIZING ISSUANCE. Before adopting an ordinance authorizing the issuance of bonds or notes under this chapter, the governing body of a municipality shall give notice of the time when the ordinance is to be adopted. The notice shall be published in a newspaper of general circulation in the municipality, in at least two issues, with the first publication occurring at least 14 days before the date on which the ordinance is to be adopted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.023. PETITION FOR ELECTION. (a) The governing body of a municipality may issue bonds or notes under this chapter without an election unless a petition requesting an election on the question is filed with the municipal secretary before the scheduled time for adopting the ordinance authorizing the issuance of the bonds or notes.

(b) A petition under this section must be signed by at least 10 percent of the registered voters of the municipality who have rendered their property for taxation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.024. ELECTION. (a) If a petition meeting the requirements of Section 454.023 is filed:

(1) the governing body of the municipality shall hold an election on the question as provided by Chapter 1251, Government Code; and

(2) the bonds or notes may not be issued unless a majority of the votes received at the election favor the question.

(b) The governing body of a municipality may call an election for the issuance of bonds or notes under this chapter without a petition under Section 454.023.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.398, eff. Sept. 1, 2001.

Sec. 454.025. ENCUMBRANCE OF TRANSPORTATION SYSTEM. (a) To secure the payment of bonds or notes issued under this chapter, a municipality may encumber:

(1) all or any part of the mass transportation system;

(2) the property of the system, including a bus or other vehicle, machinery, and equipment of any kind used in the operation of the system;

(3) the revenue of the system;

(4) the franchise of the system; or

(5) any other thing relating to the system that is acquired or is to be acquired.

(b) A municipality may:

(1) encumber separately any property, including a bus or other vehicle, machinery, or equipment of any kind; or

(2) acquire, hold, use, or contract for any property, including a bus or other vehicle, machinery, or equipment of any kind, under a lease arrangement, chattel mortgage, or conditional sale, including an equipment trust transaction.

(c) This chapter does not prohibit a municipality from

encumbering a transportation system for the purposes of purchasing, building, mortgaging, extending, or repairing, or reconstructing another system and purchasing necessary property in connection with the system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.026. TRANSPORTATION SYSTEM FRANCHISE. In addition to encumbering the property of a mass transportation system under Section 454.025, a municipality, by the terms of an instrument evidencing that encumbrance, may grant to the purchaser under the power of sale in the instrument a franchise to operate the system and the system's property. A franchise under this section may not exceed 25 years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.027. OPERATING EXPENSES AS LIEN ON REVENUE. If the revenue of a mass transportation system is encumbered under this chapter, the expenses of operation and maintenance, including all salaries, labor, materials, interest, repairs, and extensions necessary to render efficient service and each proper item of expense, are a first lien against the revenues. The expense of an extension may be a lien prior to an existing lien only if:

- (1) the governing body of the municipality considers the extension necessary to keep the system in operation and render adequate service to the municipality and its inhabitants; or
- (2) the extension is necessary to meet a condition that would otherwise impair the original securities.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.028. OBLIGATION OF TRANSPORTATION SYSTEM NOT MUNICIPAL DEBT. (a) An obligation of a mass transportation system:

- (1) is not a debt of the municipality;
- (2) is solely a charge on the property, including the pledged revenue, of the encumbered system; and
- (3) may not be included in determining the power of the

municipality to issue any bonds or notes for any purpose authorized by law.

(b) A municipality may make payments on bonds or notes issued under this chapter out of any other funds that lawfully may be used for that purpose.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.029. ADDITIONAL BONDS OR NOTES. (a) While bonds or notes that are payable from and secured by a pledge of the revenue of a mass transportation system are outstanding, the municipality that issued the bonds or notes may from time to time issue other bonds or notes for the purpose of:

(1) extending, improving, or both extending and improving the system; or

(2) acquiring another mass transportation system.

(b) Bonds or notes issued under Subsection (a) constitute a lien on the revenue, in the order of their issuance, inferior to the liens securing all issues and series of bonds or notes previously issued.

(c) Notwithstanding Subsection (b), a municipality may:

(1) adopt an ordinance or execute and issue a deed of trust, trust indenture, or similar instrument that provides for the subsequent issuance of additional bonds or notes on a parity with the previously issued bonds or notes; and

(2) authorize, issue, and sell additional bonds or notes, from time to time and in different series, payable from the revenue of the mass transportation system and the revenue of any additional sources, on a parity with the bonds or notes previously issued and secured by liens on the transportation system that are on a parity with the lien securing the previously issued bonds or notes, subject to the conditions of the ordinance or instrument described by Subdivision (1).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 454.030. REFUNDING BONDS OR NOTES. (a) A municipality may issue refunding bonds or notes to refund one or more series or issues of bonds or notes.

(b) Refunding bonds or notes have the same priority of lien on the revenue pledged to their payment that the bonds or notes being refunded have, except that if all the outstanding bonds or notes of two or more series or issues of bonds or notes are refunded in a single issue of refunding bonds or notes, the lien of all refunding bonds or notes is equal. A refunding bond or note may not have a priority of lien greater than the highest priority of lien of the bonds or notes being refunded.

(c) Refunding bonds or notes must bear interest at the same or lower rate than that borne by the bonds or notes being refunded unless it is shown mathematically that:

(1) a saving will result in the total amount of interest to be paid; and

(2) the annual principal and interest burden will not be increased so as to impair the rights of the holders of any bonds or notes, if any, having a prior or inferior lien.

(d) Bonds or notes may be refunded by issuing refunding bonds or notes to be:

(1) exchanged for the bonds or notes being refunded or cancelled; or

(2) sold, with the proceeds of the sale being used to redeem and cancel the bonds or notes being refunded.

(e) A municipality may provide in a refunding bond or note issue money necessary for paying:

(1) any call premium; and

(2) interest to the date set for calling for redemption the outstanding bonds or notes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**CHAPTER 455. GENERAL POWERS AND DUTIES OF DEPARTMENT OF
TRANSPORTATION REGARDING MASS TRANSPORTATION**

Sec. 455.001. DEPARTMENT DUTIES REGARDING MASS TRANSPORTATION. The Texas Department of Transportation shall:

(1) encourage, foster, and assist in developing intracity and intercity public and mass transportation;

(2) encourage the establishment of rapid transit and other transportation media;

(3) assist any political subdivision of this state to

obtain federal aid to establish or maintain a public or mass transportation system;

(4) develop and maintain a comprehensive master plan for public and mass transportation development; and

(5) conduct hearings and make investigations to determine the location, type of construction, and cost to the state or its political subdivisions of a public mass transportation system owned, operated, or wholly or partly directly financed by the state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 455.002. DEPARTMENT POWERS REGARDING MASS TRANSPORTATION. The Texas Department of Transportation may:

(1) purchase, construct, lease, and contract for public transportation systems;

(2) use the expertise of recognized private authorities or consultants to plan and design public and mass transportation systems;

(3) represent this state in each public and mass transportation matter before a state or federal agency;

(4) apply for and receive a gift or grant from a governmental or private source for use in performing the department's functions under this chapter;

(5) contract as necessary to perform a function under this chapter; and

(6) recommend legislation necessary to advance this state's interest in public and mass transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 455.003. RESTRICTION ON USE OF EMINENT DOMAIN. The Texas Department of Transportation may not use eminent domain for a purpose under this chapter in a way that:

(1) unduly interferes with interstate commerce; or

(2) establishes a right to operate a vehicle on a railroad track used to transport property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 455.004. PUBLIC TRANSPORTATION ADVISORY COMMITTEE. (a) A public transportation advisory committee consisting of nine members shall:

(1) advise the commission on the needs and problems of the state's public transportation providers, including the methods for allocating state public transportation money;

(2) comment on rules involving public transportation during development of the rules and before the commission finally adopts the rules unless an emergency requires immediate commission action;

(3) advise the commission on the implementation of Chapter 461;

(4) perform any other duty determined by the commission;
and

(5) reflect the diversity of the state.

(b) The members of the committee shall be appointed by the governor, the lieutenant governor, and the speaker of the house of representatives, who shall each appoint:

(1) one member who represents a diverse cross-section of public transportation providers;

(2) one member who represents a diverse cross-section of transportation users; and

(3) one member who represents the general public.

(c) A member serves at the pleasure of the officer who appointed the member. A member is not entitled to compensation for service on the committee but is entitled to reimbursement for reasonable expenses the member incurs in performing committee duties.

(d) The public transportation advisory committee shall meet as requested by the commission.

(e) The commission may adopt rules to govern the operation of the advisory committee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 13.03, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 4.01, eff. June 14, 2005.

Acts 2009, 81st Leg., R.S., Ch. 117 (H.B. 2219), Sec. 1, eff. September 1, 2009.

Sec. 455.005. RAIL FIXED GUIDEWAY MASS TRANSPORTATION SYSTEM SAFETY OVERSIGHT. (a) The department shall:

(1) oversee safety and security practices of rail fixed guideway mass transportation systems in compliance with 49 U.S.C. Section 5330;

(2) establish a safety program for each entity operating a rail fixed guideway mass transportation system within the state that provides:

(A) safety requirements that:

(i) at a minimum comply with the American Public Transit Association's guidelines published in the "Manual for the Development of Rail Transit System Safety Program Plans"; and

(ii) include standards for the personal security of passengers and employees of rail fixed guideway systems;

(B) lines of authority;

(C) levels of responsibility and accountability; and

(D) methods of documentation for the system;

(3) at least every three years conduct an on-site safety review of each entity's system safety program plan and prepare and issue a report containing findings and recommendations resulting from that review that, at a minimum, include an analysis of the efficacy of the system safety program plan and a determination of whether it should be updated;

(4) review and approve the annual internal safety audit conducted by an entity that operates a system;

(5) establish procedures for the investigation of accidents and unacceptable hazardous conditions;

(6) investigate accidents and unacceptable hazardous conditions at entities operating systems unless the National Transportation Safety Board has investigated or will investigate an accident;

(7) require, review, and approve any plan of an entity operating a system to minimize, control, correct, or eliminate any investigated accident or hazard; and

(8) submit reports or other information required by the United States Department of Transportation.

(b) The department may use a contractor to act on its behalf in carrying out the duties of the department under this section.

(c) The data collected and the report of any investigation conducted by the department or a contractor acting on behalf of the

department:

(1) is confidential and subject to disclosure, inspection, or copying under Chapter 552, Government Code; but

(2) may not be admitted in evidence or used for any purpose in any action or proceeding arising out of any matter referred to in an investigation except in an action or a proceeding instituted by the state.

(d) Each entity operating a system shall:

(1) develop a system safety program plan that complies with the department's safety program plan standards;

(2) conduct an annual internal safety audit and submit the audit report to the department;

(3) report accidents and unacceptable hazardous conditions to the department in writing or by electronic means acceptable to the department;

(4) minimize, control, correct, or eliminate any investigated unacceptable hazardous condition as required by the department; and

(5) provide all necessary assistance to allow the department to conduct appropriate on-site investigations of accidents and unacceptable hazardous conditions.

(e) Any part of a system safety program plan that concerns security for the system:

(1) is confidential and not subject to disclosure, inspection, or copying under Chapter 552, Government Code; and

(2) may not be admitted in evidence or used for any purpose in any action or proceeding arising out of any matter referred to in an investigation except in an action or a proceeding instituted by the state.

(f) The commission shall adopt rules to implement this section.

(g) Notwithstanding any other provision of law to the contrary, the commission, the department, or an officer, employee, or agent of the commission or department is not liable for any act or omission in the implementation of this section.

(h) In this section:

(1) "Accident" means:

(A) any event involving the revenue service operation of a rail fixed guideway system as a result of which an individual:

(i) dies; or

(ii) suffers bodily injury and immediately receives

medical treatment away from the scene of the event; or

(B) a collision, derailment, or fire that causes property damage in excess of \$100,000.

(2) "Commission" means the Texas Transportation Commission.

(3) "Department" means the Texas Department of Transportation.

(4) "Hazardous condition" means a condition that may endanger human life or property, including an unacceptable hazardous condition.

(5) "Investigation" means a process to determine the probable cause of an accident or an unacceptable hazardous condition. The term includes a review and approval of the transit agency's determination of the probable cause of an accident or unacceptable hazardous condition.

(6) "Rail fixed guideway mass transportation system" or "system" means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, or automated guideway used for mass transportation that is included in the United States government's computation of fixed guideway route miles or receives funding for urbanized areas under 49 U.S.C. Section 5336 and is not regulated by the United States government.

(7) "Safety" means freedom from danger.

(8) "Security" means freedom from intentional danger.

(9) "Unacceptable hazardous condition" means a hazardous condition determined to be unacceptable using the American Public Transit Association's guidelines' hazard resolution matrix.

Added by Acts 1997, 75th Leg., ch. 492, Sec. 1, eff. May 31, 1997.

CHAPTER 456. STATE FINANCING OF PUBLIC TRANSPORTATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 456.001. DEFINITIONS. In this chapter:

(1) "Capital improvement" means the acquisition, construction, or improvement of a facility, equipment, or real property for use in public transportation service. The term includes designing, engineering, supervising, inspecting, surveying, mapping, relocation, right-of-way acquisition, housing replacement, and other expenses incidental to the acquisition, construction, or improvement.

(2) "Designated recipient" means an entity that receives

money from the United States or this state for public transportation through the department or the Federal Transit Administration or the administration's successor and is a transit authority, a municipality not included in a transit authority, a local governmental body, another political subdivision of this state, or a nonprofit entity providing rural public transportation service.

(3) "Federal-Aid Highway Act" means the Federal-Aid Highway Act of 1973 (49 U.S.C. Section 1602a).

(4) "Federal Transit Act" means the Federal Transit Act (49 U.S.C. Section 5301 et seq.) and includes the Urban Mass Transportation Act of 1964.

(5) "Federally financed project" means a public transportation project that is partially financed under a program of the United States for financing public transportation.

(6) "Local share requirement" means the amount of money required of and available to a public transportation provider in this state to match the amount available from the United States for a federally financed project.

(7) "Operating expense" means an expense, including an administrative expense, incurred in the daily operation of a public transportation system.

(8) "Public transportation" means transportation of passengers and their hand-carried packages or baggage on a regular or continuing basis by means of surface or water, including fixed guideway or underground transportation or transit, other than aircraft, taxicab, ambulance, or emergency vehicle.

(9) "Ride-sharing activity" means transportation provided by a vehicle equipped with rubber tires that carries 10 to 15 passengers.

(10) "State-financed project" means a project for which this state provides partial financing under this chapter.

(11) "Transit authority" means a municipality or a metropolitan or regional authority in an urbanized area of over 200,000 population with a local transit tax.

(12) "Urbanized area" means an area with a population of more than 50,000 so designated by the United States Bureau of the Census.

(13) "Nonurbanized area" means an area outside the boundaries of an urbanized area and so designated by the United States Bureau of the Census.

(14) "Local funds" include:

- (A) passenger revenues, notwithstanding any statutory requirement to apply that money to offset operating deficits;
- (B) money from the purchase of service agreements, contract income, advertising revenue, local tax receipts, and private donations;
- (C) money provided by a political subdivision of this state; and
- (D) in-kind contributions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.33(b), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 588, Sec. 1, eff. June 2, 1997.

Sec. 456.002. ADMINISTRATION AND PURPOSE. (a) The commission shall administer the formula and discretionary programs provided by this chapter.

(b) Each public transportation program provided by this chapter, except the passenger rail service assistance program under Subchapter D, is a grant program for public transportation projects. Approval by the United States of a proposed public transportation project means that the project is consistent with the purposes of this chapter and with the continuing, cooperative, and comprehensive regional transportation planning implemented in accordance with the Federal Transit Act and the Federal-Aid Highway Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 110, Sec. 1, eff. May 16, 1997; Acts 1997, 75th Leg., ch. 165, Sec. 30.34(b), eff. Sept. 1, 1997.

Sec. 456.003. PARTICIPATION INELIGIBILITY. A transit authority is ineligible to participate in the formula or discretionary program provided by this chapter unless the authority was created under Chapter 453 or former Article 1118z, Revised Statutes, by a municipality having a population of less than 200,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 456.004. GENERAL FINANCING APPLICATION REQUIREMENTS. An application for project financing under this chapter must be certified and contain a statement by the applicant that the proposed public transportation project is consistent with the continuing, cooperative, and comprehensive regional transportation planning implemented in accordance with the Federal Transit Act and the Federal-Aid Highway Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.34(c), eff. Sept. 1, 1997.

Sec. 456.005. EVALUATION OF PROJECT. In evaluating a project under the formula or discretionary program, the commission shall consider the need for fast, safe, efficient, and economical public transportation and the approval of the Federal Transit Administration, or its successor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 456.006. USE OF FINANCING. (a) A designated recipient that is a rural or urban transit district or municipal transit department may use money from the formula or discretionary program and any local funds for any transit-related activity.

(b) A designated recipient not included in a transit authority but located in an urbanized area that includes one or more transit authorities and that received state transit funding during the biennium ending August 31, 1997, may receive money from the formula or discretionary program in an amount that does not exceed the amount of funds expended during that biennium to provide:

- (1) 65 percent of the local share requirement for a federally financed capital improvement project;
- (2) 50 percent of the local share requirement for a federally financed project for operating expenses;
- (3) 65 percent of the local share requirement for federally financed planning activities; and
- (4) 50 percent of the total cost of a public transportation capital improvement project, if the designated recipient certifies that money from the United States is unavailable for the project and the commission determines that the project is vitally important to

the development of public transportation in this state.

(c) In this section, "rural transit district" and "urban transit district" have the meanings assigned by Section 1, Chapter 645, Acts of the 74th Legislature, Regular Session, 1995 (Article 6663c-1, Vernon's Texas Civil Statutes).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.34(d), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 588, Sec. 2, eff. June 2, 1997.

Sec. 456.007. PUBLIC TRANSPORTATION ACCOUNT FUND; APPROPRIATIONS AND GRANTS. (a) The public transportation account fund is an account in the general revenue fund. A grant of money to the state for public transportation purposes from a public or private source shall be deposited to the credit of the public transportation account fund. Money in the public transportation account fund may be used only by the department to carry out the responsibilities of the commission and the department for public transportation under this chapter.

(b) The legislature may appropriate money for public transportation purposes from the portion of the state highway fund that is not dedicated by the constitution.

(c) A federal grant of transit money to the state for public transportation purposes shall be deposited in the treasury to the credit of the state highway fund. Federal transit grants for public transportation purposes may be used only by the department to carry out the responsibilities of the commission and the department for public transportation under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.34(e), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 588, Sec. 3, eff. June 2, 1997.

Sec. 456.008. COMMISSION REPORT ON PUBLIC TRANSPORTATION PROVIDERS. (a) Not later than January 1 of each year, the commission by rule shall prepare and issue to the legislature a report on public transportation providers in this state that received state or federal funding during the previous 12-month period. A report under this section must:

(1) detail the performance of the transportation providers during the preceding state fiscal year; and

(2) include, as to each transportation provider, monthly data on industry utilized standards that best reflect ridership, mileage, revenue by source, and service effectiveness.

(b) The commission shall establish a performance-based reporting system for all public transportation providers. The commission may establish different performance measures for different sectors of the transit industry. The performance measures shall assess the efficiency, effectiveness, and safety of the public transportation providers.

(c) The commission shall submit copies of each report issued under this section to the budget and planning division of the governor's office and the Legislative Budget Board not later than November 1 of the year following the period covered in the report.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 873, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 93, eff. September 1, 2013.

SUBCHAPTER B. FORMULA PROGRAM

Sec. 456.021. BIENNIAL ALLOCATION. (a) The commission shall allocate to urban, urbanized, and rural areas under the formula program provided by this subchapter the amount appropriated from all sources to the commission each state fiscal biennium for public transportation, other than money from the United States and amounts specifically appropriated for coordination, technical support, or other administrative costs.

(b) The commission shall make the allocation at the beginning of each state fiscal biennium.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 456.022. FORMULA ALLOCATION. The commission shall adopt rules establishing a formula allocating funds among individual eligible public transportation providers. The formula may take into account a transportation provider's performance, the number of its

riders, the need of residents in its service area for public transportation, population, population density, land area, and other factors established by the commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.34(f), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 588, Sec. 4, eff. June 2, 1997; Acts 2003, 78th Leg., ch. 312, Sec. 79(a), eff. Sept. 1, 2004.

Sec. 456.023. APPLICATION; USE OF MONEY NOT APPLIED FOR. (a) A designated recipient may submit an application to the commission for financing of a project under the formula program.

(b) The commission shall administer under the discretionary program provided by Subchapter C any money that a designated recipient under the formula program has not applied for before the November commission meeting in the second year of a biennium.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 456.026. REPORTING BY DESIGNATED RECIPIENTS. The commission by rule shall establish a performance-based reporting system for all designated recipients eligible for financing under the formula program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. DISCRETIONARY PROGRAM

Sec. 456.041. PROJECT FINANCING APPLICATION BY DESIGNATED RECIPIENT. (a) To participate in the discretionary program provided by this subchapter, a designated recipient must submit to the commission an application for project financing. The application must contain:

(1) a description of the project, including an estimate of the population that the project would benefit and the anticipated completion date of the project;

(2) a statement of the estimated cost of the project, including an estimate of the portion of the cost of the project financed by the United States; and

(3) the certification required by Section 456.006(b)(4).

(b) After the commission receives an application under this section, the commission shall approve or deny the application and notify the applicant in writing of its decision.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.34(g), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 588, Sec. 6, eff. June 2, 1997.

Sec. 456.042. RIDE-SHARING ACTIVITIES. (a) A designated recipient or a local government that has the power to operate a public transportation system, directly or by contract, in an urbanized or rural area may apply to the commission and receive money from the discretionary program for a capital expenditure to operate a ride-sharing activity.

(b) The commission shall provide 80 percent of the cost of capital expenditures for a ride-sharing activity of a project it approves under this section.

(c) An applicant for financing of a ride-sharing activity must certify that:

(1) money is available to provide 20 percent of the cost of the capital expenditure;

(2) the equipment the applicant provides for the ride-sharing activity will be used primarily for commuting purposes;

(3) the ride-sharing activity will be operated without state operating subsidies and under procedures required by Subsection (d); and

(4) any financing available from the United States Department of Transportation to supplement state and locally financed capital expenditures for ride-sharing activities will be applied for and used for the replacement of van pool equipment in the manner required by Subsections (e) and (f).

(d) A recipient of money under this section must establish procedures to purchase van pool equipment that are satisfactory to the state and ensure that the equipment is operated for commuter purposes as a nonprofit activity in the manner required by Subsection (e).

(e) A recipient of money under this section must deposit all revenue in excess of operating expenses that is derived from the use

of state-financed van pool equipment in a contingency reserve account designated for use in the replacement of state-financed van pool equipment at the end of the useful life of the equipment.

(f) The state financial interest in the purchase of replacement van pool equipment is based:

(1) on the ratio that money from the contingency reserve account that is used in the purchase of replacement equipment bears to the total price of the equipment; and

(2) on the ratio that state money bears to the total price of the equipment being replaced.

(g) A recipient of money under this section shall return to the state the portion of any remaining money in the contingency reserve account when ride-sharing activities using state-financed van pool equipment cease that represents the ratio of state-to-local financing under the activities.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. PASSENGER RAIL SERVICE ASSISTANCE PROGRAM

Sec. 456.061. DEFINITION. In this subchapter, "eligible corporation" means a corporation created under former Subchapter III, Chapter 14, Title 45, United States Code (now 49 U.S.C. Sections 24101 et seq. and 24301 et seq.).

Added by Acts 1997, 75th Leg., ch. 110, Sec. 2, eff. May 16, 1997.

Sec. 456.062. LOANS TO CORPORATION. (a) Under the authority of Section 52-a, Article III, Texas Constitution, and from funds appropriated from the general revenue fund for this purpose, the commission may loan money to an eligible corporation that provides rail passenger service in the state.

(b) Notwithstanding any other statutory restriction, the portion of the state highway fund not dedicated by the constitution is collateral for repayment of a loan made under this section. The comptroller may transfer from that portion of the state highway fund to the general revenue fund the amount needed to repay any unpaid balance on the loan, including applicable interest, in accordance with the loan agreement.

Added by Acts 1997, 75th Leg., ch. 110, Sec. 2, eff. May 16, 1997.

Sec. 456.063. AGREEMENT. The department, on behalf of the commission and with the approval of the comptroller, shall enter into an agreement, under terms and conditions the department considers appropriate, with an eligible corporation for the purposes of making a secured loan under this subchapter. The agreement must provide for collateralization and guaranties in a form and amount determined by the comptroller and the commission to be sufficient to repay to the state highway fund any money transferred to the general revenue fund under Section 456.062(b).

Added by Acts 1997, 75th Leg., ch. 110, Sec. 2, eff. May 16, 1997.

Sec. 456.064. LIMITATION OF FUNDING. The commission may only expend funds specifically appropriated by the legislature for the purposes of this subchapter.

Added by Acts 1997, 75th Leg., ch. 110, Sec. 2, eff. May 16, 1997.

Sec. 456.065. GUARANTEE FROM MUNICIPALITIES. The department, on behalf of the commission and with the approval of the comptroller, shall secure an agreement or agreements with the municipalities served by an eligible corporation that receives assistance under this subchapter to further guarantee the repayment of half of any unpaid balance on a loan, including interest, made under this subchapter.

Added by Acts 1997, 75th Leg., ch. 110, Sec. 2, eff. May 16, 1997.

CHAPTER 457. COUNTY MASS TRANSIT AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 457.001. DEFINITIONS. In this chapter:

- (1) "Authority" means a mass transit authority created under this chapter or former Article 1118z-1, Revised Statutes.
- (2) "Board" means the governing body of an authority.
- (3) "Bond" includes a note.
- (4) "Mass transit" means the transportation of passengers

and hand-carried packages or baggage of a passenger by any means of surface, overhead, or underground transportation, other than an aircraft or taxicab.

(5) "Principal municipality" means the municipality of greatest population in a county to which this chapter applies.

(6) "Transit authority system" means:

(A) property owned or held by an authority for mass transit purposes; and

(B) facilities necessary or convenient for:

(i) the use of or access to mass transit by persons or vehicles; or

(ii) the protection or environmental enhancement of mass transit.

(7) "Unit of election" means a municipality, including the principal municipality, or the unincorporated area of a county.

(8) "Transportation disadvantaged" has the meaning assigned by Section 451.001.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1038, Sec. 9, eff. Sept. 1, 2001.

Sec. 457.002. **APPLICABILITY.** This chapter applies only to a county containing a municipality with a population of 500,000 or more that has created a mass transit department under Chapter 453 or former Article 1118z, Revised Statutes.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

SUBCHAPTER B. CREATION AND ADMINISTRATION OF AUTHORITY

Sec. 457.051. **CREATION OF AUTHORITY.** (a) An authority is created under this chapter if a resolution finding that the creation of an authority would be in the public interest and a benefit to persons residing in the county is adopted by:

(1) the county commissioners court;

(2) the governing body of the principal municipality; and

(3) the governing body of at least one municipality other than the principal municipality.

(b) An authority may not be created if the rate of the sales and use tax charged by the city transit department of the principal municipality, when added to an existing sales and use tax collected in the county other than by the principal municipality, would exceed the limit imposed by Section 457.302.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.052. BOARD OF AUTHORITY. (a) The board of an authority consists of seven members. A member of the board serves without compensation but is entitled to reimbursement for expenses incurred in board service. The board shall elect one of its members as presiding officer. The members are appointed as follows:

- (1) two members by the county commissioners court;
- (2) four members by the governing body of the principal municipality; and
- (3) one member by the governing bodies of all municipalities that adopt the resolution described by Section 457.051.

(b) A member of the board serves at the pleasure of the appointing entity.

(c) The board shall administer and operate the authority.

(d) The board shall hold at least one regular meeting each month for the purpose of transacting business of the authority.

(e) The presiding officer may call a special meeting of the board.

(f) The principal municipality shall make its appointments to the board so that at least one of the appointees is designated to represent the interests of the transportation disadvantaged.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1038, Sec. 10, eff. Sept. 1, 2001.

Sec. 457.053. CONFIRMATION ELECTION. (a) If an authority is created under Section 457.051, the board shall propose a service plan and an initial tax rate for the authority. The initial tax rate must be the same rate as that collected by the city transit department

created by the principal municipality.

(b) After proposing a service plan and an initial tax rate, the board shall call an election in the county to approve the creation of the authority and the tax rate. The election must be held on a uniform election date but may not be held on the same day as an election held by the county under Section 323.101, Tax Code. The election is not held in the territory of the principal municipality.

(c) Notice of the election must include a description of the nature and rate of the proposed tax. The board shall send a copy of the notice to the department and the comptroller.

(d) At the election, the ballots shall be printed to permit voting for or against the following proposition: "The creation of the (name of county) Transit Authority and the imposition of a (rate of tax) percent sales and use tax in (name of county) County."

(e) If a majority of the votes cast at the election approve the proposition:

(1) the board shall record the result in its minutes and adopt an order implementing the service plan; and

(2) on the day the sales and use tax takes effect in the authority, the city transit department created by the principal municipality under Chapter 453 or former Article 1118z, Revised Statutes, is dissolved, and its assets, personnel, and obligations are transferred to the authority.

(f) If less than a majority of the votes cast at the election approve the proposition, the board shall adopt an order dissolving the authority, and the city transit department of the principal municipality is not affected.

(g) The jurisdiction of an authority is coextensive with the territory of the county.

(h) The board shall file a certified copy of an order adopted under Subsection (e)(1) or (f) with the department, with the comptroller, and in the deed records of the county.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.054. CONFLICTS OF INTEREST: AUTHORITY EMPLOYEES. An employee of an authority may not have a pecuniary interest in, or receive a benefit from, an agreement to which the authority is a

party.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.055. TRANSFER OF RESOURCES BETWEEN MUNICIPALITY AND AUTHORITY. (a) The governing body of a municipality may transfer to an authority created under this chapter:

(1) property and employees of a division of the municipality that before the creation of the authority was responsible for municipal public transportation; and

(2) municipal funds that may be used for mass transit.

(b) The governing body may abolish or change the functions of the municipal division formerly responsible for municipal public transportation.

(c) If an authority is required to be dissolved under this chapter, the board, on dissolution of the authority, shall transfer to a municipality the funds, property, and employees that were transferred to the authority under this section. The governing body of the municipality may then re-create or change the duties of any municipal division abolished or changed as a result of transfers made under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.056. INVESTMENTS. (a) A board may invest authority funds in any obligation, security, or evidence of indebtedness in which the principal municipality may invest municipal funds.

(b) In making an investment of authority funds, a board shall exercise the judgment and care, under the circumstances prevailing at the time of making the investment, that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs in making a permanent and nonspeculative disposition of their funds, considering the probable income from the disposition and the probable safety of their capital.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.057. DEPOSIT OF MONEY. (a) The board shall designate one or more banks as depositories for authority funds. All authority money, other than money invested as provided by Section 457.056, shall be deposited in one or more of the authority's depository banks.

(b) Funds in a depository, to the extent that those funds are not insured by the Federal Deposit Insurance Corporation, shall be secured in the manner provided by law for the security of county funds.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.058. LIABILITY OF CREATING ENTITIES. The political subdivisions that adopt a resolution under Section 457.051(a) are liable for an expense the authority incurs before the date a sales and use tax is approved for the authority under this chapter, including the costs of holding the election.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

SUBCHAPTER C. POWERS OF AUTHORITY

Sec. 457.101. ACQUIRING AND DISPOSING OF PROPERTY. (a) An authority may acquire, hold, use, sell, lease, or dispose of property, including licenses, patents, rights, and other interests, necessary, convenient, or useful for the full exercise of any of its powers under this chapter.

(b) The authority may acquire property described in Subsection (a) in any manner, including by gift or devise.

(c) An authority may dispose of, by sale, lease, or other conveyance:

(1) any property of the authority not needed for the efficient operation and maintenance of the transit authority system; and

(2) any surplus property not needed for its requirements or for the purpose of carrying out its powers under this chapter.

(d) The lease of unneeded property under Subsection (c) must be consistent with the efficient operation and maintenance of the transit authority system.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.102. TRANSIT AUTHORITY SYSTEM. (a) An authority may:

- (1) acquire, construct, own, operate, and maintain a transit authority system;
- (2) use any public way; and
- (3) construct, repair, and maintain a municipal street, as authorized by the governing body of a municipality in the authority.

(b) In the exercise of a power under Subsection (a), an authority may relocate or reroute, or alter the construction of, any public or private property, including:

- (1) an alley, road, street, or railroad;
- (2) an electric line and facility;
- (3) a telegraph and telephone property and facility;
- (4) a pipeline and facility; and
- (5) a conduit and facility.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.103. FARES AND OTHER CHARGES. The board shall, after a public hearing, impose reasonable and nondiscriminatory fares, tolls, charges, rents, or other compensation for the use of the transit authority system sufficient to produce revenue, together with receipts from taxes imposed by the authority, in an amount adequate to:

- (1) pay all the expenses necessary to operate and maintain the transit authority system;
- (2) pay when due the principal of and interest on, and sinking fund and reserve fund payments agreed to be made with respect to, all bonds that are issued by the board and payable in whole or part from the revenue; and
- (3) fulfill the terms of any other agreement with the holders of bonds described by Subdivision (2) or with a person acting

on behalf of the bondholders.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.104. AGREEMENT WITH UTILITIES AND CARRIERS. An authority may agree with a public or private utility, communication system, common carrier, or transportation system for:

- (1) the joint use of the property of the agreeing entities in the authority; or
- (2) the establishment of through routes, joint fares, or transfers of passengers.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.105. CONTRACTS; ACQUISITION OF PROPERTY BY AGREEMENT.

(a) An authority may contract with any person and may accept a grant or loan from any person.

(b) An authority may acquire rolling stock or other property under a contract or trust agreement, including a conditional sales contract, lease, and equipment trust certificate.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.106. USE AND ACQUISITION OF PROPERTY OF OTHERS. (a) An authority may not alter or damage any property of this state or a political subdivision of this state or owned by a person rendering public services and may not disrupt services being provided by others or inconvenience in any other manner an owner of property, without first having obtained:

- (1) the written consent of the owner; or
- (2) the right from the governing body of the municipality to take the action under the municipality's power of eminent domain.

(b) An authority may agree with an owner of property to provide for:

- (1) a necessary relocation or alteration of property by the

owner or a contractor chosen by the owner; and

(2) the reimbursement by the authority to the owner of the costs incurred by the owner in making the relocation or alteration.

(c) The authority shall pay the cost of any relocation, rerouting, or other alteration in the construction made under this chapter and is liable for any damage to property occurring because of the change.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.107. ROUTES. An authority shall determine each route, including route changes, as the board considers advisable.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.108. TORT LIABILITY AND GOVERNMENTAL IMMUNITY. (a) An authority is a separate governmental unit for purposes of Chapter 101, Civil Practice and Remedies Code, and operations of an authority are essential governmental functions and not proprietary functions for all purposes, including the purposes of that chapter.

(b) This chapter does not create or confer any governmental immunity or limitation of liability on any entity that is not a governmental unit, governmental entity or authority, or public agency or a subdivision of one of those persons. In this subsection, "governmental unit" has the meaning assigned by Section 101.001, Civil Practice and Remedies Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.109. TAX EXEMPTION. The assets of an authority are exempt from any tax of the state or a state taxing authority.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

SUBCHAPTER D. SPECIAL TRANSPORTATION PROGRAMS

Sec. 457.151. TRANSPORTATION FOR JOBS PROGRAM PARTICIPANTS.

(a) An authority shall contract with the Texas Workforce Commission to provide, in accordance with federal law, transportation services to a person who:

(1) resides in the area served by the authority;

(2) is receiving financial assistance under Chapter 31, Human Resources Code; and

(3) is registered in the jobs opportunities and basic skills training program under Part F, Subchapter IV, Social Security Act, as amended (42 U.S.C. Section 682).

(b) The contract must include provisions to ensure that:

(1) the authority is required to provide transportation services only to a location:

(A) to which the person travels in connection with participation in the jobs opportunities and basic skills training program; and

(B) that the authority serves under the authority's authorized rate structure and existing services;

(2) the authority is to provide directly to the Texas Workforce Commission trip vouchers for distribution by the workforce commission to a person who is eligible under this section to receive transportation services;

(3) the workforce commission reimburses the authority for allowable costs, at the applicable federal matching rate; and

(4) the workforce commission may return undistributed trip vouchers to the authority.

(c) An authority shall certify the amount of public funds spent by the authority under this section for the purpose of obtaining federal funds under the jobs opportunities and basic skills training program.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.152. WAIVER OF FEDERAL REQUIREMENTS. If, before implementing Section 457.151, the Texas Workforce Commission determines that a waiver or authorization from a federal agency is necessary for implementation, the workforce commission shall request

the waiver or authorization, and the workforce commission and an authority may delay implementing Section 457.151 until the waiver or authorization is granted.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

SUBCHAPTER E. ALTERNATIVE FUEL USE PROGRAM

Sec. 457.201. PURCHASE AND PERCENT OF VEHICLES USING ALTERNATIVE FUEL. (a) An authority may not purchase or lease a motor vehicle that is not capable of using compressed natural gas or another alternative fuel the use of which results in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or combinations of those materials.

(b) At least 50 percent of the fleet vehicles operated by an authority must be capable of using compressed natural gas or another alternative fuel.

(c) Repealed by Acts 2005, 79th Leg., Ch. 864, Sec. 5, eff. September 1, 2005.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 864 (S.B. [1032](#)), Sec. 5, eff. September 1, 2005.

Sec. 457.202. ALTERNATIVE FUEL USE PROGRAM: EXCEPTIONS. (a) An authority may make exceptions to the requirements of Section 457.201 if the authority certifies the facts described by Subsection (b).

(b) A certification under this section must state that:

(1) the authority's vehicles will be operating primarily in an area in which neither the authority nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuel; or

(2) the authority is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuel at a project cost that is reasonably expected to result in no greater net cost than the

continued use of traditional gasoline or diesel fuel measured over the expected useful life of the equipment or facilities supplied.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.203. ALTERNATIVE FUEL EQUIPMENT AND FACILITIES. (a) In addition to other methods authorized by law, an authority may acquire or be provided equipment or refueling facilities by an arrangement, including a gift or a loan, under a service contract for the supply of compressed natural gas or other alternative fuel.

(b) If an authority acquires or is provided equipment or facilities as authorized by Subsection (a), the supplier is entitled, under the supply contract, to recover the cost of giving, loaning, or providing the equipment or facilities through the fuel charges.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.204. ALTERNATIVE FUEL USE PROGRAM: VEHICLES COVERED AND SAFETY. (a) In developing a compressed natural gas or other alternative fuel use program, an authority should work with vehicle manufacturers and converters, fuel distributors, and others to specify the vehicles to be covered considering relevant factors, including vehicle range, specialty vehicle uses, fuel availability, vehicle manufacturing and conversion capability, safety, and resale value.

(b) The authority may meet the percentage requirements of Section 457.201 by:

- (1) purchasing new vehicles; or
- (2) converting existing vehicles, in conformity with federal and state requirements and applicable safety laws, to alternative fuel use.

(c) In purchasing, leasing, maintaining, or converting a vehicle for alternative fuel use, the authority shall comply with all applicable safety standards adopted by the United States Department of Transportation or the Railroad Commission of Texas or their successor agencies.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

SUBCHAPTER F. BONDS

Sec. 457.251. POWER TO ISSUE BONDS. (a) An authority may issue revenue bonds at any time and for any amounts it considers necessary or appropriate for:

- (1) the acquisition, construction, repair, equipping, improvement, or extension of its transit system; or
- (2) the construction or general maintenance of streets of the creating municipality.

(b) Bonds payable solely from revenues may be issued by resolution of the board.

(c) Bonds, other than refunding bonds, any portion of which is payable from tax revenue may not be issued until authorized by a majority vote of the voters of the authority voting in an election.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.252. BOND TERMS. (a) An authority's bonds are fully negotiable.

(b) The authority may make the bonds redeemable before maturity at the price and subject to the terms that are provided in the resolution authorizing the bonds.

(c) A revenue bond indenture may limit a power of the authority provided by this chapter as long as the bond containing the indenture is outstanding and unpaid.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.253. SALE. Bonds may be sold at a public or private sale as determined by the board.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.254. APPROVAL; REGISTRATION. (a) An authority's bonds and the records relating to their issuance shall be submitted to the attorney general for examination before the bonds may be delivered.

(b) If the attorney general finds that the bonds have been issued in conformity with the constitution and this chapter and that the bonds will be a binding obligation of the issuing authority, the attorney general shall approve the bonds.

(c) After the bonds are approved by the attorney general, the comptroller shall register the bonds.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.255. INCONTESTABILITY. Bonds are incontestable after they are:

- (1) approved by the attorney general;
- (2) registered by the comptroller; and
- (3) sold and delivered to the purchaser.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.256. SECURITY PLEDGED. (a) To secure the payment of an authority's bonds, the authority may:

(1) pledge all or part of revenue received from any tax that the authority may impose;

(2) pledge all or part of the revenue of the transit authority system; and

(3) mortgage all or part of the transit authority system, including any part of the system subsequently acquired.

(b) Under Subsection (a)(3), the authority may, subject to the terms of the bond indenture or resolution authorizing the issuance of the bonds, encumber a separate item of the transit authority system and acquire, use, hold, or contract for any property by lease, chattel mortgage, or other conditional sale, including an equipment trust transaction.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1,

1997.

Sec. 457.257. PLEDGE OF REVENUE LIMITED. The expenses of operation and maintenance of a transit authority system, including salaries, labor, materials, and repairs necessary to provide efficient service and every other proper item of expense, are a first lien and charge against any revenue of an authority that is encumbered under this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.258. REFUNDING BONDS. An authority may issue refunding bonds for the purposes and in the manner authorized by Chapter 1207, Government Code, or other law.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.399, eff. Sept. 1, 2001.

Sec. 457.259. BONDS AS AUTHORIZED INVESTMENTS. (a) An authority's bonds are authorized investments for:

- (1) a bank;
- (2) a trust company;
- (3) a savings and loan association; and
- (4) an insurance company.

(b) The bonds, when accompanied by all appurtenant, unmatured coupons and to the extent of the lesser of their face value or market value, are eligible to secure the deposit of public funds of this state, a political subdivision of this state, and any other political corporation of this state.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.260. INTEREST EXEMPTION. Interest on bonds issued by an authority is exempt from any tax of the state or a state taxing

authority.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

SUBCHAPTER G. TAXES

Sec. 457.301. SALES AND USE TAX. (a) The board may impose for the authority a sales and use tax at a permissible rate that does not exceed the rate approved by the voters at an election under this chapter.

(b) The board by order may:

- (1) decrease the rate of the sales and use tax for the authority to a permissible rate; or
- (2) call an election for the increase or decrease of the sales and use tax to a permissible rate.

(c) The permissible rates for a sales and use tax imposed under this chapter are:

- (1) one-quarter of one percent; and
- (2) one-half of one percent.

(d) Chapter 322, Tax Code, applies to an authority's sales and use tax.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.302. MAXIMUM TAX RATE. (a) A board may not adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by all political subdivisions of this state having territory in the county exceeds two percent in any location in the county.

(b) An election by an authority to approve a sales and use tax or increase the rate of the authority's sales and use tax has no effect if:

- (1) the voters of the authority approve the authority's sales and use tax rate or rate increase at an election held on the same day on which the municipality or county having territory in the jurisdiction of the authority adopts a sales and use tax or an additional sales and use tax; and
- (2) the combined rates of all sales and use taxes imposed

by the authority and all political subdivisions of this state would exceed two percent in any part of the territory in the jurisdiction of the authority.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.303. ELECTION TO CHANGE TAX RATE. (a) At an election ordered under Section 457.301(b)(2), the ballots shall be printed to permit voting for or against the proposition: "The increase (decrease) of the local sales and use tax rate of (name of authority) to (percentage)."

(b) The increase or decrease in the tax rate becomes effective only if it is approved by a majority of the votes cast.

(c) A notice of the election and a certified copy of the order canvassing the election results shall be:

- (1) sent to the department and the comptroller; and
- (2) filed in the deed records of the county.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.304. SALES TAX: EFFECTIVE DATES. (a) An authority's sales and use tax takes effect on the first day of the second calendar quarter that begins after the date the comptroller receives a copy of the order required to be sent under Section 457.053(h).

(b) An increase or decrease in the rate of an authority's sales and use tax takes effect on:

(1) the first day of the first calendar quarter that begins after the date the comptroller receives the notice provided under Section 457.303(c); or

(2) the first day of the second calendar quarter that begins after the date the comptroller receives the notice, if within 10 days after the date of receipt of the notice the comptroller gives written notice to the presiding officer of the board that the comptroller requires more time to implement tax collection and reporting procedures.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1,

1997.

**SUBCHAPTER H. DISSOLUTION OF AUTHORITY; WITHDRAWAL OF UNIT OF
ELECTION**

Sec. 457.351. ELECTION TO DISSOLVE AUTHORITY. (a) A board may order an election on the question of dissolving the authority.

(b) The board shall dissolve the authority if the dissolution is approved by a majority of the votes cast.

(c) The provisions of Section 457.053 that relate to the notice and conduct of an election under that section apply to an election to dissolve an authority unless a different requirement is specified in this section.

(d) The board shall send a notice of the election to the department and the comptroller.

(e) At the election, the ballots shall be printed to permit voting for or against the proposition: "Dissolution of (name of authority)."

(f) The board shall send a certified copy of the order canvassing the election results to the department and the comptroller and file a copy in the deed records of the county.

(g) The repeal of an authority's sales and use tax under this chapter takes effect on:

(1) the first day of the first calendar quarter that begins after the date the comptroller receives the notice of the dissolution of the authority; or

(2) the first day of the second calendar quarter that begins after the date the comptroller receives the notice, if within 10 days after the date of receipt of the notice the comptroller gives written notice to the presiding officer of the board that the comptroller requires more time to implement the repeal of the tax.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.352. WITHDRAWAL FROM AUTHORITY. (a) The governing body of a unit of election may order an election to withdraw the unit from an authority.

(b) On the determination by a governing body of a unit of

election that a petition for withdrawal under this chapter is valid, the governing body shall order an election to withdraw the unit of election from the authority.

(c) An election to withdraw may not be ordered, and a petition for an election to withdraw may not be accepted for filing, more frequently than once during each period of 12 months preceding the anniversary of the date of the election confirming the authority.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.353. PETITION FOR WITHDRAWAL. (a) At the request of a qualified voter of a unit of election in an authority, the municipal secretary or other clerk or administrator of the unit of election shall deliver to the voter, in the number requested, petition signature sheets for a petition to withdraw from the authority prepared, numbered, and authenticated by the municipal secretary or other official. During the period when signatures on the petition may be obtained, the official shall authenticate and deliver additional petition signature sheets as requested by the voter. Only one petition for withdrawal may be in circulation at a time.

(b) Each sheet of a petition must have a heading in capital letters as follows:

"THIS PETITION IS TO REQUIRE AN ELECTION TO BE HELD IN (name of the unit of election) TO DISSOLVE (name of authority) IN (name of the unit of election) SUBJECT TO THE CONTINUED COLLECTION OF SALES TAXES FOR THE PERIOD REQUIRED BY LAW."

(c) In addition to the requirements of Section 277.002, Election Code, to be valid a petition must:

- (1) be signed on authenticated petition sheets by not less than 10 percent of the number of registered voters of the unit of election as shown on the voter registration list of the county;
- (2) be filed with the secretary, clerk, or administrator of the unit of election not later than the 60th day after the date the first sheet of the petition was received under Subsection (a);
- (3) contain signatures that are signed in ink or indelible pencil by the voter; and

(4) have affixed or printed on each sheet an affidavit that is executed before a notary public by the person who circulated the sheet and that is in the following form and substance:

"STATE OF TEXAS

"COUNTY OF _____

"I, _____, affirm that I personally witnessed each signer affix his or her signature to this page of this petition for the dissolution of (name of authority) in (name of unit of election). I affirm to the best of my knowledge and belief that each signature is the genuine signature of the person whose name is signed and that the date entered next to each signature is the date the signature was affixed to this page.

 "Sworn to and subscribed before me this the ____ day of ____,
 _____.

(SEAL)

 Notary Public, State of Texas"

(d) Each sheet of the petition must be filed under Subsection (c)(2) at the same time as a single filing.

(e) The secretary, clerk, or administrator of a unit of election in which a petition for withdrawal from an authority is filed shall examine the petition and file with the governing body of the unit a report stating whether the petition, in the opinion of the secretary, clerk, or administrator, is valid.

(f) On receipt of a petition and a report under Subsection (e), the governing body shall examine the petition to determine whether the petition is valid. The governing body may hold public hearings and conduct or order investigations as appropriate to make the determination. The governing body's determination is conclusive of the issues.

(g) The governing body of a unit of election that receives an invalid petition shall reject the petition.

(h) A petition that is rejected is void, and the petition and each sheet of the rejected petition may not be used in connection with a subsequent petition.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.354. WITHDRAWAL ELECTION. (a) An election to withdraw from an authority must be held on the first applicable uniform election date occurring after the expiration of 12 calendar months after the date the governing body orders the election.

(b) The governing body shall give notice of the election to the board, the department, and the comptroller immediately on calling the election.

(c) At the election, the ballots shall be printed to permit voting for or against the proposition: "Shall the (name of authority) be continued in (name of unit of election)?"

(d) If a majority of the votes received on the measure in an election favor the proposition, the authority continues in the unit of election.

(e) If less than a majority of the votes received on the measure in the election favor the proposition, the authority ceases in the unit of election on the day after the date of the canvass of the election.

(f) On the effective date of a withdrawal from an authority:

(1) the authority shall cease providing transportation services in the withdrawn unit of election; and

(2) the financial obligations of the authority attributable to the withdrawn unit of election cease to accrue.

(g) Withdrawal from an authority does not affect the right of the authority to travel through the territory of the unit of election to provide service to a unit of election that is a part of the authority.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

Sec. 457.355. PROCEDURE AFTER WITHDRAWAL ELECTION. (a) Until the amount of revenue from an authority's sales and use tax collected in a withdrawn unit of election after the effective date of withdrawal and paid to the authority equals the total financial obligation of the unit, the sales and use tax continues to be collected in the territory of the election unit.

(b) After the amount described by Subsection (a) has been collected, the comptroller shall discontinue collecting the tax in the territory of the unit of election.

(c) The total financial obligation of a withdrawn unit of election to the authority is an amount equal to:

(1) the unit's apportioned share of the authority's outstanding obligations; and

(2) the amount, not computed under Subdivision (1), that is necessary and appropriate to allocate to the unit because of financial obligations of the authority that specifically relate to the unit.

(d) An authority's outstanding obligation under Subsection (c)(1) is the sum of:

(1) the obligations of the authority authorized in the budget of, and contracted for by, the authority;

(2) outstanding contractual obligations for capital or other expenditures, including expenditures for a subsequent year, the payment of which is not made or provided for from the proceeds of notes, bonds, or other obligations;

(3) payments due or to become due in a subsequent year on notes, bonds, or other securities or obligations for debt issued by the authority;

(4) the amount required by the authority to be reserved for all years to comply with financial covenants made with lenders, note or bond holders, or other creditors or contractors; and

(5) the amount necessary for the full and timely payment of the obligations of the authority, to avoid a default or impairment of those obligations, including contingent liabilities.

(e) The apportioned share of a unit's obligation is the amount of the obligation times a fraction, the numerator of which is the number of inhabitants of the withdrawing unit of election and the denominator of which is the number of inhabitants of the authority, including the number of inhabitants of the unit.

(f) The board shall determine the amount of each component of the computations required under this section, including the components of the unit's apportioned share, as of the effective date of withdrawal. The number of inhabitants shall be determined according to the most recent and available applicable data of an agency of the United States.

(g) The board shall certify to a withdrawn unit of election and to the comptroller the total financial obligation of the unit to the authority as determined under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.35(a), eff. Sept. 1, 1997.

CHAPTER 458. RURAL AND URBAN TRANSIT DISTRICTS

Sec. 458.001. DEFINITIONS. In this chapter:

(1) "Public transportation" means mass transportation of passengers and their hand-carried packages or baggage on a regular and continuing basis by means of surface, fixed guideway, or underground transportation or transit, other than aircraft, taxicab, ambulance, or emergency vehicle.

(2) "Rural public transportation provider" means:

(A) a nonprofit entity, local governmental body created under Chapter 791, Government Code, or political subdivision of this state, which on August 31, 1995, provided rural public transportation services and received state or federal public transportation money through the department, the Federal Transit Administration, or the administration's successor; or

(B) a nonprofit entity, local governmental body created under Chapter 791, Government Code, or political subdivision of this state, which after September 1, 1995, provides rural public transportation services and receives state or federal public transportation money through the department, the Federal Transit Administration, or the administration's successor.

(3) "Rural transit district" means a political subdivision of this state that provides and coordinates rural public transportation in its territory. The term includes a rural public transportation provider within the meaning of Chapter 456 that on August 31, 1995, received public transportation money through the department.

(4) "Urban transit district" means a local governmental body or political subdivision of this state that operates a public transportation system in an urbanized area with a population of more than 50,000 but less than 200,000. The term includes a small urban transportation provider under Chapter 456 that on September 1, 1994, received public transportation money through the department.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.36(a), eff. Sept. 1, 1997.

Sec. 458.002. CONTRACTS WITH DEPARTMENT FOR PROVISION OF RURAL PUBLIC TRANSPORTATION SERVICES. A public transportation provider may contract with the department to provide rural public transportation services only if the provider becomes a rural transit district in compliance with this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.36(a), eff. Sept. 1, 1997.

Sec. 458.003. RURAL PUBLIC TRANSPORTATION CONFERENCE. (a) The commissioners court of a county in which no provider on August 31, 1995, was receiving public transportation funds through the department must convene a rural public transportation conference before creating a rural transit district.

(b) If the commissioners courts of two or more adjacent counties that are not served by a rural transit district determine that the need for public transportation services extends across the boundaries of the counties, those courts may convene a multicounty rural public transportation conference.

(c) Written notice of a conference shall be given to the public and to the governing body of each municipality in each county before the 30th day before the conference is convened.

(d) A conference must evaluate whether a rural transit district to provide public transportation services in the area should be created. The conference must consider whether existing rural transit districts have the capacity to provide public transportation service in that area.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.36(a), eff. Sept. 1, 1997.

Sec. 458.004. ATTENDANCE AT CONFERENCE. (a) An elected representative selected by the governing body of each municipality in each affected county and the commissioners court of each affected county shall attend a rural public transportation conference.

(b) Representatives attending the conference shall elect a presiding officer from the representatives.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.36(a), eff. Sept. 1,

1997.

Sec. 458.005. PUBLIC HEARING ON CREATION OF RURAL TRANSPORTATION DISTRICT; NOTICE. (a) If a conference finds it advisable to create a new rural transit district, the conference shall set a public hearing on the creation of the district.

(b) Before the public hearing is convened, the conference shall:

(1) identify each county that will be included in the territory of the proposed rural transit district; and

(2) advise each component county and municipality in the proposed territory.

(c) Notice of the public hearing shall be published once a week for two consecutive weeks in at least one newspaper of general circulation in the territory of the proposed district. The notice must include:

(1) the time and place of the hearing; and

(2) a description of and a map showing the boundaries of the proposed district.

(d) At the hearing, any interested person may appear and be heard on any matter relating to the effect of the formation of the proposed rural transit district.

(e) After the hearing is concluded, the conference may by resolution create and establish the boundaries of a rural transit district if the conference determines that:

(1) the creation of the rural transit district will serve the general public and be conducive to the welfare and benefit of persons and property in the district; and

(2) the general public cannot be better served by an existing rural transit district.

(f) A nonurbanized area of a county may not be excluded from the district.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.36(a), eff. Sept. 1, 1997.

Sec. 458.006. GOVERNING BODY OF RURAL TRANSIT DISTRICT. (a) Not later than the 60th day after the date the boundaries of a rural

transit district are established, the commissioners court of each county and one elected representative from the governing body of each municipality in the territory of the district shall provide for the selection of the governing body of the district.

(b) The governing body of the district consists of elected officers who are selected by and serve at the pleasure of the governing bodies of the component municipalities in the district and the commissioners court of each county in the district.

(c) The number of members of the governing body of a single-county rural transit district may not exceed nine. The number of members of the governing body of a multicounty district may not exceed 15, except that each member county is entitled to at least one representative on the governing body.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.36(a), eff. Sept. 1, 1997.

Sec. 458.007. UNSERVED RURAL AREAS MAY JOIN RURAL TRANSIT DISTRICT. An unserved rural area may join an existing rural transit district on the adoption of a resolution by the commissioners court of the county to that effect.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.36(a), eff. Sept. 1, 1997.

Sec. 458.008. MERGER OF RURAL TRANSIT DISTRICTS. (a) Two or more rural transit districts may merge into a new rural transit district. The territory of the new district must include all the territory of each merged district.

(b) The merger is made when the governing board of each district by resolution adopts an interlocal agreement that specifies:

- (1) the boundaries of each district to be merged and of the new district;
- (2) the terms of the merger; and
- (3) a schedule for execution of the merger.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.36(a), eff. Sept. 1, 1997.

Sec. 458.009. URBAN TRANSIT DISTRICTS. (a) A public transportation provider that on September 1, 1994, was not receiving public transportation money through the department may contract with the department to provide small urban public transportation services and receive state or federal public transportation money through the department, the Federal Transit Administration, or the administration's successor only if the provider becomes an urban transit district as provided by this section.

(b) The public transportation provider must be:

(1) a local governmental body created under Chapter 791, Government Code; or

(2) a political subdivision of this state.

(c) The governing body of the provider may by resolution create a small urban transit district to serve the general public.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.36(a), eff. Sept. 1, 1997.

Sec. 458.010. GENERAL POWERS OF RURAL TRANSIT DISTRICTS. (a) In addition to a power expressly granted by this chapter, a rural transit district has any power necessary to carry out a purpose of the district.

(b) A rural transit district may contract with the United States, a state or state agency, another rural transit district, an urban transit district, a metropolitan or regional transit authority, a county, a municipality, a metropolitan municipal corporation, a special district, a governmental agency in or outside this state, or any private person, firm, or corporation:

(1) to receive a gift or grant or secure a loan or advance for a preliminary planning and feasibility study; or

(2) for the design, construction, or operation of a transportation facility, including an intermodal transportation facility.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.36(a), eff. Sept. 1, 1997.

Sec. 458.011. ADDITIONAL POWERS OF RURAL OR URBAN TRANSIT DISTRICT. (a) A rural or urban transit district may contract with

any governmental agency or private person, firm, or corporation for:

(1) the use by either party to the contract of all or any part of a facility, structure, interest in land, air right over land, or right-of-way that is owned, leased, or held by the other party; or

(2) the purpose of planning, constructing, or operating a facility or performing a service that the rural transit district is authorized to operate or perform.

(b) The governing body of a rural or urban transit district by resolution may adopt rules for the safe and efficient operation and maintenance of the transit district's transportation system, except that the rules may not relate to Subchapter H, Chapter 411, Government Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.36(a), eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 470 (H.B. 423), Sec. 1, eff. June 17, 2011.

Sec. 458.012. OPERATION OF LOCAL PUBLIC PASSENGER TRANSPORTATION IN RURAL TRANSIT DISTRICT PROHIBITED. (a) From the effective date a rural transit district begins providing a public transportation service, another person or private corporation may not operate a local public passenger transportation service in the rural transit district, except as provided by Subsection (b).

(b) Subsection (a) does not apply to:

(1) the operation of:

(A) a taxicab; or

(B) a bus owned or operated by a corporation or organization exclusively for a purpose of the corporation or organization and for the use of which a fee or fare is not charged;

(2) an intercity passenger rail service;

(3) an intercity bus carrier; or

(4) a rural public transportation provider operating under an agreement entered into under this chapter that provides local public passenger transportation service.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.36(a), eff. Sept. 1, 1997.

CHAPTER 460. COORDINATED COUNTY TRANSPORTATION AUTHORITIES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 460.001. DEFINITIONS. In this chapter:

- (1) "Authority" means a coordinated county transportation authority created under this chapter.
- (2) "Balance of the county" means that part of the county that is outside the boundaries of a municipality with a population of 12,000 or more.
- (3) "Board of directors " means the governing body of the authority.
- (4) "Service plan" means an outline of the service that would be provided by an authority.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 306, Sec. 1, eff. Sept. 1, 2003.

Sec. 460.002. APPLICABILITY. This chapter applies only to a county that is adjacent to a county with a population of more than one million.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.003. INELIGIBILITY OF CERTAIN MUNICIPALITIES. (a) A municipality that is a member of a subregion of a transportation authority governed by a board described in Subchapter O, Chapter 452, is not eligible to join or become a member of an authority created under this chapter unless:

- (1) the municipality holds a withdrawal election in accordance with the requirements of Section 452.655 and a majority of the voters at the election approve the withdrawal;
- (2) the municipality has paid in full all amounts that it is required to pay under Sections 452.659 and 452.660; and
- (3) the comptroller has ceased under Section 452.658 to collect sales and use taxes within the municipality that were levied and collected in the municipality for purposes of the authority from which the municipality has withdrawn.

(b) A municipality that is not eligible under this section for membership in an authority created under this chapter may not be added to or join an authority under Section 460.302 or 460.303 until

the municipality meets the requirements of this section.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.004. REFERENCE. A reference in this chapter to the executive committee means the board of directors.

Added by Acts 2003, 78th Leg., ch. 306, Sec. 2, eff. Sept. 1, 2003.

SUBCHAPTER B. CREATION OF AUTHORITY

Sec. 460.051. CREATION OF AUTHORITY. (a) The commissioners court of a county may initiate the process to create an authority to provide public transportation and transportation-related services:

(1) on adoption of a resolution or order initiating the process to create an authority; or

(2) on receipt of a petition requesting creation of an authority signed by a number of registered voters of the county equal to or greater than five percent of the votes cast in the county in the most recent gubernatorial election.

(b) If a petition described by Subsection (a)(2) is received by the commissioners court, the petition shall be verified by the county clerk, consistent with Chapter 277, Election Code, and returned to the commissioners court with a finding of verification.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.052. HEARING. (a) The commissioners court shall hold a public hearing on creation of an authority not later than the 60th day after the date the commissioners court:

(1) receives a petition described by Section 460.051(a)(2); or

(2) adopts a resolution or order to initiate the process to create an authority.

(b) Notice of the time and place of the public hearing on the creation of the authority shall be published, beginning at least 30 days before the date of the hearing, once a week for two consecutive weeks in a newspaper of general circulation in the county.

(c) Each municipality in the county with a population of 12,000

or more shall be notified of the public hearing by notice mailed to the governing body of the municipality.

(d) Any person may appear at a hearing and offer evidence on:

- (1) the creation of the authority;
- (2) operation of the county transportation system;
- (3) public interest served in the creation of the

authority; or

- (4) other facts relating to the creation of the authority.

(e) A hearing may be continued until completed.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.053. RESOLUTION OR ORDER. After the hearing, the commissioners court may adopt a resolution or order:

- (1) designating the name of the authority;

(2) stating that all land within the county shall be part of the authority; and

(3) stating that the territory described in Subdivision (2) is subject to the authority based on the results of the confirmation election.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.054. MEMBERSHIP OF INTERIM EXECUTIVE COMMITTEE. (a) After adopting a resolution or order under Section 460.053, the commissioners court and certain municipalities, as provided by this section, shall appoint an interim executive committee for the authority.

(b) The interim executive committee is composed of:

(1) one member appointed by the governing body of each municipality with a population of 12,000 or more that is located in the county;

(2) three members appointed by the commissioners court, two of whom must reside in the unincorporated area of the county;

(3) three members to be designated by the remaining municipalities with a population of more than 500 but less than 12,000 located in the county; and

(4) one member appointed by the governing body of each municipality in the county with a population of more than 500 but

less than 12,000 that:

(A) designates a public transportation financing area under Section 460.603;

(B) enters into an agreement with the authority to provide public transportation services in the public transportation financing area under Subchapter I; and

(C) did not approve the designation of any member designated under Subdivision (3).

(c) The members described by Subsection (b)(3) shall be designated as follows:

(1) each municipality with a population of more than 500 but less than 12,000 located in the county shall nominate one person using a nomination form sent to the governing body of the municipality by mail;

(2) the county judge shall add the names on the nomination forms that are received before the 31st day after the date of the mailing of the nomination forms;

(3) each municipality with a population of more than 500 but less than 12,000 located in the county is entitled to cast one vote;

(4) only ballots returned to the county judge on or before a predetermined date shall be counted;

(5) the county judge shall designate the three persons with the highest plurality vote as members of the interim executive committee; and

(6) if three members are not designated by this process, the county judge shall name the balance of the members of the interim executive committee described by Subsection (b)(3).

(d) The county judge may fill a vacancy in a position described by Subsection (b)(3) by naming a person nominated under Subsection (c) for the unexpired term.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 991 (H.B. 1986), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 594 (S.B. 948), Sec. 2, eff. September 1, 2013.

Sec. 460.055. DUTIES OF INTERIM EXECUTIVE COMMITTEE. (a) The interim executive committee shall elect three of its members to serve as the chair, vice chair, and secretary.

(b) The interim executive committee shall develop a service plan and determine a proposed tax not later than the 180th day after the date of the interim executive committee's first meeting.

(c) The interim executive committee shall hold at least one regular meeting a month for the purpose of developing a service plan and determining a proposed tax rate.

(d) The interim executive committee shall consider the following in developing the service plan:

(1) the regional transportation plan for the county and major thoroughfare plan;

(2) actual and projected traffic counts of private passenger vehicles and projected destinations of the vehicles;

(3) feasible alternative modes of public transportation, including:

(A) a fixed guideway system;

(B) passenger commercial carriers;

(C) dedicated thoroughfare lanes;

(D) fixed skyway rail;

(E) high occupancy toll lanes;

(F) traffic management systems; and

(G) bus transit and associated lanes;

(4) the most efficient location of collection points and transfer points;

(5) alternative routes linking access and discharge points;

(6) alternative alignments using least populous areas if right-of-way acquisition will be required for a transit route;

(7) estimates of capital expenditures for a functional public transportation system;

(8) various forms of public transportation consistent with use of transit routes, including for each form a determination of:

(A) cost per passenger per mile;

(B) the capital expense of acquisition of the public transportation system;

(C) costs associated with the acquisition, improvement, or modification of the transit way; and

- (D) maintenance and operating costs;
- (9) administrative overhead costs separately from other costs;
- (10) load factors based on surveys, interviews, and other reasonable quantification for the modes of transportation;
- (11) a fare structure for the ridership of the public transportation system by mode;
- (12) a comparison of revenue from all sources, including fares, fees, grants, and debt issuance, with estimated costs and expenses;
- (13) revenue minus expenses expressed numerically and a per rider factor for each trip or segment of a trip;
- (14) if the service plan contemplates joint use of other transit systems or transfer to them, estimated dates of access; and
- (15) segments of the service plan separately if:
 - (A) some segments are more profitable than others; or
 - (B) some segments show a smaller deficit than others.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.056. APPROVAL OF SERVICE PLAN AND TAX RATE. (a) On approval by the interim executive committee of the service plan and tax rate, a copy of the plan and tax rate shall be provided to the commissioners court and the governing body of each municipality with a population of 12,000 or more located in the county.

(b) Notice of the interim executive committee's approval of the service plan and tax rate shall be published in a newspaper of general circulation in the county and mailed to all governing bodies of municipalities with a population of more than 500 located in the county.

(c) Not later than the 60th day after the date the interim executive committee approves the service plan and tax rate, the governing body of a municipality with a population of 12,000 or more may approve by resolution or order the service plan and tax rate.

(d) A municipality with a population of 12,000 or more located in the county that does not give its approval under Subsection (c) may not participate in the service plan or the confirmation election for the authority.

(e) The commissioners court may not order a confirmation

election in a municipality with a population of 12,000 or more in which the governing body of the municipality does not approve the service plan and tax rate.

(f) The board of directors of a confirmed authority may by rule create a procedure by which a municipality described by Subsection (d) may become a participating member of an authority.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 306, Sec. 4, eff. Sept. 1, 2003.

Sec. 460.057. CONFIRMATION ELECTION. (a) The interim executive committee shall notify the commissioners court of the need to call a confirmation election.

(b) The commissioners court in ordering the confirmation election shall submit to the qualified voters in the county the following proposition:

"Shall the creation of (name of authority) be confirmed?"

(c) In addition to other information required by law, the notice of the election must include:

(1) a brief description of the service plan; and

(2) a statement that an imposition of a tax to pay for the service plan must be approved by the voters at a subsequent election.

(d) The election must be held on a uniform election date.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.058. CONDUCT OF ELECTION. (a) A confirmation election shall be conducted so that the votes are separately tabulated and canvassed in order to show the results for:

(1) each municipality located in the county that passed a resolution or order approving the service plan and tax rate; and

(2) the qualified voters in the balance of the county.

(b) The interim executive committee shall canvass the returns and declare the results of the election.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.059. RESULTS OF ELECTION. (a) If a majority of votes

received in the county favor the proposition, the authority is confirmed, except that the authority does not include a municipality with a population of 12,000 or more located in the county in which a majority of the votes did not favor the proposition.

(b) The authority ceases unless one or more municipalities with a population of 12,000 or more votes in favor of the proposition.

(c) If the authority is confirmed, the interim executive committee shall record the results in its minutes and adopt an order:

(1) declaring that the creation of the authority is confirmed;

(2) stating the date of the election; and

(3) showing the number of votes cast for or against the proposition in each municipality that passed a resolution or order approving the service plan and tax rate and in the unincorporated area of the county.

(d) On adoption of the order confirming the authority, the interim executive committee becomes the board of directors of the authority.

(e) A certified copy of the order shall be filed with the Texas Department of Transportation and the comptroller of public accounts.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 2, eff. September 1, 2007.

Sec. 460.060. FAILURE TO CONFIRM AUTHORITY. (a) If the authority ceases, the interim executive committee shall record the results of the election in its minutes and adopt an order declaring that the authority is dissolved.

(b) The county and each municipality that passed a resolution or order approving the service plan and tax rate shall share the expenses of the election proportionately based on the population of the areas in which the election was conducted.

(c) An authority that has not been confirmed expires on the third anniversary of the effective date of the resolution or order initiating the process to create the authority.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER C. POWERS OF AUTHORITY

Sec. 460.101. POWERS APPLICABLE TO CONFIRMED AUTHORITY. This subchapter applies only to an authority that has been confirmed.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.102. NATURE OF AUTHORITY. (a) An authority:

- (1) is a governmental body and a corporate body;
- (2) has perpetual succession; and
- (3) exercises public and essential governmental functions.

(b) An authority is a governmental unit under Chapter 101, Civil Practice and Remedies Code, and the operations of the authority are not proprietary functions for any purpose including the application of Chapter 101, Civil Practice and Remedies Code.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.103. GENERAL POWERS OF AUTHORITY. (a) The authority has any power necessary or convenient to carry out this chapter or effect the purpose of this chapter.

(b) An authority may sue and be sued. An authority may not be required to give security for costs in a suit brought or prosecuted by the authority and may not be required to post a supersedeas or cost bond in an appeal of a judgment.

(c) An authority may hold, use, sell, lease, dispose of, and acquire, by any means, property and licenses, patents, rights and other interests necessary, convenient, or useful to the exercise of any power under this chapter.

(d) An authority may sell, lease, or dispose of in another manner:

- (1) any right, interest, or property of the authority that is not necessary for the efficient operation and maintenance of public transportation; or

- (2) at any time, surplus materials or other property that is not needed by the authority to carry out a power under this chapter.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.104. POWER TO CONTRACT; GRANTS AND LOANS. (a) An authority may contract with any person.

(b) An authority may accept a gift, grant, donation, or loan from any person.

(c) An authority may enter into an agreement, including an interlocal agreement, with a transportation or transit entity, including a municipality, that is consistent with and beneficial to the service plan approved by the authority.

(d) An authority may acquire rolling stock or other real or personal property under a contract or trust agreement, including a conditional sales contract, a lease, a lease-purchase agreement, or an equipment trust.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. [2682](#)), Sec. 3, eff. September 1, 2007.

Sec. 460.1041. LIABILITY LIMITED FOR RAIL SERVICES UNDER CERTAIN AGREEMENTS. (a) This section applies only to public passenger rail services provided:

(1) under an agreement between an authority created before January 1, 2005, and a railroad for the provision of public passenger rail services through the use of the railroad's facilities; and

(2) on freight rail lines and rail rights-of-way that are:

(A) located in the Interstate 35W/Interstate 35 corridor; or

(B) a northern extension of existing passenger rail service provided by the authority in the Interstate 35E corridor.

(b) The aggregate liability of an authority and a railroad that enter into an agreement to provide public passenger rail services, and the governing boards, directors, officers, employees, and agents of the authority and railroad, may not exceed \$125 million for all claims for damages arising from a single incident involving the provision of public passenger rail services under the agreement.

(c) Subsection (b) does not affect:

(1) the amount of damages that may be recovered under Subchapter D, Chapter 112, or the federal Employers' Liability Act (45 U.S.C. Section 51 et seq.); or

(2) any immunity, limitation on damages, limitation on actions, or other limitation of liability or protections applicable under other law to an authority or other provider of public passenger rail services.

(d) The limitation of liability provided by this section does not apply to damages arising from the wilful misconduct or gross negligence of the railroad.

(e) An authority shall obtain or cause to be obtained insurance coverage for the aggregate liability stated in Subsection (b) with the railroad as a named insured.

Added by Acts 2015, 84th Leg., R.S., Ch. 114 (S.B. 678), Sec. 1, eff. September 1, 2015.

Sec. 460.105. OPERATION OF PUBLIC TRANSPORTATION SYSTEM. (a) An authority may:

(1) acquire, construct, develop, plan, own, operate, and maintain a public transportation system in the territory of the authority, including the territory of a political subdivision or municipality partially located in the territory of the authority;

(2) contract with a municipality, county, or other political subdivision for the authority to provide public transportation services outside the authority;

(3) lease all or part of the public transportation to, or contract for the operation of all or a part of the public transportation system by, an operator;

(4) contract with a political subdivision or governmental entity to provide public transportation services inside the authority consistent with rules and regulations established by the authority, including capital, maintenance, operation, and other costs specifically approved and audited by the authority; and

(5) acquire, construct, develop, plan, own, operate, maintain, or manage a public transportation system or project not located in the territory of the authority if the system or project provides a service, benefit, or convenience to the people in the territory of the authority.

(b) An authority shall determine routes of the public transportation system or approve routes submitted to the authority.

(c) A private operator who contracts with an authority under

this chapter is not a public entity for purposes of any law of this state except that an independent contractor of the authority that performs a function of the authority is liable for damages only to the extent that the authority would be liable if the authority or entity itself were performing the function.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 991 (H.B. 1986), Sec. 3, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 594 (S.B. 948), Sec. 3, eff. September 1, 2013.

Sec. 460.106. AUTHORIZATION OF TAX LEVY. (a) An authority may call an authorization election for a tax levy associated with the service plan developed by the interim executive committee or a tax rate that has been modified by action of the authority at any time after the confirmation election that creates the authority.

(b) The authority in ordering the authorization election shall submit to the qualified voters in the county located in an area participating in the authority the following proposition:

"Shall the (name of authority) levy of a proposed tax, not to exceed (rate), be authorized?"

(c) An election authorizing a tax levy shall be conducted in the same manner as a confirmation election under Subchapter B.

(d) Except as provided by Subchapter I, a service plan may be implemented in an area of the county participating in the authority only if a majority of votes received favor the authorization of a tax levy by the authority.

(e) An authority that does not authorize an initial tax levy at an authorization election expires on the second anniversary of the date the executive committee adopts an order declaring that the creation of the authority is confirmed.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 4, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 1, eff. September 1, 2011.

Sec. 460.107. ACQUISITION OF PROPERTY. (a) As necessary or useful in the construction, repair, maintenance, or operation of a public transportation system, an authority may use a public way, including an alley.

(b) An authority may acquire by eminent domain any interest in real property, including a fee simple interest and the use of air or subsurface space, except the right of eminent domain may not be exercised:

(1) in a municipality without the approval of the proposed acquisition by the governing body of the municipality; or

(2) in an unincorporated area without the approval of the proposed acquisition by the commissioners court of the county in which the property to be condemned is located.

(c) If an authority, through the exercise of eminent domain, makes any relocation necessary, relocation assistance shall be provided by the authority as provided by Section 21.046, Property Code.

(d) An eminent domain proceeding by an authority is initiated by the adoption by the executive committee of a resolution authorizing the exercise that:

(1) describes the property to be condemned;

(2) declares the public necessity for the acquisition; and

(3) declares that the acquisition is necessary for the construction, extension, improvement, or development of the public transportation system.

(e) A resolution adopted under this section and approved by the appropriate municipal governing body or commissioners court is conclusive evidence of the public necessity for the acquisition described in the resolution.

(f) Chapter 21, Property Code, applies to an eminent domain proceeding by an authority.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 114 (S.B. 678), Sec. 2, eff. September 1, 2015.

Sec. 460.108. AGREEMENT WITH UTILITIES, CARRIERS. (a) An authority may agree with any other public or private utility, communication system, common carrier, or transportation system for:

(1) the joint use of the property or fixtures of the agreeing entities; and

(2) the establishment of through routes, joint fares, or transfers of passengers between the agreeing entities.

(b) If the exercise of a power granted to an authority under this subchapter requires a public utility facility to be relocated, adjusted, raised, lowered, rerouted, or changed as to grade or construction, the authority shall take the required action at the authority's expense.

(c) An authority may not impose an impact fee or assessment on the property, equipment, or facilities of a utility.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.109. FARES AND USE FEES. (a) An authority shall impose reasonable and nondiscriminatory fares, tolls, charges, rents, and other forms of compensation for the use of the public transportation system. The fares and other forms of compensation shall be sufficient to produce revenue, together with tax revenue and grants received by the authority, in an amount adequate to:

(1) pay annually the expenses necessary to operate and maintain the public transportation system;

(2) pay as due the principal of and interest on, and sinking fund or reserve fund payments agreed to be made with respect to, all bonds that are issued by the authority and payable in whole or part from the revenue; and

(3) fulfill the terms of any other agreement with the holders of bonds issued by the authority.

(b) Fares for passenger transportation may be set according to a zone system or by any other classification system that the authority determines to be reasonable.

(c) This section does not limit the state's power to regulate taxes imposed by an authority. The state agrees not to alter the power granted to an authority under this section to impose taxes, fares, tolls, charges, rents, and other compensation sufficient to pay obligations incurred by the authority.

(d) The state agrees not to impair the rights and remedies of an authority bondholder, or a person acting on behalf of a bondholder, until the principal and interest on the bonds, the interest on unpaid installments of interest, costs, and expenses in connection with an action or proceeding by or on behalf of a bondholder are discharged.

(e) Personal identifying information collected by an authority is confidential and not subject to disclosure under Chapter 552, Government Code, including a person's:

- (1) name, address, e-mail address, and phone number;
- (2) account number, password, payment transaction activity, toll or charge record, or credit, debit, or other payment card number; and
- (3) other personal financial information.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1129 (S.B. 57), Sec. 8, eff. June 19, 2015.

Sec. 460.1091. ENFORCEMENT OF FARES AND OTHER CHARGES; PENALTIES. (a) A board of directors by resolution may prohibit the use of the public transportation system by a person without payment of the appropriate fare for the use of the system and may establish reasonable and appropriate methods to ensure that persons using the public transportation system pay the appropriate fare for that use.

(b) A board of directors by resolution may provide that a fare for or charge for the use of the public transportation system that is not paid incurs a reasonable administrative fee.

(c) An authority shall post signs designating each area in which a person is prohibited from using the transportation system without payment of the appropriate fare.

(d) A person commits an offense if the person or another for whom the person is criminally responsible under Section 7.02, Penal Code, uses the public transportation system without paying the appropriate fare.

(e) If the person fails to provide proof that the person paid the appropriate fare for the use of the public transportation system and fails to pay any administrative fee assessed under Subsection (b)

on or before the 30th day after the date the authority notifies the person that the person is required to pay the amount of the fare and the administrative fee, it is prima facie evidence that the person used the public transportation system without paying the appropriate fare.

(f) The notice required by Subsection (e) may be included in a citation issued to the person by a peace officer under Article 14.06, Code of Criminal Procedure, or by a fare enforcement officer under Section 460.1092, in connection with an offense relating to the nonpayment of the appropriate fare for the use of the public transportation system.

(g) It is an exception to the application of Subsection (d) that on or before the 30th day after the date the authority notified the person that the person is required to pay the amount of the fare and any administrative fee assessed under Subsection (b), the person:

(1) provided proof that the person paid the appropriate fare at the time the person used the transportation system or at a later date or that the person was exempt from payment; and

(2) paid the administrative fee assessed under Subsection (b), if applicable.

(h) An offense under Subsection (d) is:

(1) a misdemeanor punishable by a fine not to exceed \$100; and

(2) not a crime of moral turpitude.

(i) A justice court located in the service area of the authority may enter into an agreement with the authority to try all criminal cases that arise under Subsection (d). Notwithstanding Articles 4.12 and 4.14, Code of Criminal Procedure, if a justice court enters into an agreement with the authority:

(1) a criminal case that arises under Subsection (d) must be tried in the justice court; and

(2) the justice court has exclusive jurisdiction in all criminal cases that arise under Subsection (d).

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. [1422](#)), Sec. 2, eff. September 1, 2011.

Sec. 460.1092. FARE ENFORCEMENT OFFICERS. (a) An authority may employ or contract for persons to serve as fare enforcement

officers to enforce the payment of fares for use of the public transportation system by:

(1) requesting and inspecting evidence showing payment of the appropriate fare from a person using the public transportation system; and

(2) issuing a citation to a person described by Section 460.1091(d).

(b) Before commencing duties as a fare enforcement officer, a person must complete at least eight hours of training approved by the authority that is appropriate to the duties required of a fare enforcement officer.

(c) While performing duties, a fare enforcement officer shall:

(1) wear a distinctive uniform, badge, or insignia that identifies the person as a fare enforcement officer; and

(2) work under the direction of the authority's chief administrative officer.

(d) A fare enforcement officer may:

(1) request evidence showing payment of the appropriate fare from passengers of the public transportation system or evidence showing exemption from the payment requirement;

(2) request personal identification or other documentation designated by the authority from a passenger who does not produce evidence showing payment of the appropriate fare on request by the officer;

(3) instruct a passenger to immediately leave the public transportation system if the passenger does not possess evidence showing payment or exemption from payment of the appropriate fare; or

(4) file a complaint in the appropriate court that charges the person with an offense under Section 460.1091(d).

(e) A fare enforcement officer may not carry a weapon while performing duties under this section unless the officer is a certified peace officer.

(f) A fare enforcement officer who is not a certified peace officer is not a peace officer and has no authority to enforce a criminal law, except as provided by this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 2, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 594 (S.B. 948), Sec. 4, eff.

September 1, 2013.

Sec. 460.110. INSURANCE. (a) An authority may insure, through purchased insurance policies, self-insurance programs, or both, the legal liability of the authority and of its contractors and subcontractors arising from the acquisition, construction, or operation of the programs and facilities of the authority for:

- (1) personal or property damage; and
- (2) officers' and employees' liability.

(b) An authority may use contracts, rating plans, and risk management programs designed to encourage accident prevention.

(c) In developing an insurance or self-insurance program, an authority may consider the peculiar hazards, indemnity standards, and past and prospective loss and expense experience of the authority and similar authorities and of its contractors and subcontractors.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.111. TAX EXEMPTION. The property, revenue, and income of an authority are exempt from state and local taxes.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.112. MASS TRANSIT RAIL SYSTEM; EXEMPTION. (a) An authority that constructs or operates or contracts with another entity to construct or operate a mass transit rail system is not subject to any state law regulating or governing the design, construction, or operation of a railroad, railway, street railway, streetcar, or interurban railway.

(b) For purposes of ownership or transfer of ownership of an interest in real property, a light rail mass transit system line operating on property previously used by a railroad, railway, street railway, or interurban railway is a continuation of existing rail use.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER D. PROVISIONS APPLICABLE TO BOARD OF DIRECTORS

Sec. 460.201. TERMS; VACANCY. (a) Each member of the board of directors serves a term of two years.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 326, Sec. 22, eff. September 1, 2007.

(c) Except as provided by Section 460.2015, a vacancy on the board of directors is filled in the same manner as the original appointment to the interim executive committee.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 306, Sec. 5, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 991 (H.B. 1986), Sec. 4, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 22, eff. September 1, 2007.

Sec. 460.2015. MEMBERSHIP OF BOARD OF DIRECTORS. (a) The board of directors of an authority confirmed under Subchapter B may increase the population amount stated by Section 460.054(b)(1) in increments of up to 5,000. If the board increases that population amount, the board shall also increase each population amount stated by Sections 460.054(b)(3), (b)(4), and (c) by the same amount.

(b) The board of directors may act under Subsection (a) only once a year.

(c) A municipality that has appointed a member to the board of directors under Section 460.054(b)(1) before the effective date of an increase under Subsection (a) may continue to appoint a member to the board of directors.

Added by Acts 2005, 79th Leg., Ch. 991 (H.B. 1986), Sec. 5, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 594 (S.B. 948), Sec. 5, eff. September 1, 2013.

Sec. 460.202. ELIGIBILITY. To be eligible for appointment to

the board of directors, a person must:

- (1) have professional experience in the field of transportation, business, government, engineering, or law; and
- (2) reside:
 - (A) in the territory of the authority; or
 - (B) outside the territory of the authority in a municipality that is located partly in the territory of the authority.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 7, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 594 (S.B. 948), Sec. 6, eff. September 1, 2013.

Sec. 460.203. CONFLICTS OF INTEREST. Members of the board of directors and officers and employees of the authority are subject to Chapter 171, Local Government Code.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 8, eff. September 1, 2007.

Sec. 460.204. MEETINGS. (a) The board of directors shall meet at least monthly to transact the business of an authority.

(b) The chair may call special meetings as necessary.

(c) The board of directors by resolution shall:

- (1) set the time, place, and date of regular meetings; and
- (2) adopt rules and bylaws as necessary to conduct meetings.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 9, eff. September 1, 2007.

Sec. 460.205. QUORUM; VOTING REQUIREMENTS. (a) Five members constitute a quorum of the board of directors.

(b) An action of the board of directors requires a vote of a majority of the members present unless the bylaws require a larger number for a specific action.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 10, eff. September 1, 2007.

Sec. 460.206. RULES. The board of directors may adopt rules relating to the creation of a vacancy on the board by the absence of a board member at the board meetings, staggering the terms of up to one-half of the board of directors, and providing for alternates.

Added by Acts 2003, 78th Leg., ch. 306, Sec. 6, eff. Sept. 1, 2003.

SUBCHAPTER E. ADDITION OF TERRITORY

Sec. 460.301. ADDITION OF TERRITORY BY MUNICIPAL ANNEXATION. When a municipality that is part of an authority annexes territory that before the annexation is not part of the authority, the annexed territory becomes part of the authority.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.302. ADDITION OF MUNICIPALITY BY ELECTION. (a) The territory of a municipality that is not initially part of an authority may be added to an authority if:

- (1) any part of the municipality is located in the territory of the authority;
- (2) the governing body of the municipality requests in writing that the authority call an election under this section on whether the territory of the municipality should be added to the authority, the authority calls the election, and submits to the qualified voters of the municipality the following proposition: "Shall the (name of authority) levy of a proposed tax, not to exceed (rate), be authorized?"; and

(3) a majority of the votes received in the election favor the measure.

(b) The governing body of the authority shall canvass the returns, declare the result, and notify the comptroller and the department.

(c) If approval by a municipality would cause the tax in a municipality that has imposed a dedicated or special-purpose sales and use tax to exceed the limit imposed under Section 460.552(a), the governing body of the municipality may request in writing that an authority call an election under this section on whether the territory of the municipality should be added with a combined ballot proposition to lower or repeal any dedicated or special-purpose sales and use tax. A combined ballot proposition under this subsection:

(1) shall contain substantially the same language, if any, required by law for the lowering, repealing, raising, or adopting of each tax as appropriate; and

(2) that receives a negative vote shall have no effect on either the sales tax to be lowered or repealed by the proposition or the sales tax to be raised or adopted by the proposition.

(c-1) This section shall not be construed to change the substantive law of any sales tax, including the allowed maximum rate or combined rate of local sales taxes.

(d) At any time after the date of an election approving the addition of a municipality under this section, the authority and the governing body of the municipality may enter into an interlocal agreement that provides for the eventual admission of the municipality to the territory of the authority and for the payment of proportional capital recovery fees as determined by the authority. The authority is not required to provide transportation services to the municipality until any capital recovery fees provided for in the agreement are paid to the authority.

(e) A sales and use tax imposed by an authority takes effect in a municipality added to the authority under this section on the first day after the expiration of the first complete calendar quarter that begins after the date the comptroller receives a certified copy of an order adopted by the authority relating to the addition of the municipality or other notice of the addition of the municipality, accompanied by a map of the authority clearly showing the territory added.

(f) In this section, "dedicated or special-purpose sales and

use tax" means a tax referred to or described by:

- (1) Chapter 504 or 505, Local Government Code;
- (2) Section 379A.081, Local Government Code;
- (3) Section 363.055, Local Government Code; or
- (4) Section 327.003, Tax Code.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 11, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 23.005, eff. September 1, 2009.

Sec. 460.303. JOINING AUTHORITY; CERTAIN AUTHORITIES. (a) A municipality that has a population of more than 500,000 and that is located in a county with a population of more than one million may join a separate authority.

(b) If a municipality described by Subsection (a) joins an authority created under this chapter and another separate authority is subsequently established in the county in which the municipality is located, the municipality may:

- (1) remain in the authority that was created first;
- (2) join the new authority in the county in which the municipality is located; or
- (3) participate with both authorities.

(c) A municipality that has requested, participated in, or received a benefit of capital improvements made by an authority shall on its transfer to a different authority or participation with more than one authority continue to honor reimbursement obligations resulting from the improvements.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.304. TAX IMPOSED IN ADDED TERRITORY. (a) Except as provided by Section 460.302(e), a sales and use tax imposed by an authority takes effect in territory added to the authority under this subchapter on the first day of the first calendar quarter that begins after the addition of the territory.

(b) An authority shall send to the comptroller of public

accounts:

(1) a certified copy of an order adding the territory or of an order canvassing the returns and declaring the results of the election; and

(2) a map showing the territory added to the authority.

(c) The order must include the effective date of the tax.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 12, eff. September 1, 2007.

SUBCHAPTER F. MANAGEMENT OF AUTHORITY

Sec. 460.401. MANAGEMENT OF AUTHORITY. The board of directors is responsible for the management, operation, and control of the authority and its properties.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 13, eff. September 1, 2007.

Sec. 460.402. FINANCIAL AUDIT. (a) The authority shall have an annual audit of the affairs of the authority prepared by an independent certified public accountant.

(b) The audit is a public record as defined by Chapter 552, Government Code.

(c) On receipt of the audit prescribed by Subsection (a), the board of directors shall address on the record any deficiencies noted in the report at a regular meeting of the board of directors.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 14, eff. September 1, 2007.

Sec. 460.403. BUDGET. The board of directors shall prepare an annual budget.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 15, eff. September 1, 2007.

Sec. 460.404. FUNDING. (a) An authority may request funds for its operation from a municipality, the commissioners court, or both a municipality and the commissioners court. The request shall be accompanied by a budget.

(b) Funds appropriated to an authority are subject to audit.

(c) Federal funds or grants may be used to offset the authority's annual cost of debt service.

(d) An authority may accept gifts, grants, donations, receipts, or funds from any source to carry out its powers and duties under this chapter.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 306, Sec. 7, eff. Sept. 1, 2003.

Sec. 460.405. PROHIBITIONS. (a) Federal funds and appropriated state funds may not be spent by or on behalf of an authority to influence or affect the award or outcome of a state or federal contract, loan, or cooperative agreement.

(b) This section does not apply to:

- (1) a contested administrative matter; or
- (2) pending or reasonably anticipated litigation.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 991 (H.B. 1986), Sec. 6, eff. September 1, 2005.

Sec. 460.406. PURCHASES: COMPETITIVE BIDDING. (a) Except as provided by Subsection (c), an authority may not award a contract for construction, services, or property, other than real property, except through the solicitation of competitive sealed bids or proposals ensuring full and open competition.

(b) The authority shall describe in a solicitation each factor

to be used to evaluate a bid or proposal and give the factor's relative importance.

(c) The board of directors may authorize the negotiation of a contract without competitive sealed bids or proposals if:

(1) the aggregate amount involved in the contract is less than the greater of:

(A) \$50,000; or

(B) the amount of an expenditure under a contract that would require a municipality to comply with Section 252.021(a), Local Government Code;

(2) the contract is for construction for which not more than one bid or proposal is received;

(3) the contract is for services or property for which there is only one source or for which it is otherwise impracticable to obtain competition;

(4) the contract is to respond to an emergency for which the public exigency does not permit the delay incident to the competitive process;

(5) the contract is for personal or professional services or services for which competitive bidding is precluded by law;

(6) the contract, without regard to form and which may include bonds, notes, loan agreements, or other obligations, is for the purpose of borrowing money or is a part of a transaction relating to the borrowing of money, including:

(A) a credit support agreement, such as a line or letter of credit or other debt guaranty;

(B) a bond, note, debt sale or purchase, trustee, paying agent, remarketing agent, indexing agent, or similar agreement;

(C) an agreement with a securities dealer, broker, or underwriter; and

(D) any other contract or agreement considered by the board of directors to be appropriate or necessary in support of the authority's financing activities;

(7) the contract is for work that is performed and paid for by the day as the work progresses;

(8) the contract is for the lease or purchase of an interest in land;

(9) the contract is for the purchase of personal property sold:

- (A) at an auction by a state licensed auctioneer;
 - (B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or
 - (C) by a political subdivision of this state, a state agency, or an entity of the federal government;
 - (10) the contract is for services performed by persons who are blind or have severe disabilities;
 - (11) the contract is for the purchase of electricity;
 - (12) the contract is one for an authority project and awarded for alternate project delivery using the procedures under Subchapters E, F, G, and I, Chapter 2269, Government Code; or
 - (13) the contract is for fare enforcement officer services under Section 460.1092.
- (d) For the purposes of entering into a contract authorized by Subsection (c)(12), an authority is considered a "governmental entity" as described by Section 2269.002, Government Code.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 16, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1129 (H.B. 628), Sec. 4.09, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(36), eff. September 1, 2013.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 594 (S.B. 948), Sec. 7, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 114 (S.B. 678), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 17.004, eff. September 1, 2015.

SUBCHAPTER G. BONDS AND NOTES

Sec. 460.501. DEFINITION. In this subchapter, "bond" includes a note.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.502. POWER TO ISSUE BONDS. (a) An authority may issue bonds at any time and for amounts the executive committee determines are appropriate.

(b) The bonds may be issued as necessary for:

- (1) the acquisition, construction, repair, improvement, or extension of an authority's public transportation system; or
- (2) the creation or funding of self-insurance or retirement or pension fund reserves.

(c) A bond issued by the authority may have a maturity of up to 30 years from the date of issuance.

(d) A bond any portion of which is secured by a pledge of sales and use tax revenues and that has a maturity of five years or longer from the date of issuance may not be issued by an authority until an election has been held in the municipalities in which the authority has been authorized to impose a sales and use tax and the proposition proposing the issue has been approved by a majority of the votes received on the issue.

(e) Subsection (d) does not apply to the issuance of refunding bonds or bonds described by Subsection (b)(2).

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 306, Sec. 8, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 557 (S.B. 1876), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 928 (H.B. 3070), Sec. 1, eff. September 1, 2009.

Sec. 460.503. BOND TERMS. The bonds of an authority are fully negotiable. An authority may make the bonds redeemable before maturity. The terms and conditions of authority bonds are subject to rules adopted by the board of directors.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 306, Sec. 9, eff. Sept. 1, 2003.

Sec. 460.504. SALE. An authority's bonds may be sold at a

public or private sale as determined by the board of directors to be the more financially beneficial.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 17, eff. September 1, 2007.

Sec. 460.505. INCONTESTABILITY. An authority's bonds are incontestable after the bonds are:

- (1) approved by the attorney general;
- (2) registered by the comptroller of public accounts; and
- (3) sold to the purchaser.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.506. SECURITY PLEDGED. To secure the payment of an authority's bonds, the authority may:

- (1) pledge all or part of revenue realized from any tax that is approved and levied;
- (2) pledge any part of the revenue of the public transportation system;
- (3) mortgage any part of the public transportation system regardless of when acquired; or
- (4) pledge government grants, contractual revenue, or lease revenue.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Amended by Acts 2003, 78th Leg., ch. 306, Sec. 10, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 557 (S.B. 1876), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 928 (H.B. 3070), Sec. 2, eff. September 1, 2009.

Sec. 460.507. REFUNDING BONDS. An authority may issue refunding bonds at any time.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 306, Sec. 11, eff. Sept. 1, 2003.

Sec. 460.508. NOTES. (a) An authority may issue negotiable notes payable from any of the authority's sources of revenue to pay for any lawful expenditure, other than principal and interest on the authority's debt.

(b) Notes issued by an authority shall be payable over a period not to exceed five years from the date of issuance.

(c) The Texas Commission on Environmental Quality is not required to approve notes issued under this section.

(d) An authority may not have outstanding notes in excess of \$10 million at any one time.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 306, Sec. 12, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. [2682](#)), Sec. 18, eff. September 1, 2007.

Sec. 460.509. OBLIGATIONS AND CREDIT AGREEMENTS. An authority may issue obligations and enter into credit agreements under Chapter 1371, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 557 (S.B. [1876](#)), Sec. 3, eff. September 1, 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. 928 (H.B. [3070](#)), Sec. 3, eff. September 1, 2009.

SUBCHAPTER H. TAXATION

Sec. 460.551. SALES AND USE TAX. (a) The board of directors may impose for an authority a sales and use tax at the rate of:

- (1) one-quarter of one percent;
- (2) three-eighths of one percent;
- (3) one-half of one percent;
- (4) five-eighths of one percent;

- (5) three-quarters of one percent;
- (6) seven-eighths of one percent; or
- (7) one percent.

(b) The imposition of an authority's sales and use tax must be approved at an election conducted in the manner provided by this chapter and may not be imposed in an area that has not confirmed the authority.

(c) A sales and use tax may be imposed, as prescribed by this section, by a municipality that participates in a transportation or transit authority other than an authority created under this chapter if:

- (1) the combined rates of all sales and use taxes imposed in the municipality does not exceed two percent; and
- (2) the ballot of the authorization vote for the sales and use tax reads:

"(Name of city) already imposes a sales and use tax for participation in the (name of transportation or transit authority). The proposed sales and use tax is solely for the benefit of, and will be dedicated to, the (name of authority created under this chapter)."

(d) The authority shall impose a sales and use tax at a minimum uniform rate as determined by the board of directors if the tax is approved at an election in an area that has confirmed the authority.

(e) A municipality with a population of 12,000 or more that has confirmed the authority may impose a sales and use tax at a rate higher than the minimum uniform rate established under Subsection (d) on approval at an election if the authority will provide the municipality a higher level of service.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 306, Sec. 3, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. [2682](#)), Sec. 19, eff. September 1, 2007.

Sec. 460.552. MAXIMUM TAX RATE IN AUTHORITY AREA. (a) An authority may not adopt a sales and use tax rate, including a rate increase, that when combined with the rates of all sales and use taxes imposed by other political subdivisions having territory in the authority exceeds two percent in any location in the authority.

(b) An increase in the tax rate to a higher rate must be approved by a majority of the voters at a confirmation election.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.553. INITIAL SALES TAX: EFFECTIVE DATE. The adoption of a sales and use tax takes effect on the first day of the first calendar quarter after the confirmation election.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.

Sec. 460.554. RATE DECREASE. The board of directors by order may direct the comptroller of public accounts to collect the authority's sales and use tax at a rate that is lower than the rate approved by the voters at the confirmation hearing if the board of directors determines that it is in the best interest of the authority.

Added by Acts 2001, 77th Leg., ch. 1186, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 326 (H.B. 2682), Sec. 20, eff. September 1, 2007.

SUBCHAPTER I. PARTICIPATION IN AUTHORITY THROUGH TAX INCREMENT PAYMENTS

Sec. 460.601. DEFINITION. In this subchapter, "tax increment" means the amount of revenue generated from ad valorem taxes, sales and use taxes imposed by a municipality under Section 321.101(a), Tax Code, or both ad valorem and sales and use taxes that are attributable to a public transportation financing area designated under this subchapter that exceeds the amount attributable to the area for the year in which the area was designated.

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 4, eff. September 1, 2011.

Sec. 460.602. PARTICIPATION IN SERVICE PLAN; AGREEMENT WITH

MUNICIPALITY. A service plan may be implemented in an area of a municipality that has not authorized the authority's sales and use tax levy if:

(1) the authorization by the municipality of the authority's sales and use tax levy, when combined with the rates of all sales and use taxes imposed by other political subdivisions in the municipality, would exceed two percent in any location in the municipality; and

(2) the municipality has entered into an agreement with the authority to provide public transportation services in a public transportation financing area designated under this subchapter in exchange for all or a portion of the tax increment in the area.

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 4, eff. September 1, 2011.

Sec. 460.603. DESIGNATION OF PUBLIC TRANSPORTATION FINANCING AREA. The governing body of a municipality by ordinance may designate a contiguous geographic area in the jurisdiction of the municipality to be a public transportation financing area. The geographic area:

(1) must have one or more transit facilities that include a structure provided for or on behalf of the authority for embarkation on and disembarkation from public transportation services provided by the authority, which may include a transit stop, transit shelter, transit garage, or transit terminal;

(2) may include any territory located in the municipality's jurisdiction; and

(3) must include an area one-half mile on either side of the proposed service route served by a structure under Subdivision (1), to the extent that that area is included in the municipality's boundaries.

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 4, eff. September 1, 2011.

Sec. 460.604. HEARING. (a) Before adopting an ordinance designating a public transportation financing area, the municipality must hold a public hearing on the creation of the public

transportation financing area and its benefits to the municipality and to property in the proposed public transportation financing area. At the hearing, an interested person may speak for or against the designation of the public transportation financing area.

(b) Not later than the 30th day before the date of the hearing, notice of the hearing must be published in a newspaper having general circulation in the municipality.

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 4, eff. September 1, 2011.

Sec. 460.605. DESIGNATION OF TAX INCREMENT. (a) In the ordinance designating an area as a public transportation financing area, the municipality must:

(1) designate a portion or amount of the tax increment to be paid to the authority and deposited in the tax increment account under Section 460.606; and

(2) state whether the tax increment will be generated from ad valorem tax revenue, sales and use tax revenue, or both.

(b) The amount designated for payment and deposit may not exceed the equivalent of the amount that would be collected by the authority if the municipality had authorized the authority's sales and use tax levy.

(c) Notwithstanding Subsection (b), if the amount designated under Subsection (b) is not sufficient to compensate the authority for the maintenance and operating expenses of providing service to the public transportation financing area and for any capital cost incurred for the benefit of the public transportation financing area, the authority may request and the municipality shall designate that the entire portion or amount of the tax increment be deposited in the tax increment account, regardless of whether that amount exceeds the authority's sales and use tax levy equivalent, until any amounts owed for all previous years' maintenance and operating expenses and for any capital cost incurred for the benefit of the public transportation financing area have been paid.

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 4, eff. September 1, 2011.

Sec. 460.606. TAX INCREMENT ACCOUNT; USE OF TAXES. (a) An authority that enters into an agreement with a municipality to provide services to a public transportation financing area must establish a tax increment account and maintain the account as a fiduciary of the municipality.

(b) The taxes to be deposited into the tax increment account may be disbursed from the account only to:

(1) compensate the authority for maintenance and operating expenses of providing services to the public transportation financing area, including compensation for expansion, improvement, rehabilitation, or enhancement amounts owed for previous years' maintenance and operating expenses for the public transportation financing area;

(2) compensate the authority for any capital cost incurred for the benefit of the public transportation financing area;

(3) notwithstanding Section 321.506, Tax Code, satisfy claims of holders of tax increment bonds, notes, or other obligations issued or incurred for projects or services that directly or indirectly benefit the public transportation financing area through the expansion, improvement, rehabilitation, or enhancement of transportation service by the authority under the service plan; and

(4) pay any capital recovery fee required by the authority.

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 4, eff. September 1, 2011.

Sec. 460.607. AGREEMENT WITH COMPTROLLER. Before pledging or otherwise committing money in the tax increment account under Section 460.606, the governing body of a municipality must enter into an agreement under Subchapter E, Chapter 271, Local Government Code, to authorize and direct the comptroller to:

(1) withhold from any payment to which the municipality may be entitled the amount of the payment due to the tax increment account;

(2) deposit that amount into the tax increment account; and

(3) continue withholding and making additional payments into the tax increment account until an amount sufficient to satisfy the amount due to the account has been met.

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 4, eff.

September 1, 2011.

Sec. 460.608. ACCOUNTING OF MAINTENANCE AND OPERATING EXPENSES. An authority shall, under an agreement under Section 460.602:

(1) provide to the municipality an annual accounting, with supporting documentation, of the annual maintenance and operating expenses of providing service to the public transportation financing area; and

(2) notify the municipality when amounts owed for all previous years' maintenance and operating expenses and for any capital cost incurred for the benefit of the public transportation financing area have been fully paid.

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 4, eff. September 1, 2011.

Sec. 460.609. CAPITAL RECOVERY FEE. An agreement to provide services to a public transportation financing area may require the municipality to pay the authority a capital recovery fee. An authority that requires a capital recovery fee shall:

(1) apply toward the amount owed for the capital recovery fee any amount in the tax increment account that exceeds the amount necessary to compensate the authority for:

(A) the annual maintenance and operating expenses of providing service to the public transportation financing area, including amounts for expansion, improvement, rehabilitation, or enhancement that may be owed for previous years' maintenance and operating expenses; and

(B) any capital cost incurred for the benefit of the public transportation financing area; and

(2) notify the municipality when the amount owed for the capital recovery fee has been fully paid.

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 4, eff. September 1, 2011.

Sec. 460.610. USE OF SURPLUS TAX INCREMENT PAYMENT AMOUNTS. After any applicable capital recovery fee has been paid, the

authority and the municipality shall negotiate to determine use of the amount of tax increment payments that exceeds the amount necessary to compensate the authority for the annual maintenance and operating expenses of providing service to the public transportation financing area. The excess amounts may be used to develop infrastructure enhancement, replacement, or improvement projects in the public transportation financing area that benefit both the municipality and the authority.

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 4, eff. September 1, 2011.

Sec. 460.611. TERMINATION OF PUBLIC TRANSPORTATION FINANCING AREA. If the tax increment is pledged to the payment of bonds and interest on the bonds or to the payment of any other obligations, the public transportation financing area or an agreement for services under Section 460.602 may not be terminated by agreement of the parties unless the municipality that created the public transportation financing area deposits or causes to be deposited with a trustee or other escrow agent authorized by law funds in an amount that, together with the interest on the investment of the funds in direct obligations of the United States, will be sufficient to pay:

- (1) the principal of, premium, if any, and interest on all bonds issued on behalf of the public transportation financing area at maturity or at the date fixed for redemption of the bonds; and
- (2) any other amounts that may become due, including compensation due or to become due to the trustee or escrow agent, as well as to pay the principal of and interest on any other obligations incurred on behalf of the public transportation financing area.

Added by Acts 2011, 82nd Leg., R.S., Ch. 921 (S.B. 1422), Sec. 4, eff. September 1, 2011.

CHAPTER 461. STATEWIDE COORDINATION OF PUBLIC TRANSPORTATION

Sec. 461.001. LEGISLATIVE INTENT AND CONSTRUCTION. (a) Public transportation services are provided in this state by many different entities, both public and private. The multiplicity of public transportation providers and services, coupled with a lack of coordination between state oversight agencies, has generated

inefficiencies, overlaps in service, and confusion for consumers. It is the intent of this chapter:

- (1) to eliminate waste in the provision of public transportation services;
 - (2) to generate efficiencies that will permit increased levels of service; and
 - (3) to further the state's efforts to reduce air pollution.
- (b) This chapter shall be liberally construed to achieve its purposes.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 13.01, eff. Sept. 1, 2003.

Sec. 461.002. DEFINITIONS. In this chapter:

(1) "Public transportation provider" means any entity that provides public transportation services if it is a governmental entity or if it receives financial assistance from a governmental entity, whether state, local, or federal. The term does not include private carriers that do not receive financial assistance from a governmental entity. It also does not include a person who provides intercity rail or bus service, commercial air transportation, water transportation, or nonstop service to or from a point located outside this state. If a person provides both public transportation services and services that are not public transportation services, that person is included within the term only with regard to the provision of public transportation services and to the extent of those public transportation services.

(2) "Public transportation services" means any conveyance of passengers and their hand-carried baggage by a governmental entity or by a private entity if the private entity receives financial assistance for that conveyance from any governmental entity. It does not include intercity rail or bus service, commercial air transportation, water transportation, or nonstop service to or from a point located outside this state.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 13.01, eff. Sept. 1, 2003.

Sec. 461.004. DUTIES OF TEXAS DEPARTMENT OF TRANSPORTATION.

(a) The department shall identify:

(1) overlaps and gaps in the provision of public transportation services, including services that could be more effectively provided by existing, privately funded transportation resources;

(2) underused equipment owned by public transportation providers; and

(3) inefficiencies in the provision of public transportation services by any public transportation provider.

(b) The department may contract with any public or private transportation provider for the department to arrange for the provision of public transportation services.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 13.01, eff. Sept. 1, 2003.

Sec. 461.005. ELIMINATION OF OVERLAPPING SERVICE. (a) To eliminate waste and maximize efficiency, the department shall encourage public transportation providers to agree on the allocation of specific services and service areas among the providers. The department may incorporate these discussions in planning processes such as the development of the statewide transportation improvement program or a local transportation improvement plan.

(b) If public transportation providers do not reach an agreement on a service plan under Subsection (a), the department may develop an interim service plan for that area.

(c) The department may require that all or a percentage of the vehicles used to provide public transportation services comply with specified emissions standards. The standards may vary among geographic areas based on the need of each area to reduce levels of air pollution. This subsection does not apply to an authority created under Chapter 451, 452, 453, or 460.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 13.01, eff. Sept. 1, 2003.

Sec. 461.006. DUTIES OF PUBLIC TRANSPORTATION PROVIDERS. Each public transportation provider shall cooperate with the department in eliminating waste and ensuring efficiency and maximum coverage in the

provision of public transportation services.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 13.01, eff. Sept. 1, 2003.

Sec. 461.007. INCENTIVES FOR EFFICIENCY. (a) Notwithstanding any other law, including a law establishing a formula for the allocation of public transportation grants, the commission may increase or reduce the amount of a grant made to a public transportation provider based on whether the public transportation provider is complying fully with this chapter.

(b) Notwithstanding any other law, the commission may consider whether a public transportation provider in a geographic area of this state is complying fully with this chapter in executing the commission's other responsibilities relating to that area.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 13.01, eff. Sept. 1, 2003.

Sec. 461.009. ELIGIBILITY OF VISITORS TO USE CERTAIN PUBLIC TRANSPORTATION SERVICES FOR PEOPLE WITH DISABILITIES. (a) In this section:

(1) "Provider" means a public transportation provider that provides public transportation services designed for people with disabilities who are unable to use the provider's bus or rail services.

(2) "Services" means public transportation services provided by a public transportation provider and designed for people with disabilities who are unable to use the provider's bus or rail services.

(b) A provider shall determine if an individual who resides outside of the provider's service area and who seeks to use the provider's services while visiting the provider's service area is eligible to use the services not later than two business days after the date the individual gives the provider the appropriate notice and submits any required documentation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 819 (H.B. [2651](#)), Sec. 1, eff. September 1, 2011.

CHAPTER 462. SOUTHERN HIGH-SPEED RAIL COMPACT

Sec. 462.001. DEFINITIONS. In this chapter:

- (1) "Commission" means the Southern High-Speed Rail Commission.
- (2) "Party state" means a state that is a party to the compact under this chapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 322 (H.B. 646), Sec. 1, eff. September 1, 2009.

Sec. 462.002. EXECUTION AND TEXT OF COMPACT. The governor, on behalf of this state, is hereby authorized to execute a compact in substantially the following form with the states of Mississippi, Louisiana, and Alabama, and the legislature hereby signifies in advance its approval and ratification of such compact, as follows:

SOUTHERN HIGH-SPEED RAIL COMPACT**ARTICLE I. PURPOSE**

The purpose of this compact is to implement Pub. L. No. 97-213, including the conduct of a study of the feasibility of rapid rail transit service between the states of Mississippi, Louisiana, Alabama, and Texas and to establish a joint interstate commission to assist in this effort.

ARTICLE II. EFFECTIVE DATE; DURATION

(a) This compact shall become effective immediately as to the states ratifying it whenever the states of Mississippi, Louisiana, Alabama, and Texas have ratified it and Congress has given consent to it. Any state not mentioned in this article that is contiguous with any party state may become a party to this compact, subject to the approval of the legislature of each party state.

(b) This compact shall continue in force and remain binding on each party state until the legislature or governor of a party state takes action to withdraw from the compact. However, any withdrawal from the compact is not effective until six months after the date of the action taken by the legislature or governor to withdraw. Notice of withdrawal shall be given to the other party states by the secretary of state of the withdrawing party state.

ARTICLE III. SOUTHERN HIGH-SPEED RAIL COMMISSION; APPOINTMENT; MEMBERSHIP

(a) The party states through this compact establish and create a joint agency known as the Southern High-Speed Rail Commission.

(b) The membership of the commission consists of:

(1) the governor of each party state or that governor's designee;

(2) one representative each from:

(A) the Mississippi Energy and Transportation Board, or its successor;

(B) the Office of Aviation and Public Transportation of the Louisiana Department of Transportation and Development, or its successor;

(C) the Alabama Department of Energy, or its successor; and

(D) the Texas Department of Transportation; and

(3) five citizens from each party state, appointed by the governor of the party state.

(c) The citizens appointed from the State of Texas must reside in a federally designated high-speed rail corridor.

(d) An appointed member of the commission serves a four-year term.

(e) A vacancy on the commission shall be filled for the unexpired portion of the term by the governor of the party state that appointed the member whose position becomes vacant.

(f) A member is not entitled to compensation for service on the commission but is entitled to reimbursement for reasonable expenses the member incurs in performing commission duties.

ARTICLE IV. SOUTHERN HIGH-SPEED RAIL COMMISSION; POWERS AND DUTIES

(a) The commission shall hold regular quarterly meetings and such special meetings as its business may require.

(b) The members of the commission shall choose a chairman and vice chairman. The chairmanship shall rotate annually among the party states in the order of ratification of the compact.

(c) The commission shall adopt rules and regulations for the transaction of its business and keep a record of all business.

(d) The commission shall study the feasibility of providing interstate rapid rail transit service between the party states. To facilitate this duty, the commission may:

(1) hold hearings;

(2) conduct studies and surveys of the problems, benefits, and other matters associated with the provision of interstate rapid

rail transit service;

(3) make reports on an activity conducted under Subdivision (2);

(4) acquire by gift, grant, or otherwise from local, state, federal, or private sources money or property to be used for the business of the commission;

(5) hold and dispose of money or property acquired under Subdivision (4);

(6) cooperate with public or private groups having an interest in interstate rapid rail transit service;

(7) adopt and implement plans and policies for emphasizing the purpose of this compact before the Congress of the United States and other appropriate officers and agencies of the United States; and

(8) exercise any other powers as may be appropriate to accomplish the purposes of this compact.

ARTICLE V. FUNDING

Each party state agrees that its legislature may in its discretion make available and pay to the commission funds for the establishment and operation of the commission. The contribution of each party state shall be in equal amounts, if possible. Nothing in this article shall be construed as binding the legislature of any party state to make an appropriation of a particular amount at any time.

ARTICLE VI. CONFLICT OF LAWS

Nothing in this compact shall be construed to conflict with any existing statute, repeal or prevent legislation, or affect any existing or future cooperative agreement or relationship between any federal agency and a party state.

ARTICLE VII. GRANT OF AUTHORITY

There is hereby granted to the governor, to the members of the commission for Mississippi, Louisiana, Alabama, and Texas, and to the compact administrator all the powers provided for in the compact. All officers of the State of Texas are authorized and directed to perform any actions in their respective jurisdictions that are necessary to carrying out the purpose of the compact.

Added by Acts 2009, 81st Leg., R.S., Ch. 322 (H.B. 646), Sec. 1, eff. September 1, 2009.

SUBTITLE Z. MISCELLANEOUS ROADWAY PROVISIONS
CHAPTER 471. RAILROAD AND ROADWAY CROSSINGS

Sec. 471.001. DUTY TO MAINTAIN CROSSINGS. (a) A railway company shall maintain the part of its roadbed and right-of-way that is crossed by a public street of a Type B general-law municipality in proper condition for use by travelers.

(b) A railway company that does not make needed repairs before the 31st day after the date the municipal marshal gives written notice to the section boss of the section where repairs are needed is liable to the municipality for a penalty of \$25 for each week the railway company does not make needed repairs. The municipality may sue to recover the penalty.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 471.002. SIGNS AT CROSSINGS. (a) A railway company shall place at each place where its railroad crosses a first or second class public road a sign with large and distinct letters giving notice that the railroad is near and warning persons to watch for railroad cars. The sign must be high enough above the road to permit the free passage of vehicles.

(b) A railway company that does not erect a sign required by Subsection (a) is liable for a resulting injury to a person or resulting damage to property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 471.004. WARNING SIGN VISIBILITY AT RAILROAD GRADE CROSSINGS. (a) The department shall develop guidelines and specifications for the installation and maintenance of reflecting material at each unsignaled crossing. The material shall be affixed to the back and support post of each crossbuck in a manner that reflects light from vehicle headlights to focus attention on the presence of the unsignaled crossing.

(b) The department shall pay the cost of initial installation of reflecting material from money appropriated to the department to maintain grade crossing warning devices. The department or the local jurisdiction responsible for maintaining the roadway at each grade crossing shall pay the maintenance costs of the material.

(c) The state, an agency or political subdivision of the state, or a railway company is not liable for damages caused by an action taken under this section or failure to perform a duty imposed by this section. Evidence may not be introduced in a judicial proceeding that reflecting material exists or that the state or railway company relies on the material.

(d) The department shall adopt rules governing the installation and maintenance of reflecting material at grade crossings.

(e) A railway company shall permit department personnel to affix the reflecting material on the company's property.

(f) In this section:

(1) "Active warning device" means an automatically activated warning device, including a bell, flashing light, gate, or wigwag.

(2) "Crossbuck" means a standard grade crossing warning sign designated as Number R 15-1 and described in the Manual of Uniform Traffic Control Devices issued by the United States Department of Transportation, Federal Highway Administration.

(3) "Department" means the Texas Department of Transportation.

(4) "Grade crossing" means the intersection at grade of a railroad and a roadway constructed and maintained with public money.

(5) "Reflecting material" means material that reflects light so that the paths of the reflected light rays are parallel to those of the incident rays.

(6) "Unsignaled crossing" means a grade crossing not protected by active warning devices.

(7) "Warning device" means a traffic control sign, including an active warning device or crossbuck, the purpose of which is to alert motorists of a grade crossing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 471.005. DISMANTLING OF WARNING SIGNALS AT RAILROAD GRADE CROSSINGS; OFFENSE. (a) A person may not dismantle a warning signal at a grade crossing on an active rail line, as defined by rule of the Texas Department of Transportation, if the cost of the warning signal was originally paid entirely or partly from public money unless the person:

(1) obtains a permit from the governmental entity that maintains the road or highway that intersects the rail line at the grade crossing; and

(2) pays that governmental entity an amount equal to the present salvage value of the warning signal, as determined by the governmental entity.

(b) The governmental entity shall grant the permit if:

(1) payment is received; and

(2) the entity finds that removal of the warning signal will not adversely affect public safety.

(c) Money received under Subsection (a)(2) shall be deposited in the state treasury.

(d) This section does not apply to a Class I or Class II railroad, as defined by Interstate Commerce Commission regulations.

(e) A person commits an offense if the person violates this section. An offense under this section is a Class C misdemeanor.

(f) The Texas Department of Transportation may adopt rules necessary to administer this section.

(g) In this section:

(1) "Grade crossing" has the meaning assigned by Section 472.004(f).

(2) "Warning signal" means a traffic control device that is activated by the approach or presence of a train, including a flashing light signal, an automatic gate, or a similar device that displays to motorists a warning of the approach or presence of a train.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 471.009. ENHANCED PAVEMENT MARKING VISIBILITY AT CERTAIN GRADE CROSSINGS. (a) In this section:

(1) "Grade crossing" and "reflecting material" have the meanings assigned by Section 471.004.

(2) "Pavement markings" means markings applied or attached to the surface of a roadway to regulate, warn, or guide traffic.

(3) "Stop bar" means the marking that is applied or attached to the surface of a roadway on either side of a grade crossing and that indicates that a vehicle must stop at the grade crossing.

(b) A county or municipality shall use standards developed by the department in applying pavement markings or a stop bar at a grade crossing if the cost of the markings or stop bar is paid either entirely or partly from state or federal funds. In developing its standards, the department shall follow the standards in the Manual on Uniform Traffic Control Devices issued by the United States Department of Transportation Federal Highway Administration and, where appropriate, require the use of reflecting materials.

Added by Acts 2009, 81st Leg., R.S., Ch. 85 (S.B. 1540), Sec. 2.06, eff. April 1, 2011.

CHAPTER 472. MISCELLANEOUS PROVISIONS

SUBCHAPTER A. GOVERNMENT CONTRACTS FOR JOINT PAYMENT OF CERTAIN HIGHWAY COSTS

Sec. 472.001. CONTRACTS BETWEEN CERTAIN GOVERNMENTAL ENTITIES TO ENGAGE IN JOINT PROJECT. (a) A state agency, political subdivision, or road district of a county may contract with a transportation corporation created by the commission under Chapter 431 or with another state agency, political subdivision, or road district to jointly pay all or part of the cost of:

- (1) acquiring, designing, constructing, improving, or beautifying a state or local highway, turnpike, road, or street project;
- (2) acquiring an interest in any real property required for or beneficial to the project; and
- (3) adjusting utilities for the project.

(b) Costs of a project or payments required under a contract may be met out of bond proceeds, taxes, or other funds available for that purpose.

(c) A road district of a county or a political subdivision may:

- (1) issue bonds to pay costs of a project if it determines the project will benefit it; or
- (2) impose taxes in an amount necessary to create a sinking fund for payments required by a contract that provides for payment over a term of years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 472.002. CONTRACTS INVOLVING POLITICAL SUBDIVISION OR ROAD DISTRICT TO CONSTRUCT AND MAINTAIN HIGHWAY. The governing body of a political subdivision or road district that determines an improvement is reasonable, necessary, and beneficial to the subdivision or district may contract with another governmental entity to:

- (1) acquire with bond proceeds necessary rights-of-way for the road or highway; and
- (2) construct and maintain the road or highway in cooperation with the entity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 472.003. COUNTY PAYMENTS FOR JOINT HIGHWAY PROJECTS. (a) The commissioners court of a county may issue bonds and contract with a road district, road utility district, state agency, or other governmental entity in the manner, for the term, and to the extent it may contract under Chapter 362, on determining that a road project, including a toll road project authorized under Chapter 441, is reasonable, necessary, and beneficial to the county.

(b) To pay the cost of a road project that serves the county and a road district of a county or road utility district, the commissioners court may:

- (1) dedicate ad valorem taxes paid by owners of property in the county or district; or
- (2) use other county money.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. DEPARTMENT AUTHORITY TO REMOVE PROPERTY FROM STATE HIGHWAYS

Sec. 472.011. DEFINITION. In this subchapter, "personal property" includes personal property of any kind or character, including:

- (1) a vehicle, as defined by Section 502.001, that is damaged or disabled;
- (2) spilled cargo;
- (3) a hazardous material as defined by 49 U.S.C. App. Section 1802; and
- (4) a hazardous substance as defined by Section 26.263,

Water Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.43(a), eff. Sept. 1, 1997.

Sec. 472.012. DEPARTMENT AUTHORITY GENERALLY. (a) The department may remove personal property from the right-of-way or roadway of the state highway system if the department determines the property blocks the roadway or endangers public safety.

(b) The department may remove the personal property without the consent of the owner or carrier of the property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 472.013. OWNER AND CARRIER RESPONSIBLE FOR COSTS OF REMOVAL AND DISPOSITION. The owner and the carrier of personal property removed under this subchapter shall reimburse the department for the costs of removal and disposition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 472.014. DEPARTMENT NOT LIABLE FOR DAMAGES.

Notwithstanding any other provision of law, the department and its officers and employees are not liable for:

(1) any damage to personal property resulting from its removal or disposal by the department unless the removal or disposal is carried out recklessly or in a grossly negligent manner; or

(2) any damage resulting from the failure to exercise authority granted under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 1.43(b), eff. Sept. 1, 1997.

Sec. 472.015. CONTRACTS FOR REMOVAL OF PROPERTY. In contracting with a private business or businesses for the removal of personal property from the right-of-way or roadway of the state highway system, the department may:

(1) use a purchasing method described in Chapter 2156, Government Code;

(2) include the removal work in a contract entered into under Chapter 223; or

(3) select a business or businesses based on an evaluation of the experience of the business and the price and quality of the business's equipment and services.

Added by Acts 2001, 77th Leg., ch. 1272, Sec. 9.01, eff. June 15, 2001.

**SUBCHAPTER C. CRIMINAL OFFENSES AND PENALTIES REGARDING WARNING SIGNS
AND BARRICADES**

Sec. 472.021. TAMPERING WITH WARNING DEVICES. (a) A person commits an offense if the person tampers with, damages, or removes a barricade, flare pot, sign, flasher signal, or other device warning of construction, repair, or detour on or adjacent to a highway set out by the state, a political subdivision, a contractor, or a public utility.

(b) This section does not apply to a person acting within the scope and duty of employment if the person is:

(1) an officer, agent, independent contractor, employee, or trustee of the state or a political subdivision;

(2) a contractor; or

(3) a public utility.

(c) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than \$25 or more than \$1,000;

(2) confinement in a county jail for a term not to exceed two years; or

(3) both the fine and the confinement.

(d) In this section:

(1) "Contractor" means a person engaged in highway construction or repair under contract with this state or a political subdivision of this state.

(2) "Highway" means the entire width between the boundary lines of a publicly maintained way, any part of which is open to the public for vehicular travel or any part of which is under construction or repair and intended for public vehicular travel on

completion. The term includes the space above or below the highway surface.

(3) "Person" means an individual, firm, association, or corporation and includes an officer, agent, independent contractor, employee, or trustee of that individual or entity.

(4) "Political subdivision" includes a county, municipality, local board, or other body of this state having authority to authorize highway construction or repair.

(5) "Public utility" means:

(A) a telegraph, telephone, water, gas, light, or sewage company or cooperative;

(B) a contractor of a company or cooperative described by Subdivision (A); or

(C) another business recognized by the legislature as a public utility.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 472.022. OBEYING WARNING SIGNS AND BARRICADES. (a) A person commits an offense if the person:

(1) disobeys the instructions, signals, warnings, or markings of a warning sign; or

(2) drives around a barricade.

(b) This section does not apply to:

(1) a person who is following the directions of a police officer; or

(2) a person, including an employee of the department, a political subdivision of this state, or a contractor or subcontractor, whose duties require the person to go beyond or around a barricade.

(c) Each violation of this section is a separate offense.

(d) An offense under this section is a misdemeanor punishable by a fine of not less than \$1 or more than \$200, except that:

(1) if the offense is committed in a construction or maintenance work zone when workers are present and any written notice to appear issued for the offense states on its face that workers were present when the offense was committed, the offense is a misdemeanor punishable by a fine of not less than \$2 or more than \$400; or

(2) if a person commits an offense under Subsection (a)

where a warning sign or barricade has been placed because water is over any portion of a road, street, or highway, the offense is a Class B misdemeanor.

(e) In this section:

(1) "Barricade" means an obstruction:

(A) placed on or across a road, street, or highway of this state by the department, a political subdivision of this state, or a contractor or subcontractor constructing or repairing the road, street, or highway under authorization of the department or a political subdivision of this state; and

(B) placed to prevent the passage of motor vehicles over the road, street, or highway during construction, repair, or dangerous conditions.

(2) "Construction or maintenance work zone" means a portion of a highway or street:

(A) where highway construction or maintenance is being undertaken, other than mobile operations as defined by the Texas Manual on Uniform Traffic Control Devices; and

(B) that is marked by signs:

(i) indicating that it is a construction or maintenance work zone;

(ii) indicating where the zone begins and ends; and

(iii) stating: "Fines double when workers present."

(3) "Warning sign" means a signal, marking, or device placed on a barricade or on a road, street, or highway during construction, repair, or dangerous conditions by the department, a political subdivision of this state, or a contractor or subcontractor to warn or regulate motor vehicular traffic. The term includes a flagger deployed on a road, street, or highway by the department, a political subdivision of this state, or a contractor or subcontractor to direct traffic around or on the road, street, or highway during construction, repair, or dangerous conditions.

(f) Articles 45.051 and 45.0511, Code of Criminal Procedure, do not apply to an offense under this section committed in a construction or maintenance work zone when workers are present.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 674, Sec. 1, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 789, Sec. 1, 2, eff. Sept. 1, 1999; Acts 1999,

76th Leg., ch. 965, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1088, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 19.005, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 991, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1182, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 576 (H.B. 1481), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 576 (H.B. 1481), Sec. 2, eff. September 1, 2005.

SUBCHAPTER D. METROPOLITAN PLANNING ORGANIZATIONS

Sec. 472.031. DEFINITIONS. In this subchapter:

(1) "Metropolitan planning organization" means a metropolitan planning organization designated or redesignated under 23 U.S.C. Section 134.

(2) "Policy board" means the policy board of a metropolitan planning organization.

Amended by:

Acts 2005, 79th Leg., Ch. 537 (H.B. 1036), Sec. 1, eff. September 1, 2005.

Sec. 472.032. VOTING PROXIES BY POLICY BOARD MEMBERS. (a) A policy board may provide in its bylaws for appointment of voting proxies by its members.

(b) A proxy appointed under Subsection (a):

(1) acts on behalf of and under the supervision of the policy board member who appointed the proxy;

(2) must be appointed in writing; and

(3) is authorized to vote for the policy board member who appointed the proxy to the extent the member has given the proxy the member's voting power.

(c) A legislative member of a policy board may not be counted as absent at a meeting of the policy board during a legislative session.

(d) A legislative member of a policy board may only appoint a proxy under Subsection (a) who is:

- (1) the legislative member's employee or staff member;
- (2) a person related to the member within the second degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, who is not required to register as a lobbyist under Chapter 305, Government Code;
- (3) another legislative member of the policy board; or
- (4) a locally elected official.

Added by Acts 2003, 78th Leg., ch. 267, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.82, eff. June 14, 2005.

Acts 2005, 79th Leg., Ch. 537 (H.B. 1036), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 565 (H.B. 1339), Sec. 1, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 17.001(75), eff. September 1, 2007.

Sec. 472.033. APPLICABILITY OF CONFLICTS OF INTEREST LAW TO POLICY BOARD MEMBERS. (a) A policy board member is considered to be a local public official for purposes of Chapter 171, Local Government Code.

(b) If a policy board member must abstain from participation in a vote or decision under Section 171.004, Local Government Code, the member's proxy appointed under Section 472.032 may not participate in the vote or decision.

(c) The appointment of a proxy by a policy board member does not excuse the member from filing an affidavit required under Section 171.004, Local Government Code.

Amended by:

Acts 2005, 79th Leg., Ch. 537 (H.B. 1036), Sec. 1, eff. September 1, 2005.

Sec. 472.034. STANDARDS OF CONDUCT; ETHICS POLICY. (a) A policy board member or employee of a metropolitan planning organization may not:

- (1) accept or solicit any gift, favor, or service that

might reasonably tend to influence the member or employee in the discharge of official duties or that the member or employee knows or should know is being offered with the intent to influence the member's or employee's official conduct;

(2) accept other employment or engage in a business or professional activity that the member or employee might reasonably expect would require or induce the member or employee to disclose confidential information acquired by reason of the official position;

(3) accept other employment or compensation that could reasonably be expected to impair the member's or employee's independence of judgment in the performance of the member's or employee's official duties;

(4) make personal investments that could reasonably be expected to create a substantial conflict between the member's or employee's private interest and the public interest; or

(5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the member's or employee's official powers or performed the member's or employee's official duties in favor of another.

(b) An employee of a metropolitan planning organization who violates Subsection (a) or an ethics policy adopted under Subsection (c) is subject to termination of the employee's employment or another employment-related sanction. Notwithstanding this subsection, a policy board member or employee of a metropolitan planning organization who violates Subsection (a) is subject to any applicable civil or criminal penalty if the violation also constitutes a violation of another statute or rule.

(c) Each policy board shall:

(1) adopt bylaws establishing an ethics policy for employees of a metropolitan planning organization and policy board members consistent with the standards prescribed by Subsection (a), including provisions to prevent a policy board member from having a conflict of interest in business before the metropolitan planning organization; and

(2) distribute a copy of the ethics policy to:

(A) each new employee not later than the third business day after the date the person begins employment with the agency; and

(B) each new policy board member not later than the third business day after the date the person qualifies for office.

(d) If a person with knowledge of a violation of an ethics

policy established under Subsection (c) that also constitutes a criminal offense under another law of this state reports the violation to an appropriate prosecuting attorney who concludes that there is reasonable basis to initiate an investigation, then, not later than the 60th day after the date a person notifies the prosecuting attorney under this subsection, the prosecuting attorney shall notify the Texas Ethics Commission of the status of the prosecuting attorney's investigation of the alleged violation. The Texas Ethics Commission shall, on the request of the prosecuting attorney, assist the prosecuting attorney in investigating the alleged violation.

(e) To the extent an employee of a metropolitan planning organization is subject to the ethics policy of another governmental entity and to the extent that policy conflicts with this section, the ethics policy of the other governmental entity prevails.

Added by Acts 2007, 80th Leg., R.S., Ch. 264 (S.B. 792), Sec. 12.01, eff. June 11, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 482 (S.B. 585), Sec. 1, eff. September 1, 2009.

Sec. 472.035. COORDINATION WITH DEPARTMENT TO DEVELOP LONG-TERM PLANNING ASSUMPTIONS. Each metropolitan planning organization shall work with the department to develop mutually acceptable assumptions for the purposes of long-range federal and state funding forecasts and use those assumptions to guide long-term planning in the organization's long-range transportation plan.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 52, eff. September 1, 2011.

Sec. 472.036. INTERNET BROADCAST AND ARCHIVE OF OPEN MEETINGS. In a manner that complies with Section 551.128(c), Government Code, a metropolitan planning organization that serves one or more counties with a population of 350,000 or more shall broadcast over the Internet live video and audio of each open meeting held by the policy board. Subsequently, the organization shall make available through the organization's Internet website archived video and audio for each

meeting for which live video and audio was provided under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 1190 (S.B. 1237), Sec. 1, eff. September 1, 2015.

TITLE 7. VEHICLES AND TRAFFIC
SUBTITLE A. CERTIFICATES OF TITLE AND REGISTRATION OF VEHICLES
CHAPTER 501. CERTIFICATE OF TITLE ACT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 501.001. SHORT TITLE. This chapter may be cited as the Certificate of Title Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 501.002. DEFINITIONS. In this chapter:

(1) "Certificate of title" means a printed record of title issued under Section 501.021.

(2) "Credit card" means a card, plate, or similar device used to make a purchase or to borrow money.

(3) "Dealer" has the meaning assigned by Section 503.001.

(4) "Debit card" means a card that enables the holder to withdraw money or to have the cost of a purchase charged directly to the holder's bank account.

(5) "Department" means the Texas Department of Motor Vehicles.

(6) "Distributor" has the meaning assigned by Section 2301.002, Occupations Code.

(7) "Electric bicycle" has the meaning assigned by Section 541.201.

(8) "First sale" means:

(A) the bargain, sale, transfer, or delivery of a motor vehicle that has not been previously registered or titled, with intent to pass an interest in the motor vehicle, other than a lien, regardless of where the bargain, sale, transfer, or delivery occurred; and

(B) the registration or titling of that vehicle.

(9) "House trailer" means a trailer designed for human habitation. The term does not include manufactured housing.

(10) "Importer" means a person, other than a manufacturer, that brings a used motor vehicle into this state for sale in this state.

(11) "Importer's certificate" means a certificate for a used motor vehicle brought into this state for sale in this state.

(12) "Lien" means:

(A) a lien provided for by the constitution or statute in a motor vehicle;

(B) a security interest, as defined by Section 1.201, Business & Commerce Code, in a motor vehicle, other than an absolute title, created by any written security agreement, as defined by Section 9.102, Business & Commerce Code, including a lease, conditional sales contract, deed of trust, chattel mortgage, trust receipt, or reservation of title; or

(C) a child support lien under Chapter 157, Family Code.

(13) "Manufactured housing" has the meaning assigned by Chapter 1201, Occupations Code.

(14) "Manufacturer" has the meaning assigned by Section 503.001.

(15) "Manufacturer's permanent vehicle identification number" means the number affixed by the manufacturer to a motor vehicle in a manner and place easily accessible for physical examination and die-stamped or otherwise permanently affixed on one or more removable parts of the vehicle.

(16) "Motorcycle" has the meaning assigned by Section 521.001 or 541.201, as applicable.

(17) "Motor vehicle" means:

(A) any motor driven or propelled vehicle required to be registered under the laws of this state;

(B) a trailer or semitrailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds;

(C) a travel trailer;

(D) an all-terrain vehicle or a recreational off-highway vehicle, as those terms are defined by Section 502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state; or

(E) a motorcycle, motor-driven cycle, or moped that is not required to be registered under the laws of this state.

(18) "New motor vehicle" has the meaning assigned by

Section 2301.002, Occupations Code.

(19) "Owner" means a person, other than a manufacturer, importer, distributor, or dealer, claiming title to or having a right to operate under a lien a motor vehicle that has been subject to a first sale.

(20) "Purchaser" means a person or entity to which a motor vehicle is donated, given, sold, or otherwise transferred.

(21) "Record of title" means an electronic record of motor vehicle ownership in the department's motor vehicle database that is created under Subchapter I.

(22) "Seller" means a person or entity that donates, gives, sells, or otherwise transfers ownership of a motor vehicle.

(23) "Semitrailer" means a vehicle that is designed or used with a motor vehicle so that part of the weight of the vehicle and its load rests on or is carried by another vehicle.

(24) "Serial number" means a vehicle identification number that is affixed to a part of a motor vehicle and that is:

(A) the manufacturer's permanent vehicle identification number;

(B) a derivative number of the manufacturer's permanent vehicle identification number;

(C) the motor number; or

(D) the vehicle identification number assigned by the department.

(25) "Steal" has the meaning assigned by Section 31.01, Penal Code.

(26) "Subsequent sale" means:

(A) the bargain, sale, transfer, or delivery of a used motor vehicle, with intent to pass an interest in the vehicle, other than a lien; and

(B) the registration of the vehicle if registration is required under the laws of this state.

(27) "Title" means a certificate or record of title that is issued under Section 501.021.

(28) "Title receipt" means a document issued under Section 501.024.

(29) "Trailer" means a vehicle that:

(A) is designed or used to carry a load wholly on the trailer's own structure; and

(B) is drawn or designed to be drawn by a motor

vehicle.

(30) "Travel trailer" means a house trailer-type vehicle or a camper trailer:

(A) that is a recreational vehicle defined under 24 C.F.R. Section 3282.8(g); or

(B) that:

(i) is less than eight feet in width or 40 feet in length, exclusive of any hitch installed on the vehicle;

(ii) is designed primarily for use as temporary living quarters in connection with recreational, camping, travel, or seasonal use;

(iii) is not used as a permanent dwelling; and

(iv) is not a utility trailer, enclosed trailer, or other trailer that does not have human habitation as its primary function.

(31) "Used motor vehicle" means a motor vehicle that has been the subject of a first sale.

(32) "Vehicle identification number" means:

(A) the manufacturer's permanent vehicle identification number affixed by the manufacturer to the motor vehicle that is easily accessible for physical examination and permanently affixed on one or more removable parts of the vehicle; or

(B) a serial number affixed to a part of a motor vehicle that is:

(i) a derivative number of the manufacturer's permanent vehicle identification number;

(ii) the motor number; or

(iii) a vehicle identification number assigned by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 414, Sec. 2.42, eff. July 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.821, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 586 (H.B. 1646), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 972 (S.B. 228), Sec. 64, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2D.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 1, eff. January 1, 2012.

Sec. 501.003. PURPOSE. This chapter shall be liberally construed to lessen and prevent:

- (1) the theft of motor vehicles;
- (2) the importation into this state of and traffic in motor vehicles that are stolen; and
- (3) the sale of an encumbered motor vehicle without the enforced disclosure to the purchaser of a lien secured by the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 2, eff. January 1, 2012.

Sec. 501.004. APPLICABILITY. (a) Except as provided by this section, this chapter applies to all motor vehicles, including a motor vehicle owned by the state or a political subdivision of the state.

(b) This chapter does not apply to:

- (1) a trailer or semitrailer used only for the transportation of farm products if the products are not transported for hire;
- (2) the filing or recording of a lien that is created only on an automobile accessory, including a tire, radio, or heater;
- (3) a motor vehicle while it is owned or operated by the United States; or
- (4) a new motor vehicle on loan to a political subdivision of the state for use only in a driver education course conducted by an entity exempt from licensure under Section 1001.002, Education Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 3, eff.

January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 55, eff. September 1, 2015.

Sec. 501.0041. RULES; FORMS. (a) The department may adopt rules to administer this chapter.

(b) The department shall post forms on the Internet and provide each county assessor-collector with a sufficient supply of any necessary forms on request.

Transferred, redesignated and amended from Transportation Code, Section 501.131 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 4, eff. January 1, 2012.

Sec. 501.005. CONFLICTS WITH BUSINESS & COMMERCE CODE. Chapters 1-9, Business & Commerce Code, control over a conflicting provision of this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 501.006. ALIAS TITLE. On receipt of a verified request approved by the executive administrator of a law enforcement agency, the department may issue a title in the form requested by the executive administrator for a vehicle in an alias for the law enforcement agency's use in a covert criminal investigation.

Transferred, redesignated and amended from Transportation Code, Section 501.159 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 5, eff. January 1, 2012.

Sec. 501.008. TITLE FOR AUTOCYCLE. (a) In this section, "autocycle" means a motor vehicle, other than a tractor, that is:

- (1) designed to have when propelled not more than three wheels on the ground;
- (2) equipped with a steering wheel;
- (3) equipped with seating that does not require the operator to straddle or sit astride the seat; and

(4) manufactured and certified to comply with federal safety requirements for a motorcycle.

(b) For purposes of issuing a title under this chapter, an autocycle is considered to be a motorcycle.

Added by Acts 2015, 84th Leg., R.S., Ch. 67 (S.B. 449), Sec. 1, eff. May 22, 2015.

SUBCHAPTER B. CERTIFICATE OF TITLE REQUIREMENTS

Sec. 501.021. TITLE FOR MOTOR VEHICLE. (a) A motor vehicle title issued by the department must include:

(1) the legal name and address of each purchaser and seller at the first sale or a subsequent sale;

(2) the make of the motor vehicle;

(3) the body type of the vehicle;

(4) the manufacturer's permanent vehicle identification number of the vehicle or the vehicle's motor number if the vehicle was manufactured before the date that stamping a permanent identification number on a motor vehicle was universally adopted;

(5) the serial number for the vehicle;

(6) the name and address of each lienholder and the date of each lien on the vehicle, listed in the chronological order in which the lien was recorded;

(7) a statement indicating rights of survivorship under Section 501.031;

(8) if the vehicle has an odometer, the odometer reading at the time of application for the title; and

(9) any other information required by the department.

(b) A printed certificate of title must bear the following statement on its face:

"UNLESS OTHERWISE AUTHORIZED BY LAW, IT IS A VIOLATION OF STATE LAW TO SIGN THE NAME OF ANOTHER PERSON ON A CERTIFICATE OF TITLE OR OTHERWISE GIVE FALSE INFORMATION ON A CERTIFICATE OF TITLE."

(c) A title for a motor vehicle that has been the subject of an ordered repurchase or replacement under Chapter 2301, Occupations Code, must contain on its face a notice sufficient to inform a purchaser that the motor vehicle has been the subject of an ordered repurchase or replacement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 1999, 76th Leg., ch. 1423, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 542 (S.B. 1617), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 6, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 41, eff. September 1, 2013.

Sec. 501.022. MOTOR VEHICLE TITLE REQUIRED. (a) The owner of a motor vehicle registered in this state:

(1) except as provided by Section 501.029, shall apply for title to the vehicle; and

(2) may not operate or permit the operation of the vehicle on a public highway until the owner:

(A) applies for title and registration for the vehicle; or

(B) obtains a receipt evidencing title for registration purposes only under Section 501.029.

(b) A person may not operate a motor vehicle registered in this state on a public highway if the person knows or has reason to believe that the owner has not applied for a title for the vehicle.

(c) The owner of a motor vehicle that is required to be titled and registered in this state must obtain a title to the vehicle before selling or disposing of the vehicle.

(d) Subsection (c) does not apply to a motor vehicle operated on a public highway in this state with a metal dealer's license plate or a dealer's or buyer's temporary tag attached to the vehicle as provided by Chapter 503.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 67, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. 1235), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 7, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 8, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 42, eff. September 1, 2013.

Sec. 501.023. APPLICATION FOR TITLE. (a) The owner of a motor vehicle must present identification and apply for a title as prescribed by the department, unless otherwise exempted by law. To obtain a title, the owner must apply:

(1) to the county assessor-collector in the county in which:

(A) the owner is domiciled; or

(B) the motor vehicle is purchased or encumbered;

(2) if the county in which the owner resides has been declared by the governor as a disaster area, to the county assessor-collector in one of the closest unaffected counties to a county that asks for assistance and:

(A) continues to be declared by the governor as a disaster area because the county has been rendered inoperable by the disaster; and

(B) is inoperable for a protracted period of time; or

(3) if the county assessor-collector's office of the county in which the owner resides is closed for a protracted period of time as defined by the department, to the county assessor-collector of a county that borders the county in which the owner resides who agrees to accept the application.

(b) The assessor-collector shall send the application to the department or enter it into the department's titling system within 72 hours after receipt of the application.

(c) The owner or a lessee of a commercial motor vehicle operating under the International Registration Plan or other agreement described by Section 502.091 that is applying for a title for purposes of registration only may apply directly to the department. Notwithstanding Section 501.138(a), an applicant for registration under this subsection shall pay the fee imposed by that section. The fee shall be distributed to the appropriate county assessor-collector in the manner provided by Section 501.138.

(d) An application filed by the owner or lessee of a foreign commercial motor vehicle, as defined by Section 648.001, must be accompanied by a copy of the applicable federal declaration form required by the Federal Motor Carrier Safety Administration or its

successor in connection with the importation of a motor vehicle or motor vehicle equipment subject to the federal motor vehicle safety, bumper, and theft prevention standards.

(e) Applications submitted to the department electronically must request the purchaser's choice of county as stated in Subsection (a) as the recipient of all taxes, fees, and other revenue collected as a result of the transaction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1423, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 919 (H.B. 2985), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 22, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 9, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 10, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 43, eff. September 1, 2013.

Sec. 501.0234. DUTY OF VEHICLE DEALER ON SALE OF CERTAIN VEHICLES. (a) A person who sells at the first or a subsequent sale a motor vehicle and who holds a general distinguishing number issued under Chapter 503 of this code or Chapter 2301, Occupations Code, shall:

(1) except as provided by this section, in the time and manner provided by law, apply, in the name of the purchaser of the vehicle, for the registration of the vehicle, if the vehicle is to be registered, and a title for the vehicle and file with the appropriate designated agent each document necessary to transfer title to or register the vehicle; and at the same time

(2) remit any required motor vehicle sales tax.

(b) This section does not apply to a motor vehicle:

(1) that has been declared a total loss by an insurance company in the settlement or adjustment of a claim;

(2) for which the title has been surrendered in exchange for:

(A) a salvage vehicle title or salvage record of title issued under this chapter;

(B) a nonrepairable vehicle title or nonrepairable vehicle record of title issued under this chapter or Subchapter D, Chapter 683; or

(C) an ownership document issued by another state that is comparable to a document described by Paragraph (A) or (B);

(3) with a gross weight in excess of 11,000 pounds; or

(4) purchased by a commercial fleet buyer who:

(A) is a deputy authorized by rules adopted under Section 520.0071;

(B) utilizes the dealer title application process developed to provide a method to submit title transactions to the county in which the commercial fleet buyer is a deputy; and

(C) has authority to accept an application for registration and application for title transfer that the county assessor-collector may accept.

(c) Each duty imposed by this section on the seller of a motor vehicle is solely that of the seller.

(d) A seller who applies for the registration or a title for a motor vehicle under Subsection (a)(1) shall apply in the county as directed by the purchaser from the counties set forth in Section 501.023.

(e) The department shall develop a form or electronic process in which the purchaser of a motor vehicle shall designate the purchaser's choice as set out in Section 501.023 as the recipient of all taxes, fees, and other revenue collected as a result of the transaction, which the tax assessor-collector is authorized by law to retain. A seller shall make that form or electronic process available to the purchaser of a vehicle at the time of purchase.

(f) A seller has a reasonable time to comply with the terms of Subsection (a)(1) and is not in violation of that provision during the time the seller is making a good faith effort to comply. Notwithstanding compliance with this chapter, equitable title to a vehicle passes to the purchaser of the vehicle at the time the vehicle is the subject of a sale that is enforceable by either party.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.37(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1423, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 76, Sec. 1, eff. May 14, 2001;

Acts 2003, 78th Leg., ch. 1325, Sec. 17.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.822, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1023 (H.B. 988), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1173 (H.B. 3433), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1232 (S.B. 1759), Sec. 3, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 11, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 44, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 6, eff. September 1, 2013.

Sec. 501.0235. PERSONAL IDENTIFICATION INFORMATION FOR OBTAINING TITLE. (a) The department may require an applicant for a title to provide current personal identification as determined by department rule.

(b) Any identification number required by the department under this section may be entered in the department's electronic titling system but may not be printed on the title.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 12, eff. January 1, 2012.

Sec. 501.024. TITLE RECEIPT. (a) A county assessor-collector who receives an application for a title shall issue a title receipt to the applicant containing the information concerning the motor vehicle required for issuance of a title under Section 501.021 or Subchapter I after:

(1) the requirements of this chapter are met, including the payment of the fees required under Section 501.138; and

(2) the information is entered into the department's titling system.

(b) If a lien is not disclosed on the application for a title, the assessor-collector shall issue a title receipt to the applicant.

(c) If a lien is disclosed on the application for a title, the assessor-collector shall issue a duplicate title receipt to the lienholder.

(d) A title receipt with registration or permit authorizes the operation of the motor vehicle on a public highway in this state until the title is issued.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 67, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 13, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 45, eff. September 1, 2013.

Sec. 501.025. MANUFACTURER'S CERTIFICATE REQUIRED ON FIRST SALE. A county assessor-collector may not issue a title receipt on the first sale of a motor vehicle unless the applicant for the title provides the application for a title and a manufacturer's certificate in a manner prescribed by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 14, eff. January 1, 2012.

Sec. 501.027. ISSUANCE OF TITLE. (a) On the day that a county assessor-collector issues a title receipt, a copy of the title receipt and all evidence of title shall be submitted to the department in the period specified in Section 501.023(b).

(b) Not later than the fifth day after the date the department receives an application for a title and the department determines the requirements of this chapter are met:

(1) the title shall be issued to the first lienholder or to the applicant if a lien is not disclosed on the application; or

(2) the department shall notify the applicant that the department's titling system has established a record of title of the motor vehicle in the applicant's name if a lien is not disclosed. If a lien is disclosed on the application, the department shall notify

the lienholder that the lien has been recorded.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 67, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 15, eff. January 1, 2012.

Sec. 501.0275. ISSUANCE OF TITLE FOR UNREGISTERED VEHICLE. (a) The department shall issue a title for a motor vehicle that complies with the other requirements under this chapter unless:

(1) the vehicle is not registered for a reason other than a reason provided by Section 501.051(a)(6); and

(2) the applicant does not provide evidence of financial responsibility that complies with Section 502.046.

(b) On application for a title under this section, the applicant must surrender any license plates issued for the motor vehicle if the plates are not being transferred to another vehicle and any registration insignia for validation of those plates to the department.

Added by Acts 1999, 76th Leg., ch. 1423, Sec. 4, eff. Sept. 1, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 16, eff. January 1, 2012.

Sec. 501.0276. DENIAL OF TITLE RECEIPT, TITLE, OR RECORD OF TITLE FOR FAILURE TO PROVIDE PROOF OF EMISSIONS TESTING. A county assessor-collector may not issue a title receipt and the department may not issue a certificate of title for a vehicle subject to Section 548.3011 unless proof that the vehicle has passed a vehicle emissions test as required by that section, in a manner authorized by that section, is presented to the county assessor-collector with the application for a title.

Added by Acts 2001, 77th Leg., ch. 1075, Sec. 3, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 17, eff. January 1, 2012.

Sec. 501.028. OWNER'S SIGNATURE. On receipt of a certificate of title, the owner of a motor vehicle shall write the owner's name in ink in the space provided on the certificate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 501.029. ACCEPTABLE PROOF OF OWNERSHIP. The board by rule may provide a list of the documents required for the issuance of a receipt that evidences title to a motor vehicle for registration purposes only. The fee for application for the receipt is the fee applicable to application for a title. The title receipt may not be used to transfer an interest in or establish a lien on the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 67, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 18, eff. January 1, 2012.

Sec. 501.030. MOTOR VEHICLES BROUGHT INTO STATE. (a) Before a motor vehicle that was last registered or titled in another state or country may be titled in this state, the county assessor-collector shall verify that the vehicle has passed the inspections required by Chapter 548, as indicated in the Department of Public Safety's inspection database under Section 548.251.

(b) Before a motor vehicle that was not manufactured for sale or distribution in the United States may be titled in this state, the applicant must:

(1) provide to the assessor-collector:

(A) a bond release letter, with all attachments, issued by the United States Department of Transportation acknowledging:

(i) receipt of a statement of compliance submitted by the importer of the vehicle; and

(ii) that the statement meets the safety requirements of 19 C.F.R. Section 12.80(e);

(B) a bond release letter, with all attachments, issued by the United States Environmental Protection Agency stating that the

vehicle has been tested and shown to conform to federal emission requirements; and

(C) a receipt or certificate issued by the United States Department of the Treasury showing that all gas guzzler taxes due on the vehicle under 26 U.S.C. Section 4064(a) have been paid; or

(2) provide to the assessor-collector proof, satisfactory to the department, that the vehicle was not brought into the United States from outside the country.

(c) Subsections (a) and (b) do not apply to a motor vehicle lawfully imported into the United States by a distributor or dealer from the vehicle's manufacturer.

(d) If a motor vehicle has not been titled or registered in the United States, the application for title must be accompanied by:

(1) a manufacturer's certificate of origin written in English issued by the vehicle manufacturer;

(2) the original documents that constitute valid proof of ownership in the country where the vehicle was originally purchased, with an English translation of the documents verified as to the accuracy of the translation by an affidavit of the translator; or

(3) if the vehicle was imported from a country that cancels the vehicle registration and title for export, the documents assigned to the vehicle after the registration and title were canceled, with an English translation of the documents verified as to the accuracy of the translation by an affidavit of the translator.

(e) Before a motor vehicle that is required to be registered in this state and that is brought into this state by a person other than a manufacturer or importer may be bargained, sold, transferred, or delivered with an intent to pass an interest in the vehicle or encumbered by a lien, the owner must apply for a title in a manner prescribed by the department to the county assessor-collector for the county in which the transaction is to take place. The assessor-collector may not issue a title receipt unless the applicant delivers to the assessor-collector satisfactory evidence showing that the applicant is the owner of the vehicle and that the vehicle is free of any undisclosed liens.

(f) A county assessor-collector may not be held liable for civil damages arising out of the assessor-collector's failure to reflect on the title receipt a lien or encumbrance on a motor vehicle to which Subsection (e) applies unless the failure constitutes wilful or wanton negligence.

(g) Until an applicant has complied with this section:

- (1) a county assessor-collector may not accept an application for title; and
- (2) the applicant is not entitled to an appeal as provided by Sections 501.052 and 501.053.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 19, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 10, eff. March 1, 2015.

Sec. 501.031. RIGHTS OF SURVIVORSHIP AGREEMENT. (a) The department shall include on each title an optional rights of survivorship agreement that:

(1) provides that if the agreement is between two or more eligible persons, the motor vehicle will be owned by the surviving owners when one or more of the owners die; and

(2) provides for the acknowledgment by signature, either electronically or by hand, of the persons.

(b) If the vehicle is registered in the name of one or more of the persons who acknowledged the agreement, the title may contain a:

(1) rights of survivorship agreement acknowledged by all the persons; or

(2) remark if a rights of survivorship agreement is on file with the department.

(c) Ownership of the vehicle may be transferred only:

(1) by all the persons acting jointly, if all the persons are alive; or

(2) on the death of one of the persons, by the surviving person or persons by transferring ownership of the vehicle, in the manner otherwise required by law, with a copy of the death certificate of the deceased person.

(d) A rights of survivorship agreement under this section may be revoked only if the persons named in the agreement file a joint application for a new title in the name of the person or persons designated in the application.

(e) A person is eligible to file a rights of survivorship

agreement under this section if the person:

- (1) is married and the spouse of the person is the only other party to the agreement;
- (2) is unmarried and attests to that unmarried status by affidavit; or
- (3) is married and provides the department with an affidavit from the person's spouse that attests that the person's interest in the vehicle is the person's separate property.

(f) The department may develop an optional electronic rights of survivorship agreement for public use.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.39(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 17.05, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 241, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 20, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 46, eff. September 1, 2013.

Sec. 501.032. ASSIGNMENT OF VEHICLE IDENTIFICATION NUMBER BY DEPARTMENT. (a) On proper application, the department shall assign a vehicle identification number to a travel trailer, a trailer or semitrailer, a frame, or an item of equipment, including a tractor, farm implement, unit of special mobile equipment, or unit of off-road construction equipment:

- (1) on which a vehicle identification number was not die-stamped by the manufacturer;
- (2) on which a vehicle identification number die-stamped by the manufacturer has been lost, removed, or obliterated; or
- (3) for which a vehicle identification number was never assigned.

(b) The applicant shall die-stamp the assigned vehicle identification number at the place designated by the department on the travel trailer, trailer, semitrailer, frame, or equipment.

(c) The manufacturer's vehicle identification number or the vehicle identification number assigned by the department shall be affixed on the carriage or axle part of the travel trailer, trailer,

or semitrailer. The department shall use the number as the major identification of the vehicle in the issuance of a title.

(d) Only the department may issue vehicle identification numbers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 21, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 47, eff. September 1, 2013.

Sec. 501.033. ASSIGNMENT OF IDENTIFICATION NUMBER BY DEPARTMENT. (a) A person determined by law enforcement or a court to be the owner of a motor vehicle, travel trailer, semitrailer, or trailer, a part of a motor vehicle, travel trailer, semitrailer, or trailer, a frame, or an item of equipment including a tractor, farm implement, unit of special mobile equipment, or unit of off-road construction equipment may apply to the department for an assigned vehicle identification number that has been removed, altered, obliterated, or has never been assigned.

(b) An application under this section must be in a manner prescribed by the department and accompanied by valid evidence of ownership as required by the department.

(c) A fee of \$2 must accompany each application under this section to be deposited in the Texas Department of Motor Vehicles fund.

(d) The assigned vehicle identification number shall be die-stamped or otherwise affixed in the manner designated by the department.

(e) If the auto theft unit of a county or municipal law enforcement agency conducts an inspection required by the department under this section, the agency may impose a fee of \$40. The county or municipal treasurer shall credit the fee to the general fund of the county or municipality, as applicable, to defray the agency's cost associated with the inspection. The fee shall be waived by the department or agency imposing the fee if the person applying under this section is the current registered owner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 223 (S.B. 1356), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 22, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 48, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 7, eff. September 1, 2013.

Sec. 501.0331. MOTOR NUMBER REQUIRED FOR REGISTRATION. A person may not apply to the county assessor-collector for the registration of a motor vehicle from which the original motor number has been removed, erased, or destroyed until the motor vehicle bears the motor number assigned by the department.

Transferred, redesignated and amended from Transportation Code, Section 520.011 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 23, eff. January 1, 2012.

Sec. 501.0332. APPLICATION FOR MOTOR NUMBER RECORD. (a) To obtain a motor number assigned by the department, the owner of a motor vehicle that has had the original motor number removed, erased, or destroyed must file a sworn application with the department.

(b) The department shall maintain a record of each motor number assigned by the department that includes:

- (1) the motor number assigned by the department;
- (2) the name and address of the owner of the motor vehicle;

and

(3) the make, model, and year of manufacture of the motor vehicle.

Transferred, redesignated and amended from Transportation Code, Section 520.012 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 24, eff. January 1, 2012.

Sec. 501.034. ISSUANCE OF TITLE TO GOVERNMENT AGENCY. The department may issue a title to a government agency if a vehicle or

part of a vehicle is:

- (1) forfeited to the government agency;
- (2) delivered by court order under the Code of Criminal Procedure to a government agency for official purposes; or
- (3) sold as abandoned or unclaimed property under the Code of Criminal Procedure.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 25, eff. January 1, 2012.

Sec. 501.035. TITLE FOR FORMER MILITARY VEHICLE. (a) Notwithstanding any other law, the department shall issue a title for a former military vehicle if all requirements for issuance of a title are met.

(b) In this section, "former military vehicle" has the meaning assigned by Section 504.502(i).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.40(a), eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 26, eff. January 1, 2012.

Sec. 501.036. TITLE FOR FARM SEMITRAILER. (a) Notwithstanding any other provision of this chapter, the department may issue a title for a farm semitrailer with a gross weight of more than 4,000 pounds if:

(1) the farm semitrailer is eligible for registration under Section 502.146; and

(2) all other requirements for issuance of a title are met.

(b) To obtain a title under this section, the owner of the farm semitrailer must:

(1) apply for the title in the manner required by Section 501.023; and

(2) pay the fee required by Section 501.138.

(c) The department shall adopt rules to implement and administer this section.

Added by Acts 2001, 77th Leg., ch. 422, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 280 (H.B. 505), Sec. 1, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 27, eff. January 1, 2012.

Sec. 501.037. TITLE FOR TRAILERS. (a) Notwithstanding any other provision of this chapter, the department may issue a title for a trailer that has a gross vehicle weight of 4,000 pounds or less if all other requirements for issuance of a title are met.

(b) To obtain a title under this section, the owner of the trailer must:

(1) apply for the title in the manner required by Section 501.023; and

(2) pay the fee required by Section 501.138.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 49, eff. September 1, 2013.

Sec. 501.038. CERTIFICATE OF TITLE FOR CUSTOM VEHICLE OR STREET ROD. (a) In this section, "custom vehicle" and "street rod" have the meanings assigned by Section 504.501.

(b) Notwithstanding any other provision of this chapter, if the department issues a certificate of title for a custom vehicle or street rod, the model year and make of the vehicle must be listed on the certificate of title and must be the model year and make that the body of the vehicle resembles. The certificate of title must also include the word "replica."

(c) The owner of the custom vehicle or street rod shall provide the department with documentation identifying the model year and make that the body of the vehicle resembles.

Added by Acts 2011, 82nd Leg., R.S., Ch. 729 (H.B. 890), Sec. 1, eff. September 1, 2011.

**SUBCHAPTER C. REFUSAL TO ISSUE, REVOCATION, SUSPENSION, OR ALTERATION
OF CERTIFICATE**

Sec. 501.051. GROUNDS FOR REFUSAL TO ISSUE OR FOR REVOCATION OR SUSPENSION OF TITLE. (a) A title may be refused, canceled, suspended, or revoked by the department if:

- (1) the application contains a false or fraudulent statement;
- (2) the applicant failed to furnish required information requested by the department;
- (3) the applicant is not entitled to a title;
- (4) the department has reason to believe that the motor vehicle is stolen;
- (5) the department has reason to believe that the issuance of a title would defraud the owner or a lienholder of the motor vehicle;
- (6) the registration for the motor vehicle is suspended or revoked; or
- (7) the required fee has not been paid.

(b) The department may rescind, cancel, or revoke an application for a title if a notarized or county-stamped affidavit is presented containing:

- (1) a statement that the vehicle involved was a new motor vehicle in the process of a first sale;
- (2) a statement that the dealer, the applicant, and any lienholder have canceled the sale;
- (3) a statement that the vehicle:
 - (A) was never in the possession of the title applicant;
 or
 - (B) was in the possession of the title applicant; and
- (4) the signatures of the dealer, the applicant, and any lienholder.

(c) A rescission, cancellation, or revocation containing the statement authorized under Subsection (b)(3)(B) does not negate the fact that the vehicle has been the subject of a previous retail sale.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 28, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 51, eff. September 1, 2013.

Sec. 501.052. HEARING ON REFUSAL TO ISSUE OR REVOCATION OR SUSPENSION OF TITLE; APPEAL. (a) An interested person aggrieved by a refusal, rescission, cancellation, suspension, or revocation under Section 501.051 may apply for a hearing to the county assessor-collector for the county in which the person is a resident. On the day an assessor-collector receives the application, the assessor-collector shall notify the department of the date of the hearing.

(b) The assessor-collector shall hold the hearing not earlier than the 11th day and not later than the 15th day after the date the assessor-collector receives the application for a hearing.

(c) At the hearing, the applicant and the department may submit evidence.

(d) A determination of the assessor-collector is binding on the applicant and the department as to whether the department correctly refused to issue or correctly rescinded, canceled, revoked, or suspended the title.

(e) An applicant aggrieved by the determination under Subsection (d) may appeal only to the county or district court of the county of the applicant's residence. An applicant must file an appeal not later than the fifth day after the date of the assessor-collector's determination. The judge shall try the appeal in the manner of other civil cases. All rights and immunities granted in the trial of a civil case are available to the interested parties. If the department's action is not sustained, the department shall promptly issue a title for the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 29, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 30, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 52, eff. September 1, 2013.

Sec. 501.0521. COURT ORDERED TITLE CHANGES. (a) A justice of the peace or municipal court judge may not issue an order related to a title except as provided by Chapter 47, Code of Criminal Procedure, or Section 27.031(a)(3), Government Code.

(b) A county or district court judge may not order the department to change the type of title for:

(1) a nonrepairable vehicle titled after September 1, 2003; or

(2) a vehicle for which the department has issued a certificate of authority under Section 683.054.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 53, eff. September 1, 2013.

Sec. 501.053. FILING OF BOND AS ALTERNATIVE TO HEARING. (a) As an alternative to the procedure provided by Section 501.052, the person may obtain a title by filing a bond with the department if the vehicle is in the possession of the applicant and:

- (1) there is no security interest on the vehicle;
- (2) any lien on the vehicle is at least 10 years old; or
- (3) the person provides a release of all liens with bond.

(b) The bond must be:

- (1) in the manner prescribed by the department;
- (2) executed by the applicant;
- (3) issued by a person authorized to conduct a surety business in this state;
- (4) in an amount equal to one and one-half times the value of the vehicle as determined by the department, which may set an appraisal system by rule if it is unable to determine that value; and

(5) conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the vehicle or persons who acquire a security interest in the vehicle, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, occurring because of the issuance of the title for the vehicle or for a defect in or undisclosed security interest on the right, title, or interest of the applicant to the vehicle.

(c) An interested person has a right of action to recover on the bond for a breach of the bond's condition. The aggregate liability of the surety to all persons may not exceed the amount of the bond.

(d) A bond under this section expires on the third anniversary of the date the bond became effective.

(e) The board by rule may establish a fee to cover the cost of administering this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 31, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 54, eff. September 1, 2013.

SUBCHAPTER D. SALES OF MOTOR VEHICLES AND TRANSFERS OF TITLE

Sec. 501.071. SALE OF VEHICLE; TRANSFER OF TITLE. (a) Except as provided in Section 503.039, a motor vehicle may not be the subject of a subsequent sale unless the owner designated on the title submits a transfer of ownership of the title.

(b) The transfer of the title must be in a manner prescribed by the department that:

(1) certifies the purchaser is the owner of the vehicle;
and

(2) certifies there are no liens on the vehicle or provides a release of each lien on the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1127 (H.B. 2495), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 32, eff. January 1, 2012.

Sec. 501.072. ODOMETER DISCLOSURE STATEMENT. (a) Except as provided by Subsection (c), the seller of a motor vehicle sold in this state shall provide to the buyer, on a form prescribed by the department, a written disclosure of the vehicle's odometer reading at the time of the sale. The form must include space for the signature and printed name of both the seller and buyer.

(b) When application for a certificate of title is made, the owner shall record the current odometer reading on the application. The written disclosure required by Subsection (a) must accompany the application.

(c) An odometer disclosure statement is not required for the sale of a motor vehicle that:

(1) has a manufacturer's rated carrying capacity of more than two tons;

(2) is not self-propelled;

(3) is 10 or more years old;

(4) is sold directly by the manufacturer to an agency of the United States government in conformity with contractual specifications; or

(5) is a new motor vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 501.0721. DELIVERY OF RECEIPT AND TITLE TO PURCHASER OF USED MOTOR VEHICLE. A person, whether acting for that person or another, who sells, trades, or otherwise transfers a used motor vehicle shall deliver to the purchaser at the time of delivery of the vehicle a properly assigned title or other evidence of title as required under this chapter.

Transferred, redesignated and amended from Transportation Code, Section 520.022 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 33, eff. January 1, 2012.

Sec. 501.073. SALES IN VIOLATION OF CHAPTER. A sale made in violation of this chapter is void and title may not pass until the requirements of this chapter are satisfied.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 501.074. TRANSFER OF VEHICLE BY OPERATION OF LAW. (a) The department shall issue a new title for a motor vehicle registered in this state for which the ownership is transferred by operation of law or other involuntary divestiture of ownership after receiving:

(1) a certified copy of an order appointing a temporary administrator or of the probate proceedings;

(2) letters testamentary or letters of administration;

(3) if administration of an estate is not necessary, an

affidavit showing that administration is not necessary, identifying all heirs, and including a statement by the heirs of the name in which the certificate shall be issued;

(4) a court order; or

(5) the bill of sale from an officer making a judicial sale.

(b) If a lien is foreclosed by nonjudicial means, the department may issue a new title in the name of the purchaser at the foreclosure sale on receiving the affidavit of the lienholder of the fact of the nonjudicial foreclosure.

(c) If a constitutional or statutory lien is foreclosed, the department may issue a new title in the name of the purchaser at the foreclosure sale on receiving:

(1) the affidavit of the lienholder of the fact of the creation of the lien and of the divestiture of title according to law; and

(2) proof of notice as required by Sections 70.004 and 70.006, Property Code, or by Section 59.0445, Property Code.

(d) Notwithstanding the terms of Section 501.005, in the event of a conflict between this section and other law, this section controls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.41, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 76, Sec. 2, eff. May 14, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 405 (S.B. 690), Sec. 8, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 34, eff. January 1, 2012.

Sec. 501.076. LIMITED POWER OF ATTORNEY. (a) An owner who has a contractual option to transfer ownership of a vehicle in full or partial satisfaction of the balance owed on the vehicle, as provided in Section 348.123(b)(5), Finance Code, may execute a written limited power of attorney that authorizes an agent to complete and sign for the owner, and provide to the transferee, the form to transfer the title under Section 501.071 and the odometer disclosure under Section 501.072, and the other documents necessary to transfer title.

(b) The owner may execute the limited power of attorney at the time the owner enters the contract giving the owner the option to transfer the vehicle or at any time after that date. The limited power of attorney may only be used if an owner elects to transfer the vehicle in full or partial satisfaction of the contract and may not be used by the holder of the contract as part of the holder's exercise of a remedy for a default by the owner under the contract.

(c) The person named as the agent in the limited power of attorney must meet the following requirements:

(1) the person may be a person who has been deputized to perform vehicle registration functions as authorized by rules adopted under Section 520.0071, a licensed vehicle auction company holding a wholesale general distinguishing number under Section 503.022, a person who has a permit similar to one of the foregoing that is issued by the state in which the owner is located, or another person authorized by law to execute title documents in the state in which the owner executes the documents; and

(2) the person may not be the transferee or an employee of the transferee. The person may not act as the agent of both the transferor and transferee in the transaction. For the purposes of this section, a person is not the agent of both the transferor and transferee in a transaction unless the person has the authority to sign the documents pertaining to the transfer of title on behalf of both the transferor and the transferee.

(d) If a limited power of attorney is used under Subsection (a), the holder of the contract shall accompany the power of attorney with a written statement that the vehicle was returned at the election of the owner in full or partial satisfaction of the owner's obligations under the contract and not as the result of the exercise by the holder of the contract of its remedies for default.

(e) A signed and dated written odometer disclosure containing the information described in this subsection may be included on or with the power of attorney if the power of attorney is executed within 120 days before the date of the transfer and is accompanied by the conspicuous written notification described in this subsection. If an odometer disclosure is not obtained in that manner, the transferee or agent or the person to whom the vehicle is delivered at the time of the transfer shall request an odometer disclosure as provided in this subsection. Not more than 120 days before the transfer of the vehicle by the owner, the transferee or agent under

the power of attorney or person receiving delivery of the vehicle shall in writing request the owner to provide a signed and dated written statement stating the odometer reading (not to include tenths of a mile) as of the date of the statement, and further stating words to the effect that either: (i) to the best of the owner's knowledge, the odometer reading reflects the actual mileage of the vehicle; (ii) the actual mileage has gone over the odometer's mechanical limits and the odometer reading reflects the amount of mileage in excess of the mechanical limits of the odometer, if the owner knows that to be the case; or (iii) the odometer reading is not the actual mileage, if the owner knows that to be the case. The statement may consist of a form in which the agent or transferee or person receiving the vehicle includes the identification of the vehicle and owner and which allows the owner to fill in the odometer reading and mark an applicable box to indicate which of condition (i), (ii), or (iii) is applicable and to date and sign the statement. With the request for the owner's statement, the transferee or agent or person receiving the vehicle shall provide a written notification to the owner to the effect that the owner has a duty under law to state the odometer reading, state which of conditions (i), (ii), or (iii) is applicable, and sign, date, and return the statement and that failing to do so or providing false information may result in fines or imprisonment. Unless the written notification is delivered to the owner at substantially the same time that the owner is delivering the signed and dated owner's statement, the written notification must also state a date by which the owner must provide this information and an address to which it may be delivered. This written notification to the owner must be in bold letters, underlined, or otherwise conspicuous and may be in a separate document or included as part of a form to be used for the owner's statement or in another document relating to the potential transfer. The transferee or agent or the person receiving delivery of the vehicle may mail the request and notification to the last known address of the owner or may otherwise send or deliver it to the owner. If there are multiple owners of the same vehicle, the request and notification may be sent to one or more of them and it shall be sufficient for one owner to sign the statement. The owner has a duty to return the signed and dated statement as directed in the notification. In completing the odometer disclosure on the owner's behalf, the agent shall identify the same condition (i), (ii), or (iii) provided in the owner's

statement, unless the agent knows that the condition identified in the owner's statement is not correct. The agent will not indicate in the odometer disclosure it completes on the owner's behalf that the odometer reading is not the actual mileage unless either the owner has so indicated in the owner's statement or the agent knows that the owner's statement is not correct. The agent shall transmit the owner's statement it receives to the transferee after the title transfer is completed. The owner's statement received by the transferee under this subsection need not be filed with the filing office for the other title documents, but the transferee shall retain the owner's statement for a time period and in a similar manner to the retention methods used by a lessor to retain statements under 49 C.F.R. Section 580.8(b), as it may from time to time be amended. The transferee may rely upon the agent's odometer disclosure and the owner's statement unless it knows that they are not correct. A failure by an owner to comply with an obligation under this subsection subjects the owner to the penalties and enforcement provisions of Subchapter H but does not affect the validity of the transfer of title.

(f) This section does not in any way impair or impede any transfers made through use of a power of attorney prior to the effective date of this section, and such transfers shall continue to be valid if they comply with the provisions of this section or would otherwise comply with the law in effect prior to the effective date of this section. This section does not apply to powers of attorney authorized under federal law or regulation that authorize a transferee to act as the agent of the transferor under certain circumstances or to powers of attorney otherwise authorized by the law of this state. This section does not affect the use of powers of attorney to sign, complete, and deliver the form to transfer title and other documents necessary to transfer title, including the odometer disclosure, in title transfers other than those described in Subsection (a).

(g) The power of attorney created in this section shall be limited for the purposes and duration specified in this section.

Added by Acts 2003, 78th Leg., ch. 958, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 35, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 55, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 8, eff. September 1, 2013.

SUBCHAPTER E. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES

Sec. 501.091. DEFINITIONS. In this subchapter:

(1) "Actual cash value" means the market value of a motor vehicle.

(2) "Casual sale" means the sale by a salvage vehicle dealer or an insurance company of five or fewer nonrepairable motor vehicles or salvage motor vehicles to the same person during a calendar year, but does not include:

(A) a sale at auction to a salvage vehicle dealer;

(B) a sale to an insurance company, out-of-state buyer, or governmental entity; or

(C) the sale of an export-only motor vehicle to a person who is not a resident of the United States.

(3) "Damage" means sudden damage to a motor vehicle caused by the motor vehicle being wrecked, burned, flooded, or stripped of major component parts. The term does not include:

(A) gradual damage from any cause;

(B) sudden damage caused by hail;

(C) any damage caused only to the exterior paint of the motor vehicle; or

(D) theft, unless the motor vehicle was damaged during the theft and before recovery.

(4) "Export-only motor vehicle" means a motor vehicle described by Section 501.099.

(5) "Insurance company" means:

(A) a person authorized to write automobile insurance in this state; or

(B) an out-of-state insurance company that pays a loss claim for a motor vehicle in this state.

(6) "Major component part" means one of the following parts of a motor vehicle:

(A) the engine;

(B) the transmission;

(C) the frame;

(D) a fender;

(E) the hood;

(F) a door allowing entrance to or egress from the passenger compartment of the motor vehicle;

(G) a bumper;

(H) a quarter panel;

(I) a deck lid, tailgate, or hatchback;

(J) the cargo box of a vehicle with a gross vehicle weight of 10,000 pounds or less, including a pickup truck;

(K) the cab of a truck;

(L) the body of a passenger motor vehicle;

(M) the roof or floor pan of a passenger motor vehicle, if separate from the body of the motor vehicle.

(7) "Metal recycler" means a person who:

(A) is engaged in the business of obtaining, converting, or selling ferrous or nonferrous metal for conversion into raw material products consisting of prepared grades and having an existing or potential economic value;

(B) has a facility to convert ferrous or nonferrous metal into raw material products by method other than the exclusive use of hand tools, including the processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content of the metal; and

(C) sells or purchases the ferrous or nonferrous metal solely for use as raw material in the production of new products.

(8) "Motor vehicle" has the meaning assigned by Section 501.002.

(9) "Nonrepairable motor vehicle" means a motor vehicle that:

(A) is damaged, wrecked, or burned to the extent that the only residual value of the vehicle is as a source of parts or scrap metal; or

(B) comes into this state under a comparable ownership document that indicates that the vehicle is nonrepairable.

(10) "Nonrepairable vehicle title" means a printed document issued by the department that evidences ownership of a nonrepairable motor vehicle.

(10-a) "Nonrepairable record of title" means an electronic record of ownership of a nonrepairable motor vehicle.

(11) "Out-of-state buyer" means a person licensed in an

automotive business by another state or jurisdiction if the department has listed the holders of such a license as permitted purchasers of salvage motor vehicles or nonrepairable motor vehicles based on substantially similar licensing requirements and on whether salvage vehicle dealers licensed in Texas are permitted to purchase salvage motor vehicles or nonrepairable motor vehicles in the other state or jurisdiction.

(12) "Out-of-state ownership document" means a negotiable document issued by another state or jurisdiction that the department considers sufficient to prove ownership of a nonrepairable motor vehicle or salvage motor vehicle and to support the issuance of a comparable Texas title for the motor vehicle. The term does not include any title or certificate issued by the department.

(13) "Public highway" has the meaning assigned by Section 502.001.

(14) "Rebuilder" means a person who acquires and repairs, rebuilds, or reconstructs for operation on a public highway, more than five salvage motor vehicles in a calendar year.

(15) "Salvage motor vehicle" means a motor vehicle that:

(A) has damage to or is missing a major component part to the extent that the cost of repairs, including parts and labor other than the cost of materials and labor for repainting the motor vehicle and excluding sales tax on the total cost of repairs, exceeds the actual cash value of the motor vehicle immediately before the damage; or

(B) comes into this state under an out-of-state salvage motor vehicle title or similar out-of-state ownership document.

(16) "Salvage vehicle title" means a printed document issued by the department that evidences ownership of a salvage motor vehicle.

(16-a) "Salvage record of title" means an electronic record of ownership of a salvage motor vehicle.

(17) "Salvage vehicle dealer" means a person engaged in this state in the business of acquiring, selling, repairing, rebuilding, reconstructing, or otherwise dealing in nonrepairable motor vehicles, salvage motor vehicles, or, if incidental to a salvage motor vehicle dealer's primary business, used automotive parts regardless of whether the person holds a license issued by the department to engage in that business. The term does not include an unlicensed person who:

(A) casually repairs, rebuilds, or reconstructs not more than five nonrepairable motor vehicles or salvage motor vehicles in the same calendar year;

(B) buys not more than five nonrepairable motor vehicles or salvage motor vehicles in the same calendar year; or

(C) is a licensed used automotive parts recycler if the sale of repaired, rebuilt, or reconstructed nonrepairable motor vehicles or salvage motor vehicles is more than an incidental part of the used automotive parts recycler's business.

(18) "Self-insured motor vehicle" means a motor vehicle for which the owner or a governmental entity assumes full financial responsibility for motor vehicle loss claims without regard to the number of motor vehicles they own or operate. The term does not include a motor vehicle that is insured by an insurance company.

(19) "Used part" means a part that is salvaged, dismantled, or removed from a motor vehicle for resale as is or as repaired. The term includes a major component part but does not include a rebuildable or rebuilt core, including an engine, block, crankshaft, transmission, or other core part that is acquired, possessed, or transferred in the ordinary course of business.

(20) "Used parts dealer" and "used automotive parts recycler" have the meaning assigned to "used automotive parts recycler" by Section 2309.002, Occupations Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.43(a), eff. Sept. 1, 1997. Renumbered from Transportation Code, Sec. 501.0911 and amended by Acts 2003, 78th Leg., ch. 1325, Sec. 17.02, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 567 (H.B. 1350), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 783 (S.B. 1095), Sec. 8, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 4.08, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 36, eff. January 1, 2012.

Sec. 501.09111. RIGHTS AND LIMITATIONS OF NONREPAIRABLE VEHICLE TITLE, NONREPAIRABLE RECORD OF TITLE, SALVAGE VEHICLE TITLE, OR

SALVAGE RECORD OF TITLE. (a) A person who owns a nonrepairable motor vehicle:

(1) is entitled to possess, transport, dismantle, scrap, destroy, record a lien as provided for in Section 501.097(a)(3)(A), and sell, transfer, or release ownership of the motor vehicle or a used part from the motor vehicle; and

(2) may not:

(A) operate or permit the operation of the motor vehicle on a public highway, in addition to any other requirement of law;

(B) repair, rebuild, or reconstruct the motor vehicle; or

(C) register the motor vehicle.

(b) A person who holds a nonrepairable certificate of title issued prior to September 1, 2003, is entitled to the same rights listed in Subsection (a) and may repair, rebuild, or reconstruct the motor vehicle.

(c) A person who owns a salvage motor vehicle:

(1) is entitled to possess, transport, dismantle, scrap, destroy, repair, rebuild, reconstruct, record a lien on, and sell, transfer, or release ownership of the motor vehicle or a used part from the motor vehicle; and

(2) may not operate, register, or permit the operation of the motor vehicle on a public highway, in addition to any other requirement of law.

Redesignated and amended from Transportation Code, Section 501.098 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 37, eff. January 1, 2012.

Sec. 501.09112. APPEARANCE OF NONREPAIRABLE VEHICLE TITLE OR SALVAGE VEHICLE TITLE. (a) The department's printed nonrepairable vehicle title must clearly indicate that it is the negotiable ownership document for a nonrepairable motor vehicle.

(b) A nonrepairable vehicle title must clearly indicate that the motor vehicle:

(1) may not be:

(A) issued a regular title;

(B) registered in this state; or

(C) repaired, rebuilt, or reconstructed; and
 (2) may be used only as a source for used parts or scrap metal.

(c) The department's printed salvage vehicle title must clearly show that it is the ownership document for a salvage motor vehicle.

(d) A salvage vehicle title or a salvage record of title for a vehicle that is a salvage motor vehicle because of damage caused exclusively by flood must bear a notation that the department considers appropriate. If the title for a motor vehicle reflects the notation required by this subsection, the owner may sell, transfer, or release the motor vehicle only as provided by this subchapter.

(e) An electronic application for a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title must clearly advise the applicant of the same provisions required on a printed title.

(f) A nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title in the department's electronic database must include appropriate remarks so that the vehicle record clearly shows the status of the vehicle.

Redesignated and amended from Transportation Code, Section 501.103 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 38, eff. January 1, 2012.

Sec. 501.09113. OUT-OF-STATE SALVAGE OR REBUILT SALVAGE VEHICLE. (a) This section applies only to a motor vehicle brought into this state from another state or jurisdiction that has on any title or comparable out-of-state ownership document issued by the other state or jurisdiction:

(1) a "rebuilt," "salvage," or similar notation; or
 (2) a "nonrepairable," "dismantle only," "parts only," "junked," "scrapped," or similar notation.

(b) On receipt of a complete application from the owner of the motor vehicle, the department shall issue the applicant the appropriate title for the motor vehicle.

Redesignated and amended from Transportation Code, Section 501.101 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 39, eff. January 1, 2012.

Sec. 501.0925. INSURANCE COMPANY NOT REQUIRED TO SURRENDER CERTIFICATES OF TITLE IN CERTAIN SITUATIONS. (a) An insurance company that acquires, through payment of a claim, ownership or possession of a motor vehicle covered by a certificate of title that the company is unable to obtain may obtain from the department not earlier than the 30th day after the date of payment of the claim:

- (1) a salvage vehicle title for a salvage motor vehicle;
- (2) a nonrepairable vehicle title for a nonrepairable motor vehicle; or
- (3) a regular certificate of title for a motor vehicle other than a salvage motor vehicle or a nonrepairable motor vehicle.

(b) An application for a title under Subsection (a) must be submitted to the department on a form prescribed by the department and include:

- (1) a statement that the insurance company has provided at least two written notices attempting to obtain the certificate of title for the motor vehicle; and
- (2) evidence acceptable to the department that the insurance company has made payment of a claim involving the motor vehicle.

(c) An insurance company that acquires, through payment of a claim, ownership or possession of a motor vehicle covered by a certificate of title for which the company is unable to obtain proper assignment of the certificate may obtain from the department not earlier than the 30th day after the date of payment of the claim:

- (1) a salvage vehicle title for a salvage motor vehicle;
- (2) a nonrepairable vehicle title for a nonrepairable motor vehicle; or
- (3) a regular certificate of title for a motor vehicle other than a salvage motor vehicle or a nonrepairable motor vehicle.

(d) An application for a title under Subsection (c) must be submitted to the department on a form prescribed by the department and include:

- (1) a statement that the insurance company has provided at least two written notices attempting to obtain a proper assignment of the certificate of title; and
- (2) the certificate of title.

(e) A title issued under Subsection (a) or (c) must be issued in the name of the insurance company.

(f) An insurance company that acquires, through payment of a

claim, ownership or possession of a salvage motor vehicle or nonrepairable motor vehicle covered by an out-of-state ownership document may obtain from the department a salvage vehicle title or nonrepairable vehicle title if:

(1) the motor vehicle was damaged, stolen, or recovered in this state;

(2) the motor vehicle owner from whom the company acquired ownership resides in this state; or

(3) otherwise allowed by department rule.

(g) A title may be issued under Subsection (f) if the insurance company:

(1) surrenders a properly assigned title on a form prescribed by the department; or

(2) complies with the application process for a title issued under Subsection (a) or (c).

(h) The department shall issue the appropriate title to a person authorized to apply for the title under this section if the department determines that the application is complete and complies with applicable law.

(i) The department by rule may provide that a person required by this section to provide notice may provide the notice electronically, including through the use of e-mail or an interactive website established by the department for that purpose.

(j) Section 501.1001(c) applies to a motor vehicle acquired by an insurance company as described in Subsection (a), (c), or (f).

(k) The department may adopt rules to implement this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1136 (H.B. [1422](#)), Sec. 2, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 20.007, eff. September 1, 2013.

Sec. 501.0935. ISSUANCE OF TITLE TO SALVAGE POOL OPERATOR. (a) In this section, "salvage pool operator" has the meaning assigned by Section 2302.001, Occupations Code.

(b) This section applies only to a salvage pool operator who, on request of an insurance company, takes possession of a motor vehicle that is the subject of an insurance claim and the insurance

company subsequently:

- (1) denies coverage with respect to the motor vehicle; or
- (2) does not otherwise take ownership of the motor vehicle.

(b-1) An insurance company described by Subsection (b) shall notify the salvage pool operator of the denial of the claim regarding the motor vehicle or other disposition of the motor vehicle. The insurance company must include in the notice the name and address of the owner of the motor vehicle and the lienholder, if any.

(c) Before the 31st day after receiving notice under Subsection (b-1), a salvage pool operator shall notify the owner of the motor vehicle and any lienholder that:

(1) the owner or lienholder must remove the motor vehicle from the salvage pool operator's possession at the location specified in the notice to the owner and any lienholder not later than the 30th day after the date the notice is mailed; and

(2) if the motor vehicle is not removed within the time specified in the notice, the salvage pool operator will sell the motor vehicle and retain from the proceeds any costs actually incurred by the operator in obtaining, handling, and disposing of the motor vehicle as described by Subsection (d).

(d) The salvage pool operator may include in the costs described by Subsection (c)(2) only costs actually incurred by the salvage pool operator that have not been reimbursed by a third party or are not subject to being reimbursed by a third party, such as costs of notices, title searches, and towing and other costs incurred with respect to the motor vehicle. The costs described by Subsection (c)(2):

(1) may not include charges for storage or impoundment of the motor vehicle; and

(2) may be deducted only from the proceeds of a sale of the motor vehicle.

(e) The notice required of a salvage pool operator under this section must be sent by registered or certified mail, return receipt requested.

(f) If a motor vehicle is not removed from a salvage pool operator's possession before the 31st day after the date notice is mailed to the motor vehicle's owner and any lienholder under Subsection (c), the salvage pool operator may obtain from the department:

- (1) a salvage vehicle title for a salvage motor vehicle; or

(2) a nonrepairable vehicle title for a nonrepairable motor vehicle.

(g) An application for a title under Subsection (f) must:

(1) be submitted to the department on a form prescribed by the department; and

(2) include evidence that the notice was mailed as required by Subsection (c) to the motor vehicle owner and any lienholder.

(h) A title issued under this section must be issued in the name of the salvage pool operator.

(i) The department shall issue the appropriate title to a person authorized to apply for the title under this section if the department determines that the application is complete and complies with applicable law.

(j) On receipt of a title under this section, the salvage pool operator shall sell the motor vehicle and retain from the proceeds of the sale the costs incurred by the salvage pool operator as permitted by Subsection (d) along with the cost of titling and selling the motor vehicle. The salvage pool operator shall pay any excess proceeds from the sale to the previous owner of the motor vehicle and the lienholder, if any. The excess proceeds must be mailed to the lienholder.

(k) If the previous owner of the motor vehicle and the lienholder, if any, cannot be identified or located, any excess proceeds from the sale of the motor vehicle under Subsection (j) shall escheat to the State of Texas. The proceeds shall be administered by the comptroller and shall be disposed of in the manner provided by Chapter 74, Property Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1136 (H.B. 1422), Sec. 2, eff. September 1, 2011.

Sec. 501.095. SALE, TRANSFER, OR RELEASE. (a) If the department has not issued a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title for the motor vehicle and a comparable out-of-state ownership document for the motor vehicle has not been issued by another state or jurisdiction, a business or governmental entity described by Subdivisions (1)-(3) may sell, transfer, or release a nonrepairable motor vehicle or salvage motor vehicle only to a person

who is:

(1) a licensed salvage vehicle dealer, a used automotive parts recycler under Chapter 2309, Occupations Code, or a metal recycler under Chapter 2302, Occupations Code;

(2) an insurance company that has paid a claim on the nonrepairable or salvage motor vehicle; or

(3) a governmental entity.

(b) A person, other than a salvage vehicle dealer, a used automotive parts recycler, or an insurance company licensed to do business in this state, who acquired ownership of a nonrepairable or salvage motor vehicle that has not been issued a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, salvage record of title, or a comparable ownership document issued by another state or jurisdiction shall, before selling the motor vehicle, surrender the properly assigned title for the motor vehicle to the department and apply to the department for the appropriate ownership document.

(c) If the department has issued a nonrepairable vehicle title or salvage vehicle title for the motor vehicle or another state or jurisdiction has issued a comparable out-of-state ownership document for the motor vehicle, a person may sell, transfer, or release a nonrepairable motor vehicle or salvage motor vehicle to any person.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.43(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1421, Sec. 10, eff. June 1, 2003. Renumbered from Transportation Code Sec. 501.0916 and amended by Acts 2003, 78th Leg., ch. 1325, Sec. 17.02, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 783 (S.B. [1095](#)), Sec. 10, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. [3097](#)), Sec. 4.10, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 40, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 41, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 56, eff. September 1, 2013.

Sec. 501.097. APPLICATION FOR NONREPAIRABLE VEHICLE TITLE OR SALVAGE VEHICLE TITLE.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 1136
(H.B. 1422), Sec. 4

(a) An application for a nonrepairable vehicle title or salvage vehicle title must:

(1) be made on a form prescribed by the department and accompanied by a \$8 application fee;

(2) include, in addition to any other information required by the department:

(A) the name and current address of the owner;

(B) a description of the motor vehicle, including the make, style of body, model year, and vehicle identification number; and

(C) a statement describing whether the motor vehicle:

(i) was the subject of a total loss claim paid by an insurance company under Section 501.092, 501.0925, or 501.093;

(ii) is a self-insured motor vehicle under Section 501.094;

(iii) is an export-only motor vehicle under Section 501.099;

(iv) was sold, transferred, or released to the owner or former owner of the motor vehicle or a buyer at a casual sale; or

(v) is a motor vehicle for which an insurance company does not take ownership under Section 501.0935; and

(3) include the name and address of:

(A) any currently recorded lienholder, if the motor vehicle is a nonrepairable motor vehicle; or

(B) any currently recorded lienholder or a new lienholder, if the motor vehicle is a salvage motor vehicle.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 1296
(H.B. 2357), Sec. 42

(a) An application for a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title must:

(1) be made in a manner prescribed by the department and accompanied by a \$8 application fee;

(2) include, in addition to any other information required

by the department:

(A) the name and current address of the owner; and

(B) a description of the motor vehicle, including the make, style of body, model year, and vehicle identification number; and

(3) include the name and address of:

(A) any currently recorded lienholder, if the motor vehicle is a nonrepairable motor vehicle; or

(B) any currently recorded lienholder or a new lienholder, if the motor vehicle is a salvage motor vehicle.

(b) Except as provided by Sections 501.0925 and 501.0935, on receipt of a complete application, the properly assigned title or manufacturer's certificate of origin, and the application fee, the department shall, before the sixth business day after the date the department receives the application, issue the applicant the appropriate title for the motor vehicle.

(c) A printed nonrepairable vehicle title must state on its face that the motor vehicle:

(1) may not:

(A) be repaired, rebuilt, or reconstructed;

(B) be issued a title or registered in this state;

(C) be operated on a public highway, in addition to any other requirement of law; and

(2) may only be used as a source for used parts or scrap metal.

(c-1) The department's titling system must include a remark that clearly identifies the vehicle as a salvage or nonrepairable motor vehicle.

(d) The fee collected under Subsection (a)(1) shall be credited to the Texas Department of Motor Vehicles fund to defray the costs of administering this subchapter and the costs to the department for issuing the title.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.43(a), eff. Sept. 1, 1997. Renumbered from Transportation Code, Sec. 501.0920 and amended by Acts 2003, 78th Leg., ch. 1325, Sec. 17.02, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1136 (H.B. [1422](#)), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 42, eff.

January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 9, eff. September 1, 2013.

Sec. 501.099. SALE OF EXPORT-ONLY MOTOR VEHICLES. (a) This section applies to a nonrepairable motor vehicle or a salvage motor vehicle that is offered for sale in this state to a person who resides in a jurisdiction outside the United States.

(b) A person may purchase a nonrepairable motor vehicle or a salvage motor vehicle only if:

(1) the person purchases the motor vehicle from a licensed salvage vehicle dealer or a governmental entity;

(2) the motor vehicle has been issued a nonrepairable vehicle title or a salvage vehicle title; and

(3) the purchaser certifies to the seller on a form provided by the department that the purchaser will:

(A) remove the motor vehicle from the United States; and

(B) not return the motor vehicle to any state of the United States as a motor vehicle titled or registered under its manufacturer's vehicle identification number.

(c) A salvage vehicle dealer or a governmental entity that sells a nonrepairable motor vehicle or a salvage motor vehicle to a person who is not a resident of the United States shall, before the sale of the motor vehicle, obtain a copy, photocopy, or other accurate reproduction of a valid identification card, identification certificate, or an equivalent document issued to the purchaser by the appropriate authority of the jurisdiction in which the purchaser resides that bears a photograph of the purchaser and is capable of being verified using identification standards adopted by the United States or the international community.

(d) The department by rule shall establish a list of identification documents that are valid under Subsection (c) and provide a copy of the list to each holder of a salvage vehicle dealer license and to each appropriate governmental entity.

(e) A salvage vehicle dealer or a governmental entity that sells a nonrepairable motor vehicle or a salvage motor vehicle to a person who is not a resident of the United States shall:

(1) stamp on the face of the title so as not to obscure any

name, date, or mileage statement on the title the words "FOR EXPORT ONLY" in capital letters that are black; and

(2) stamp in each unused reassignment space on the back of the title the words "FOR EXPORT ONLY" and print the number of the dealer's salvage vehicle license or the name of the governmental entity, as applicable.

(f) The words "FOR EXPORT ONLY" required by Subsection (e) must be at least two inches wide and clearly legible.

(g) A salvage vehicle dealer or governmental entity who sells a nonrepairable motor vehicle or a salvage motor vehicle under this section to a person who is not a resident of the United States shall keep on the business premises of the dealer or entity until the third anniversary of the date of the sale:

(1) a copy of each document related to the sale of the vehicle; and

(2) a list of all vehicles sold under this section that contains:

(A) the date of the sale;

(B) the name of the purchaser;

(C) the name of the country that issued the identification document provided by the purchaser, as shown on the document; and

(D) the vehicle identification number.

(h) This section does not prevent a person from exporting or importing a used part obtained from an export-only motor vehicle.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 17.02, eff. Sept. 1, 2003.

Sec. 501.100. APPLICATION FOR REGULAR CERTIFICATE OF TITLE FOR SALVAGE VEHICLE. (a) The owner of a motor vehicle for which a nonrepairable vehicle title issued prior to September 1, 2003, or for which a salvage vehicle title or salvage record of title has been issued may apply for a title after the motor vehicle has been repaired, rebuilt, or reconstructed and, in addition to any other requirement of law, only if the application:

(1) describes each major component part used to repair the motor vehicle;

(2) states the name of each person from whom the parts used

in assembling the vehicle were obtained; and

(3) shows the identification number required by federal law to be affixed to or inscribed on the part.

(b) On receipt of a complete application under this section accompanied by the fee for the title, the department shall issue the applicant a title.

(c) A title issued under this section must describe or disclose the motor vehicle's former condition in a manner reasonably understandable to a potential purchaser of the motor vehicle.

(d) In addition to the fee described by Subsection (b), the applicant shall pay a \$65 rebuilder fee. The applicant shall include the fee with the statement submitted under Section 502.156 for the vehicle.

(e) On or after the 31st day after the date the department receives a rebuilder fee under Subsection (d), the department shall deposit \$50 of the fee to the credit of the state highway fund to be used only by the Department of Public Safety to enforce this chapter and \$15 to the credit of the general revenue fund.

(f) The department may not issue a regular title for a motor vehicle based on a:

- (1) nonrepairable vehicle title or comparable out-of-state ownership document;
- (2) receipt issued under Section 501.1003(b); or
- (3) certificate of authority.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.43(a), eff. Sept. 1, 1997. Renumbered from Transportation Code, Sec. 501.0922, 501.0923 as consolidated and amended by Acts 2003, 78th Leg., ch. 1325, Sec. 17.02, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 43, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 57, eff. September 1, 2013.

Sec. 501.1001. SALVAGE MOTOR VEHICLES OR NONREPAIRABLE MOTOR VEHICLES FOR INSURANCE COMPANIES OR SELF-INSURED PERSONS.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 1136

(H.B. 1422), Sec. 1

(a) Except as provided by Section 501.0925, an insurance company that is licensed to conduct business in this state and that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable motor vehicle covered by a certificate of title issued by this state or a manufacturer's certificate of origin shall surrender a properly assigned title or manufacturer's certificate of origin to the department, on a form prescribed by the department.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 1296
(H.B. 2357), Sec. 44

(a) An insurance company that is licensed to conduct business in this state and that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable motor vehicle covered by a title issued by this state or a manufacturer's certificate of origin shall surrender a properly assigned title or manufacturer's certificate of origin to the department, in a manner prescribed by the department, except that not earlier than the 31st day after the date of payment of the claim the insurance company may surrender a title, in a manner prescribed by the department, and receive a salvage vehicle title or a nonrepairable vehicle title without obtaining a properly assigned title if the insurance company:

(1) has obtained the release of all liens on the motor vehicle;

(2) is unable to locate one or more owners of the motor vehicle; and

(3) has provided notice to the last known address in the department's records to each owner that has not been located:

(A) by registered or certified mail, return receipt requested; or

(B) if a notice sent under Paragraph (A) is returned unclaimed, by publication in a newspaper of general circulation in the area where the unclaimed mail notice was sent.

(b) For a salvage motor vehicle, the insurance company shall apply for a salvage vehicle title or salvage record of title. For a nonrepairable motor vehicle, the insurance company shall apply for a nonrepairable vehicle title or nonrepairable record of title.

(c) An insurance company or other person who acquires ownership of a motor vehicle other than a nonrepairable or salvage motor

vehicle may voluntarily and on proper application obtain a salvage vehicle title, salvage record of title, nonrepairable vehicle title, or nonrepairable record of title for the vehicle.

(d) This subsection applies only to a motor vehicle in this state that is a self-insured motor vehicle and that is damaged to the extent it becomes a nonrepairable or salvage motor vehicle. The owner of a motor vehicle to which this subsection applies shall submit to the department before the 31st business day after the date of the damage, in a manner prescribed by the department, a statement that the motor vehicle was self-insured and damaged. When the owner submits a report, the owner shall surrender the ownership document and apply for a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1136 (H.B. 1422), Sec. 1, eff. September 1, 2011.

Redesignated from Transportation Code, Section 501.092 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 44, eff. January 1, 2012.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 44, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.008, eff. September 1, 2013.

Sec. 501.1002. OWNER-RETAINED VEHICLES.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 1136 (H.B. 1422), Sec. 3

(a) If an insurance company pays a claim on a nonrepairable motor vehicle or salvage motor vehicle and the insurance company does not acquire ownership of the motor vehicle, the insurance company shall:

(1) submit to the department, before the 31st day after the date of the payment of the claim, on the form prescribed by the department, a report stating that the insurance company:

(A) has paid a claim on the motor vehicle; and

(B) has not acquired ownership of the motor vehicle;

and

- (2) provide notice to the owner of the motor vehicle of:
 - (A) the report required under Subdivision (1); and
 - (B) the requirements for operation or transfer of ownership of the motor vehicle under Subsection (b).

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 1296
(H.B. 2357), Sec. 45

(a) If an insurance company pays a claim on a nonrepairable motor vehicle or salvage motor vehicle and the insurance company does not acquire ownership of the motor vehicle, the insurance company shall:

- (1) apply on behalf of the owner for a nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title; or
- (2) notify the owner of the information contained in:
 - (A) Subsection (b); or
 - (B) Section 501.09111; and
- (3) submit to the department, before the 31st day after the date of the payment of the claim, in a manner prescribed by the department, a report stating that the insurance company:
 - (A) has paid a claim on the motor vehicle; and
 - (B) has not acquired ownership of the motor vehicle.

(b) The owner of a motor vehicle to which this section applies may not operate or permit operation of the motor vehicle on a public highway or transfer ownership of the motor vehicle by sale or otherwise unless the department has issued a salvage vehicle title, salvage record of title, nonrepairable vehicle title, or nonrepairable record of title for the motor vehicle or a comparable ownership document has been issued by another state or jurisdiction for the motor vehicle.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.43(a), eff. Sept. 1, 1997. Renumbered from Transportation Code Sec. 501.0915 and amended by Acts 2003, 78th Leg., ch. 1325, Sec. 17.02, eff. Sept. 1, 2003. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1136 (H.B. 1422), Sec. 3, eff. September 1, 2011.

Redesignated and amended from Transportation Code, Section 501.093 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 45, eff. January 1, 2012.

Sec. 501.1003. SALVAGE DEALER RESPONSIBILITIES. (a) If a salvage vehicle dealer acquires ownership of a nonrepairable motor vehicle or salvage motor vehicle for the purpose of dismantling, scrapping, or destroying the motor vehicle, the dealer shall, before the 31st day after the date the dealer acquires the motor vehicle, submit to the department a report stating that the motor vehicle will be dismantled, scrapped, or destroyed. The dealer shall:

(1) make the report in a manner prescribed by the department; and

(2) submit with the report a properly assigned manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document for the motor vehicle.

(b) After receiving the report and title or document, the department shall issue the salvage vehicle dealer a receipt for the manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document.

(c) The department shall adopt rules to notify the salvage dealer if the vehicle was not issued a printed title, but has a record of title in the department's titling system.

Redesignated and amended from Transportation Code, Section 501.096 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 46, eff. January 1, 2012.

Sec. 501.104. REBUILDER TO POSSESS TITLE OR OTHER DOCUMENTATION. (a) This section applies to a person engaged in repairing, rebuilding, or reconstructing more than five motor vehicles, regardless of whether the person is licensed to engage in that business.

(b) A person described by Subsection (a) must possess:

(1) an acceptable ownership document or proof of ownership for any motor vehicle that is:

(A) owned by the person;

(B) in the person's inventory; and

(C) being offered for resale; or

(2) a contract entered into with the owner, a work order, or another document that shows the authority for the person to

possess any motor vehicle that is:

- (A) owned by another person;
- (B) on the person's business or casual premises; and
- (C) being repaired, rebuilt, or reconstructed for the

other person.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.43(a), eff. Sept. 1, 1997. Renumbered from Transportation Code, Sec. 501.0929 and amended by Acts 2003, 78th Leg., ch. 1325, Sec. 17.02, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 47, eff. January 1, 2012.

Sec. 501.107. APPLICABILITY OF SUBCHAPTER TO RECYCLER. (a) This subchapter does not apply to a sale to, purchase by, or other transaction by or with, a metal recycler except as provided by Subsections (b) and (c).

(b) A metal recycler shall submit to the department the properly assigned manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document that the person receives in conjunction with the purchase of a motor vehicle not later than the 60th day after the date the metal recycler receives the title or out-of-state ownership document.

(c) This subchapter applies to a transaction with a metal recycler in which a motor vehicle:

(1) is sold or delivered to the metal recycler for the purpose of reuse or resale as a motor vehicle or as a source of used parts; and

(2) is used for that purpose.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.43(a), eff. Sept. 1, 1997. Renumbered from Transportation Code, Sec. 501.0931 and amended by Acts 2003, 78th Leg., ch. 1325, Sec. 17.02, eff. Sept. 1, 2003.

Sec. 501.108. RECORD RETENTION. (a) Each licensed salvage vehicle dealer, used automotive parts recycler, or insurance company that sells a nonrepairable motor vehicle or a salvage motor vehicle at a casual sale shall keep on the business premises of the dealer or

the insurance company a list of all casual sales made during the preceding 36-month period that contains:

- (1) the date of the sale;
- (2) the name of the purchaser;
- (3) the name of the jurisdiction that issued the

identification document provided by the purchaser, as shown on the document; and

- (4) the vehicle identification number.

(b) A salvage vehicle dealer or used automotive parts recycler shall keep on the business premises of the dealer or recycler, until the third anniversary of the date the report on the motor vehicle is submitted to the department, a record of the vehicle, its ownership, and its condition as dismantled, scrapped, or destroyed as required by Section 501.1003.

Redesignated and amended from Transportation Code, Section 501.105 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 48, eff. January 1, 2012.

Sec. 501.109. OFFENSES. (a) A person commits an offense if the person:

(1) applies to the department for a title for a motor vehicle; and

(2) knows or reasonably should know that:

(A) the vehicle is a nonrepairable motor vehicle that has been repaired, rebuilt, or reconstructed;

(B) the vehicle identification number assigned to the motor vehicle belongs to a nonrepairable motor vehicle that has been repaired, rebuilt, or reconstructed;

(C) the title issued to the motor vehicle belongs to a nonrepairable motor vehicle that has been repaired, rebuilt, or reconstructed;

(D) the vehicle identification number assigned to the motor vehicle belongs to an export-only motor vehicle;

(E) the motor vehicle is an export-only motor vehicle;

or

(F) the motor vehicle is a nonrepairable motor vehicle or salvage motor vehicle for which a nonrepairable vehicle title, salvage vehicle title, or comparable ownership document issued by

another state or jurisdiction has not been issued.

(b) A person commits an offense if the person knowingly sells, transfers, or releases a salvage motor vehicle in violation of this subchapter.

(c) A person commits an offense if the person knowingly fails or refuses to surrender a regular certificate of title after the person:

(1) receives a notice from an insurance company that the motor vehicle is a nonrepairable or salvage motor vehicle; or

(2) knows the vehicle has become a nonrepairable motor vehicle or salvage motor vehicle under Section 501.1001.

(d) Except as provided by Subsection (e), an offense under this section is a Class C misdemeanor.

(e) If it is shown on the trial of an offense under this section that the defendant has been previously convicted of:

(1) one offense under this section, the offense is a Class B misdemeanor; or

(2) two or more offenses under this section, the offense is a state jail felony.

(f) Subsection (c) does not apply to an applicant for a title under Sections 501.0925 and 501.0935.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1136 (H.B. [1422](#)), Sec. 5, eff. September 1, 2011.

Redesignated and amended from Transportation Code, Section 501.102 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 49, eff. January 1, 2012.

Sec. 501.110. ENFORCEMENT OF SUBCHAPTER. (a) This subchapter shall be enforced by the department and any other governmental or law enforcement entity, including the Department of Public Safety, and the personnel of the entity as provided by this subchapter.

(b) The department, an agent, officer, or employee of the department, or another person enforcing this subchapter is not liable to a person damaged or injured by an act or omission relating to the issuance or revocation of a title, nonrepairable vehicle title, nonrepairable record of title, salvage vehicle title, or salvage record of title under this subchapter.

Redesignated and amended from Transportation Code, Section 501.106 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 50, eff. January 1, 2012.

SUBCHAPTER F. SECURITY INTERESTS

Sec. 501.111. PERFECTION OF SECURITY INTEREST. (a) Except as provided by Subsection (b), a person may perfect a security interest in a motor vehicle that is the subject of a first or subsequent sale only by recording the security interest on the title as provided by this chapter.

(b) A person may perfect a security interest in a motor vehicle held as inventory by a person in the business of selling motor vehicles only by complying with Chapter 9, Business & Commerce Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 51, eff. January 1, 2012.

Sec. 501.112. SALE OR SECURITY INTEREST NOT CREATED BY CERTAIN VEHICLE LEASES. Notwithstanding any other law, an agreement for the lease of a motor vehicle does not create a sale or security interest by merely providing that the rental price is permitted or required to be adjusted under the agreement as determined by the amount realized on the sale or other disposition of the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 501.113. RECORDATION OF SECURITY INTEREST. (a) Recordation of a lien under this chapter is considered to occur when:

- (1) the department's titling system is updated; or
- (2) the county assessor-collector accepts the application of title that discloses the lien with the filing fee.

(b) For purposes of Chapter 9, Business & Commerce Code, the time of recording a lien under this chapter is considered to be the time of filing the security interest, and on such recordation, the recorded lienholder and assignees under Section 501.114 obtain priority over the rights of a lien creditor, as defined by Section

9.102, Business & Commerce Code, for so long as the lien is recorded on the title.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 814 (S.B. 1592), Sec. 4, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 52, eff. January 1, 2012.

Sec. 501.114. ASSIGNMENT OF LIEN. (a) A lienholder may assign a lien recorded under Section 501.113 without making any filing or giving any notice under this chapter. The lien assigned remains valid and perfected and retains its priority, securing the obligation assigned to the assignee, against transferees from and creditors of the debtor, including lien creditors, as defined by Section 9.102, Business & Commerce Code.

(b) An assignee or assignor may, but need not to retain the validity, perfection, and priority of the lien assigned, as evidence of the assignment of a lien recorded under Section 501.113:

(1) apply to the county assessor-collector for the assignee to be named as lienholder on the title; and

(2) notify the debtor of the assignment.

(c) Failure to make application under Subsection (b) or notify a debtor of an assignment does not create a cause of action against the recorded lienholder, the assignor, or the assignee or affect the continuation of the perfected status of the assigned lien in favor of the assignee against transferees from and creditors of the debtor, including lien creditors, as defined by Section 9.102, Business & Commerce Code.

(d) An application under Subsection (b) must be acknowledged by the assignee.

(e) On receipt of the completed application and fee, the department may:

(1) amend the department's records to substitute the assignee for the recorded lienholder; and

(2) issue a new title as provided by this chapter.

(f) The issuance of a title under Subsection (e) is recordation of the assignment.

(g) Regardless of whether application is made for the assignee to be named as lienholder on the title, the time of the recordation of a lien assigned under this section is considered to be the time the lien was initially recorded under Section 501.113.

(h) Notwithstanding Subsections (a)-(g) and procedures that may be conducted under those subsections, the assignment of a lien does not affect the procedures applicable to the foreclosure of a worker's lien under Chapter 70, Property Code, or the rights of the holder of a worker's lien. Notice given to the last known lienholder of record, as provided by that chapter, is adequate to allow foreclosure under that chapter.

(i) Notwithstanding Subsections (a)-(g) and the procedures that may be conducted under those subsections, the assignment of a lien does not affect the procedures applicable to the release of a holder's lien under Section 348.408, Finance Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 814 (S.B. [1592](#)), Sec. 5, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 53, eff. January 1, 2012.

Sec. 501.115. DISCHARGE OF LIEN. (a) When a debt or claim secured by a lien has been satisfied, the lienholder shall, within a reasonable time not to exceed the maximum time allowed by Section 348.408 or 353.405(b), Finance Code, as applicable, execute and deliver to the owner, or the owner's designee, a discharge of the lien in a manner prescribed by the department.

(b) The owner may submit the discharge and title to the department for a new title.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 296, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 268, Sec. 1, eff. May 28, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 117 (H.B. [2559](#)), Sec. 24, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 54, eff. January 1, 2012.

Sec. 501.116. CANCELLATION OF DISCHARGED LIEN. The department may cancel a discharged lien that has been recorded on a title for 10 years or more if the recorded lienholder:

- (1) does not exist; or
- (2) cannot be located for the owner to obtain a release of the lien.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 55, eff. January 1, 2012.

Sec. 501.117. ELECTRONIC LIEN SYSTEM. (a) The department by rule shall develop a system under which a security interest in a motor vehicle may be perfected, assigned, discharged, and canceled electronically instead of by record maintained on a certificate of title. The department may establish categories of lienholders that may participate in the system and, except as provided by this section, may require a lienholder to participate in the system.

(b) The department shall publish and distribute procedures for using the system to county assessor-collectors and to financial institutions and other potential motor vehicle lienholders.

(c) The provisions of this chapter relating to perfecting, assigning, discharging, and canceling a security interest in a motor vehicle by record maintained on a certificate of title do not apply to the extent the security interest is governed by rules adopted under this section.

(d) The department may not require a depository institution, as defined by Section 180.002, Finance Code, to participate in the system if the department has issued fewer than 100 notifications of security interests in motor vehicles to the depository institution during a calendar year.

(e) The department by rule shall establish a reasonable schedule for compliance with the requirements of Subsection (a) for each category of lienholder that the department requires to participate in the system.

(f) The department may not:

- (1) prohibit a lienholder from using an intermediary to access the system; or
- (2) require a lienholder to use an intermediary to access the system.

Added by Acts 2001, 77th Leg., ch. 505, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 813 (H.B. 2575), Sec. 1, eff. September 1, 2011.

SUBCHAPTER G. ADMINISTRATIVE PROVISIONS

Sec. 501.132. DUPLICATE TITLE RECEIPT. Except as otherwise provided by department rule, the department may not issue a duplicate title receipt unless the original title receipt or certificate of title is surrendered.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 67, Sec. 5, eff. Sept. 1, 2001.

Sec. 501.134. LOST OR DESTROYED CERTIFICATE OF TITLE. (a) If a printed title is lost or destroyed, the owner or lienholder disclosed on the title may obtain, in the manner provided by this section and department rule, a certified copy of the lost or destroyed title directly from the department by applying in a manner prescribed by the department and paying a fee of \$2. A fee collected under this subsection shall be deposited to the credit of the Texas Department of Motor Vehicles fund and may be spent only as provided by Section 501.138.

(b) If a lien is disclosed on a title, the department may issue a certified copy of the original title only to the first lienholder or the lienholder's verified agent.

(c) The department must plainly mark "certified copy" on the face of a certified copy issued under this section. A subsequent purchaser or lienholder of the vehicle only acquires the rights, title, or interest in the vehicle held by the holder of the certified copy.

(d) A purchaser or lienholder of a motor vehicle having a certified copy issued under this section may at the time of the purchase or establishment of the lien require that the seller or

owner indemnify the purchaser or lienholder and all subsequent purchasers of the vehicle against any loss the person may suffer because of a claim presented on the original title.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(3), eff. January 1, 2012.

(f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(3), eff. January 1, 2012.

(g) The department may issue a certified copy of a title only if the applicant:

(1) is the registered owner of the vehicle, the holder of a recorded lien against the vehicle, or a verified agent of the owner or lienholder; and

(2) submits personal identification as required by department rule.

(h) If the applicant is the agent of the owner or lienholder of the vehicle and is applying on behalf of the owner or lienholder, the applicant must submit verifiable proof that the person is the agent of the owner or lienholder.

(i) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(3), eff. January 1, 2012.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.42(a), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 67, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 56, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 247(3), eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. [2202](#)), Sec. 10, eff. September 1, 2013.

Sec. 501.135. RECORD OF STOLEN OR CONCEALED MOTOR VEHICLE. (a) The department shall:

(1) make a record of each report to the department that a motor vehicle registered in this state has been stolen or concealed in violation of Section 32.33, Penal Code; and

(2) note the fact of the report in the department's records.

(b) A person who reports a motor vehicle as stolen or concealed under Subsection (a) shall notify the department promptly if the vehicle is recovered, and the department shall change its records accordingly.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 57, eff. January 1, 2012.

For expiration of Subsections (b-2) and (b-3), see Subsection (b-3).

Sec. 501.138. COLLECTION AND DISPOSITION OF FEES. (a) An applicant for a title, other than the state or a political subdivision of the state, must pay a fee of:

(1) \$33 if the applicant's residence is a county located within a nonattainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code; or

(2) \$28 if the applicant's residence is any other county.

(b) The fees shall be distributed as follows:

(1) \$5 of the fee to the county treasurer for deposit in the officers' salary fund;

(2) \$8 of the fee to the department:

(A) together with the application within the time prescribed by Section 501.023; or

(B) if the fee is deposited in an interest-bearing account or certificate in the county depository or invested in an investment authorized by Subchapter A, Chapter 2256, Government Code, not later than the 35th day after the date on which the fee is received; and

(3) the following amount to the comptroller at the time and in the manner prescribed by the comptroller:

(A) \$20 of the fee if the applicant's residence is a county located within a nonattainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code; or

(B) \$15 of the fee if the applicant's residence is any

other county.

(b-1) Fees collected under Subsection (b) to be sent to the comptroller shall be deposited to the credit of the Texas Mobility Fund, except that \$5 of each fee imposed under Subsection (a)(1) and deposited on or after September 1, 2008, and before September 1, 2015, shall be deposited to the credit of the Texas emissions reduction plan fund.

(b-2) The comptroller shall establish a record of the amount of the fees deposited to the credit of the Texas Mobility Fund under Subsection (b-1). On or before the fifth workday of each month, the Texas Department of Transportation shall remit to the comptroller for deposit to the credit of the Texas emissions reduction plan fund an amount of money equal to the amount of the fees deposited by the comptroller to the credit of the Texas Mobility Fund under Subsection (b-1) in the preceding month. The Texas Department of Transportation shall use for remittance to the comptroller as required by this subsection money in the state highway fund that is not required to be used for a purpose specified by Section 7-a, Article VIII, Texas Constitution, and may not use for that remittance money received by this state under the congestion mitigation and air quality improvement program established under 23 U.S.C. Section 149.

(b-3) This subsection and Subsection (b-2) expire August 31, 2019.

(c) Of the amount received under Subsection (b)(2), the department shall deposit:

(1) \$5 in the general revenue fund; and

(2) \$3 to the credit of the Texas Department of Motor Vehicles fund to recover the expenses necessary to administer this chapter.

(d) The county owns all interest earned on fees deposited or invested under Subsection (b)(2)(B). The county treasurer shall credit that interest to the county general fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 24, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. 2481), Sec. 19, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 2.15, eff. June 8, 2007.

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 2.16, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. 1796), Sec. 20, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 58, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 58, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 11, eff. September 1, 2013.

Sec. 501.139. ELECTRONIC FUNDS TRANSFER. A county assessor-collector that transfers money to the department under this chapter shall transfer the money electronically.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 59, eff. September 1, 2013.

SUBCHAPTER H. PENALTIES AND OTHER ENFORCEMENT PROVISIONS

Sec. 501.145. FILING BY PURCHASER; APPLICATION FOR TRANSFER OF TITLE. (a) Not later than the later of the 30th day after the date of assignment on the documents or the date provided by Section 152.069, Tax Code, the purchaser of the used motor vehicle shall file with the county assessor-collector:

- (1) the certificate of title or other evidence of title; or
- (2) if appropriate, a document described by Section 502.457 and the title or other evidence of ownership.

(b) The filing under Subsection (a) is an application for transfer of title as required under this chapter and an application for transfer of the registration of the motor vehicle.

(c) Notwithstanding Subsection (a), if the purchaser is a member of the armed forces of the United States, a member of the Texas National Guard or of the National Guard of another state serving on active duty under an order of the president of the United States, or a member of a reserve component of the armed forces of the United States serving on active duty under an order of the president of the United States, the documents described by Subsection (a) must be filed with the county assessor-collector not later than the 60th

day after the date of assignment of ownership.

Reenacted, transferred, redesignated and amended by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 59, eff. January 1, 2012.

Sec. 501.146. TITLE TRANSFER; LATE FEE. (a) If the application for the transfer of title is not filed during the period provided by Section 501.145, the late fee is to be paid to the county assessor-collector when the application is filed. If the seller holds a general distinguishing number issued under Chapter 503 of this code or Chapter 2301, Occupations Code, the seller is liable for the late fee in the amount of \$10. If the seller does not hold a general distinguishing number, subject to Subsection (b) the applicant's late fee is \$25.

(b) If the application is filed after the 60th day after the date the purchaser was assigned ownership of the documents under Section 501.0721, the late fee imposed under Subsection (a) accrues an additional penalty in the amount of \$25 for each subsequent 30-day period, or portion of a 30-day period, in which the application is not filed.

(c) Subsections (a) and (b) do not apply if the motor vehicle is eligible to be issued:

(1) classic vehicle license plates under Section 504.501;

or

(2) antique vehicle license plates under Section 504.502.

(d) A late fee imposed under this section may not exceed \$250.

Transferred, redesignated and amended from Transportation Code, Section 520.032 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 60, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 60, eff. June 14, 2013.

Sec. 501.147. VEHICLE TRANSFER NOTIFICATION. (a) On receipt of a written notice of transfer from the seller of a motor vehicle, the department shall indicate the transfer on the motor vehicle records maintained by the department. As an alternative to a written notice of transfer, the department shall establish procedures that

permit the seller of a motor vehicle to electronically submit a notice of transfer to the department through the department's Internet website. A notice of transfer provided through the department's Internet website is not required to bear the signature of the seller or include the date of signing.

(b) The notice of transfer shall be provided by the department and must include a place for the seller to state:

- (1) a complete description of the vehicle as prescribed by the department;
- (2) the full name and address of the seller;
- (3) the full name and address of the purchaser;
- (4) the date the seller delivered possession of the vehicle to the purchaser;
- (5) the signature of the seller; and
- (6) the date the seller signed the form.

(c) This subsection applies only if the department receives notice under Subsection (a) before the 30th day after the date the seller delivered possession of the vehicle to the purchaser or in accordance with Section 152.069, Tax Code. After the date of the transfer of the vehicle shown on the records of the department, the purchaser of the vehicle shown on the records is rebuttably presumed to be:

- (1) the owner of the vehicle; and
- (2) subject to civil and criminal liability arising out of the use, operation, or abandonment of the vehicle, to the extent that ownership of the vehicle subjects the owner of the vehicle to criminal or civil liability under another provision of law.

(d) The department may adopt rules to implement this section.

(e) This section does not impose or establish civil or criminal liability on the owner of a motor vehicle who transfers ownership of the vehicle but does not disclose the transfer to the department.

(f) The department may not issue a title or register the vehicle until the purchaser applies for a title to the county assessor-collector as provided by this chapter.

(g) A transferor who files the appropriate form with the department as provided by, and in accordance with, this section, whether that form is a part of a title or a form otherwise promulgated by the department to comply with the terms of this section, has no vicarious civil or criminal liability arising out of the use, operation, or abandonment of the vehicle by another person.

Proof by the transferor that the transferor filed a form under this section is a complete defense to an action brought against the transferor for an act or omission, civil or criminal, arising out of the use, operation, or abandonment of the vehicle by another person after the transferor filed the form. A copy of the form filed under this section is proof of the filing of the form.

Transferred, redesignated and amended from Transportation Code, Section 520.023 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 61, eff. January 1, 2012.

Sec. 501.148. ALLOCATION OF FEES. (a) The county assessor-collector may retain as commission for services provided under this subchapter half of each late fee.

(b) The county assessor-collector shall report and remit the balance of the fees collected to the department on Monday of each week as other fees are required to be reported and remitted. The department shall deposit the remitted fees in the state treasury to the credit of the Texas Department of Motor Vehicles fund.

(c) Of each late fee collected from a person who does not hold a general distinguishing number by the department under Subsection (b), \$10 may be used only to fund a statewide public awareness campaign designed to inform and educate the public about the provisions of this chapter.

Transferred, redesignated and amended from Transportation Code, Section 520.033 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 62, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 12, eff. September 1, 2013.

Sec. 501.151. PLACEMENT OF SERIAL NUMBER WITH INTENT TO CHANGE IDENTITY. (a) A person commits an offense if the person stamps or places a serial number on a vehicle or part of a vehicle with the intent of changing the identity of the vehicle.

(b) It is an affirmative defense to prosecution of an offense under this section that the person acted with respect to a number assigned by:

(1) a vehicle manufacturer and the person was an employee of the manufacturer acting within the course and scope of employment; or

(2) the department, and the person was:

(A) discharging official duties as an agent of the department; or

(B) complying with department rule as an applicant for a serial number assigned by the department.

(c) An offense under this section is a felony of the third degree.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 501.152. SALE OR OFFER WITHOUT TITLE RECEIPT OR TITLE.

(a) Except as provided by this section, a person commits an offense if the person:

(1) sells, offers to sell, or offers as security for an obligation a motor vehicle registered in this state; and

(2) does not possess the title receipt or certificate of title for the vehicle.

(b) It is not a violation of this section for the beneficial owner of a vehicle to sell or offer to sell a vehicle without having possession of the title to the vehicle if the sole reason he or she does not have possession of the title is that the title is in the possession of a lienholder who has not complied with the terms of Section 501.115(a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 296, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 63, eff. January 1, 2012.

Sec. 501.153. APPLICATION FOR TITLE FOR STOLEN OR CONCEALED VEHICLE. A person commits an offense if the person applies for a title for a motor vehicle that the person knows is stolen or concealed in violation of Section 32.33, Penal Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 64, eff. January 1, 2012.

Sec. 501.154. ALTERATION OF CERTIFICATE OR RECEIPT. A person commits an offense if the person alters a manufacturer's certificate, a title receipt, or a title.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 65, eff. January 1, 2012.

Sec. 501.155. FALSE NAME, FALSE INFORMATION, AND FORGERY. (a) A person commits an offense if the person knowingly provides false or incorrect information or without legal authority signs the name of another person on:

- (1) an application for a title;
- (2) an application for a certified copy of an original title;
- (3) an assignment of title for a motor vehicle;
- (4) a discharge of a lien on a title for a motor vehicle;

or

(5) any other document required by the department or necessary to the transfer of ownership of a motor vehicle.

(b) An offense under this section is a felony of the third degree.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 66, eff. January 1, 2012.

Sec. 501.156. DUTY OF TRANSPORTERS TO DETERMINE RIGHT OF POSSESSION; OFFENSE. (a) The master or captain of a ship or airplane or a person who owns or controls the operation of a ship or airplane, in whole or part:

- (1) may not take on board or allow to be taken on board the

ship or airplane in this state for transport a motor vehicle without inquiring of the motor vehicle titles and registration division of the department as to the recorded ownership of the motor vehicle; and

(2) must make a reasonable inquiry as to the right of possession of a motor vehicle by the person delivering the vehicle for transport if the recorded owner of the vehicle is a person other than the person delivering the vehicle for transport.

(b) A person who violates this section commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$500 for a first offense and, at the jury's discretion, not less than \$100 or more than \$1,000 for a subsequent offense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 501.157. PENALTIES. (a) Unless otherwise provided by this chapter, an offense under this chapter is a misdemeanor punishable by a fine of not less than \$1 or more than \$100 for the first offense. If a person is subsequently convicted of the same offense, at the jury's discretion, a person may be fined not less than \$2 or more than \$200.

(b) A person commits an offense if the person violates Subchapter E or a rule adopted under that subchapter. An offense under this subsection is a Class A misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.43(b), eff. Sept. 1, 1997.

Sec. 501.158. SEIZURE OF STOLEN VEHICLE OR VEHICLE WITH ALTERED VEHICLE IDENTIFICATION NUMBER. (a) A peace officer may seize a vehicle or part of a vehicle without a warrant if the officer has probable cause to believe that the vehicle or part:

(1) is stolen; or
 (2) has had the serial number removed, altered, or obliterated.

(b) A vehicle or part seized under this section may be treated as stolen property for purposes of custody and disposition of the vehicle or part.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 67, eff. January 1, 2012.

Sec. 501.161. EXECUTION OF TRANSFER DOCUMENTS; PENALTY. (a) A person who transfers a motor vehicle in this state shall complete in full and date as of the date of the transfer all documents relating to the transfer of registration or title. A person who transfers a vehicle commits an offense if the person fails to execute the documents in full.

(b) A person commits an offense if the person:

(1) accepts a document described by Subsection (a) that does not contain all of the required information; or

(2) alters or mutilates such a document.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 and not more than \$200.

Transferred, redesignated and amended from Transportation Code, Section 520.035 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 68, eff. January 1, 2012.

Sec. 501.162. MOTOR NUMBER REQUIRED FOR REGISTRATION; PENALTY. A person commits an offense if the person violates Section 501.0331. An offense under this section is a misdemeanor punishable by a fine of not less than \$50 and not more than \$100.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 69, eff. January 1, 2012.

Sec. 501.163. APPLICATION FOR MOTOR NUMBER RECORD; PENALTY. A person who fails to comply with Section 501.0332 commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than \$10 and not more than \$100.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 69, eff. January 1, 2012.

SUBCHAPTER I. ELECTRONIC TITLING SYSTEM

Sec. 501.171. APPLICATION OF SUBCHAPTER. This subchapter applies only if the department implements a titling system under Section 501.173.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 23, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 70, eff. January 1, 2012.

Sec. 501.172. DEFINITIONS. In this subchapter:

(1) "Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic document" means a document that is in an electronic form.

(4) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) "Paper document" means a document that is in printed form.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 23, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 70, eff. January 1, 2012.

Sec. 501.173. ELECTRONIC TITLING SYSTEM. (a) The board by rule may implement an electronic titling system.

(b) A record of title maintained electronically by the department in the titling system is the official record of vehicle ownership unless the owner requests that the department issue a printed title.

(c) In addition to other title fees, the board by rule may set a fee to be assessed for the issuance of a paper title to cover the

cost of administering the electronic titling system.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 23, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 70, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 61, eff. September 1, 2013.

Sec. 501.174. VALIDITY OF ELECTRONIC DOCUMENTS. (a) If this chapter requires that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is met by an electronic document that complies with this subchapter.

(b) If a law requires that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal is not required to accompany an electronic signature.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 23, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 70, eff. January 1, 2012.

Sec. 501.175. RECORDING OF DOCUMENTS. (a) Under the titling system, the department may:

(1) receive, index, store, archive, and transmit electronic documents;

(2) provide for access to, and for search and retrieval of, documents and information by electronic means; and

(3) convert into electronic form:

(A) paper documents that it accepts for the titling of a motor vehicle; and

(B) information recorded and documents that were accepted for the titling of a motor vehicle before the titling system was implemented.

(b) The department shall continue to accept paper documents after the titling system is implemented.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 23, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 70, eff. January 1, 2012.

Sec. 501.176. PAYMENT OF FEES BY ELECTRONIC FUNDS TRANSFER OR CREDIT CARD. (a) The department may accept payment by electronic funds transfer, credit card, or debit card of any title or registration fee that the department is required or authorized to collect under this chapter.

Text of subsection as added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 23

(b) The department may collect a fee for processing a title or registration payment by electronic funds transfer, credit card, or debit card. The amount of the fee must not exceed the charges incurred by the state because of the use of the electronic funds transfer, credit card, or debit card.

Text of subsection as added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 70

(b) The department may collect a fee for processing a title or registration payment by electronic funds transfer, credit card, or debit card in an amount not to exceed the amount of the charges incurred by the department to process the payment.

Text of subsection as added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 23

(c) For online transactions the department may collect from a person making payment by electronic funds transfer, credit card, or debit card an amount equal to any fee charged in accordance with Section 2054.2591, Government Code.

Text of subsection as added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 70

(c) The department may collect the fee set under Section

2054.2591, Government Code, from a person making a payment by electronic funds transfer, credit card, or debit card through the online project implemented under Section 2054.252, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 23, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 70, eff. January 1, 2012.

Sec. 501.177. SERVICE CHARGE. If, for any reason, the payment of a fee under this chapter by electronic funds transfer, credit card, or debit card is not honored by the funding institution, or by the electronic funds transfer, credit card, or debit card company on which the funds are drawn, the department may collect from the person who owes the fee being collected a service charge that is for the collection of that original amount and is in addition to the original fee. The amount of the service charge must be reasonably related to the expense incurred by the department in collecting the original amount.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 23, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 70, eff. January 1, 2012.

Sec. 501.178. DISPOSITION OF FEES. All fees collected under this subchapter shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 23, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 70, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 13, eff. September 1, 2013.

Sec. 501.179. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND

NATIONAL COMMERCE ACT. This subchapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify, limit, or supersede Section 101(c) of that Act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that Act (15 U.S.C. Section 7003(b)).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 23, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 70, eff. January 1, 2012.

CHAPTER 502. REGISTRATION OF VEHICLES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 502.001. DEFINITIONS. In this chapter:

- (1) "All-terrain vehicle" means a motor vehicle that is:
 - (A) equipped with a seat or seats for the use of:
 - (i) the rider; and
 - (ii) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;
 - (B) designed to propel itself with three or more tires in contact with the ground;
 - (C) designed by the manufacturer for off-highway use;
 - (D) not designed by the manufacturer primarily for farming or lawn care; and
 - (E) not more than 50 inches wide.
- (2) "Apportioned license plate" means a license plate issued in lieu of a truck license plate or combination license plate to a motor carrier in this state who proportionally registers a vehicle owned or leased by the carrier in one or more other states.
- (3) "Board" means the board of the Texas Department of Motor Vehicles.
- (4) "Combination license plate" means a license plate issued for a truck or truck-tractor that is used or intended to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds.
- (5) "Combined gross weight" means the empty weight of the truck-tractor or commercial motor vehicle combined with the empty weight of the heaviest semitrailer used or to be used in combination

with the truck-tractor or commercial motor vehicle plus the heaviest net load to be carried on the combination during the registration year.

(6) "Commercial fleet" means a group of at least 25 nonapportioned motor vehicles, semitrailers, or trailers owned, operated, or leased by a corporation, limited or general partnership, limited liability company, or other business entity and used for the business purposes of that entity.

(7) "Commercial motor vehicle" means a motor vehicle, other than a motorcycle, designed or used primarily to transport property. The term includes a passenger car reconstructed and used primarily for delivery purposes. The term does not include a passenger car used to deliver the United States mail.

(8) "Construction machinery" means a vehicle that:

(A) is used for construction;

(B) is built from the ground up;

(C) is not mounted or affixed to another vehicle such as a trailer;

(D) was originally and permanently designed as machinery;

(E) was not in any way originally designed to transport persons or property; and

(F) does not carry a load, including fuel.

(9) "Credit card" has the meaning assigned by Section 501.002.

(10) "Debit card" has the meaning assigned by Section 501.002.

(11) "Department" means the Texas Department of Motor Vehicles.

(12) "Electric bicycle" has the meaning assigned by Section 541.201.

(13) "Electric personal assistive mobility device" has the meaning assigned by Section 551.201.

(14) "Empty weight" means the unladen weight of a truck-tractor or commercial motor vehicle and semitrailer combination fully equipped, as certified by a public weigher or license and weight inspector of the Department of Public Safety.

(15) "Farm semitrailer" or "farm trailer" means a vehicle designed and used primarily as a farm vehicle.

(16) "Farm tractor" has the meaning assigned by Section

541.201.

(17) "Forestry vehicle" means a vehicle designed and used exclusively for transporting forest products in their natural state, including logs, debarked logs, untreated ties, stave bolts, plywood bolts, pulpwood billets, wood chips, stumps, sawdust, moss, bark, and wood shavings, and property used in production of those products.

(18) "Golf cart" means a motor vehicle designed by the manufacturer primarily for use on a golf course.

(19) "Gross vehicle weight" has the meaning assigned by Section 541.401.

(20) "Implements of husbandry" has the meaning assigned by Section 541.201.

(21) "Light truck" has the meaning assigned by Section 541.201.

(22) "Moped" has the meaning assigned by Section 541.201.

(23) "Motor bus" includes every vehicle used to transport persons on the public highways for compensation, other than:

(A) a vehicle operated by muscular power; or

(B) a municipal bus.

(24) "Motorcycle" has the meaning assigned by Section 521.001 or 541.201, as applicable.

(25) "Motor vehicle" means a vehicle that is self-propelled.

(26) "Motorized mobility device" has the meaning assigned by Section 542.009.

(27) "Municipal bus" includes every vehicle, other than a passenger car, used to transport persons for compensation exclusively within the limits of a municipality or a suburban addition to the municipality.

(28) "Net carrying capacity" means the heaviest net load that is able to be carried on a vehicle, but not less than the manufacturer's rated carrying capacity.

(29) "Oil well servicing, cleanout, or drilling machinery":

(A) has the meaning assigned by Section 623.149; or

(B) means a mobile crane:

(i) that is an unladen, self-propelled vehicle constructed as a machine and used solely to raise, shift, or lower heavy weights by means of a projecting, swinging mast with an engine for power on a chassis permanently constructed or assembled for that purpose; and

(ii) for which the owner has secured a permit from the department under Section 623.142.

(30) "Operate temporarily on the highways" means to travel between:

- (A) different farms;
- (B) a place of supply or storage and a farm; or
- (C) an owner's farm and the place at which the owner's farm produce is prepared for market or is marketed.

(31) "Owner" means a person who:

- (A) holds the legal title of a vehicle;
- (B) has the legal right of possession of a vehicle; or
- (C) has the legal right of control of a vehicle.

(32) "Passenger car" has the meaning assigned by Section 541.201.

(33) "Power sweeper" means an implement, with or without motive power, designed for the removal by a broom, vacuum, or regenerative air system of debris, dirt, gravel, litter, or sand from asphaltic concrete or cement concrete surfaces, including surfaces of parking lots, roads, streets, highways, and warehouse floors. The term includes a vehicle on which the implement is permanently mounted if the vehicle is used only as a power sweeper.

(34) "Private bus" means a bus that:

- (A) is not operated for hire; and
- (B) is not a municipal bus or a motor bus.

(35) "Public highway" includes a road, street, way, thoroughfare, or bridge:

- (A) that is in this state;
- (B) that is for the use of vehicles;
- (C) that is not privately owned or controlled; and
- (D) over which the state has legislative jurisdiction under its police power.

(36) "Public property" means property owned or leased by this state or a political subdivision of this state.

(37) "Recreational off-highway vehicle" means a motor vehicle that is:

- (A) equipped with a seat or seats for the use of:
 - (i) the rider; and
 - (ii) a passenger or passengers, if the vehicle is designed by the manufacturer to transport a passenger or passengers;
- (B) designed to propel itself with four or more tires

in contact with the ground;

(C) designed by the manufacturer for off-highway use by the operator only; and

(D) not designed by the manufacturer primarily for farming or lawn care.

(38) "Road tractor" means a vehicle designed for the purpose of mowing the right-of-way of a public highway or a motor vehicle designed or used for drawing another vehicle or a load and not constructed to carry:

(A) an independent load; or

(B) a part of the weight of the vehicle and load to be drawn.

(39) "Semitrailer" means a vehicle designed or used with a motor vehicle so that part of the weight of the vehicle and its load rests on or is carried by another vehicle.

(39-a) "Shipping weight" means the weight generally accepted as the empty weight of a vehicle.

(40) "Token trailer" means a semitrailer that:

(A) has a gross weight of more than 6,000 pounds; and

(B) is operated in combination with a truck or a truck-tractor that has been issued:

(i) an apportioned license plate;

(ii) a combination license plate; or

(iii) a forestry vehicle license plate.

(41) "Tow truck" means a motor vehicle adapted or used to tow, winch, or otherwise move another motor vehicle.

(42) "Trailer" means a vehicle that:

(A) is designed or used to carry a load wholly on its own structure; and

(B) is drawn or designed to be drawn by a motor vehicle.

(43) "Travel trailer" has the meaning assigned by Section 501.002.

(44) "Truck-tractor" means a motor vehicle:

(A) designed and used primarily for drawing another vehicle; and

(B) not constructed to carry a load other than a part of the weight of the vehicle and load to be drawn.

(45) "Vehicle" means a device in or by which a person or property is or may be transported or drawn on a public highway, other

than a device used exclusively on stationary rails or tracks.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 625, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 586 (H.B. 1646), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1280 (H.B. 3849), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2E.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1173 (H.B. 3433), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1232 (S.B. 1759), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 71, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 131 (S.B. 487), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 62, eff. September 1, 2013.

Sec. 502.0021. RULES AND FORMS. (a) The department may adopt rules to administer this chapter.

(b) The department shall post forms on the Internet and provide each county assessor-collector with a sufficient supply of any necessary forms on request.

Added by Acts 1997, 75th Leg., ch. 625, Sec. 2, eff. Sept. 1, 1997. Renumbered from Sec. 502.009 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(100), eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 72, eff. January 1, 2012.

Sec. 502.00211. DESIGN OF REGISTRATION INSIGNIA. The department shall prepare the designs and specifications to be used as

the registration insignia.

Transferred, redesignated and amended from Transportation Code, Section 502.052 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 73, eff. January 1, 2012.

Sec. 502.0023. EXTENDED REGISTRATION OF COMMERCIAL FLEET VEHICLES. (a) Notwithstanding Section 502.044(c), the department shall develop and implement a system of registration to allow an owner of a commercial fleet to register the motor vehicles, semitrailers, and trailers in the commercial fleet for an extended registration period of not less than one year or more than eight years. The owner may select the number of years for registration under this section within that range and register the commercial fleet for that period. Payment for all registration fees for the entire registration period selected is due at the time of registration.

(b) A system of extended registration under this section must allow the owner of a commercial fleet to register:

- (1) an entire commercial fleet in the county of the owner's residence or principal place of business; or
- (2) the motor vehicles in a commercial fleet that are operated most regularly in the same county.

(c) In addition to the registration fees prescribed by this chapter, an owner registering a commercial fleet under this section shall pay:

- (1) an annual commercial fleet registration fee of \$10 per motor vehicle, semitrailer, or trailer in the fleet; and
- (2) except as provided by Subsection (e), a one-time license plate manufacturing fee of \$1.50 for each fleet motor vehicle, semitrailer, or trailer license plate.

(d) A license plate issued under this section:

- (1) may, on request of the owner, include the name or logo of the business entity that owns the vehicle;
- (2) except as provided by Subsection (d-1), must include the expiration date of the registration period; and
- (3) does not require an annual registration insignia to be valid.

(d-1) The department shall issue a license plate for a token

trailer registered under this section that does not expire. The alphanumeric pattern for a license plate issued under this subsection may remain on a token trailer for as long as the registration of the token trailer is renewed or until the token trailer is removed from service or sold. The registration receipt required under Section 621.002 is not required for a vehicle that displays a license plate issued under this subsection.

(e) In addition to all other applicable registration fees, an owner registering a commercial fleet under this section shall pay a one-time license plate manufacturing fee of \$8 for each set of plates issued that includes on the legend the name or logo of the business entity that owns the vehicle instead of the fee imposed by Subsection (c)(2).

(f) If a motor vehicle registered under this section has a gross weight in excess of 10,000 pounds, the department shall also issue a registration card for the vehicle that is valid for the selected registration period.

(g) The department shall adopt rules to implement this section, including rules on suspension from the commercial fleet program for failure to comply with this section or rules adopted under this section.

(h) The department and the counties in their budgeting processes shall consider any temporary increases and resulting decreases in revenue that will result from the use of the process provided under this section.

(i) The department may provide for credits for fleet registration.

(j) A motor vehicle, semitrailer, or trailer registered under this section is subject to the inspection requirements of Chapter 548 as if the vehicle, semitrailer, or trailer were registered without extended registration. The department and the Department of Public Safety shall by rule establish a method to enforce the inspection requirements of Chapter 548 for motor vehicles, semitrailers, and trailers registered under this section. The department may assess a fee to cover the department's administrative costs of implementing this subsection.

Added by Acts 2009, 81st Leg., R.S., Ch. 1173 (H.B. [3433](#)), Sec. 2, eff. September 1, 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. 1232 (S.B. [1759](#)), Sec. 2,

eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 74, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 75, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 252 (H.B. 511), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 11, eff. March 1, 2015.

Sec. 502.003. REGISTRATION BY POLITICAL SUBDIVISION PROHIBITED.

(a) Except as provided by Subsection (b), a political subdivision of this state may not require an owner of a motor vehicle to:

- (1) register the vehicle;
- (2) pay a motor vehicle registration fee; or
- (3) pay an occupation tax or license fee in connection with

a motor vehicle.

(b) This section does not affect the authority of a municipality to:

- (1) license and regulate the use of motor vehicles for compensation within the municipal limits; and
- (2) impose a permit fee or street rental charge for the operation of each motor vehicle used to transport passengers for compensation, other than a motor vehicle operating under a registration certificate from the department or a permit from the federal Surface Transportation Board.

(c) A fee or charge under Subsection (b) may not exceed two percent of the annual gross receipts from the vehicle.

(d) This section does not impair the payment provisions of an agreement or franchise between a municipality and the owners or operators of motor vehicles used to transport passengers for compensation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.45, eff. Sept. 1, 1997.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 67 (S.B.

449), Sec. 2

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 507 (H.B. 735), Sec. 1, see other Sec. 502.004.

Sec. 502.004. REGISTRATION OF AUTOCYCLE. (a) In this section, "autocycle" means a motor vehicle, other than a tractor, that is:

- (1) designed to have when propelled not more than three wheels on the ground;
- (2) equipped with a steering wheel;
- (3) equipped with seating that does not require the operator to straddle or sit astride the seat; and
- (4) manufactured and certified to comply with federal safety requirements for a motorcycle.

(b) For purposes of registering a vehicle under this chapter, an autocycle is considered to be a motorcycle.

Added by Acts 2015, 84th Leg., R.S., Ch. 67 (S.B. 449), Sec. 2, eff. May 22, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 507 (H.B. 735), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 67 (S.B. 449), Sec. 2, see other Sec. 502.004.

Sec. 502.004. INFORMATION ON ALTERNATIVELY FUELED VEHICLES.

(a) In this section, "alternatively fueled vehicle" means a motor vehicle that is capable of using a fuel other than gasoline or diesel fuel.

(b) The department by rule shall establish a program to collect information about the number of alternatively fueled vehicles registered in this state.

(c) The department shall submit an annual report to the legislature that includes the information collected under this section. The report must, at a minimum, show the number of vehicles registered in this state that use:

- (1) electric plug-in drives;
- (2) hybrid electric drives;
- (3) compressed natural gas drives; and
- (4) liquefied natural gas drives.

Added by Acts 2015, 84th Leg., R.S., Ch. 507 (H.B. 735), Sec. 1, eff.

September 1, 2016.

Sec. 502.010. COUNTY SCOFFLAW. (a) A county assessor-collector or the department may refuse to register a motor vehicle if the assessor-collector or the department receives information that the owner of the vehicle:

(1) owes the county money for a fine, fee, or tax that is past due; or

(2) failed to appear in connection with a complaint, citation, information, or indictment in a court in the county in which a criminal proceeding is pending against the owner.

(b) A county may contract with the department to provide information to the department necessary to make a determination under Subsection (a).

(c) A county that has a contract under Subsection (b) shall notify the department regarding a person for whom the county assessor-collector or the department has refused to register a motor vehicle on:

(1) the person's payment or other means of discharge of the past due fine, fee, or tax; or

(2) perfection of an appeal of the case contesting payment of the fine, fee, or tax.

(d) After notice is received under Subsection (c), the county assessor-collector or the department may not refuse to register the motor vehicle under Subsection (a).

(e) A contract under Subsection (b) must be entered into in accordance with Chapter 791, Government Code, and is subject to the ability of the parties to provide or pay for the services required under the contract.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 1094
(S.B. 1386), Sec. 1

(f) A county that has a contract under Subsection (b) may impose an additional fee of \$20 to:

(1) a person who fails to pay a fine, fee, or tax to the county by the date on which the fine, fee, or tax is due; or

(2) a person who fails to appear in connection with a complaint, citation, information, or indictment in a court in which a criminal proceeding is pending against the owner.

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 1296
(H.B. 2357), Sec. 76

(f) A county that has a contract under Subsection (b) may impose an additional fee to a person paying a fine, fee, or tax to the county after it is past due. The additional fee may be used only to reimburse the department or the county for its expenses for providing services under the contract.

(f-1) The additional fee may be used only to reimburse the department or the county assessor-collector for its expenses for providing services under the contract, or another county department for expenses related to services under the contract.

(g) In this section:

(1) a fine, fee, or tax is considered past due if it is unpaid 90 or more days after the date it is due; and

(2) registration of a motor vehicle includes renewal of the registration of the vehicle.

(h) This section does not apply to the registration of a motor vehicle under Section 501.0234, unless the vehicle is titled and registered in the name of a person who holds a general distinguishing number.

Added by Acts 1997, 75th Leg., ch. 192, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 97, Sec. 1, eff. May 17, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1094 (S.B. 1386), Sec. 1, eff. September 1, 2011.

Transferred, redesignated and amended from Transportation Code, Section 502.185 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 76, eff. January 1, 2012.

Sec. 502.011. REFUSAL TO REGISTER VEHICLE FOR NONPAYMENT OF TOLL OR ADMINISTRATIVE FEE. (a) A county assessor-collector or the department may refuse to register or renew the registration of a motor vehicle if it has received written notice from a toll project entity that the owner of the vehicle has been finally determined to be a habitual violator under Subchapter C, Chapter 372.

(b) A toll project entity shall notify a county assessor-collector or the department, as applicable, that:

(1) a person for whom the assessor-collector or the

department has refused to register a vehicle is no longer determined to be a habitual violator; or

(2) an appeal has been perfected and the appellant has posted any bond required to stay the toll project entity's exercise of habitual violator remedies pending the appeal.

(c) This section does not apply to the registration of a motor vehicle under Section 501.0234.

Added by Acts 2013, 83rd Leg., R.S., Ch. 491 (S.B. 1792), Sec. 2, eff. June 14, 2013.

SUBCHAPTER B. REGISTRATION REQUIREMENTS

Sec. 502.040. REGISTRATION REQUIRED; GENERAL RULE. (a) Not more than 30 days after purchasing a vehicle or becoming a resident of this state, the owner of a motor vehicle, trailer, or semitrailer shall apply for the registration of the vehicle for:

(1) each registration year in which the vehicle is used or to be used on a public highway; and

(2) if the vehicle is unregistered for a registration year that has begun and that applies to the vehicle and if the vehicle is used or to be used on a public highway, the remaining portion of that registration year.

(b) The application must be accompanied by personal identification as determined by department rule and made in a manner prescribed by the department:

(1) through the county assessor-collector of the county in which the owner resides;

(2) if the county in which the owner resides has been declared by the governor as a disaster area, through the county assessor-collector of a county that is one of the closest unaffected counties to a county that asks for assistance and:

(A) continues to be declared by the governor as a disaster area because the county has been rendered inoperable by the disaster; and

(B) is inoperable for a protracted period of time; or

(3) if the county assessor-collector's office in which the owner resides is closed for a protracted period of time as defined by the department, to the county assessor-collector of a county that borders the county in which the owner resides who agrees to accept

the application.

(c) A provision of this chapter that conflicts with this section prevails over this section to the extent of the conflict.

(d) A county assessor-collector, a deputy county assessor-collector, or a person acting on behalf of a county assessor-collector is not liable to any person for:

(1) refusing to register a vehicle because of the person's failure to submit evidence of residency that complies with the department's rules; or

(2) registering a vehicle under this section.

Transferred, redesignated and amended from Transportation Code, Section 502.002 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 78, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 63, eff. September 1, 2013.

Sec. 502.041. INITIAL REGISTRATION. (a) Notwithstanding Section 502.040, the owner of a vehicle may concurrently apply for a title and for registration through the county assessor-collector of the county in which:

(1) the owner resides; or

(2) the vehicle is purchased or encumbered.

(b) The first time an owner applies for registration of a vehicle, the owner may demonstrate compliance with Section 502.046(a) as to the vehicle by showing proof of financial responsibility in any manner specified in Section 502.046(c) as to:

(1) any vehicle of the owner; or

(2) any vehicle used as part of the consideration for the purchase of the vehicle the owner applies to register.

Transferred, redesignated and amended from Transportation Code, Section 502.157 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 79, eff. January 1, 2012.

Sec. 502.042. TITLE REQUIRED FOR REGISTRATION. The department may not register or renew the registration of a motor vehicle for which a title is required under Chapter 501 unless the owner:

- (1) obtains a title for the vehicle; or
- (2) presents satisfactory evidence that a title was previously issued to the owner by the department or another jurisdiction.

Transferred, redesignated and amended from Transportation Code, Section 502.152 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 80, eff. January 1, 2012.

Sec. 502.043. APPLICATION FOR REGISTRATION AND CERTAIN PERMITS.

(a) An application for vehicle registration or a permit described by Section 502.094 or 502.095 must:

- (1) be made in a manner prescribed and include the information required by the department by rule; and
- (2) contain a full description of the vehicle as required by department rule.

(b) The department shall deny the registration of or permitting under Section 502.094 or 502.095 of a commercial motor vehicle, truck-tractor, trailer, or semitrailer if the applicant:

- (1) has a business operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration or whose privilege to operate has been suspended, including the applicant entity, a relative, family member, corporate officer, or shareholder;
- (2) has a vehicle that has been prohibited from operating by the Federal Motor Carrier Safety Administration for safety-related reasons;
- (3) is a carrier whose business is operated, managed, or otherwise controlled or affiliated with a person who is ineligible for registration, including the owner, a relative, a family member, a corporate officer, or a shareholder; or
- (4) fails to deliver to the county assessor-collector proof of the weight of the vehicle, the maximum load to be carried on the vehicle, and the gross weight for which the vehicle is to be registered.

(c) In lieu of filing an application during a year as provided by Subsection (a), the owner of a vehicle registered in any state for that year or the preceding year may present:

- (1) the registration receipt and transfer receipt for the

vehicle; or

(2) other evidence satisfactory to the county assessor-collector that the person owns the vehicle.

(c-1) A county assessor-collector shall accept a receipt or evidence provided under Subsection (c) as an application for renewal of the registration if the receipt or evidence indicates the applicant owns the vehicle. This section allows issuance for registration purposes only but does not authorize the department to issue a title.

(d) The department may require an applicant for registration to provide current personal identification as determined by department rule. Any identification number required by the department under this subsection may be entered into the department's electronic titling system but may not be printed on the title.

Transferred, redesignated and amended from Transportation Code, Section 502.151 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 81, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 64, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 65, eff. September 1, 2013.

Sec. 502.044. REGISTRATION PERIOD. (a) The department shall designate a vehicle registration year of 12 consecutive months to begin on the first day of a calendar month and end on the last day of the 12th calendar month.

(b) The department shall designate vehicle registration years so as to distribute the work of the department and the county assessor-collectors as uniformly as possible throughout the year. The department may establish separate registration years for any vehicle or classification of vehicle and may adopt rules to administer the year-round registration system.

(c) The department may designate a registration period of less than 12 months to be computed at a rate of one-twelfth the annual registration fee multiplied by the number of months in the registration period. The board by rule may allow payment of registration fees for a designated period not to exceed the amount of

time determined by department rule.

(d) The department shall issue a registration receipt and registration insignia that are valid until the expiration of the designated period.

(e) The department shall use the date of sale of the vehicle in designating the registration year for a vehicle for which registration is applied for under Section 501.0234.

Transferred, redesignated and amended from Transportation Code, Section 502.158 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 82, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 696 (H.B. 2874), Sec. 1, eff. September 1, 2013.

Sec. 502.045. DELINQUENT REGISTRATION. (a) A registration fee for a vehicle becomes delinquent immediately if the vehicle is used on a public highway without the fee having been paid in accordance with this chapter.

(b) An applicant for registration who provides evidence to establish good reason for delinquent registration and who complies with the other requirements for registration under this chapter may register the vehicle for a 12-month period that ends on the last day of the 11th month after the month in which the registration occurs under this subsection.

(c) An applicant for registration who is delinquent and has not provided evidence acceptable to establish good reason for delinquent registration but who complies with the other requirements for registration under this chapter shall register the vehicle for a 12-month period without changing the initial month of registration.

(d) A person who has been arrested or received a citation for a violation of Section 502.472 may register the vehicle being operated at the time of the offense for a 12-month period without change to the initial month of registration only if the person:

(1) meets the other requirements for registration under this chapter; and

(2) pays an additional charge equal to 20 percent of the prescribed fee.

(e) The board by rule shall adopt a list of evidentiary items

sufficient to establish good reason for delinquent registration under Subsection (b) and provide for the evidence that may be used to establish good reason under that subsection.

(f) The board by rule shall adopt procedures to implement this section in connection with the delinquent registration of a vehicle registered directly with the department or through other means.

Transferred, redesignated and amended from Transportation Code, Section 502.176 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 83, eff. January 1, 2012.

Sec. 502.046. EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) Evidence of financial responsibility as required by Section 601.051 other than for a trailer or semitrailer shall be submitted with the application for registration under Section 502.043. A county assessor-collector may not register the motor vehicle unless the owner or the owner's representative submits the evidence of financial responsibility.

(b) The county assessor-collector shall examine the evidence of financial responsibility to determine whether it complies with Subsection (c). After examination, the evidence shall be returned unless it is in the form of a photocopy or an electronic submission.

(c) In this section, evidence of financial responsibility may be:

(1) a document listed under Section 601.053(a) or verified in compliance with Section 601.452;

(2) a liability self-insurance or pool coverage document issued by a political subdivision or governmental pool under the authority of Chapter 791, Government Code, Chapter 119, Local Government Code, or other applicable law in at least the minimum amounts required by Chapter 601;

(3) a photocopy of a document described by Subdivision (1) or (2); or

(4) an electronic submission of a document or the information contained in a document described by Subdivision (1) or (2).

(d) A personal automobile policy used as evidence of financial responsibility under this section must comply with Section 1952.052 et seq. and Sections 2301.051 through 2301.055, Insurance Code.

(e) At the time of registration, the county assessor-collector shall provide to a person registering a motor vehicle a statement that the motor vehicle may not be operated in this state unless:

(1) liability insurance coverage for the motor vehicle in at least the minimum amounts required by law remains in effect to insure against potential losses; or

(2) the motor vehicle is exempt from the insurance requirement because the person has established financial responsibility in a manner described by Sections 601.051(2)-(5) or is exempt under Section 601.052.

(f) A county assessor-collector is not liable to any person for refusing to register a motor vehicle to which this section applies because of the person's failure to submit evidence of financial responsibility that complies with Subsection (c).

(g) A county, a county assessor-collector, a deputy county assessor-collector, a person acting for or on behalf of a county or a county assessor-collector, or a person acting on behalf of an owner for purposes of registering a motor vehicle is not liable to any person for registering a motor vehicle under this section.

(h) This section does not prevent a person from registering a motor vehicle by mail or through an electronic submission.

(i) To be valid under this section, an electronic submission must be in a format that is:

(1) submitted by electronic means, including a telephone, facsimile machine, or computer;

(2) approved by the department; and

(3) authorized by the commissioners court for use in the county.

(j) This section does not apply to a vehicle registered pursuant to Section 501.0234.

Transferred, redesignated and amended from Transportation Code, Section 502.153 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 84, eff. January 1, 2012.

Sec. 502.047. REGISTRATION-BASED ENFORCEMENT OF MOTOR VEHICLE INSPECTION REQUIREMENTS. (a) Except as provided by Chapter 548, the department and the Department of Public Safety shall ensure compliance with the motor vehicle inspection requirements under

Chapter 548, including compliance with the motor vehicle emissions inspection and maintenance program under Subchapter F of that chapter, through a vehicle registration-based enforcement system.

(b) A motor vehicle may not be registered if the department receives from the Texas Commission on Environmental Quality or the Department of Public Safety notification that the registered owner of the vehicle has not complied with Chapter 548.

(c) A motor vehicle may not be registered if the vehicle was denied registration under Subsection (b) unless verification is received that the registered vehicle owner is in compliance with Chapter 548.

(d) The department and the Department of Public Safety shall enter into an agreement regarding the timely submission by the Department of Public Safety of inspection compliance information to the department.

(d-1) The department, the Texas Commission on Environmental Quality, and the Department of Public Safety shall enter an agreement regarding the responsibilities for costs associated with implementing this section.

(e) A county tax assessor-collector is not liable to any person for refusing to register a motor vehicle because of the person's failure to provide verification of the person's compliance with Chapter 548.

Added by Acts 1997, 75th Leg., ch. 1069, Sec. 3, eff. June 19, 1997.
Amended by Acts 2001, 77th Leg., ch. 1075, Sec. 4, eff. Sept. 1, 2001.

Transferred, redesignated and amended from Transportation Code, Section 502.009 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 85, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 12, eff. March 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 1, eff. January 1, 2016.

Sec. 502.048. REFUSAL TO REGISTER UNSAFE VEHICLE. The department may refuse to register a motor vehicle and may cancel, suspend, or revoke a registration if the department determines that a

motor vehicle is unsafe, improperly equipped, or otherwise unfit to be operated on a public highway.

Transferred, redesignated and amended from Transportation Code, Section 502.005 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 86, eff. January 1, 2012.

Sec. 502.055. DETERMINATION OF WEIGHT AND SEATING CAPACITY.

(a) The weight, net weight, or gross weight of a vehicle, as determined by the department, is the correct weight for registration purposes, regardless of any other purported weight of the vehicle.

(b) The department may require an applicant for registration under this chapter to provide the department with evidence of:

(1) the manufacturer's rated carrying capacity for the vehicle; or

(2) the gross vehicle weight rating.

(c) For the purposes of this section, the seating capacity of a bus is:

(1) the manufacturer's rated seating capacity, excluding the operator's seat; or

(2) if the manufacturer has not rated the vehicle for seating capacity, a number computed by allowing one passenger for each 16 inches of seating on the bus, excluding the operator's seat.

(d) For registration purposes:

(1) the weight of a passenger car is the shipping weight of the car plus 100 pounds; and

(2) the weight of a municipal bus or private bus is calculated by adding the following and rounding to the next highest 100 pounds:

(A) the shipping weight of the bus; and

(B) the seating capacity multiplied by 150 pounds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 625, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 87, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 66, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 67, eff.

September 1, 2013.

Sec. 502.056. DISPUTED CLASSIFICATION OF VEHICLE. In a disputed case, the department may determine:

- (1) the classification to which a vehicle belongs; and
- (2) the amount of the registration fee for the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 502.057. REGISTRATION RECEIPT. The department shall issue or require to be issued to the owner of a vehicle registered under this chapter a registration receipt showing the information required by rule.

Transferred, redesignated and amended from Transportation Code, Section 502.178 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 88, eff. January 1, 2012.

Sec. 502.058. DUPLICATE REGISTRATION RECEIPT. (a) The owner of a vehicle for which the registration receipt has been lost or destroyed may obtain a duplicate receipt from the department or the county assessor-collector who issued the original receipt by paying a fee of \$2.

(b) The office issuing a duplicate receipt shall retain the fee received.

(c) A fee collected by the department under Subsection (a) shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

Transferred, redesignated and amended from Transportation Code, Section 502.179 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 89, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 14, eff. September 1, 2013.

Sec. 502.059. ISSUANCE OF REGISTRATION INSIGNIA. (a) On

payment of the prescribed fee an applicant for motor vehicle registration shall be issued a registration insignia.

(b) On application and payment of the prescribed fee for a renewal of the registration of a vehicle through the period set by rule, the department shall issue a registration insignia for the validation of the license plate or plates to be attached as provided by Subsection (c).

(c) Except as provided by Subsection (f), the registration insignia for validation of a license plate shall be attached to the inside of the vehicle's windshield, if the vehicle has a windshield, in the lower left corner in a manner that will not obstruct the vision of the driver. If the vehicle does not have a windshield, the owner, when applying for registration or renewal of registration, shall notify the department, and the department shall issue a distinctive device for attachment to the rear license plate of the vehicle.

(d) Department rules may provide for the use of an automated registration process, including:

(1) the automated on-site production of registration insignia; and

(2) automated on-premises and off-premises self-service registration.

(e) Subsection (c) does not apply to:

(1) the issuance of specialized license plates as designated by the department, including state official license plates, exempt plates for governmental entities, and temporary registration plates; or

(2) the issuance or validation of replacement license plates, except as provided by Chapter 504.

(f) The registration insignia shall be attached to the rear license plate of the vehicle, if the vehicle is:

(1) a motorcycle;

(2) machinery used exclusively to drill water wells or construction machinery for which a distinguishing license plate has been issued under Section 502.146; or

(3) oil well servicing, oil clean out, or oil well drilling machinery or equipment for which a distinguishing license plate has been issued under Subchapter G, Chapter 623.

Transferred, redesignated and amended from Transportation Code,

Section 502.180 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 90, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 13, eff. March 1, 2015.

Sec. 502.060. REPLACEMENT OF REGISTRATION INSIGNIA. (a) The owner of a registered motor vehicle may obtain a replacement registration insignia by:

(1) certifying that the replacement registration insignia will not be used on any other vehicle owned or operated by the person making the statement;

(2) paying a fee of \$6 plus the fees required by Section 502.356(a) for each replacement registration insignia, except as provided by other law; and

(3) returning each replaced registration insignia in the owner's possession.

(b) No fee is required under this section if the replacement fee for a license plate has been paid under Section 504.007.

(c) A county assessor-collector may not issue a replacement registration insignia without complying with this section.

(d) A county assessor-collector shall retain \$2.50 of each fee collected under this section and shall report and send the remainder to the department.

(e) The portion of the fee sent to the department under Subsection (d) shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

Transferred, redesignated and amended from Transportation Code, Section 502.184 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 91, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 15, eff. September 1, 2013.

SUBCHAPTER C. SPECIAL REGISTRATIONS

Sec. 502.090. EFFECT OF CERTAIN MILITARY SERVICE ON REGISTRATION REQUIREMENT. (a) This section applies only to a motor

vehicle that is owned by a person who:

(1) is a resident of this state;

(2) is on active duty in the armed forces of the United States;

(3) is stationed in or has been assigned to another nation under military orders; and

(4) has registered the vehicle or been issued a license for the vehicle under the applicable status of forces agreement by:

(A) the appropriate branch of the armed forces of the United States; or

(B) the nation in which the person is stationed or to which the person has been assigned.

(b) Unless the registration or license issued for a vehicle described by Subsection (a) is suspended, canceled, or revoked by this state as provided by law:

(1) Section 502.040(a) does not apply; and

(2) the registration or license issued by the armed forces or host nation remains valid and the motor vehicle may be operated in this state under that registration or license for a period of not more than 90 days after the date on which the vehicle returns to this state.

Transferred, redesignated and amended from Transportation Code, Section 502.0025 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 93, eff. January 1, 2012.

Sec. 502.091. INTERNATIONAL REGISTRATION PLAN. (a) The department, through its director, may enter into an agreement with an authorized officer of another jurisdiction, including another state of the United States, a foreign country or a state, province, territory, or possession of a foreign country, to provide for:

(1) the registration of vehicles by residents of this state and nonresidents on an allocation or mileage apportionment plan, as under the International Registration Plan; and

(2) the exemption from payment of registration fees by nonresidents if residents of this state are granted reciprocal exemptions.

(b) The department may adopt and enforce rules to carry out the International Registration Plan or other agreement under this

section.

(c) To carry out the International Registration Plan or other agreement under this section, the department shall direct that fees collected for other jurisdictions under the agreement be deposited to the credit of the proportional registration distributive fund in the state treasury and distributed to the appropriate jurisdiction through that fund. The department is not required to refund any amount less than \$10 unless required by the plan.

(d) This section prevails to the extent of conflict with another law relating to the subject of this section.

(e) A person commits an offense if the person owns or operates a vehicle not registered in this state in violation of:

- (1) an agreement under this section; or
- (2) the applicable registration laws of this state, in the absence of an agreement under this section.

(f) An offense under Subsection (e) is a misdemeanor punishable by a fine not to exceed \$200.

Transferred, redesignated and amended from Transportation Code, Section 502.054 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 94, eff. January 1, 2012.

Sec. 502.092. NONRESIDENT-OWNED VEHICLES USED TO TRANSPORT FARM PRODUCTS. (a) The department may issue to a nonresident owner a permit for a truck, truck-tractor, trailer, or semitrailer that:

- (1) is registered in the owner's home state or country; and
- (2) will be used to transport:
 - (A) farm products produced in this state from the place of production to a place of market or storage or a railhead that is not more than 75 miles from the place of production;
 - (B) machinery used to harvest farm products produced in this state; or
 - (C) farm products produced outside this state from the point of entry into this state to a place of market, storage, or processing or a railhead or seaport that is not more than 80 miles from the point of entry.

(b) The department shall issue a receipt for a permit issued under this section in a manner provided by the department. The permit receipt must contain the information required by this section

and be carried in the vehicle for which it is issued at all times during which it is valid. A permit issued under this section is valid until the earlier of:

(1) the date the vehicle's registration in the owner's home state or country expires; or

(2) the 30th day after the date the permit is issued.

(c) A person may obtain a permit under this section by:

(1) applying to the department in a manner prescribed by the department;

(2) paying a fee equal to 1/12 the registration fee prescribed by this chapter for the vehicle;

(3) furnishing satisfactory evidence that the motor vehicle is insured under an insurance policy that complies with Section 601.072 and that is written by:

(A) an insurance company or surety company authorized to write motor vehicle liability insurance in this state; or

(B) with the department's approval, a surplus lines insurer that meets the requirements of Chapter 981, Insurance Code, and rules adopted by the commissioner of insurance under that chapter, if the applicant is unable to obtain insurance from an insurer described by Paragraph (A); and

(4) furnishing evidence that the vehicle has been inspected as required under Chapter 548.

(d) A nonresident owner may not obtain more than three permits under this section during a registration year.

(e) A vehicle for which a permit is issued under this section may not be operated in this state after the permit expires unless the owner:

(1) obtains another temporary permit; or

(2) registers the vehicle under Section 502.253, 502.254, 502.255, or 502.256, as appropriate, for the remainder of the registration year.

(f) A vehicle for which a permit is issued under this section may not be registered under Section 502.433.

(g) A mileage referred to in this section is a state highway mileage.

Transferred, redesignated and amended from Transportation Code, Section 502.355 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 95, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 68, eff. September 1, 2013.

Sec. 502.093. ANNUAL PERMITS. (a) The department may issue an annual permit in lieu of registration to a foreign commercial motor vehicle, trailer, or semitrailer that is subject to registration in this state and is not authorized to travel on a public highway because of the lack of registration in this state or the lack of reciprocity with the state or country in which the vehicle is registered.

(b) A permit issued under this section is valid for a vehicle registration year to begin on the first day of a calendar month designated by the department and end on the last day of the last calendar month of the registration year.

(c) A permit may not be issued under this section for the importation of citrus fruit into this state from a foreign country except for foreign export or processing for foreign export.

(d) A person may obtain a permit under this section by:

(1) applying in the manner prescribed by the department;

(2) paying a fee in the amount required by Subsection (e) in the manner prescribed by the department, including a service charge for a credit card payment or escrow account; and

(3) furnishing evidence of financial responsibility for the motor vehicle that complies with Sections 502.046(c) and 601.168(a), the policies to be written by an insurance company or surety company authorized to write motor vehicle liability insurance in this state.

(e) The fee for a permit under this section is the fee that would be required for registering the vehicle under Section 502.253 or 502.255, except as provided by Subsection (f).

(f) A vehicle registered under this section is exempt from the token fee and is not required to display the associated distinguishing license plate if the vehicle:

(1) is a semitrailer that has a gross weight of more than 6,000 pounds; and

(2) is used or intended to be used in combination with a truck tractor or commercial motor vehicle with a gross vehicle weight of more than 10,000 pounds.

(g) A vehicle registered under this section is not subject to

the fee required by Section 502.401 or 502.403.

Transferred, redesignated and amended from Transportation Code, Section 502.353 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 96, eff. January 1, 2012.

Sec. 502.094. 72- OR 144-HOUR PERMITS. (a) The department may issue a temporary registration permit in lieu of registration for a commercial motor vehicle, trailer, semitrailer, or motor bus that:

(1) is owned by a resident of the United States, Canada, or the United Mexican States;

(2) is subject to registration in this state; and

(3) is not authorized to travel on a public highway because of the lack of registration in this state or the lack of reciprocity with the state or province in which the vehicle is registered.

(b) A permit issued under this section is valid for the period stated on the permit, effective from the date and time shown on the receipt issued as evidence of registration under this section.

(c) A person may obtain a permit under this section by:

(1) applying to the county assessor-collector or the department;

(2) paying a fee of \$25 for a 72-hour permit or \$50 for a 144-hour permit in the manner prescribed by the department that may include a service charge for a credit card payment or escrow account;

(3) furnishing to the county assessor-collector or the department evidence of financial responsibility for the vehicle that complies with Sections 502.046(c) and 601.168(a); and

(4) submitting a copy of the applicable federal declaration form required by the Federal Motor Carrier Safety Administration or its successor in connection with the importation of a motor vehicle or motor vehicle equipment subject to the federal motor vehicle safety, bumper, and theft prevention standards.

(d) A county assessor-collector shall report and send a fee collected under this section in the manner provided by Section 502.198. The board by rule shall prescribe the format and content of a report required by this subsection.

(e) A vehicle issued a permit under this section is subject to Subchapters B and F, Chapter 548, unless the vehicle:

(1) is registered in another state of the United States, in

a province of Canada, or in a state of the United Mexican States; or

(2) is mobile drilling or servicing equipment used in the production of gas, crude petroleum, or oil, including a mobile crane or hoisting equipment, mobile lift equipment, forklift, or tug.

(f) A commercial motor vehicle, trailer, semitrailer, or motor bus apprehended for violating a registration law of this state:

(1) may not be issued a permit under this section; and

(2) is immediately subject to registration in this state.

(g) A person who operates a commercial motor vehicle, trailer, or semitrailer with an expired permit issued under this section is considered to be operating an unregistered vehicle subject to each penalty prescribed by law.

(h) The department may establish one or more escrow accounts in the Texas Department of Motor Vehicles fund for the prepayment of a 72-hour permit or a 144-hour permit. Any fee established by the department for the administration of this subsection shall be administered as required by an agreement entered into by the department.

Transferred, redesignated and amended from Transportation Code, Section 502.352 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 97, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 69, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 16, eff. September 1, 2013.

Sec. 502.095. ONE-TRIP OR 30-DAY TRIP PERMITS. (a) The department may issue a temporary permit in lieu of registration for a vehicle subject to registration in this state that is not authorized to travel on a public highway because of the lack of registration in this state or the lack of reciprocity with the state or country in which the vehicle is registered.

(b) A permit issued under this section is valid for:

(1) one trip, as provided by Subsection (c); or

(2) 30 days, as provided by Subsection (d).

(c) A one-trip permit is valid for one trip between the points of origin and destination and those intermediate points specified in

the application and registration receipt. Unless the vehicle is a bus operating under charter that is not covered by a reciprocity agreement with the state or country in which the bus is registered, a one-trip permit is for the transit of the vehicle only, and the vehicle may not be used for the transportation of any passenger or property. A one-trip permit may not be valid for longer than 15 days from the effective date of registration.

(d) A 30-day permit may be issued only to a passenger vehicle, a private bus, a trailer or semitrailer with a gross weight of not more than 10,000 pounds, a light truck, or a light commercial vehicle with a gross vehicle weight of more than 10,000 pounds that will operate unladen. A person may obtain multiple 30-day permits. The department may issue a single registration receipt to apply to all of the periods for which the vehicle is registered.

(e) A person may obtain a permit under this section by:

(1) applying as provided by the department to:

(A) the county assessor-collector of the county in which the vehicle will first be operated on a public highway; or

(B) the department in Austin or at one of the department's vehicle title and registration regional offices;

(2) paying a fee, in the manner prescribed by the department including a registration service charge for a credit card payment or escrow account of:

(A) \$5 for a one-trip permit; or

(B) \$25 for each 30-day period; and

(3) furnishing evidence of financial responsibility for the vehicle in a form listed under Section 502.046(c).

(f) A registration receipt shall be carried in the vehicle at all times during the period in which it is valid. The temporary tag must contain all pertinent information required by this section and must be displayed in the rear window of the vehicle so that the tag is clearly visible and legible when viewed from the rear of the vehicle. If the vehicle does not have a rear window, the temporary tag must be attached on or carried in the vehicle to allow ready inspection. The registration receipt must be carried in the vehicle at all times during the period in which it is valid.

(g) The department may refuse and may instruct a county assessor-collector to refuse to issue a temporary registration for any vehicle if, in the department's opinion, the vehicle or the owner of the vehicle has been involved in operations that constitute an

abuse of the privilege granted by this section. A registration issued after notice to a county assessor-collector under this subsection is void.

Transferred, redesignated and amended from Transportation Code, Section 502.354 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 98, eff. January 1, 2012.

SUBCHAPTER D. VEHICLES NOT ISSUED REGISTRATION

Sec. 502.140. CERTAIN OFF-HIGHWAY VEHICLES. (a) Except as provided by Subsection (b), a person may not register an all-terrain vehicle or a recreational off-highway vehicle, with or without design alterations, for operation on a public highway.

(b) The state, a county, or a municipality may register an all-terrain vehicle or a recreational off-highway vehicle that is owned by the state, county, or municipality for operation on a public beach or highway to maintain public safety and welfare.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 895, Sec. 12, eff. September 1, 2013.

(d) Section 504.401 does not apply to an all-terrain vehicle or a recreational off-highway vehicle.

(e) An all-terrain vehicle or recreational off-highway vehicle that is owned by the state, a county, or a municipality and operated in compliance with Section 663.037 does not require registration under Subsection (b).

Transferred, redesignated and amended from Transportation Code, Section 502.006 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 100, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 895 (H.B. 1044), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 895 (H.B. 1044), Sec. 12, eff. September 1, 2013.

Sec. 502.142. MANUFACTURED HOUSING. Manufactured housing, as defined by Section 1201.003, Occupations Code, is not a vehicle subject to this chapter.

Transferred and redesignated from Transportation Code, Section 502.0072 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 101, eff. January 1, 2012.

Sec. 502.143. OTHER VEHICLES. An owner may not register the following vehicles for operation on a public highway:

- (1) power sweepers;
- (2) motorized mobility devices;
- (3) electric personal assistive mobility devices; and
- (4) electric bicycles.

Transferred, redesignated and amended from Transportation Code, Section 502.0073 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 102, eff. January 1, 2012.

Sec. 502.144. VEHICLES OPERATED ON PUBLIC HIGHWAY SEPARATING REAL PROPERTY UNDER VEHICLE OWNER'S CONTROL. Where a public highway separates real property under the control of the owner of a motor vehicle, the operation of the motor vehicle by the owner or the owner's agent or employee across the highway is not a use of the motor vehicle on the public highway.

Transferred and redesignated from Transportation Code, Section 502.0078 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 103, eff. January 1, 2012.

Sec. 502.145. VEHICLES OPERATED BY CERTAIN NONRESIDENTS. (a) A nonresident owner of a privately owned passenger car that is registered in the state or country in which the person resides and that is not operated for compensation may operate the car in this state for the period in which the car's license plates are valid. In this subsection, "nonresident" means a resident of a state or country other than this state whose presence in this state is as a visitor and who does not engage in gainful employment or enter into business or an occupation, except as may otherwise be provided by any reciprocal agreement with another state or country.

(b) This section does not prevent:

- (1) a nonresident owner of a motor vehicle from operating

the vehicle in this state for the sole purpose of marketing farm products raised exclusively by the person; or

(2) a resident of an adjoining state or country from operating in this state a privately owned and registered vehicle to go to and from the person's place of regular employment and to make trips to purchase merchandise, if the vehicle is not operated for compensation.

(c) The privileges provided by this section may be allowed only if, under the laws of the appropriate state or country, similar privileges are granted to vehicles registered under the laws of this state and owned by residents of this state.

(d) This section does not affect the right or status of a vehicle owner under any reciprocal agreement between this state and another state or country.

Transferred, redesignated and amended from Transportation Code, Section 502.0079 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 104, eff. January 1, 2012.

Sec. 502.146. CERTAIN FARM VEHICLES AND DRILLING AND CONSTRUCTION EQUIPMENT. (a) The department shall issue specialty license plates to a vehicle described by Subsection (b) or (c). The fee for the license plates is \$5 and shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

(b) An owner is not required to register a vehicle that is used only temporarily on the highways if the vehicle is:

(1) a farm trailer or farm semitrailer with a gross weight of more than 4,000 pounds but not more than 34,000 pounds that is used exclusively:

(A) to transport seasonally harvested agricultural products or livestock from the place of production to the place of processing, market, or storage;

(B) to transport farm supplies from the place of loading to the farm; or

(C) for the purpose of participating in equine activities or attending livestock shows, as defined by Section 87.001, Civil Practice and Remedies Code;

(2) machinery used exclusively for the purpose of drilling water wells;

(3) oil well servicing or drilling machinery and if at the time of obtaining the license plates, the applicant submits proof that the applicant has a permit under Section 623.142; or

(4) construction machinery.

(c) An owner is not required to register a vehicle that is:

(1) a farm trailer or farm semitrailer owned by a cotton gin and used exclusively to transport agricultural products without charge from the place of production to the place of processing, market, or storage;

(2) a trailer used exclusively to transport fertilizer without charge from a place of supply or storage to a farm; or

(3) a trailer used exclusively to transport cottonseed without charge from a place of supply or storage to a farm or place of processing.

(c-1) An exemption provided by this section applies to a vehicle owned by a farmers' cooperative society incorporated under Chapter 51, Agriculture Code, or a marketing association organized under Chapter 52, Agriculture Code, and used by members of the society or association for a fee if the vehicle otherwise meets the requirements for the exemption.

(d) A vehicle described by Subsection (b) is exempt from the inspection requirements of Subchapters B and F, Chapter 548.

(e) Except as provided by Subsection (c-1), this section does not apply to a farm trailer or farm semitrailer that:

(1) is used for hire;

(2) has metal tires operating in contact with the highway;

(3) is not equipped with an adequate hitch pinned or locked so that it will remain securely engaged to the towing vehicle while in motion; or

(4) is not operated and equipped in compliance with all other law.

(f) A vehicle to which this section applies that is operated on a public highway in violation of this section is considered to be operated while unregistered and is immediately subject to the applicable registration fees and penalties prescribed by this chapter.

(g) In this section, the gross weight of a trailer or semitrailer is the combined weight of the vehicle and the load carried on the highway.

(h) A specialty license plate may not be issued under

Subsection (a) to an owner of a vehicle described by Subsection (b)(1) unless the vehicle's owner provides a registration number issued by the comptroller under Section 151.1551, Tax Code, or the vehicle is owned by a farmers' cooperative society incorporated under Chapter 51, Agriculture Code, or a marketing association organized under Chapter 52, Agriculture Code. The comptroller shall allow access to the online system established under Section 151.1551(1), Tax Code, to verify a registration number provided under this subsection.

Transferred, redesignated and amended from Transportation Code, Section 504.504 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 105, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1068 (H.B. 3256), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 17, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 143 (H.B. 75), Sec. 1, eff. May 28, 2015.

Sec. 502.1515. OUTSOURCING PRODUCTION OF RENEWAL NOTICES; PAID ADVERTISING. The board may authorize the department to enter into a contract with a private vendor to produce and distribute motor vehicle registration renewal notices. The contract may provide for the inclusion of paid advertising in the registration renewal notice packet.

Added by Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.85, eff. June 14, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2E.05, eff. September 1, 2009.

Sec. 502.156. STATEMENT REQUIRED FOR REBUILT VEHICLES. A county assessor-collector shall require an applicant for registration of a rebuilt vehicle to provide a statement that the vehicle is rebuilt and that states the name of each person from whom the parts used in assembling the vehicle were obtained.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 502.1585. DESIGNATION OF REGISTRATION PERIOD BY OWNER.

(a) This section applies only to a person who owns more than one motor vehicle or trailer that is subject to registration under this chapter.

(b) Notwithstanding Section 502.044, the owner of a motor vehicle or a trailer may designate an initial or a renewal registration period for that vehicle so that the registration period for the vehicle or trailer expires on the same date as the registration period for another vehicle or trailer previously registered by that owner.

(c) A registration period designated under this section must begin on the first day of a calendar month and end on the last day of a calendar month and may not be for less than 12 months.

(d) The registration fee for a registration period designated under this section is computed at a rate of one-twelfth the annual registration fee multiplied by the number of months in the designated registration period.

(e) The department shall issue an applicant for registration who pays registration fees for a designated period under this section a registration receipt and registration insignia that are valid until the expiration of the designated period.

Added by Acts 1999, 76th Leg., ch. 1197, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.009, eff. September 1, 2013.

Sec. 502.168. FEE: MOTOR BUS. The fee for a registration year for registration of a motor bus is the fee prescribed by Section 502.252 or 502.253, as applicable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 26, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.010, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 70, eff. September 1, 2013.

Sec. 502.1746. VOLUNTARY CONTRIBUTION TO VETERANS' ASSISTANCE FUND. (a) When a person registers a motor vehicle under this chapter, the person is entitled to make a voluntary contribution in any amount to the fund for veterans' assistance established by Section 434.017, Government Code, as redesignated and amended by Chapter 1418 (H.B. 3107), Acts of the 80th Legislature, Regular Session, 2007.

(b) The county assessor-collector shall send any contribution made under this section to the comptroller for deposit in the state treasury to the credit of the fund for veterans' assistance before the 31st day after the date the contribution is made. A contribution made under this section may be used only for the purposes of the fund for veterans' assistance.

(c) The department shall:

(1) include space on each motor vehicle registration renewal notice, on the page that states the total fee for registration renewal, that allows a person renewing a registration to indicate the amount that the person is voluntarily contributing to the fund for veterans' assistance;

(2) provide an opportunity to contribute to the fund for veterans' assistance similar to the opportunity described by Subsection (a) and in the manner described by Subdivision (1) in any registration renewal system that succeeds the system in place on September 1, 2011; and

(3) provide an opportunity for a person to contribute to the fund for veterans' assistance during the registration renewal process on the department's Internet website.

(d) If a person makes a contribution under this section and does not pay the full amount of a registration fee, the county assessor-collector may credit all or a portion of the contribution to the person's registration fee.

(e) The department shall consult with the Texas Veterans Commission in performing the department's duties under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 840 (S.B. 1940), Sec. 3, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 669 (S.B. 1635), Sec. 2, eff. June 17, 2011.

Sec. 502.1747. VOLUNTARY CONTRIBUTION TO PARKS AND WILDLIFE DEPARTMENT. (a) When a person registers or renews the registration of a motor vehicle under this chapter, the person may contribute \$5 or more to the Parks and Wildlife Department.

(b) The department shall:

(1) include space on each motor vehicle registration renewal notice, on the page that states the total fee for registration renewal, that allows a person renewing a registration to indicate the amount that the person is voluntarily contributing to the state parks account;

(2) provide an opportunity to contribute to the state parks account similar to the opportunity described by Subsection (a) and in the manner described by Subdivision (1) in any registration renewal system that succeeds the system in place on September 1, 2011; and

(3) provide an opportunity for a person to contribute to the state parks account during the registration renewal process on the department's Internet website.

(c) If a person makes a contribution under this section and does not pay the full amount of a registration fee, the county assessor-collector may credit all or a portion of the contribution to the person's registration fee.

(d) The county assessor-collector shall send any contribution made under this section to the comptroller for deposit to the credit of the state parks account under Section 11.035, Parks and Wildlife Code. Money received by the Parks and Wildlife Department under this section may be used only for the operation and maintenance of state parks, historic sites, or natural areas under the jurisdiction of the Parks and Wildlife Department.

(e) The department shall consult with the Parks and Wildlife Department in performing the department's duties under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 749 (H.B. 1301), Sec. 1, eff. June 17, 2011.

Sec. 502.1748. DISPOSITION OF CERTAIN VOLUNTARY CONTRIBUTIONS. If a person makes a voluntary contribution under Section 502.1746 or 502.1747 at the time the person registers or renews the registration of a motor vehicle under this chapter but the person does not clearly specify the entity to which the person intends to contribute, the county assessor-collector shall divide the contribution between the entities authorized to receive contributions under those sections.

Added by Acts 2011, 82nd Leg., R.S., Ch. 749 (H.B. 1301), Sec. 1, eff. June 17, 2011.

Sec. 502.189. DONOR REGISTRY INFORMATION. (a) The department, with expert input and support from the nonprofit organization administering the Glenda Dawson Donate Life-Texas Registry under Chapter 692A, Health and Safety Code, shall:

(1) add a link from the department's Internet website to the Glenda Dawson Donate Life-Texas Registry operated under Chapter 692A, Health and Safety Code; and

(2) provide a method to distribute donor registry information to interested individuals in each office authorized to issue motor vehicle registrations.

(b) The department shall make available for distribution to each office authorized to issue motor vehicle registrations Donate Life brochures that provide basic donor information in English and Spanish and a contact phone number and e-mail address. The department shall ensure that the question provided in Section 521.401(c)(1)(B) and information on the donor registry Internet website is included with registration renewal notices.

Added by Acts 2009, 81st Leg., R.S., Ch. 831 (S.B. 1803), Sec. 3, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 554 (H.B. 2904), Sec. 3, eff. January 1, 2012.

SUBCHAPTER E. ADMINISTRATION OF FEES

Sec. 502.190. SCHEDULE OF REGISTRATION FEES. The department shall post a complete schedule of registration fees on the Internet.

Transferred, redesignated and amended from Transportation Code, Section 502.159 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 107, eff. January 1, 2012.

Sec. 502.191. COLLECTION OF FEES. (a) A person may not collect a registration fee under this chapter unless the person is:

(1) an officer or employee of the department; or

(2) a county assessor-collector or a deputy county assessor-collector.

(b) The department may accept electronic payment by electronic funds transfer, credit card, or debit card of any fee that the department is authorized to collect under this chapter.

(c) The department may collect a fee for processing a payment by electronic funds transfer, credit card, or debit card in an amount not to exceed the amount of the charges incurred by the department to process the payment.

(d) The department may collect the fee set under Section 2054.2591, Government Code, from a person making a payment by electronic funds transfer, credit card, or debit card through the online project implemented under Section 2054.252, Government Code.

(e) If, for any reason, the payment of a fee under this chapter by electronic funds transfer, credit card, or debit card is not honored by the funding institution or by the electronic funds transfer, credit card, or debit card company on which the funds are drawn, the department may collect from the person who owes the fee being collected a service charge that is for the collection of that original amount and is in addition to the original fee. The amount of the service charge must be reasonably related to the expense incurred by the department in collecting the original amount.

(f) The department may not collect a fee under Subsection (c) or (d) if the department collects a fee under Section 502.1911.

Transferred, redesignated and amended from Transportation Code, Section 502.004 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 108, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 18, eff. September 1, 2013.

Sec. 502.1911. REGISTRATION PROCESSING AND HANDLING FEE. (a) The department may collect a fee, in addition to other registration fees for the issuance of a license plate, a set of license plates, or another device used as the registration insignia, to cover the expenses of collecting those registration fees, including a service charge for registration by mail.

(b) The board by rule shall set the fee in an amount that:

(1) includes the fee established under Section 502.356(a);
and

(2) is sufficient to cover the expenses associated with collecting registration fees by:

(A) the department;

(B) a county tax assessor-collector;

(C) a private entity with which a county tax assessor-collector contracts under Section 502.197; or

(D) a deputy assessor-collector that is deputized in accordance with board rule under Section 520.0071.

(c) The county tax assessor-collector, a private entity with which a county tax assessor-collector contracts under Section 502.197, or a deputy assessor-collector may retain a portion of the fee collected under Subsection (b) as provided by board rule. Remaining amounts collected under this section shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. [2202](#)), Sec. 19, eff. September 1, 2013.

Sec. 502.192. TRANSFER FEE. The purchaser of a used motor vehicle shall pay, in addition to any fee required under Chapter 501 for the transfer of title, a transfer fee of \$2.50 for the transfer of the registration of the motor vehicle. The county assessor-collector may retain as commission for services provided under this subchapter half of each transfer fee collected. The portion of each transfer fee not retained by the county assessor-collector shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 109, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 20, eff. September 1, 2013.

Sec. 502.193. PAYMENT BY CHECK DRAWN AGAINST INSUFFICIENT FUNDS. (a) A county assessor-collector who receives from any person a check or draft for payment of a registration fee for a registration year that has not ended that is returned unpaid because of insufficient funds or no funds in the bank or trust company to the credit of the drawer of the check or draft shall certify the fact to the sheriff or a constable or highway patrol officer in the county after attempts to contact the person fail to result in the collection of payment. The certification must be made before the 30th day after the date the check or draft is returned unpaid and:

- (1) be under the assessor-collector's official seal;
- (2) include the name and address of the person who gave the check or draft;
- (3) include the license plate number and make of the vehicle;
- (4) be accompanied by the check or draft; and
- (5) be accompanied by documentation of any attempt to contact the person and collect payment.

(b) On receiving a complaint under Subsection (a) from the county assessor-collector, the sheriff, constable, or highway patrol officer shall find the person who gave the check or draft, if the person is in the county, and demand immediate redemption of the check or draft from the person. If the person fails or refuses to redeem the check or draft, the sheriff, constable, or highway patrol officer shall:

- (1) seize and remove the license plates and registration insignia from the vehicle; and
- (2) return the license plates and registration insignia to the county assessor-collector.

Transferred, redesignated and amended from Transportation Code, Section 502.181 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 110, eff. January 1, 2012.

Sec. 502.1931. DISPUTED PAYMENT BY CREDIT CARD OR DEBIT CARD.

(a) A county assessor-collector who receives from any person a payment by credit card or debit card for a registration fee for a registration year that has not ended that is returned unpaid because the payment by the credit card or debit card has been disputed by the credit card or debit card company shall certify the fact to the sheriff or a constable or highway patrol officer in the county after attempts to contact the person fail to result in the collection of payment. The certification must be made before the 30th day after the date the assessor-collector is made aware that the credit card or debit card payment has been disputed and:

- (1) be under the assessor-collector's official seal;
- (2) include the name and address of the person who authorized the credit card or debit card payment;
- (3) include the license plate number and make of the vehicle;
- (4) be accompanied by evidence from the credit card or debit card company that the company has determined that it will not make payment on the disputed credit card or debit card charge; and
- (5) be accompanied by documentation of any attempt to contact the person and collect payment.

(b) On receiving a complaint under Subsection (a) from the county assessor-collector, the sheriff, constable, or highway patrol officer shall find the person who authorized the credit card or debit card payment, if the person is in the county, and demand immediate redemption of payment from the person. If the person fails or refuses to redeem the payment, the sheriff, constable, or highway patrol officer shall:

- (1) seize and remove the license plates and registration insignia from the vehicle; and
- (2) return the license plates and registration insignia to the assessor-collector.

Added by Acts 2015, 84th Leg., R.S., Ch. 123 (S.B. 1451), Sec. 1, eff. September 1, 2015.

Sec. 502.194. CREDIT FOR REGISTRATION FEE PAID ON MOTOR VEHICLE SUBSEQUENTLY DESTROYED. (a) The owner of a motor vehicle that is destroyed to the extent that it cannot afterwards be operated on a public highway is entitled to a registration fee credit if the

prorated portion of the registration fee for the remainder of the registration year is more than \$15. The owner must claim the credit by sending the registration fee receipt for the vehicle to the department.

(b) The department, on satisfactory proof that the vehicle is destroyed, shall issue a registration fee credit slip to the owner in an amount equal to the prorated portion of the registration fee for the remainder of the registration year. The owner, during the same or the next registration year, may use the registration fee credit slip as payment or part payment for the registration of another vehicle to the extent of the credit.

Transferred, redesignated and amended from Transportation Code, Section 502.182 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 111, eff. January 1, 2012.

Sec. 502.195. REFUND OF OVERCHARGED REGISTRATION FEE. (a) The owner of a motor vehicle who pays an annual registration fee in excess of the statutory amount is entitled to a refund of the overcharge.

(b) The county assessor-collector who collects the excessive fee shall refund an overcharge on presentation to the assessor-collector of satisfactory evidence of the overcharge not later than the first anniversary of the date the excessive registration fee was paid.

(c) A refund shall be paid from the fund in which the county's share of registration fees is deposited.

Transferred, redesignated and amended from Transportation Code, Section 502.183 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 112, eff. January 1, 2012.

Sec. 502.196. DEPOSIT OF REGISTRATION FEES IN STATE HIGHWAY FUND. Except as otherwise provided by this chapter, the board and the department shall deposit all money received from registration fees in the state treasury to the credit of the state highway fund.

Transferred and redesignated from Transportation Code, Section 502.051 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec.

113, eff. January 1, 2012.

Sec. 502.197. REGISTRATION BY MAIL OR ELECTRONIC MEANS; SERVICE CHARGE.

Text of subsection effective until the effective date of rules adopted regarding the fee under Sec. 502.1911 in accordance with Acts 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 74(b).

(a) A county assessor-collector may collect a service charge of \$1 from each applicant registering a vehicle by mail. The service charge shall be used to pay the costs of handling and postage to mail the registration receipt and insignia to the applicant.

Text of subsection effective on the effective date of rules adopted regarding the fee under Sec. 502.1911 in accordance with Acts 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 74(b).

(a) A county assessor-collector may retain a service charge in the amount determined by the board under Section 502.1911 from each applicant registering a vehicle by mail. The service charge shall be used to pay the costs of handling and postage to mail the registration receipt and insignia to the applicant.

Text of subsection effective until the effective date of rules adopted regarding the fee under Sec. 502.1911 in accordance with Acts 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 74(b).

(b) With the approval of the commissioners court of a county, a county assessor-collector may contract with a private entity to enable an applicant for registration to use an electronic off-premises location. A private entity may charge an applicant not more than \$1 for the service provided.

Text of subsection effective on the effective date of rules adopted regarding the fee under Sec. 502.1911 in accordance with Acts 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 74(b).

(b) With the approval of the commissioners court of a county, a county assessor-collector may contract with a private entity to enable an applicant for registration to use an electronic off-premises location. A private entity may retain an amount determined by the board under Section 502.1911 for the service provided.

(c) The department may adopt rules to cover the timely application for and issuance of registration receipts and insignia by

mail or through an electronic off-premises location.

Transferred and redesignated from Transportation Code, Section 502.101 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 114, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 21.

Sec. 502.198. DISPOSITION OF FEES GENERALLY. (a) Except as provided by Sections 502.058, 502.060, 502.1911, 502.192, and 502.357, this section applies to all fees collected by a county assessor-collector under this chapter.

(b) Each Monday, a county assessor-collector shall credit to the county road and bridge fund an amount equal to the net collections made during the preceding week until the amount so credited for the calendar year equals the total of:

(1) \$60,000;

(2) \$350 for each mile of county road maintained by the county, according to the most recent information available from the department, not to exceed 500 miles; and

(3) an additional amount of fees equal to the amount calculated under Section 502.1981.

(c) After the credits to the county road and bridge fund equal the total computed under Subsection (b), each Monday the county assessor-collector shall:

(1) credit to the county road and bridge fund an amount equal to 50 percent of the net collections made during the preceding week, until the amount so credited for the calendar year equals \$125,000; and

(2) send to the department an amount equal to 50 percent of those collections for deposit to the credit of the state highway fund.

(d) After the credits to the county road and bridge fund equal the total amounts computed under Subsections (b) and (c)(1), each Monday the county assessor-collector shall send to the department all collections made during the preceding week for deposit to the credit of the state highway fund.

Transferred, redesignated and amended from Transportation Code, Section 502.102 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357),

Sec. 115, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. [2202](#)), Sec. 22, eff. September 1, 2013.

Sec. 502.1981. CALCULATION OF ADDITIONAL FEE AMOUNTS RETAINED BY A COUNTY. (a) The county tax assessor-collector each calendar year shall calculate five percent of the tax and penalties collected by the county tax assessor-collector under Chapter 152, Tax Code, in the preceding calendar year. In addition, the county tax assessor-collector shall calculate each calendar year an amount equal to five percent of the tax and penalties that the comptroller:

(1) collected under Section 152.047, Tax Code, in the preceding calendar year; and

(2) determines are attributable to sales in the county.

(b) A county tax assessor-collector shall retain under Section 502.198(b) fees based on the following percentage of the amounts calculated under Subsection (a) during each of the following fiscal years:

(1) in fiscal year 2012, 30 percent;

(2) in fiscal year 2013, 20 percent;

(3) in fiscal year 2014, 10 percent;

(4) in fiscal year 2015 and succeeding years, 0 percent.

(c) The county shall credit the amounts retained under Subsection (b) to the county road and bridge fund. Money credited to the fund under this section may only be used for:

(1) county road construction, maintenance, and repair;

(2) bridge construction, maintenance, and repair;

(3) the purchase of right-of-way for road or highway purposes; or

(4) the relocation of utilities for road or highway purposes.

Transferred, redesignated and amended from Transportation Code, Section 502.1025 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 116, eff. January 1, 2012.

Sec. 502.1983. DEPOSIT OF FEES IN INTEREST-BEARING ACCOUNT.

(a) Except as provided by Section 502.357, a county assessor-collector may:

(1) deposit the fees in an interest-bearing account or certificate in the county depository; and

(2) send the fees to the department not later than the 34th day after the date the fees are due under Section 502.357.

(b) The county owns all interest earned on fees deposited under this section. The county treasurer shall credit the interest to the county general fund.

Transferred, redesignated and amended from Transportation Code, Section 502.106 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 118, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 23, eff. September 1, 2013.

Sec. 502.1984. INTEREST ON FEES. (a) A fee required to be sent to the department under this chapter bears interest for the benefit of the state highway fund or the Texas Department of Motor Vehicles fund, as applicable, at an annual rate of 10 percent beginning on the 60th day after the date the county assessor-collector collects the fee.

(b) The department shall audit the registration and transfer fees collected and disbursed by each county assessor-collector and shall determine the exact amount of interest due on any fee not sent to the department.

(c) The state has a claim against a county assessor-collector and the sureties on the assessor-collector's official bond for the amount of interest due on a fee.

Transferred and redesignated from Transportation Code, Section 502.107 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 119, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 24, eff. September 1, 2013.

Sec. 502.1985. USE OF REGISTRATION FEES RETAINED BY COUNTY.

(a) Money credited to the county road and bridge fund under Section 502.198 may not be used to pay the compensation of the county judge or a county commissioner. The money may be used only for the construction and maintenance of lateral roads in the county, under the supervision of the county engineer.

(b) If there is not a county engineer, the commissioners court of the county may require the services of the department's district engineer or resident engineer to supervise the construction and surveying of lateral roads in the county.

(c) A county may use money allocated to it under this chapter to:

- (1) pay obligations issued in the construction or improvement of any roads, including state highways in the county;
- (2) improve the roads in the county road system; or
- (3) construct new roads.

(d) To the maximum extent possible, contracts for roads constructed by a county using funds provided under this chapter should be awarded by competitive bids.

Transferred, redesignated and amended from Transportation Code, Section 502.108 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 120, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 25, eff. September 1, 2013.

Sec. 502.1986. CONTINGENT PROVISION FOR DISTRIBUTION OF FEES BETWEEN STATE AND COUNTIES. If the method of distributing vehicle registration fees collected under this chapter between the state and counties is declared invalid because of inequality of collection or distribution of those fees, 60 percent of each fee shall be distributed to the county collecting the fee and 40 percent shall be sent to the state in the manner provided by this chapter.

Transferred and redesignated from Transportation Code, Section 502.110 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 121, eff. January 1, 2012.

Sec. 502.199. ELECTRONIC FUNDS TRANSFER. A county assessor-

collector that transfers money to the department under this chapter shall transfer the money electronically.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 71, eff. September 1, 2013.

SUBCHAPTER F. REGULAR REGISTRATION FEES

Sec. 502.251. FEE: MOTORCYCLE OR MOPED. The fee for a registration year for registration of a motorcycle or moped is \$30.

Transferred and redesignated from Transportation Code, Section 502.160 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 123, eff. January 1, 2012.

Sec. 502.252. FEE: VEHICLES THAT WEIGH 6,000 POUNDS OR LESS.

(a) The fee for a registration year for registration of a vehicle with a gross weight of 6,000 pounds or less is \$50.75, unless otherwise provided in this chapter.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1135, Sec. 140(2), eff. September 1, 2013.

Transferred, redesignated and amended from Transportation Code, Section 502.161 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 124, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 140(2), eff. September 1, 2013.

Sec. 502.253. FEE: VEHICLES THAT WEIGH MORE THAN 6,000 POUNDS. The fee for a registration year for registration of a vehicle with a gross weight of more than 6,000 pounds is as follows unless otherwise provided in this chapter:

Weight Classification in pounds	Fee Schedule
6,001-10,000	\$54.00
10,001-18,000	\$110.00
18,001-25,999	\$205.00
26,000-40,000	\$340.00
40,001-54,999	\$535.00

55,000-70,000	\$740.00
70,001-80,000	\$840.00

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 21, eff. September 1, 2011.

Transferred, redesignated and amended from Transportation Code, Section 502.162 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 125, eff. January 1, 2012.

Sec. 502.254. FEE: TRAILER, TRAVEL TRAILER, OR SEMITRAILER.

(a) The fee for a registration year for registration of a trailer, travel trailer, or semitrailer with a gross weight of 6,000 pounds or less is \$45.00.

(b) The fee for a registration year for registration of a trailer, travel trailer, or semitrailer with a gross weight of more than 6,000 pounds is calculated by gross weight according to Section 502.253.

Transferred, redesignated and amended from Transportation Code, Section 502.166 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 126, eff. January 1, 2012.

Sec. 502.255. TRUCK-TRACTOR OR COMMERCIAL MOTOR VEHICLE COMBINATION FEE; SEMITRAILER TOKEN FEE. (a) This section applies only to a truck-tractor or commercial motor vehicle with a gross weight of more than 10,000 pounds that is used or is to be used in combination with a semitrailer that has a gross weight of more than 6,000 pounds.

(b) The fee for a registration year for registration of a truck-tractor or commercial motor vehicle is calculated by gross weight according to Section 502.253.

(c) The fee for registration of a semitrailer used in the manner described by Subsection (a), regardless of the date the semitrailer is registered, is \$15 for a registration year.

(d) A registration made under Subsection (c) is valid only when the semitrailer is used in the manner described by Subsection (a).

(e) For registration purposes, a semitrailer converted to a trailer by means of an auxiliary axle assembly retains its status as a semitrailer.

(f) A combination of vehicles may not be registered under this section for a combined gross weight of less than 18,000 pounds.

(g) This section does not apply to:

(1) a combination of vehicles that includes a vehicle that has a distinguishing license plate under Section 502.146;

(2) a truck-tractor or commercial motor vehicle registered or to be registered with \$5 distinguishing license plates for which the vehicle is eligible under this chapter;

(3) a truck-tractor or commercial motor vehicle used exclusively in combination with a semitrailer of the travel trailer type; or

(4) a vehicle registered or to be registered:

(A) with a temporary registration permit;

(B) under Section 502.433; or

(C) under Section 502.435.

(h) The department may adopt rules to administer this section.

(i) The department shall issue a license plate for a token trailer registered under this section that does not expire or require an annual registration insignia to be valid. The alphanumeric pattern for a license plate issued under this subsection may remain on a token trailer for as long as the registration of the token trailer is renewed or until the token trailer is removed from service or sold. The registration receipt required under Section 621.002 is not required for a vehicle that displays a license plate issued under this subsection.

(j) A person may register a semitrailer under this section if the person:

(1) applies to the department for registration;

(2) provides proof of the person's eligibility to register the vehicle under this subsection as required by the department; and

(3) pays a fee of \$15, plus any applicable fee under Section 502.401, for each year included in the registration period.

Transferred, redesignated and amended from Transportation Code, Section 502.167 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 127, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 252 (H.B. 511), Sec. 2, eff. June 14, 2013.

Sec. 502.256. FEE: ROAD TRACTOR. The fee for a registration year for registration of a road tractor is the fee prescribed by weight as certified by a public weigher or a license and weight inspector of the Department of Public Safety under Section 502.252 or 502.253, as applicable.

Transferred, redesignated and amended from Transportation Code, Section 502.165 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 128, eff. January 1, 2012.

SUBCHAPTER G. ADDITIONAL FEES

Sec. 502.356. AUTOMATED REGISTRATION AND TITLING SYSTEM. (a) In addition to other registration fees for a license plate or set of license plates or other device used as the registration insignia, the board by rule shall adopt a fee of not less than 50 cents and not more than \$1. The fee shall be collected and deposited into a subaccount in the Texas Department of Motor Vehicles fund.

(b) The department may use money collected under this section to provide for or enhance the automation of and the necessary infrastructure for:

- (1) on-premises and off-premises registration and permitting, including permitting under Subtitle E;
- (2) services related to the titling of vehicles; and
- (3) licensing and enforcement procedures.

Transferred, redesignated and amended from Transportation Code, Section 502.1705 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 130, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 26, eff. September 1, 2013.

Sec. 502.357. FINANCIAL RESPONSIBILITY PROGRAMS. (a) In addition to other fees imposed for registration of a motor vehicle, at the time of application for registration or renewal of

registration of a motor vehicle for which the owner is required to submit evidence of financial responsibility under Section 502.046, the applicant shall pay a fee of \$1. In addition to other fees imposed for registration of a motor vehicle, at the time of application for registration of a motor vehicle that is subject to Section 501.0234, the applicant shall pay a fee of \$1. Fees collected under this section shall be remitted weekly to the department.

(b) Fees collected under this section shall be deposited to the credit of the state highway fund except that the comptroller shall provide for a portion of the fees to be deposited first to the credit of a special fund in the state treasury outside the general revenue fund to be known as the TexasSure Fund in a total amount that is necessary to cover the total amount appropriated to the Texas Department of Insurance from that fund and for the remaining fees to be deposited to the state highway fund. Subject to appropriations, the money deposited to the credit of the state highway fund under this section may be used by the Department of Public Safety to:

(1) support the Department of Public Safety's reengineering of the driver's license system to provide for the issuance by the Department of Public Safety of a driver's license or personal identification certificate, to include use of image comparison technology;

(2) establish and maintain a system to support the driver responsibility program under Chapter 708; and

(3) make lease payments to the master lease purchase program for the financing of the driver's license reengineering project.

(c) Subject to appropriation, fees collected under this section may be used by the Department of Public Safety, the Texas Department of Insurance, the Department of Information Resources, and the department to carry out Subchapter N, Chapter 601.

(d) The Department of Public Safety, the Texas Department of Insurance, the Department of Information Resources, and the department shall jointly adopt rules and develop forms necessary to administer this section.

Reenacted, transferred, redesignated and amended from Transportation Code, Section 502.1715 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 131, eff. January 1, 2012.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 987 (H.B. 6), Sec. 19(a), eff. September 1, 2015.

For expiration of this section, see Subsection (c).

Sec. 502.358. TEXAS EMISSIONS REDUCTION PLAN SURCHARGE. (a) In addition to the registration fees charged under Section 502.255, a surcharge is imposed on the registration of a truck-tractor or commercial motor vehicle under that section in an amount equal to 10 percent of the total fees due for the registration of the truck-tractor or commercial motor vehicle under that section.

(b) The county tax assessor-collector shall remit the surcharge collected under this section to the comptroller at the time and in the manner prescribed by the comptroller for deposit in the Texas emissions reduction plan fund.

(c) This section expires August 31, 2019.

Transferred, redesignated and amended from Transportation Code, Section 502.1675 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 132, eff. January 1, 2012.

Sec. 502.359. ADDITIONAL FEE FOR CERTAIN VEHICLES USING DIESEL MOTOR. (a) The registration fee under this chapter for a motor vehicle other than a passenger car, a truck with a gross vehicle weight of 18,000 pounds or less, or a vehicle registered in combination under Section 502.255 is increased by 11 percent if the vehicle has a diesel motor.

(b) The registration receipt for a motor vehicle, other than a passenger car or a truck with a gross vehicle weight of 18,000 pounds or less, must show that the vehicle has a diesel motor.

(c) The department may adopt rules to administer this section.

Transferred, redesignated and amended from Transportation Code, Section 502.171 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 133, eff. January 1, 2012.

SUBCHAPTER H. OPTIONAL FEES

Sec. 502.401. OPTIONAL COUNTY FEE FOR ROAD AND BRIDGE FUND.

(a) The commissioners court of a county by order may impose an additional fee, not to exceed \$10, for registering a vehicle in the county.

(b) A vehicle that may be registered under this chapter without payment of a registration fee may be registered in a county imposing a fee under this section without payment of the additional fee.

(c) A fee imposed under this section may take effect only on January 1 of a year. The county must adopt the order and notify the department not later than September 1 of the year preceding the year in which the fee takes effect.

(d) A fee imposed under this section may be removed. The removal may take effect only on January 1 of a year. A county may remove the fee only by:

(1) rescinding the order imposing the fee; and

(2) notifying the department not later than September 1 of the year preceding the year in which the removal takes effect.

(e) The county assessor-collector of a county imposing a fee under this section shall collect the additional fee for a vehicle when other fees imposed under this chapter are collected.

(f) The department shall collect the additional fee on a vehicle that is owned by a resident of a county imposing a fee under this section that must be registered directly with the department. The department shall send all fees collected for a county under this subsection to the county treasurer to be credited to the county road and bridge fund.

(g) The department shall adopt rules necessary to administer registration for a vehicle being registered in a county imposing a fee under this section.

Transferred, redesignated and amended from Transportation Code, Section 502.172 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 135, eff. January 1, 2012.

Sec. 502.402. OPTIONAL COUNTY FEE FOR TRANSPORTATION PROJECTS.

(a) This section applies only to:

(1) a county that:

(A) borders the United Mexican States; and

(B) has a population of more than 250,000; and

(2) a county that has a population of more than 1.5 million that is coterminous with a regional mobility authority.

(b) The commissioners court of a county by order may impose an additional fee for a vehicle registered in the county. Except as provided by Subsection (b-1), the fee may not exceed \$10.

(b-1) The commissioners court of a county described by Subsection (a) with a population of less than 700,000 may increase the additional fee to an amount that does not exceed \$20 if approved by a majority of the qualified voters of the county voting on the issue at a referendum election, which the commissioners court may order and hold for that purpose.

(c) A vehicle that may be registered under this chapter without payment of a registration fee may be registered under this section without payment of the additional fee.

(d) A fee imposed under this section may take effect and be removed in accordance with the requirements of Section 502.401.

(e) The additional fee shall be collected for a vehicle when other fees imposed under this chapter are collected. The fee revenue collected shall be sent to a regional mobility authority located in the county to fund long-term transportation projects in the county that are consistent with the purposes specified by Section 7-a, Article VIII, Texas Constitution.

(f) The department shall adopt rules necessary to administer registration for a vehicle being registered in a county imposing a fee under this section.

Transferred, redesignated and amended from Transportation Code, Section 502.1725 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 136, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 706 (H.B. [3126](#)), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1273 (H.B. [1198](#)), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1277 (H.B. [1573](#)), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. [1296](#)), Sec. 17.005, eff. September 1, 2015.

Sec. 502.403. OPTIONAL COUNTY FEE FOR CHILD SAFETY. (a) The commissioners court of a county that has a population greater than 1.3 million and in which a municipality with a population of more than one million is primarily located may impose by order an additional fee of not less than 50 cents or more than \$1.50 for a vehicle registered in the county. The commissioners court of any other county may impose by order an additional fee of not more than \$1.50 for registering a vehicle in the county.

(b) A vehicle that may be registered under this chapter without payment of a registration fee may be registered without payment of the additional fee.

(c) A fee imposed under this section may take effect and be removed in accordance with the provisions of Section 502.401.

(d) The additional fee shall be collected for a vehicle when other fees imposed under this chapter are collected.

(e) A county imposing a fee under this section may deduct for administrative costs an amount of not more than 10 percent of the revenue it receives from the fee. The county may also deduct from the fee revenue an amount proportional to the percentage of county residents who live in unincorporated areas of the county. After making the deductions provided for by this subsection, the county shall send the remainder of the fee revenue to the municipalities in the county according to their population.

(f) A municipality with a population greater than 850,000 shall deposit revenue from a fee imposed under this subsection to the credit of the child safety trust fund created under Section 106.001, Local Government Code. A municipality with a population less than 850,000 shall use revenue from a fee imposed under this section in accordance with Article 102.014(g), Code of Criminal Procedure.

(g) After deducting administrative costs, a county may use revenue from a fee imposed under this section only for a purpose permitted by Article 102.014(g), Code of Criminal Procedure.

Transferred, redesignated and amended from Transportation Code, Section 502.173 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 137, eff. January 1, 2012.

Sec. 502.404. VOLUNTARY ASSESSMENT FOR TEXAS AGRICULTURAL FINANCE AUTHORITY. (a) When a person registers a commercial motor

vehicle under Section 502.433, the person shall pay a voluntary assessment of \$5.

(b) The county assessor-collector shall send an assessment collected under this section to the comptroller, at the time and in the manner prescribed by the Texas Agricultural Finance Authority, for deposit in the Texas agricultural fund.

(c) The Texas Agricultural Finance Authority shall prescribe procedures under which an assessment collected under this section may be refunded. The county assessor-collector of the county in which an assessment is collected shall:

- (1) implement the refund procedures; and
- (2) provide notice of those procedures to a person paying an assessment at the time of payment.

Transferred, redesignated and amended from Transportation Code, Section 502.174 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 138, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1197 (S.B. [1214](#)), Sec. 7, eff. June 14, 2013.

Sec. 502.405. VOLUNTARY CONTRIBUTION TO DONOR REGISTRY. (a) The department shall provide to each county assessor-collector the educational materials for prospective donors provided under Section 502.189.

(b) When a person applies for the registration or renewal of registration of a motor vehicle, the person may elect to contribute \$1 or more to the nonprofit organization administering the Glenda Dawson Donate Life-Texas Registry established under Chapter 692A, Health and Safety Code. The department shall remit any contribution paid under this subsection to the comptroller for deposit to the credit of the Glenda Dawson Donate Life-Texas Registry fund created under Section 692A.020, Health and Safety Code. Money received under this subsection by the organization may be used only for the purposes described by Section 692A.020(i), Health and Safety Code. The organization shall submit an annual report to the legislature and the comptroller that includes the total dollar amount of money received by the organization under this subsection. If a person makes a contribution under this section and does not pay the full amount of

the registration fee, the department may credit all or a portion of the contribution to the person's registration fee. The department shall:

(1) include space on each motor vehicle registration renewal notice, on the page that states the total fee for registration renewal, that allows a person renewing a registration to voluntarily contribute \$1 or more to the organization;

(2) provide an opportunity for a person to contribute \$1 or more to the organization during the registration renewal process on the department's Internet website; and

(3) provide an opportunity to contribute \$1 or more to the organization in any registration renewal system that succeeds the registration renewal system in place on September 1, 2015.

(c) Three percent of all money collected under this section shall be credited to the Texas Department of Motor Vehicles fund and may be appropriated only to the department to administer this section.

Added by Acts 2005, 79th Leg., Ch. 1186 (H.B. [120](#)), Sec. 8, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 554 (H.B. [2904](#)), Sec. 2, eff. January 1, 2012.

Transferred, redesignated and amended from Transportation Code, Section 502.1745 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 139, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. [2202](#)), Sec. 27, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1261 (H.B. [3283](#)), Sec. 1, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1261 (H.B. [3283](#)), Sec. 2, eff. January 1, 2016.

Sec. 502.407. OPERATION OF VEHICLE WITH EXPIRED LICENSE PLATE.

(a) A person commits an offense if, after the fifth working day after the date the registration for the vehicle expires:

(1) the person operates on a public highway during a registration period a motor vehicle, trailer, or semitrailer that has

attached to it a license plate for the preceding period; and
 (2) the license plate has not been validated by the attachment of a registration insignia for the registration period in effect.

(b) A justice of the peace or municipal court judge having jurisdiction of the offense may:

(1) dismiss a charge of driving with an expired motor vehicle registration if the defendant:

(A) remedies the defect not later than the 20th working day after the date of the offense or before the defendant's first court appearance date, whichever is later; and

(B) establishes that the fee prescribed by Section 502.045 has been paid; and

(2) assess an administrative fee not to exceed \$20 when the charge is dismissed.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(6), eff. January 1, 2012.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 207, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1027 (H.B. 1623), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(6), eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.012, eff. September 1, 2013.

Sec. 502.410. FALSIFICATION OR FORGERY. (a) A person commits an offense if the person knowingly provides false or incorrect information or without legal authority signs the name of another person on a statement or application filed or given as required by this chapter.

(b) Subsection (a) does not apply to a statement or application filed or given under Section 502.060, 502.092, 502.093, 502.094, 502.095, 504.201, 504.508, or 504.515.

(c) An offense under this section is a felony of the third degree.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 1997, 75th Leg., ch. 165, Sec. 30.67(a), eff. Sept. 1, 1997.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 20.003(b), eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.013, eff. September 1, 2013.

Sec. 502.411. BRIBERY OF COUNTY OFFICER OR AGENT. (a) A person commits an offense if the person directly or indirectly agrees with the commissioners court of a county or an officer or agent of the commissioners court or county that the person will register or cause to be registered a motor vehicle, trailer, or semitrailer in that county in consideration of:

(1) the use by the county of the funds derived from the registration in the purchase of property; or

(2) an act to be performed by the commissioners court or an agent or officer of the commissioners court or the county.

(b) The registration of each separate vehicle in violation of Subsection (a) is a separate offense. The agreement or conspiracy to register is a separate offense.

(c) A person who makes or seeks to make an agreement prohibited by Subsection (a) shall be restrained by injunction on application by the district or county attorney of the county in which the vehicle is registered or the attorney general.

(d) An offense under this section is punishable in the same manner as an offense under Section 36.02, Penal Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 502.412. OPERATION OF VEHICLE AT WEIGHT GREATER THAN STATED IN REGISTRATION APPLICATION. (a) A person commits an offense if the person operates, or permits to be operated, a motor vehicle registered under this chapter that has a weight greater than that stated in the person's application for registration. Each use of the vehicle is a separate offense.

(b) Venue for a prosecution under this section is in any county in which the motor vehicle is operated with a gross weight greater than that stated in the person's application for registration.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(7), eff. January 1, 2012.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(7), eff. January 1, 2012.

Sec. 502.413. VOLUNTARY CONTRIBUTION TO SPECIAL OLYMPICS TEXAS FUND. (a) When a person registers or renews the registration of a motor vehicle under this chapter, the person may contribute any amount to the Special Olympics Texas fund under Subsection (f).

(b) The department shall provide, in a conspicuous manner, an opportunity to contribute to the Special Olympics Texas fund in any registration renewal system used by the department.

(c) If a person makes a contribution under this section and does not pay the full amount of a registration fee, the county assessor-collector may credit all or a portion of the contribution to the person's registration fee.

(d) The county assessor-collector shall send any contribution made under this section to the comptroller for deposit to the Special Olympics Texas fund before the 31st day after the date the contribution is made.

(e) The department shall consult with the Department of Aging and Disability Services in performing the department's duties under this section.

(f) The Special Olympics Texas fund is created as a trust fund outside the state treasury to be held by the comptroller and administered by the Department of Aging and Disability Services as trustee on behalf of Special Olympics Texas. The fund is composed of money deposited to the credit of the fund under this section. Money in the fund shall be disbursed at least monthly, without appropriation, to Special Olympics Texas to provide training and athletic competitions for persons with mental illness and intellectual disabilities.

Added by Acts 2015, 84th Leg., R.S., Ch. 109 (S.B. 272), Sec. 1, eff. January 1, 2016.

SUBCHAPTER I. ALTERNATE REGISTRATION FEES

Sec. 502.431. FEE: MOTOR VEHICLE USED EXCLUSIVELY TO TRANSPORT AND SPREAD FERTILIZER. The fee for a registration year for registration of a motor vehicle designed or modified and used exclusively to transport to the field and spread fertilizer, including agricultural limestone, is \$75.

Transferred and redesignated from Transportation Code, Section 502.164 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 141, eff. January 1, 2012.

Sec. 502.432. VEHICLE TRANSPORTING SEASONAL AGRICULTURAL PRODUCTS. (a) The department shall provide for a monthly registration period for a truck-tractor or a commercial motor vehicle:

(1) that is used exclusively to transport a seasonal agricultural product;

(2) that would otherwise be registered for a vehicle registration year; and

(3) for which the owner can show proof of payment of the heavy vehicle use tax or exemption.

(b) The department shall prescribe a registration receipt that is valid until the expiration of the designated registration period.

(c) The registration fee for a registration under this section is computed at a rate of one-twelfth the annual registration fee under Section 502.253, 502.255, or 502.433, as applicable, multiplied by the number of months in the registration period specified in the application for the registration, which may not be less than one month or longer than six months.

(d) For purposes of this section, "to transport a seasonal agricultural product" includes any transportation activity necessary for the production, harvest, or delivery of an agricultural product that is produced seasonally.

Transferred, redesignated and amended from Transportation Code, Section 502.1586 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 142, eff. January 1, 2012.

Sec. 502.433. FEE: COMMERCIAL FARM MOTOR VEHICLE. (a) The

registration fee for a commercial motor vehicle as a farm vehicle is 50 percent of the applicable fee under Section 502.252 or 502.253, as applicable, if the vehicle's owner will use the vehicle for commercial purposes only to transport:

(1) the person's own poultry, dairy, livestock, livestock products, timber in its natural state, or farm products to market or another place for sale or processing;

(2) laborers from their place of residence to the owner's farm or ranch; or

(3) without charge, materials, tools, equipment, or supplies from the place of purchase or storage to the owner's farm or ranch exclusively for the owner's use or for use on the farm or ranch.

(a-1) A commercial motor vehicle may not be registered under this section unless the vehicle's owner provides a registration number issued by the comptroller under Section 151.1551, Tax Code. The comptroller shall allow access to the online system established under Section 151.1551(1), Tax Code, to verify a registration number provided under this subsection.

(b) A commercial motor vehicle may be registered under this section despite its use for transporting without charge the owner or a member of the owner's family:

(1) to attend church or school;

(2) to visit a doctor for medical treatment or supplies;

(3) for other necessities of the home or family; or

(4) for the purpose of participating in equine activities or attending livestock shows, as defined by Section 87.001, Civil Practice and Remedies Code.

(c) Subsection (b) does not permit the use of a vehicle registered under this section in connection with gainful employment other than farming or ranching.

(d) The department shall provide distinguishing license plates for a vehicle registered under this section.

Transferred, redesignated and amended from Transportation Code, Section 502.163 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 143, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1068 (H.B. 3256), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 72, eff. September 1, 2013.

Sec. 502.434. FARM VEHICLES: EXCESS WEIGHT. (a) The owner of a registered commercial motor vehicle, truck-tractor, trailer, or semitrailer may obtain a short-term permit to haul loads of a weight more than that for which the vehicle is registered by paying an additional fee before the additional weight is hauled to transport:

(1) the person's own seasonal agricultural products to market or another point for sale or processing;

(2) seasonal laborers from their place of residence to a farm or ranch; or

(3) materials, tools, equipment, or supplies, without charge, from the place of purchase or storage to a farm or ranch exclusively for use on the farm or ranch.

(a-1) A permit may not be issued under this section unless the vehicle's owner provides a registration number issued by the comptroller under Section 151.1551, Tax Code. The comptroller shall allow access to the online system established under Section 151.1551(1), Tax Code, to verify a registration number provided under this subsection. This subsection does not apply to a permit issued to a retail dealer of tools or equipment that is transporting the tools or equipment from the place of purchase or storage to the customer's farm or ranch.

(b) A permit may not be issued under this section for a period that is less than one month or that:

(1) is greater than one year; or

(2) extends beyond the expiration of the registration year for the vehicle.

(c) A permit issued under this section for a quarter must be for a calendar quarter.

(d) The fee for a permit under this section is a percentage of the difference between the registration fee otherwise prescribed for the vehicle and the annual fee for the desired weight, as follows:

One month (30 consecutive days)	10 percent
One quarter	30 percent
Two quarters	60 percent
Three quarters	90 percent

(e) The department shall design, prescribe, and furnish a sticker, plate, or other means of indicating the additional weight and the registration period for each vehicle registered under this section.

Transferred, redesignated and amended from Transportation Code, Section 502.351 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 144, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1068 (H.B. 3256), Sec. 3, eff. September 1, 2013.

Sec. 502.435. CERTAIN SOIL CONSERVATION EQUIPMENT. (a) The owner of a truck-tractor, semitrailer, or low-boy trailer used on a highway exclusively to transport the owner's soil conservation machinery or equipment used in clearing real property, terracing, or building farm ponds, levees, or ditches may register the vehicle for a fee equal to 50 percent of the fee otherwise prescribed by this chapter for the vehicle.

(b) An owner may register only one truck-tractor and only one semitrailer or low-boy trailer under this section.

(c) An owner must certify that the vehicle is to be used only as provided by Subsection (a).

(d) The registration receipt issued for a vehicle registered under this section must be carried in or on the vehicle and state the nature of the operation for which the vehicle may be used.

(e) A vehicle to which this section applies that is operated on a public highway in violation of this section is considered to be operated while unregistered and is immediately subject to the applicable registration fees and penalties prescribed by this chapter.

Transferred, redesignated and amended from Transportation Code, Section 502.188 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 145, eff. January 1, 2012.

SUBCHAPTER J. REGISTRATIONS EXEMPT FROM FEES

Sec. 502.451. EXEMPT VEHICLES. (a) Before license plates are issued or delivered to the owner of a vehicle that is exempt by law

from payment of registration fees, the department must approve the application for registration. The department may not approve an application if there is the appearance that:

(1) the vehicle was transferred to the owner or purported owner:

(A) for the sole purpose of evading the payment of registration fees; or

(B) in bad faith; or

(2) the vehicle is not being used in accordance with the exemption requirements.

(b) The department shall revoke the registration of a vehicle issued license plates under this section and may recall the plates if the vehicle is no longer:

(1) owned and operated by the person whose ownership of the vehicle qualified the vehicle for the exemption; or

(2) used in accordance with the exemption requirements.

(c) The department shall provide by rule for the issuance of specially designated license plates for vehicles that are exempt by law. Except as provided by Subsection (f), the license plates must bear the word "exempt."

(d) A license plate under Subsection (c) is not issued annually, but remains on the vehicle until:

(1) the registration is revoked as provided by Subsection (b); or

(2) the plate is lost, stolen, or mutilated.

(e) A person who operates on a public highway a vehicle after the registration has been revoked is liable for the penalties for failing to register a vehicle.

(f) The department shall provide by rule for the issuance of regularly designed license plates not bearing the word "exempt" for a vehicle that is exempt by law and that is:

(1) a law enforcement vehicle, if the agency certifies to the department that the vehicle will be dedicated to law enforcement activities;

(2) a vehicle exempt from inscription requirements under a rule adopted as provided by Section 721.003; or

(3) a vehicle exempt from inscription requirements under an order or ordinance adopted by a governing body of a municipality or commissioners court of a county as provided by Section 721.005, if the applicant presents a copy of the order or ordinance.

Transferred, redesignated and amended from Transportation Code, Section 502.201 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 147, eff. January 1, 2012.

Sec. 502.452. LIMITATION ON ISSUANCE OF EXEMPT LICENSE PLATES; SEIZURE OF CERTAIN VEHICLES. (a) The department may not issue exempt license plates for a vehicle owned by the United States, this state, or a political subdivision of this state unless when application is made for registration of the vehicle, the person who under Section 502.453 has authority to certify to the department that the vehicle qualifies for registration under that section also certifies in writing to the department that there is printed on each side of the vehicle, in letters that are at least two inches high or in an emblem that is at least 100 square inches in size, the name of the agency, department, bureau, board, commission, or officer of the United States, this state, or the political subdivision of this state that has custody of the vehicle. The letters or emblem must be of a color sufficiently different from the body of the vehicle to be clearly legible from a distance of 100 feet.

(b) The department may not issue exempt license plates for a vehicle owned by a person other than the United States, this state, or a political subdivision of this state unless, when application is made for registration of the vehicle, the person who under Section 502.453 has authority to certify to the department that the vehicle qualifies for registration under that section also certifies in writing to the department that the name of the owner of the vehicle is printed on the vehicle in the manner prescribed by Subsection (a).

(c) A peace officer listed in Article 2.12, Code of Criminal Procedure, may seize a motor vehicle displaying exempt license plates if the vehicle is:

- (1) operated on a public highway; and
- (2) not identified in the manner prescribed by Subsection (a) or (b), unless the vehicle is covered by Subsection (f).

(d) A peace officer who seizes a motor vehicle under Subsection (c) may require that the vehicle be:

- (1) moved to the nearest place of safety off the main-traveled part of the highway; or
- (2) removed and placed in the nearest vehicle storage facility designated or maintained by the law enforcement agency that

employs the peace officer.

(e) To obtain the release of the vehicle, in addition to any other requirement of law, the owner of a vehicle seized under Subsection (c) must:

(1) remedy the defect by identifying the vehicle as required by Subsection (a) or (b); or

(2) agree in writing with the law enforcement agency to provide evidence to that agency, before the 10th day after the date the vehicle is released, that the defect has been remedied by identifying the vehicle as required by Subsection (a) or (b).

(f) Subsections (a) and (b) do not apply to a vehicle to which Section 502.451(f) applies.

(g) For purposes of this section, an exempt license plate is a license plate issued by the department that is plainly marked with the word "exempt."

Transferred, redesignated and amended from Transportation Code, Section 502.2015 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 148, eff. January 1, 2012.

Sec. 502.453. GOVERNMENT-OWNED VEHICLES; PUBLIC SCHOOL BUSES; FIRE-FIGHTING VEHICLES; COUNTY MARINE LAW ENFORCEMENT VEHICLES; U.S. COAST GUARD AUXILIARY VEHICLES. (a) The owner of a motor vehicle, trailer, or semitrailer may annually apply for registration under Section 502.451 and is exempt from the payment of a registration fee under this chapter if the vehicle is:

(1) owned by and used exclusively in the service of:

(A) the United States;

(B) this state; or

(C) a county, municipality, or school district in this state;

(2) owned by a commercial transportation company and used exclusively to provide public school transportation services to a school district under Section 34.008, Education Code;

(3) designed and used exclusively for fire fighting;

(4) owned by a volunteer fire department and used exclusively in the conduct of department business;

(5) privately owned and used by a volunteer exclusively in county marine law enforcement activities, including rescue

operations, under the direction of the sheriff's department;

(6) used by law enforcement under an alias for covert criminal investigations; or

(7) owned by units of the United States Coast Guard Auxiliary headquartered in Texas and used exclusively for conduct of United States Coast Guard or Coast Guard Auxiliary business and operations, including search and rescue, emergency communications, and disaster operations.

(b) An application for registration under this section must be made by a person having the authority to certify that the vehicle meets the exemption requirements prescribed by Subsection (a). An application for registration under this section of a fire-fighting vehicle described by Subsection (a)(3) must include a reasonable description of the vehicle and of any fire-fighting equipment mounted on the vehicle. An application for registration under this section of a vehicle described by Subsection (a)(5) must include a statement signed by a person having the authority to act for a sheriff's department that the vehicle is used exclusively in marine law enforcement activities under the direction of the sheriff's department. An application for registration under this section of a vehicle described by Subsection (a)(7) must include a statement signed by a person having authority to act for the United States Coast Guard Auxiliary that the vehicle or trailer is used exclusively in fulfillment of an authorized mission of the United States Coast Guard or Coast Guard Auxiliary, including search and rescue, patrol, emergency communications, or disaster operations.

Transferred, redesignated and amended from Transportation Code, Section 502.202 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 149, eff. January 1, 2012.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 726 (H.B. 1360), Sec. 1, eff. June 17, 2015.

Sec. 502.454. VEHICLES USED BY NONPROFIT DISASTER RELIEF ORGANIZATIONS. (a) The owner of a commercial motor vehicle, trailer, or semitrailer may apply for registration under Section 502.451 and is exempt from the payment of the registration fee that would otherwise be required by this chapter if the vehicle is owned

and used exclusively for emergencies by a nonprofit disaster relief organization.

(b) An application for registration under this section must include:

(1) a statement by the owner of the vehicle that the vehicle is used exclusively for emergencies and has not been used for any other purpose;

(2) a statement signed by an officer of the nonprofit disaster relief organization that the vehicle has not been used for any purpose other than emergencies and qualifies for registration under this section; and

(3) a reasonable description of the vehicle and the emergency equipment included in the vehicle.

(c) An applicant for registration under this section must pay a fee of \$5.

(d) A commercial motor vehicle registered under this section must display the name of the organization that owns it on each front door.

(e) A vehicle registered under this section must display at all times an appropriate license plate showing the vehicle's status.

(f) A vehicle registered under this section that is used for any purpose other than an emergency may not again be registered under this section.

Transferred, redesignated and amended from Transportation Code, Section 502.203 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 150, eff. January 1, 2012.

Sec. 502.455. TRAILERS AND SEMITRAILERS OWNED BY RELIGIOUS ORGANIZATIONS. (a) A trailer or semitrailer may be registered without payment if the trailer or semitrailer is:

(1) owned by an organization that qualifies as a religious organization under Section 11.20, Tax Code; and

(2) used primarily for the purpose of transporting property in connection with the charitable activities and functions of the organization.

(b) An application for registration under this section must include a statement signed by an officer of the religious organization stating that the trailer or semitrailer qualifies for

registration under this section.

Transferred and redesignated from Transportation Code, Section 502.2035 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 151, eff. January 1, 2012.

Sec. 502.456. EMERGENCY SERVICES VEHICLES. (a) A vehicle may be registered without payment if:

(1) the vehicle is owned or leased by an emergency medical services provider that:

(A) is a nonprofit entity; or

(B) is created and operated by:

(i) a county;

(ii) a municipality; or

(iii) any combination of counties and

municipalities through a contract, joint agreement, or other method provided by Chapter 791, Government Code, or other law authorizing counties and municipalities to provide joint programs; and

(2) the vehicle:

(A) is authorized under an emergency medical services provider license issued by the Department of State Health Services under Chapter 773, Health and Safety Code, and is used exclusively as an emergency medical services vehicle; or

(B) is an emergency medical services chief or supervisor vehicle and is used exclusively as an emergency services vehicle.

(b) A vehicle may be registered without payment of a registration fee if the vehicle:

(1) is owned by the Civil Air Patrol, Texas Wing; and

(2) is used exclusively as an emergency services vehicle by members of the Civil Air Patrol, Texas Wing.

(c) An application for registration under Subsection (a) must be accompanied by a copy of the license issued by the Department of State Health Services. An application for registration of an emergency medical services vehicle must include a statement signed by an officer of the emergency medical services provider that the vehicle is used exclusively as an emergency response vehicle and qualifies for registration under this section. An application for registration of an emergency medical services chief or supervisor

vehicle must include a statement signed by an officer of the emergency medical services provider stating that the vehicle qualifies for registration under this section.

(d) An application for registration under Subsection (b) must include a statement signed by an officer of the Civil Air Patrol, Texas Wing, that the vehicle is used exclusively as an emergency services vehicle by members of the Civil Air Patrol, Texas Wing.

(e) The department must approve an application for registration under this section as provided by Section 502.451.

Transferred, redesignated and amended from Transportation Code, Section 502.204 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 152, eff. January 1, 2012.

Sec. 502.457. PERSONS ON ACTIVE DUTY IN ARMED FORCES OF UNITED STATES. (a) This section applies only to a used motor vehicle that is owned by a person who:

(1) is on active duty in the armed forces of the United States;

(2) is stationed in or has been assigned to another nation under military orders; and

(3) has registered the vehicle or been issued a license for the vehicle under the applicable status of forces agreement by:

(A) the appropriate branch of the armed forces of the United States; or

(B) the nation in which the person is stationed or to which the person has been assigned.

(b) The requirement that a used vehicle be registered under the law of this state does not apply to a vehicle described by Subsection (a). In lieu of delivering the license receipt to the transferee of the vehicle, as required by Section 501.0721, the person selling, trading, or otherwise transferring a used motor vehicle described by Subsection (a) shall deliver to the transferee:

(1) a letter written on official letterhead by the owner's unit commander attesting to the registration of the vehicle under Subsection (a)(3); or

(2) the registration receipt issued by the appropriate branch of the armed forces or host nation.

(c) A registration receipt issued by a host nation that is not

written in the English language must be accompanied by:

(1) a written translation of the registration receipt in English; and

(2) an affidavit, in English and signed by the person translating the registration receipt, attesting to the person's ability to translate the registration receipt into English.

Transferred, redesignated and amended from Transportation Code, Section 520.0225 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 153, eff. January 1, 2012.

SUBCHAPTER K. OFFENSES AND PENALTIES

Sec. 502.471. GENERAL PENALTY. (a) A person commits an offense if the person violates a provision of this chapter and no other penalty is prescribed for the violation.

(b) This section does not apply to a violation of Section 502.003, 502.042, 502.197, or 502.431.

(c) Unless otherwise specified, an offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

Transferred, redesignated and amended from Transportation Code, Section 502.401 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 155, eff. January 1, 2012.

Sec. 502.472. OPERATION OF VEHICLE UNDER IMPROPER REGISTRATION.

A person commits an offense if the person operates a motor vehicle that has not been registered or registered for a class other than that to which the vehicle belongs as required by law.

Transferred, redesignated and amended from Transportation Code, Section 502.402 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 156, eff. January 1, 2012.

Sec. 502.473. OPERATION OF VEHICLE WITHOUT REGISTRATION INSIGNIA. (a) A person commits an offense if the person operates on a public highway during a registration period a motor vehicle that does not properly display the registration insignia issued by the department that establishes that the license plates have been

validated for the period.

(b) A person commits an offense if the person operates on a public highway during a registration period a road tractor, motorcycle, trailer, or semitrailer that does not display a registration insignia issued by the department that establishes that the vehicle is registered for the period.

(c) This section does not apply to a dealer operating a vehicle as provided by law.

(d) A court may dismiss a charge brought under Subsection (a) if the defendant pays an administrative fee not to exceed \$10 and:

(1) remedies the defect before the defendant's first court appearance; or

(2) shows that the motor vehicle was issued a registration insignia by the department that was attached to the motor vehicle, establishing that the vehicle was registered for the period during which the offense was committed.

Transferred, redesignated and amended from Transportation Code, Section 502.404 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 157, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 73, eff. September 1, 2013.

Sec. 502.474. OPERATION OF ONE-TRIP PERMIT VEHICLE. A person commits an offense if the person operates a vehicle for which a one-trip permit is required without the registration receipt and properly displayed temporary tag.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 158, eff. January 1, 2012.

Sec. 502.475. WRONG, FICTITIOUS, ALTERED, OR OBSCURED INSIGNIA.

(a) A person commits an offense if the person attaches to or displays on a motor vehicle a registration insignia that:

(1) is assigned to a different motor vehicle;

(2) is assigned to the vehicle under any other motor vehicle law other than by the department;

(3) is assigned for a registration period other than the

registration period in effect; or

(4) is fictitious.

(b) Except as provided by Subsection (d), an offense under Subsection (a) is a misdemeanor punishable by a fine of not more than \$200, unless it is shown at the trial of the offense that the owner knowingly altered or made illegible the letters, numbers, and other identification marks, in which case the offense is a Class B misdemeanor.

(c) A court may dismiss a charge brought under Subsection (a)(3) if the defendant:

(1) remedies the defect before the defendant's first court appearance; and

(2) pays an administrative fee not to exceed \$10.

(d) An offense under Subsection (a)(4) is a Class B misdemeanor.

Transferred, redesignated and amended from Transportation Code, Section 502.409 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 159, eff. January 1, 2012.

Sec. 502.4755. DECEPTIVELY SIMILAR INSIGNIA. (a) A person commits an offense if the person:

(1) manufactures, sells, or possesses a registration insignia deceptively similar to the registration insignia of the department; or

(2) makes a copy or likeness of an insignia deceptively similar to the registration insignia of the department with intent to sell the copy or likeness.

(b) For the purposes of this section, an insignia is deceptively similar to the registration insignia of the department if the insignia is not prescribed by the department but a reasonable person would presume that it was prescribed by the department.

(c) A district or county court, on application of the attorney general or of the district attorney or prosecuting attorney performing the duties of the district attorney for the district in which the court is located, may enjoin a violation or threatened violation of this section on a showing that a violation has occurred or is likely to occur.

(d) It is an affirmative defense to a prosecution under this

section that the insignia was produced pursuant to a licensing agreement with the department.

(e) An offense under this section is:

(1) a felony of the third degree if the person manufactures or sells a deceptively similar registration insignia; or

(2) a Class C misdemeanor if the person possesses a deceptively similar registration insignia, except that the offense is a Class B misdemeanor if the person has previously been convicted of an offense under this subdivision.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 74, eff. September 1, 2013.

Sec. 502.476. ANNUAL PERMITS; OFFENSE. A person who violates Section 502.093 commits an offense.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 160, eff. January 1, 2012.

Sec. 502.477. NONRESIDENT-OWNED VEHICLES USED TO TRANSPORT AGRICULTURAL PRODUCT; OFFENSE. (a) A person operating a vehicle under a permit issued under Section 502.092 commits an offense if the person transports farm products to a place of market, storage, or processing or a railhead or seaport that is farther from the place of production or point of entry, as appropriate, than the distance provided for in the permit.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$200.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 160, eff. January 1, 2012.

Sec. 502.478. COMMERCIAL MOTOR VEHICLE USED PRIMARILY FOR AGRICULTURAL PURPOSES; OFFENSE. (a) The owner of a commercial motor vehicle registered under Section 502.433 commits an offense if the person uses or permits the use of the vehicle for a purpose other than one allowed under Section 502.433. Each use or permission of use in violation of this section is a separate offense.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$200.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 160, eff. January 1, 2012.

Sec. 502.479. SEASONAL AGRICULTURAL VEHICLE; OFFENSE. A person issued a registration under Section 502.432 commits an offense if the person, during the registration period, uses the truck-tractor or commercial motor vehicle for a purpose other than to transport a seasonal agricultural product.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 160, eff. January 1, 2012.

Sec. 502.480. VIOLATION BY COUNTY ASSESSOR-COLLECTOR; PENALTY.

(a) A county assessor-collector commits an offense if the county assessor-collector knowingly accepts an application for the registration of a motor vehicle that:

- (1) has had the original motor number or vehicle identification number removed, erased, or destroyed; and
- (2) does not bear a motor number or vehicle identification number assigned by the department.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 and not more than \$50.

Transferred, redesignated and amended from Transportation Code, Section 520.014 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 161, eff. January 1, 2012.

SUBCHAPTER L. REGISTRATION AND TRANSFER OF USED VEHICLES

Sec. 502.491. TRANSFER OF VEHICLE REGISTRATION. (a) On the sale or transfer of a vehicle, the registration insignia issued for the vehicle shall be removed. The registration period remaining at the time of sale or transfer expires at the time of sale or transfer.

(b) On a sale or transfer of a vehicle in which neither party holds a general distinguishing number issued under Chapter 503, the part of the registration period remaining at the time of the sale or

transfer shall continue with the vehicle being sold or transferred and does not transfer with the license plates or registration validation insignia. To continue the remainder of the registration period, the purchaser or transferee must file the documents required under Section 501.145.

(c) On the sale or transfer of a vehicle to a dealer, as defined by Section 503.001, who holds a general distinguishing number issued under Chapter 503, the registration period remaining at the time of the sale or transfer expires at the time of the sale or transfer. On the sale of a used vehicle by a dealer, the dealer shall issue to the buyer new registration documents for an entire registration year.

(d) If the transferor has paid for more than one year of registration, the department may credit the transferor for any time remaining on the registration in annual increments.

Added by Acts 2007, 80th Leg., R.S., Ch. 101 (H.B. 310), Sec. 2, eff. January 1, 2008.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 432 (S.B. 1057), Sec. 1, eff. September 1, 2011.

Transferred, redesignated and amended from Transportation Code, Section 502.451 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 163, eff. January 1, 2012.

Reenacted and amended by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.014, eff. September 1, 2013.

Reenacted and amended by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 75, eff. September 1, 2013.

Sec. 502.492. TEMPORARY TRANSIT PERMIT FOR A VEHICLE PURCHASED.

(a) A purchaser may obtain from the department a temporary transit permit to operate a motor vehicle:

- (1) that is subject to registration in this state;
- (2) from which the license plates and the registration insignia have been removed as authorized by Section 502.491 or 504.901; and
- (3) that is not authorized to travel on a public roadway because the required license plates and the registration insignia are not attached to the vehicle.

(b) The department may issue the permit in accordance with this section.

(c) A permit issued under this section is valid for one trip between the point of origin and the destination and those intermediate points specified in the permit.

(d) A permit issued under this section may not be valid for longer than a five-day period.

(e) A person may obtain a permit under this section by applying, as provided by the department, to the department. Application may be made using the department's Internet website.

(f) A person is eligible to receive only one permit under this section for a motor vehicle.

(g) A permit receipt issued under this section must be in a manner provided by the department. The receipt must contain the information required by this section and shall be carried in the vehicle at all times during which it is valid.

(h) The department may refuse to issue a permit under this section for any vehicle if in the department's opinion the applicant has been involved in operations that constitute an abuse of the privilege granted under this section.

Transferred, redesignated and amended from Transportation Code, Section 502.454 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 164, eff. January 1, 2012.

CHAPTER 503. DEALER'S AND MANUFACTURER'S VEHICLE LICENSE PLATES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 503.001. DEFINITIONS. In this chapter:

(1) "Board" has the meaning assigned by Chapter 2301, Occupations Code.

(2) "Commission" means the board of the Texas Department of Motor Vehicles.

(3) "Converter" has the meaning assigned by Chapter 2301, Occupations Code.

(4) "Dealer" means a person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location. The term includes a franchised motor vehicle dealer, an independent motor vehicle dealer, an independent mobility motor vehicle dealer, and a wholesale motor vehicle dealer.

(5) "Department" means the Texas Department of Motor Vehicles.

(6) "Drive-a-way operator" means a person who transports and delivers a vehicle in this state from the manufacturer or another point of origin to a location in this state using the vehicle's own power or using the full-mount method, the saddle-mount method, the tow-bar method, or a combination of those methods.

(7) "Franchise" has the meaning assigned by Chapter 2301, Occupations Code.

(8) "Franchised motor vehicle dealer" means a person engaged in the business of buying, selling, or exchanging new motor vehicles at an established and permanent place of business under a franchise in effect with a motor vehicle manufacturer or distributor.

(8-a) "Independent mobility motor vehicle dealer" has the meaning assigned by Section 2301.002, Occupations Code.

(9) "Independent motor vehicle dealer" means a dealer other than a franchised motor vehicle dealer, an independent mobility motor vehicle dealer, or a wholesale motor vehicle dealer.

(10) "Manufacturer" means a person who manufactures, distributes, or assembles new vehicles.

(11) "Motorcycle" has the meaning assigned by Section 502.001.

(12) "Motor vehicle" has the meaning assigned by Section 502.001.

(13) "Semitrailer" has the meaning assigned by Section 502.001.

(14) "Trailer" has the meaning assigned by Section 502.001.

(15) "Vehicle" means a motor vehicle, motorcycle, house trailer, trailer, or semitrailer.

(16) "Wholesale motor vehicle auction" means the offering of a motor vehicle for sale to the highest bidder during a transaction that is one of a series of regular periodic transactions that occur at a permanent location.

(17) "Wholesale motor vehicle dealer" means a dealer who sells motor vehicles only to a person who is:

(A) the holder of a dealer's general distinguishing number; or

(B) a foreign dealer authorized by a law of this state or interstate reciprocity agreement to purchase a vehicle in this state without remitting the motor vehicle sales tax.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.69(a), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 76, Sec. 3, eff. May 14, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.828, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 710 (H.B. 2216), Sec. 3, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2F.01, eff. September 1, 2009.

Sec. 503.002. RULES. The board may adopt rules for the administration of this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 76, Sec. 4, eff. May 14, 2001.

Sec. 503.003. DISPLAY OR SALE OF NONMOTORIZED VEHICLE OR TRAILER. This chapter does not prohibit the display or sale of a nonmotorized vehicle or trailer at a regularly scheduled vehicle or boat show involving multiple dealers conducted in accordance with board rules.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 76, Sec. 5, eff. May 14, 2001.

Sec. 503.004. BUYING, SELLING, EXCHANGING, OR MANUFACTURING VEHICLES. This chapter does not prohibit a person from entering into the business of buying, selling, or exchanging new or used vehicles at wholesale or retail or from manufacturing vehicles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 503.005. NOTICE OF SALE OR TRANSFER. (a) A manufacturer or dealer shall immediately notify the department if the manufacturer or dealer transfers, including by sale or lease, a motor vehicle, trailer, or semitrailer to a person other than a manufacturer or dealer.

(b) The notice must be in writing using the form provided by the department and must include:

- (1) the date of the transfer;
- (2) the names and addresses of the transferrer and transferee; and
- (3) a description of the vehicle.

(c) A dealer who submits information to the database under Section 503.0631 satisfies the requirement for the dealer to notify the department of the sale or transfer of a motor vehicle, trailer, or semitrailer under this section.

(d) The notice required under this section is in addition to the application for vehicle registration and certificate of title a dealer is required to submit under Section 501.0234.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 8.01, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1336 (S.B. 1786), Sec. 1, eff. September 1, 2007.

Sec. 503.006. NOTICE OF CHANGE OF ADDRESS. A dealer or manufacturer who has been issued dealer's, converter's, or manufacturer's license plates shall notify the department of a change to the dealer's, converter's, or manufacturer's address not later than the 10th day after the date the change occurs.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 76, Sec. 6, eff. May 14, 2001.

Sec. 503.007. FEES FOR GENERAL DISTINGUISHING NUMBER. (a) The fee for an original general distinguishing number is \$500 for the first year and \$200 for each subsequent year for which the number is valid.

(b) The fee for the renewal of a general distinguishing number is \$200 a year.

(c) The registration fee for a drive-a-way in-transit license is \$50 a year.

(d) A fee collected under this section shall be deposited to

the credit of the Texas Department of Motor Vehicles fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.69(b), eff. Sept. 1, 1997. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 732 (H.B. 2651), Sec. 6, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 28, eff. September 1, 2013.

Sec. 503.008. FEES FOR LICENSE PLATES. (a) The fee for a metal dealer's license plate is \$20 a year.

(b) The fee for a manufacturer's license plate is \$40 a year.

(c) The fee for an additional set of drive-a-way in-transit license plates is \$5 a year.

(d) A fee collected under this section shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.69(c), eff. Sept. 1, 1997. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 732 (H.B. 2651), Sec. 7, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 29, eff. September 1, 2013.

Sec. 503.009. PROCEDURE FOR CERTAIN CONTESTED CASES. (a) The board may conduct hearings in contested cases brought under this chapter as provided by this chapter and Chapter 2301, Occupations Code.

Without reference to the amendment of this subsection, this subsection was repealed by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 140(2), eff. September 1, 2013.

(b) The procedures applicable to a hearing conducted under this section are those applicable to a hearing conducted as provided by Section 2301.606, Occupations Code.

(c) A decision or final order issued under this section is final and may not be appealed, as a matter of right, to the board.

(d) The board may adopt rules for the procedure, a hearing, or an enforcement proceeding for an action brought under this section.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 12, eff. June 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 76, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 140(2), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1379 (H.B. 1692), Sec. 11, eff. January 1, 2014.

Sec. 503.010. TERM OF GENERAL DISTINGUISHING NUMBER, LICENSE, OR LICENSE PLATE. Each general distinguishing number, license, or license plate issued under this chapter is valid for the period prescribed by the commission.

Added by Acts 2007, 80th Leg., R.S., Ch. 732 (H.B. 2651), Sec. 8, eff. September 1, 2007.

Sec. 503.011. PRORATING FEES. If the board prescribes the term of a general distinguishing number, license, or license plate under this chapter for a period other than one year, the board shall prorate the applicable annual fee required under this chapter as necessary to reflect the term of the number, license, or license plate.

Added by Acts 2007, 80th Leg., R.S., Ch. 732 (H.B. 2651), Sec. 8, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 26, eff. September 1, 2011.

Sec. 503.012. COLLECTED MONEY. Section 403.095, Government Code, does not apply to money received by the department and deposited to the credit of the Texas Department of Motor Vehicles fund in accordance with this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 732 (H.B. 2651), Sec. 8, eff. September 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 30, eff. September 1, 2013.

SUBCHAPTER B. GENERAL DISTINGUISHING NUMBER

Sec. 503.021. DEALER GENERAL DISTINGUISHING NUMBER. A person may not engage in business as a dealer, directly or indirectly, including by consignment, without a dealer general distinguishing number in one of the categories described by Section 503.029(a)(6) for each location from which the person conducts business as a dealer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.69(d), eff. Sept. 1, 1997. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 710 (H.B. 2216), Sec. 4, eff. June 15, 2007.

Sec. 503.022. WHOLESALE MOTOR VEHICLE AUCTION GENERAL DISTINGUISHING NUMBER. A person may not engage in the business of conducting a wholesale motor vehicle auction without a wholesale motor vehicle auction general distinguishing number for each location from which the person conducts business.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 503.023. DRIVE-A-WAY OPERATOR LICENSE. A person may not engage in business as a drive-a-way operator without a drive-a-way in-transit license.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 503.024. EXCLUSIONS FOR DEALER. (a) A person is not required to obtain a dealer general distinguishing number if the person:

(1) sells or offers to sell during a calendar year fewer than five vehicles of the same type that are owned and registered in that person's name; or

(2) is a federal, state, or local governmental agency.

(b) For the purposes of Section 503.021, a person is not engaging in business as a dealer by:

(1) selling or offering to sell a vehicle the person acquired for personal or business use to a person other than a retail buyer if the sale or offer is not made to avoid a requirement of this chapter;

(2) selling, in a manner provided by law for the forced sale of vehicles, a vehicle in which the person holds a security interest;

(3) acting under a court order as a receiver, trustee, administrator, executor, guardian, or other appointed person;

(4) selling a vehicle the person acquired from the vehicle's owner as a result of paying an insurance claim if the person is an insurance company;

(5) selling an antique passenger car or truck that is at least 25 years of age; or

(6) selling a special interest vehicle that is at least 12 years of age if the person is a collector.

(c) For the purposes of Section 503.021, a domiciliary of another state who holds a dealer license and bond, if applicable, issued by the other state is not engaging in business as a dealer by buying a vehicle from, selling a vehicle to, or exchanging a vehicle with a person who:

(1) holds a general distinguishing number issued by the department, if the transaction is not intended to avoid a requirement of this chapter; or

(2) is a domiciliary of another state who holds a dealer license and bond, if applicable, issued by the other state and the transaction is not intended to avoid a requirement of this chapter.

(d) For the purposes of Section 503.021, a licensed auctioneer is not engaging in business as a dealer by, as a bid caller, selling or offering to sell property to the highest bidder at a bona fide auction if:

(1) legal or equitable title does not pass to the auctioneer;

(2) the auction is not held to avoid a requirement of this

chapter; and

(3) for an auction of vehicles owned legally or equitably by a person who holds a general distinguishing number, the auction is conducted at the location for which the general distinguishing number was issued.

(e) In this section, "special interest vehicle" has the meaning assigned by Section 683.077(b).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 503.025. WHOLESALE MOTOR VEHICLE AUCTION EXCEPTION. A person exempt under Section 503.024(d) is not required to obtain a wholesale motor vehicle auction general distinguishing number.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 503.026. REQUIREMENT FOR EACH TYPE OF DEALER VEHICLE. A person must obtain a dealer general distinguishing number for each type of vehicle the person intends to sell.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 871, Sec. 1, eff. Sept. 1, 1997.

Sec. 503.027. REQUIREMENTS RELATING TO DEALER LOCATION. (a) If a dealer consigns for sale more than five vehicles in a calendar year from a location other than the location for which the dealer holds a general distinguishing number, the dealer must also hold a general distinguishing number for the consignment location unless the consignment location is a wholesale motor vehicle auction.

(b) If a person is not otherwise prohibited from doing business as a dealer at more than one location in the territory of a municipality, a person may buy, sell, or exchange a vehicle of the type for which the person holds a dealer general distinguishing number from more than one location in the territory of the municipality without obtaining an additional dealer general distinguishing number. Each location must comply with the requirements prescribed by this chapter and board rules relating to an established and permanent place of business.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 76, Sec. 7, eff. May 14, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 27, eff. September 1, 2011.

Sec. 503.028. REQUIREMENTS RELATING TO WHOLESALE MOTOR VEHICLE AUCTION LOCATION. (a) Except as provided by Subsection (b), the department may not issue more than one general distinguishing number for a location for which the wholesale motor vehicle auction general distinguishing number has been issued.

(b) The department may issue to a person who holds a wholesale motor vehicle auction general distinguishing number a dealer general distinguishing number for the location for which the wholesale motor vehicle auction general distinguishing number is issued. The provisions of this subchapter relating to the application for and issuance of a dealer general distinguishing number apply to an application for and issuance of a dealer general distinguishing number issued under this subsection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 503.029. APPLICATION FOR DEALER GENERAL DISTINGUISHING NUMBER. (a) An applicant for an original or renewal dealer general distinguishing number must submit to the department a written application on a form that:

- (1) is provided by the department;
- (2) contains the information required by the department;
- (3) contains information that demonstrates the person meets the requirements prescribed by Section 503.032;
- (4) contains information that demonstrates the applicant has complied with all applicable state laws and municipal ordinances;
- (5) states that the applicant agrees to allow the department to examine during working hours the ownership papers for each registered or unregistered vehicle in the applicant's possession or control; and
- (6) specifies whether the applicant proposes to be a:
 - (A) franchised motor vehicle dealer;

- (B) independent motor vehicle dealer;
- (C) wholesale motor vehicle dealer;
- (D) motorcycle dealer;
- (E) house trailer dealer;
- (F) trailer or semitrailer dealer; or
- (G) independent mobility motor vehicle dealer.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1135, Sec. 140(2), eff. September 1, 2013.

(c) A renewal application must be:

- (1) submitted before the date the general distinguishing number expires; and
- (2) accompanied by the appropriate fee prescribed by Section 503.007.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.69(e), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 871, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 710 (H.B. 2216), Sec. 5, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 140(2), eff. September 1, 2013.

Sec. 503.0295. INDEPENDENT MOBILITY MOTOR VEHICLE DEALERS. A person who seeks to act as an independent mobility motor vehicle dealer shall provide with each application for a general distinguishing number and each renewal application:

(1) a written statement that the dealer:

- (A) shall maintain written records until at least the third anniversary of the date that adaptive work is performed; and
 - (B) agrees to comply with Chapter 469, Government Code;
- and

(2) proof that the person:

(A) maintains a garagekeeper's insurance policy in an amount of at least \$50,000 and a products-completed operations insurance policy in an amount of at least \$1 million per occurrence and in the aggregate;

(B) holds a welder's certification, or that the person's approved subcontractor holds a certificate, that complies

with the standards of the American Welding Society Sections D1.1 and D1.3, if the person or subcontractor will perform any structural modifications; and

(C) is registered with the National Highway Traffic and Safety Administration.

Added by Acts 2007, 80th Leg., R.S., Ch. 710 (H.B. 2216), Sec. 6, eff. June 15, 2007.

Sec. 503.030. APPLICATION FOR WHOLESALE MOTOR VEHICLE AUCTION GENERAL DISTINGUISHING NUMBER. (a) An applicant for an original or renewal wholesale motor vehicle auction general distinguishing number must submit to the department an application that contains:

(1) the information required by the department;

(2) information that demonstrates the person meets the requirements prescribed by Section 503.032; and

(3) information that demonstrates the applicant has complied with all applicable state laws and municipal ordinances.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1135, Sec. 140(2), eff. September 1, 2013.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 140(2), eff. September 1, 2013.

Sec. 503.031. APPLICATION FOR DRIVE-A-WAY IN-TRANSIT LICENSE.

(a) An applicant for a drive-a-way in-transit license must submit to the commission an application containing the information required by the commission.

(b) The license application must be accompanied by the registration fee prescribed by Section 503.007(c).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 503.032. ESTABLISHED AND PERMANENT PLACE OF BUSINESS. (a)

An applicant for a dealer general distinguishing number or wholesale motor vehicle auction general distinguishing number must demonstrate

that the location for which the applicant requests the number is an established and permanent place of business. A location is considered to be an established and permanent place of business if the applicant:

- (1) owns the real property on which the business is situated or has a written lease for the property that has a term of not less than the term of the general distinguishing number;
- (2) maintains on the location:
 - (A) a permanent furnished office that is equipped as required by the department for the sale of the vehicles of the type specified in the application; and
 - (B) a conspicuous sign with letters at least six inches high showing the name of the applicant's business; and
- (3) has sufficient space on the location to display at least five vehicles of the type specified in the application.

(b) An applicant for a general distinguishing number as a wholesale motor vehicle dealer is not required to maintain display space in accordance with Subsection (a)(3).

(c) The applicant must demonstrate that:

(1) the applicant intends to remain regularly and actively engaged in the business specified in the application for a time equal to at least the term of the general distinguishing number at the location specified in the application; and

(2) the applicant or a bona fide employee of the applicant will be:

(A) at the location to buy, sell, lease, or exchange vehicles; and

(B) available to the public or the department at that location during reasonable and lawful business hours.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.69(f), eff. Sept. 1, 1997. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 732 (H.B. [2651](#)), Sec. 9, eff. September 1, 2007.

Sec. 503.033. SECURITY REQUIREMENT. (a) The department may not issue or renew a motor vehicle dealer general distinguishing number or a wholesale motor vehicle auction general distinguishing

number unless the applicant provides to the department:

(1) satisfactory proof that the applicant has purchased a properly executed surety bond in the amount of \$25,000 with a good and sufficient surety approved by the department; or

(2) other security under Subsection (c).

(b) The surety bond must be:

(1) in a form approved by the attorney general;

(2) conditioned on:

(A) the payment by the applicant of all valid bank drafts, including checks, drawn by the applicant to buy motor vehicles; and

(B) the transfer by the applicant of good title to each motor vehicle the applicant offers for sale.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1290, Sec. 44(a)(3), eff. September 1, 2011.

(d) A person may recover against a surety bond or other security if the person obtains against a person issued a motor vehicle dealer general distinguishing number or a wholesale motor vehicle auction general distinguishing number a judgment assessing damages and reasonable attorney's fees based on an act or omission on which the bond is conditioned that occurred during the term for which the general distinguishing number was valid.

(e) The liability imposed on a surety is limited to:

(1) the amount:

(A) of the valid bank drafts, including checks, drawn by the applicant to buy motor vehicles; or

(B) paid to the applicant for a motor vehicle for which the applicant did not deliver good title; and

(2) attorney's fees that are incurred in the recovery of the judgment and that are reasonable in relation to the work performed.

(f) The liability of a surety may not exceed the face value of the surety bond. A surety is not liable for successive claims in excess of the bond amount regardless of the number of claims made against the bond or the number of years the bond remains in force.

(g) This section does not apply to a person licensed as a franchised motor vehicle dealer by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 755, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 28, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 44(a)(3), eff. September 1, 2011.

Sec. 503.034. ISSUANCE AND RENEWAL OR DENIAL OF DEALER OR WHOLESALE MOTOR VEHICLE AUCTION GENERAL DISTINGUISHING NUMBER. (a) The department shall deny an application for the issuance or renewal of a dealer general distinguishing number or a wholesale motor vehicle auction general distinguishing number if the department is satisfied from the application or from other information before it that:

(1) information in the application is not true; or

(2) the applicant is guilty of conduct that would result in the cancellation of the general distinguishing number under Section 503.038.

(b) The department may not issue a dealer general distinguishing number until the applicant complies with the requirements of this chapter.

(c) Repealed by Acts 2001, 77th Leg., ch. 76, Sec. 8, eff. May 14, 2001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.69(g), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 76, Sec. 8, eff. May 14, 2001.

Sec. 503.035. ISSUANCE AND RENEWAL OF DRIVE-A-WAY IN-TRANSIT LICENSE. The department shall issue to an applicant on the filing of the application and the payment of the fee a drive-a-way in-transit license and in-transit license plates.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 871, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 732 (H.B. 2651), Sec. 10, eff. September 1, 2007.

Sec. 503.036. REASSIGNMENT OF EVIDENCE OF OWNERSHIP; DEALER CATEGORIES. (a) The holder of a franchised motor vehicle dealer's general distinguishing number may buy, sell, or exchange new or used motor vehicles and reassign a manufacturer's certificate of origin, certificate of title, or other basic evidence of ownership of any type of vehicle owned by the dealer that the dealer is not otherwise prohibited by law from selling or offering for sale.

(b) The holder of an independent motor vehicle dealer's general distinguishing number or an independent mobility motor vehicle dealer's general distinguishing number may reassign a certificate of title or other basic evidence of ownership of any type of vehicle owned by the dealer that the dealer is not otherwise prohibited by law from selling or offering for sale.

(c) The holder of a wholesale motor vehicle dealer's general distinguishing number may sell or offer to sell motor vehicles to no person except:

- (1) a person who holds a general distinguishing number; or
- (2) a person who is legally recognized as and duly licensed or otherwise qualified as a dealer under the laws of another state or foreign jurisdiction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.69(h), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 755, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 710 (H.B. [2216](#)), Sec. 7, eff. June 15, 2007.

Sec. 503.037. RIGHTS OF WHOLESALE MOTOR VEHICLE AUCTION. (a) A person who holds a wholesale motor vehicle auction general distinguishing number may accept on consignment one or more motor vehicles to auction. The person may offer a motor vehicle for sale only at the location for which the general distinguishing number is issued and only by bid to the highest bidder. The title to a motor vehicle may be in the name in which the general distinguishing number is issued.

(b) Except as provided by Subsection (d), a person who holds a wholesale motor vehicle auction general distinguishing number may not sell a motor vehicle to a person other than a person who:

(1) is a dealer; or

(2) has a license and, if applicable, a bond issued by the appropriate authority of another state or nation.

(c) A person who holds a wholesale motor vehicle auction general distinguishing number may not allow another person to use the auction's facilities or general distinguishing number to sell or auction a motor vehicle.

(d) Subsection (b) does not prohibit a person who holds a wholesale motor vehicle auction general distinguishing number from offering for sale a motor vehicle to a person who is not a dealer or who does not have a license issued by the appropriate authority of another state, if the motor vehicle is owned by:

(1) this state or a department, agency, or subdivision of this state; or

(2) the United States.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.70(a), eff. Sept. 1, 1997.

Sec. 503.038. CANCELLATION OF GENERAL DISTINGUISHING NUMBER.

(a) The department may cancel a dealer's general distinguishing number if the dealer:

(1) falsifies or forges a title document, including an affidavit making application for a certified copy of a title;

(2) files a false or forged tax document, including a sales tax affidavit;

(3) fails to take assignment of any basic evidence of ownership, including a certificate of title or manufacturer's certificate, for a vehicle the dealer acquires;

(4) fails to assign any basic evidence of ownership, including a certificate of title or manufacturer's certificate, for a vehicle the dealer sells;

(5) uses or permits the use of a metal dealer's license plate or a dealer's temporary tag on a vehicle that the dealer does not own or control or that is not in stock and offered for sale;

(6) makes a material misrepresentation in an application or other information filed with the department;

(7) fails to maintain the qualifications for a general distinguishing number;

(8) fails to provide to the department within 30 days after the date of demand by the department satisfactory and reasonable evidence that the person is regularly and actively engaged in business as a wholesale or retail dealer;

(9) has been licensed for at least 12 months and has not assigned at least five vehicles during the previous 12-month period;

(10) has failed to demonstrate compliance with Sections 23.12, 23.121, and 23.122, Tax Code;

(11) uses or allows the use of the dealer's general distinguishing number or the location for which the general distinguishing number is issued to avoid the requirements of this chapter;

(12) misuses or allows the misuse of a temporary tag authorized under this chapter;

(13) refuses to show on a buyer's temporary tag the date of sale or other reasonable information required by the department; or

(14) otherwise violates this chapter or a rule adopted under this chapter.

(b) The department shall cancel a dealer's general distinguishing number if the dealer obtains the number by submitting false or misleading information.

(c) A person whose general distinguishing number is canceled under this chapter shall surrender to a representative of the department each license, license plate, temporary tag, sticker, and receipt issued under this chapter not later than the 10th day after the date the general distinguishing number is canceled. The department shall direct any peace officer to secure and return to the department any plate, tag, sticker, or receipt of a person who does not comply with this subsection.

(d) A person whose general distinguishing number is canceled automatically loses any benefits and privileges afforded under Chapter 501 to the person as a dealer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.69(i), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 871, Sec. 4, 11(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1320, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. [1235](#)), Sec. 2, eff. September 1, 2009.

Sec. 503.039. PUBLIC MOTOR VEHICLE AUCTIONS. (a) A motor vehicle may not be the subject of a subsequent sale at a public auction by a holder of a dealer's general distinguishing number unless equitable or legal title has passed to the selling dealer before the transfer of title to the subsequent buyer.

(b) The holder of a dealer's general distinguishing number who sells a motor vehicle at a public auction must transfer the certificate of title for that vehicle to the buyer before the 21st day after the date of the sale.

Added by Acts 2005, 79th Leg., Ch. 1127 (H.B. 2495), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 29, eff. September 1, 2011.

Sec. 503.040. SALES OF CERTAIN USED MOTOR VEHICLES CONSTITUTE PRIVATE DISPOSITION. (a) This section applies only to the sale of a used motor vehicle that constitutes collateral by a secured party acting under Chapter 9, Business & Commerce Code, and occurs at an auction conducted by an independent motor vehicle dealer:

(1) at which neither the debtor nor the secured party is permitted to bid; and

(2) for which there has been no advertisement or public notice before the sale that specifically describes the collateral to be sold, other than the inclusion of the motor vehicle in a list of the vehicles to be offered at the auction made available to potential bidders at the auction.

(b) The sale of the used motor vehicle constitutes a private disposition for purposes of Chapter 9, Business & Commerce Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 836 (S.B. 1827), Sec. 1, eff. September 1, 2009.

SUBCHAPTER C. LICENSE PLATES AND TAGS

Sec. 503.061. DEALER'S LICENSE PLATES. (a) Instead of registering under Chapter 502 a vehicle that the dealer owns,

operates, or permits to be operated on a public street or highway, the dealer may apply for, receive, and attach metal dealer's license plates to the vehicle if it is the type of vehicle:

- (1) that the dealer sells; and
- (2) for which the dealer has been issued a general

distinguishing number.

(b) The board may adopt rules regulating the issuance and use of a license plate issued pursuant to the terms of this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1320, Sec. 4, eff. Sept. 1, 2003.

Sec. 503.0615. PERSONALIZED PRESTIGE DEALER'S LICENSE PLATES.

(a) The department shall establish and issue personalized prestige dealer's license plates. The department may not issue identically lettered or numbered dealer's plates to more than one dealer.

(b) The department shall establish procedures for continuous application for and issuance of personalized prestige dealer's license plates. A dealer must make a new application and pay a new fee for each registration period for which the dealer seeks to obtain personalized prestige dealer's license plates. A dealer who obtains personalized prestige dealer's license plates has first priority on those plates for each subsequent registration period for which the dealer applies.

(c) The annual fee for personalized prestige dealer's license plates is \$40, in addition to any fee otherwise prescribed by this chapter.

(d) The department may issue to an applicant only one set of personalized prestige dealer's license plates for a vehicle for a six-year period. The department may issue a new set of personalized prestige dealer's license plates within the six-year period if the applicant pays a fee of \$50 in addition to the fees required by Subsection (c).

(e) On application and payment of the required fee for a registration period following the issuance of the plates, the department shall issue a registration insignia.

(f) Of each fee collected by the department under this section:

- (1) \$1.25 shall be deposited to the credit of the Texas Department of Motor Vehicles fund to defray the cost of administering

this section; and

(2) the remainder shall be deposited to the credit of the general revenue fund.

Added by Acts 1997, 75th Leg., ch. 871, Sec. 5, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 31, eff. September 1, 2013.

Sec. 503.0618. CONVERTER'S LICENSE PLATES. (a) In this section, "converter" means a person who holds a converter's license issued under Chapter 2301, Occupations Code.

(b) Instead of registering under Chapter 502 a vehicle that a converter operates or permits to be operated on a public street or highway, the converter may apply for, receive, and attach metal converter's license plates to the vehicle if it is the type of vehicle that the converter is engaged in the business of assembling or modifying.

(c) The fee for a metal converter's license plate is \$20 a year.

(d) The department shall prescribe the form of an application under this section.

(e) A fee collected under this section shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

Added by Acts 1999, 76th Leg., ch. 964, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.829, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 732 (H.B. 2651), Sec. 11, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 32, eff. September 1, 2013.

Sec. 503.062. DEALER'S TEMPORARY TAGS. (a) A dealer may issue a temporary tag for use on an unregistered vehicle by the dealer or the dealer's employees only to:

(1) demonstrate or cause to be demonstrated to a prospective buyer the vehicle for sale purposes only;

(2) convey or cause to be conveyed the vehicle:

(A) from one of the dealer's places of business in this state to another of the dealer's places of business in this state;

(B) from the dealer's place of business to a place the vehicle is to be repaired, reconditioned, or serviced;

(C) from the state line or a location in this state where the vehicle is unloaded to the dealer's place of business;

(D) from the dealer's place of business to a place of business of another dealer;

(E) from the point of purchase by the dealer to the dealer's place of business; or

(F) to road test the vehicle; or

(3) use the vehicle for or allow its use by a charitable organization.

(b) Subsection (a)(1) does not prohibit a dealer from permitting:

(1) a prospective buyer to operate a vehicle while the vehicle is being demonstrated; or

(2) a customer to operate a vehicle temporarily while the customer's vehicle is being repaired.

(c) A vehicle being conveyed under this section is exempt from the inspection requirements of Chapter 548.

(d) The department may not issue a dealer temporary tag or contract for the issuance of a dealer temporary tag but shall prescribe:

(1) the specifications, form, and color of a dealer temporary tag;

(2) procedures for a dealer to generate a vehicle-specific number using the database developed under Section 503.0626 and assign it to each tag;

(3) procedures to clearly display the vehicle-specific number on the tag; and

(4) the period for which a tag may be used for or by a charitable organization.

(e) For purposes of this section, "charitable organization" means an organization organized to relieve poverty, to advance education, religion, or science, to promote health, governmental, or municipal purposes, or for other purposes beneficial to the community without financial gain.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 871, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 8.02, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1336 (S.B. 1786), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. 1235), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. 1235), Sec. 4, eff. September 1, 2009.

Sec. 503.0625. CONVERTER'S TEMPORARY TAGS. (a) In this section, "converter" means a person who holds a converter's license issued under Chapter 2301, Occupations Code.

(b) A converter may issue a temporary tag for use on an unregistered vehicle by the converter or the converter's employees only to:

(1) demonstrate or cause to be demonstrated to a prospective buyer who is an employee of a franchised motor vehicle dealer the vehicle; or

(2) convey or cause to be conveyed the vehicle:

(A) from one of the converter's places of business in this state to another of the converter's places of business in this state;

(B) from the converter's place of business to a place the vehicle is to be assembled, repaired, reconditioned, modified, or serviced;

(C) from the state line or a location in this state where the vehicle is unloaded to the converter's place of business;

(D) from the converter's place of business to a place of business of a franchised motor vehicle dealer; or

(E) to road test the vehicle.

(c) Subsection (b)(1) does not prohibit a converter from permitting a prospective buyer who is an employee of a franchised motor vehicle dealer to operate a vehicle while the vehicle is being demonstrated.

(d) A vehicle being conveyed while displaying a temporary tag issued under this section is exempt from the inspection requirements

of Chapter 548.

(e) The department may not issue a converter temporary tag or contract for the issuance of a converter temporary tag but shall prescribe:

(1) the specifications, form, and color of a converter temporary tag;

(2) procedures for a converter to generate a vehicle-specific number using the database developed under Section 503.0626 and assign it to each tag; and

(3) procedures to clearly display the vehicle-specific number on the tag.

(f) A converter or employee of a converter may not use a temporary tag issued under this section as authorization to operate a vehicle for the converter's or the employee's personal use.

Added by Acts 1999, 76th Leg., ch. 964, Sec. 2, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.830, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 8.03, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1336 (S.B. 1786), Sec. 3, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. 1235), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. 1235), Sec. 6, eff. September 1, 2009.

Sec. 503.0626. DEALER'S AND CONVERTER'S TEMPORARY TAG DATABASE.

(a) The department shall develop and maintain a secure, real-time database of information on vehicles to which dealers and converters have affixed temporary tags. The database shall be managed by the vehicle titles and registration division of the department.

(b) The database must allow law enforcement agencies to use the vehicle-specific number assigned to and displayed on the tag as required by Section 503.062(d) or Section 503.0625(e) to obtain information about the dealer or converter that owns the vehicle.

(c) Before a dealer's or converter's temporary tag may be displayed on a vehicle, the dealer or converter must enter into the

database through the Internet information on the vehicle and information about the dealer or converter as prescribed by the department. The department may not deny access to the database to any dealer who holds a general distinguishing number issued under this chapter or who is licensed under Chapter 2301, Occupations Code, or to any converter licensed under Chapter 2301, Occupations Code.

(d) The department shall adopt rules and prescribe procedures as necessary to implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 8.04, eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1336 (S.B. 1786), Sec. 4, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. 1235), Sec. 7, eff. September 1, 2009.

Sec. 503.063. BUYER'S TEMPORARY TAGS. (a) Except as provided by this section, a dealer shall issue to a person who buys a vehicle one temporary buyer's tag for the vehicle.

(b) Except as provided by this section, the buyer's tag is valid for the operation of the vehicle until the earlier of:

- (1) the date on which the vehicle is registered; or
- (2) the 60th day after the date of purchase.

(c) The dealer:

- (1) must show in ink on the buyer's tag the actual date of sale and any other required information; and
- (2) is responsible for displaying the tag.

(d) The dealer is responsible for the safekeeping and distribution of each buyer's tag the dealer obtains.

(e) The department may not issue a buyer's tag or contract for the issuance of a buyer's tag but shall prescribe:

- (1) the specifications, color, and form of a buyer's tag; and
- (2) procedures for a dealer to:
 - (A) generate a vehicle-specific number using the database developed under Section 503.0631 and assign it to each tag;
 - (B) generate a vehicle-specific number using the database developed under Section 503.0631 for future use for when a

dealer is unable to access the Internet at the time of sale; and

(C) clearly display the vehicle-specific number on the tag.

(f) The department shall ensure that a dealer may generate in advance a sufficient amount of vehicle-specific numbers under Subsection (e)(2)(B) in order to continue selling vehicles for a period of up to one week in which a dealer is unable to access the Internet due to an emergency. The department shall establish an expedited procedure to allow affected dealers to apply for additional vehicle-specific numbers so they may remain in business during an emergency.

(g) For each buyer's temporary tag, a dealer shall charge the buyer a registration fee of not more than \$5 as prescribed by the department to be sent to the comptroller for deposit to the credit of the Texas Department of Motor Vehicles fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 296, Sec. 3, eff. Sept. 1, 1997; Subsec. (e) amended by Acts 1997, 75th Leg., ch. 871, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. [11](#)), Sec. 8.05, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1336 (S.B. [1786](#)), Sec. 5, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. [1235](#)), Sec. 8, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. [1235](#)), Sec. 9, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. [2202](#)), Sec. 33, eff. September 1, 2013.

Sec. 503.0631. BUYER'S TEMPORARY TAG DATABASE. (a) The department shall develop and maintain a secure, real-time database of information on persons to whom temporary buyer's tags are issued that may be used by a law enforcement agency in the same manner that the agency uses vehicle registration information. The database shall be managed by the vehicle titles and registration division of the department.

(b) The database must allow law enforcement agencies to use a vehicle-specific number assigned to and displayed on the tag as required by Section 503.063(e)(2) to obtain information about the person to whom the tag was issued.

(c) Except as provided by Subsection (d), before a buyer's temporary tag may be displayed on a vehicle, a dealer must enter into the database through the Internet information about the buyer of the vehicle for which the tag was issued as prescribed by the department and generate a vehicle-specific number for the tag as required by Section 503.063(e). The department may not deny access to the database to any dealer who holds a general distinguishing number issued under this chapter or who is licensed under Chapter 2301, Occupations Code.

(d) A dealer shall obtain 24-hour Internet access at its place of business, but if the dealer is unable to access the Internet at the time of the sale of a vehicle, the dealer shall complete and sign a form, as prescribed by the department, that states the dealer has Internet access, but was unable to access the Internet at the time of sale. The buyer shall keep the original copy of the form in the vehicle until the vehicle is registered to the buyer. Not later than the next business day after the time of sale, the dealer shall submit the information required under Subsection (c).

(e) The department shall adopt rules and prescribe procedures as necessary to implement this section.

(f) The dealer may charge a reasonable fee not to exceed \$20 for costs associated with complying with this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 8.06, eff. September 1, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1336 (S.B. 1786), Sec. 6, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. 1235), Sec. 10, eff. September 1, 2009.

Sec. 503.064. MANUFACTURER'S LICENSE PLATES. (a) Instead of registering a new vehicle that a manufacturer intends to test on a public street or highway or to loan to a consumer for the purpose described by Section 2301.605, Occupations Code, the manufacturer may

apply for, receive, and attach manufacturer's license plates to the vehicle.

(b) If the vehicle to which the manufacturer's license plates are attached is a commercial motor vehicle, the vehicle may not carry a load.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.831, eff. Sept. 1, 2003.

Sec. 503.065. BUYER'S OUT-OF-STATE LICENSE PLATES. (a) The department may issue or cause to be issued to a person a temporary license plate authorizing the person to operate a new unregistered vehicle on a public highway of this state if the person:

(1) buys the vehicle from a dealer outside this state and intends to drive the vehicle from the dealer's place of business; or

(2) buys the vehicle from a dealer in this state but intends to drive the vehicle from the manufacturer's place of business outside this state.

(b) The department may not issue a temporary license plate under this section to a manufacturer or dealer of a motor vehicle, trailer, or semitrailer or to a representative of such a dealer.

(c) A person may not use a temporary license plate issued under this section on a vehicle transporting property.

(d) A temporary license plate issued under this section expires not later than the 30th day after the date on which it is issued. The department shall place or cause to be placed on the license plate at the time of issuance the date of expiration and the type of vehicle for which the license plate is issued.

(e) The fee for a temporary license plate issued under this section is \$3. Only one license plate may be issued for each vehicle.

(f) A fee collected under this section shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. [1235](#)), Sec. 11, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. [2202](#)), Sec. 34, eff. September 1, 2013.

Sec. 503.066. APPLICATION FOR DEALER'S OR MANUFACTURER'S LICENSE PLATES. (a) An applicant for one or more original or renewal dealer's or manufacturer's license plates must submit to the department a written application on a form that:

(1) is provided by the department; and

(2) contains a statement that the applicant agrees to allow the department to examine during working hours the ownership papers for each registered or unregistered vehicle in the applicant's possession or control.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1135, Sec. 140(2), eff. September 1, 2013.

(c) An application must be:

(1) submitted before the date the plate expires; and

(2) accompanied by the appropriate fee prescribed by Section 503.008.

(d) A metal license plate issued under this chapter expires on the same date as the expiration of the license under which it is issued.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.69(j), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 871, Sec. 8, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 76, Sec. 9, eff. May 14, 2001; Acts 2003, 78th Leg., ch. 1320, Sec. 5, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 732 (H.B. [2651](#)), Sec. 12, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 140(2), eff. September 1, 2013.

Sec. 503.067. UNAUTHORIZED REPRODUCTION, PURCHASE, USE, OR SALE OF TEMPORARY TAGS. (a) A person may not produce or reproduce a temporary tag or an item represented to be a temporary tag for the purpose of distributing the tag to someone other than a dealer or converter.

(b) A person may not operate a vehicle that displays an unauthorized temporary tag.

(c) A person other than a dealer or converter may not purchase a temporary tag.

(d) A person may not sell or distribute a temporary tag or an item represented to be a temporary tag unless the person is:

(1) a dealer issuing the tag in connection with the sale of a vehicle; or

(2) a printer or distributor engaged in the business of selling temporary tags solely for uses authorized under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 8.08, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1336 (S.B. 1786), Sec. 7, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1336 (S.B. 1786), Sec. 8, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. 1235), Sec. 12, eff. September 1, 2009.

Sec. 503.068. LIMITATION ON USE OF DEALER'S LICENSE PLATES AND TAGS. (a) A dealer or an employee of a dealer may not use a dealer's temporary tag as authorization to operate a vehicle for the dealer's or the employee's personal use.

(b) A person may not use a metal dealer's license plate or dealer's temporary tag on:

(1) a service or work vehicle, except as provided by Subsection (b-1); or

(2) a commercial vehicle that is carrying a load.

(b-1) An independent motor vehicle dealer or an employee of an independent motor vehicle dealer may use a metal dealer's license plate on a service or work vehicle used to transport a vehicle in the dealer's inventory to or from a point of sale. This subsection does not authorize a person to operate a service or work vehicle as a tow truck, as defined by Section 2308.002, Occupations Code, without a license or permit required by Chapter 2308, Occupations Code.

(c) For purposes of this section, a boat trailer carrying a boat is not a commercial vehicle carrying a load. A dealer complying with this chapter may affix to the rear of a boat trailer the dealer owns or sells a metal dealer's license plate or temporary tag issued under Section 503.061, 503.062, or 503.063.

(d) This section does not prohibit the operation or conveyance of an unregistered vehicle using the full-mount method, saddle-mount method, tow-bar method, or a combination of those methods in accordance with Section 503.062 or 503.063.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. 1235), Sec. 13, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 886 (H.B. 894), Sec. 1, eff. September 1, 2013.

Sec. 503.069. DISPLAY OF LICENSE PLATES AND TAGS. (a) A license plate, other than an in-transit license plate, or a temporary tag issued under this chapter shall be displayed in accordance with commission rules.

(b) A drive-a-way operator who has been issued a drive-a-way in-transit license shall display the operator's in-transit license plates on each transported motor vehicle from the vehicle's point of origin to its point of destination in this state in accordance with the laws relating to the operation of a vehicle on a public highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 76, Sec. 10, eff. May 14, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. 1235), Sec. 14, eff. September 1, 2009.

Sec. 503.070. REMOVAL OF OUT-OF-STATE LICENSE PLATES. (a) A dealer who purchases a vehicle that displays an out-of-state license plate must remove the plate within a reasonable time.

(b) A dealer who purchases a vehicle for resale may not operate the vehicle on a public street or highway in this state while the vehicle displays an out-of-state license plate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 503.071. NOTICE OF DRIVING OR TOWING FROM OUT OF STATE.

(a) A motor vehicle that is manufactured outside this state and is driven or towed from the place of manufacture to this state for sale in this state must have affixed to it a sticker stating that the vehicle is being driven or towed from the place it was manufactured.

(b) The sticker must be at least three inches in diameter and must be affixed to the windshield or front of the motor vehicle in plain view.

(c) The sticker must remain on the motor vehicle until the vehicle is sold by a dealer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. ENFORCEMENT

Sec. 503.091. ENFORCEMENT AGREEMENT. The department may agree with an authorized official of another jurisdiction to regulate activities and exchange information relating to the wholesale operations of nonresident vehicle dealers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 503.092. ACTION TO ENFORCE CHAPTER. (a) The attorney general or a district, county, or city attorney may enforce this chapter and bring an enforcement action in the county in which a violation of this chapter is alleged to have occurred.

(b) A justice or municipal court has concurrent original jurisdiction with the county court or a county court at law over an action to enforce this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1128 (H.B. [2509](#)), Sec. 1, eff. June 18, 2005.

Sec. 503.093. ACTION TO ENFORCE SUBCHAPTER. (a) The department or any interested person may bring an action, including an action for an injunction, to:

- (1) enforce a provision of Subchapter B; or
- (2) prohibit a person from operating in violation of the

person's application for a general distinguishing number.

(b) A plaintiff other than the department may recover the plaintiff's attorney's fees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 871, Sec. 9, eff. Sept. 1, 1997.

Sec. 503.094. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter.

(b) Except as otherwise provided by this section, an offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$5,000.

(c) If the trier of fact finds that the person committed the violation wilfully or with conscious indifference to law, the court may treble the fine otherwise due as a penalty for the violation.

(d) An offense involving a violation of:

(1) Section 503.067(b) or (c) is a Class C misdemeanor;

(2) Section 503.067(d) is a Class A misdemeanor;

(3) Section 503.067(a) is a state jail felony; and

(4) Section 503.067(b), (c), or (d) is a state jail felony

if the person who committed the offense criminally conspired to engage in organized criminal activity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 8.09, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1336 (S.B. 1786), Sec. 9, eff. September 1, 2007.

Sec. 503.095. CIVIL PENALTY. (a) In addition to any other penalty prescribed by this chapter, a person who violates this chapter or a rule adopted under this chapter is subject to a civil penalty of not less than \$50 or more than \$1,000.

(b) For purposes of this section, each act in violation of this chapter and each day of a continuing violation is a separate violation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 503.096. TOWING OF VEHICLES. (a) If a person is engaged in business as a dealer in violation of Section 503.021, a peace officer may cause a vehicle that is being offered for sale by the person to be towed from the location where the vehicle is being offered for sale and stored at a vehicle storage facility, as defined by Section 2308.002, Occupations Code.

(b) A peace officer may cause the vehicle to be towed under Subsection (a) only if:

(1) the peace officer has a probable cause that the vehicle is being offered for sale by a person engaged in business as a dealer in violation of Section 503.021;

(2) the peace officer has complied with the notice requirements under Subsection (c); and

(3) the notice under Subsection (c) was attached to the vehicle not less than two hours before the vehicle is caused to be towed.

(c) Before a vehicle may be towed under Subsection (a), a peace officer, an appropriate local government employee, or an investigator employed by the department must attach a conspicuous notice to the vehicle's front windshield or, if the vehicle has no front windshield, to a conspicuous part of the vehicle stating:

(1) the make and model of the vehicle and the license plate number and vehicle identification number of the vehicle, if any;

(2) the date and time that the notice was affixed to the vehicle;

(3) that the vehicle is being offered for sale in violation of Section 503.021;

(4) that the vehicle and any property on or in the vehicle may be towed and stored at the expense of the owner of the vehicle not less than two hours after the notice is attached to the vehicle if the vehicle remains parked at the location; and

(5) the name, address, and telephone number of the vehicle storage facility where the vehicle will be towed.

(d) Once notice has been attached to a vehicle under Subsection (c), a peace officer may prevent the vehicle from being removed by a person unless the person provides evidence of ownership in the person's name or written authorization from the owner of the vehicle for the person to offer the vehicle for sale in a manner other than

by consignment.

Added by Acts 2013, 83rd Leg., R.S., Ch. 693 (H.B. 2690), Sec. 1, eff. September 1, 2013.

CHAPTER 504. LICENSE PLATES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 504.001. DEFINITIONS. (a) In this chapter:

(1) "Board" means the board of the Texas Department of Motor Vehicles.

(2) "Department" means the Texas Department of Motor Vehicles.

(3) "Purchaser" and "seller" have the meanings assigned by Section 501.002.

(b) A word or phrase that is not defined by this chapter but is defined by Section 502.001 has the meaning in this chapter that is assigned by that section.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2G.01, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 166, eff. January 1, 2012.

Sec. 504.0011. RULES. The board may adopt rules to implement and administer this chapter.

Redesignated and amended from Transportation Code, Section 504.004 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 167, eff. January 1, 2012.

Sec. 504.002. GENERAL PROVISIONS. Unless expressly provided by this chapter or by department rule:

(1) except for license plates specified as exempt, the fee for issuance of a license plate, including replacement plates, is in addition to each other fee that is paid for at the time of the registration of the motor vehicle and shall be deposited to the

credit of the Texas Department of Motor Vehicles fund;

(2) if the registration period is greater than 12 months, the expiration date of a specialty license plate, symbol, tab, or other device shall be aligned with the registration period, and the specialty plate fee shall be adjusted pro rata, except that if the statutory annual fee for a specialty license plate is \$5 or less, it may not be prorated;

(3) the department is the exclusive owner of the design of each license plate;

(4) if a license plate is lost, stolen, or mutilated, an application for a replacement plate must be accompanied by the fee prescribed by Section 502.060; and

(5) the department shall prepare the designs and specifications of license plates.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 168, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 35, eff. September 1, 2013.

Sec. 504.005. DESIGN AND ALPHANUMERIC PATTERN. (a) The department has sole control over the design, typeface, color, and alphanumeric pattern for all license plates.

(b) The department shall prepare the designs and specifications of license plates and devices selected by the board to be used as a unique identifier.

(c) The department shall design each license plate to include a design at least one-half inch wide that represents in silhouette the shape of Texas and that appears between letters and numerals. The department may omit the silhouette of Texas from specially designed license plates.

(d) To promote highway safety, each license plate shall be made with a reflectorized material that provides effective and dependable brightness for the period for which the plate is issued.

Transferred, redesignated and amended from Transportation Code, Section 504.103 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 169, eff. January 1, 2012.

Sec. 504.0051. PERSONALIZED LICENSE PLATES. (a) The department shall issue personalized license plates, including those issued in accordance with the marketing vendor as provided in Subchapter J. The department may not issue more than one set of license plates with the same alphanumeric pattern.

(b) The department may not issue a replacement set of personalized plates to the same person before the period set by rule unless the applicant for issuance of replacement plates pays the fee required by Section 504.007.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 170, eff. January 1, 2012.

Sec. 504.006. COST OF MANUFACTURING. (a) The department shall reimburse the Texas Department of Criminal Justice for the cost of manufacturing license plates as the invoices for the license plates are delivered to the department.

(b) When manufacturing is started, the Texas Department of Criminal Justice and the department, after negotiation, shall set the price to be paid for each license plate. The price must be determined from:

- (1) the cost of metal, paint, and other materials purchased;
- (2) the inmate maintenance cost per shift;
- (3) overhead expenses;
- (4) miscellaneous charges; and
- (5) a previously agreed upon amount of profit for the work.

Transferred, redesignated and amended from Transportation Code, Section 502.053 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 171, eff. January 1, 2012.

Sec. 504.007. REPLACEMENT LICENSE PLATES. (a) The owner of a registered motor vehicle may obtain replacement license plates for the vehicle by:

- (1) certifying that the replacement plates will not be used on any other vehicle owned or operated by the person making the

statement;

(2) paying a fee of \$6 plus the fee required by Section 502.356(a) for each set of replacement license plates, unless otherwise specified by law; and

(3) returning to the department each license plate in the owner's possession for which a replacement license plate is obtained.

(b) Replacement license plates may not be issued except as provided by this section.

(c) A county assessor-collector shall retain \$2.50 of each fee collected under this section and forward the remainder of the fee to the department for deposit to the credit of the Texas Department of Motor Vehicles fund.

(d) The fee required by this section applies to the issuance of license plates for a transferred used vehicle for which the registration and license plates were not transferred under Section 504.901.

(e) Replacement license plates may be used in the registration year in which the plates are issued and during each succeeding year of the registration period as set by rule if the registration insignia is properly displayed on the vehicle.

(f) Subsection (e) does not apply to the issuance of specialized license plates for limited distribution, including exempt plates for governmental entities and temporary registration plates.

Transferred, redesignated and amended from Transportation Code, Section 502.1841 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 172, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 36, eff. September 1, 2013.

Sec. 504.008. SPECIALTY LICENSE PLATES. (a) The department shall prepare the designs and specifications of specialty license plates.

(b) Any motor vehicle other than a vehicle manufactured for off-highway use only is eligible to be issued specialty license plates, provided that the department may vary the design of a license plate to accommodate or reflect its use on a motor vehicle other than a passenger car or light truck.

(c) An application for specialty license plates must be submitted in the manner specified by the department, provided that if issuance of a specialty license plate is limited to particular persons or motor vehicles, the application must be accompanied by evidence satisfactory to the department that the applicant or the applicant's vehicle is eligible.

(d) Each fee described by this chapter is an annual fee, provided that the department may prorate the fee for a specialty license plate fee on a monthly basis to align the license plate fee to the registration month for the motor vehicle for which the license plate was issued, and if a fee is prorated the allocation of the fee by this chapter to an account or fund shall be prorated in proportion.

(e) The director or the director's designee may refuse to issue a specialty license plate with a design or alphanumeric pattern that the director or designee considers potentially objectionable to one or more members of the public and the director or designee's refusal may not be overturned in the absence of an abuse of discretion.

(f) For each specialty license plate that is issued by a county assessor-collector and for which the department is allocated a portion of the fee for administrative costs, the department shall credit 50 cents from its administrative costs to the county treasurer of the applicable county, who shall credit the money to the general fund of the county to defray the costs to the county of administering this chapter.

(g) If the owner of a motor vehicle for which a specialty license plate is issued disposes of the vehicle or for any reason ceases to be eligible for that specialty license plate, the owner shall return the specialty license plate to the department.

(h) A person who is issued a specialty license plate may not transfer the plate to another person or vehicle unless the department approves the transfer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 173, eff. January 1, 2012.

Sec. 504.009. SOUVENIR LICENSE PLATES. (a) The department may issue a souvenir version of any specialty license plate for any vehicle.

(a-1) On request, the Texas Military Department, as defined by Section 437.001, Government Code, shall issue a souvenir version of the specialty license plate described by Section 504.320.

(b) The fee for a single souvenir license plate is \$20. The fee shall be deposited to the credit of the Texas Department of Motor Vehicles fund unless the souvenir license plate is a replica of a specialty license plate issued under Subchapter G or I for which the fee is deposited to an account other than the Texas Department of Motor Vehicles fund, in which case:

(1) \$10 of the fee for the souvenir license plate shall be deposited to the credit of the designated account; and

(2) \$10 of the fee for the souvenir license plate shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

(c) If a souvenir license plate issued before November 19, 2009, is personalized, the fee for the plate is \$40. Of the fee:

(1) \$20 shall be deposited to the credit of the Texas Department of Motor Vehicles fund;

(2) \$10 shall be deposited to the credit of the designated account if the souvenir license plate is a replica of a specialty license plate issued under Subchapter G or I for which the fee is deposited to a designated account other than the Texas Department of Motor Vehicles fund; and

(3) the remainder shall be deposited to the credit of the general revenue fund.

(c-1) The fee for a souvenir license plate issued on or after November 19, 2009, is the amount established under Section 504.851(c).

(d) A souvenir license plate may not be used on a motor vehicle and is not an insignia of registration for a motor vehicle. Each souvenir license plate must be identified by the department in a way that identifies it to law enforcement officers and others as a souvenir license plate.

(e) A beneficiary of a specialty license plate issued under Subchapter G or I, as designated by the applicable section of those subchapters, may purchase the specialty license plates, in minimum amounts determined by the department, for use or resale by the beneficiary. The beneficiary shall pay the required fee per plate, less the amount of the fee that would be deposited to the credit of the designated account.

Redesignated and amended from Transportation Code, Section 504.003 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 174, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 37, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1012 (H.B. 923), Sec. 1, eff. January 1, 2016.

Sec. 504.010. ISSUANCE AND PLACEMENT OF LICENSE PLATE. (a) On payment of the prescribed fee, an applicant for motor vehicle registration shall be issued a license plate or set of plates.

(b) Subject to Section 504.901, the department shall issue only one license plate or set of plates for a vehicle during the registration period set by rule.

(c) The board may adopt rules regarding the placement of license plates for a motor vehicle, road tractor, motorcycle, trailer, or semitrailer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 175, eff. January 1, 2012.

SUBCHAPTER B. PERSONALIZED LICENSE PLATES

Sec. 504.101. PERSONALIZED LICENSE PLATES. The department shall issue personalized license plates, including those sold by the private vendor under a contract with the department as provided by Section 504.851.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 176, eff. January 1, 2012.

Sec. 504.102. PERSONALIZATION OF SPECIALTY LICENSE PLATE. Unless expressly prohibited by this chapter or department rule, any specialty license plate issued under this chapter may be personalized. If a specialty license plate is personalized, the fee for personalization of the specialty license plate shall be added to the fee for issuance of that specialty license plate.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1381 (S.B. 1616), Sec. 2, eff.
September 1, 2009.

**SUBCHAPTER C. LICENSE PLATES FOR VEHICLES USED BY PERSONS WITH
DISABILITIES**

Sec. 504.201. PERSONS WITH DISABILITIES. (a) In this section:

(1) "Disability" and "mobility problem that substantially impairs a person's ability to ambulate" have the meanings assigned by Section 681.001.

(2) "Legally blind" means a condition described by Section 681.001(2)(B) or (C).

(3) "Practice of optometry" and "practice of therapeutic optometry" have the meanings assigned by Section 351.002, Occupations Code.

(b) The department shall issue specialty license plates for a motor vehicle that:

(1) has a gross vehicle weight of 18,000 pounds or less;
and

(2) is regularly operated for noncommercial use by or for the transportation of a person with a permanent disability.

(c) An owner of a motor vehicle regularly operated by or for the transportation of a person described by Subsection (a) may apply to the department for registration under this section.

(d) Except as provided by Subsection (d-1), the initial application for specialty license plates under this section must be accompanied by a written statement from a physician who is licensed to practice medicine in this state or in a state adjacent to this state or who is authorized by applicable law to practice medicine in a hospital or other health facility of the Department of Veterans Affairs. If the applicant has a mobility problem caused by a disorder of the foot, the written statement may be issued by a person licensed to practice podiatry in this state or a state adjacent to this state. In this subsection, "podiatry" has the meaning assigned by Section 681.001. The statement must certify that the person making the application or on whose behalf the application is made is legally blind or has a mobility problem that substantially impairs the person's ability to ambulate. The statement must also certify

whether a mobility problem is temporary or permanent. A written statement is not required as acceptable medical proof if:

- (1) the person with a disability:
 - (A) has had a limb, hand, or foot amputated; or
 - (B) must use a wheelchair; and

(2) the applicant executes a statement attesting to the person's disability before the county assessor-collector.

(d-1) If the initial application for specialty license plates under this section is made by or on behalf of a person who is legally blind, the written statement required by Subsection (d) may be issued by a person licensed to engage in the practice of optometry or the practice of therapeutic optometry in this state or a state adjacent to this state.

(e) A person with a disability may receive:

- (1) one disabled parking placard under Section 681.002 if the person receives a set of license plates under this section; or
- (2) two disabled parking placards under Section 681.002 if the person does not receive a set of license plates under this section.

(f) A license plate issued under this section must include the symbol of access adopted by Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled. The symbol must be the same size as the numbers on the license plate.

(g) In addition to a license plate issued under this section, an eligible person is entitled to be issued a set of the license plates for each motor vehicle owned by the person that has a gross vehicle weight of 18,000 pounds or less and is equipped with special equipment that:

- (1) is designed to allow a person who has lost the use of one or both of the person's legs to operate the vehicle; and
- (2) is not standard equipment on that type of vehicle for use by a person who has use of both legs.

(h) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(9), eff. January 1, 2012.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 153 (S.B. 959), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 531 (S.B. 1367), Sec. 1, eff.

September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 531 (S.B. 1367), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 177, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(9), eff. January 1, 2012.

Sec. 504.202. VETERANS WITH DISABILITIES. (a) A person entitled to specialty license plates under this section may register, for the person's own use, one vehicle without payment of any fee paid for or at the time of registration except the fee for the license plates. Registration under this section is valid for one year.

(b) A veteran of the United States armed forces is entitled to register, for the person's own use, motor vehicles under this section if:

(1) the person has suffered, as a result of military service:

(A) at least a 50 percent service-connected disability; or

(B) a 40 percent service-connected disability because of the amputation of a lower extremity;

(2) the person receives compensation from the United States because of the disability; and

(3) the motor vehicle:

(A) is owned by the person; and

(B) has a gross vehicle weight of 18,000 pounds or less.

(c) An organization may register a motor vehicle under this section if:

(1) the vehicle is used exclusively to transport veterans of the United States armed forces who have suffered, as a result of military service, a service-connected disability; and

(2) the veterans are not charged for the transportation.

(d) A statement by the veterans county service officer of the county in which a vehicle described by Subsection (c) is registered or by the Department of Veterans Affairs that a vehicle is used exclusively to transport veterans with disabilities without charge is satisfactory proof of eligibility for an organization.

(e) Other than license plates issued under Subsection (h), license plates issued under this section must include:

(1) the letters "DV" on the plate if the plate is issued for a vehicle other than a motorcycle; and

(2) the words "Disabled Veteran" and "U.S. Armed Forces" at the bottom of each license plate.

Text of subsection as amended by Acts 2015, 84th Leg., R.S., Ch. 716 (H.B. 1273), Sec. 1

(e-1) Other than license plates issued under Subsection (h), license plates issued under this section may include, on request:

(1) the emblem of the veteran's branch of service; or

(2) one emblem from another license plate to which the person is entitled under Section 504.308, 504.311, 504.312, 504.313, 504.3135, 504.314, 504.315, 504.316, 504.318, or 504.319.

Text of subsection as amended by Acts 2015, 84th Leg., R.S., Ch. 708 (H.B. 1128), Sec. 1

(e-1) Other than license plates issued under Subsection (h), license plates issued under this section may include, on request:

(1) the emblem of the veteran's branch of service; or

(2) one emblem from another license plate to which the person is entitled under Section 504.308, 504.315, 504.316, 504.319, or 504.320.

(f) The fee for the first set of license plates is \$3. There is no fee for each additional set of license plates.

(g) A person who receives license plates under this section may receive a disabled parking placard under Section 681.004 for each set of license plates without providing additional documentation.

(h) A person entitled to license plates under this section may elect to receive license plates issued under Chapter 502 under the same conditions for the issuance of license plates under this section.

(i) A license plate with the letters "DV" may be personalized with up to four characters.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 5.09, eff. Jan. 11, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 98 (H.B. 2105), Sec. 1, eff. May 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 617 (H.B. 965), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 965 (H.B. 3593), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 460 (S.B. 1755), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 178, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 7 (S.B. 530), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 223 (H.B. 120), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 77, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 708 (H.B. 1128), Sec. 1, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 716 (H.B. 1273), Sec. 1, eff. September 1, 2015.

Sec. 504.203. ISSUANCE OF DISABLED LICENSE PLATES TO CERTAIN INSTITUTIONS. (a) The department shall issue specialty license plates under this subchapter for a van or bus operated by an institution, facility, or residential retirement community for the elderly or for veterans in which an eligible person resides, including:

(1) an institution that holds a license issued under Chapter 242, Health and Safety Code; or

(2) a facility that holds a license issued under Chapter 246 or 247 of that code.

(b) An application for license plates under this section must be accompanied by a written statement acknowledged by the administrator or manager of the institution, facility, or retirement community certifying that the institution, facility, or retirement community regularly transports, as a part of the services that the institution, facility, or retirement community provides, one or more eligible persons who reside in the institution, facility, or retirement community. The department shall determine the eligibility of the institution, facility, or retirement community on the evidence the applicant provides.

(c) The application and eligibility requirements for a license plate under this section are the same as those provided by Sections 504.201 and 504.202, as applicable.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 179, eff. January 1, 2012.

Sec. 504.204. PERSONS WHO ARE DEAF OR HARD OF HEARING. (a) In this section, "deaf" and "hard of hearing" have the meanings assigned by Section 81.001, Human Resources Code.

(b) The department shall design and issue specialty license plates for a motor vehicle that is regularly operated by a person who is deaf or hard of hearing. A license plate issued under this section must include an emblem indicating that the person operating the vehicle is deaf or hard of hearing.

(c) The initial application for specialty license plates under this section must be accompanied by a written statement from a physician who is licensed to practice medicine in this state or in a state adjacent to this state or who is authorized by applicable law to practice medicine in a hospital or other health facility of the Department of Veterans Affairs. The statement must certify that the person making the application is deaf or hard of hearing.

(d) The fee for a set of license plates issued under this section is \$8.

Added by Acts 2015, 84th Leg., R.S., Ch. 642 (S.B. 1987), Sec. 1, eff. January 1, 2016.

SUBCHAPTER D. SPECIALTY LICENSE PLATES FOR THE MILITARY

Sec. 504.301. PROVISIONS GENERALLY APPLICABLE TO MILITARY SPECIALTY LICENSE PLATES. (a) Unless expressly provided by this subchapter or department rule:

(1) the department shall design specialty license plates for the military; and

(2) a person is not eligible to be issued a specialty license plate under this subchapter if the person was discharged from the armed forces under conditions less than honorable.

(b) Notwithstanding any other provision of this subchapter, the department may design the wording on a specialty license plate authorized by this subchapter to enhance the legibility and reflectivity of the license plate.

(c) Section 504.702 does not apply to a specialty license plate issued under this subchapter.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 180, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 223 (H.B. 120), Sec. 2, eff. September 1, 2013.

Sec. 504.3011. DESIGN OF CERTAIN LICENSE PLATES FOR THE MILITARY. The department shall design military license plates that:

(1) bear a color depiction of the emblem of the appropriate branch of the United States armed forces or a color depiction of the appropriate medal as provided by the United States Department of Defense; and

(2) include the words "Honorably Discharged" for license plates issued to former members of the United States armed forces.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 11.01, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 181, eff. January 1, 2012.

Sec. 504.3015. FEES FOR MILITARY SPECIALTY LICENSE PLATES. (a) A person applying for a set of license plates under this subchapter shall pay the registration fee required under Chapter 502 and the applicable special plate fee required under this section, except that one set of license plates shall be issued under Section 504.308, 504.315, or 504.319 without the payment of the registration fee.

(b) The fee for the issuance of one set of specialty license plates issued under Section 504.315(d) or (g) is \$3. There is no additional fee for a specialty license plate issued under another provision of this subchapter.

(c) A surviving spouse applying for a set of license plates under Section 504.302 shall pay the fees required for the type of license plate for which the surviving spouse is eligible.

Added by Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 223 (H.B. 120), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 432 (S.B. 563), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 716 (H.B. 1273), Sec. 2, eff. September 1, 2015.

Sec. 504.302. SURVIVING SPOUSES OF CERTAIN MILITARY VETERANS.

(a) The surviving spouse of a person who would be eligible for a specialty license plate under this subchapter is entitled to continue to register one vehicle under the applicable section as long as the spouse remains unmarried.

(b) An applicant for registration under this section must submit proof of the eligibility of the applicant's deceased spouse for the applicable specialty license plate.

(c) A surviving spouse applying for specialty license plates under this section must submit a written statement that the spouse is unmarried. If the surviving spouse is applying for Former Prisoner of War, Pearl Harbor Survivor, or Purple Heart specialty license plates, the statement must be sworn to by the surviving spouse.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.303. MEMBERS OR FORMER MEMBERS OF UNITED STATES ARMED FORCES. (a) The department shall issue specialty license plates for active or former members of the United States armed forces. The license plates must designate the appropriate branch of the United States armed forces.

(b) The department shall include the word "Retired" for license plates issued to retired members of the United States armed forces.

(c) Satisfactory proof of eligibility for a license plate issued under this section to a retired member of the United States

armed forces may be demonstrated by:

(1) a letter from any branch of the military under the jurisdiction of the United States Department of Defense or the United States Department of Homeland Security stating that a retired member has 20 or more years of satisfactory federal service; or

(2) an identification card issued by any branch of the military under the jurisdiction of the United States Department of Defense or the United States Department of Homeland Security indicating that the member is retired.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 13, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1206 (S.B. 1376), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 218 (H.B. 789), Sec. 1, eff. January 1, 2016.

Sec. 504.304. MEMBERS OF UNITED STATES ARMED FORCES AUXILIARIES. (a) The department shall issue specialty license plates for members of:

(1) the United States Air Force Auxiliary, Civil Air Patrol;

(2) the United States Coast Guard Auxiliary; and

(3) the Marine Corps League or its auxiliary.

(b) The license plates must include the words "Texas Wing Civil Air Patrol," the words "Coast Guard Auxiliary," or the emblem of the Marine Corps League and the words "Marine Corps League," as applicable.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1166, Sec. 13, eff. September 1, 2007.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 13, eff. September 1, 2007.

Sec. 504.305. MEMBERS OF TEXAS NATIONAL GUARD, STATE GUARD, OR

UNITED STATES ARMED FORCES RESERVES. (a) The department shall issue specialty license plates for:

(1) active members of the Texas National Guard or Texas State Guard;

(2) retired members of the Texas National Guard or Texas State Guard; and

(3) members of a reserve component of the United States armed forces.

(b) The department shall design the license plates in consultation with the adjutant general. The license plates must include the words "Texas Guard" or "Armed Forces Reserve," as applicable.

(c) Satisfactory proof of eligibility for a license plate issued under this section to a retired member of the Texas National Guard or Texas State Guard may be demonstrated by:

(1) a letter from the United States Department of Defense, the Department of the Army, or the Department of the Air Force stating that a retired guard member has 20 or more years of satisfactory federal service; or

(2) an identification card issued by the United States Department of Defense, the Department of the Army, or the Department of the Air Force indicating that the member is retired.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 3, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 218 (H.B. 789), Sec. 2, eff. January 1, 2016.

Sec. 504.306. MEMBERS AND FORMER MEMBERS OF MERCHANT MARINE OF THE UNITED STATES. The department shall issue specialty license plates for members and former members of the merchant marine of the United States. The license plates must include the words "Merchant Marine."

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 4, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 78, eff. September 1, 2013.

Sec. 504.307. UNITED STATES PARATROOPERS. (a) The department shall issue specialty license plates for active and former members of the United States armed services who have:

(1) satisfactorily completed the prescribed proficiency tests while assigned or attached to an airborne unit or the Airborne Department of the United States Army Infantry School; or

(2) participated in at least one combat parachute jump.

(b) The license plates must include:

(1) a likeness of the parachutist badge authorized by the Department of the Army; and

(2) the words "U.S. Paratrooper."

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 13, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1215 (S.B. 461), Sec. 1, eff. September 1, 2011.

Sec. 504.308. DISTINGUISHED FLYING CROSS MEDAL RECIPIENTS. (a) The department shall issue specialty license plates for persons who have received the Distinguished Flying Cross medal. The license plates must bear a depiction of the Distinguished Flying Cross medal and the words "Distinguished Flying Cross" at the bottom of each license plate.

(b) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1166, Sec. 13, eff. September 1, 2007.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 13, eff. September 1, 2007.

Sec. 504.309. MILITARY ACADEMY LICENSE PLATES. The department shall issue specialty license plates for persons who:

- (1) are graduates of:
 - (A) the United States Military Academy;
 - (B) the United States Naval Academy;
 - (C) the United States Air Force Academy;
 - (D) the United States Merchant Marine Academy; or
 - (E) the United States Coast Guard Academy; and
- (2) are current or former commissioned officers of the United States armed forces.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 5, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 397 (S.B. 165), Sec. 1, eff. September 1, 2013.

Sec. 504.310. WORLD WAR II VETERANS. The department shall issue specialty license plates for persons who served in the United States or Allied armed forces during World War II. The license plates must include the words "WWII Veteran."

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 6, eff. September 1, 2007.

Sec. 504.311. SERVICE IN KOREA. (a) The department shall issue specialty license plates for persons who served in the United States armed forces:

(1) during the period beginning on June 27, 1950, and ending on July 27, 1954, and who received the National Defense Service Medal;

(2) in a combat zone in Korea during the period beginning on June 27, 1950, and ending on July 27, 1954, and who received the Korean Service Medal; or

(3) in the Korean Demilitarized Zone beginning on July 28, 1954, and who received the Korean Defense Service Medal.

(b) License plates issued under this section must include the words "Korea Veteran" and bear a depiction of the appropriate medal.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 7, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 716 (H.B. 1273), Sec. 3, eff. September 1, 2015.

Sec. 504.312. VIETNAM VETERANS. (a) The department shall issue specialty license plates for persons who served in the United States armed forces:

(1) during the period beginning on January 1, 1961, and ending on August 14, 1974, and who received the National Defense Service Medal; or

(2) in a combat zone in the Republic of Vietnam during the period beginning on July 1, 1958, and ending on March 28, 1973, and who received the Vietnam Service Medal.

(b) License plates issued under this section must include the words "Vietnam Veteran" and bear a depiction of the appropriate medal.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 8, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 716 (H.B. 1273), Sec. 4, eff. September 1, 2015.

Sec. 504.313. DESERT SHIELD OR DESERT STORM VETERANS. (a) The department shall issue specialty license plates for persons who served in the United States armed forces:

(1) during the period beginning on August 2, 1990, and ending on November 30, 1995, and who received the National Defense Service Medal; or

(2) in a combat zone in support of Operation Desert Shield or Desert Storm during the period beginning on August 2, 1990, and ending on November 30, 1995, and who received the Southwest Asia Service Medal.

(b) License plates issued under this section must include the

words "Desert Shield/Storm/Provide Comfort" and bear a depiction of the appropriate medal.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 9, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 716 (H.B. 1273), Sec. 5, eff. September 1, 2015.

Sec. 504.3135. OPERATION IRAQI FREEDOM. The department shall issue specialty license plates for persons who served in the United States armed forces and participated in Operation Iraqi Freedom. License plates issued under this section must include the words "Operation Iraqi Freedom."

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 575 (H.B. 1480), Sec. 1(a), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 10, eff. September 1, 2007.

Sec. 504.314. ENDURING FREEDOM VETERANS. (a) The department shall issue specialty license plates for persons who served in the United States armed services and participated in Operation Enduring Freedom. The license plates must include the words "Enduring Freedom."

(b) The department shall issue specialty license plates for persons who served in the United States armed services and participated in Operation Enduring Freedom in Afghanistan. The license plates must include the words "Enduring Freedom Afghanistan."

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 11, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1327 (S.B. 597), Sec. 1, eff. September 1, 2013.

Sec. 504.315. MILITARY SPECIALTY LICENSE PLATES FOR EXTRAORDINARY SERVICE. (a) The department shall issue specialty license plates for recipients of the Bronze Star Medal and Bronze Star Medal with Valor. License plates issued under this subsection must include the Bronze Star Medal emblem and must include the words "Bronze Star Medal" at the bottom of each plate. License plates issued under this subsection to recipients of the Bronze Star Medal with Valor that are not personalized must also include the letter "V" as a prefix or suffix to the numerals on each plate.

(a-1) The department shall issue specialty license plates for recipients of the Air Medal and Air Medal with Valor. License plates issued under this subsection must include the Air Medal emblem and must include the words "Air Medal" at the bottom of each plate. License plates issued under this subsection to recipients of the Air Medal with Valor that are not personalized must also include the letter "V" as a prefix or suffix to the numerals on each plate. Section 504.702 does not apply to license plates authorized by this subsection.

(b) The department shall issue specialty license plates for recipients of the Distinguished Service Medal. License plates issued under this subsection must include the Distinguished Service Medal emblem and the words "Distinguished Service Medal" at the bottom of each plate.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 716 , Sec. 7, eff. September 1, 2015.

(d) The department shall issue specialty license plates for survivors of the attack on Pearl Harbor on December 7, 1941. The license plates must include the words "Pearl Harbor Survivor." A person is eligible if the person:

- (1) served in the United States armed forces;
- (2) was stationed in the Hawaiian Islands on December 7, 1941; and
- (3) survived the attack on Pearl Harbor on December 7, 1941.

(e) The department shall issue specialty license plates to a recipient of a Congressional Medal of Honor awarded under Title 10, United States Code. The department shall assign the license plate number, and the plates may not be personalized.

(f) The department shall issue specialty license plates for recipients of the Air Force Cross or Distinguished Service Cross, the Army Distinguished Service Cross, the Navy Cross, or the Medal of Honor. The license plates must include the words "Legion of Valor."

(g) The department shall issue specialty license plates for recipients of the Purple Heart. License plates issued under this subsection must include:

- (1) the Purple Heart emblem;
- (2) the words "Purple Heart" at the bottom of each plate;

and

(3) the letters "PH" as a prefix or suffix to the numerals on the plate if the plate is not personalized.

(h) The department shall issue special license plates for recipients of the Silver Star Medal. License plates issued under this subsection must include the Silver Star Medal emblem and must include the words "Silver Star Medal" at the bottom of each plate.

(i) A vehicle registered under this section must be for the use of the applicant who qualifies under this section.

Text of subsection as added by Acts 2015, 84th Leg., R.S., Ch. 34
(S.B. 193), Sec. 1

(j) The department shall issue specialty license plates for recipients of the Soldier's Medal. License plates issued under this subsection must include the Soldier's Medal emblem and must include the words "Soldier's Medal" at the bottom of each plate.

Text of subsection as added by Acts 2015, 84th Leg., R.S., Ch. 716
(H.B. 1273), Sec. 6

(j) The department shall issue specialty license plates for recipients of the Prisoner of War Medal. License plates issued under this subsection must include the Prisoner of War Medal emblem and must include the words "Prisoner of War Medal" at the bottom of each plate.

Text of subsection as added by Acts 2015, 84th Leg., R.S., Ch. 1028
(H.B. 1364), Sec. 1

(j) The department shall issue specialty license plates for recipients of the Defense Meritorious Service Medal. License plates issued under this subsection must include the Defense Meritorious Service Medal emblem and must include the words "Defense Meritorious Service Medal" at the bottom of each plate.

Text of subsection as added by Acts 2015, 84th Leg., R.S., Ch. 34

(S.B. 193), Sec. 1

(k) The department shall issue specialty license plates for recipients of the Navy and Marine Corps Medal. License plates issued under this subsection must include the Navy and Marine Corps Medal emblem and must include the words "Navy and Marine Corps Medal" at the bottom of each plate.

Text of subsection as added by Acts 2015, 84th Leg., R.S., Ch. 1028
(H.B. 1364), Sec. 1

(k) The department shall issue specialty license plates for recipients of the Meritorious Service Medal. License plates issued under this subsection must include the Meritorious Service Medal emblem and must include the words "Meritorious Service Medal" at the bottom of each plate.

(l) The department shall issue specialty license plates for recipients of the Coast Guard Medal. License plates issued under this subsection must include the Coast Guard Medal emblem and must include the words "Coast Guard Medal" at the bottom of each plate.

(m) The department shall issue specialty license plates for recipients of the Airman's Medal. License plates issued under this subsection must include the Airman's Medal emblem and must include the words "Airman's Medal" at the bottom of each plate.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 358 (S.B. 274), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 12, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1166 (H.B. 191), Sec. 13, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(103), eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 460 (S.B. 1755), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 709 (H.B. 559), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 182, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(51), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 223 (H.B. 120), Sec. 4, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 223 (H.B. 120), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 223 (H.B. 120), Sec. 6, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1010 (H.B. 2485), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 34 (S.B. 193), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 716 (H.B. 1273), Sec. 6, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 716 (H.B. 1273), Sec. 7, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1028 (H.B. 1364), Sec. 1, eff. January 1, 2016.

Sec. 504.316. LEGION OF MERIT MEDAL RECIPIENTS. (a) The department shall issue specialty license plates for persons who have received the Legion of Merit medal. The license plates must include the words "Legion of Merit."

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(10), eff. January 1, 2012.

Added by Acts 2007, 80th Leg., R.S., Ch. 317 (H.B. 2282), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(10), eff. January 1, 2012.

Sec. 504.317. SURVIVING SPOUSES OF DISABLED VETERANS SPECIALTY LICENSE PLATES. (a) In this section, "surviving spouse" means the individual married to a disabled veteran at the time of the veteran's death.

(b) The department shall issue specialty license plates for surviving spouses of disabled veterans of the United States armed forces.

(c) A person entitled to specialty license plates under this

section may register, for the person's own use, one vehicle without payment of any fee other than the fee for the license plates under Subsection (d).

(d) The fee for the first set of license plates is \$3. There is no fee for each additional set of license plates.

Added by Acts 2011, 82nd Leg., R.S., Ch. 845 (H.B. 3580), Sec. 1, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 183, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 941 (H.B. 1678), Sec. 1, eff. September 1, 2013.

Sec. 504.318. WOMEN VETERANS. The department shall issue specialty license plates for female active or former members of the United States armed forces, Texas National Guard, or Texas State Guard. The license plates must include the words "Woman Veteran" in red.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1281 (H.B. 1178), Sec. 4, eff. June 17, 2011.

Redesignated from Transportation Code, Section 504.317 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(52), eff. September 1, 2013.

Sec. 504.319. DEFENSE SUPERIOR SERVICE MEDAL RECIPIENTS. The department shall issue specialty license plates for recipients of the Defense Superior Service Medal. License plates issued under this section must include the words "Defense Superior Service Medal" at the bottom of each plate.

Added by Acts 2013, 83rd Leg., R.S., Ch. 223 (H.B. 120), Sec. 7, eff. September 1, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 432 (S.B. 563), Sec. 1, eff. September 1, 2013.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 335 (H.B.

127), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 708 (H.B. 1128), Sec. 2, see other Sec. 504.320.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1012 (H.B. 923), Sec. 2, see other Sec. 504.320.

Sec. 504.320. COMMENDATION MEDAL RECIPIENTS. The department shall issue specialty license plates for recipients of the Commendation Medal for each branch of the military and for joint service. License plates issued under this section must include the emblem of the appropriate medal and must include the name of the medal at the bottom of each plate.

Added by Acts 2015, 84th Leg., R.S., Ch. 335 (H.B. 127), Sec. 1, eff. January 1, 2016.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 708 (H.B. 1128), Sec. 2

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 335 (H.B. 127), Sec. 1, see other Sec. 504.320.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1012 (H.B. 923), Sec. 2, see other Sec. 504.320.

Sec. 504.320. COMBAT ACTION BADGE, MEDAL, OR RIBBON RECIPIENTS.

(a) The department shall issue specialty license plates for recipients of the Combat Action Badge. License plates issued under this subsection must include the Combat Action Badge Combat Infantryman emblem and must include the words "Combat Action Badge" at the bottom of each plate.

(b) The department shall issue specialty license plates for recipients of the Combat Action Medal. License plates issued under this subsection must include the Combat Action Medal emblem and must include the words "Combat Action Medal" at the bottom of each plate.

(c) The department shall issue specialty license plates for recipients of the Combat Action Ribbon. License plates issued under this subsection must include the Combat Action Ribbon emblem and must include the words "Combat Action Ribbon" at the bottom of each plate.

(d) For purposes of Subsections (a) and (c), if a branch of the United States armed forces awards a Combat Action Badge or Ribbon with a unique emblem for each award of the Combat Action Badge or

Ribbon to a recipient, the department shall only issue specialty license plates that include the unique emblem of the first award.

Added by Acts 2015, 84th Leg., R.S., Ch. 708 (H.B. 1128), Sec. 2, eff. January 1, 2016.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 1012
(H.B. 923), Sec. 2

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 335
(H.B. 127), Sec. 1, see other Sec. 504.320.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 708
(H.B. 1128), Sec. 2, see other Sec. 504.320.

Sec. 504.320. 36TH INFANTRY DIVISION. The department shall issue specialty license plates for persons who have served in the 36th Infantry Division of the Texas Army National Guard. The license plates must include the 36th Infantry Division emblem and must include the words "36th Infantry Division" at the bottom of each plate.

Added by Acts 2015, 84th Leg., R.S., Ch. 1012 (H.B. 923), Sec. 2, eff. January 1, 2016.

SUBCHAPTER E. SPECIALTY LICENSE PLATES WITH RESTRICTED DISTRIBUTION

Sec. 504.400. FEES FOR CERTAIN RESTRICTED PLATES. The department shall issue, without charge, not more than three sets of specialty license plates under this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 184, eff. January 1, 2012.

Sec. 504.401. STATE OFFICIALS. (a) The department shall issue specialty license plates to a state official.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(11), eff. January 1, 2012.

(c) The registration remains valid until December 31 of each year.

(d) In this section, "state official" means:

- (1) a member of the legislature;
- (2) the governor;
- (3) the lieutenant governor;
- (4) a justice of the supreme court;
- (5) a judge of the court of criminal appeals;
- (6) the attorney general;
- (7) the commissioner of the General Land Office;
- (8) the comptroller;
- (9) a member of the Railroad Commission of Texas;
- (10) the commissioner of agriculture;
- (11) the secretary of state; or
- (12) a member of the State Board of Education.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 185, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(11), eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1251 (S.B. 1914), Sec. 1, eff. September 1, 2013.

Sec. 504.402. MEMBERS OF CONGRESS. (a) The department shall issue specialty license plates to members of congress, which must include the words "U.S. Congress."

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(12), eff. January 1, 2012.

(c) The license plates remain valid until December 31 of each year.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 186, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(12), eff. January 1, 2012.

Sec. 504.403. STATE AND FEDERAL JUDGES.

Without reference to the amendment of this subsection, this section was repealed by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec 44(a)(4), eff. September 1, 2011.

(a) The department shall issue specialty license plates for a current or visiting state or federal judge. The license plates must include the words "State Judge" or "U.S. Judge," as appropriate.

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1290, Sec. 44(a)(4), eff. September 1, 2011.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1290, Sec. 44(a)(4), eff. September 1, 2011.

(d) In this section:

(1) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1290, Sec. 44(a)(4), eff. September 1, 2011.

Without reference to the amendment of this subdivision, this section was repealed by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec 44(a)(4), eff. September 1, 2011.

(2) "State judge" means:

- (A) a justice of the supreme court;
- (B) a judge of the court of criminal appeals;
- (C) a judge of a court of appeals of this state;
- (D) a district court judge;
- (E) a presiding judge of an administrative judicial

district; or

- (F) a statutory county court judge.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 44(a)(4), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 187, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 188, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(13), eff. January 1, 2012.

Sec. 504.404. FEDERAL ADMINISTRATIVE LAW JUDGES.

Without reference to the amendment of this subsection, this section

was repealed by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec 44(a)(4), eff. September 1, 2011.

(a) The department shall issue specialty license plates to current federal administrative law judges that bear the words "U.S. A. L. Judge."

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1290, Sec 44(a)(4), eff. September 1, 2011.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 44(a)(4), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 189, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(14), eff. January 1, 2012.

Sec. 504.405. COUNTY JUDGES. (a) The department shall issue specialty license plates for current county judges of this state that bear the words "County Judge."

(b) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(15), eff. January 1, 2012.

(c) In this section, "county judge" means the judge of the county court established by Section 15, Article V, Texas Constitution.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 190, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(15), eff. January 1, 2012.

Without reference to the amendment of this section, this section was repealed by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 44(a)(4), eff. September 1, 2011.

Sec. 504.406. TEXAS CONSTABLES. The department shall issue specialty license plates for Texas constables that bear the words

"Texas Constable."

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 44(a)(4), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 191, eff. January 1, 2012.

Sec. 504.4061. FOREIGN ORGANIZATION VEHICLES. (a) The department shall issue specialty license plates for an instrumentality established by a foreign government recognized by the United States before January 1, 1979, that is without official representation or diplomatic relations with the United States. The license plates must include the words "Foreign Organization" and shall remain valid for seven years.

(b) A person entitled to specialty license plates under this section may register the vehicle without payment of any fee paid for or at the time of registration.

Redesignated and amended from Transportation Code, Section 504.412 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 192, eff. January 1, 2012.

Sec. 504.414. PROFESSIONAL FIREFIGHTER PLATES. (a) The professional firefighter plate may be issued to qualified firefighters. The sponsor of the plate may nominate a state agency for receipt of funds under Section 504.801(e)(2)(A).

(b) After deduction of the department's administrative costs in accordance with Section 504.801, the remainder of the fees from the sale of professional firefighter plates shall be deposited to the credit of an account in the state treasury to be used by the nominated state agency for the purpose of making grants to support the activities of an organization of professional firefighters located in this state that provides emergency relief and college scholarship funds to the professional firefighters and their dependents.

Added by Acts 2009, 81st Leg., R.S., Ch. 712 (H.B. 2854), Sec. 1, eff.

June 19, 2009.

Sec. 504.415. VEHICLES CARRYING MOBILE AMATEUR RADIO EQUIPMENT. The department shall issue specialty license plates for a person who holds an amateur radio station license issued by the Federal Communications Commission and who operates receiving and transmitting mobile amateur radio equipment. The license plates shall include the person's amateur call letters as assigned by the Federal Communications Commission. A person may register more than one vehicle equipped with mobile amateur radio equipment under this section, and the department shall issue license plates that include the same amateur call letters for each vehicle.

Transferred and redesignated from Transportation Code, Section 504.509 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 193, eff. January 1, 2012.

**SUBCHAPTER F. SPECIALTY LICENSE PLATES WITH RESTRICTED DISTRIBUTION
AND REGULAR LICENSE PLATE FEES**

Sec. 504.501. CLASSIC MOTOR VEHICLES AND TRAVEL TRAILERS; CUSTOM VEHICLES; STREET RODS. (a) The department shall issue specialty license plates for a motor vehicle that is at least 25 years old or is a custom vehicle or street rod. The license plates must include the word or words "Classic," "Custom Vehicle," or "Street Rod," or a similar designation, as appropriate.

(b) A person eligible for the license plates may instead use license plates that were issued by this state in the same year as the model year of the vehicle and are approved by the department. The department may require the attachment of a registration insignia to the license plate in a manner that does not affect the display of information originally on the license plate.

(c) There is no fee for issuance or approval of license plates under this section.

(d) Notwithstanding Chapter 547, a custom vehicle or street rod eligible to receive license plates under this section is not required to be equipped with a specific piece of equipment unless the specific piece of equipment was required by statute as a condition of sale during the year listed as the model year on the certificate of title.

(e) On initial registration of a custom vehicle or street rod, the owner must provide proof, acceptable to the department, that the custom vehicle or street rod passed a safety inspection that has been approved by the department. The department shall create a safety inspection process for inspecting custom vehicles and street rods.

(f) In this section:

(1) "Custom vehicle" means a vehicle:

(A) that is:

(i) at least 25 years old and of a model year after 1948; or

(ii) manufactured to resemble a vehicle that is at least 25 years old and of a model year after 1948; and

(B) that:

(i) has been altered from the manufacturer's original design; or

(ii) has a body constructed from materials not original to the vehicle.

(2) "Street rod" means a vehicle:

(A) that was manufactured:

(i) before 1949; or

(ii) after 1948 to resemble a vehicle manufactured before 1949; and

(B) that:

(i) has been altered from the manufacturer's original design; or

(ii) has a body constructed from materials not original to the vehicle.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 32, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 729 (H.B. 890), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 729 (H.B. 890), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 195(a), eff. September 1, 2011.

Sec. 504.502. CERTAIN EXHIBITION VEHICLES; OFFENSE. (a) The department shall issue specialty license plates for a passenger car, truck, motorcycle, bus, or former military vehicle that:

(1) is at least 25 years old, if the vehicle is a passenger car, truck, motorcycle, or bus;

(2) is a collector's item;

(3) is used exclusively for exhibitions, club activities, parades, and other functions of public interest and is not used for regular transportation; and

(4) does not carry advertising.

(b) The license plates must include the words "Antique Auto," "Antique Truck," "Antique Motorcycle," "Antique Bus," or "Military Vehicle," as appropriate.

(c) A person eligible for the license plates may instead use license plates issued by this state in the same year as the model year of the vehicle and approved by the department, provided that a passenger car must bear passenger car or truck license plates and a truck must bear passenger car or truck license plates. The department may require attachment of a registration insignia to the license plate in a manner that does not affect the display of information originally on the license plate.

(d) License plates issued or approved under this section expire on the fifth anniversary of the date of issuance or approval.

(e) The fee for issuance or approval of license plates under this section is:

(1) \$10 for each year or portion of a year remaining in the five-year registration period if the vehicle was manufactured in 1921 or later; or

(2) \$8 for each year or portion of a year remaining in the five-year registration period if the vehicle was manufactured before 1921.

(f) The department may exempt a former military vehicle from the requirement to display a license plate or registration insignia if the exemption is necessary to maintain the vehicle's accurate military markings. The department may approve an alternative registration insignia that is compatible with the vehicle's original markings.

(g) A person entitled to specialty license plates or to department approval under this section may register the vehicle without payment of any fees paid for or at the time of registration

except the fee for the license plate.

(h) Notwithstanding any other provision of law, a vehicle issued license plates under Subsection (a) shall be required to attach and display only one license plate on the rear of the vehicle.

(i) In this section, "former military vehicle" means a vehicle, including a trailer, regardless of the vehicle's size, weight, or year of manufacture, that:

(1) was manufactured for use in any country's military forces; and

(2) is maintained to represent its military design and markings accurately.

(j) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(16), eff. January 1, 2012.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1318 (H.B. 3425), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 196, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(16), eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 508 (H.B. 792), Sec. 1, eff. January 1, 2016.

Sec. 504.503. MUNICIPAL, MOTOR, AND PRIVATE BUSES. The department shall issue without charge specialty license plates for municipal buses, motor buses, and private buses. The license plates must include the words "City Bus," "Motor Bus," or "Private Bus," as appropriate.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 197, eff. January 1, 2012.

Sec. 504.505. COTTON VEHICLES. (a) The department shall issue specialty license plates for a single motor vehicle that is:

(1) used only to transport chile pepper modules, seed

cotton, cotton, cotton burrs, or equipment used in transporting or processing chile peppers or cotton; and

(2) not more than 10 feet in width.

(b) The license plates must include the words "Cotton Vehicle."

(c) There is no fee for issuance of the license plates. The license plates may be renewed without payment of a fee.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 247 (H.B. 749), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 33, eff. September 1, 2011.

Sec. 504.506. LOG LOADER VEHICLES. (a) The department shall issue specialty license plates for a vehicle that is temporarily operated on public highways, during daylight hours only, and on which machinery is mounted solely to load logs on other vehicles.

(b) The fee for issuance of the license plates is \$62.50.

(c) A person entitled to specialty license plates under this section may register the vehicle without payment of any fee paid for or at the time of registration other than the fee for the license plates.

(d) A vehicle having a license plate issued under this section is exempt from the inspection requirements of Chapter 548.

(e) This section does not apply to a vehicle used to haul logs.

(f) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(17), eff. January 1, 2012.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 198, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(17), eff. January 1, 2012.

Sec. 504.507. FORESTRY VEHICLES. (a) The department shall issue specialty license plates for forestry vehicles. License plates issued under this section must include the words "Forestry Vehicle."

(b) There is no fee for issuance of the license plates. The department shall:

(1) collect any fee that a county imposes under this chapter for registration of a forestry vehicle; and

(2) send the fee to the appropriate county for disposition.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(18), eff. January 1, 2012.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 34, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(18), eff. January 1, 2012.

Sec. 504.508. TOW TRUCKS. (a) The department shall issue specialty license plates for a commercial motor vehicle used as a tow truck. The license plates must include the words "Tow Truck." A vehicle used commercially as a tow truck shall display license plates issued under this section.

(b) There is no fee for issuance of the license plates.

(c) Proof of eligibility for license plates under this section must include a copy of the permit certificate issued by the Texas Department of Licensing and Regulation for the tow truck.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(19), eff. January 1, 2012.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1046 (H.B. 2094), Sec. 3.05, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 35, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(19), eff. January 1, 2012.

Sec. 504.511. PEACE OFFICERS WOUNDED OR KILLED IN LINE OF DUTY.

(a) The department shall issue specialty license plates for:

(1) a person wounded in the line of duty as a peace

officer; or

(2) a surviving spouse, parent, brother, sister, or adult child, including an adopted child or stepchild, of a person killed in the line of duty as a peace officer.

(b) License plates issued under this section must include the words "To Protect and Serve" above an insignia depicting a yellow rose superimposed over the outline of a badge.

(c) The fee for issuance of the license plates is \$20.

(d) In this section, "peace officer" has the meaning assigned by Section 1.07, Penal Code.

Transferred and redesignated from Transportation Code, Section 504.407 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 199, eff. January 1, 2012.

Sec. 504.512. GOLD STAR MOTHER, FATHER, SPOUSE, OR FAMILY MEMBER. (a) The department shall issue a specialty license plate for the mother, father, or surviving spouse or an immediate family member of a person who died while serving in the United States armed forces. License plates issued under this section must include the words "Gold Star Mother," "Gold Star Father," "Gold Star Spouse," or "Gold Star Family" and a gold star. A person may not be issued more than one set of the license plates at a time.

(a-1) In this section "immediate family member" means the parent, child, or sibling of a person who died while serving in the United States armed forces.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 741 , Sec. 1, eff. January 1, 2016.

Transferred and redesignated from Transportation Code, Section 504.408 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 199, eff. January 1, 2012.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 741 (H.B. 1702), Sec. 1, eff. January 1, 2016.

Sec. 504.513. FIREFIGHTERS. (a) The department shall issue specialty license plates for:

(1) volunteer firefighters certified by:

(A) the Texas Commission on Fire Protection; or
 (B) the State Firemen's and Fire Marshals' Association
 of Texas; and

(2) fire protection personnel as that term is defined by
 Section 419.021, Government Code.

(b) A person may be issued not more than three sets of license
 plates.

Reenacted, transferred, redesignated and amended from Transportation
 Code, Section 504.409 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B.
[2357](#)), Sec. 200, eff. January 1, 2012.

Sec. 504.514. EMERGENCY MEDICAL SERVICES PERSONNEL. (a) The
 department shall issue specialty license plates for emergency medical
 services personnel certified by the Department of State Health
 Services under Subchapter C, Chapter 773, Health and Safety Code.

(b) The fee for issuance of the license plates is \$8.

(c) A person may be issued only one set of the license plates.

Transferred, redesignated and amended from Transportation Code,
 Section 504.410 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)),
 Sec. 201, eff. January 1, 2012.

Sec. 504.515. HONORARY CONSULS. (a) The department shall
 issue specialty license plates for a person who is an honorary consul
 authorized by the United States to perform consular duties. License
 plates issued under this section must include the words "Honorary
 Consul."

(b) The fee for issuance of the license plates is \$40.

Transferred and redesignated from Transportation Code, Section
 504.411 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec.
 201, eff. January 1, 2012.

Sec. 504.516. RENTAL TRAILER OR TRAVEL TRAILER FEE: TRAILER OR
 SEMITRAILER. (a) The department may issue specially designed license
 plates for rental trailers and travel trailers that include, as
 appropriate, the words "rental trailer" or "travel trailer."

(b) In this section:

(1) "Rental fleet" means vehicles that are designated in the manner prescribed by the department as a rental fleet.

(2) "Rental trailer" means a utility trailer.

(3) "Travel trailer" has the meaning assigned by Section 501.002.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 202, eff. January 1, 2012.

SUBCHAPTER G. SPECIALTY LICENSE PLATES FOR GENERAL DISTRIBUTION

Sec. 504.601. GENERAL PROVISIONS APPLICABLE TO SPECIALTY LICENSE PLATES FOR GENERAL DISTRIBUTION. (a) Unless expressly provided by this subchapter or department rule:

(1) the fee for issuance of a license plate under this subchapter is \$30; and

(2) of each fee received under this subchapter, the department shall use \$8 to defray its administrative costs in complying with this subchapter.

(b) This section does not apply to a specialty license plate marketed and sold by a private vendor at the request of the specialty license plate sponsor under Section 504.6011.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1381 (S.B. 1616), Sec. 4, eff. September 1, 2009.

Sec. 504.6011. GENERAL PROVISIONS APPLICABLE TO SPECIALTY LICENSE PLATES FOR GENERAL DISTRIBUTION SOLD THROUGH PRIVATE VENDOR.

(a) The sponsor of a specialty license plate may contract with the private vendor authorized under Subchapter J for the marketing and sale of the specialty license plate.

(b) The fee for issuance of a specialty license plate described by Subsection (a) is the amount established under Section 504.851.

(c) Notwithstanding any other law, from each fee received for the issuance of a specialty license plate described by Subsection (a), the department shall:

(1) deduct the administrative costs described by Section

504.601(a)(2);

(2) deposit to the credit of the account designated by the law authorizing the specialty license plate the portion of the fee for the sale of the plate that the state would ordinarily receive under the contract described by Section 504.851(a); and

(3) pay to the private vendor the remainder of the fee.

(d) A sponsor of a specialty license plate authorized to be issued under this subchapter before November 19, 2009, may reestablish its specialty license plate under Sections 504.601 and 504.702 and be credited its previous deposit with the department if a contract entered into by the sponsor under Subsection (a) terminates.

Added by Acts 2009, 81st Leg., R.S., Ch. 1381 (S.B. 1616), Sec. 5, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 203, eff. January 1, 2012.

Sec. 504.6012. ELIMINATION OF DEDICATED REVENUE ACCOUNTS; REVENUES IN TRUST. (a) Notwithstanding any other law, not later than September 30, 2015, the comptroller shall eliminate all dedicated accounts established for specialty license plates and shall set aside the balances of those dedicated accounts so that the balances may be appropriated only for the purposes intended as provided by the dedications.

(b) On and after September 1, 2015, the portion of a fee payable that is designated for deposit to a dedicated account shall be paid instead to the credit of an account in a trust fund created by the comptroller outside the general revenue fund. The comptroller shall administer the trust fund and accounts and may allocate the corpus and earnings on each account only in accordance with the dedications of the revenue deposited to the trust fund accounts.

Added by Acts 2013, 83rd Leg., R.S., Ch. 835 (H.B. 7), Sec. 15, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 37, eff. September 1, 2015.

Sec. 504.602. KEEP TEXAS BEAUTIFUL LICENSE PLATES. (a) The department shall issue specialty license plates including the words "Keep Texas Beautiful." The department shall design the license plates in consultation with Keep Texas Beautiful, Inc.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be used in connection with the department's litter prevention and community beautification programs.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.603. TEXAS CAPITOL LICENSE PLATES. (a) The department shall design and issue specialty license plates relating to the State Capitol. The department may design the license plates in consultation with the State Preservation Board.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Capitol fund established under Section 443.0101, Government Code.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1251 (S.B. 1914), Sec. 2, eff. September 1, 2013.

Sec. 504.604. TEXAS COMMISSION ON THE ARTS LICENSE PLATES. (a) The department shall issue specialty license plates including the words "State of the Arts." The department shall design the license plates in consultation with the Texas Commission on the Arts.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas Commission on the Arts operating fund established under Section 444.027, Government Code.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.605. ANIMAL FRIENDLY LICENSE PLATES. (a) The department shall issue specialty license plates including the words

"Animal Friendly." The department shall design the license plates.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the animal friendly account established by Section 828.014, Health and Safety Code.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.606. BIG BEND NATIONAL PARK LICENSE PLATES. (a) The department shall issue specialty license plates that include one or more graphic images of a significant feature of Big Bend National Park. The department shall design the license plates in consultation with the Parks and Wildlife Department and any organization designated by it.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Big Bend National Park account in the state treasury. Money in the account may be used only by the Parks and Wildlife Department to support the activities of a designated nonprofit organization whose primary purpose is the improvement or preservation of Big Bend National Park.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.607. READ TO SUCCEED. (a) The department shall issue specialty license plates including the words "Read to Succeed." The department shall design the license plates.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the "Read to Succeed" account in the general revenue fund. Money in the account may be used only to provide educational materials for public school libraries. The account is composed of:

(1) money required to be deposited to the credit of the account under this subsection; and

(2) donations made to the account.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.608. MOTHERS AGAINST DRUNK DRIVING LICENSE PLATES.

(a) The department shall issue specialty license plates that include the words "Mothers Against Drunk Driving." The department shall design the license plates in consultation with Mothers Against Drunk Driving.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund and may be appropriated only to the Texas Higher Education Coordinating Board in making grants to benefit drug-abuse prevention and education programs sponsored by Mothers Against Drunk Driving.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 575 (H.B. 1480), Sec. 2, eff. September 1, 2005.

Sec. 504.609. UNITED STATES OLYMPIC COMMITTEE LICENSE PLATES.

The department shall issue specialty license plates including the words "United States Olympic Committee." The department shall design the license plates in consultation with the United States Olympic Committee.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.610. TEXAS AEROSPACE COMMISSION LICENSE PLATES. (a)

The department may issue specialty license plates in recognition of the Texas Aerospace Commission. The department shall design the license plates in consultation with the Texas Aerospace Commission.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 79, eff. September 1, 2013.

Sec. 504.611. VOLUNTEER ADVOCATE PROGRAM LICENSE PLATES. (a) The department shall issue specialty license plates in recognition of children. The department shall design the license plates in consultation with the Health and Human Services Commission.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the volunteer advocate program account in the general revenue fund. Money deposited to the credit of the volunteer advocate program account may be used only by the Health and Human Services Commission to fund a contract entered into by the commission under Section 264.602, Family Code.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 597 (S.B. 354), Sec. 15, eff. September 1, 2015.

Sec. 504.612. TEXAS YOUNG LAWYERS ASSOCIATION LICENSE PLATES.

(a) The department shall issue specialty license plates including the words "And Justice for All." The department shall design the license plates in consultation with the Texas Young Lawyers Association.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the basic civil legal services account established by Section 51.943, Government Code.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.613. HOUSTON LIVESTOCK SHOW AND RODEO LICENSE PLATES.

(a) The department shall issue specialty license plates including the words "Houston Livestock Show and Rodeo." The department shall design the license plates in consultation with the Houston Livestock Show and Rodeo.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Houston Livestock Show and Rodeo scholarship account in the state treasury. Money in the account may be used only by the Texas Higher Education Coordinating Board in

making grants to benefit the Houston Livestock Show and Rodeo.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.614. PROFESSIONAL SPORTS TEAM LICENSE PLATES. (a) The department may issue specialty license plates that include the name and insignia of a professional sports team located in this state. The department shall design the license plates in consultation with the professional sports team and may enter a trademark license with the professional sports team or its league to implement this section. A license plate may be issued under this section only for a professional sports team that:

(1) certifies to the department that the requirements of Section 504.702 are met; and

(2) plays its home games in a facility constructed or operated, in whole or in part, with public funds.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be sent to the public entity that provided public funds for the construction or renovation of the facility in which the professional sports team plays its home games or that provides public funds for the operation of that facility. The funds shall be deposited to the credit of the venue project fund, if the public entity has created a venue project fund under Section 334.042 or 335.072, Local Government Code. If the public entity has not created a venue project fund, funds distributed to a public entity under this section must first be used to retire any public debt incurred by the public entity in the construction or acquisition of the facility in which the professional sports team plays its home games. After that debt is retired, funds distributed to the public entity may be spent only for maintenance or improvement of the facility.

(b-1) A public entity that receives money under Subsection (b) may contract with the private vendor under Section 504.6011 to distribute the entity's portion of the money in a manner other than that described by Subsection (b).

(c) In this section:

(1) "Public entity" includes a municipality, county, industrial development corporation, or special district that is authorized to plan, acquire, establish, develop, construct, or

renovate a facility in which a professional sports team plays its home games.

(2) "Professional sports team" means a sports team that is a member or an affiliate of a member of the National Football League, National Basketball Association, or National Hockey League or a major league baseball team.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 204, eff. January 1, 2012.

Sec. 504.615. COLLEGIATE LICENSE PLATES. (a) The department shall issue specialty license plates that include the name and insignia of a college. The department shall design the license plates in consultation with the applicable college. The department may issue a license plate under this section only for a college that certifies to the department that the requirements of Section 504.702 are met.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund. The money may be used only for:

(1) scholarships to students who demonstrate a need for financial assistance under Texas Higher Education Coordinating Board rule; or

(2) Texas Public Educational Grants awarded under Subchapter C, Chapter 56, Education Code, if the fee is for the issuance of a license plate for a college described by Subsection (e)(1).

(c) If the fee is for the issuance of license plates for a college described by Subsection (e)(1), the money:

(1) shall be deposited to the credit of the institution of higher education designated on the license plates; and

(2) is supplementary and is not income for purposes of reducing general revenue appropriations to that institution of higher education.

(d) If the fee is for the issuance of license plates for a college described by Subsection (e)(2), the money shall be deposited

to the credit of the Texas Higher Education Coordinating Board. The money:

(1) shall be allocated to students at the college designated on the plates; and

(2) is in addition to other money that the board may allocate to that college.

(d-1) If the fee is for the issuance of license plates for a college described by Subsection (e)(3), the money:

(1) shall be deposited to the credit of the Texas Higher Education Coordinating Board; and

(2) is supplementary and is not income for purposes of reducing general revenue appropriations to that board.

(e) In this section, "college" means:

(1) an institution of higher education as defined by Section 61.003, Education Code;

(2) a private college or university described by Section 61.222, Education Code; or

(3) a college or university that is not located in this state.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 1181 (S.B. [1227](#)), Sec. 53, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 205, eff. January 1, 2012.

Sec. 504.616. TEXAS READS LICENSE PLATES. (a) The department shall issue specialty license plates including the words "Texas Reads" that incorporate one or more submissions from middle school students in a competition conducted by the department.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the Texas Reads account in the general revenue fund. Money from the account may be used only to make grants under Section 441.0092, Government Code. The account is composed of:

(1) money required to be deposited to the credit of the account under this subsection; and

(2) donations made to the account.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 206, eff. January 1, 2012.

Sec. 504.617. TEXAS. IT'S LIKE A WHOLE OTHER COUNTRY LICENSE PLATES. (a) The department shall issue specialty license plates that include the trademarked Texas patch and the words "Texas. It's Like A Whole Other Country." The department shall design the license plates in consultation with the Texas Department of Economic Development.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the tourism account in the general revenue fund to finance the Texas Department of Economic Development's tourism activities.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.618. CONSERVATION LICENSE PLATES. (a) The department shall issue specialty license plates to support Parks and Wildlife Department activities. The department shall design the license plates in consultation with the Parks and Wildlife Department.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas parks and wildlife conservation and capital account established by Section 11.043, Parks and Wildlife Code. Money deposited in the Texas parks and wildlife conservation and capital account under this section is supplementary and is not income for the purposes of reducing general revenue appropriations to the Parks and Wildlife Department.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.619. TEXAS COMMISSION FOR THE DEAF AND HARD OF HEARING LICENSE PLATES. (a) The department shall issue specialty license plates in support of the Texas Commission for the Deaf and Hard of Hearing. The department shall design the license plates in

consultation with the Texas Commission for the Deaf and Hard of Hearing.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates:

(1) shall be deposited to the credit of the general revenue fund; and

(2) may be appropriated only to the Texas Commission for the Deaf and Hard of Hearing for direct services programs, training, and education.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.620. TEXANS CONQUER CANCER LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Texans Conquer Cancer." The department shall design the license plates in consultation with the Cancer Prevention and Research Institute of Texas.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the cancer prevention and research fund established by Section 102.201, Health and Safety Code.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 266 (H.B. 14), Sec. 6, eff. November 6, 2007.

Sec. 504.6201. CANCER OF UNKNOWN PRIMARY ORIGIN AWARENESS LICENSE PLATES. (a) The department shall issue specialty license plates to raise awareness of cancer of unknown primary origin. The license plates must include the words "A Fine Cause for Unknown Cancer." The department shall design the license plates in consultation with the Orange Grove Family Career and Community Leaders of America.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the cancer prevention and research fund established by Section 102.201, Health and Safety Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1005 (H.B. 4064), Sec. 1,

eff. September 1, 2009.

Sec. 504.621. SPECIAL OLYMPICS TEXAS LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Special Olympics Texas." The department shall design the license plates in consultation with Special Olympics Texas.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Special Olympics Texas account established by Section 533.018, Health and Safety Code.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.622. GIRL SCOUT LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Girl Scouts." The department shall design the license plates in consultation with the Girl Scout Councils of Texas.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Girl Scout account in the state treasury. Money in the account may be used by the Texas Higher Education Coordinating Board in making grants to benefit educational projects sponsored by the Girl Scout Councils of Texas.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.623. TEXAS YMCA. (a) The department shall issue specialty license plates in honor of the Young Men's Christian Association. The department shall design the license plates.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the YMCA account established by Section 7.025, Education Code, as added by Chapter 869, Acts of the 77th Legislature, Regular Session, 2001.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.625. TEXAS AGRICULTURAL PRODUCTS LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Go Texan" and the "Go Texan" logo of the Department of Agriculture. The department shall design the license plates in consultation with the commissioner of agriculture.

(b) After deduction of the department's administrative costs, the department shall deposit the remainder of the proceeds to the credit of the "Go Texan" partner program account established by Section 46.008, Agriculture Code.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.626. TEXAS CITRUS INDUSTRY. (a) The department shall issue specialty license plates in honor of the citrus industry in this state. The department shall design the license plates.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of an account in the general revenue fund that may be appropriated only to Texas A&M University--Kingsville to provide financial assistance to graduate students in the College of Agriculture and Human Sciences.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.627. WATERFOWL AND WETLAND CONSERVATION LICENSE PLATES. (a) The department shall issue specialty license plates including one or more graphic images supplied by the Parks and Wildlife Department. The department shall design the license plates in consultation with the Parks and Wildlife Department and any organization designated by it.

(b) After deducting the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of an account in the state treasury. Money in the account may be used only by the Parks and Wildlife Department to support the activities of a designated nonprofit organization whose primary purpose is the conservation of waterfowl and wetland.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.6275. SAVE OUR BEACHES LICENSE PLATES. (a) The department shall issue specialty license plates to support the coastal protection and improvement program.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the coastal protection and improvement fund established by Section 33.653, Natural Resources Code, to fund the cleaning, maintaining, nourishing, and protecting of state beaches.

Added by Acts 2009, 81st Leg., R.S., Ch. 625 (H.B. 1286), Sec. 1, eff. September 1, 2009.

Sec. 504.628. UNITED WE STAND LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "United We Stand" and include only the colors red, white, blue, and black.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas mobility fund.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.630. AIR FORCE ASSOCIATION LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Air Force Association." The department shall design the license plates in consultation with the Air Force Association of Texas.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the Air Force Association of Texas account in the state treasury. Money in the account may be used by the Texas Veterans Commission in making grants to benefit projects sponsored by the Air Force Association of Texas.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.631. TEXAS STATE RIFLE ASSOCIATION LICENSE PLATES.

(a) The department shall issue specialty license plates to honor the Texas State Rifle Association.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of an account in the general revenue fund that may be appropriated only to the Texas Cooperative Extension of The Texas A&M University System as follows:

(1) 50 percent to supplement existing and future scholarship programs supported by the Texas State Rifle Association; and

(2) 50 percent to support the 4-H Shooting Sports Program for youth.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 311 (H.B. 2045), Sec. 1, eff. September 1, 2007.

Sec. 504.632. URBAN FORESTRY LICENSE PLATES. (a) The department shall issue specialty license plates to benefit urban forestry. The department shall design the license plates in consultation with an organization described in Subsection (b).

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the urban forestry account in the state treasury. Money in the account may be used by the Texas Forest Service in making grants to support the activities of a nonprofit organization located in Texas whose primary purpose is to sponsor projects involving urban and community:

- (1) tree planting;
- (2) tree preservation; and
- (3) tree education programs.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.633. SHARE THE ROAD LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Share the Road" and the image of a bicycle or a bicycle with a rider. The department shall design the plates in consultation with the Texas Bicycle Coalition Education Fund.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the share the road account in the state treasury to be used only by the Texas Education Agency to support the activities of a designated nonprofit organization whose primary purpose is to promote bicyclist safety, education, and access through:

- (1) education and awareness programs; and
- (2) training, workshops, educational materials, and media events.

(c) Up to 25 percent of the amount in Subsection (b) may be used to support the activities of the nonprofit organization in marketing and promoting the share the road concept and license plates.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.635. EL PASO MISSION VALLEY LICENSE PLATES. (a) The department shall issue El Paso Mission Valley specialty license plates. The department shall design the license plates in consultation with the Socorro Mission Restoration Effort.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the El Paso Mission Restoration account in the state treasury. Money in the account may be used only by the Texas Historical Commission in making grants to be used for the purpose of the preservation and rehabilitation of the Socorro, San Elizario, and Ysleta Missions.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 301 (H.B. [1347](#)), Sec. 1, eff. September 1, 2013.

Sec. 504.636. COTTON BOLL LICENSE PLATES. (a) The department shall issue specialty license plates depicting a graphic image of a cotton boll. The department shall design the license plates in consultation with Texas Cotton Producers, Inc.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the general revenue fund for use only by the Texas Higher Education

Coordinating Board in making grants to benefit Texas Cotton Producers, Inc., for the sole purpose of providing scholarships to students who are pursuing a degree in an agricultural field related to the cotton industry while enrolled in an institution of higher education, as defined by Section 61.003, Education Code.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.637. DAUGHTERS OF THE REPUBLIC OF TEXAS LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Native Texan." The department shall design the license plates in consultation with the Daughters of the Republic of Texas.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the Daughters of the Republic of Texas account in the state treasury. Money in the account may be used only by the Texas Department of Economic Development or its successor agency in making grants to the Daughters of the Republic of Texas to be used only for the purpose of:

- (1) preserving Texas historic sites; or
- (2) funding educational programs that teach Texas history.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.638. KNIGHTS OF COLUMBUS LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Knights of Columbus" and the emblem of the Order of the Knights of Columbus. The department shall design the license plates in consultation with the Knights of Columbus.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the State Council Charities account in the general revenue fund. Money in the account may be used only by the Texas Education Agency to make grants to State Council Charities to carry out the purposes of that organization.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.639. TEXAS MUSIC LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Texas Music." The department shall design the license plates in consultation with the governor's office.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas Music Foundation account established by Section 7.027, Education Code.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.640. SPACE SHUTTLE COLUMBIA LICENSE PLATES. (a) The department shall issue Space Shuttle Columbia specialty license plates. The department shall design the license plates in consultation with the Aviation and Space Foundation of Texas.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund and may be used only by the Texas Aerospace Commission or its successor agency in making grants to benefit the Aviation and Space Foundation of Texas for the purposes of furthering aviation and space activities in Texas and providing Columbia Crew memorial scholarships to students.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.641. BE A BLOOD DONOR LICENSE PLATES. (a) The department shall issue Be a Blood Donor specialty license plates. The department shall design the license plates in consultation with the Gulf Coast Regional Blood Center in Houston.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the be a blood donor account under Section 162.016, Health and Safety Code.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.642. TEXAS COUNCIL OF CHILD WELFARE BOARDS LICENSE PLATES. (a) The department shall issue Texas Council of Child

Welfare Boards specialty license plates. The department shall design the license plates in consultation with the Texas Council of Child Welfare Boards, Inc.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of a special account for abused and neglected children established at the Department of Protective and Regulatory Services. Money in the account may be used only by the Department of Protective and Regulatory Services to fund programs and services supporting abused and neglected children under Section 264.004, Family Code.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 207, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 208, eff. January 1, 2012.

Sec. 504.644. MARINE MAMMAL RECOVERY LICENSE PLATES. (a) The department shall issue Marine Mammal Recovery specialty license plates. The department shall design the license plates in consultation with the Parks and Wildlife Department and the Texas Marine Mammal Stranding Network.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of an account in the state treasury. Money in the account may be used only by the Parks and Wildlife Department to support the activities of the Texas Marine Mammal Stranding Network in the recovery, rehabilitation, and release of stranded marine mammals. The Parks and Wildlife Department shall establish reporting and other mechanisms necessary to ensure that the money is spent for purposes for which it is dedicated.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.645. 4-H LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "To Make the Best Better," the words "Texas 4-H," and the 4-H symbol of the four-

leaf clover. The department shall design the license plates in consultation with the Texas 4-H and Youth Development Program.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund and shall be used only by the Texas Cooperative Extension of the Texas A&M University System for 4-H and Youth Development Programs and to support the Texas Cooperative Extension's activities related to 4-H and Youth Development Programs.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.646. SMILE TEXAS STYLE LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Smile Texas Style." The department shall design the license plates in consultation with the Texas Dental Association.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund to be used only by the Texas Department of Health in making grants to benefit the Texas Dental Association Financial Services for the sole use of providing charitable dental care.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.647. FIGHT TERRORISM LICENSE PLATES. (a) The department shall issue Fight Terrorism specialty license plates that include a pentagon-shaped border surrounding:

- (1) the date "9-11-01" with the likeness of the World Trade Center towers forming the "11";
- (2) the likeness of the United States flag; and
- (3) the words "Fight Terrorism."

(b) The fee shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 209, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 38, eff. September 1, 2013.

Sec. 504.648. GOD BLESS TEXAS AND GOD BLESS AMERICA LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "God Bless Texas" and "God Bless America."

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the share the road account in the state treasury and may only be used by the Texas Education Agency to support the Safe Routes to School Program of a designated statewide nonprofit organization whose primary purpose is to promote bicyclist safety, education, and access through:

- (1) education and awareness programs; and
- (2) training, workshops, educational materials, and media events.

(c) The fee for the license plates is \$40.

(d) Up to 25 percent of the amount in Subsection (b) may be used to support the activities of the nonprofit organization in marketing and promoting the Safe Routes to School Program and the God Bless Texas and God Bless America license plates.

(e) The Texas Education Agency may use money received under this section to secure funds available under federal matching programs for safe routes to school and obesity prevention.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 201 (S.B. 161), Sec. 1, eff. May 27, 2009.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 942 (H.B. 4099), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 968 (H.B. 3610), Sec. 1, see other Sec. 504.649.

Sec. 504.649. K9S4COPS LICENSE PLATES. (a) The department shall issue K9s4COPS specialty license plates. The department shall design the license plates in consultation with K9s4COPS.

(b) After deduction of the department's administrative costs,

the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund to be used only by the office of the governor in making grants to nonprofit organizations for the purpose of funding the purchase of police dogs by law enforcement agencies.

Added by Acts 2015, 84th Leg., R.S., Ch. 942 (H.B. 4099), Sec. 1, eff. January 1, 2016.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 968 (H.B. 3610), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 942 (H.B. 4099), Sec. 1, see other Sec. 504.649.

Sec. 504.649. TEXAS JUNETEENTH LICENSE PLATES. (a) The department shall issue Texas Juneteenth specialty license plates. The department shall design the license plates in consultation with Unity Unlimited Inc.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund to be used only by the Texas Historical Commission in making grants to Unity Unlimited Inc. for the purpose of promoting the celebration of Juneteenth in this state, provided that verification is submitted to the Texas Historical Commission demonstrating that Unity Unlimited Inc. continues to maintain its nonprofit status. If Unity Unlimited Inc. does not have nonprofit status at the time of the distribution of a grant, the grant shall be distributed to another nonprofit organization for the purpose of promoting the celebration of Juneteenth in this state.

Added by Acts 2015, 84th Leg., R.S., Ch. 968 (H.B. 3610), Sec. 1, eff. January 1, 2016.

Sec. 504.651. MARCH OF DIMES LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "March of Dimes." The department shall design the license plates in consultation with the March of Dimes Texas Chapter.

(b) After deduction of the department's administrative costs,

the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas Department of Health for use in the Birth Defects Registry.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.652. MASTER GARDENER LICENSE PLATES. (a) The department shall issue specialty license plates that include the seal of the Texas Master Gardener program of Texas Cooperative Extension.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of an account in the general revenue fund. Money in the account may be used only by Texas A&M AgriLife Extension for graduate student assistantships within the Texas Master Gardener program and to support Texas A&M AgriLife Extension's activities related to the Texas Master Gardener program.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 80, eff. September 1, 2013.

Sec. 504.654. EAGLE SCOUT LICENSE PLATES. (a) The department shall issue specialty license plates that bear a depiction of the Eagle Scout medal.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Eagle Scout account in the general revenue fund. Money in the account may be used only by the Texas Higher Education Coordinating Board in making grants to support projects sponsored by Boy Scout councils in this state. The Texas Higher Education Coordinating Board shall distribute grants under this section geographically as nearly as possible in proportion to the number of license plates issued under this section in each region of the state.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.6545. BOY SCOUT LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Boy Scouts of America." The department shall design the license plates in consultation with the Boy Scouts of America.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Boy Scout account in the general revenue fund. Money in the account may be used only by the Texas Higher Education Coordinating Board in making grants to benefit educational projects sponsored by Boy Scout councils in this state.

Added by Acts 2005, 79th Leg., Ch. 575 (H.B. 1480), Sec. 3, eff. September 1, 2005.

Sec. 504.656. TEXAS LIONS CAMP LICENSE PLATES. (a) The department shall issue Texas Lions Camp specialty license plates. The department shall design the license plates in consultation with the Texas Lions League for Crippled Children.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas Lions Camp account in the state treasury. Money in the account may be used only by the Parks and Wildlife Department to support the activities of a designated nonprofit organization that is accredited by the American Camping Association and is licensed by the Texas Department of Health and whose primary purpose is to provide, without charge, a camp for physically disabled, hearing or vision impaired, and diabetic children who reside in this state, regardless of race, religion, or national origin. The Parks and Wildlife Department shall establish reporting and other mechanisms necessary to ensure that the money is spent only for the purposes for which it is dedicated.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Sec. 504.657. HIGHER EDUCATION COORDINATING BOARD LICENSE PLATES. (a) The department shall issue specialty license plates for the Texas Higher Education Coordinating Board. The department shall design the license plates in consultation with the coordinating board.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the "College For Texans" campaign account in the general revenue fund for use only by the Texas Higher Education Coordinating Board for purposes of the campaign.

Added by Acts 2005, 79th Leg., Ch. 1181 (S.B. [1227](#)), Sec. 54, eff. September 1, 2005.

Sec. 504.658. INSURE TEXAS KIDS LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Insure Texas Kids."

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund and may be appropriated only to the Health and Human Services Commission to fund outreach efforts for public and private health benefit plans available for children.

Added by Acts 2007, 80th Leg., R.S., Ch. 1313 (S.B. [1032](#)), Sec. 1, eff. September 1, 2007.

Sec. 504.659. MEMBERS OF AMERICAN LEGION. (a) The department shall issue specialty license plates for members of the American Legion. The license plates shall include the words "Still Serving America" and the emblem of the American Legion. The department shall design the license plates in consultation with the American Legion.

(b) The fee for the license plates is \$30.

(c) After deduction of \$8 to reimburse the department for its administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the American Legion, Department of Texas account in the state treasury. Money in the account may be used only by the Texas Veterans Commission in making grants to the American Legion Endowment Fund for scholarships and youth programs sponsored by the American Legion, Department of Texas.

Transferred and redesignated from Transportation Code, Section 504.413 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec.

210, eff. January 1, 2012.

Sec. 504.660. SEXUAL ASSAULT AWARENESS LICENSE PLATES. (a) The department shall design and issue specialty license plates to support victims of sexual assault.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1135, Sec. 140(3), eff. September 1, 2013.

(c) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the sexual assault program fund established by Section 420.008, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1381 (S.B. 1616), Sec. 6, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 140(3), eff. September 1, 2013.

Sec. 504.661. MARINE CONSERVATION LICENSE PLATES. (a) After deduction of the department's administrative costs in accordance with Section 504.801, the remainder of the fees allocated under Section 504.801(e)(2)(A) from the sale of Marine Conservation plates shall be deposited to the credit of an account in the state treasury to be used by the Texas Parks and Wildlife Department to support the activities of Coastal Conservation Association Texas in the conservation of marine resources.

(b) The Texas Parks and Wildlife Department shall establish reporting and other mechanisms necessary to ensure that the money is spent for the purpose for which it is dedicated.

Added by Acts 2009, 81st Leg., R.S., Ch. 397 (H.B. 1749), Sec. 1, eff. September 1, 2009.

Redesignated from Transportation Code, Section 504.660 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(53), eff. September 1, 2013.

Sec. 504.662. CHOOSE LIFE LICENSE PLATES. (a) The department shall issue specially designed license plates that include the words

"Choose Life." The department shall design the license plates in consultation with the attorney general.

(b) After deduction of the department's administrative costs, the department shall deposit the remainder of the fee for issuance of license plates under this section in the state treasury to the credit of the Choose Life account established by Section 402.036, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 63 (S.B. 257), Sec. 1, eff. September 1, 2011.

Sec. 504.663. BIG BROTHERS BIG SISTERS LICENSE PLATES. (a) The department shall issue specialty license plates in recognition of the mentoring efforts of Big Brothers Big Sisters of America organizations operating in this state. The department shall design the license plates in consultation with a representative from a Big Brothers Big Sisters of America organization operating in this state and the attorney general.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Specialty License Plates General Account in the general revenue fund. Money deposited to the credit of the Specialty License Plates General Account under this section may be used only by the attorney general to provide grants to benefit Big Brothers Big Sisters of America organizations operating in this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 81, eff. September 1, 2013.

Sec. 504.664. FOUNDATION SCHOOL PROGRAM LICENSE PLATES. (a) The department shall issue specially designed license plates to benefit the Foundation School Program. The department shall design the license plates in consultation with the Texas Education Agency.

(b) After deduction of the department's administrative costs, the department shall deposit the remainder of the fee for issuance of license plates under this section to the credit of the foundation school fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1102 (H.B. 3677), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 504.663 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(56), eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 41 (S.B. 742), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 454 (H.B. 315), Sec. 1, see other Sec. 504.665.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 698 (H.B. 830), Sec. 1, see other Sec. 504.665.

Sec. 504.665. TEXAS MEDICAL CENTER LICENSE PLATES. (a) The department shall issue Texas Medical Center specialty license plates. The department shall design the license plates in consultation with Texas Medical Center.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of an account created by the comptroller in the manner provided by Section 504.6012(b). Money deposited to that account may be used only by the comptroller to provide grants to benefit Texas Medical Center and member institutions of Texas Medical Center.

Added by Acts 2015, 84th Leg., R.S., Ch. 41 (S.B. 742), Sec. 1, eff. September 1, 2015.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 454 (H.B. 315), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 41 (S.B. 742), Sec. 1, see other Sec. 504.665.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 698 (H.B. 830), Sec. 1, see other Sec. 504.665.

Sec. 504.665. IN GOD WE TRUST LICENSE PLATES. (a) The department shall issue specially designed license plates that include the words "In God We Trust."

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund and may be appropriated only to the Texas Veterans Commission.

Added by Acts 2015, 84th Leg., R.S., Ch. 454 (H.B. 315), Sec. 1, eff. January 1, 2016.

Text of section as added by Acts 2015, 84th Leg., R.S., Ch. 698 (H.B. 830), Sec. 1

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 41 (S.B. 742), Sec. 1, see other Sec. 504.665.

For text of section as added by Acts 2015, 84th Leg., R.S., Ch. 454 (H.B. 315), Sec. 1, see other Sec. 504.665.

Sec. 504.665. ALAMO LICENSE PLATES. (a) The department shall issue specialty license plates that include the image of the Alamo and the word "Remember" at the bottom of each plate.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of an account created by the comptroller in the manner provided by Section 504.6012(b). Money deposited to that account may be used only by the General Land Office as follows:

- (1) 75 percent of the money shall be used for the preservation of the Alamo; and
- (2) 25 percent of the money shall be used to enhance the Alamo visitor experience or to fund education programs about the Alamo.

Added by Acts 2015, 84th Leg., R.S., Ch. 698 (H.B. 830), Sec. 1, eff. January 1, 2016.

SUBCHAPTER H. ADMINISTRATIVE PROVISIONS RELATING TO SPECIALTY LICENSE PLATES FOR GENERAL DISTRIBUTION

Sec. 504.702. SPECIALTY LICENSE PLATES AUTHORIZED AFTER JANUARY 1, 1999. (a) This section applies only to specialty license plates that are authorized to be issued by a law that takes effect on or after January 1, 1999.

(b) The department may manufacture the specialty license plates

only if a request for manufacture of the license plates is filed with the department. The request must be:

(1) made in a manner prescribed by the department;

(2) filed before the fifth anniversary of the effective date of the law that authorizes the issuance of the specialty license plates; and

(3) accompanied by a deposit of \$8,000.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(21), eff. January 1, 2012.

(d) If a request is not filed with the department before the date specified by Subsection (b)(2), the law that authorizes the issuance of the specialty license plates expires on that date.

(e) The department may issue license plates under:

(1) Section 504.614 for a particular professional sports team only if \$8,000 has been deposited with the department for that sports team; or

(2) Section 504.615 for a particular institution of higher education or private college or university only if \$8,000 has been deposited with the department for that institution, college, or university.

(f) Money deposited with the department under Subsection (b)(3) or (e) shall be returned by the department to the person who made the deposit after 800 sets of plates have been issued.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 729 (H.B. 2627), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 211, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(21), eff. January 1, 2012.

SUBCHAPTER I. DEVELOPMENT OF NEW SPECIALTY LICENSE PLATES

Sec. 504.801. CREATION OF NEW SPECIALTY LICENSE PLATES BY THE DEPARTMENT. (a) The department may create new specialty license plates on its own initiative or on receipt of an application from a potential sponsor. A new specialty license plate created under this section must comply with each requirement of Section 504.702 unless

the license is created by the department on its own initiative. The department may permit a specialty license plate created under this section to be personalized. The redesign of an existing specialty license plate at the request of a sponsor shall be treated like the issuance of a new specialty license plate.

(b) Any nonprofit entity may submit an application to the department to sponsor a new specialty license plate. An application may nominate a state agency to receive funds derived from the issuance of the license plates. The application may also identify uses to which those funds should be appropriated.

(c) The department shall design each new specialty license plate in consultation with the sponsor, if any, that applied for creation of that specialty license plate. The department may refuse to create a new specialty license plate if the design might be offensive to any member of the public, if the nominated state agency does not consent to receipt of the funds derived from issuance of the license plate, if the uses identified for those funds might violate a statute or constitutional provision, or for any other reason established by rule. At the request of the sponsor, distribution of the license plate may be limited by the department.

(d) The fee for issuance of license plates created under this subchapter before November 19, 2009, is \$30 unless the department sets a higher fee. This subsection does not apply to a specialty license plate marketed and sold by a private vendor at the request of the specialty license plate sponsor.

(d-1) The fee for issuance of license plates created under this subchapter on or after November 19, 2009, is the amount established under Section 504.851.

(e) For each fee collected for a license plate issued by the department under this section:

(1) \$8 shall be used to reimburse the department for its administrative costs; and

(2) the remainder shall be deposited to the credit of:

(A) the specialty license plate fund, which is an account in the general revenue fund, if the sponsor nominated a state agency to receive the funds; or

(B) the Texas Department of Motor Vehicles fund if the sponsor did not nominate a state agency to receive the funds or if there is no sponsor.

(f) Subchapter D, Chapter 316, Government Code, and Section

403.095, Government Code, do not apply to fees collected under this subchapter.

(g) The department may report to the legislature at any time concerning implementation of this section. The report may include recommendations concerning the appropriations, by amount, state agency, and uses, that are necessary to implement the requests of sponsors.

(h) The department may vary the design of a license plate created under this section to accommodate or reflect its use on a motor vehicle other than a passenger car or light truck.

(i) The sponsor of a new specialty plate may not be a for-profit enterprise.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 38, eff. September 1, 2011.

Acts 2009, 81st Leg., R.S., Ch. 1381 (S.B. 1616), Sec. 7, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 212, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 39, eff. September 1, 2013.

Sec. 504.802. **MARKETING AND SALE BY PRIVATE VENDOR OF SPECIALTY LICENSE PLATES.** (a) A sponsor of a specialty license plate created under this subchapter may contract with the private vendor authorized under Subchapter J for the marketing and sale of the specialty license plate.

(b) The fee for issuance of a specialty license plate described by Subsection (a) is the amount established under Section 504.851(c).

(c) Notwithstanding any other law, from each fee received from the issuance of a specialty license plate marketed and sold by the private vendor under this section, the department shall:

(1) deduct the administrative costs described by Section 504.801(e)(1);

(2) deposit the portion of the fee for the sale of the plate that the state would ordinarily receive under the contract described by Section 504.851(a) to the credit of:

(A) the specialty license plate fund, if the sponsor nominated a state agency to receive the funds;

(B) the general revenue fund, if the sponsor did not nominate a state agency to receive the funds or if there is no sponsor; or

(C) for a license plate issued under Section 504.614, the public entity that provides or provided funds for the professional sports team's facility; and

(3) pay to the private vendor the remainder of the fee.

(d) A sponsor of a specialty license plate may reestablish its specialty license plate under Sections 504.601 and 504.702 and be credited its previous deposit with the department if a contract entered into by the sponsor under Subsection (a) terminates.

Added by Acts 2009, 81st Leg., R.S., Ch. 1381 (S.B. 1616), Sec. 8, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 213, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 214, eff. January 1, 2012.

SUBCHAPTER J. MARKETING OF SPECIALTY PLATES THROUGH PRIVATE VENDOR

Sec. 504.851. CONTRACT WITH PRIVATE VENDOR. (a) The department may enter into a contract with the private vendor whose proposal is most advantageous to the state, as determined from competitive sealed proposals that satisfy the requirements of this section, for the marketing and sale of:

(1) personalized license plates; or

(2) with the agreement of the private vendor, other specialty license plates authorized by Subchapters G and I.

(a-1) The department may not issue specialty, personalized, or souvenir license plates with background colors other than white, unless the plates are marketed and sold by the private vendor.

(a-2) Specialty license plates authorized for marketing and sale under Subsection (a) may be personalized and must include:

(1) specialty license plates created under Subchapters G and I on or after November 19, 2009; and

(2) at the request of the specialty license plate sponsor,

an existing specialty license plate created under Subchapters G and I before November 19, 2009.

(a-3) The department may contract with the private vendor for the vendor to:

(1) host all or some of the specialty license plates on the vendor's website;

(2) process the purchase of specialty license plates hosted on the vendor's website and pay any additional transaction cost; and

(3) share in the personalization fee for the license plates hosted on the vendor's website.

(b) The board by rule shall establish fees for the issuance or renewal of personalized license plates that are marketed and sold by the private vendor. Fees must be reasonable and not less than the greater of:

(1) the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs; or

(2) the amount established by Section 504.853(b).

(c) The board by rule shall establish the fees for the issuance or renewal of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized that are marketed and sold by the private vendor or hosted on the private vendor's website. The state's portion of the personalization fee may not be less than \$40 for each year issued. Other fees must be reasonable and not less than the amounts necessary to allow the department to recover all reasonable costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs. A fee established under this subsection is in addition to:

(1) the registration fee and any optional registration fee prescribed by this chapter for the vehicle for which specialty license plates are issued;

(2) any additional fee prescribed by this subchapter for the issuance of specialty license plates for that vehicle; and

(3) any additional fee prescribed by this subchapter for the issuance of personalized license plates for that vehicle.

(c-1) Subsections (b) and (c) do not apply to the sale at auction of a specialty plate or personalized specialty plate that is not used on a motor vehicle.

(d) At any time as necessary to comply with Subsection (b) or (c), the board may increase or decrease the amount of a fee established under the applicable subsection.

(e) The portion of a contract with a private vendor regarding the marketing and sale of personalized license plates is payable only from amounts derived from the collection of the fee established under Subsection (b). The portion of a contract with a private vendor regarding the marketing, hosting, and sale of souvenir license plates, specialty license plates, or souvenir or specialty license plates that are personalized under Section 504.102 is payable only from amounts derived from the collection of the fee established under Subsection (c).

(f) The department may approve new design and color combinations for personalized or specialty license plates that are marketed and sold by a private vendor under a contract entered into with the private vendor. Each approved license plate design and color combination remains the property of the department.

(g) The department may approve new design and color combinations for specialty license plates authorized by this chapter, including specialty license plates that may be personalized, that are marketed and sold by a private vendor under a contract entered into with the private vendor. Each approved license plate design and color combination remains the property of the department. Except as otherwise provided by this chapter, this subsection does not authorize:

(1) the department to approve a design or color combination for a specialty license plate that is inconsistent with the design or color combination specified for the license plate by the section of this chapter that authorizes the issuance of the specialty license plate; or

(2) the private vendor to market and sell a specialty license plate with a design or color combination that is inconsistent with the design or color combination specified by that section.

(g-1) The department may not:

(1) publish a proposed design or color combination for a specialty license plate for public comment in the Texas Register or otherwise, except on the department's website for a period not to

exceed 10 days; or

(2) restrict the background color, color combinations, or color alphanumeric license plate numbers of a specialty license plate, except as determined by the Department of Public Safety as necessary for law enforcement purposes.

(h) Subject to the limitations provided by Subsections (g) and (g-1), the department may disapprove a design, cancel a license plate, or require the discontinuation of a license plate design or color combination that is marketed, hosted, or sold by a private vendor under contract at any time if the department determines that the disapproval, cancellation, or discontinuation is in the best interest of this state or the motoring public.

(i) A contract entered into by the department with a private vendor under this section:

(1) must comply with any law generally applicable to a contract for services entered into by the department;

(2) must require the private vendor to render at least quarterly to the department periodic accounts that accurately detail all material transactions, including information reasonably required by the department to support fees that are collected by the vendor, and to regularly remit all money payable to the department under the contract; and

(3) may allow or require the private vendor to establish an electronic infrastructure coordinated and compatible with the department's registration system, by which motor vehicle owners may electronically send and receive applications, other documents, or required payments, and that, when secure access is necessary, can be electronically validated by the department.

(j) From amounts received by the department under the contract described by Subsection (a), the department shall deposit to the credit of the Texas Department of Motor Vehicles fund an amount sufficient to enable the department to recover its administrative costs for all license plates issued under this section, any payments to the vendor under the contract, and any other amounts allocated by law to the Texas Department of Motor Vehicles fund. To the extent that the disposition of other amounts received by the department is governed by another law, those amounts shall be deposited in accordance with the other law. Any additional amount received by the department under the contract shall be deposited to the credit of the general revenue fund.

(k) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(22), eff. January 1, 2012.

(l) A contract entered into with the private vendor shall provide for the department to recover all costs incurred by the department in implementing this section. Under the contract, the department may require the private vendor to reimburse the department in advance for:

(1) not more than one-half of the department's anticipated costs in connection with the contract; and

(2) the department's anticipated costs in connection with the introduction of a new specialty license plate.

(m) If the private vendor ceases operation:

(1) the program may be operated temporarily by the department under new agreements with the license plate sponsors until another vendor is selected and begins operation; and

(2) the private vendor's share of the revenue is deposited to the credit of the general revenue fund.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 754 (H.B. [2894](#)), Sec. 1, eff. June 17, 2005.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. [3097](#)), Sec. 2G.03, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1381 (S.B. [1616](#)), Sec. 9, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1381 (S.B. [1616](#)), Sec. 11(2), eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 215, eff. September 1, 2014.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 216, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 247(22), eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. [2202](#)), Sec. 40, eff. September 1, 2013.

Sec. 504.852. CONTRACT LIMITATIONS. (a) In a contract under Section 504.851, the department may not:

(1) unreasonably disapprove or limit any aspect of a private vendor's marketing and sales plan;

(2) unreasonably interfere with the selection, assignment, or management by the private vendor of the private vendor's employees, agents, or subcontractors; or

(3) require a private vendor to market and sell souvenir license plates, specialty license plates, or souvenir or specialty license plates personalized under Section 504.102.

(b) If a private vendor contracts to market and sell souvenir license plates, specialty license plates, or souvenir or specialty license plates personalized under Section 504.102, the initial term of the contract shall be for at least five years from the effective date of the contract. The contract may provide, with the agreement of the department and the private vendor, a second term at least equal in length to the initial term of the contract.

(c) Notwithstanding Subsection (b), a private vendor may not market and sell souvenir license plates, specialty license plates, or souvenir or specialty license plates personalized under Section 504.102 that compete directly for sales with another specialty license plate issued under this chapter unless the department and the sponsoring agency or organization of the other license plate approve.

Added by Acts 2005, 79th Leg., Ch. 754 (H.B. [2894](#)), Sec. 2, eff. June 17, 2005.

Sec. 504.853. SPECIALTY AND PERSONALIZED LICENSE PLATES ISSUED BEFORE NOVEMBER 19, 2009. (a) A specialty or personalized license plate issued before November 19, 2009, may be issued for a subsequent registration period only if the applicant submits an application and pays the required fee for the applicable registration period. A person who is issued a personalized license plate has first priority on that license plate for each subsequent registration period for which the person submits a new application for that plate.

(b) Unless the board by rule adopts a higher fee or the license plate is not renewed annually, the fee for issuance of a license plate issued before November 19, 2009, is:

(1) the fee provided for in Section 504.601 for a specialty license plate; and

(2) \$40 for a personalized license plate.

(c) A person who is issued a specialty or personalized license plate by the department before November 19, 2009, may:

(1) submit an application for the plate under Subsection (a) and pay the required fee for each subsequent registration period under Subsection (b); or

(2) purchase through the private vendor a license to display the alphanumeric pattern on a license plate for any term allowed by law.

(d) The department may not issue a replacement set of personalized license plates to the same person before the period set by rule unless the applicant for issuance of replacement plates pays an additional fee of \$30.

(e) Of each fee collected by the department under Subsection (b)(2):

(1) \$1.25 shall be used by the department to defray the cost of administering this section; and

(2) the remainder shall be deposited to the credit of the general revenue fund.

Added by Acts 2009, 81st Leg., R.S., Ch. 1381 (S.B. 1616), Sec. 10, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 217, eff. January 1, 2012.

Sec. 504.854. AUCTION. (a) The board by rule may provide for the private vendor to:

(1) sell at auction a license to display a unique alphanumeric pattern on a license plate for a period set by board rule;

(2) reserve an unissued alphanumeric pattern from the department for purposes of auctioning a license to display the pattern for a period set by board rule; and

(3) purchase from a customer an unexpired license to display an alphanumeric pattern for purposes of auction by the vendor.

(b) A license to display an alphanumeric pattern purchased under this section may be transferred to another person without payment of the fee provided by Section 504.855.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1296, Sec. 247(23), eff. January 1, 2012.

Added by Acts 2009, 81st Leg., R.S., Ch. 1381 (S.B. 1616), Sec. 10, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 218, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 247(23), eff. January 1, 2012.

Sec. 504.855. TRANSFERABILITY OF CERTAIN PATTERNS. The board by rule may:

(1) authorize a person who purchases a license to display an alphanumeric pattern for a period of five years or more to transfer the license; and

(2) establish a transfer fee to be distributed in accordance with the contract with the private vendor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 219, eff. January 1, 2012.

SUBCHAPTER K. TRANSFER AND REMOVAL OF LICENSE PLATES

Sec. 504.901. TRANSFER AND REMOVAL OF LICENSE PLATES. (a) On the sale or transfer of a motor vehicle to a dealer who holds a general distinguishing number issued under Chapter 503, the dealer shall remove each license plate issued for the motor vehicle. A person may use the license plates removed from a motor vehicle on a new motor vehicle purchased from a dealer after the person obtains the department's approval of a title and registration application.

(b) On the sale or transfer of a motor vehicle to a person who does not hold a general distinguishing number issued under Chapter 503, the seller may remove each license plate issued for the motor vehicle. The license plates may be transferred to another vehicle titled in the seller's name if the seller obtains:

(1) the department's approval of an application to transfer the license plates; and

(2) a new registration insignia for the motor vehicle.

(c) A license plate removed from a motor vehicle that is not

transferred to another motor vehicle must be disposed of in a manner specified by the department.

(d) To be eligible for transfer, license plates must be appropriate for the class of vehicle to which the plates are being transferred.

(e) This section applies only to:

(1) a passenger vehicle with a gross weight of 6,000 pounds or less; and

(2) a light truck with a gross weight of 10,000 pounds or less.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 220, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 82, eff. September 1, 2013.

SUBCHAPTER L. OFFENSES AND PENALTIES

Sec. 504.941. ANTIQUE VEHICLES; OFFENSE. (a) A person who violates Section 504.502 commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than \$5 or more than \$200.

(b) It is an affirmative defense to prosecution under this section that at the time of the offense the vehicle was en route to or from a location for the purpose of routine maintenance of the vehicle.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 221, eff. January 1, 2012.

Sec. 504.942. LOG LOADER VEHICLES; PENALTIES. A vehicle operated in violation of Section 504.506 is considered to be operated or moved while unregistered and is immediately subject to the applicable fees and penalties prescribed by this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 221, eff. January 1, 2012.

Sec. 504.943. OPERATION OF VEHICLE WITHOUT LICENSE PLATE. (a) Except as provided by Subsection (b), a person commits an offense if the person operates on a public highway, during a registration period, a motor vehicle that does not display two license plates that:

- (1) have been assigned by the department for the period; and
- (2) comply with department rules regarding the placement of license plates.

(b) A person commits an offense if the person operates on a public highway during a registration period a road tractor, motorcycle, trailer, or semitrailer that does not display a license plate that:

- (1) has been assigned by the department for the period; and
- (2) complies with department rules regarding the placement of license plates.

(c) This section does not apply to a dealer operating a vehicle as provided by law.

(d) A court may dismiss a charge brought under Subsection (a)(1) if the defendant:

- (1) remedies the defect before the defendant's first court appearance; and
- (2) pays an administrative fee not to exceed \$10.

(e) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 221, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 260 (H.B. 625), Sec. 1, eff. September 1, 2013.

Sec. 504.944. OPERATION OF VEHICLE WITH WRONG LICENSE PLATE. A person commits an offense if the person operates, or as the owner permits another to operate, on a public highway a motor vehicle that has attached to it a number plate or registration insignia issued for a different vehicle. An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

Transferred, redesignated and amended from Transportation Code,

Section 502.408 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 222, eff. January 1, 2012.

Sec. 504.945. WRONG, FICTITIOUS, ALTERED, OR OBSCURED LICENSE PLATE. (a) A person commits an offense if the person attaches to or displays on a motor vehicle a license plate that:

- (1) is issued for a different motor vehicle;
- (2) is issued for the vehicle under any other motor vehicle law other than by the department;
- (3) is assigned for a registration period other than the registration period in effect;
- (4) is fictitious;
- (5) has blurring or reflective matter that significantly impairs the readability of the name of the state in which the vehicle is registered or the letters or numbers of the license plate number at any time;
- (6) has an attached illuminated device or sticker, decal, emblem, or other insignia that is not authorized by law and that interferes with the readability of the letters or numbers of the license plate number or the name of the state in which the vehicle is registered; or
- (7) has a coating, covering, protective substance, or other material that:
 - (A) distorts angular visibility or detectability;
 - (B) alters or obscures one-half or more of the name of the state in which the vehicle is registered; or
 - (C) alters or obscures the letters or numbers of the license plate number or the color of the plate.

(b) Except as provided by Subsection (e), an offense under Subsection (a) is a misdemeanor punishable by a fine of not more than \$200, unless it is shown at the trial of the offense that the owner knowingly altered or made illegible the letters, numbers, and other identification marks, in which case the offense is a Class B misdemeanor.

(c) Subsection (a)(7) may not be construed to apply to:

- (1) a trailer hitch installed on a vehicle in a normal or customary manner;
- (2) a transponder, as defined by Section 228.057, that is attached to a vehicle in the manner required by the issuing

authority;

- (3) a wheelchair lift or wheelchair carrier that is attached to a vehicle in a normal or customary manner;
- (4) a trailer being towed by a vehicle; or
- (5) a bicycle or motorcycle rack that is attached to a vehicle in a normal or customary manner.

(d) A court may dismiss a charge brought under Subsection (a)(3), (5), (6), or (7) if the defendant:

- (1) remedies the defect before the defendant's first court appearance;
- (2) pays an administrative fee not to exceed \$10; and
- (3) shows that the vehicle was issued a plate by the department that was attached to the vehicle, establishing that the vehicle was registered for the period during which the offense was committed.

(e) An offense under Subsection (a)(4) is a Class B misdemeanor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 223, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 83, eff. September 1, 2013.

Sec. 504.946. DECEPTIVELY SIMILAR LICENSE PLATE. (a) A person commits an offense if the person:

- (1) manufactures, sells, or possesses a license plate deceptively similar to a license plate issued by the department; or
- (2) makes a copy or likeness of a license plate deceptively similar to a license plate issued by the department with intent to sell the copy or likeness.

(b) For the purposes of this section, a license plate is deceptively similar to a license plate issued by the department if it is not prescribed by the department but a reasonable person would presume that it was prescribed by the department.

(c) A district or county court, on application of the attorney general or of the district attorney or prosecuting attorney performing the duties of the district attorney for the district in which the court is located, may enjoin a violation or threatened

violation of this section on a showing that a violation has occurred or is likely to occur.

(d) It is an affirmative defense to a prosecution under this section that the license plate was produced pursuant to a licensing agreement with the department.

(e) An offense under this section is:

(1) a felony of the third degree if the person manufactures or sells a deceptively similar license plate; or

(2) a Class C misdemeanor if the person possesses a deceptively similar license plate, except that the offense is a Class B misdemeanor if the person has previously been convicted of an offense under this subdivision.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 84, eff. September 1, 2013.

Sec. 504.9465. LICENSE PLATE FLIPPER; OFFENSE. (a) In this section, "license plate flipper" means a manual, electronic, or mechanical device designed or adapted to be installed on a motor vehicle and:

(1) switch between two or more license plates for the purpose of allowing a motor vehicle operator to change the license plate displayed on the operator's vehicle; or

(2) hide a license plate from view by flipping the license plate so that the license plate number is not visible.

(b) A person commits an offense if the person with criminal negligence purchases or possesses a license plate flipper. An offense under this subsection is a Class B misdemeanor.

(c) A person commits an offense if the person with criminal negligence manufactures, sells, offers to sell, or otherwise distributes a license plate flipper. An offense under this subsection is a Class A misdemeanor.

Added by Acts 2013, 83rd Leg., R.S., Ch. 809 (S.B. [1757](#)), Sec. 1, eff. June 14, 2013.

Redesignated from Transportation Code, Section 504.946 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. [1296](#)), Sec. 21.001(57), eff. September 1, 2015.

Sec. 504.947. LICENSE PLATE FLIPPER; OFFENSE. (a) In this section "license plate flipper" means a manual, electric, or mechanical device designed or adapted to be installed on a motor vehicle and:

(1) switch between two or more license plates for the purpose of allowing a motor vehicle operator to change the license plate displayed on the operator's vehicle; or

(2) hide a license plate from view by flipping the license plate so that the license plate number is not visible.

(b) A person commits an offense if the person with criminal negligence uses, purchases, possesses, manufactures, sells, offers to sell, or otherwise distributes a license plate flipper. An offense under this subsection is a Class C misdemeanor, except that the offense is a Class B misdemeanor if the person has previously been convicted of an offense under this subsection.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 84, eff. September 1, 2013.

Sec. 504.948. GENERAL PENALTY. (a) A person commits an offense if the person violates a provision of this chapter and no other penalty is prescribed for the violation.

(b) An offense under Subsection (a) is a misdemeanor punishable by a fine of not less than \$5 or more than \$200.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 84, eff. June 14, 2013.

CHAPTER 520. MISCELLANEOUS PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 520.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of the Texas Department of Motor Vehicles.

(2) "Department" means the Texas Department of Motor Vehicles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2H.01, eff.

September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 85, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 41, eff. September 1, 2013.

Sec. 520.003. RULES; FEES; REFUNDS. (a) The department may adopt rules to administer this chapter, including rules that:

(1) waive the payment of fees if a dealer has gone out of business and the applicant can show that fees were paid to the dealer; and

(2) allow full and partial refunds for rejected titling and registration transactions.

(b) The department may collect from a person making a transaction with the department using the state electronic Internet portal project a fee set under Section 2054.2591, Government Code. All fees collected under this subsection shall be allocated to the department to provide for the department's costs associated with administering Section 2054.2591, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 30, eff. September 1, 2011.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 224, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 86, eff. September 1, 2013.

Sec. 520.004. DEPARTMENT RESPONSIBILITIES. The department has jurisdiction over the registration and titling of, and the issuance of license plates to, motor vehicles in compliance with the applicable statutes. The department by rule:

(1) shall provide services that are reasonable, adequate, and efficient;

(2) shall establish standards for uniformity and service quality for counties and dealers licensed under Section 520.005; and

(3) may conduct public service education campaigns related to the department's functions.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 30, eff. September 1, 2011.

Sec. 520.005. DUTY AND RESPONSIBILITIES OF COUNTY ASSESSOR-COLLECTOR. (a) Each county assessor-collector shall comply with Chapter 501.

(b) An assessor-collector who fails or refuses to comply with Chapter 501 is liable on the assessor-collector's official bond for resulting damages suffered by any person.

(c) Notwithstanding the requirements of Section 520.0071, the assessor-collector may license franchised and non-franchised motor vehicle dealers to title and register motor vehicles in accordance with rules adopted under Section 520.004. The county assessor-collector may pay a fee to a motor vehicle dealer independent of or as part of the portion of the fees that would be collected by the county for each title and registration receipt issued.

(d) Each county assessor-collector shall process a registration renewal through an online system designated by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Transferred, redesignated and amended from Transportation Code, Section 501.137 by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 31, eff. September 1, 2011.

Transferred, redesignated and amended from Transportation Code, Section 501.137 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 225, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 87, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 42, eff. September 1, 2013.

Sec. 520.006. COMPENSATION OF ASSESSOR-COLLECTOR.

Text of subsection effective until the effective date of rules adopted regarding the fee under Sec. 502.1911 in accordance with Acts 83rd Leg., R.S., Ch. 1287, Sec. 74(b).

(a) A county assessor-collector shall receive a fee of \$1.90

for each receipt issued under Chapter 502.

Text of subsection effective on the effective date of rules adopted regarding the fee under Sec. 502.1911 in accordance with Acts 83rd Leg., R.S., Ch. 1287, Sec. 74(b).

(a) A county assessor-collector shall retain an amount determined by the board under Section 502.1911 for each receipt issued under Chapter 502.

(a-1) A county assessor-collector collecting fees on behalf of a county that has been declared as a disaster area or that is closed for a protracted period of time as defined by the department for purposes of Section 501.023 or 502.040 may retain the commission for fees collected, but shall allocate the fees to the county declared as a disaster area or that is closed for a protracted period of time.

(b) A county assessor-collector who is compensated under this section shall pay the entire expense of issuing registration receipts and license plates under Chapter 501 or 502 from the compensation allowed under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.44(b), eff. Sept. 1, 1997. Transferred, redesignated and amended from Transportation Code, Section 502.109 by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 32, eff. September 1, 2011.

Transferred, redesignated and amended from Transportation Code, Section 502.109 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 226, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.015, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 88, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 43.

Sec. 520.0061. CONTRACTS BETWEEN COUNTIES. (a) A county tax assessor-collector, with approval of the commissioners court of the county by order, may enter into an agreement with one or more counties to perform mail-in or online registration or titling duties.

(b) A contract entered into under Subsection (a) may be terminated by a county that is a party to the contract.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 89, eff. September 1, 2013.

Sec. 520.007. COUNTY BRANCH OFFICES. (a) The commissioners court of a county may authorize the county assessor-collector to:

(1) establish a suboffice or branch office for vehicle registration at one or more locations in the county other than the county courthouse; or

(2) appoint a deputy to register vehicles in the same manner and with the same authority as though done in the office of the assessor-collector.

(b) The report of vehicles registered through a suboffice or branch office shall be made through the office of the county assessor-collector.

Transferred, redesignated and amended from Transportation Code, Section 502.111 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 227, eff. January 1, 2012.

Sec. 520.0071. DEPUTIES. (a) The board by rule shall prescribe:

(1) the classification types of deputies performing titling and registration duties;

(2) the duties and obligations of deputies;

(3) the type and amount of any bonds that may be required by a county assessor-collector for a deputy to perform titling and registration duties; and

(4) the fees that may be charged or retained by deputies.

(b) A county assessor-collector, with the approval of the commissioners court of the county, may deputize an individual or business entity to perform titling and registration services in accordance with rules adopted under Subsection (a).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 90, eff. September 1, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 44, eff. September 1, 2013.

Sec. 520.0093. LEASE OF COMPUTER EQUIPMENT. (a) The department may lease equipment and provide related services to a:

(1) county for the operation of the automated registration and titling system in addition to the equipment provided by the department at no cost to the county under a formula prescribed by the department; and

(2) deputy appointed under Section 520.0071.

(b) On the request of the tax assessor-collector of a county, the department may enter into an agreement with the commissioners court of that county under which the department leases additional equipment to the county for the use of the tax assessor-collector in operating the automated registration and titling system in that county.

(b-1) On the request of a deputy appointed under Section 520.0071, the department may enter into an agreement under which the department leases equipment to the deputy for the use of the deputy in operating the automated registration and titling system. The department may require the deputy to post a bond in an amount equal to the value of the equipment.

(c) A county may install equipment leased under this section at offices of the county or of an agent of the county. A deputy appointed under Section 520.0071 may install equipment leased under this section on the premises described in the agreement.

(d) Equipment leased under this section:

(1) remains the property of the department; and

(2) must be used primarily for the automated registration and titling system.

(e) Under the agreement, the department shall charge an amount not less than the amount of the cost to the department to provide the equipment and any related services under the lease. All money collected under the lease shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

Redesignated and amended from Transportation Code, Section 520.002 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 232, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 91, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 92, eff.

September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 45, eff. September 1, 2013.

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 520.015. INFORMATION CONSOLIDATION STUDY. (a) In consultation with the Department of Public Safety, the department shall conduct a study on the consolidation of similar information that is collected separately by each agency. The study should include recommendations that sufficiently protect the privacy of the public and the security and integrity of information provided.

(b) The study must be completed not later than September 1, 2012.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 234, eff. January 1, 2012.

Sec. 520.016. GENERAL PENALTY. (a) A person commits an offense if the person violates this subchapter in a manner for which a specific penalty is not provided.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 and not more than \$200.

(c) This section does not apply to a violation of Section 520.006 or a rule adopted under Section 520.0071.

Transferred, redesignated and amended from Transportation Code, Section 520.036 by Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 235, eff. January 1, 2012.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 93, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 46, eff. September 1, 2013.

SUBCHAPTER E. MOTOR VEHICLE TITLE SERVICES

Sec. 520.051. DEFINITIONS. In this subchapter:

(1) "Motor vehicle" has the meaning assigned by Section 501.002.

(2) "Motor vehicle title service" means any person that for compensation directly or indirectly assists other persons in obtaining title documents by submitting, transmitting, or sending applications for title documents to the appropriate government agencies.

(3) "Title documents" means motor vehicle title applications, motor vehicle registration renewal applications, motor vehicle mechanic's lien title applications, motor vehicle storage lien title applications, motor vehicle temporary registration permits, motor vehicle title application transfers occasioned by the death of the title holder, or notifications under Chapter 683 of this code or Chapter 70, Property Code.

(4) "Title service license holder" means a person who holds a motor vehicle title service license or a title service runner's license.

(5) "Title service record" means the written or electronic record for each transaction in which a motor vehicle title service receives compensation.

(6) "Title service runner" means any person employed by a licensed motor vehicle title service to submit or present title documents to the county tax assessor-collector.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 236, eff. January 1, 2012.

Sec. 520.052. APPLICABILITY. This subchapter applies to any motor vehicle title service operating in a county:

- (1) that has a population of more than 500,000; or
- (2) in which the commissioners court by order has adopted this subchapter.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.
Amended by Acts 2003, 78th Leg., ch. 448, Sec. 1, eff. Sept. 1, 2003.

Sec. 520.053. LICENSE REQUIRED. A person may not act as a motor vehicle title service or act as an agent for that business unless that person holds a license issued under this subchapter.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.054. GENERAL LICENSE APPLICATION REQUIREMENTS. (a) An applicant for a motor vehicle title service license must apply on a form prescribed by the county tax assessor-collector. The application form must be signed by the applicant and accompanied by the application fee.

(b) An application must include:

(1) the applicant's name, business address, and business telephone number;

(2) the name under which the applicant will do business;

(3) the physical address of each office from which the applicant will conduct business;

(4) a statement indicating whether the applicant has previously applied for a license under this subchapter, the result of the previous application, and whether the applicant has ever been the holder of a license under this subchapter that was revoked or suspended;

(5) information from the applicant as required by the county tax assessor-collector to establish the business reputation and character of the applicant;

(6) the applicant's federal tax identification number;

(7) the applicant's state sales tax number; and

(8) any other information required by rules adopted under this subchapter.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.055. APPLICATION REQUIREMENTS: CORPORATION. In addition to the information required in Section 520.054, an applicant for a motor vehicle title service license that intends to engage in business as a corporation shall submit the following information:

(1) the state of incorporation;

(2) the name, address, date of birth, and social security number of each of the principal owners and directors of the corporation;

(3) information about each officer and director as required by the county tax assessor-collector to establish the business

reputation and character of the applicant; and

(4) a statement indicating whether an employee, officer, or director has been refused a motor vehicle title service license or a title service runner's license or has been the holder of a license that was revoked or suspended.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.056. APPLICATION REQUIREMENTS: PARTNERSHIP. In addition to the information required in Section 520.054, a motor vehicle title service license applicant that intends to engage in business as a partnership shall submit an application that includes the following information:

(1) the name, address, date of birth, and social security number of each partner;

(2) information about each partner as required by the county tax assessor-collector to establish the business reputation and character of the applicant; and

(3) a statement indicating whether a partner or employee has been refused a motor vehicle title service license or a title service runner's license or has been the holder of a license that was revoked or suspended.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.057. RECORDS. (a) A holder of a motor vehicle title service license shall maintain records as required by this section on a form prescribed and made available by the county tax assessor-collector for each transaction in which the license holder receives compensation. The records shall include:

(1) the date of the transaction;

(2) the name, age, address, sex, driver's license number, and a legible photocopy of the driver's license for each customer; and

(3) the license plate number, vehicle identification number, and a legible photocopy of proof of financial responsibility for the motor vehicle involved.

(b) A motor vehicle title service shall keep:

(1) two copies of all records required under this section

for at least two years after the date of the transaction;

(2) legible photocopies of any documents submitted by a customer; and

(3) legible photocopies of any documents submitted to the county tax assessor-collector.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.058. INSPECTION OF RECORDS. A motor vehicle title service license holder or any of its employees shall allow an inspection of records required under Section 520.057 by a peace officer on the premises of the motor vehicle title service at any reasonable time to verify, check, or audit the records.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.059. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE.

(a) The county tax assessor-collector may deny, suspend, revoke, or reinstate a license issued under this subchapter.

(b) The county tax assessor-collector shall adopt rules that establish grounds for the denial, suspension, revocation, or reinstatement of a license and rules that establish procedures for disciplinary action. Procedures issued under this subchapter are subject to Chapter 2001, Government Code.

(c) A person whose license is revoked may not apply for a new license before the first anniversary of the date of the revocation.

(d) A license may not be issued under a fictitious name that is similar to or may be confused with the name of a governmental entity or that is deceptive or misleading to the public.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.060. LICENSE RENEWAL. (a) A license issued under this subchapter expires on the first anniversary of the date of issuance and may be renewed annually on or before the expiration date on payment of the required renewal fee.

(b) A person who is otherwise eligible to renew a license may renew an unexpired license by paying to the county tax assessor-

collector before the expiration date of the license the required renewal fee. A person whose license has expired may not engage in activities that require a license until the license has been renewed under this section.

(c) If a person's license has been expired for 90 days or less, the person may renew the license by paying to the county tax assessor-collector 1-1/2 times the required renewal fee.

(d) If a person's license has been expired for longer than 90 days but less than one year, the person may renew the license by paying to the county tax assessor-collector two times the required renewal fee.

(e) If a person's license has been expired for one year or longer, the person may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

(f) Notwithstanding Subsection (e), if a person was licensed in this state, moved to another state, and has been doing business in the other state for the two years preceding application, the person may renew an expired license. The person must pay to the county tax assessor-collector a fee that is equal to two times the required renewal fee for the license.

(g) Before the 30th day preceding the date on which a person's license expires, the county tax assessor-collector shall notify the person of the impending expiration. The notice must be in writing and sent to the person's last known address according to the records of the county tax assessor-collector.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.061. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter or a rule adopted by the county tax assessor-collector under this subchapter.

(b) An offense under this section is a Class A misdemeanor.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.062. INJUNCTION. (a) A district attorney of the county in which the motor vehicle title service is located may bring an action to enjoin the operation of a motor vehicle title service if

the motor vehicle title service license holder or a runner of the motor vehicle title service while in the scope of the runner's employment is convicted of more than one offense under this subchapter.

(b) If the court grants relief under Subsection (a), the court may:

(1) enjoin the person from maintaining or participating in the business of a motor vehicle title service for a period of time as determined by the court; or

(2) declare the place where the person's business is located to be closed for any use relating to the business of the motor vehicle title service for as long as the person is enjoined from participating in that business.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Sec. 520.063. EXEMPTIONS. The following persons and their agents are exempt from the licensing and other requirements established by this subchapter:

(1) a franchised motor vehicle dealer or independent motor vehicle dealer who holds a general distinguishing number issued by the department under Chapter 503;

(2) a vehicle lessor holding a license issued by the Motor Vehicle Board under Chapter 2301, Occupations Code, or a trust or other entity that is specifically not required to obtain a lessor license under Section 2301.254(a) of that code; and

(3) a vehicle lease facilitator holding a license issued by the Motor Vehicle Board under Chapter 2301, Occupations Code.

Added by Acts 1999, 76th Leg., ch. 1478, Sec. 2, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.832, eff. Sept. 1, 2003.

SUBTITLE B. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CARDS

CHAPTER 521. DRIVER'S LICENSES AND CERTIFICATES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 521.001. DEFINITIONS. (a) In this chapter:

(1) "Correctional facility" means:

(A) a place described by Section 1.07(a)(14), Penal

Code; or

(B) a secure correctional facility or secure detention facility, as defined by Section 51.02, Family Code.

(1-a) "Department" means the Department of Public Safety.

(2) "Director" means the public safety director.

(3) "Driver's license" means an authorization issued by the department for the operation of a motor vehicle. The term includes:

(A) a temporary license or instruction permit; and

(B) an occupational license.

(3-a) "Federal judge" means:

(A) a judge of a United States court of appeals;

(B) a judge of a United States district court;

(C) a judge of a United States bankruptcy court; or

(D) a magistrate judge of a United States district court.

(4) "Gross combination weight rating" has the meaning assigned by Section 522.003.

(5) "Gross vehicle weight rating" has the meaning assigned by Section 522.003.

(6) "License" means an authorization to operate a motor vehicle that is issued under or granted by the laws of this state. The term includes:

(A) a driver's license;

(B) the privilege of a person to operate a motor vehicle regardless of whether the person holds a driver's license; and

(C) a nonresident's operating privilege.

(6-a) "Motorcycle" includes an enclosed three-wheeled passenger vehicle that:

(A) is designed to operate with three wheels in contact with the ground;

(B) has a single, completely enclosed, occupant compartment; and

(C) at a minimum, is equipped with:

(i) seats that are certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 207, 49 C.F.R. Section 571.207;

(ii) a steering wheel used to maneuver the vehicle;

(iii) a propulsion unit located in front of or behind the enclosed occupant compartment;

(iv) a seat belt for each vehicle occupant certified by the manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 209, 49 C.F.R. Section 571.209;

(v) a windshield and one or more windshield wipers certified by the manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 205, 49 C.F.R. Section 571.205, and Federal Motor Vehicle Safety Standard No. 104, 49 C.F.R. Section 571.104;

(vi) a vehicle structure certified by the vehicle manufacturer to meet the requirements of Federal Motor Vehicle Safety Standard No. 216, 49 C.F.R. Section 571.216, if:

(a) the unladen weight of the vehicle is more than 900 pounds; or

(b) the unladen weight of the vehicle is not more than 900 pounds and the vehicle has a maximum speed capability of more than 40 miles per hour; and

(vii) an active tilt control system if the unladen weight of the vehicle is not more than 900 pounds and the vehicle has a maximum speed capability of 40 miles per hour or less.

(7) "Nonresident" means a person who is not a resident of this state.

(7-a) "Parole facility" means a place described by Section 508.118 or 508.119, Government Code.

(8) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(8-a) "State judge" means:

(A) the judge of an appellate court, a district court, a county court at law, or a statutory probate court of this state; or

(B) an associate judge appointed under Chapter 201, Family Code, Chapter 54A, Government Code, or Chapter 574, Health and Safety Code.

(9) "Image comparison technology" means any technology that is used to compare facial images, thumbprints, or fingerprints.

(b) A word or phrase that is not defined by this chapter but is defined by Subtitle C has the meaning in this chapter that is assigned by that subtitle.

(c) The department by rule may define types of vehicles that are "motorcycles" for the purposes of this chapter, in addition to those defined under Subsection (a)(6-a). The Texas Department of

Motor Vehicles by rule may define the types of vehicles that are "motorcycles" for the purposes of Chapters 501, 502, and 503. This subsection applies only to vehicles manufactured by a manufacturer licensed under Chapter 2301, Occupations Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1108 (H.B. 2337), Sec. 3, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 316 (H.B. 598), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 722 (S.B. 129), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 967 (H.B. 3599), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 13A.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1288 (H.B. 2161), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1391 (S.B. 1967), Sec. 2, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 521 (H.B. 1080), Sec. 1, eff. June 16, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1217 (S.B. 1756), Sec. 1, eff. June 19, 2015.

Sec. 521.002. CONVENIENCE TO PUBLIC. The department shall implement its duties under this chapter in the manner that provides the greatest convenience to the public.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.003. ENROLLMENT AND ATTENDANCE VERIFICATION. The Texas Education Agency shall design a standard form for use by public and private schools to verify a student's enrollment and attendance for purposes of this chapter. The form must be approved by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 2003, 78th Leg., ch. 1276, Sec. 16.003, eff. Sept. 1, 2003.

Sec. 521.004. PENAL CODE REFERENCES. In this chapter:

(1) a reference to an offense under Section 49.04, Penal Code, includes an offense under Article 67011-1, Revised Statutes, as that law existed immediately before September 1, 1994;

(2) a reference to an offense under Section 49.07, Penal Code:

(A) means only an offense under that section involving the operation of a motor vehicle; and

(B) includes an offense under Section 67011-1, Revised Statutes, as that law existed immediately before September 1, 1994; and

(3) a reference to an offense under Section 49.08, Penal Code:

(A) means only an offense under that section involving the operation of a motor vehicle; and

(B) includes an offense under Section 19.05(a)(2), Penal Code, as that law existed immediately before September 1, 1994.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.005. RULEMAKING AUTHORITY. The department may adopt rules necessary to administer this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.72, eff. Sept. 1, 1997.

Sec. 521.006. ADVERTISING IN DRIVER'S HANDBOOK AND DRIVER'S LICENSE MAILINGS. (a) Except as provided by Subsection (c), the department may sell advertising for inclusion in:

(1) any driver's handbook that the department publishes; and

(2) any mailing the department makes in connection with a driver's license.

(b) The department shall deposit the proceeds from the advertising to the credit of the driver's license administration advertising account. The driver's license administration advertising

account is an account in the general revenue fund that may be appropriated only for the purpose of administration of this chapter.

(c) The department may not include in the driver's handbook or a driver's license mailing advertising for an alcoholic beverage or a product promoting alcoholic beverages.

Added by Acts 1999, 76th Leg., ch. 1258, Sec. 1, eff. Aug. 30, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 154 (S.B. 1084), Sec. 1, eff. May 21, 2007.

Sec. 521.0061. ADVERTISING INSIDE DRIVER'S LICENSE OFFICES.

The department may enter into an agreement with a public or private entity for a digital message display system to promote department information or news items of general interest in a publicly accessible area of a driver's license office. For the purpose of funding the system, a portion of the information displayed on the system may consist of digital advertisements. The department may review and has the right to reject any proposed advertising to be displayed on a system.

Added by Acts 2015, 84th Leg., R.S., Ch. 485 (H.B. 1542), Sec. 1, eff. June 16, 2015.

Sec. 521.007. TEMPORARY VISITOR STATIONS. (a) The department shall designate as temporary visitor stations certain driver's license offices.

(b) A driver's license office designated as a temporary visitor station under this section must have at least two staff members who have completed specialized training on the temporary visitor issuance guide published by the department.

(c) A driver's license office designated as a temporary visitor station shall provide information and assistance to other driver's license offices in the state.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.01, eff. September 28, 2011.

Sec. 521.008. VOLUNTARY CONTRIBUTION TO DONOR REGISTRY. (a) When a person applies for an original or renewal driver's license under this chapter, the person may contribute \$1 or more to the nonprofit organization administering the Glenda Dawson Donate Life-Texas Registry under Chapter 692A, Health and Safety Code.

(b) The department shall:

(1) include space on each application for a new or renewal driver's license that allows a person applying for a new or renewal driver's license to indicate that the person is voluntarily contributing \$1 to the organization; and

(2) provide an opportunity for the person to contribute \$1 to the organization during the application process for a new or renewal driver's license on the department's Internet website.

(c) The department shall remit any contribution made under this section to the comptroller for deposit to the credit of the Glenda Dawson Donate Life-Texas Registry fund created under Section 692A.020, Health and Safety Code. Before sending the money to the comptroller, the department may deduct money equal to the amount of reasonable expenses for administering this section, not to exceed five percent of the money collected under this section.

(d) The organization shall submit an annual report to the director of the department that includes the total dollar amount of contributions received by the organization under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 121 (S.B. 1815), Sec. 3, eff. May 18, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1261 (H.B. 3283), Sec. 3, eff. January 1, 2016.

Sec. 521.009. PROGRAM REGARDING THE PROVISION OF RENEWAL AND DUPLICATE DRIVER'S LICENSE AND OTHER IDENTIFICATION CERTIFICATE SERVICES. (a) The department may establish a program for the provision of renewal and duplicate driver's license, election identification certificate, and personal identification certificate services in counties that enter into an agreement with the department under Subsection (a-1).

(a-1) Under the program, the department may enter into an agreement with the commissioners court of a county to permit county

employees to provide services at a county office relating to the issuance of renewal and duplicate driver's licenses, election identification certificates, and personal identification certificates, including:

- (1) taking photographs;
- (2) administering vision tests;
- (3) updating a driver's license, election identification certificate, or personal identification certificate to change a name, address, or photograph;
- (4) distributing and collecting information relating to donations under Section 521.401;
- (5) collecting fees; and
- (6) performing other basic ministerial functions and tasks necessary to issue renewal and duplicate driver's licenses, election identification certificates, and personal identification certificates.

(b) An agreement under Subsection (a-1) may not include training to administer an examination for driver's license applicants under Subchapter H.

(c) A participating county must remit to the department for deposit as required by this chapter fees collected for the issuance of a renewal or duplicate driver's license or personal identification certificate.

(d) The commissioners court of a county may provide services through any consenting county office. A county office may decline or consent to provide services under this section by providing written notice to the commissioners court.

(e) The department shall provide all equipment and supplies necessary to perform the services described by Subsection (a-1), including network connectivity.

(f) The department shall adopt rules to administer this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1233 (S.B. [1729](#)), Sec. 1, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1217 (S.B. [1756](#)), Sec. 2, eff. June 19, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1217 (S.B. [1756](#)), Sec. 3, eff. June 19, 2015.

Redesignated from Transportation Code, Section 521.008 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(58), eff. September 1, 2015.

Sec. 521.010. VOLUNTARY CONTRIBUTION TO FUND FOR VETERANS' ASSISTANCE. (a) When a person applies for an original or renewal driver's license or personal identification certificate under this chapter, the person may make a voluntary contribution in any amount to the fund for veterans' assistance established by Section 434.017, Government Code.

(b) The department shall:

(1) include space on the first page of each application for an original or renewal driver's license or personal identification certificate that allows a person applying for an original or renewal driver's license or personal identification certificate to indicate the amount that the person is voluntarily contributing to the fund; and

(2) provide an opportunity for the person to contribute to the fund during the application process for an original or renewal driver's license or personal identification certificate on the department's Internet website.

(c) The department shall send any contribution made under this section to the comptroller for deposit in the state treasury to the credit of the fund for veterans' assistance not later than the 14th day of each month. Before sending the money to the fund, the department may deduct money equal to the amount of reasonable expenses for administering this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 868 (H.B. 633), Sec. 2, eff. September 1, 2013.

Redesignated from Transportation Code, Section 521.008 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(59), eff. September 1, 2015.

Sec. 521.011. SERVICES INFORMATION FOR VETERANS. The department and the Texas Veterans Commission shall jointly develop for veterans who receive a driver's license or personal identification certificate with a veteran's designation a one-page

informational paper about veterans services provided by this state.

Added by Acts 2015, 84th Leg., R.S., Ch. 479 (S.B. 1308), Sec. 1, eff. September 1, 2015.

SUBCHAPTER B. GENERAL LICENSE REQUIREMENTS

Sec. 521.021. LICENSE REQUIRED. A person, other than a person expressly exempted under this chapter, may not operate a motor vehicle on a highway in this state unless the person holds a driver's license issued under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.022. RESTRICTIONS ON OPERATORS OF CERTAIN SCHOOL BUSES. (a) A person under 18 years of age may not operate a school bus for the transportation of students.

(b) A person who is 18 years of age or older may not operate a school bus unless the person holds an appropriate class of driver's license for the vehicle being operated.

(c) A person may not operate a school bus for the transportation of students unless the person meets the mental and physical capability requirements the department establishes by rule and has passed an examination approved by the department to determine the person's mental and physical capabilities to operate a school bus safely. A physician, advanced practice nurse, or physician assistant may conduct the examination. An ophthalmologist, optometrist, or therapeutic optometrist may conduct the part of the examination relating to the person's vision. Each school bus operator must pass the examination annually.

(d) A person may not operate a school bus for the transportation of students unless the person's driving record is acceptable according to minimum standards adopted by the department. A check of the person's driving record shall be made with the department annually. The minimum standards adopted by the department must provide that a person's driving record is not acceptable if the person has been convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, within the 10-year period preceding the date of the check of the person's driving record.

(e) A person may not operate a school bus for the

transportation of students unless the person is certified in school bus safety education or has enrolled in a school bus safety education class under provisions adopted by the department. Effective on the date and under provisions determined by the department, a school bus operator must hold a card that states that the operator is enrolled in or has completed a driver training course approved by the department in school bus safety education. The card is valid for three years.

(f) Before a person is employed to operate a school bus to transport students, the employer must obtain a criminal history record check. A school district, school, service center, or shared services arrangement, or a commercial transportation company under contract with a school district, that obtains information that a person has been convicted of a felony or misdemeanor involving moral turpitude may not employ the person to drive a school bus on which students are transported unless the employment is approved by the board of trustees of the school district or the board's designee.

(g) This section does not affect the right of an otherwise qualified person with a hearing disability to be licensed, certified, and employed as a bus operator for vehicles used to transport hearing-impaired students.

(h) This section does not apply to the operation of a vehicle owned by a public institution of higher education to transport students of a school district that operates within that institution if:

- (1) the person operating the vehicle is approved by the institution to operate the vehicle; and
- (2) the transportation is for a special event, including a field trip.

(i) For purposes of this section, "school bus" includes a school activity bus as defined by Section 541.201.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.73(a), (b), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1438, Sec. 7, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 663, Sec. 3, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 786, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 923 (H.B. [3190](#)), Sec. 1, eff. September 1, 2007.

Sec. 521.023. JUNIOR COLLEGE BUSES. (a) A person who is 18 years of age or older and who is licensed by the department to operate a motor vehicle as a school bus may operate the motor vehicle for the transportation of junior college students and employees to and from school or official school activities.

(b) A school bus operated by a junior college may also be used to transport public school students if it is convenient. If students of a local public school district are transported to and from school on a bus operated by a junior college and the operator is under 21 years of age, the selection of the operator must be approved by the principal of the public school whose students are transported on that bus.

(c) This section does not apply to the operator of a vehicle operated under a registration certificate issued under Chapter 643.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.74, eff. Sept. 1, 1997.

Sec. 521.024. RESTRICTIONS ON CERTAIN COMMON CARRIERS. (a) A person under 18 years of age may not operate a motor vehicle while that vehicle is in use as a public or common carrier of persons unless the person is licensed to operate the vehicle.

(b) A person may not operate a taxicab unless the person is at least 18 years of age.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.025. LICENSE TO BE CARRIED AND EXHIBITED ON DEMAND; CRIMINAL PENALTY. (a) A person required to hold a license under Section 521.021 shall:

(1) have in the person's possession while operating a motor vehicle the class of driver's license appropriate for the type of vehicle operated; and

(2) display the license on the demand of a magistrate, court officer, or peace officer.

(b) A peace officer may stop and detain a person operating a motor vehicle to determine if the person has a driver's license as

required by this section.

(c) A person who violates this section commits an offense. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$200, except that:

(1) for a second conviction within one year after the date of the first conviction, the offense is a misdemeanor punishable by a fine of not less than \$25 or more than \$200;

(2) for a third or subsequent conviction within one year after the date of the second conviction the offense is a misdemeanor punishable by:

(A) a fine of not less than \$25 or more than \$500;

(B) confinement in the county jail for not less than 72 hours or more than six months; or

(C) both the fine and confinement; and

(3) if it is shown on the trial of the offense that at the time of the offense the person was operating the motor vehicle in violation of Section 601.191 and caused or was at fault in a motor vehicle accident that resulted in serious bodily injury to or the death of another person, an offense under this section is a Class A misdemeanor.

(d) It is a defense to prosecution under this section if the person charged produces in court a driver's license:

(1) issued to that person;

(2) appropriate for the type of vehicle operated; and

(3) valid at the time of the arrest for the offense.

(e) The judge of each court shall report promptly to the department each conviction obtained in the court under this section.

(f) The court may assess a defendant an administrative fee not to exceed \$10 if a charge under this section is dismissed because of the defense listed under Subsection (d).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1027 (H.B. 1623), Sec. 4, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 195 (S.B. 1608), Sec. 1, eff. September 1, 2011.

Sec. 521.026. DISMISSAL OF EXPIRED LICENSE CHARGE. (a) A

judge may dismiss a charge of driving with an expired license if the defendant remedies this defect within 20 working days or before the defendant's first court appearance date, whichever is later.

(b) The judge may assess the defendant an administrative fee not to exceed \$20 when the charge of driving with an expired driver's license is dismissed under Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1027 (H.B. 1623), Sec. 5, eff. September 1, 2007.

Sec. 521.027. PERSONS EXEMPT FROM LICENSE REQUIREMENT. The following persons are exempt from the license requirement imposed under this chapter:

(1) a person in the service of the state military forces or the United States while the person is operating an official motor vehicle in the scope of that service;

(2) a person while the person is operating a road machine, farm tractor, or implement of husbandry on a highway, unless the vehicle is a commercial motor vehicle under Section 522.003;

(3) a nonresident on active duty in the armed forces of the United States who holds a license issued by the person's state or Canadian province of residence; and

(4) a person who is the spouse or dependent child of a nonresident exempt under Subdivision (3) and who holds a license issued by the person's state or Canadian province of residence.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.028. EFFECT OF MILITARY SERVICE ON LICENSE REQUIREMENT. (a) Unless the license is suspended, canceled, or revoked as provided by law, a driver's license issued by this state that is held by a person who is on active duty in the armed forces of the United States and is absent from this state, notwithstanding the expiration date of the license, remains valid while the person is absent from this state. If the person is honorably discharged from active duty, the license remains valid until the earlier of:

(1) the 91st day after the date of the discharge; or

(2) the date on which the person returns to this state.

(b) A person on active duty in the armed forces of the United States who has in the person's possession a license issued in a foreign country by the armed forces of the United States may operate a motor vehicle in this state for a period of not more than 90 days after the date on which the person returns to the United States.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.029. OPERATION OF MOTOR VEHICLE BY NEW STATE RESIDENTS. (a) A person who enters this state as a new resident may operate a motor vehicle in this state for no more than 90 days after the date on which the person enters this state if the person:

(1) is 16 years of age or older; and

(2) has in the person's possession a driver's license issued to the person by the person's state or country of previous residence.

(b) If a person subject to this section is prosecuted for operating a motor vehicle without a driver's license, the prosecution alleges that the person has resided in this state for more than 90 days, and the person claims to have been covered by Subsection (a), the person must prove by the preponderance of the evidence that the person has not resided in this state for more than 90 days.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 13.01, eff. June 19, 2009.

Sec. 521.030. RECIPROCAL LICENSE. (a) A nonresident who is 18 years of age or older and who has in the person's possession a license issued to the person by the person's state or country of residence that is similar to a Class A or Class B driver's license issued under this chapter is not required to hold a Class A or Class B driver's license issued under this chapter if that state or country of residence recognizes such a license issued by this state and exempts the holder from securing a license issued by the state or foreign country.

(b) A nonresident who is 16 years of age or older and who has

in the person's possession a driver's license issued to the person by the person's state or Canadian province of residence may operate a type of motor vehicle that is permitted to be operated with a Class C or Class M driver's license in this state if the license held by the nonresident permits operation of that type of vehicle in the person's state or province of residence.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.0305. AGREEMENTS WITH FOREIGN COUNTRIES. (a) The department may enter into an agreement with a foreign country under which:

(1) a person who is 18 years of age or older and who has in the person's possession a license issued to the person by that country that is similar to a Class C driver's license issued under this chapter may receive a Class C driver's license issued in a priority manner under this chapter; and

(2) a person who is 18 years of age or older and who has in the person's possession a Class C driver's license issued under this chapter may receive a license similar to a Class C driver's license issued in a priority manner from the foreign country.

(b) The department may only enter into an agreement with a country under Subsection (a) if:

(1) the foreign country and this state are both parties to a reciprocity agreement in driver licensing; and

(2) the foreign country's motor vehicle laws, ordinances, and administrative rules and regulations are similar to those of this state, as determined by the department.

(c) A person who is not a citizen of the United States must present to the department documentation issued by the United States agency responsible for citizenship and immigration authorizing the person to be in the United States before the person may be issued a driver's license under an agreement under this section.

Added by Acts 2005, 79th Leg., Ch. 1228 (H.B. [1137](#)), Sec. 1, eff. June 18, 2005.

Sec. 521.031. LICENSE FROM OTHER AUTHORITY. A person holding a driver's license under this chapter is not required to obtain a

license for the operation of a motor vehicle from another state authority or department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.032. ENHANCED DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE. (a) The department may issue an enhanced driver's license or personal identification certificate for the purposes of crossing the border between this state and Mexico to an applicant who provides the department with proof of United States citizenship, identity, and state residency. If the department issues an enhanced driver's license or personal identification certificate, the department shall continue to issue a standard driver's license and personal identification certificate and offer each applicant the option of receiving the standard or enhanced driver's license or personal identification certificate.

(b) The department shall implement a one-to-many biometric matching system for the enhanced driver's license or personal identification certificate. An applicant for an enhanced driver's license or personal identification certificate must submit a biometric identifier as designated by the department, which, notwithstanding any other law, may be used only to verify the identity of the applicant for purposes relating to implementation of the border crossing initiative established by this section. An applicant must sign a declaration acknowledging the applicant's understanding of the one-to-many biometric match.

(c) The enhanced driver's license or personal identification certificate must include reasonable security measures to protect the privacy of the license or certificate holders, including reasonable safeguards to protect against the unauthorized disclosure of information about the holders. If the enhanced driver's license or personal identification certificate includes a radio frequency identification chip or similar technology, the department shall ensure that the technology is encrypted or otherwise secure from unauthorized information access.

(d) The requirements of this section are in addition to any other requirements imposed on applicants for a driver's license or personal identification certificate. The department shall adopt rules necessary to implement this section. The department shall

periodically review technological innovations related to the security of driver's licenses and personal identification certificates and amend the rules as appropriate, consistent with this section, to protect the privacy of driver's license and personal identification certificate holders.

(e) The department may set a fee for issuance of an enhanced driver's license or personal identification certificate in a reasonable amount necessary to implement and administer this section.

(f) The department may enter into a memorandum of understanding with any federal agency for the purposes of facilitating the crossing of the border between this state and Mexico. The department may enter into an agreement with Mexico, to the extent permitted by federal law, to implement a border crossing initiative authorized by this section. The department shall implement a statewide education campaign to educate residents of this state about the border crossing initiative. The campaign must include information on:

(1) the forms of travel for which the existing and enhanced driver's license and personal identification certificate can be used; and

(2) relevant dates for implementation of laws that affect identification requirements at the border with Mexico.

(g) A person may not sell or otherwise disclose biometric information accessed from an enhanced driver's license or any information from an enhanced driver's license radio frequency identification chip or similar technology to another person or an affiliate of the person. This subsection does not apply to a financial institution described by Section 521.126(e).

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 21.01, eff. September 1, 2007.

SUBCHAPTER C. DEPARTMENT LICENSE RECORDS

Sec. 521.041. APPLICATION RECORDS; RECORDS OF DENIAL, SUSPENSION, CANCELLATION, OR REVOCATION. (a) The department shall record each driver's license application received by the department.

(b) The department shall maintain suitable indexes, in alphabetical or numerical order, that contain:

- (1) each denied application and the reasons for the denial;
- (2) each application that is granted;

(3) the name of each license holder whose license has been suspended, canceled, or revoked and the reasons for that action; and

(4) the citizenship status of each holder of a license or personal identification certificate.

(c) The department shall maintain the application records for personal identification certificates in the manner required for license applications under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.02, eff. September 28, 2011.

Sec. 521.042. ACCIDENT AND CONVICTION REPORTS; INDIVIDUAL RECORDS. (a) Except as provided by this section, the department shall record each accident report and abstract of the court record of a conviction received by the department under a law of this state.

(b) The records must enable the department to consider, on receipt of a renewal application and at other suitable times, the record of each license holder that shows any:

(1) conviction of that license holder; and

(2) traffic accident in which the license holder has been involved.

(c) The record of a license holder who is employed as a peace officer, fire fighter, or emergency medical services employee of this state, a political subdivision of this state, or a special purpose district may not include information relating to a traffic accident that occurs while the peace officer, fire fighter, or emergency medical services employee is driving an official vehicle in the course and scope of the license holder's official duties if:

(1) the traffic accident resulted in damages to property of less than \$1,000; or

(2) an investigation of the accident by a peace officer, other than a peace officer involved in the accident, determines that the peace officer, fire fighter, or emergency medical services employee involved in the accident was not at fault.

(d) Before issuing or renewing a license, the department shall examine the record of the applicant for information relating to a conviction of a traffic violation or involvement in a traffic

accident. The department may not issue or renew a license if the department determines that the issuance or renewal of the license would be inimical to the public safety.

(e) The director may maintain records required under this subchapter on microfilm or computer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 689 (H.B. 343), Sec. 1, eff. September 1, 2011.

Sec. 521.043. ELIMINATION OF CERTAIN UNNECESSARY RECORDS. The department is not required to maintain records relating to a person if the director decides that the records are no longer necessary, except that the department shall maintain a record of a conviction as long as the record may be used:

(1) as grounds for a license cancellation, suspension, revocation, or denial; or

(2) in conjunction with other records of convictions, to establish that a person is a frequent violator of traffic laws.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.044. USE OR DISCLOSURE OF SOCIAL SECURITY NUMBER INFORMATION. (a) Information provided on a driver's license or personal identification certificate application that relates to the applicant's social security number may be used only by the department or disclosed only to:

(1) the child support enforcement division of the attorney general's office;

(2) another state entity responsible for enforcing the payment of child support;

(3) the United States Selective Service System as provided by Section 521.147;

(4) the unclaimed property division of the comptroller's office;

(5) the Health and Human Services Commission;

(6) the secretary of state for the purposes of voter registration or the administration of elections; or

(7) an agency of another state responsible for issuing driver's licenses or identification documents.

(b) The department shall enter an applicant's social security number in the department's electronic database but may not print the number on the applicant's driver's license or personal identification certificate.

(c)(1) On the request of a state entity responsible for investigating or enforcing the payment of child support or the secretary of state, the department shall disclose information regarding an applicant's social security number.

(2) On the request of the Health and Human Services Commission and for the purpose of assisting the commission in determining an applicant's eligibility for any program administered by the commission, the department shall disclose information regarding an applicant's social security number.

(d) Information disclosed under this section may be used by a state entity responsible for enforcing the payment of child support only to implement the duties of the state entity.

(e) The department shall include in the department's legislative appropriations requests and budgets, in quarterly performance reports, and in audits of the department's local offices performance measures on the percentage of complete and correct social security numbers on driver's licenses and personal identification certificates.

(f) This section does not prohibit the department from requiring an applicant for a driver's license to provide the applicant's social security number.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 420, Sec. 28, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 556, Sec. 77, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 973, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 232 (S.B. [1589](#)), Sec. 9, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 232 (S.B. [1589](#)), Sec. 10, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1012 (H.B. [2512](#)), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1105 (H.B. [3787](#)), Sec. 1, eff.

June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 17.006, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1280 (S.B. 1934), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1280 (S.B. 1934), Sec. 2, eff. September 1, 2015.

Sec. 521.0445. NOTICE REGARDING SUSPENSION OF LICENSE FOR NONPAYMENT OF CHILD SUPPORT. The department shall include in each notice sent to a driver's license holder a statement advising a holder who is delinquent in the payment of child support to make satisfactory arrangements with the office of the attorney general to correct the delinquency and that failure to contact the attorney general or to make satisfactory arrangements may result in the commencement by the attorney general of procedures to suspend the holder's driver's license.

Added by Acts 1997, 75th Leg., ch. 420, Sec. 29, eff. Sept. 1, 1997.

Sec. 521.045. DISCLOSURE OF CERTAIN INFORMATION RELATING TO INDIVIDUAL OPERATOR. On receipt of a written request and payment of a \$4 fee, the department may disclose information relating to an individual's date of birth, current license status, and most recent address, as shown in the department's records, to a person who:

(1) is eligible to receive the information under Chapter 730; and

(2) submits to the department the individual's driver's license number or the individual's full name and date of birth.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1187, Sec. 7, eff. Sept. 1, 1997.

Sec. 521.046. DISCLOSURE OF ACCIDENT AND CONVICTION INFORMATION. (a) In addition to the information authorized to be released under Section 521.045, on receipt of a written request and payment of a \$6 fee, the department may disclose that information and information regarding each reported motor vehicle moving violation,

as defined by department rule, resulting in a traffic law conviction and each motor vehicle accident in which the individual received a citation, by date and location, within the three years preceding the date of the request, to a person who:

(1) is eligible to receive the information under Chapter 730; and

(2) submits to the department the individual's driver's license number or the individual's full name and date of birth.

(b) If the department receives requests for information under this section in quantities of 100 or more from a single person at one time and on data processing request forms acceptable to the department, the department may reduce the fee to \$5 for each individual request.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 356, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1187, Sec. 8, eff. Sept. 1, 1997.

Sec. 521.047. DISCLOSURE OF INFORMATION TO LICENSE HOLDER. (a) The department may disclose information relating to a license holder to that license holder on receipt of a written request that includes the individual's driver's license number or the individual's full name and date of birth, and payment of a \$7 fee.

(b) The department may disclose information as recorded in department records that relates to:

(1) the individual's date of birth;

(2) the current license status of the individual;

(3) the individual's most recent address;

(4) the completion of an approved driver education course by the individual;

(5) the fact of, but not the reason for, completion of a driver safety course by the individual; and

(6) each of the individual's reported traffic law violations and motor vehicle accidents, by date and location.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.0475. DISCLOSURE OF ABSTRACT RECORD. (a) Except as provided by Subsection (b) or (c), the department shall provide a

certified abstract of a complete driving record of a license holder, for a fee of \$20, to the license holder or a person eligible to receive the information under Sections 730.007(a)(2)(A), (D), and (I).

(b) If an abstract of a complete driving record does not exist for a license holder, the department shall provide a person making a request under Subsection (a) a certified statement to that effect.

(c) If the department provides information under Subsection (a) or (b) through the system described by Section 521.055, the information may not be marked as certified.

Added by Acts 2003, 78th Leg., ch. 991, Sec. 2, eff. Sept. 1, 2003.

Sec. 521.048. CERTIFIED INFORMATION. The department may disclose information under Section 521.046 or 521.047 that is certified by the custodian of records on payment of a \$10 fee for each individual request.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.0485. REQUESTS FOR INFORMATION BY MAIL OR ELECTRONIC MEANS. (a) The department by rule may provide that the holder of a driver's license issued by the department may submit a request for information under Sections 521.045-521.048 by mail, by telephone, over the Internet, or by other electronic means.

(b) A rule adopted under Subsection (a):

(1) may prescribe eligibility standards for release of the requested information; and

(2) may not conflict with any provision of this chapter or another law that relates to the release of the information by the department.

Added by Acts 2001, 77th Leg., ch. 866, Sec. 1, eff. Sept. 1, 2001.

Sec. 521.049. INFORMATION SUPPLIED TO CERTAIN GOVERNMENTAL ENTITIES. (a) The department shall disclose information relating to the name, date of birth, and most recent address as shown in department records to the Texas Department of Health during an

emergency or epidemic declared by the commissioner of health to notify individuals of the need to receive certain immunizations.

(b) The department may not charge a fee for information disclosed to a law enforcement agency or other governmental agency for an official purpose, except that the department may charge its regular fees for information provided to those governmental agencies in bulk for research projects.

(c) The department may make information from driver's license record files, including class-type listings, available to an official of the United States, the state, or a political subdivision of this state for government purposes only.

(d) To assist chief appraisers in determining the eligibility of individuals for residence homestead exemptions from ad valorem taxation under Section 11.13, Tax Code, and the applicability to certain individuals of additional notice provisions under Subchapters C and D, Chapter 23, Tax Code, the department shall provide, without charge, to the chief appraiser of each appraisal district in this state:

(1) a copy of each driver's license record or personal identification certificate record held by the department; or

(2) information relating to the name, date of birth, driver's license or personal identification certificate number, and most recent address as shown in the records of individuals included in the department's driver's license or personal identification certificate records.

(e) A driver's license record or personal identification certificate record provided under Subsection (d)(1) may not include information relating to an individual's social security number or any accident or conviction information about an individual.

(f) The department shall respond to a request for a driving record check received from another state under 49 C.F.R. Section 384.206 within 30 days of the date of the request.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. 1372), Sec. 1, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 766 (H.B. 3514), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(104),

eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 352 (H.B. 1464), Sec. 7, eff. September 1, 2015.

Sec. 521.050. SALE OF LICENSE INFORMATION. (a) In addition to the provisions of this subchapter relating to the disclosure of driver's license information on an individual, the department may provide a purchaser with a magnetic tape of the names, addresses, and dates of birth of all license holders that are contained in the department's basic driver's license record file if the purchaser certifies in writing that the purchaser is eligible to receive the information under Chapter 730.

(b) The department may also periodically provide to the purchaser of the information any addition to that file.

(c) The department shall impose and collect a fee of:

(1) \$2,000 for each magnetic tape provided under Subsection (a); and

(2) if the department provides a weekly update of the information on the tape, \$75 for each update.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1187, Sec. 9, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1032, Sec. 2, eff. Sept. 1, 2001.

Sec. 521.051. DISCLOSURE OF CERTAIN INFORMATION PROHIBITED. The department may not disclose class-type listings from the basic driver's license record file to any person except as provided by Section 521.049(c), regardless of whether the requestor is eligible to receive the information under Chapter 730.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1187, Sec. 10, eff. Sept. 1, 1997.

Sec. 521.052. DISCLOSURE OF INDIVIDUAL INFORMATION PROHIBITED. Except as provided by Sections 521.045, 521.046, 521.0475, 521.049(c), and 521.050, and by Chapter 730, the department may not disclose information from the department's files that relates to personal information, as that term is defined by Section 730.003.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1187, Sec. 11, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1032, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 991, Sec. 3, eff. Sept. 1, 2003.

Sec. 521.053. COMMERCIAL DRIVER'S LICENSE INFORMATION. (a) The department may provide to any person the information specified by Section 521.045, 521.046, 521.0475, or 521.047, for the fee required by those sections, that relate to the holder of or applicant for a commercial driver's license under Chapter 522 if the person is eligible to receive the information under Chapter 730.

(b) If the information is provided through the commercial driver license information system, the fee for this service is the fee specified in the applicable section plus \$2.

(c) The department may provide information under Subsection (a) through the system described by Section 521.055.

(d) The department may provide information maintained under Section 644.252 that relates to a holder of a commercial driver's license under Chapter 522 to the holder, the holder's current employer, or a person acting on behalf of the employer if the department receives the holder's specific written consent to the release of information.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1187, Sec. 12, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 991, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 9 (S.B. [217](#)), Sec. 1, eff. September 1, 2005.

Sec. 521.054. NOTICE OF CHANGE OF ADDRESS OR NAME. (a) This section applies to a person who:

(1) after applying for or being issued a license or certificate moves to a new residence address;

(2) has used the procedure under Section 521.121(c) and whose status as a federal judge, a state judge, or the spouse of a federal or state judge becomes inapplicable; or

(3) changes the person's name by marriage or otherwise.

(b) A person subject to this section shall notify the department of the change not later than the 30th day after the date on which the change takes effect and apply for a duplicate license or certificate as provided by Section 521.146. The duplicate license must include the person's current residence address.

(c) A person changing the person's address shall notify the department of the old and new addresses and the number of the license or certificate held by the person. A person changing the person's name shall notify the department of the former and new names and the number of the license or certificate held by the person.

(d) A court may dismiss a charge for a violation of this section if the defendant remedies the defect not later than the 20th working day after the date of the offense and pays an administrative fee not to exceed \$20. The court may waive the administrative fee if the waiver is in the interest of justice.

(e) Repealed by Acts 2005, 79th Leg., Ch. 1249, Sec. 3(1), eff. September 1, 2005.

(f) Repealed by Acts 2005, 79th Leg., Ch. 1249, Sec. 3(1), eff. September 1, 2005.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1249 (H.B. 1789), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1249 (H.B. 1789), Sec. 3(1), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1027 (H.B. 1623), Sec. 6, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 316 (H.B. 598), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 13A.02, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.008, eff. September 1, 2011.

Sec. 521.055. ESTABLISHMENT OF INTERACTIVE SYSTEM. (a) The department may establish a system, separate from the department's mainframe computer, that will allow interactive access to certain driver's license record information.

(b) The system may provide for the release of driving records described in:

- (1) Section 521.045;
- (2) Section 521.046;
- (3) Section 521.047; and
- (4) Section 521.0475.

(c) The fee for a driving record under Subsection (b)(1) is \$2.50. The fee for a driving record under Subsection (b)(2) is \$4.50. The fee for a driving record under Subsection (b)(3) is \$5.50. The fee for a driving record under Subsection (b)(4) is \$20.

(d) Repealed by Acts 2003, 78th Leg., ch. 1325, Sec. 11.10.

(e) The department may contract with private vendors as necessary to implement this section.

(f) The department may adopt rules as necessary to administer this section.

(g) For purposes of this section, a release of information to persons eligible to receive the information under Chapter 730 occurs each time a query is made of the system.

Added by Acts 1997, 75th Leg., ch. 1365, Sec. 1, eff. June 20, 1997.
Amended by Acts 2001, 77th Leg., ch. 1032, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 991, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 11.10, eff. Sept. 1, 2003.

Sec. 521.056. NATIONAL DRIVER REGISTER. (a) The department may process file check requests under the National Driver Register on behalf of current or prospective employers of individuals employed or seeking employment as operators of motor vehicles or railway locomotive operators if the individual:

- (1) has given written consent to the release of the information; and
- (2) has a license in this state.

(b) The fee for a request under Subsection (a) is \$4.

(c) The department shall forward a request made under Subsection (a) directly to the current or prospective employer.

(d) The department shall assist and provide procedures for an individual to obtain information from the National Driver Register on the individual's own driving record. The department may by rule establish a reasonable fee for this service, in conformity with the

policies of the National Driver Register.

(e) The department may adopt forms and rules as necessary to carry out the purposes of this section and comply with the policies of the National Driver Register.

Added by Acts 1997, 75th Leg., ch. 1365, Sec. 1, eff. June 20, 1997.

Sec. 521.057. INFORMATION REGARDING CERTAIN SEX OFFENDERS. (a) On receipt of a court order issued under Article 42.016, Code of Criminal Procedure, the department shall ensure that any driver's license record or personal identification certificate record maintained by the department for the person includes an indication that the person is subject to the registration requirements of Chapter 62, Code of Criminal Procedure.

(b) The department shall include the indication required by Subsection (a) in any driver's license record or personal identification certificate record maintained by the department for the person until the expiration of the person's duty to register under Chapter 62, Code of Criminal Procedure.

Added by Acts 1999, 76th Leg., ch. 1401, Sec. 4, eff. Sept. 1, 2000.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.016, eff. September 1, 2013.

Sec. 521.058. DISPOSITION OF FEES. Each fee collected under this subchapter shall be deposited to the credit of the Texas mobility fund.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 11.01, eff. Sept. 1, 2003.

Sec. 521.059. IMAGE VERIFICATION SYSTEM. (a) The department shall establish an image verification system based on the following identifiers collected by the department under Section 521.142(b):

- (1) an applicant's facial image; and
- (2) an applicant's thumbprints or, if thumbprints cannot be taken, the index fingerprints of the applicant.

(b) The department shall authenticate the facial image and thumbprints or fingerprints provided by an applicant for a personal identification certificate, driver's license, or commercial driver's license or permit using image comparison technology to ensure that the applicant:

(1) is issued only one original license, permit, or certificate;

(2) does not fraudulently obtain a duplicate license, permit, or certificate; and

(3) does not commit other fraud in connection with the application for a license, permit, or certificate.

(c) The department shall use the image verification system established under this section only to the extent allowed by Chapter 730, Transportation Code, to aid other law enforcement agencies in:

(1) establishing the identity of a victim of a disaster or crime that a local law enforcement agency is unable to establish; or

(2) conducting an investigation of criminal conduct.

Added by Acts 2005, 79th Leg., Ch. 1108 (H.B. 2337), Sec. 4, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 2, eff. January 1, 2016.

Sec. 521.060. EMERGENCY CONTACT AND MEDICAL INFORMATION DATABASES. (a) The department shall maintain in its files a record of the name, address, and telephone number of each individual identified by the holder of a driver's license or personal identification certificate as an individual the holder authorizes to be contacted in the event that the holder is injured or dies in or as a result of a vehicular accident or another emergency situation. In addition, the department shall maintain in its files a record of any medical information described by Section 521.125(a) that is provided to the department under Subsection (c) or any health condition information that is voluntarily provided to the department under Section 521.142(h).

(b) A record maintained by the department under Subsection (a) is confidential and, on request, may be disclosed:

(1) only to a peace officer in this or another state;

(2) only if the peace officer is otherwise authorized to obtain information in the driver's license or personal identification certificate files of the department; and

(3) only for the purpose, as applicable, of making contact with a named individual to report the injury to or death of the holder of the driver's license or personal identification certificate, learning the nature of any medical information reported by the person who holds the driver's license or identification certificate, or learning whether the person who holds the driver's license or identification certificate has a health condition that may impede communications with the peace officer.

(c) An application for an original, renewal, or duplicate driver's license or personal identification certificate must:

(1) be designed to allow, but not require, the applicant to provide:

(A) the name, address, and telephone number of not more than two individuals to be contacted if the applicant is injured or dies in a circumstance described by Subsection (a); and

(B) in addition to health condition information voluntarily provided under Section 521.142(h), medical information described by Section 521.125(a); and

(2) include a statement that:

(A) describes the confidential nature of the information; and

(B) states that by providing the department with the information, the applicant consents to the limited disclosure and use of the information.

(d) The department shall establish and maintain on the department's Internet website forms and procedures by which the holder of a driver's license or personal identification certificate may request that the department:

(1) add specific emergency contact or medical information described by Subsection (a) to the appropriate file maintained by the department; or

(2) amend or delete emergency contact or medical information the holder previously provided to the department.

(e) The forms and procedures maintained under Subsection (d) must comply with Subsection (c).

(f) Subsection (b) does not prohibit the department from disclosing information to the holder of a driver's license or

personal identification certificate who provided the information or to an authorized agent of the holder.

Added by Acts 2009, 81st Leg., R.S., Ch. 1362 (S.B. 652), Sec. 1, eff. September 1, 2009.

Sec. 521.061. INTERNAL VERIFICATION SYSTEM. (a) The department by rule shall establish a system for identifying unique addresses that are submitted in license or certificate applications under this chapter or Chapter 522 in a frequency or number that, in the department's determination, casts doubt on whether the addresses are the actual addresses where the applicants reside.

(b) The department may contract with a third-party personal data verification service to assist the department in implementing this section.

(c) The department shall investigate the validity of addresses identified under Subsection (a).

(d) The department may disclose the results of an investigation under Subsection (c) to a criminal justice agency for the purposes of enforcing Section 521.4565 or other provisions of this chapter or Chapter 522.

(e) In this section, "criminal justice agency" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 13.02, eff. September 1, 2009.

Redesignated from Transportation Code, Section 521.060 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(62), eff. September 1, 2011.

Sec. 521.062. DRIVER RECORD MONITORING PILOT PROGRAM. (a) The department by rule may establish a driver record monitoring pilot program. The term of the pilot program may not exceed one year.

(b) Under the pilot program, the department may enter into a contract with a person to provide driver record monitoring services, as described by Subsection (c), and certain information from the department's driver's license records to the person, if the person:

(1) is an employer, an insurer, an insurance support organization, an employer support organization, or an entity that

self-insures its motor vehicles; and

(2) is eligible to receive the information under Chapter 730.

(c) A contract entered into by the department must require:

(1) the department, during the term of the contract, to:

(A) monitor the driver record of each holder of a driver's license issued by the department that is requested by the person with whom the department has contracted;

(B) identify any change in the status of a driver's license or any conviction for a traffic offense reported to the department during the monitoring period; and

(C) periodically, as specified in the contract, provide reports of those individuals identified as having a change in status or convictions to the person with whom the department has contracted; and

(2) the person with whom the department has contracted:

(A) to purchase under Section 521.046 a copy of the driver record of each individual identified in a report provided under Subdivision (1)(C);

(B) to warrant that:

(i) the person will not directly or indirectly disclose information received from the department under the contract to a third party without the express written consent of the department, except as required by law or legal process; and

(ii) if a disclosure is required by law or legal process, the person will immediately notify the department so that the department may seek to oppose, limit, or restrict the required disclosure; and

(C) if the person is an insurance support organization, to warrant that the person will not seek to obtain information about a holder of a driver's license under the contract unless the license holder is insured by a client of the organization, and that the person will provide the department with the name of each client to whom the insurance support organization provides information received from the department under the contract.

(d) The attorney general may file a suit against a person with whom the department has contracted under this section for:

(1) injunctive relief to prevent or restrain the person from violating a term of the contract or from directly or indirectly disclosing information received from the department under the

contract in a manner that violates the terms of the contract; or

(2) a civil penalty in an amount not to exceed \$2,000 for each disclosure in violation of those terms.

(e) If the attorney general brings an action against a person under Subsection (d) and an injunction is granted against the person or the person is found liable for a civil penalty, the attorney general may recover reasonable expenses, court costs, investigative costs, and attorney's fees. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under Subsection (d).

(f) A violation of the terms of a contract entered into with the department by the person with whom the department has contracted is a false, misleading, or deceptive act or practice under Subchapter E, Chapter 17, Business & Commerce Code.

(g) A civil action brought under this section shall be filed in a district court:

(1) in Travis County; or

(2) in any county in which the violation occurred.

(h) A person with whom the department has contracted under this section commits an offense if the person directly or indirectly discloses information received from the department under the contract in a manner that violates the terms of the contract. An offense under this subsection is a Class B misdemeanor. If conduct constituting an offense under this subsection also constitutes an offense under another law, the actor may be prosecuted under this subsection, the other law, or both.

(i) The department shall impose a fee on each person with whom the department contracts under this section for the services provided by the department under the contract. The fee must be reasonable and be not less than the amount necessary to allow the department to recover all reasonable costs to the department associated with entering into the contract and providing services to the person under the contract, including direct, indirect, and administrative costs and costs related to the development and deployment of the pilot program.

(j) The department may establish a reasonable deadline by which a person must apply to enter into a contract with the department under this section and may not enter into a contract with a person who fails to apply before that deadline.

(k) To the fullest extent practicable, the services of the

department under a contract entered into under this section shall be provided by, through, or in conjunction with the interactive system established under Section 521.055.

(l) At the conclusion of the term of the pilot program, and on the recommendation of the department, the commission may authorize the department to implement the pilot program as a permanent program.

(m) Before the department recommends that the pilot program be implemented as a permanent program, the department shall submit to the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report that contains an analysis of the scope, effectiveness, and cost benefits of the pilot program. The report must include:

(1) a list of each insurance support organization with which the department has contracted under this section; and

(2) a list of each client to whom the insurance support organization has provided information received from the department under this section.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 13.02, eff. September 1, 2009.

Redesignated from Transportation Code, Section 521.060 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(63), eff. September 1, 2011.

Sec. 521.063. MAILING ADDRESS VERIFICATION SYSTEM. The department by rule shall establish a system to ensure that addresses of driver's license holders are verified and matched to United States Postal Service delivery addresses by use of address-matching software. The software must meet certification standards under the Coding Accuracy Support System adopted by the United States Postal Service or a subsequent standard adopted by the United States Postal Service to replace Coding Accuracy Support System standards for preparation of bulk mailings. If the department contracts with a provider for bulk mailing services, the contract must require that the provider use address-matching software that meets or exceeds certification standards under the Coding Accuracy Support System or subsequent standards adopted by the United States Postal Service.

Added by Acts 2011, 82nd Leg., R.S., Ch. 468 (H.B. 266), Sec. 2, eff. September 1, 2011.

SUBCHAPTER D. CLASSIFICATION OF DRIVER'S LICENSES

Sec. 521.081. CLASS A LICENSE. A Class A driver's license authorizes the holder of the license to operate:

(1) a vehicle with a gross vehicle weight rating of 26,001 pounds or more; or

(2) a combination of vehicles that has a gross combination weight rating of 26,001 pounds or more, if the gross vehicle weight rating of any vehicle or vehicles in tow is more than 10,000 pounds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.082. CLASS B LICENSE. (a) A Class B driver's license authorizes the holder of the license to operate:

(1) a vehicle with a gross vehicle weight rating that is more than 26,000 pounds;

(2) a vehicle with a gross vehicle weight rating of 26,000 pounds or more towing:

(A) a vehicle, other than a farm trailer, with a gross vehicle weight rating that is not more than 10,000 pounds; or

(B) a farm trailer with a gross vehicle weight rating that is not more than 20,000 pounds; and

(3) a bus with a seating capacity of 24 passengers or more.

(b) For the purposes of Subsection (a)(3), seating capacity is computed in accordance with Section 502.253, except that the operator's seat is included in the computation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. [1093](#)), Sec. 20.017, eff. September 1, 2013.

Sec. 521.083. CLASS C LICENSE. A Class C driver's license authorizes the holder of the license to operate:

(1) a vehicle or combination of vehicles not described by Section 521.081 or 521.082; and

(2) a vehicle with a gross vehicle weight rating of less than 26,001 pounds towing a farm trailer with a gross vehicle weight

rating that is not more than 20,000 pounds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.084. CLASS M LICENSE. A Class M driver's license authorizes the holder of the license to operate a motorcycle or moped as defined by Section 541.201.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 67 (S.B. 449), Sec. 3, eff. May 22, 2015.

Sec. 521.085. TYPE OF VEHICLE AUTHORIZED. (a) Unless prohibited by Chapter 522, and except as provided by Subsection (b), the license holder may operate any vehicle of the type for which that class of license is issued and any lesser type of vehicle other than a motorcycle or moped.

(b) Subsection (a) does not prohibit a license holder from operating a lesser type of vehicle that is:

(1) a motorcycle described by Section 521.001(a)(6-a) or an autocycle as defined by Section 501.008; or

(2) a type of motorcycle defined by the department under Section 521.001(c) and designated by the department as qualifying for operation under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 722 (S.B. 129), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 967 (H.B. 3599), Sec. 2, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1391 (S.B. 1967), Sec. 3, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 67 (S.B. 449), Sec. 4, eff. May 22, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1217 (S.B. 1756), Sec. 4, eff. June 19, 2015.

SUBCHAPTER E. CLASSIFICATION OF CERTIFICATES

Sec. 521.101. PERSONAL IDENTIFICATION CERTIFICATE. (a) The department shall issue personal identification certificates.

(b) A personal identification certificate must be similar in form to, but distinguishable in color from, a driver's license.

(c) The department shall indicate "UNDER 21" on the face of a personal identification certificate issued to a person under 21 years of age.

(d) The department may require each applicant for an original, renewal, or duplicate personal identification certificate to furnish to the department the information required by Section 521.142.

(d-1) Unless the information has been previously provided to the department, the department shall require each applicant for an original, renewal, or duplicate personal identification certificate to furnish to the department:

- (1) proof of the applicant's United States citizenship; or
- (2) documentation described by Subsection (f-2).

(e) The department may cancel and require surrender of a personal identification certificate after determining that the holder was not entitled to the certificate or gave incorrect or incomplete information in the application for the certificate.

(f) A personal identification certificate:

(1) for an applicant who is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States, expires on a date specified by the department; or

(2) for an applicant not described by Subdivision (1), expires on:

(A) the earlier of:

- (i) a date specified by the department; or
- (ii) the expiration date of the applicant's

authorized stay in the United States; or

(B) the first anniversary of the date of issuance, if there is no definite expiration date for the applicant's authorized stay in the United States.

(f-1) A personal identification certificate issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance.

(f-2) An applicant who is not a citizen of the United States

must present to the department documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(f-3) The department may not issue a personal identification certificate to an applicant who fails or refuses to comply with Subsection (f-2).

(f-4) The department may not deny a personal identification certificate to an applicant who complies with Subsection (f-2) based on the duration of the person's authorized stay in the United States, as indicated by the documentation presented under Subsection (f-2).

(g) An individual, corporation, or association may not deny the holder of a personal identification certificate access to goods, services, or facilities, except as provided by Section 521.460 or in regard to the operation of a motor vehicle, because the holder has a personal identification certificate rather than a driver's license.

(h) The department shall automatically revoke each personal identification certificate issued by the department to a person who:

(1) is subject to the registration requirements of Chapter 62, Code of Criminal Procedure; and

(2) fails to apply to the department for renewal of the personal identification certificate as required by Article 62.060, Code of Criminal Procedure.

(i) The department may issue a personal identification certificate to a person whose certificate is revoked under Subsection (h) only if the person applies for an original or renewal certificate under Section 521.103.

(j) The department may not issue a personal identification certificate to a person who has not established a domicile in this state.

(k) Except as provided by this section, a personal identification certificate issued under this chapter:

(1) must:

(A) be in the same format;

(B) have the same appearance and orientation; and

(C) contain the same type of information; and

(2) may not include any information that this chapter does not reference or require.

(1) The application for the personal identification certificate must provide space for the applicant:

(1) to voluntarily list any military service that may

qualify the applicant to receive a personal identification certificate with a veteran's designation under Section 521.102; and

(2) to include proof required by the department to determine the applicant's eligibility to receive that designation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.75(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1372, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1401, Sec. 5, eff. Sept. 1, 2000.

Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 2.12, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 13.03, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1288 (H.B. 2161), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.03, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 396 (S.B. 164), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1280 (S.B. 1934), Sec. 3, eff. September 1, 2015.

Sec. 521.102. DESIGNATOR ON PERSONAL IDENTIFICATION CERTIFICATE ISSUED TO VETERAN. (a) In this section, "veteran" means a person who:

(1) has served in:

(A) the army, navy, air force, coast guard, or marine corps of the United States; or

(B) the Texas National Guard as defined by Section 431.001, Government Code; and

(2) has been honorably discharged from the branch of the service in which the person served.

(b) The department shall include the designation "VETERAN" on a personal identification certificate issued to a veteran in an available space on the face of the personal identification certificate or on the reverse side of the personal identification certificate if:

(1) the veteran requests the designation; and

(2) the veteran provides proof sufficient to the department of the veteran's military service and honorable discharge.

(c) The department shall provide to the recipient of a personal identification certificate with a veteran's designation the informational paper described by Section 521.011 at the time the certificate is issued.

Added by Acts 2013, 83rd Leg., R.S., Ch. 396 (S.B. 164), Sec. 4, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 479 (S.B. 1308), Sec. 2, eff. September 1, 2015.

Sec. 521.103. EXPIRATION AND RENEWAL REQUIREMENTS FOR CERTAIN SEX OFFENDERS. (a) The department may issue an original or renewal personal identification certificate to a person whose driver's license or personal identification certificate record indicates that the person is subject to the registration requirements of Chapter 62, Code of Criminal Procedure, only if the person:

(1) applies in person for the issuance of a certificate under this section; and

(2) pays a fee of \$20.

(b) A personal identification certificate issued under this section, including a renewal, duplicate, or corrected certificate, expires on the first birthday of the certificate holder occurring after the date of application, except that the initial certificate issued under this section expires on the second birthday of the certificate holder occurring after the date of application.

(c) Sections 521.101(f-2), (f-3), and (f-4) apply to a personal identification certificate for which application is made under this section.

Added by Acts 1999, 76th Leg., ch. 1401, Sec. 6, eff. Sept. 1, 2000.
Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 2.13, eff. September 1, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.04, eff. September 28, 2011.

Sec. 521.104. RENEWAL BY MAIL OR ELECTRONIC MEANS. The department by rule may provide that the holder of a personal identification certificate may renew the certificate by mail, by telephone, over the Internet, or by other electronic means. A rule adopted under this section may prescribe eligibility standards for renewal under this section.

Added by Acts 1999, 76th Leg., ch. 1189, Sec. 19, eff. Sept. 1, 1999. Renumbered from Sec. 521.103 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(109), eff. Sept. 1, 2001.

SUBCHAPTER F. APPEARANCE OF DRIVER'S LICENSE

Sec. 521.121. GENERAL INFORMATION ON DRIVER'S LICENSE. (a) The driver's license must include:

- (1) a distinguishing number assigned by the department to the license holder;
- (2) a color photograph of the entire face of the holder;
- (3) the full name and date of birth of the holder;
- (4) a brief description of the holder; and
- (5) the license holder's residence address or, for a license holder using the procedure under Subsection (c), the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge.

(b) The driver's license must include a facsimile of the license holder's signature or a space on which the holder shall write the holder's usual signature in ink immediately on receipt of the license. A license is not valid until it complies with this subsection.

(c) The department shall establish a procedure for a federal judge, a state judge, or the spouse of a federal or state judge to omit the license holder's residence address on the license and to include, in lieu of that address, the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status as a federal judge, a state judge, or the spouse of a federal or state judge.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 91, Sec. 24.010, eff. September 1, 2011.

(e) Except as provided by this section, a driver's license issued under this chapter:

(1) must:

- (A) be in the same format;
- (B) have the same appearance and orientation; and
- (C) contain the same type of information; and

(2) may not include any information that this chapter does not reference or require.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 448, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 316 (H.B. 598), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 13A.03, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.009, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.010, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.05, eff. September 28, 2011.

Sec. 521.1211. DRIVER'S LICENSE FOR PEACE OFFICER. (a) In this section, "peace officer" has the meaning assigned by Article 2.12, Code of Criminal Procedure.

(b) Notwithstanding Section 521.121(a), the department by rule shall adopt procedures for the issuance of a driver's license to a peace officer that omits the license holder's actual residence address and includes, as an alternative, an address that is in the municipality or county of the peace officer's residence and is acceptable to the department.

(c) To be issued a driver's license under this section, a peace officer must apply to the department and provide sufficient evidence acceptable to the department to establish the applicant's status as a peace officer. On issuance of the license, the license holder shall surrender any other driver's license issued to the holder by the department.

(d) If the holder of a driver's license that includes an

alternative address moves to a new residence or if the name of the person is changed by marriage or otherwise, the license holder shall, not later than the 30th day after the date of the address or name change, notify the department and provide the department with the number of the person's driver's license and, as applicable, the person's:

- (1) former and new addresses; or
- (2) former and new names.

(e) If the holder of a driver's license that includes an alternative address ceases to be a peace officer, the license holder shall, not later than the 30th day after the date of the status change, apply to the department for issuance of a duplicate license. The duplicate license must include the person's actual current residence address.

Added by Acts 2011, 82nd Leg., R.S., Ch. 441 (S.B. [1292](#)), Sec. 1, eff. September 1, 2011.

Sec. 521.122. TYPE OF VEHICLE REQUIRED TO BE INDICATED ON LICENSE. (a) The department shall show on each driver's license the general type of vehicle that the license holder is authorized to operate.

(b) The department may include on the driver's license an authorization to operate a motorcycle or moped if the license holder has met all requirements for a Class M license.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.123. DESIGNATOR ON LICENSE ISSUED TO PERSON UNDER 21 YEARS OF AGE. The department shall:

- (1) designate and clearly mark as a provisional license each original driver's license issued by the department to a person who is under 18 years of age; and
- (2) for each original, renewed, or duplicate license issued to a person who is under 21 years of age:

(A) indicate "UNDER 21" on the face of the license;

and

(B) orient the information on the license to clearly distinguish the license from a license that is issued to a person who

is 21 years of age or older.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 448, Sec. 2, eff. Sept. 1, 2001.

Sec. 521.1235. DESIGNATOR ON LICENSE ISSUED TO VETERAN. (a) In this section, "veteran" means a person who:

- (1) has served in:
 - (A) the army, navy, air force, coast guard, or marine corps of the United States; or
 - (B) the Texas National Guard as defined by Section 437.001, Government Code; and
- (2) has been honorably discharged from the branch of the service in which the person served.

(b) The department shall include the designation "VETERAN" on a driver's license issued to a veteran in an available space either on the face of the driver's license or on the reverse side of the driver's license if:

- (1) the veteran requests the designation; and
- (2) the veteran provides proof of the veteran's military service and honorable discharge.

(c) The department shall provide to the recipient of a driver's license with a veteran's designation the informational paper described by Section 521.011 at the time the license is issued.

Added by Acts 2011, 82nd Leg., R.S., Ch. 273 (H.B. 1514), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1217 (S.B. 1536), Sec. 3.22, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 479 (S.B. 1308), Sec. 3, eff. September 1, 2015.

Sec. 521.124. TEMPORARY LICENSE; ISSUED WITHOUT PHOTOGRAPH.

(a) The department may issue a temporary license without a photograph of the license holder:

- (1) to an applicant who is out of state or a member of the armed forces of the United States; or
- (2) if the department otherwise determines that a temporary

license is necessary.

(b) A temporary license is valid only until the applicant has time to appear and be photographed and a license with a photograph is issued.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.125. MEDICAL AND EMERGENCY INFORMATION ON LICENSE.

(a) On the reverse side of a driver's license, the department shall:

(1) print:

(A) "Allergic Reaction to Drugs: _____";

(B) "Directive to physician has been filed at tel. #";

(C) "Emergency contact tel. #"; and

(D) if space allows, any medical information provided by the license holder under Section 521.142(h);

(2) include to the right of the statements under Subdivisions (1)(B) and (C) a surface on which the license holder may write the appropriate telephone number; and

(3) include to the left of each of the statements under Subdivisions (1)(B) and (C) a box that the license holder may use to indicate for what purpose the telephone number applies.

(b) In addition to the requirements of Subsection (a)(1)(D), if space allows, the department shall indicate any medical information by a uniform symbol or code on the face of the license in the space where the department indicates a restriction or endorsement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 20, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1335, Sec. 1, eff. Jan. 1, 2004.

Sec. 521.126. ELECTRONICALLY READABLE INFORMATION. (a) The department may not include any information on a driver's license, commercial driver's license, or personal identification certificate in an electronically readable form other than the information printed on the license and a physical description of the licensee.

(b) Except as provided by Subsections (d), (e), (e-1), (g), (i), (j), and (n), and Section 501.101, Business & Commerce Code, a person commits an offense if the person:

(1) accesses or uses electronically readable information

derived from a driver's license, commercial driver's license, or personal identification certificate; or

(2) compiles or maintains a database of electronically readable information derived from driver's licenses, commercial driver's licenses, or personal identification certificates.

(c) An offense under Subsection (b) is a Class A misdemeanor.

(d) The prohibition provided by Subsection (b) does not apply to a person who accesses, uses, compiles, or maintains a database of the information for a law enforcement or governmental purpose, including:

(1) an officer or employee of the department carrying out law enforcement or government purposes;

(2) a peace officer, as defined by Article 2.12, Code of Criminal Procedure, acting in the officer's official capacity;

(3) a license deputy, as defined by Section 12.702, Parks and Wildlife Code, issuing a license, stamp, tag, permit, or other similar item through use of a point-of-sale system under Section 12.703, Parks and Wildlife Code;

(4) a person acting as authorized by Section 109.61, Alcoholic Beverage Code;

(5) a person establishing the identity of a voter under Chapter 63, Election Code;

(6) a person acting as authorized by Section 161.0825, Health and Safety Code; or

(7) a person screening an individual who will work with or have access to children if the person is an employee or an agent of an employee of a public school district or an organization exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, as amended, that sponsors a program for youth.

(e) The prohibition provided by Subsection (b)(1) does not apply to a financial institution or a business that:

(1) accesses or uses electronically readable information for purposes of identification verification of an individual or check verification at the point of sale for a purchase of a good or service by check; or

(2) accesses or uses as electronically readable information a driver's license number or a name printed on a driver's license as part of a transaction initiated by the license or certificate holder to provide information encrypted in a manner:

(A) consistent with PCI DSS Standard 3.4 to a check

services company or fraud prevention services company governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) for the purpose of effecting, administering, or enforcing the transaction; and

(B) that does not involve the sale, transfer, or other dissemination of a name or driver's license number to a third party for any purpose, including any marketing, advertising, or promotional activities.

(e-1) The prohibition provided by Subsection (b) does not apply to:

(1) a check services company or a fraud prevention services company governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) that, for the purpose of preventing fraud when effecting, administering, or enforcing the transaction:

(A) accesses or uses as electronically readable information a driver's license number or a name printed on a driver's license; or

(B) compiles or maintains a database of electronically readable driver's license numbers or names printed on driver's licenses and periodically removes the numbers or names from the database that are at least four years old; or

(2) a financial institution that compiles or maintains a database of electronically readable information, if each license or certificate holder whose information is included in the compilation or database consents to the inclusion of the person's information in the compilation or database on a separate document, signed by the license or certificate holder, that explains in at least 14-point bold type the information that will be included in the compilation or database.

(f) A person may not use information derived from electronically readable information from a driver's license, commercial driver's license, or personal identification certificate to engage in telephone solicitation to encourage the purchase or rental of, or investment in, goods, other property, or services.

(g) If authorized by the executive or administrative head of a maritime facility as defined in the Maritime Transportation Security Act of 2002 (46 U.S.C. Section 70101 et seq.), or of a port, port authority, or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, a person may access, use, compile, or maintain in a database

electronically readable information derived from a driver's license, commercial driver's license, or personal identification certificate to secure the facility or port. The information may be used only to:

- (1) identify an individual;
- (2) provide official credentials for an individual;
- (3) track or limit the movement of an individual on facility property;
- (4) establish a secure database of visitors to the facility;
- (5) access the information at terminal and gate operations of the facility; or
- (6) conduct other security or operational activities as determined by the executive or administrative head.

(h) Except as provided by Section 418.183, Government Code, the electronically readable information derived from a driver's license, commercial driver's license, or personal identification certificate for the purposes of Subsection (g) is confidential and not subject to disclosure, inspection, or copying under Chapter 552, Government Code.

(i) The prohibition provided by Subsection (b) does not apply to a health care provider or hospital that accesses, uses, compiles, or maintains a database of the information to provide health care services to the individual who holds the driver's license, commercial driver's license, or personal identification certificate. If an individual objects to the collection of information under this subsection, the health care provider or hospital must use an alternative method to collect the individual's information.

(j) Except as otherwise provided by this subsection, a health care provider or hospital may not sell, transfer, or otherwise disseminate the information described by Subsection (i) to a third party for any purpose, including any marketing, advertising, or promotional activities. A health care provider or hospital that obtains information described by Subsection (i) may transfer the information only in accordance with the rules implementing the federal Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191). A business associate, and any subcontractor of the business associate who receives the transferred information, may use the information only to service or maintain the health care provider's or hospital's database of the information.

(k) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1261 , Sec. 8,

eff. January 1, 2016.

(1) For the purposes of this section, "financial institution" has the meaning assigned by 31 U.S.C. Section 5312(a)(2).

(m) In this section, "health care provider" means an individual or facility licensed, certified, or otherwise authorized by the law of this state to provide or administer health care, for profit or otherwise, in the ordinary course of business or professional practice, including a physician, nurse, dentist, podiatrist, pharmacist, chiropractor, therapeutic optometrist, ambulatory surgical center, urgent care facility, nursing home, home and community support services agency, and emergency medical services personnel as defined by Section 773.003, Health and Safety Code.

(n) The prohibition provided by Subsection (b) does not apply to the nonprofit organization administering the Glenda Dawson Donate Life-Texas Registry under Section 692A.020, Health and Safety Code, or an organ procurement organization, tissue bank, or eye bank, as those terms are defined by Section 692A.002, Health and Safety Code, for the purpose of scanning the individual's information on the individual's driver's license, commercial driver's license, or personal identification certificate to register the individual as an anatomical gift donor. Before transmitting information scanned under this subsection, the nonprofit organization, organ procurement organization, tissue bank, or eye bank shall:

(1) notify the individual of the registry's purpose and the purposes for which the information will be used;

(2) require the individual to verify the accuracy of the information; and

(3) require the individual to affirm consent to make an anatomical gift through the individual's use of the individual's electronic signature.

Added by Acts 1999, 76th Leg., ch. 1340, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 1233, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 250 (H.B. 1009), Sec. 1, eff. May 30, 2005.

Acts 2005, 79th Leg., Ch. 391 (S.B. 1465), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1189 (H.B. 178), Sec. 2, eff. September

1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 102 (H.B. 320), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 533 (S.B. 955), Sec. 1, eff. June 16, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1012 (H.B. 1060), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 67 (S.B. 166), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 854 (H.B. 346), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(60), eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1261 (H.B. 3283), Sec. 4, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1261 (H.B. 3283), Sec. 8, eff. January 1, 2016.

SUBCHAPTER G. LICENSE APPLICATION REQUIREMENTS

Sec. 521.141. GENERAL APPLICATION REQUIREMENTS. (a) An applicant for an original or renewal of a driver's license must apply in a manner prescribed by the department.

(b) An application for an original license must be verified by the applicant before a person authorized to administer oaths. An officer or employee of the department may administer the oath. An officer or employee of this state may not charge for the administration of the oath.

(c) The application must be accompanied by the required fee and must be submitted to the department before the department may administer an examination.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 21, eff. Sept. 1, 1999.

Sec. 521.142. APPLICATION FOR ORIGINAL LICENSE. (a) An application for an original license must state the applicant's full name and place and date of birth. This information must be verified by presentation of proof of identity satisfactory to the department.

An applicant who is not a citizen of the United States must present to the department documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States before the applicant may be issued a driver's license. The department must accept as satisfactory proof of identity under this subsection an offender identification card or similar form of identification issued to an inmate by the Texas Department of Criminal Justice if the applicant also provides supplemental verifiable records or documents that aid in establishing identity.

(b) The application must include:

- (1) the thumbprints of the applicant or, if thumbprints cannot be taken, the index fingerprints of the applicant;
- (2) a photograph of the applicant;
- (3) the signature of the applicant; and
- (4) a brief description of the applicant.

(c) The application must state:

- (1) the sex of the applicant;
- (2) the residence address of the applicant, or if the applicant is a federal judge, a state judge, or the spouse of a federal or state judge using the procedure developed under Section 521.121(c), the street address of the courthouse in which the applicant or the applicant's spouse serves as a federal judge or a state judge;
- (3) whether the applicant has been licensed to drive a motor vehicle before;
- (4) if previously licensed, when and by what state or country;
- (5) whether that license has been suspended or revoked or a license application denied;
- (6) the date and reason for the suspension, revocation, or denial;
- (7) whether the applicant is a citizen of the United States; and
- (8) the county of residence of the applicant.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. 1253
(H.B. 339), Sec. 9

(d) If the applicant is under 21 years of age, the application must state whether the applicant has completed a driver education course required by Section 521.1601.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. 1413
(S.B. 1317), Sec. 1

(d) If the applicant is under 25 years of age, the application must state whether the applicant has completed a driver education course required by Section 521.1601.

(e) Subject to Subsection (e-1), the application must include any other information the department requires to determine the applicant's identity, residency, competency, and eligibility as required by the department or state law.

(e-1) Other than a general inquiry as to whether the applicant has a mental condition that may affect the applicant's ability to safely operate a motor vehicle, an application may not include an inquiry regarding the mental health of the applicant, including an inquiry as to whether the applicant has been diagnosed with, treated for, or hospitalized for a psychiatric disorder.

(f) Information supplied to the department relating to an applicant's medical history is for the confidential use of the department and may not be disclosed to any person or used as evidence in a legal proceeding other than a proceeding under Subchapter N. This subsection does not apply to information provided by an applicant under Subsection (h).

(g) The department shall require an applicant to provide the applicant's social security number or proof that the applicant is not eligible for a social security number.

(h) The application must provide space for the applicant to voluntarily list any health condition that may impede communication with a peace officer as evidenced by a written statement from a licensed physician.

(i) The application must provide space for the applicant:

(1) to voluntarily list any military service that may qualify the applicant to receive a license with a veteran's designation under Section 521.1235; and

(2) to include proof required by the department to determine the applicant's eligibility to receive that designation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 556, Sec. 78, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 640, Sec. 3, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1335, Sec. 2, eff. Jan. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 1108 (H.B. 2337), Sec. 5, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1218 (H.B. 967), Sec. 4, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 316 (H.B. 598), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 13A.04, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 14.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1253 (H.B. 339), Sec. 9, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1413 (S.B. 1317), Sec. 1, eff. March 1, 2010.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.011, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 273 (H.B. 1514), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.06, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 553 (H.B. 2216), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1280 (S.B. 1934), Sec. 4, eff. September 1, 2015.

Sec. 521.1421. INMATE IDENTIFICATION VERIFICATION PILOT PROGRAM. (a) The department shall participate in an inmate identification verification pilot program for the purpose of issuing driver's licenses and personal identification certificates to inmates of the Texas Department of Criminal Justice.

(b) Under the pilot program, the department may:

(1) enter into a contract with the Texas Department of Criminal Justice and the Department of State Health Services to establish an identification verification process for inmates of the Texas Department of Criminal Justice; and

(2) issue a driver's license or a personal identification certificate to an inmate whose identity has been confirmed through the verification process and who otherwise meets the requirements for the issuance of the driver's license or personal identification

certificate.

(c) At the conclusion of the pilot program the governing bodies of the participating agencies may agree to continue the pilot program on a permanent basis.

(d) Not later than December 1, 2010, the department and the Texas Department of Criminal Justice shall jointly issue a report to the standing committees of the legislature with jurisdiction over issues related to criminal justice and homeland security addressing:

- (1) the status of the pilot program;
- (2) the effectiveness of the pilot program; and
- (3) an analysis of the feasibility of implementing a statewide program based on the pilot program.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 14.02, eff. September 1, 2009.

Sec. 521.1425. INFORMATION REQUIRED TO BE FURNISHED TO DEPARTMENT. (a) Except as provided by Subsections (b) and (c), the department may require each applicant for an original, renewal, or duplicate driver's license to furnish to the department the information required by Section 521.142.

(b) The department shall require each applicant for an original, renewal, or duplicate driver's license to furnish to the department the information required by Sections 521.142(c)(7) and (8).

(c) Unless the information has been previously provided to the department, the department shall require each applicant for an original, renewal, or duplicate driver's license to furnish to the department:

- (1) proof of the applicant's United States citizenship; or
- (2) documentation described by Section 521.142(a).

(d) The department may not deny a driver's license to an applicant who provides documentation described by Section 521.142(a) based on the duration of the person's authorized stay in the United States, as indicated by the documentation presented under Section 521.142(a).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.76(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 640, Sec. 4, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.07, eff. September 28, 2011.

Sec. 521.1426. DOMICILE REQUIREMENT; VERIFICATION. (a) The department may not issue a driver's license or a personal identification certificate to a person who has not established a domicile in this state.

(b) The department shall adopt rules for determining whether a domicile has been established, including rules prescribing the types of documentation the department may require from the applicant to verify the validity of the claimed domicile.

(c) The department may contract with a third-party personal data verification service to assist the department in verifying a claim of domicile, including whether the physical address provided by the applicant is the applicant's actual residence.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 13.04, eff. June 19, 2009.

Sec. 521.1427. POST OFFICE BOX NOT VALID AS ADDRESS. (a) In this section, "post office box address" means a United States Postal Service post office box address or a private mailbox address.

(b) Unless an exception exists under state or federal law, an applicant may receive delivery of a license or a personal identification certificate at a post office box address only if the applicant has provided the department the physical address where the applicant resides.

(c) The department may require the applicant to provide documentation that the department determines necessary to verify the validity of the physical address provided under Subsection (b).

(d) The department may contract with a third-party personal data verification service to assist the department in verifying whether the physical address provided by the applicant is the applicant's actual residence.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 13.04, eff. June 19, 2009.

Sec. 521.143. EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED.

(a) An application for an original driver's license must be accompanied by evidence of financial responsibility or a statement that the applicant does not own a motor vehicle for which evidence of financial responsibility is required under Chapter 601. The department may require an application for a renewal of a driver's license to be accompanied by evidence of financial responsibility or a statement that the applicant does not own a motor vehicle for which evidence of financial responsibility is required under Chapter 601.

(b) Evidence of financial responsibility presented under this section must be in at least the minimum amounts required by Section 601.072 and must cover each motor vehicle owned by the applicant for which the applicant is required to maintain evidence of financial responsibility. The evidence may be shown in the manner provided by Section 601.053(a).

(c) A personal automobile insurance policy used as evidence of financial responsibility under this section must comply with Article 5.06 or 5.145, Insurance Code.

(d) A statement that an applicant does not own a motor vehicle to which the evidence of financial responsibility requirement applies must be sworn to and signed by the applicant.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 23, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 206, Sec. 21.46, eff. June 11, 2003.

Sec. 521.144. APPLICATION BY NEW STATE RESIDENT. (a) A new resident of this state who applies for a driver's license must submit with the application:

(1) evidence that each motor vehicle owned by the person is registered under Chapter 502; or

(2) an affidavit that the applicant does not own a motor vehicle required to be registered under Chapter 502.

(b) The department may not issue a driver's license to a new resident who fails to comply with Subsection (a).

(c) A registration receipt issued by the county assessor-collector of the county in which the new resident resides is satisfactory evidence that a motor vehicle is registered under Chapter 502.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.145. APPLICATION BY PERSON UNDER 18 YEARS OF AGE. (a) The application of an applicant under 18 years of age must be signed by:

- (1) the parent or guardian who has custody of the applicant; or
- (2) if the applicant has no parent or guardian:
 - (A) the applicant's employer; or
 - (B) the county judge of the county in which the applicant resides.

(b) The department shall provide the applicant and the cosigner with information concerning state laws relating to driving while intoxicated, driving by a minor with alcohol in the minor's system, and implied consent. The applicant and cosigner must acknowledge receipt of this information.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 19, eff. Sept. 1, 1997.

Sec. 521.146. APPLICATION FOR DUPLICATE LICENSE OR CERTIFICATE.

(a) If a driver's license or certificate issued under this chapter is lost or destroyed, or there is a change in pertinent information, the person to whom the license or certificate was issued may obtain a duplicate or corrected version.

(b) An applicant for a corrected driver's license or certificate must submit to the department the required fee, accompanied by the required information that has changed with proof satisfactory to the department that supports the change.

(c) The department by rule may provide that the holder of a driver's license or identification certificate issued by the department may apply for the issuance of a duplicate license or certificate by mail, by telephone, over the Internet, or by other electronic means.

(d) A rule adopted under Subsection (c) may prescribe eligibility standards for issuance of a duplicate driver's license or identification certificate under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 2001, 77th Leg., ch. 866, Sec. 2, eff. Sept. 1, 2001.

Sec. 521.147. REGISTRATION WITH SELECTIVE SERVICE SYSTEM. (a) After an application for an original, renewal, or duplicate driver's license or personal identification certificate is submitted by a male applicant who on the date of the application is at least 18 years of age but younger than 26 years of age, the department shall send in an electronic format to the United States Selective Service System the information from the application necessary to register the applicant under the Military Selective Service Act (50 U.S.C. App. Section 451 et seq.).

(b) An application under this section must give written notice to an applicant that the application also constitutes registration with the United States Selective Service System for persons who are subject to registration and have not previously registered. The notice must be conspicuous on the application and state: "By submitting this application, I am consenting to registration with the United States Selective Service System if my registration is required by federal law."

(c) An application under this section must give written notice to an applicant that information regarding alternative service options for applicants who object to conventional military service for religious or other conscientious reasons is available from the department upon request.

(d) The applicant's submission of the application following this notification constitutes the applicant's consent to the sending of the information and the registration.

(e) In addition to the notifications required by Subsections (b) and (c), the department may conspicuously post at each location where applications for driver's licenses and personal identification certificates are accepted one or more signs, in English and Spanish, providing the information contained in the notifications.

(f) Subsections (a) and (d) do not apply to an applicant concerning whom the department has previously sent information to the Selective Service System.

Added by Acts 2001, 77th Leg., ch. 973, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 167 (S.B. 132), Sec. 1, eff.

September 1, 2011.

Sec. 521.148. APPLICATION FOR CLASS M LICENSE OR AUTHORIZATION TO OPERATE MOTORCYCLE. (a) An applicant for an original Class M license or Class A, B, or C driver's license that includes an authorization to operate a motorcycle must furnish to the department evidence satisfactory to the department that the applicant has successfully completed a motorcycle operator training course approved by the department under Chapter 662. The department shall issue a Class M license that is restricted to the operation of a three-wheeled motorcycle if the motorcycle operator training course completed by the applicant is specific to the operation of a three-wheeled motorcycle.

(b) The department may not issue an original Class M license or Class A, B, or C driver's license that includes an authorization to operate a motorcycle to an applicant who fails to comply with Subsection (a).

(c) When the department issues a license to which this section applies, the department shall provide the person to whom the license is issued with written information about the Glenda Dawson Donate Life-Texas Registry operated under Chapter 692A, Health and Safety Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1391 (S.B. 1967), Sec. 4, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 554 (H.B. 2904), Sec. 4, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1111 (H.B. 3838), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1336 (S.B. 763), Sec. 1, eff. September 1, 2013.

SUBCHAPTER H. EDUCATION AND EXAMINATION REQUIREMENTS

Text of section as added by Acts 2009, 81st Leg., R.S., Ch. 1253 (H.B. 339), Sec. 11

For text of section as added by Acts 2009, 81st Leg., R.S., Ch. 1413 (S.B. 1317), Sec. 3, see other Sec. 521.1601.

Sec. 521.1601. DRIVER EDUCATION REQUIRED. The department may not issue a driver's license to a person who is younger than 21 years of age unless the person submits to the department a driver education certificate issued under Chapter 1001, Education Code, that states that the person has completed and passed:

(1) a driver education and traffic safety course conducted by an entity exempt from licensure under Section 1001.002, Education Code, or a driver education course approved by the Texas Department of Licensing and Regulation under Chapter 1001, Education Code; or

(2) if the person is 18 years of age or older, a driver education course approved by the Texas Department of Licensing and Regulation under Section 1001.101 or 1001.1015, Education Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1253 (H.B. 339), Sec. 11, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 56, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 57, eff. September 1, 2015.

Text of section as added by Acts 2009, 81st Leg., R.S., Ch. 1413 (S.B. 1317), Sec. 3

For text of section as added by Acts 2009, 81st Leg., R.S., Ch. 1253 (H.B. 339), Sec. 11, see other Sec. 521.1601.

Sec. 521.1601. DRIVER EDUCATION REQUIRED. The department may not issue a driver's license to a person who is younger than 25 years of age unless the person submits to the department a driver education certificate issued under Chapter 1001, Education Code, that states that the person has completed and passed:

(1) a driver education and traffic safety course conducted by an entity exempt from licensure under Section 1001.002, Education Code, or a driver education course approved by the Texas Department of Licensing and Regulation under Chapter 1001, Education Code; or

(2) if the person is 18 years of age or older, a driver education course approved by the Texas Department of Licensing and Regulation under Section 1001.101 or 1001.1015, Education Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1413 (S.B. 1317), Sec. 3,

eff. March 1, 2010.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 56, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 57, eff. September 1, 2015.

Sec. 521.161. EXAMINATION OF LICENSE APPLICANTS. (a) Except as otherwise provided by this subchapter, the department shall examine each applicant for a driver's license. The examination shall be held in the county in which the applicant resides or applies not later than the 10th day after the date on which the application is made.

(b) The examination must include:

(1) a test of the applicant's:

(A) vision;

(B) ability to identify and understand highway signs in English that regulate, warn, or direct traffic;

(C) knowledge of the traffic laws of this state; and

(D) knowledge of motorists' rights and responsibilities in relation to bicyclists;

(2) a demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type that the applicant will be licensed to operate; and

(3) any additional examination the department finds necessary to determine the applicant's fitness to operate a motor vehicle safely.

(c) The department shall give each applicant the option of taking the parts of the examination under Subsections (b)(1)(B), (C), and (D) in writing in addition to or instead of through a mechanical, electronic, or other testing method. If the applicant takes that part of the examination in writing in addition to another testing method, the applicant is considered to have passed that part of the examination if the applicant passes either version of the examination. The department shall inform each person taking the examination of the person's rights under this subsection.

(d) On payment of the required fee, an applicant is entitled to three examinations of each element under Subsection (b) for each application to qualify for a driver's license. If the applicant has

not qualified after the third examination, the applicant must submit a new application accompanied by the required fee.

(e) The department may not issue a driver's license to a person who has not passed each examination required under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.77(a), eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 565 (S.B. 2041), Sec. 1, eff. September 1, 2009.

Sec. 521.162. ALTERNATE EXAMINATION IN SPANISH. (a) The department shall design and administer in each county of this state an alternate examination for Spanish-speaking applicants who are unable to take the regular examination in English.

(b) The alternate examination must be identical to the examination administered to other applicants under Section 521.161 except that all directions and written material, other than the text of highway signs, must be in Spanish. The text of highway signs must be in English.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.163. REEXAMINATION. (a) The director may require the holder of a license to be reexamined if the director determines that the holder is incapable of safely operating a motor vehicle.

(b) The reexamination shall be conducted in the license holder's county of residence unless the holder and the director agree to a different location.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.164. EXEMPTION FROM CERTAIN EXAMINATION REQUIREMENTS FOR LICENSED NONRESIDENTS. (a) The department by rule may provide that a holder of a driver's license issued to the person by another state or Canadian province and who is otherwise qualified may, after passing the vision test and paying the required fees, be issued a driver's license without the complete examination required under

Section 521.161.

(b) A license issued under this section must be of the class of license equivalent to the license issued by the other jurisdiction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.165. TESTING BY OTHER ENTITIES. (a) The director may certify and set standards for the certification of certain employers, government agencies, and other appropriate organizations to allow those persons to train and test for the ability to operate certain types of vehicles.

(b) The department shall set the standards for the training and testing of driver's license applicants under Subsection (a).

(c) Except as provided by Subsection (d), in issuing a driver's license for certain types of vehicles, the director may waive a driving test for an applicant who has successfully completed and passed the training and testing conducted by a person certified under Subsection (a).

(d) The director may not waive the driving test required by Section 521.161 for an applicant who is under 18 years of age.

(e) The department may authorize an entity described by Subsection (a), including a driver education school described by Section 521.1655, to administer the examination required by Section 521.161(b)(2).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 12.05, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1253 (H.B. 339), Sec. 12, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 806 (S.B. 1705), Sec. 1, eff. September 1, 2013.

Sec. 521.1655. TESTING BY DRIVER EDUCATION SCHOOL AND CERTAIN DRIVER EDUCATION COURSE PROVIDERS. (a) A driver education school licensed under Chapter 1001, Education Code, may administer to a student of that school the vision, highway sign, and traffic law parts of the examination required by Section 521.161.

(a-1) A driver education course provider approved under Section 521.205 may administer to a student of that course the highway sign and traffic law parts of the examination required by Section 521.161.

(b) An examination administered under this section complies with the examination requirements of this subchapter as to the parts of the examination administered.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.77(a), eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 716 (H.B. 3483), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 716 (H.B. 3483), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 58, eff. September 1, 2015.

Sec. 521.166. MOTORCYCLE ROAD TEST REQUIREMENTS. (a) An applicant required to submit to a motorcycle road test must provide a passenger vehicle and a licensed driver to convey the license examiner during the road test.

(b) The department may refuse to administer any part of the road test to an applicant who fails to comply with Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.167. WAIVER OF CERTAIN EDUCATION AND EXAMINATION REQUIREMENTS. A person who has completed and passed a driver education course approved by the Texas Department of Licensing and Regulation under Section 1001.1015, Education Code, is not required to take the highway sign and traffic law parts of the examination required under Section 521.161 if those parts have been successfully completed as determined by a licensed driver education instructor.

Added by Acts 2009, 81st Leg., R.S., Ch. 1253 (H.B. 339), Sec. 11, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 59, eff. September 1, 2015.

SUBCHAPTER I. ISSUANCE OF DRIVER'S LICENSE

Sec. 521.181. ISSUANCE OF DRIVER'S LICENSE. On payment of the required fee, the department shall issue to each qualifying applicant a driver's license of the class for which the applicant has applied.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.1811. WAIVER OF FEES FOR FOSTER CARE YOUTH. A person is exempt from the payment of any fee for the issuance of a driver's license, as provided under this chapter, if that person is:

(1) younger than 18 years of age and in the managing conservatorship of the Department of Family and Protective Services; or

(2) at least 18 years of age, but younger than 21 years of age, and resides in a foster care placement, the cost of which is paid by the Department of Family and Protective Services.

Added by Acts 2011, 82nd Leg., R.S., Ch. 598 (S.B. 218), Sec. 10, eff. September 1, 2011.

Sec. 521.182. SURRENDER OF LICENSE ISSUED BY OTHER JURISDICTION. (a) A person is not entitled to receive a driver's license until the person surrenders to the department each driver's license in the person's possession that was issued by this state or another state or Canadian province.

(b) The department shall send to the state or province that issued the license:

(1) the surrendered license or a notification that the license has been surrendered; and

(2) a statement that the person holds a driver's license issued by this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.183. SURRENDER OF DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE. (a) A person is not entitled to receive

a driver's license until the person surrenders to the department each personal identification certificate in the person's possession that was issued by this state.

(b) A person is not entitled to receive a personal identification certificate until the person surrenders to the department each driver's license in the person's possession that was issued by this state.

Added by Acts 2015, 84th Leg., R.S., Ch. 1280 (S.B. 1934), Sec. 5, eff. September 1, 2015.

SUBCHAPTER J. PERSONS INELIGIBLE FOR LICENSE

Sec. 521.201. LICENSE INELIGIBILITY IN GENERAL. The department may not issue any license to a person who:

- (1) is under 15 years of age;
- (2) is under 18 years of age unless the person complies with the requirements imposed by Section 521.204;
- (3) is shown to be addicted to the use of alcohol, a controlled substance, or another drug that renders a person incapable of driving;
- (4) holds a driver's license issued by this state or another state or country that is revoked, canceled, or under suspension;
- (5) has been determined by a judgment of a court to be totally incapacitated or incapacitated to act as the operator of a motor vehicle unless the person has, by the date of the license application, been:
 - (A) restored to capacity by judicial decree; or
 - (B) released from a hospital for the mentally incapacitated on a certificate by the superintendent or administrator of the hospital that the person has regained capacity;
- (6) the department determines to be afflicted with a mental or physical disability or disease that prevents the person from exercising reasonable and ordinary control over a motor vehicle while operating the vehicle on a highway, except that a person may not be refused a license because of a physical defect if common experience shows that the defect does not incapacitate a person from safely operating a motor vehicle;
- (7) has been reported by a court under Section 521.3452 for

failure to appear unless the court has filed an additional report on final disposition of the case; or

(8) has been reported by a court for failure to appear or default in payment of a fine for a misdemeanor that is not covered under Subdivision (7) and that is punishable by a fine only, including a misdemeanor under a municipal ordinance, committed by a person who was under 17 years of age at the time of the alleged offense, unless the court has filed an additional report on final disposition of the case.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 560, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1080, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 283, Sec. 54, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 949 (H.B. 1575), Sec. 50, eff. September 1, 2005.

Sec. 521.202. INELIGIBILITY FOR LICENSE BASED ON CERTAIN CONVICTIONS. (a) Unless the period of suspension that would have applied if the person held a license at the time of the conviction has expired, the department may not issue a license to a person convicted of an offense:

(1) described by Section 49.04, 49.07, or 49.08, Penal Code; or

(2) to which Section 521.342(a) applies.

(b) Until the period specified in the juvenile court order has expired, the department may not issue a license to a person if the department has been ordered by a juvenile court under Section 54.042, Family Code, to deny the person a license.

(c) A person does not have a privilege to operate a vehicle in this state during a period of suspension under Subsection (a) or (b) if the department is prohibited from issuing a license to that person.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.203. RESTRICTIONS ON CLASS A AND B LICENSES. The department may not issue a Class A or Class B driver's license to a

person who:

- (1) is under 17 years of age;
- (2) is under 18 years of age unless the person has completed a driver training course approved by the Texas Department of Licensing and Regulation; or
- (3) has not provided the department with an affidavit, on a form prescribed by the department, that states that no vehicle that the person will drive that requires a Class A or Class B license is a commercial motor vehicle as defined by Section 522.003.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 60, eff. September 1, 2015.

Sec. 521.204. RESTRICTIONS ON MINOR. (a) The department may issue a Class C driver's license to an applicant under 18 years of age only if the applicant:

- (1) is 16 years of age or older;
- (2) has submitted to the department a driver education certificate issued under Section 1001.055, Education Code, that states that the person has completed and passed a driver education course approved by the Texas Department of Licensing and Regulation;
- (3) has obtained a high school diploma or its equivalent or is a student:
 - (A) enrolled in a public school, home school, or private school who attended school for at least 80 days in the fall or spring semester preceding the date of the driver's license application; or
 - (B) who has been enrolled for at least 45 days, and is enrolled as of the date of the application, in a program to prepare persons to pass the high school equivalency exam;
- (4) has submitted to the department written parental or guardian permission:
 - (A) for the department to access the applicant's school enrollment records maintained by the Texas Education Agency; and
 - (B) for a school administrator or law enforcement officer to notify the department in the event that the person has been absent from school for at least 20 consecutive instructional

days; and

(5) has passed the examination required by Section 521.161.

(b) The department may not issue a Class A, B, or C driver's license other than a hardship license to an applicant under 18 years of age unless the applicant has held an instruction permit or hardship license for at least six months preceding the date of the application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.78(a), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1251, Sec. 1, eff. Jan. 1, 2002.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 12.06, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1253 (H.B. 339), Sec. 13, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1160 (H.B. 2466), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 61, eff. September 1, 2015.

Sec. 521.205. DEPARTMENT-APPROVED COURSES.

Without reference to the amendment of this subsection, this section was repealed by Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 70(b), eff. September 1, 2015.

(a) The department by rule shall provide for approval of a driver education course conducted by the parent, stepparent, foster parent, legal guardian, step-grandparent, or grandparent of a person who is required to complete a driver education course to obtain a Class C license. The rules must provide that:

(1) the person conducting the course possess a valid license for the preceding three years that has not been suspended, revoked, or forfeited in the past three years for an offense that involves the operation of a motor vehicle;

(2) the student driver spend a minimum number of hours in:

(A) classroom instruction; and

(B) behind-the-wheel instruction;

(3) the person conducting the course not be convicted of:

- (A) criminally negligent homicide; or
- (B) driving while intoxicated; and

(4) the person conducting the course not have six or more points assigned to the person's driver's license under Subchapter B, Chapter 708, at the time the person begins conducting the course.

(b) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1044 , Sec. 70(b), eff. September 1, 2015.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1044 , Sec. 70(b), eff. September 1, 2015.

(d) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1044 , Sec. 70(b), eff. September 1, 2015.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.79(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 721, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1196, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 12.07, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1253 (H.B. 339), Sec. 14, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 716 (H.B. 3483), Sec. 4, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 567 (H.B. 2708), Sec. 1, eff. June 16, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 70(b), eff. September 1, 2015.

Sec. 521.206. COLLISION RATE STATISTICS PUBLICATION. (a) The department shall collect data regarding collisions of students taught by public schools, driver education schools licensed under Chapter 1001, Education Code, and other entities that offer driver education courses to students for which a uniform certificate of course completion is issued. The collision rate is computed by determining the number of an entity's students who complete a driver education course during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

(b) The department shall collect data regarding the collision

rate of students taught by course instructors approved under Section 1001.112, Education Code. The collision rate is computed by determining the number of students who completed a course approved under Section 1001.112, Education Code, during a state fiscal year, dividing that number by the number of collisions that involved students who completed such a course and that occurred in the 12-month period following their licensure, and expressing the quotient as a percentage.

(c) Not later than October 1 of each year, the department shall issue a publication listing the collision rate for students taught by each driver education entity and the collision rate for students taught by a course instructor approved under Section 1001.112, Education Code, noting the severity of collisions involving students of each entity and each type of course.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 12.08, eff. September 1, 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. 1253 (H.B. 339), Sec. 15, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 62, eff. September 1, 2015.

SUBCHAPTER K. RESTRICTED LICENSES

Sec. 521.221. IMPOSITION OF SPECIAL RESTRICTIONS AND ENDORSEMENTS. (a) For good cause the department may impose a restriction or require an endorsement suitable to the driver's license holder's driving ability. The restriction or endorsement may relate to:

- (1) the type of motor vehicle that the holder may operate;
- (2) a special mechanical control device required on a motor vehicle that the holder may operate;
- (3) mechanical attachments, including glasses or an artificial limb, required on the person of the holder;
- (4) an area, location, road, or highway in this state on which the holder is permitted to drive a motor vehicle;
- (5) the time of day that the holder is permitted to operate a motor vehicle; and
- (6) any other condition the department determines to be

appropriate to ensure the safe operation of a motor vehicle by the holder.

(b) The department may issue a special restricted license or state the applicable restriction on the regular license.

(c) A person commits an offense if the person operates a motor vehicle in violation of a restriction imposed or without the endorsement required on the license issued to that person. An offense under this subsection is a misdemeanor punishable under Section 521.461.

(d) A court may dismiss a charge for a violation of this section if:

(1) the restriction or endorsement was imposed:

(A) because of a physical condition that was surgically or otherwise medically corrected before the date of the offense; or

(B) in error and that fact is established by the defendant;

(2) the department removes the restriction or endorsement before the defendant's first court appearance; and

(3) the defendant pays an administrative fee not to exceed \$10.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1027 (H.B. 1623), Sec. 7, eff. September 1, 2007.

Sec. 521.222. INSTRUCTION PERMIT. (a) The department may issue a learner license, including a Class A or Class B driver's learner license, to a person who:

(1) is 15 years of age or older but under 18 years of age;

(2) has satisfactorily completed and passed the classroom phase of an approved driver education course, which may be a course approved under Section 1001.112, Education Code;

(3) meets the requirements imposed under Section 521.204(a)(3); and

(4) has passed each examination required under Section 521.161 other than the driving test.

(b) The department may issue an instruction permit to a person 18 years of age or older who has successfully passed all parts of the

driver's examination required under Section 521.161 other than the driving test.

(c) The department may issue a learner license to a person 18 years of age or older who has successfully passed:

(1) a six-hour adult classroom driver education course approved by the Texas Department of Licensing and Regulation; and

(2) each part of the driver's examination required by Section 521.161 other than the driving test.

(d) An instruction permit entitles the holder to operate a type of motor vehicle on a highway while:

(1) the permit is in the holder's possession; and

(2) the holder is accompanied by a person occupying the seat by the operator who:

(A) holds a license that qualifies the operator to operate that type of vehicle;

(B) is 21 years of age or older; and

(C) has at least one year of driving experience.

(e) Except as provided by Subsection (f), an instruction permit is not required to include a photograph.

(f) The department may issue an instruction permit under this section to a person who is subject to the registration requirements under Chapter 62, Code of Criminal Procedure, and is otherwise eligible for the permit. An instruction permit issued under this subsection must include a photograph of the person.

(g) A person who occupies the seat in a vehicle by a holder of an instruction permit commits an offense if, while the holder is operating the vehicle, the person:

(1) sleeps;

(2) is intoxicated, as defined by Section 49.01, Penal Code; or

(3) is engaged in an activity that prevents the person from observing and responding to the actions of the operator.

(h) It is a defense to prosecution of a violation under Subsection (g) that at the time of the violation another person in addition to the defendant:

(1) occupied the seat by the operator;

(2) complied with the requirements of Subsections

(d)(2)(A)-(C); and

(3) was not in violation of Subsection (g).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.80(a), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 546, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1251, Sec. 2, eff. Jan. 1, 2002.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 347 (S.B. 153), Sec. 1, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 63, eff. September 1, 2015.

Sec. 521.223. HARDSHIP LICENSE. (a) The department may issue a license to a person who complies with the requirements of Subsection (b) if the department finds that:

(1) the failure to issue the license will result in an unusual economic hardship for the family of the applicant;

(2) the license is necessary because of the illness of a member of the applicant's family; or

(3) the license is necessary because the applicant is enrolled in a vocational education program and requires a driver's license to participate in the program.

(b) An applicant for a license under Subsection (a) must be 15 years of age or older and must:

(1) have passed a driver education course approved by the department, which may be a course approved under Chapter 1001, Education Code; and

(2) pass the examination required by Section 521.161.

(c) To be eligible to take the driver training course, the person must be at least 14 years of age.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1121, Sec. 3, eff. September 1, 2011.

(e) A person who is refused a driver's license under this section may appeal to the county court of the county in which the person resides. The court may try the matter on the request of the petitioner or respondent.

(f) In the manner provided by Subchapter N, the department shall suspend a license issued under this section if the holder of the license is convicted of two or more moving violations committed within a 12-month period.

(g) The department may issue a hardship license to a person who

is subject to the registration requirements under Chapter 62, Code of Criminal Procedure, and is otherwise eligible for the license. A hardship license issued under this section must include a photograph of the person.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.81(a), 30.82, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 546, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1121 (H.B. 90), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1121 (H.B. 90), Sec. 3, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 64, eff. September 1, 2015.

Sec. 521.224. RESTRICTED CLASS M LICENSE. (a) In this section, "motorcycle" includes a motor driven cycle.

(b) The department may issue a special restricted Class M license that authorizes the holder to operate only a motorcycle that has not more than a 250 cubic centimeter piston displacement.

(c) A person is eligible for a restricted motorcycle license if the person:

(1) is 15 years of age or older but under 18 years of age;

(2) has completed and passed a motorcycle operator training course approved by the department; and

(3) has met the requirements imposed under Section 521.145.

(d) The department shall make the motorcycle operator training course available.

(e) On the 16th birthday of a holder of a special restricted Class M license, the department shall remove the 250 cubic centimeter restriction from the license without completion by the holder of an additional motorcycle operator training course.

(f) An applicant for the special restricted license must apply in accordance with Subchapter G. The applicant is subject to the requirements of Section 521.161 and to other provisions of this chapter in the same manner as an applicant for another license. The department shall prescribe the form of the license.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 1999, 76th Leg., ch. 797, Sec. 1, eff. Sept. 1, 1999.

Sec. 521.225. MOPED LICENSE. (a) A person may not operate a moped unless the person holds a driver's license. An applicant for a moped license must be 15 years of age or older.

(b) The department shall administer to an applicant for a moped license a written examination relating to the traffic laws applicable to the operation of mopeds. A test involving the operation of the vehicle is not required.

(c) An applicable provision of this chapter relating to a restricted Class M license applies also to a moped license, including a provision relating to the application, issuance, duration, suspension, cancellation, or revocation of that license.

(d) The department shall certify whether a vehicle alleged to be a moped is a moped. The department shall:

(1) by rule establish the procedure for determining whether a vehicle is a moped;

(2) compile a list of mopeds certified by the department;
and

(3) make the list available to the public on request.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 797, Sec. 2, eff. Sept. 1, 1999.

SUBCHAPTER L. OCCUPATIONAL LICENSE

Sec. 521.241. DEFINITIONS. In this subchapter:

(1) "Essential need" means a need of a person for the operation of a motor vehicle:

(A) in the performance of an occupation or trade or for transportation to and from the place at which the person practices the person's occupation or trade;

(B) for transportation to and from an educational facility in which the person is enrolled; or

(C) in the performance of essential household duties.

(2) "Ignition interlock device" means a device that uses a deep-lung breath analysis mechanism to make impractical the operation of a motor vehicle if ethyl alcohol is detected in the breath of the operator of the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.242. PETITION. (a) A person whose license has been suspended for a cause other than a physical or mental disability or impairment or a conviction of an offense under Sections 49.04-49.08, Penal Code, may apply for an occupational license by filing a verified petition with the clerk of a justice, county, or district court with jurisdiction that includes the precinct or county in which:

- (1) the person resides; or
- (2) the offense occurred for which the license was

suspended.

(b) A person may apply for an occupational license by filing a verified petition only with the clerk of the court in which the person was convicted if:

(1) the person's license has been automatically suspended or canceled under this chapter for a conviction of an offense under the laws of this state; and

(2) the person has not been issued, in the 10 years preceding the date of the filing of the petition, more than one occupational license after a conviction under the laws of this state.

(c) A petition filed under this section must set forth in detail the person's essential need.

(d) A petition filed under Subsection (b) must state that the petitioner was convicted in that court for an offense under the laws of this state.

(e) The clerk of the court shall file the petition as in any other matter.

(f) A court may not grant an occupational license for the operation of a commercial motor vehicle to which Chapter 522 applies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.83(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1289, Sec. 1, 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 941, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 860 (H.B. 438), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1067 (H.B. 2246), Sec. 3, eff.

September 1, 2015.

Sec. 521.243. NOTICE TO STATE; PRESENTATION OF EVIDENCE. (a) The clerk of the court shall send by certified mail to the attorney representing the state a copy of the petition and notice of the hearing if the petitioner's license was suspended following a conviction for:

(1) an offense under Section 19.05 or Sections 49.04-49.08, Penal Code; or

(2) an offense to which Section 521.342 applies.

(b) A person who receives a copy of a petition under Subsection (a) may attend the hearing and may present evidence at the hearing against granting the petition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1067 (H.B. [2246](#)), Sec. 4, eff. September 1, 2015.

Sec. 521.244. HEARING; ORDER; DETERMINATION OF ESSENTIAL NEED. (a) The judge who hears the petition shall sign an order finding whether an essential need exists.

(b) In determining whether an essential need exists, the judge shall consider:

(1) the petitioner's driving record; and

(2) any evidence presented by a person under Section 521.243(b).

(c) If the judge finds that there is an essential need, the judge also, as part of the order, shall:

(1) determine the actual need of the petitioner to operate a motor vehicle; and

(2) require the petitioner to provide evidence of financial responsibility in accordance with Chapter 601.

(d) Except as provided by Section 521.243(b), the hearing on the petition may be ex parte.

(e) A person convicted of an offense under Sections 49.04-49.08, Penal Code, who is restricted to the operation of a motor vehicle equipped with an ignition interlock device is entitled to

receive an occupational license without a finding that an essential need exists for that person, provided that the person shows:

- (1) evidence of financial responsibility under Chapter 601; and
- (2) proof the person has had an ignition interlock device installed on each motor vehicle owned or operated by the person.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1067 (H.B. 2246), Sec. 5, eff. September 1, 2015.

Sec. 521.245. REQUIRED COUNSELING. (a) If the petitioner's license has been suspended under Chapter 524 or 724, the court shall require the petitioner to attend a program approved by the court that is designed to provide counseling and rehabilitation services to persons for alcohol dependence. This requirement shall be stated in the order granting the occupational license.

Text of subsection effective until January 1, 2017

(b) The program required under Subsection (a) may not be the program provided by Section 521.344 or by Section 13, Article 42.12, Code of Criminal Procedure.

Text of subsection effective on January 1, 2017

(b) The program required under Subsection (a) may not be the program provided by Section 521.344 or by Article 42A.403 or 42A.404, Code of Criminal Procedure.

(c) The court may require the person to report periodically to the court to verify that the person is attending the required program.

(d) On finding that the person is not attending the program as required, the court may revoke the order granting the occupational license. The court shall send a certified copy of the order revoking the license to the department.

(e) On receipt of the copy under Subsection (d), the department shall suspend the person's occupational license for:

- (1) 60 days, if the original driver's license suspension was under Chapter 524; or
- (2) 120 days, if the original driver's license suspension was under Chapter 724.

(f) A suspension under Subsection (e):

(1) takes effect on the date on which the court signs the order revoking the occupational license; and

(2) is cumulative of the original suspension.

(g) A person is not eligible for an occupational license during a period of suspension under Subsection (e).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.86, eff. January 1, 2017.

Sec. 521.246. IGNITION INTERLOCK DEVICE REQUIREMENT. (a) If the person's license has been suspended after a conviction of an offense under Sections 49.04-49.08, Penal Code, the judge shall restrict the person to the operation of a motor vehicle equipped with an ignition interlock device.

(c) The person shall obtain the ignition interlock device at the person's own expense unless the court finds that to do so is not in the best interest of justice and enters that finding in the record. If the court determines that the person is unable to pay for the device, the court may impose a reasonable payment schedule for a term not to exceed twice the period of the court's order.

(d) The court shall order the ignition interlock device to remain installed for the duration of the period of suspension.

(e) A person to whom this section applies may operate a motor vehicle without the installation of an approved ignition interlock device if:

(1) the person is required to operate a motor vehicle in the course and scope of the person's employment;

(2) the vehicle is owned by the person's employer;

(3) the employer is not owned or controlled by the person whose driving privilege is restricted;

(4) the employer is notified of the driving privilege restriction; and

(5) proof of that notification is with the vehicle.

(f) A previous conviction may not be used for purposes of restricting a person to the operation of a motor vehicle equipped with an interlock ignition device under this section if:

(1) the previous conviction was a final conviction for an offense under Sections 49.04-49.08, Penal Code, and was for an offense committed more than 10 years before the instant offense for which the person was convicted; and

(2) the person has not been convicted of an offense under Sections 49.04-49.08 of that code committed within 10 years before the date on which the instant offense for which the person was convicted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.84(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1105, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1067 (H.B. 2246), Sec. 6, eff. September 1, 2015.

Sec. 521.2461. TESTING FOR ALCOHOL OR CONTROLLED SUBSTANCES. The court granting an occupational license under this subchapter may require as a condition of the license that the person submit to periodic testing for alcohol or controlled substances, to be conducted by an entity specified by the court, if the person's license has been suspended under Chapter 524 or 724 or as a result of the person's conviction of an offense involving the operation of a motor vehicle while intoxicated.

Added by Acts 2011, 82nd Leg., R.S., Ch. 426 (S.B. 953), Sec. 1, eff. September 1, 2011.

Sec. 521.2462. SUPERVISION OF PERSON ISSUED OCCUPATIONAL DRIVER'S LICENSE. (a) The court granting an occupational license under this subchapter may order the person receiving the license to:

(1) submit to supervision by the local community supervision and corrections department to verify compliance with the conditions specified by the order granting the license, including the conditions specified in accordance with Section 521.248; and

(2) pay a monthly administrative fee under Section 76.015, Government Code.

(b) The court may order the supervision to continue until the end of the period of suspension of the person's driver's license,

including any extensions of that period.

(c) The court for good cause may modify or terminate supervision before the end of the period of license suspension.

Added by Acts 2011, 82nd Leg., R.S., Ch. 426 (S.B. 953), Sec. 1, eff. September 1, 2011.

Sec. 521.2465. RESTRICTED LICENSE. (a) On receipt of notice that a person has been restricted to the use of a motor vehicle equipped with an ignition interlock device, the department shall notify that person that the person's driver's license expires on the 30th day after the date of the notice. On application by the person and payment of a fee of \$10, the department shall issue a special restricted license that conspicuously indicates that the person is authorized to operate only a motor vehicle equipped with an ignition interlock device.

(b) On receipt of a copy of a court order removing the restriction or at the end of the period of suspension, as applicable, the department shall issue the person a driver's license without the restriction.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.85(a), eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1067 (H.B. 2246), Sec. 7, eff. September 1, 2015.

Sec. 521.247. APPROVAL OF IGNITION INTERLOCK DEVICES BY DEPARTMENT. (a) The department shall adopt rules for the approval of ignition interlock devices used under this subchapter.

(b) The department by rule shall establish general standards for the calibration and maintenance of the devices. The manufacturer or an authorized representative of the manufacturer is responsible for calibrating and maintaining the device.

(c) If the department approves a device, the department shall notify the manufacturer of that approval in writing. Written notice from the department to a manufacturer is admissible in a civil or criminal proceeding in this state. The manufacturer shall reimburse the department for any cost incurred by the department in approving

the device.

(d) The department is not liable in a civil or criminal proceeding that arises from the use of an approved device.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.84(b), eff. Sept. 1, 1997.

Sec. 521.2475. IGNITION INTERLOCK DEVICE EVALUATION. (a) On January 1 of each year, the department shall issue an evaluation of each ignition interlock device approved under Section 521.247 using guidelines established by the National Highway Traffic Safety Administration, including:

- (1) whether the device provides accurate detection of alveolar air;
- (2) the moving retest abilities of the device;
- (3) the use of tamper-proof blood alcohol content level software by the device;
- (4) the anticircumvention design of the device;
- (5) the recalibration requirements of the device; and
- (6) the breath action required by the operator.

(b) The department shall assess the cost of preparing the evaluation equally against each manufacturer of an approved device.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.86(a), eff. Sept. 1, 1997.

Sec. 521.2476. MINIMUM STANDARDS FOR VENDORS OF IGNITION INTERLOCK DEVICES. (a) The department by rule shall establish:

- (1) minimum standards for vendors of ignition interlock devices who conduct business in this state; and
- (2) procedures to ensure compliance with those standards, including procedures for the inspection of a vendor's facilities.

(b) The minimum standards shall require each vendor to:

- (1) be authorized by the department to do business in this state;
- (2) install a device only if the device is approved under Section 521.247;
- (3) obtain liability insurance providing coverage for damages arising out of the operation or use of devices in amounts and

under the terms specified by the department;

(4) install the device and activate any anticircumvention feature of the device within a reasonable time after the vendor receives notice that installation is ordered by a court;

(5) install and inspect the device in accordance with any applicable court order;

(6) repair or replace a device not later than 48 hours after receiving notice of a complaint regarding the operation of the device;

(7) submit a written report of any violation of a court order to that court and to the person's supervising officer, if any, not later than 48 hours after the vendor discovers the violation;

(8) maintain a record of each action taken by the vendor with respect to each device installed by the vendor, including each action taken as a result of an attempt to circumvent the device, until at least the fifth anniversary after the date of installation;

(9) make a copy of the record available for inspection by or send a copy of the record to any court, supervising officer, or the department on request; and

(10) annually provide to the department a written report of each service and ignition interlock device feature made available by the vendor.

(c) The department may revoke the department's authorization for a vendor to do business in this state if the vendor or an officer or employee of the vendor violates:

(1) any law of this state that applies to the vendor; or

(2) any rule adopted by the department under this section or another law that applies to the vendor.

(d) A vendor shall reimburse the department for the reasonable cost of conducting each inspection of the vendor's facilities under this section.

(e) In this section, "offense relating to the operating of a motor vehicle while intoxicated" has the meaning assigned by Section 49.09, Penal Code.

Added by Acts 1999, 76th Leg., ch. 1105, Sec. 2, eff. Sept. 1, 1999.

Sec. 521.248. ORDER REQUIREMENTS. (a) An order granting an occupational license must specify:

(1) the hours of the day and days of the week during which the person may operate a motor vehicle;

(2) the reasons for which the person may operate a motor vehicle;

(3) areas or routes of travel permitted;

(4) that the person is restricted to the operation of a motor vehicle equipped with an ignition interlock device, if applicable; and

(5) that the person must submit to periodic testing for alcohol or controlled substances, if applicable.

(b) The person may not operate a motor vehicle for more than four hours in any 24-hour period, except that on a showing of necessity the court may allow the person to drive for any period determined by the court that does not exceed 12 hours in any 24-hour period.

(c) An order granting an occupational license remains valid until the end of the period of suspension of the person's regular driver's license.

(d) A person who is restricted to the operation of a motor vehicle equipped with an ignition interlock device may not be subject to any time of travel, reason for travel, or location of travel restrictions described by Subsection (a)(1), (2), or (3) or (b).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 426 (S.B. 953), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1067 (H.B. 2246), Sec. 8, eff. September 1, 2015.

Sec. 521.249. NOTICE TO DEPARTMENT; ISSUANCE OF OCCUPATIONAL LICENSE. (a) The court shall send a certified copy of the petition and the court order setting out the judge's findings and restrictions to the department. The person may use a copy of the order as a restricted license until the 45th day after the date on which the order takes effect.

(b) On receipt of the copy under this section and after compliance with Chapter 601, the department shall issue an occupational license to the person. The license must refer on its

face to the court order.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 339 (H.B. 441), Sec. 1, eff. September 1, 2015.

Sec. 521.250. COURT ORDER IN OPERATOR'S POSSESSION. A person who is issued an occupational license shall have in the person's possession a certified copy of the court order granting the license while operating a motor vehicle. The person shall allow a peace officer to examine the order on request.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.251. EFFECTIVE DATE OF OCCUPATIONAL LICENSE. (a) If a person's license is suspended under Chapter 524 or 724 and the person has not had a prior suspension arising from an alcohol-related or drug-related enforcement contact in the five years preceding the date of the person's arrest, an order under this subchapter granting the person an occupational license takes effect immediately. However, the court shall order the person to comply with the counseling and rehabilitation program required under Section 521.245.

(b) If the person's driver's license has been suspended as a result of an alcohol-related or drug-related enforcement contact during the five years preceding the date of the person's arrest, the order may not take effect before the 91st day after the effective date of the suspension.

(c) If the person's driver's license has been suspended as a result of a conviction of an offense under Sections 49.04-49.08, Penal Code, during the five years preceding the date of the person's arrest, the order may not take effect before the 181st day after the effective date of the suspension.

(d) Notwithstanding any other provision in this section, if the person's driver's license has been suspended as a result of a second or subsequent conviction under Sections 49.04-49.08, Penal Code, committed within five years of the date on which the most recent preceding offense was committed, an order granting the person an occupational license may not take effect before the first anniversary

of the effective date of the suspension.

(d-1) Notwithstanding Subsections (b), (c), and (d), the court may issue an occupational license to a person if the person submits proof the person has an ignition interlock device installed on each motor vehicle owned or operated by the person. If a person issued an occupational license under this subsection fails to maintain an installed ignition interlock device on each motor vehicle owned or operated by the person, the court shall revoke the occupational license under Section 521.252 and reinstate the suspension of the person's driver's license. A person granted an occupational license under this subsection may not be ordered to submit to the supervision of the local community supervision and corrections department under Section 521.2462, unless the order is entered by a court of record.

(e) For the purposes of this section, "alcohol-related or drug-related enforcement contact" has the meaning assigned by Section 524.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 969, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1067 (H.B. [2246](#)), Sec. 9, eff. September 1, 2015.

Sec. 521.252. LICENSE REVOCATION. (a) The court that signs an order granting an occupational license may issue at any time an order revoking the license for good cause.

(b) The court shall send a certified copy of the order to the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.253. CRIMINAL PENALTY. (a) A person who holds an occupational license commits an offense if the person:

(1) operates a motor vehicle in violation of a restriction imposed on the license; or

(2) fails to have in the person's possession a certified copy of the court order as required under Section 521.250.

(b) An offense under this section is a Class B misdemeanor.

(c) On conviction of an offense under this section, the

occupational license and the order granting that license are revoked.
 Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER M. LICENSE EXPIRATION, RENEWAL, AND NUMBER CHANGE

Sec. 521.271. LICENSE EXPIRATION. (a) Each original driver's license, provisional license, instruction permit, or occupational driver's license issued to an applicant who is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires as follows:

(1) except as provided by Section 521.2711, a driver's license expires on the first birthday of the license holder occurring after the sixth anniversary of the date of the application;

(2) a provisional license expires on the 18th birthday of the license holder;

(3) an instruction permit expires on the 18th birthday of the license holder;

(4) an occupational driver's license expires on the first anniversary of the court order granting the license; and

(5) unless an earlier date is otherwise provided, a driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance.

(a-1) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1160, Sec. 5, eff. September 1, 2011.

(a-2) Each original driver's license issued to an applicant who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on:

(1) the earlier of:

(A) the first birthday of the license holder occurring after the sixth anniversary of the date of the application; or

(B) the expiration date of the license holder's lawful presence in the United States as determined by the appropriate United States agency in compliance with federal law; or

(2) the first anniversary of the date of issuance, if there is no definite expiration date for the applicant's authorized stay in the United States.

(a-3) Each original provisional license or instruction permit issued to an applicant who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on the earliest of:

- (1) the 18th birthday of the license holder;
- (2) the first birthday of the license holder occurring after the date of the application; or
- (3) the expiration of the license holder's lawful presence in the United States as determined by the United States agency responsible for citizenship and immigration in compliance with federal law.

(a-4) Each original occupational driver's license issued to an applicant who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on the earlier of:

- (1) the first anniversary of the date of issuance; or
- (2) the expiration of the license holder's lawful presence in the United States as determined by the appropriate United States agency in compliance with federal law.

(b) Except as provided by Section 521.2711, a driver's license that is renewed expires on the earlier of:

- (1) the sixth anniversary of the expiration date before renewal if the applicant is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States;

(1-a) for an applicant not described by Subdivision (1):

- (A) the earlier of:
 - (i) the sixth anniversary of the expiration date before renewal; or
 - (ii) the expiration date of the applicant's authorized stay in the United States; or

(B) the first anniversary of the date of issuance, if there is no definite expiration date for the applicant's authorized stay in the United States; or

- (2) for a renewal driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility, the first birthday of the license holder occurring after the first anniversary of the date of issuance unless an earlier date is otherwise provided.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1372, Sec. 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 497, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 37 (H.B. 84), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 12.09, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1253 (H.B. 339), Sec. 16, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1288 (H.B. 2161), Sec. 5, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1160 (H.B. 2466), Sec. 5, eff. September 1, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.08, eff. September 28, 2011.

Sec. 521.2711. LICENSE EXPIRATION: PERSON AT LEAST 85 YEARS OF AGE. (a) Each original driver's license of a person 85 years of age or older expires on the license holder's second birthday after the date of the license application.

(b) A driver's license of a person 85 years of age or older that is renewed expires on the second anniversary of the expiration date before renewal.

(c) Notwithstanding Subsections (a) and (b), an original or renewal driver's license issued to an applicant who is 85 years of age or older and not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States expires on:

(1) the earlier of:

(A) the second anniversary of the expiration date before renewal; or

(B) the expiration date of the applicant's authorized stay in the United States; or

(2) the first anniversary of the date of issuance if there is no definite expiration date for the applicant's authorized stay in the United States.

Added by Acts 2007, 80th Leg., R.S., Ch. 37 (H.B. 84), Sec. 3, eff.

September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.09, eff. September 28, 2011.

Sec. 521.272. RENEWAL OF LICENSE ISSUED TO CERTAIN SEX OFFENDERS. (a) The department may issue an original or renewal driver's license to a person whose driver's license or personal identification certificate record indicates that the person is subject to the registration requirements of Chapter 62, Code of Criminal Procedure, only if the person:

(1) applies in person for the issuance of a license under this section; and

(2) pays the fee required by Section 521.421(h).

(b) Notwithstanding Section 521.143, a person is not required to provide proof of financial responsibility to receive the person's initial driver's license under this section.

(c) Notwithstanding Sections 521.271 and 521.2711, a driver's license issued under this section, including a renewal, duplicate, or corrected license, expires:

(1) if the license holder is a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States, on the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of application; or

(2) if the applicant is not described by Subdivision (1), on the earlier of:

(A) the expiration date of the applicant's authorized stay in the United States; or

(B) the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of application.

(d) Subsection (c) does not apply to:

(1) a provisional license;

(2) an instruction permit issued under Section 521.222; or

(3) a hardship license issued under Section 521.223.

Added by Acts 1999, 76th Leg., ch. 1401, Sec. 7, eff. Sept. 1, 2000.
 Amended by Acts 2001, 77th Leg., ch. 546, Sec. 4, eff. Sept. 1, 2001.
 Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.10, eff. September 28, 2011.

Sec. 521.273. RENEWAL EXAMINATIONS. (a) The department may require and prescribe the procedure and standards for an examination for the renewal of a driver's license.

(b) A license holder who fails to obtain a renewal license as provided by this subchapter may be required to take any examination required for the original license.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.274. RENEWAL BY MAIL OR ELECTRONIC MEANS. (a) The department by rule may provide that the holder of a driver's license may renew the license by mail, by telephone, over the Internet, or by other electronic means.

(b) A rule adopted under this section:

(1) may prescribe eligibility standards for renewal under this section;

(2) may not permit a person subject to the registration requirements under Chapter 62, Code of Criminal Procedure, to register by mail or electronic means;

(3) may not permit renewal by mail or electronic means of a driver's license of a person who is 79 years of age or older; and

(4) must allow for the renewal of a driver's license by electronic means, regardless of when the license expires, of:

(A) a person who:

(i) is on active duty in the armed forces of the United States; and

(ii) is absent from the state; and

(B) the spouse or dependent child of a person described by Paragraph (A).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 24, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1401, Sec. 8, eff. Sept. 1, 2000; Acts 2001,

77th Leg., ch. 546, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 37 (H.B. 84), Sec. 4, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 292 (H.B. 1814), Sec. 1, eff. June 1, 2015.

Sec. 521.275. CHANGE OF DRIVER'S LICENSE OR PERSONAL IDENTIFICATION CERTIFICATE NUMBER. (a) The department shall issue to a person a new driver's license number or personal identification certificate number on the person's showing a court order stating that the person has been the victim of domestic violence.

(b) The department may require each applicant to furnish the information required by Section 521.142. If the applicant's name has changed, the department may require evidence identifying the applicant by both the former and new name.

(c) Except as provided by Sections 521.049(c), 730.005, and 730.006, the department may not disclose:

- (1) the changed license or certificate number; or
- (2) the person's name or any former name.

Added by Acts 1999, 76th Leg., ch. 709, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1189, Sec. 26, eff. Sept. 1, 1999.

**SUBCHAPTER N. GENERAL PROVISIONS RELATING TO LICENSE DENIAL,
SUSPENSION, OR REVOCATION**

Sec. 521.291. RULES. The department shall adopt rules to administer this subchapter.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.292. DEPARTMENT'S DETERMINATION FOR LICENSE SUSPENSION. (a) The department shall suspend the person's license if the department determines that the person:

- (1) has operated a motor vehicle on a highway while the person's license was suspended, canceled, disqualified, or revoked, or without a license after an application for a license was denied;
- (2) is a habitually reckless or negligent operator of a

motor vehicle;

(3) is a habitual violator of the traffic laws;

(4) has permitted the unlawful or fraudulent use of the person's license;

(5) has committed an offense in another state or Canadian province that, if committed in this state, would be grounds for suspension;

(6) has been convicted of two or more separate offenses of a violation of a restriction imposed on the use of the license;

(7) has been responsible as a driver for any accident resulting in serious personal injury or serious property damage;

(8) is the holder of a provisional license issued under Section 521.123 and has been convicted of two or more moving violations committed within a 12-month period; or

(9) has committed an offense under Section 545.421.

(b) For purposes of Subsection (a)(3), a person is a "habitual violator" if the person has four or more convictions that arise out of different transactions in 12 consecutive months, or seven or more convictions that arise out of different transactions in 24 months, if the convictions are for moving violations of the traffic laws of any state, Canadian province, or political subdivision, other than a violation under:

(1) Section 621.101, 621.201, or 621.203-621.207;

(2) Subchapter B or C, Chapter 623; or

(3) Section 545.413.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Amended by:

Acts 2005, 79th Leg., Ch. 357 (S.B. [1257](#)), Sec. 1, eff. September 1, 2005.

Sec. 521.293. PERIOD OF SUSPENSION UNDER SECTION 521.292. (a) Except as provided by Subsection (b), if the person does not request a hearing, the period of license suspension under Section 521.292 is 90 days.

(b) If the department determines that the person engaged in conduct described by Section 521.292(a)(1), the period of license suspension is extended for an additional period of the lesser of:

(1) the term of the original suspension; or

(2) one year.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.294. DEPARTMENT'S DETERMINATION FOR LICENSE REVOCATION. The department shall revoke the person's license if the department determines that the person:

- (1) is incapable of safely operating a motor vehicle;
- (2) has not complied with the terms of a citation issued by a jurisdiction that is a party to the Nonresident Violator Compact of 1977 for a traffic violation to which that compact applies;
- (3) has failed to provide medical records or has failed to undergo medical or other examinations as required by a panel of the medical advisory board;
- (4) has failed to pass an examination required by the director under this chapter;
- (5) has been reported by a court under Section 521.3452 for failure to appear unless the court files an additional report on final disposition of the case;
- (6) has been reported within the preceding two years by a justice or municipal court for failure to appear or for a default in payment of a fine for a misdemeanor punishable only by fine, other than a failure reported under Section 521.3452, committed by a person who is at least 14 years of age but younger than 17 years of age when the offense was committed, unless the court files an additional report on final disposition of the case; or
- (7) has committed an offense in another state or Canadian province that, if committed in this state, would be grounds for revocation.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.
Amended by Acts 2003, 78th Leg., ch. 283, Sec. 55, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 949 (H.B. [1575](#)), Sec. 51, eff. September 1, 2005.

Sec. 521.295. NOTICE OF DEPARTMENT'S DETERMINATION. (a) If the department suspends a person's license under Section 521.292 or

revokes a person's license under Section 521.294, the department shall send a notice of suspension or revocation by first class mail to the person's address in the records of the department.

(b) Notice is considered received on the fifth day after the date the notice is mailed.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1160 (H.B. 2466), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.018, eff. September 1, 2013.

Sec. 521.296. NOTICE OF SUSPENSION OR REVOCATION. A notice of suspension under Section 521.292 or revocation under Section 521.294 must state:

- (1) the reason and statutory grounds for the suspension or revocation;
- (2) the effective date of the suspension or revocation;
- (3) the right of the person to a hearing;
- (4) how to request a hearing; and
- (5) the period in which the person must request a hearing.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1160 (H.B. 2466), Sec. 3, eff. September 1, 2011.

Sec. 521.297. SUSPENSION, REVOCATION, OR DISQUALIFICATION EFFECTIVE DATE. (a) A license suspension under Section 521.292 or revocation under Section 521.294 takes effect on the 40th day after the date the person is considered to have received notice of the suspension or revocation under Section 521.295(b).

(b) A license disqualification under Section 522.081(a) takes effect on the 40th day after the date the person is considered to have received notice of the disqualification under Section 521.295(b), unless a disqualification is currently in effect. If a disqualification is currently in effect, the periods of disqualifications run consecutively.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. 1372), Sec. 2, eff.
January 1, 2008.

Sec. 521.298. HEARING REQUEST. If, not later than the 15th day after the date on which the person is considered to have received notice of the suspension or revocation under Section 521.295(b), the department receives at its headquarters in Austin, in writing, including a facsimile transmission, or by another manner prescribed by the department, a request that a hearing be held, a hearing shall be held as provided by Sections 521.295-521.303.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.299. HEARING DATE; RESCHEDULING. (a) A hearing requested under Section 521.298 shall be held not earlier than the 11th day after the date on which the person requesting the hearing is notified of the hearing. The hearing shall be set for the earliest practical date.

(b) A hearing may be continued on a motion of the person, the department, both parties, or as necessary to accommodate the docket of the presiding officer.

(c) A request for a hearing stays suspension or revocation of a person's license until the date of the final decision of the presiding officer.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.300. HEARING: LOCATION; PRESIDING OFFICER. (a) A hearing under this subchapter shall be conducted in a municipal court or a justice court in the county in which the person resides. The judge of the municipal court or the justice is designated as the presiding officer.

(b) The presiding officer is entitled to receive a fee for hearing the case if a fee is approved and set by the commissioners court of the county in which the person resides. The fee may not exceed \$5 and shall be paid from the general revenue fund of the

county.

(c) The presiding officer may administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant books and documents.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.301. ISSUE AT HEARING. (a) The issue that must be proved at the hearing by a preponderance of the evidence is whether the grounds for suspension or revocation stated in the notice are true.

(b) If the presiding officer finds in the affirmative on that issue, the suspension or revocation is sustained.

(c) If the presiding officer sustains a suspension, the department shall suspend the person's license for the period specified by the presiding officer, which may not be less than 30 days or more than one year.

(d) If the presiding officer does not find in the affirmative on that issue, the department may not suspend or revoke the person's license.

(e) The decision of the presiding officer is final when issued and signed.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.302. FAILURE TO APPEAR. A person who requests a hearing under this subchapter and fails to appear without just cause waives the right to a hearing and the department's determination is final.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.303. CONTINUANCE. A continuance under Section 521.299 stays the suspension or revocation of a license until the date of the final decision of the presiding officer.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.304. CANCELLATION OF MINOR'S LICENSE ON COSIGNER'S REQUEST; RELEASE FROM LIABILITY. (a) The person who cosigned a minor's application for a driver's license under Section 521.145 may file with the department a request that the department cancel the license. The request must be in writing and acknowledged.

(b) On receipt of a request under Subsection (a), the department shall cancel the minor's license. On cancellation, the person who cosigned the application is released from liability based on the person's signing of the application for any subsequent negligence or wilful misconduct of the minor in operating a motor vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 521.296 by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.305. CANCELLATION OF MINOR'S LICENSE ON DEATH OF COSIGNER. On receipt of information satisfactory to the department of the death of a person who cosigned a minor's application for a driver's license under Section 521.145, the department shall cancel the license if the license holder is under 18 years of age and the department may not issue a new license until the minor files a new application that complies with this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 521.297 by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.306. EFFECT OF CONDUCT IN OTHER JURISDICTION; SUSPENSION UNDER DRIVER'S LICENSE COMPACT. (a) The department may suspend or revoke the license of a resident or the operating privilege of a nonresident to operate a motor vehicle in this state on receipt of notice of a conviction of the individual in another state or a Canadian province of an offense that, if committed in this state, would be grounds for the suspension or revocation of a driver's license.

(b) The department may give the same effect to the conduct of a resident of this state that occurs in another state or Canadian province that the department may give to conduct that occurs in this

state under state law.

(c) The department may seek the suspension of the license of a person who has failed to comply with the terms of a citation to which Chapter 523 applies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 521.299 by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.307. SUSPENSION OF CERTAIN PROVISIONAL LICENSES. (a) On the recommendation of a juvenile court with jurisdiction over the holder of a provisional license, the department shall suspend a provisional license if it is found by the juvenile court that the provisional license holder has committed:

(1) an offense that would be classified as a felony if the license holder were an adult; or

(2) a misdemeanor in which a motor vehicle was used to travel to or from the scene of the offense, other than an offense specified by Chapter 729.

(b) The department shall suspend the license for the period set by the juvenile court but not to exceed one year.

(c) The court shall report its recommendation promptly to the department in the manner and form prescribed by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 521.300 by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.308. APPEAL; JUDICIAL REVIEW. (a) A person whose driver's license suspension or revocation has been sustained by a presiding officer under this subchapter may appeal the decision of the presiding officer.

(b) To appeal the decision of the presiding officer, the person must file a petition not later than the 30th day after the date on which the department order was entered in the county court at law of the county in which the person resides, or, if there is no county court at law, in the county court. The person must send a file-stamped copy of the petition, certified by the clerk of the court in which the petition is filed, to the department by certified mail.

(c) The court shall notify the department of the hearing not later than the 31st day before the date the court sets for the hearing.

(d) The court shall take testimony, examine the facts of the case, and determine whether the petitioner is subject to the suspension or revocation of a license under this subchapter.

(e) A trial on appeal is a trial de novo, and the person has the right to trial by jury.

(f) The filing of a petition of appeal as provided by this section stays an order of suspension, probated suspension, or revocation until the earlier of the 91st day after the date the appeal petition is filed or the date the trial is completed and final judgment is rendered.

(g) On expiration of the stay, the department shall impose the suspension, probated suspension, or revocation. The stay may not be extended, and an additional stay may not be granted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 521.302 and amended by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.309. PROBATION OF SUSPENSION. (a) On determining that a license shall be suspended, the presiding officer who conducts a hearing under this subchapter, or the court that tries an appeal under this subchapter, may recommend that the suspension be probated on any terms and conditions considered necessary or proper by the presiding officer or court, if it appears that justice and the best interests of the public and the person will be served by the probation.

(b) The revocation of a license may not be probated.

(c) The report to the department of the results of the hearing must include any terms and conditions of the probation.

(d) If probation is recommended, the department shall probate the suspension.

(e) If a presiding officer or a court probates a suspension of a license under this section, the probationary period shall be for a term of not less than 90 days or more than two years.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 521.303 and amended by Acts 1999, 76th Leg., ch.

1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.310. PROBATION VIOLATION. (a) If the director believes that a person who has been placed on probation under Section 521.309 has violated a term or condition of the probation, the director shall notify the person and summon the person to appear at a hearing in the court or before the presiding officer or judge who recommended that the person be placed on probation after notice as provided by Sections 521.295 and 521.296.

(b) The issue at the hearing under this section is whether a term or condition of the probation has been violated. The presiding officer or judge presiding at the hearing shall report the finding to the department. If the finding is that a term or condition of the probation has been violated, the department shall take the action as determined in the original hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 521.304 and amended by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.311. EFFECTIVE DATE OF ORDER. Except as provided by another section of this subchapter to the contrary, a decision under this subchapter takes effect on the 11th day after the date on which an order is rendered.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 521.305 and amended by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.312. PERIOD OF SUSPENSION OR REVOCATION;
REINSTATEMENT OF LICENSE. (a) Revocation of a license is for an indefinite period.

(b) Except as provided by Subsection (c), Section 521.293(b), or Subchapter O, the department may not suspend a license for a period that exceeds one year.

(c) The department may not reinstate a license revoked under Section 521.294(5) until the court that filed the report for which the license was revoked files an additional report on final

disposition of the case.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.90, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1189, Sec. 27, eff. Sept. 1, 1999. Renumbered from Sec. 521.306 and amended by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.313. REINSTATEMENT AND REISSUANCE; FEE. (a) A license suspended or revoked under this subchapter may not be reinstated or another license issued to the person until the person pays the department a fee of \$100 in addition to any other fee required by law.

(b) The payment of a reinstatement fee is not required if a suspension or revocation under this subchapter is:

- (1) rescinded by the department; or
- (2) not sustained by a presiding officer or a court.

(c) Each fee collected under this section shall be deposited to the credit of the Texas mobility fund.

Added by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000. Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 11.02, eff. Sept. 1, 2003.

Sec. 521.314. CANCELLATION AUTHORITY. The department may cancel a license or certificate if it determines that the holder:

- (1) was not entitled to the license or certificate; or
- (2) failed to give required information in the application for the license or certificate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Renumbered from Sec. 521.307 and amended by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.315. SURRENDER OF LICENSE; RETURN. (a) On the suspension, cancellation, disqualification, or revocation of a license by the department, the department may require the holder to surrender the license to the department.

(b) The department shall return a suspended license to the holder on the expiration of the suspension period.

(c) A person commits an offense if the person's license has been demanded in accordance with Subsection (a) and the person fails or refuses to surrender the license to the department.

(d) An offense under this section is a Class B misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 884, Sec. 1, eff. Sept. 1, 1999. Renumbered from Sec. 521.308 and amended by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000; Acts 2001, 77th Leg., ch. 933, Sec. 1, eff. Sept. 1, 2001.

Sec. 521.316. SUSPENDED FOREIGN LICENSE. A person whose driver's license or privilege to operate a vehicle in this state is suspended or revoked under this chapter may not operate a motor vehicle in this state under a license, permit, or registration certificate issued by any other state or Canadian province during the suspension period or after the revocation until a new license is obtained as provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Renumbered from Sec. 521.309 by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.317. DENIAL OF LICENSE RENEWAL AFTER WARNING. The department may deny the renewal of the driver's license of a person about whom the department has received information under Section 706.004 until the date the department receives a notification from the political subdivision under Section 706.005 that there is no cause to deny the renewal based on the person's previous failure to appear for a complaint, citation, or court order to pay a fine involving a violation of a traffic law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.91(a), eff. Sept. 1, 1997. Renumbered from Sec. 521.310 by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.318. NONRESIDENTS. (a) The department may suspend or revoke a nonresident's operating privilege in the same manner and for the same causes as a driver's license issued under this chapter.

(b) On receipt of a record of conviction of a nonresident in this state under the motor vehicle laws of this state, the department may forward a certified copy of the record to the motor vehicle administrator of the state or Canadian province of which the convicted person is a resident.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Renumbered from Sec. 521.311 by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.319. REVOCATION FOR MEDICAL REASONS. (a) A person may not operate a motor vehicle if the person:

(1) is a chemically dependent person who:

(A) is likely to cause serious harm to the person or to others; or

(B) will, if not treated, continue to suffer abnormal mental, emotional, or physical distress, or to deteriorate in ability to function independently; or

(2) has been determined by a judgment of a court to be totally incapacitated or incapacitated to act as the operator of a motor vehicle.

(b) The driver's license of a person is revoked on:

(1) the judgment of a court that the person is totally incapacitated or incapacitated to act as the operator of a motor vehicle; or

(2) the order of a court of involuntary treatment of the person under Subchapter D, Chapter 462, Health and Safety Code.

(c) If the person has not been issued a driver's license, the judgment or order of a court under Subsection (b) automatically prohibits the department from issuing a driver's license to the person.

(d) The clerk of the court that renders a judgment or enters an order under Subsection (b) shall notify the department of the court's judgment or order before the 10th day after the date the court renders the judgment or enters the order.

(e) The revocation of a driver's license under Subsection (b)

or the prohibition against the issuance of a driver's license under Subsection (c) expires on the date on which:

(1) the person is:

(A) restored to capacity by judicial decree; or

(B) released from a hospital for the mentally

incapacitated on a certificate of the superintendent or administrator that the person has regained capacity; or

(2) the order of involuntary treatment of the chemically dependent person expires.

(f) Before the 10th day after the date under Subsection (e)(1)(A) or (2), the clerk of the appropriate court shall notify the department that:

(1) the person has been restored to capacity by judicial decree; or

(2) the order of involuntary treatment has expired or has been terminated under Section 462.080(d), Health and Safety Code.

(g) Before the 10th day after the date under Subsection (e)(1)(B), the superintendent or administrator of the hospital shall notify the department that the person has been released from the hospital on a certificate that the person has regained capacity.

(h) In this section:

(1) "Chemically dependent person" means a person with chemical dependency.

(2) "Chemical dependency" and "treatment" have the meanings assigned by Section 462.001, Health and Safety Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.92(a), eff. Sept. 1, 1997. Renumbered from Sec. 521.312 by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Sec. 521.320. SUSPENSION FOR CERTAIN CRIMINAL MISCHIEF; LICENSE DENIAL. (a) A court may order the department to suspend a person's driver's license on conviction of an offense under Section 28.08, Penal Code.

(b) A court may order the department to deny an application for reinstatement or issuance of a driver's license to a person convicted of an offense under Section 28.08, Penal Code, who, on the date of the conviction, did not hold a driver's license.

(c) The period of suspension under this section is one year after the date of a final conviction. The period of license denial is one year after the date the person applies to the department for reinstatement or issuance of a driver's license.

(d) The department may not reinstate a driver's license suspended under Subsection (a) unless the person whose license was suspended applies to the department for reinstatement.

(e) A person whose license is suspended under Subsection (a) remains eligible to receive an occupational license under Subchapter L.

Text of subsection effective until January 1, 2017

(f) For the purposes of this section, a person is convicted of an offense regardless of whether sentence is imposed or the person is placed on community supervision for the offense under Article 42.12, Code of Criminal Procedure.

Text of subsection effective on January 1, 2017

(f) For the purposes of this section, a person is convicted of an offense regardless of whether sentence is imposed or the person is placed on community supervision for the offense under Chapter 42A, Code of Criminal Procedure.

Added by Acts 1997, 75th Leg., ch. 593, Sec. 5, eff. Sept. 1, 1997.
Renumbered from Sec. 521.314 by Acts 1999, 76th Leg., ch. 1117, Sec. 1, eff. Sept. 1, 2000.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 2.87, eff. January 1, 2017.

SUBCHAPTER O. AUTOMATIC SUSPENSION

Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE SUSPENSION.
Except as provided by Sections 521.344(d)-(i), a license is automatically suspended on final conviction of the license holder of:

(1) an offense under Section 19.05, Penal Code, committed as a result of the holder's criminally negligent operation of a motor vehicle;

(2) an offense under Section 38.04, Penal Code, if the holder used a motor vehicle in the commission of the offense;

(3) an offense under Section 49.04, 49.045, or 49.08, Penal Code;

(4) an offense under Section 49.07, Penal Code, if the holder used a motor vehicle in the commission of the offense;

(5) an offense punishable as a felony under the motor vehicle laws of this state;

(6) an offense under Section 550.021;

(7) an offense under Section 521.451 or 521.453; or

(8) an offense under Section 19.04, Penal Code, if the holder used a motor vehicle in the commission of the offense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.93(a), eff. Sept. 1, 1997. Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 20.004, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 652 (H.B. 1049), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 16.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 7, eff. September 1, 2009.

Sec. 521.342. PERSON UNDER 21 YEARS OF AGE. (a) Except as provided by Section 521.344, the license of a person who was under 21 years of age at the time of the offense, other than an offense classified as a misdemeanor punishable by fine only, is automatically suspended on conviction of:

(1) an offense under Section 49.04, 49.045, or 49.07, Penal Code, committed as a result of the introduction of alcohol into the body;

(2) an offense under the Alcoholic Beverage Code, other than an offense to which Section 106.071 of that code applies, involving the manufacture, delivery, possession, transportation, or use of an alcoholic beverage;

(3) a misdemeanor offense under Chapter 481, Health and Safety Code, for which Subchapter P does not require the automatic suspension of the license;

(4) an offense under Chapter 483, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a dangerous drug; or

(5) an offense under Chapter 485, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of an abusable volatile chemical.

Text of subsection effective until January 1, 2017

(b) The department shall suspend for one year the license of a person who is under 21 years of age and is convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, regardless of whether the person is required to attend an educational program under Section 13(h), Article 42.12, Code of Criminal Procedure, that is designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person is placed under community supervision under that article and is required as a condition of the community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Section 13(i) of that article. If the person is required to attend such a program and does not complete the program before the end of the person's suspension, the department shall suspend the person's license or continue the suspension, as appropriate, until the department receives proof that the person has successfully completed the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

Text of subsection effective on January 1, 2017

(b) The department shall suspend for one year the license of a person who is under 21 years of age and is convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, regardless of whether the person is required to attend an educational program under Article 42A.403, Code of Criminal Procedure, that is designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person is placed under community supervision under Chapter 42A, Code of Criminal Procedure, and is required as a condition of the community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Article 42A.408 of that chapter. If the person is required to attend such a program and does not complete the program before the end of the person's suspension, the department shall suspend the person's license or continue the suspension, as appropriate, until the department receives proof that the person has successfully completed

the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Article 42A.406(b), Code of Criminal Procedure.

(c) A person whose license is suspended under Subsection (a) remains eligible to receive an occupational license under Subchapter L. Suspension under Subsection (a) is not a suspension for physical or mental disability or impairment for purposes of eligibility to apply for an occupational license under Subchapter L.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.94(a), 30.95(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1013, Sec. 20, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 580, Sec. 9, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 861, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 16.02, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 8, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.88, eff. January 1, 2017.

Sec. 521.343. PERIOD OF SUSPENSION; EXTENSION. (a) Except as provided by Sections 521.342(b), 521.344(a), (b), (d), (e), (f), (g), (h), and (i), 521.345, 521.346, 521.3465, and 521.351, a suspension under this subchapter is for one year.

(b) If a license is suspended under this subchapter for a subsequent period, the subsequent suspension is for 18 months except as otherwise provided by a section listed in Subsection (a).

(c) If the license holder is convicted of operating a motor vehicle while the license to operate a motor vehicle is cancelled, disqualified, suspended, revoked, or denied, the period is extended for the same term as the original suspension or disqualification, in addition to any penalty assessed under this chapter or Chapter 522.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 851, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1056 (H.B. 1357), Sec. 2, eff.

September 1, 2005.

Sec. 521.344. SUSPENSION FOR OFFENSES INVOLVING INTOXICATION.

(a) Except as provided by Sections 521.342(b) and 521.345, and by Subsections (d)-(i), if a person is convicted of an offense under Section 49.04, 49.045, or 49.07, Penal Code, the license suspension:

(1) begins on a date set by the court that is not earlier than the date of the conviction or later than the 30th day after the date of the conviction, as determined by the court; and

(2) continues for a period set by the court according to the following schedule:

(A) not less than 90 days or more than one year, if the person is punished under Section 49.04, 49.045, or 49.07, Penal Code, except that if the person's license is suspended for a second or subsequent offense under Section 49.07 committed within five years of the date on which the most recent preceding offense was committed, the suspension continues for a period of one year;

(B) not less than 180 days or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code; or

(C) not less than one year or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code, and is subject to Section 49.09(h) of that code.

(b) Except as provided by Section 521.342(b), if a person is convicted of an offense under Section 49.08, Penal Code, the license suspension:

(1) begins on a date set by the court that is not earlier than the date of the conviction or later than the 30th day after the date of the conviction, as determined by the court; and

(2) continues for a period set by the court of not less than 180 days or more than two years, except that if the person's license is suspended for a second or subsequent offense under Section 49.08, Penal Code, committed within 10 years of the date on which the most recent preceding offense was committed, the suspension continues for a period set by the court of not less than one year or more than two years.

(c) The court shall credit toward the period of suspension a suspension imposed on the person for refusal to give a specimen under Chapter 724 if the refusal followed an arrest for the same offense for which the court is suspending the person's license under this

chapter. The court may not extend the credit to a person:

(1) who has been previously convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

(2) whose period of suspension is governed by Section 521.342(b).

Text of subsection effective until January 1, 2017

(d) Except as provided by Subsection (e) and Section 521.342(b), during a period of probation the department may not revoke the person's license if the person is required under Section 13(h) or (j), Article 42.12, Code of Criminal Procedure, to successfully complete an educational program designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person was punished under Section 49.09(a) or (b), Penal Code, and was subject to Section 49.09(h) of that code. The department may not revoke the license of a person:

(1) for whom the jury has recommended that the license not be revoked under Section 13(g), Article 42.12, Code of Criminal Procedure; or

(2) who is placed under community supervision under that article and is required as a condition of community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Section 13(i) of that article, unless the person was punished under Section 49.09(a) or (b), Penal Code, and was subject to Section 49.09(g) of that code.

Text of subsection effective on January 1, 2017

(d) Except as provided by Subsection (e) and Section 521.342(b), during a period of probation the department may not revoke the person's license if the person is required under Article 42A.403 or 42A.404, Code of Criminal Procedure, to successfully complete an educational program designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person was punished under Section 49.09(a) or (b), Penal Code, and was subject to Section 49.09(h) of that code. The department may not revoke the license of a person:

(1) for whom the jury has recommended that the license not be revoked under Article 42A.407(a), Code of Criminal Procedure; or

(2) who is placed under community supervision under Chapter 42A, Code of Criminal Procedure, and is required as a condition of community supervision to not operate a motor vehicle unless the

vehicle is equipped with the device described by Article 42A.408 of that chapter, unless the person was punished under Section 49.09(a) or (b), Penal Code, and was subject to Section 49.09(g) of that code.

(e) After the date has passed, according to department records, for successful completion of the educational program designed to rehabilitate persons who operated motor vehicles while intoxicated, the director shall revoke the license of a person who does not successfully complete the program or, if the person is a resident without a license to operate a motor vehicle in this state, shall issue an order prohibiting the person from obtaining a license.

Text of subsection effective until January 1, 2017

(f) After the date has passed, according to department records, for successful completion of an educational program for repeat offenders as required by Section 13, Article 42.12, Code of Criminal Procedure, the director shall suspend the license of a person who does not successfully complete the program or, if the person is a resident without a license, shall issue an order prohibiting the person from obtaining a license.

Text of subsection effective on January 1, 2017

(f) After the date has passed, according to department records, for successful completion of an educational program for repeat offenders as required by Article 42A.404, Code of Criminal Procedure, the director shall suspend the license of a person who does not successfully complete the program or, if the person is a resident without a license, shall issue an order prohibiting the person from obtaining a license.

(g) A revocation, suspension, or prohibition order under Subsection (e) or (f) remains in effect until the department receives notice of successful completion of the educational program. The director shall promptly send notice of a revocation or prohibition order issued under Subsection (e) or (f) by first class mail to the person at the person's most recent address as shown in the records of the department. The notice must include the date of the revocation or prohibition order, the reason for the revocation or prohibition, and a statement that the person has the right to request in writing that a hearing be held on the revocation or prohibition. Notice is considered received on the fifth day after the date the notice is mailed. A revocation or prohibition under Subsection (e) or (f) takes effect on the 30th day after the date the notice is mailed.

The person may request a hearing not later than the 20th day after the date the notice is mailed. If the department receives a request under this subsection, the department shall set the hearing for the earliest practical time and the revocation or prohibition does not take effect until resolution of the hearing.

(h) The hearing shall be held in a municipal or justice court in the county of the person's residence in the manner provided for a suspension hearing under Subchapter N. The issues to be determined at the hearing are whether the person has successfully completed a required educational program and whether the period for completion of the program has passed. If the presiding officer determines that the educational program has not been completed and the period for completion has passed, the officer shall confirm the revocation or prohibition and shall notify the department of that fact. The director may not revoke or prohibit the license if the officer finds that the program has been completed, that, before the hearing, the court that originally imposed the requirement to attend an educational program has granted an extension that has not expired, or that the period for completion has not passed. If the person or the person's agent fails to appear at the hearing, the department shall revoke the person's license until the department receives notice of successful completion of the educational program.

Text of subsection effective until January 1, 2017

(i) On the date that a suspension order under Section 521.343(c) is to expire, the period of suspension or the corresponding period in which the department is prohibited from issuing a license is automatically increased to two years unless the department receives notice of successful completion of the educational program as required by Section 13, Article 42.12, Code of Criminal Procedure. At the time a person is convicted of an offense under Section 49.04 or 49.045, Penal Code, the court shall warn the person of the effect of this subsection. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner required by Section 13, Article 42.12, Code of Criminal Procedure. If the department receives proof of completion after a period has been extended under this subsection, the department shall immediately end the suspension or prohibition.

Text of subsection effective on January 1, 2017

(i) On the date that a suspension order under Section 521.343(c) is to expire, the period of suspension or the corresponding period in which the department is prohibited from issuing a license is automatically increased to two years unless the department receives notice of successful completion of the educational program as required by Article 42A.406, Code of Criminal Procedure. At the time a person is convicted of an offense under Section 49.04 or 49.045, Penal Code, the court shall warn the person of the effect of this subsection. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner required by Article 42A.406(b), Code of Criminal Procedure. If the department receives proof of completion after a period has been extended under this subsection, the department shall immediately end the suspension or prohibition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.96(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 580, Sec. 10, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1409, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1117, Sec. 2, eff. Sept. 1, 2000; Acts 2001, 77th Leg., ch. 969, Sec. 6, 7, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1275, Sec. 3(41), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 16.03, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 9, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.89, eff. January 1, 2017.

Sec. 521.345. SUSPENSION ON ORDER OF JUVENILE COURT OR ON ORDER OF COURT BASED ON ALCOHOLIC BEVERAGE VIOLATION BY MINOR. (a) The department shall suspend the license of a person on receipt of an order to suspend the license that is issued by:

- (1) a juvenile court under Section 54.042, Family Code; or
- (2) a court under Section 106.115, Alcoholic Beverage Code.

(b) The period of suspension is for the period specified in the order.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.97(a), eff. Sept. 1, 1997.

Sec. 521.3451. SUSPENSION OR DENIAL ON ORDER OF JUSTICE OR MUNICIPAL COURT FOR CONTEMPT OF COURT; REINSTATEMENT. (a) The department shall suspend or deny the issuance of a license or instruction permit on receipt of an order to suspend or deny the issuance of the license or permit from a justice or municipal court under Article 45.050, Code of Criminal Procedure.

(b) The department shall reinstate a license or permit suspended or reconsider a license or permit denied under Subsection (a) on receiving notice from the justice or municipal court that ordered the suspension or denial that the contemnor has fully complied with the court's order.

Added by Acts 2003, 78th Leg., ch. 283, Sec. 56, eff. Sept. 1, 2003.

Sec. 521.3452. PROCEDURE IN CASES INVOLVING MINORS. (a) A court shall report to the department a person charged with a traffic offense under this chapter who does not appear before the court as required by law.

(b) In addition to any other action or remedy provided by law, the department may deny renewal of the person's driver's license under Section 521.317 or Chapter 706.

(c) The court shall also report to the department on final disposition of the case.

Added by Acts 2005, 79th Leg., Ch. 949 (H.B. 1575), Sec. 49, eff. September 1, 2005.

Sec. 521.346. SUSPENSION ON CONVICTION OF CERTAIN FRAUDULENT ACTIVITIES. (a) If an individual is convicted of an offense under Section 521.451 or 521.453, the period of suspension shall be for the period set by the court of not less than 90 days or more than one year.

(b) If the court does not set the period, the department shall suspend the license for one year.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.3465. AUTOMATIC SUSPENSION ON CONVICTION OF CERTAIN OFFENSES INVOLVING FICTITIOUS MOTOR VEHICLE LICENSE PLATES, REGISTRATION INSIGNIA, OR VEHICLE INSPECTION REPORTS. (a) A license is automatically suspended on final conviction of the license holder of:

(1) an offense under Section 502.475(a)(4); or

(2) an offense under Section 548.603(a)(1) that involves a fictitious vehicle inspection report.

(b) A suspension under this section is for 180 days.

(c) If the person is a resident of this state without a driver's license to operate a motor vehicle, the director shall issue an order prohibiting the person from being issued a driver's license before the 181st day after the date of the conviction.

Added by Acts 1997, 75th Leg., ch. 851, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 14, eff. March 1, 2015.

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 15, eff. March 1, 2015.

Sec. 521.3466. AUTOMATIC REVOCATION FOR OFFENSE INVOLVING CERTAIN FRAUDULENT GOVERNMENTAL RECORDS. (a) A license is automatically revoked on final conviction of the license holder of an offense under Section 37.10, Penal Code, if the governmental record was a motor vehicle license plate or registration insignia, within the meaning of Chapter 502, or a vehicle inspection report, within the meaning of Chapter 548.

(b) If the person is a resident of this state without a driver's license to operate a motor vehicle, the director shall issue an order prohibiting the person from being issued a driver's license until the second anniversary of the date of the conviction.

(c) Section 521.347 applies to a conviction under Section 37.10, Penal Code, in the same manner that section applies to a conviction of an offense that requires automatic suspension of a person's driver's license.

(d) The department may not issue a driver's license to the person before the second anniversary of the date of the conviction. The department may issue a driver's license to the person only if the person:

- (1) applies to the department for the license;
- (2) is otherwise qualified for the license; and
- (3) pays, in addition to the fee required by Section 521.421, a fee of \$100.

(e) Each fee collected under this section shall be deposited to the credit of the Texas mobility fund.

Added by Acts 1997, 75th Leg., ch. 851, Sec. 4, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 11.03, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 16, eff. March 1, 2015.

Sec. 521.347. REPORTS; RECOMMENDED SUSPENSION. (a) The court in which a person is convicted of an offense for which this chapter or Chapter 522 requires automatic suspension of the person's driver's license may require the person to surrender to the court each driver's license held by the person. Not later than the 10th day after the date on which the license is surrendered to the court, the clerk of the court shall send to the department:

- (1) the license; and
- (2) a record of the conviction that states whether the vehicle involved in the offense was a commercial motor vehicle as defined by Chapter 522 or was involved in the transport of hazardous materials.

(b) Each court with jurisdiction of an offense under this chapter or another law of this state regulating the operation of a motor vehicle on a highway shall send to the department a record of conviction of any person convicted in the court of such a violation. The court may recommend the suspension of the person's driver's license as provided by Subchapter N.

(c) For purposes of this section, "conviction" means a final conviction. A conviction is a final conviction regardless of whether any portion of the sentence for the conviction was suspended or

probated but is not a final conviction if the defendant receives a deferred adjudication in the case or if the court defers final disposition of the case, unless the court subsequently proceeds with an adjudication of guilt and imposes a sentence on the defendant. For purposes of this section, a final judgment of forfeiture of bail or collateral deposited to secure a defendant's appearance in court is a conviction if the forfeiture is not vacated.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 581, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 884, Sec. 2, eff. Sept. 1, 1999.

Sec. 521.348. AUTOMATIC REVOCATION FOR CERTAIN SEX OFFENDERS.

(a) A driver's license is automatically revoked if the holder of the license:

(1) is subject to the registration requirements of Chapter 62, Code of Criminal Procedure; and

(2) fails to apply to the department for renewal of the license as required by Article 62.060, Code of Criminal Procedure.

(b) The department may issue a driver's license to a person whose license is revoked under this section only if the person:

(1) applies for an original or renewal license under Section 521.272; and

(2) is otherwise qualified for the license.

Added by Acts 1999, 76th Leg., ch. 1401, Sec. 9, eff. Sept. 1, 2000. Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 2.14, eff. September 1, 2005.

Sec. 521.349. ACQUIRING MOTOR FUEL WITHOUT PAYMENT: AUTOMATIC SUSPENSION; LICENSE DENIAL. (a) A person's driver's license is automatically suspended on final conviction of an offense under Section 31.03, Penal Code, if the judgment in the case contains a special affirmative finding under Article 42.019, Code of Criminal Procedure.

(b) The department may not issue a driver's license to a person convicted of an offense specified in Subsection (a) who, on the date of the conviction, did not hold a driver's license.

(c) The period of suspension under this section is the 180 days after the date of a final conviction, and the period of license denial is the 180 days after the date the person applies to the department for reinstatement or issuance of a driver's license, unless the person has previously been denied a license under this section or had a license suspended, in which event the period of suspension is one year after the date of a final conviction, and the period of license denial is one year after the date the person applies to the department for reinstatement or issuance of a driver's license.

Added by Acts 2001, 77th Leg., ch. 359, Sec. 2, eff. Sept. 1, 2001.

Sec. 521.350. SUSPENSION FOR OFFENSE RELATING TO RACING OF MOTOR VEHICLE ON PUBLIC HIGHWAY OR STREET. (a) A license is automatically suspended on conviction of an offense under Section 545.420(a).

(b) A suspension under this section is for one year, except as provided by this section.

(c) A person whose license is suspended under Subsection (a) remains eligible to receive an occupational license under Subchapter L, except that an occupational license issued to a person younger than 18 years of age whose license is suspended under this section may permit the operation of a motor vehicle only for transportation to and from an educational facility in which the person is enrolled and the place where the person resides.

Text of subsection effective until January 1, 2017

(d) A person whose license is suspended under Subsection (a) shall be required by the court in which the person was convicted to perform at least 10 hours of community service as ordered by the court. If the person is a resident of this state without a driver's license to operate a motor vehicle, the court shall issue an order prohibiting the department from issuing the person a driver's license before the person completes the community service. Community service required under this subsection is in addition to any community service required of the person as a condition of community supervision under Section 16, Article 42.12, Code of Criminal Procedure.

Text of subsection effective on January 1, 2017

(d) A person whose license is suspended under Subsection (a) shall be required by the court in which the person was convicted to perform at least 10 hours of community service as ordered by the court. If the person is a resident of this state without a driver's license to operate a motor vehicle, the court shall issue an order prohibiting the department from issuing the person a driver's license before the person completes the community service. Community service required under this subsection is in addition to any community service required of the person as a condition of community supervision under Article 42A.304, Code of Criminal Procedure.

(e) If a person who is required to perform community service under Subsection (d) completes that community service before the end of the person's license suspension, the person may apply to the department for reinstatement of the person's license or the issuance of a new license. The application must include proof satisfactory to the department that the person has performed the community service.

(f) If a person whose license is suspended under this section is subsequently convicted of an offense under Section 521.457(a) during the period of license suspension, in addition to the penalties provided by Section 521.457, the department shall revoke the person's license until the first anniversary of the date of conviction and may not reinstate the person's license or issue the person a new license before that date.

Added by Acts 2003, 78th Leg., ch. 535, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 2.90, eff. January 1, 2017.

Sec. 521.351. PURCHASE OF ALCOHOL FOR MINOR OR FURNISHING ALCOHOL TO MINOR: AUTOMATIC SUSPENSION; LICENSE DENIAL. (a) A person's driver's license is automatically suspended on final conviction of an offense under Section 106.06, Alcoholic Beverage Code.

(b) The department may not issue a driver's license to a person convicted of an offense under Section 106.06, Alcoholic Beverage Code, who, on the date of the conviction, did not hold a driver's license.

(c) The period of suspension under this section is the 180 days

after the date of a final conviction, and the period of license denial is the 180 days after the date the person applies to the department for reinstatement or issuance of a driver's license, unless the person has previously been denied a license under this section or had a license suspended, in which event the period of suspension is one year after the date of a final conviction, and the period of license denial is one year after the date the person applies to the department for reinstatement or issuance of a driver's license.

Added by Acts 2005, 79th Leg., Ch. 1056 (H.B. 1357), Sec. 3, eff. September 1, 2005.

SUBCHAPTER P. AUTOMATIC SUSPENSION FOR CERTAIN DRUG OFFENSES

Sec. 521.371. DEFINITIONS. In this subchapter:

(1) "Controlled Substances Act" means the federal Controlled Substances Act (21 U.S.C. Sec. 801 et seq.).

(2) "Convicted" includes an adjudication under juvenile proceedings.

(3) "Drug offense" has the meaning assigned under 23 U.S.C. Section 159(c) and includes an offense under Section 49.04, 49.07, or 49.08, Penal Code, that is committed as a result of the introduction into the body of any substance the possession of which is prohibited under the Controlled Substances Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.372. AUTOMATIC SUSPENSION; LICENSE DENIAL. (a) A person's driver's license is automatically suspended on final conviction of:

(1) an offense under the Controlled Substances Act;

(2) a drug offense; or

(3) a felony under Chapter 481, Health and Safety Code, that is not a drug offense.

(b) The department may not issue a driver's license to a person convicted of an offense specified in Subsection (a) who, on the date of the conviction, did not hold a driver's license.

(c) Except as provided by Section 521.374(b), the period of suspension under this section is the 180 days after the date of a

final conviction, and the period of license denial is the 180 days after the date the person applies to the department for reinstatement or issuance of a driver's license.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.373. REINSTATEMENT REQUIREMENTS. (a) The department may not reinstate a driver's license suspended under Section 521.372 unless the person whose license was suspended applies to the department for reinstatement.

(b) The department may not reinstate the driver's license of a person convicted of an offense specified by Section 521.372(a) if the driver's license was under suspension on the date of the conviction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.374. EDUCATIONAL PROGRAM OR EQUIVALENT EDUCATION.

Text of subsection as amended by Acts 2015, 84th Leg., R.S., Ch. 851 (S.B. 1070), Sec. 2, and Ch. 1004 (H.B. 642), Sec. 7

(a) A person whose license is suspended under Section 521.372 may:

(1) attend an educational program, approved by the Department of State Health Services under rules adopted by the executive commissioner of the Health and Human Services Commission and the department, that is designed to educate persons on the dangers of drug abuse; or

(2) successfully complete education on the dangers of drug abuse approved by the Department of State Health Services as equivalent to the educational program described by Subdivision (1), while the person is a resident of a facility for the treatment of drug abuse or chemical dependency, including:

(A) a substance abuse treatment facility or substance abuse felony punishment facility operated by the Texas Department of Criminal Justice under Section 493.009, Government Code;

(B) a community corrections facility, as defined by Section 509.001, Government Code; or

(C) a chemical dependency treatment facility licensed

under Chapter 464, Health and Safety Code.

Text of subsection as amended by Acts 2015, 84th Leg., R.S., Ch. 838
(S.B. 202), Sec. 1.294

Text of subsection effective on September 1, 2017

(a) A person whose license is suspended under Section 521.372 may attend an educational program, approved by the Texas Department of Licensing and Regulation under rules adopted by the Texas Commission of Licensing and Regulation and the department, that is designed to educate persons on the dangers of drug abuse.

(b) The period of suspension or prohibition under Section 521.372(c) continues for an indefinite period until the individual successfully completes the educational program or is released from the residential treatment facility at which the individual successfully completed equivalent education, as applicable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.294, eff. September 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 851 (S.B. 1070), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1004 (H.B. 642), Sec. 7, eff. September 1, 2015.

Text of section as amended by Acts 2015, 84th Leg., R.S., Ch. 838
(S.B. 202), Sec. 1.295

For text of section as amended by Acts 2015, 84th Leg., R.S., Ch. 851
(S.B. 1070), Sec. 2, see other Sec. 521.375.

Text of section effective on September 1, 2017

Sec. 521.375. JOINT ADOPTION OF RULES. (a) The Texas Commission of Licensing and Regulation and the department shall jointly adopt rules for the qualification and approval of providers of educational programs under Section 521.374.

(b) The Texas Department of Licensing and Regulation shall publish the jointly adopted rules.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.295, eff. September 1, 2017.

Text of section as amended by Acts 2015, 84th Leg., R.S., Ch. 851 (S.B. 1070), Sec. 2

For text of section as amended by Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.295, see other Sec. 521.375.

Sec. 521.375. JOINT ADOPTION OF RULES. (a) The executive commissioner of the Health and Human Services Commission and the department shall jointly adopt rules for the qualification and approval of:

(1) providers of educational programs under Section 521.374(a)(1); and

(2) equivalent education provided in a residential treatment facility described by Section 521.374(a)(2).

(b) The Department of State Health Services shall publish the jointly adopted rules.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 851 (S.B. 1070), Sec. 2, eff. September 1, 2015.

Text of section as amended by Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.296

For text of section as amended by Acts 2015, 84th Leg., R.S., Ch. 851 (S.B. 1070), Sec. 2, see other Sec. 521.376.

Text of section effective on September 1, 2017

Sec. 521.376. DUTIES OF TEXAS DEPARTMENT OF LICENSING AND REGULATION; APPLICATION AND RENEWAL FEES. The Texas Department of Licensing and Regulation:

(1) shall monitor, coordinate, and provide training to persons who provide educational programs under Section 521.374;

(2) shall administer the approval of those educational programs; and

(3) may charge a nonrefundable application fee for:

(A) initial certification of approval; and

(B) renewal of the certification.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 577, Sec. 19, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.296, eff. September 1, 2017.

Text of section as amended by Acts 2015, 84th Leg., R.S., Ch. 851 (S.B. 1070), Sec. 2

For text of section as amended by Acts 2015, 84th Leg., R.S., Ch. 838 (S.B. 202), Sec. 1.296, see other Sec. 521.376.

Sec. 521.376. DUTIES OF DEPARTMENT OF STATE HEALTH SERVICES; APPLICATION AND RENEWAL FEES. The Department of State Health Services:

- (1) shall monitor, coordinate, and provide training to:
 - (A) persons who provide educational programs under Section 521.374(a)(1); and
 - (B) residential treatment facilities described by Section 521.374(a)(2) providing equivalent education;
- (2) shall administer the approval of the educational programs and the equivalent education provided in a residential treatment facility; and
- (3) may charge a nonrefundable application fee to the provider of an educational program under Section 521.374(a)(1) for:
 - (A) initial certification of approval; and
 - (B) renewal of the certification.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 577, Sec. 19, eff. Sept. 1, 1997.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 851 (S.B. 1070), Sec. 2, eff. September 1, 2015.

Sec. 521.377. LICENSE REINSTATEMENT. (a) The department, on payment of the applicable fee, shall reinstate a person's license or, if the person otherwise qualifies for a license, issue the license, if:

(1) the department receives notification from the clerk of the court in which the person was convicted that the person has successfully completed an educational program under Section 521.374(a)(1) or equivalent education in a residential treatment facility under Section 521.374(a)(2); and

(2) the person's driver's license has been suspended or license application denied for at least the period provided by Section 521.372(c).

(b) A person whose license is suspended under Section 521.372 remains eligible to receive an occupational license under Subchapter L. Suspension under Section 521.372 is not a suspension for physical or mental disability or impairment for purposes of eligibility to apply for an occupational license under Subchapter L.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 851 (S.B. 1070), Sec. 3, eff. September 1, 2015.

SUBCHAPTER Q. ANATOMICAL GIFTS

Sec. 521.401. STATEMENT OF GIFT. (a) A person who wishes to be an eye, tissue, or organ donor may execute a statement of gift.

(b) The statement of gift may be shown on a donor's driver's license or personal identification certificate or by a card designed to be carried by the donor to evidence the donor's intentions with respect to organ, tissue, and eye donation. A donor card signed by the donor shall be given effect as if executed pursuant to Section 692A.005, Health and Safety Code.

(c) Donor registry information shall be provided to the department and the Texas Department of Transportation by organ procurement organizations, tissue banks, or eye banks, as those terms are defined in Section 692A.002, Health and Safety Code, or by the Glenda Dawson Donate Life-Texas Registry operated under Chapter 692A, Health and Safety Code. The department, with expert input and support from the nonprofit organization administering the Glenda Dawson Donate Life-Texas Registry, shall:

(1) provide to each applicant for the issuance of an original, renewal, corrected, or duplicate driver's license or personal identification certificate who applies in person, by mail,

over the Internet, or by other electronic means:

(A) the opportunity to indicate on the person's driver's license or personal identification certificate that the person is willing to make an anatomical gift, in the event of death, in accordance with Section 692A.005, Health and Safety Code; and

(B) an opportunity for the person to consent to inclusion in the statewide Internet-based registry of organ, tissue, and eye donors and release to procurement organizations in the manner provided by Subsection (c-1); and

(2) provide a means to distribute donor registry information to interested individuals in each office authorized to issue driver's licenses or personal identification certificates.

(c-1) The department shall:

(1) specifically ask each applicant only the question, "Would you like to register as an organ donor?"; and

(2) if the applicant responds affirmatively to the question asked under Subdivision (1), provide the person's name, date of birth, driver's license number, most recent address, and other information needed for identification purposes at the time of donation to the nonprofit organization contracted to maintain the statewide donor registry under Section 692A.020, Health and Safety Code, for inclusion in the registry.

(d) An affirmative statement of gift on a person's driver's license or personal identification certificate executed after August 31, 2005, shall be conclusive evidence of a decedent's status as a donor and serve as consent for organ, tissue, and eye removal.

(e) The department shall distribute at all field offices Donate Life brochures that provide basic donation information in English and Spanish and include a contact phone number and e-mail address. The department shall include the question required under Subsection (c)(1)(B) and information on the donor registry Internet website in renewal notices.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 225, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1186 (H.B. 120), Sec. 1, eff. June 18, 2005.

Acts 2009, 81st Leg., R.S., Ch. 186 (H.B. 2027), Sec. 9, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 831 (S.B. 1803), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 554 (H.B. 2904), Sec. 5, eff. January 1, 2012.

Sec. 521.402. REVOCATION OF STATEMENT OF GIFT. (a) To revoke an affirmative statement of gift on a person's driver's license or personal identification certificate, a person must apply to the department for an amendment to the license or certificate.

(b) The fee for an amendment is the same as the fee for a duplicate license.

(c) To have a person's name deleted from the statewide Internet-based registry of organ, tissue, and eye donors maintained as provided by Chapter 692A, Health and Safety Code, a person must provide written notice to the nonprofit organization selected under that chapter to maintain the registry directing the deletion of the person's name from the registry. On receipt of a written notice under this subsection, the organization shall promptly remove the person's name and information from the registry.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 225, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1186 (H.B. 120), Sec. 2, eff. June 18, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 554 (H.B. 2904), Sec. 6, eff. January 1, 2012.

SUBCHAPTER R. FEES

Sec. 521.421. LICENSE FEES; EXAMINATION FEES. (a) The fee for issuance or renewal of a license not otherwise provided for by this section is \$24.

(a-1) The fee for a personal identification certificate issued under Section 501.0165, Government Code, is \$5.

(a-2) Except as provided by Subsection (a-1), the department by rule shall establish the fee for a personal identification certificate or driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility.

(a-3) Except as provided by Subsections (a-1) and (a-2), the fee for a driver's license or personal identification certificate that is issued to a person who is not a citizen, national, or legal permanent resident of the United States or a refugee or asylee lawfully admitted into the United States and that is valid for not more than one year is \$24.

(b) The fee for renewal of a Class M license or for renewal of a license that includes authorization to operate a motorcycle is \$32.

(c) The fee for issuance of a provisional license or instruction permit is \$15.

(d) The fee for issuance or renewal of an occupational license is \$10.

(e) An applicant who changes from a lower to a higher class of license or who adds a type of vehicle other than a motorcycle to the license shall pay a \$10 fee for the required examination.

Text of subsec. (f) as added by Acts 1997, 75th Leg., ch. 1156, Sec.

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(f) An applicant applying for additional authorization to operate a motorcycle shall pay a \$15 fee for the required application.

Text of subsec. (f) as added by Acts 1997, 75th Leg., ch. 1372, Sec.

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(f) If a Class A, B, or C driver's license includes an authorization to operate a motorcycle or moped, the fee for the driver's license is increased by \$8.

(g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 121, Sec. 6(b), eff. September 1, 2014.

(h) The fee for issuance or renewal of a driver's license, a provisional license, an instruction permit, or a hardship license issued to a person subject to the registration requirements under Chapter 62, Code of Criminal Procedure, is \$20.

(i) The fee for issuance or renewal of a driver's license is \$8 for a license with an expiration date established under Section 521.2711.

(j) The department shall collect an additional fee of \$1 for the issuance or renewal of a license to fund the Blindness Education, Screening, and Treatment Program established under Section 91.027, Human Resources Code, if the person applying for or renewing a license opts to pay the additional fee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 510, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1156, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1372, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1516, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 546, Sec. 6, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 21.002(20), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1186 (H.B. 120), Sec. 6, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 37 (H.B. 84), Sec. 5, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(105), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 12.10, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1253 (H.B. 339), Sec. 17, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1288 (H.B. 2161), Sec. 6, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 554 (H.B. 2904), Sec. 7, eff. January 1, 2012.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.11, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 121 (S.B. 1815), Sec. 6(b), eff. September 1, 2014.

Sec. 521.422. PERSONAL IDENTIFICATION CERTIFICATE FEE. (a) The fee for a personal identification certificate is:

- (1) \$15 for a person under 60 years of age;
- (2) \$5 for a person 60 years of age or older; and
- (3) \$20 for a person subject to the registration requirements under Chapter 62, Code of Criminal Procedure.

(b) The department shall collect an additional fee of \$1 for the issuance or renewal of a personal identification card to fund the Blindness Education, Screening, and Treatment Program established under Section 91.027, Human Resources Code, if the person applying for or renewing a personal identification card opts to pay the additional fee.

(c) When a person applies for the issuance or renewal of a personal identification card, including a duplicate personal identification card or a personal identification card issued or renewed over the Internet or by other electronic means, the person may elect to contribute \$1 or more to the nonprofit organization administering the Glenda Dawson Donate Life-Texas Registry established under Chapter 692A, Health and Safety Code. The department shall remit any contribution paid under this subsection to the comptroller for deposit to the credit of the Glenda Dawson Donate Life-Texas Registry fund created under Section 692A.020, Health and Safety Code. Before sending the money to the comptroller, the department may deduct money equal to the amount of reasonable expenses for administering this subsection, not to exceed five percent of the money collected under this subsection. The organization shall submit an annual report to the director of the department that includes the total dollar amount of money received by the organization under this subsection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 510, Sec. 3, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1372, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1516, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 546, Sec. 7, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 21.002(21), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1186 (H.B. [120](#)), Sec. 7, eff. June 18, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 554 (H.B. [2904](#)), Sec. 8, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 121 (S.B. [1815](#)), Sec. 4, eff. May 18, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1261 (H.B. [3283](#)), Sec. 5, eff. January 1, 2016.

Sec. 521.424. DUPLICATE LICENSE OR CERTIFICATE FEE. The fee for a duplicate driver's license or duplicate personal identification certificate is \$10.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1249 (H.B. 1789), Sec. 2, eff. September 1, 2005.

Sec. 521.425. REMITTANCE OF FEES AND CHARGES. Each fee or charge required by this chapter and collected by an officer or agent of the department shall be sent without deduction to the department in Austin.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.426. DISABLED VETERAN EXEMPTION. (a) Except as provided by Subsection (c), a veteran of service in the armed forces of the United States is exempt from the payment of fees under this chapter for the issuance of a driver's license or personal identification certificate if the veteran:

- (1) was honorably discharged;
- (2) has a service-related disability of at least 60 percent; and
- (3) receives compensation from the United States because of the disability.

(b) The department shall adopt rules relating to the proof of entitlement to this exemption.

(c) Subsection (a) does not apply to a person subject to the registration requirements of Chapter 62, Code of Criminal Procedure.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 546, Sec. 8, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1133 (H.B. 1148), Sec. 1, eff. September 1, 2011.

Sec. 521.427. DISPOSITION OF FEES. (a) Except as provided by Subsections (b) and (c), each fee collected under this subchapter shall be deposited to the credit of the Texas mobility fund.

(b) Subsection (a) does not apply to:

- (1) the portion of a fee collected under Section 521.421(b) or Section 521.421(f), as added by Chapter 1156, Acts of the 75th Legislature, Regular Session, 1997, that is required by Section

662.011 to be deposited to the credit of the motorcycle education fund account;

(2) a fee collected under Section 521.421(j); or

(3) a fee collected under Section 521.422(b) or (c).

(c) Repealed by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 6.02.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 11.04, eff. Sept. 1, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 6.02(1), eff. Jan. 11, 2004.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.002(34), eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 121 (S.B. 1815), Sec. 5, eff. May 18, 2013.

Sec. 521.428. COUNTY FEE. A county that provides services under an agreement described by Section 521.009 may collect an additional fee of up to \$5 for each transaction provided that relates to driver's license and personal identification certificate services only.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1233 (S.B. 1729), Sec. 2, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.002(31), eff. September 1, 2015.

SUBCHAPTER S. MISCELLANEOUS OFFENSES

Sec. 521.451. GENERAL VIOLATION. (a) Except as provided by Section 521.452, a person may not:

(1) display, cause or permit to be displayed, or have in the person's possession a driver's license or certificate that the person knows is fictitious or has been altered;

(2) lend the person's driver's license or certificate to another person or knowingly permit another person to use the person's driver's license or certificate;

(3) display or represent as the person's own a driver's license or certificate not issued to the person;

(4) possess more than one currently valid driver's license or more than one currently valid certificate; or

(5) in an application for an original, renewal, or duplicate driver's license or certificate:

(A) provide a false name, false address, or a counterfeit document; or

(B) knowingly make a false statement, conceal a material fact, or otherwise commit fraud.

(b) An offense under this section is a Class A misdemeanor.

(c) If conduct that constitutes an offense under Subsection (a) also constitutes an offense under Section 106.07, Alcoholic Beverage Code, the actor may be prosecuted only under Section 106.07, Alcoholic Beverage Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 659, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 933, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1208 (H.B. 699), Sec. 1, eff. September 1, 2005.

Sec. 521.452. ALIAS DRIVER'S LICENSE FOR LAW ENFORCEMENT PURPOSES. (a) After written approval by the director, the department may issue to a law enforcement officer an alias driver's license to be used in supervised activities involving a criminal investigation.

(b) An application for, or possession or use of, an alias driver's license for a purpose described by this section by the officer to whom the license is issued is not a violation of this subchapter unless the department has canceled, suspended, or revoked the license.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.453. FICTITIOUS LICENSE OR CERTIFICATE. (a) Except as provided by Subsection (f), a person under the age of 21 years commits an offense if the person possesses, with the intent to represent that the person is 21 years of age or older, a document that is deceptively similar to a driver's license or a personal

identification certificate unless the document displays the statement "NOT A GOVERNMENT DOCUMENT" diagonally printed clearly and indelibly on both the front and back of the document in solid red capital letters at least one-fourth inch in height.

(b) For purposes of this section, a document is deceptively similar to a driver's license or personal identification certificate if a reasonable person would assume that it was issued by the department, another agency of this state, another state, or the United States.

(c) A peace officer listed in Article 2.12, Code of Criminal Procedure, may confiscate a document that:

(1) is deceptively similar to a driver's license or personal identification certificate; and

(2) does not display the statement required under Subsection (a).

(d) For purposes of this section, an offense under Subsection (a) is a Class C misdemeanor.

(e) The attorney general, district attorney, or prosecuting attorney performing the duties of the district attorney may bring an action to enjoin a violation or threatened violation of this section. The action must be brought in a court in the county in which the violation or threatened violation occurs.

(f) Subsection (a) does not apply to:

(1) a government agency, office, or political subdivision that is authorized to produce or sell personal identification certificates; or

(2) a person that provides a document similar to a personal identification certificate to an employee of the person for a business purpose.

(g) In this section:

(1) "Driver's license" includes a driver's license issued by another state or by the United States.

(2) "Personal identification certificate" means a personal identification certificate issued by the department, by another agency of this state, by another state, or by the United States.

(h) In addition to the punishment provided by Subsection (d), a court, if the court is located in a municipality or county that has established a community service program, may order a person younger than 21 years of age who commits an offense under this section to perform eight hours of community service unless the person is shown

to have previously committed an offense under this section, in which case the court may order the person to perform 12 hours of community service.

(i) If the person ordered to perform community service under Subsection (h) is younger than 17 years of age, the community service shall be performed as if ordered by a juvenile court under Section 54.044(a), Family Code, as a condition of probation under Section 54.04(d), Family Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 823, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1358, Sec. 1, eff. Sept. 1, 1997.

Sec. 521.454. FALSE APPLICATION. (a) A person commits an offense if the person knowingly swears to or affirms falsely before a person authorized to take statements under oath any matter, information, or statement required by the department in an application for an original, renewal, or duplicate driver's license or certificate issued under this chapter.

(b) An information or indictment for a violation of Subsection (a) that alleges that the declarant has made inconsistent statements under oath, both of which cannot be true, need not allege which statement is false and the prosecution is not required to prove which statement is false.

(c) An offense under this section is a Class A misdemeanor.

(d) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 658, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. [2086](#)), Sec. 32, eff. September 1, 2009.

Sec. 521.455. USE OF ILLEGAL LICENSE OR CERTIFICATE. (a) A person commits an offense if the person intentionally or knowingly uses a driver's license or certificate obtained in violation of Section 521.451 or 521.454 to harm or defraud another.

(b) An offense under this section is a Class A misdemeanor.

(c) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 33, eff. September 1, 2009.

Sec. 521.456. DELIVERY OR MANUFACTURE OF COUNTERFEIT INSTRUMENT. (a) A person commits an offense if the person possesses with the intent to sell, distribute, or deliver a forged or counterfeit instrument that is not printed, manufactured, or made by or under the direction of, or issued, sold, or circulated by or under the direction of, a person, board, agency, or authority authorized to do so under this chapter or under the laws of the United States, another state, or a Canadian province. An offense under this subsection is a Class A misdemeanor.

(b) A person commits an offense if the person manufactures or produces with the intent to sell, distribute, or deliver a forged or counterfeit instrument that the person knows is not printed, manufactured, or made by or under the direction of, or issued, sold, or circulated by or under the direction of, a person, board, agency, or authority authorized to do so under this chapter or under the laws of the United States, another state, or a Canadian province. An offense under this subsection is a felony of the third degree.

(c) A person commits an offense if the person possesses with the intent to use, circulate, or pass a forged or counterfeit instrument that is not printed, manufactured, or made by or under the direction of, or issued, sold, or circulated by or under the direction of, a person, board, agency, or authority authorized to do so under this chapter or under the laws of the United States, another state, or a Canadian province. An offense under this subsection is a Class C misdemeanor.

(d) For purposes of this section, "instrument" means a driver's license, driver's license form, personal identification certificate, stamp, permit, license, official signature, certificate, evidence of fee payment, or any other instrument.

(e) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.99, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 823, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 34, eff. September 1, 2009.

Sec. 521.4565. CONSPIRING TO MANUFACTURE COUNTERFEIT LICENSE OR CERTIFICATE. (a) In this section:

(1) "Combination," "conspires to commit," "profits," and "criminal street gang" have the meanings assigned by Section 71.01, Penal Code.

(2) "Conspires to manufacture or produce" means that:

(A) a person agrees with one or more other persons to engage in the manufacture or production of a forged or counterfeit instrument; and

(B) the person and one or more of the other persons perform an overt act in pursuance of the agreement.

(3) "Instrument" means a driver's license, commercial driver's license, or personal identification certificate.

(4) "Public servant" has the meaning assigned by Section 1.07, Penal Code.

(b) A person commits an offense if the person establishes, maintains, or participates in or conspires to establish, maintain, or participate in a combination or criminal street gang, or participates in the profits of a combination or criminal street gang, with the intent to manufacture or produce a forged or counterfeit instrument for the purpose of selling, distributing, or delivering such instrument. An agreement constituting conspiring to manufacture or produce may be inferred from the acts of the parties.

(c) An offense under this section is a state jail felony, except that an offense committed by a public servant is a felony of the third degree.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.08, eff. September 1, 2009.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 13.06, eff. June 19, 2009.

Sec. 521.457. DRIVING WHILE LICENSE INVALID. (a) A person commits an offense if the person operates a motor vehicle on a highway:

(1) after the person's driver's license has been canceled under this chapter if the person does not have a license that was subsequently issued under this chapter;

(2) during a period that the person's driver's license or privilege is suspended or revoked under any law of this state;

(3) while the person's driver's license is expired if the license expired during a period of suspension; or

(4) after renewal of the person's driver's license has been denied under any law of this state, if the person does not have a driver's license subsequently issued under this chapter.

(b) A person commits an offense if the person is the subject of an order issued under any law of this state that prohibits the person from obtaining a driver's license and the person operates a motor vehicle on a highway.

(c) It is not a defense to prosecution under this section that the person did not receive actual notice of a suspension imposed as a result of a conviction for an offense under Section 521.341.

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

(e) Except as provided by Subsections (f), (f-1), and (f-2), an offense under this section is a Class C misdemeanor.

(f) An offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the person:

(1) has previously been convicted of an offense under this section or an offense under Section 601.371(a), as that law existed before September 1, 2003; or

(2) at the time of the offense, was operating the motor vehicle in violation of Section 601.191.

(f-1) If it is shown on the trial of an offense under this

section that the license of the person has previously been suspended as the result of an offense involving the operation of a motor vehicle while intoxicated, the offense is a Class B misdemeanor.

(f-2) An offense under this section is a Class A misdemeanor if it is shown on the trial of the offense that at the time of the offense the person was operating the motor vehicle in violation of Section 601.191 and caused or was at fault in a motor vehicle accident that resulted in serious bodily injury to or the death of another person.

(g) For purposes of this section, a conviction for an offense that involves operation of a motor vehicle after August 31, 1987, is a final conviction, regardless of whether the sentence for the conviction is probated.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.98(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1207, Sec. 6, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 855, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1027 (H.B. 1623), Sec. 8, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1284 (H.B. 2012), Sec. 2, eff. September 1, 2009.

Sec. 521.458. PERMITTING UNAUTHORIZED PERSON TO DRIVE. (a) A person may not knowingly permit or cause the person's child or ward who is under 18 years of age to operate a motor vehicle on a highway in violation of this chapter.

(b) A person may not authorize or knowingly permit a motor vehicle owned by or under the control of the person to be operated on a highway by any person in violation of this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.459. EMPLOYMENT OF UNLICENSED DRIVER. (a) Before employing a person as an operator of a motor vehicle used to transport persons or property, an employer shall request from the department:

(1) a list of convictions for traffic violations contained

in the department records on the potential employee; and

(2) a verification that the person has a license.

(b) A person may not employ a person as an operator of a motor vehicle used to transport persons or property who does not hold the appropriate driver's license to operate the vehicle as provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.460. MOTOR VEHICLE RENTALS. (a) A person may not rent a motor vehicle to any other person unless the other person holds a driver's license under this chapter or, if a nonresident, holds a license issued under the laws of the state or Canadian province in which the person resides, unless that state or province does not require that the operator of a motor vehicle hold a license.

(b) A person may not rent a motor vehicle to another person until inspecting the driver's license of the renter and comparing and verifying the signature on the renter's driver's license with the renter's signature written in the person's presence.

(c) Each person who rents a motor vehicle to another shall maintain a record of:

(1) the number of the license plate issued for the motor vehicle;

(2) the name and address of the person to whom the vehicle is rented;

(3) the license number of the person to whom the vehicle is rented;

(4) the date the license was issued; and

(5) the place where the license was issued.

(d) The record maintained under Subsection (c) may be inspected by any police officer or officer or employee of the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 521.461. GENERAL CRIMINAL PENALTY. (a) A person who violates a provision of this chapter for which a specific penalty is not provided commits an offense.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 521A. ELECTION IDENTIFICATION CERTIFICATE

Sec. 521A.001. ELECTION IDENTIFICATION CERTIFICATE. (a) The department shall issue an election identification certificate to a person who states that the person is obtaining the certificate for the purpose of satisfying Section 63.001(b), Election Code, and does not have another form of identification described by Section 63.0101, Election Code, and:

(1) who is a registered voter in this state and presents a valid voter registration certificate; or

(2) who is eligible for registration under Section 13.001, Election Code, and submits a registration application to the department.

(b) The department may not collect a fee for an election identification certificate or a duplicate election identification certificate issued under this section.

(c) An election identification certificate may not be used or accepted as a personal identification certificate.

(d) An election officer may not deny the holder of an election identification certificate the ability to vote because the holder has an election identification certificate rather than a driver's license or personal identification certificate issued under this subtitle.

(e) An election identification certificate must be similar in form to, but distinguishable in color from, a driver's license and a personal identification certificate. The department may cooperate with the secretary of state in developing the form and appearance of an election identification certificate.

(f) The department may require each applicant for an original or renewal election identification certificate to furnish to the department the information required by Section 521.142.

(g) The department may cancel and require surrender of an election identification certificate after determining that the holder was not entitled to the certificate or gave incorrect or incomplete information in the application for the certificate.

(h) A certificate expires on a date specified by the department, except that a certificate issued to a person 70 years of age or older does not expire.

Added by Acts 2011, 82nd Leg., R.S., Ch. 123 (S.B. 14), Sec. 20, eff. January 1, 2012.

CHAPTER 522. COMMERCIAL DRIVER'S LICENSES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 522.001. SHORT TITLE. This chapter may be cited as the Texas Commercial Driver's License Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.002. CONSTRUCTION. This chapter is a remedial law that shall be liberally construed to promote the public health, safety, and welfare.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.003. DEFINITIONS. In this chapter:

(1) "Alcohol" means:

(A) beer, ale, port, stout, sake, or any other similar fermented beverages or products containing one-half of one percent or more of alcohol by volume, brewed or produced wholly or in part from malt or a malt substitute;

(B) wine containing one-half of one percent or more of alcohol by volume; or

(C) distilled spirits, including ethyl alcohol, ethanol, and spirits of wine in any form, and all dilutions and mixtures of distilled spirits from whatever source or by whatever process produced.

(2) "Alcohol concentration" means the number of grams of alcohol for each:

(A) 100 milliliters of blood;

(B) 210 liters of breath; or

(C) 67 milliliters of urine.

(3) "Commercial driver's license" means a license issued to an individual that authorizes the individual to drive a class of commercial motor vehicle.

(4) "Commercial learner's permit" means a permit that restricts the holder to driving a commercial motor vehicle as

provided by Section 522.011(a)(2)(B).

(5) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property that:

(A) has a gross combination weight or a gross combination weight rating of 26,001 or more pounds, including a towed unit with a gross vehicle weight or a gross vehicle weight rating of more than 10,000 pounds;

(B) has a gross vehicle weight or a gross vehicle weight rating of 26,001 or more pounds;

(C) is designed to transport 16 or more passengers, including the driver; or

(D) is transporting hazardous materials and is required to be placarded under 49 C.F.R. Part 172, Subpart F.

(6) "Controlled substance" means a substance classified as a controlled substance under:

(A) Section 102(6), Controlled Substances Act (21 U.S.C. Section 802(6)), including Schedules I-V of 21 C.F.R. Part 1308; or

(B) Chapter 481, Health and Safety Code.

(7) "Conviction" means:

(A) an adjudication of guilt, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs, or the violation of a condition of release without bail, in a court, regardless of whether the penalty is suspended, probated, or rebated; or

(B) a determination by a court, an authorized administrative tribunal or officer, or the department as authorized by this chapter that:

(i) the person has refused to give a specimen to determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug while driving a commercial motor vehicle; or

(ii) the person has driven a commercial motor vehicle while the person's alcohol concentration was 0.04 or more.

(8) "Department" means the Department of Public Safety.

(9) "Disqualify" means to withdraw the privilege to drive a commercial motor vehicle, including to suspend, cancel, or revoke that privilege under a state or federal law.

(10) "Domicile" means the place where a person has the person's true, fixed, and permanent home and principal residence and to which the person intends to return whenever absent.

(11) "Drive" means to operate or be in physical control of a motor vehicle.

(12) "Driver's license" has the meaning assigned by Section 521.001, except the term does not include a commercial learner's permit unless otherwise provided by this chapter.

(13) "Drug" has the meaning assigned by Section 481.002, Health and Safety Code.

(14) "Employer" means a person who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle.

(15) "Federal act" means the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. Section 2701 et seq.).

(16) "Foreign jurisdiction" means a jurisdiction other than a state.

(17) "Gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle or, if the manufacturer has not specified a value, the sum of the gross vehicle weight rating of the power unit and the total weight of the towed unit or units and any load on a towed unit.

(18) "Gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle.

(19) "Hazardous materials" has the meaning assigned by 49 C.F.R. Section 383.5.

(20) Repealed by Acts 2001, 77th Leg., ch. 941, Sec. 43, eff. Sept. 1, 2001.

(21) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway. The term does not include a vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail.

(22) "Non-domiciled commercial driver's license" means a commercial driver's license issued by a state to an individual who is domiciled in a foreign jurisdiction.

(22-a) "Non-domiciled commercial learner's permit" means a commercial learner's permit issued by a state to an individual who is domiciled in a foreign jurisdiction.

(23) "Out-of-service order" means:

(A) a temporary prohibition against driving a commercial motor vehicle issued under Section 522.101, the law of another state, 49 C.F.R. Section 383.5, 386.72, 392.5, 392.9a, 395.13, or 396.9, a law compatible with those federal regulations, or the North American Standard Out-of-Service Criteria; or

(B) a declaration by the Federal Motor Carrier Safety Administration or an authorized enforcement officer of a state or local jurisdiction that a driver, commercial motor vehicle, or motor carrier operation is out of service under 49 C.F.R. Section 383.5, 386.72, 392.5, 392.9a, 395.13, or 396.9, a law compatible with those federal regulations, or the North American Standard Out-of-Service Criteria.

(23-a) "Person" includes the United States, a state, or a political subdivision of a state.

(24) "Secretary" means the United States secretary of transportation.

(24-a) "Seed cotton module" means compacted seed cotton in any form.

(25) "Serious traffic violation" means:

(A) a conviction arising from the driving of a motor vehicle, other than a parking, vehicle weight, or vehicle defect violation, for:

(i) excessive speeding, involving a single charge of driving 15 miles per hour or more above the posted speed limit;

(ii) reckless driving, as defined by state or local law;

(iii) a violation of a state or local law related to motor vehicle traffic control, including a law regulating the operation of vehicles on highways, arising in connection with a fatal accident;

(iv) improper or erratic traffic lane change;

(v) following the vehicle ahead too closely; or

(vi) a violation of Sections 522.011 or 522.042;

or

(B) a violation of Section 522.015.

(26) "State" means a state of the United States or the District of Columbia.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 2001, 77th Leg., ch. 941, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 991, Sec. 6, eff. June 1, 2005; Acts 2003, 78th Leg., ch. 1325, Sec. 8.01, eff. June 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 247 (H.B. 749), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. 1372), Sec. 3, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 782 (S.B. 1093), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 3, eff. January 1, 2016.

Sec. 522.004. APPLICABILITY. (a) This chapter does not apply to:

(1) a vehicle that is controlled and operated by a farmer and:

(A) used to transport agricultural products, farm machinery, or farm supplies to or from a farm;

(B) used within 150 miles of the person's farm; and

(C) not used in the operations of a common or contract motor carrier;

(2) a fire-fighting or emergency vehicle necessary to the preservation of life or property or the execution of emergency governmental functions, whether operated by an employee of a political subdivision or by a volunteer fire fighter;

(3) a military vehicle or a commercial motor vehicle, when operated for military purposes by military personnel, including:

(A) active duty military personnel, including personnel serving in the United States Coast Guard; and

(B) members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel engaged in part-time training, and national guard military technicians;

(4) a recreational vehicle that is driven for personal use;

(5) a vehicle that is owned, leased, or controlled by an air carrier, as defined by Section 21.155, and that is driven or operated exclusively by an employee of the air carrier only on the premises of an airport, as defined by Section 22.001, on service

roads to which the public does not have access; or

(6) a vehicle used exclusively to transport seed cotton modules or cotton burrs.

(b) In this section, "recreational vehicle" means a motor vehicle primarily designed as temporary living quarters for recreational camping or travel use. The term includes a travel trailer, camping trailer, truck camper, and motor home.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1061, Sec. 13, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 357 (S.B. 1257), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. 1372), Sec. 4, eff. January 1, 2008.

Sec. 522.005. RULEMAKING AUTHORITY. The department may adopt rules necessary to carry out this chapter and the federal act and to maintain compliance with 49 C.F.R. Parts 383 and 384.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.12, eff. September 28, 2011.

Sec. 522.006. CONTRACTING AUTHORITY. The department may enter into a contract to carry out this chapter, including a contract with an agency of another state or with another organization.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.007. EXEMPTION FOR NEIGHBORING STATES. (a) The public safety director shall enter negotiations with an appropriate person or entity of a state bordering this state for the purpose of applying the exemption contained in Section 522.004(a)(1) to residents of that state.

(b) The public safety director may enter an agreement to apply the exemption contained in Section 522.004(a)(1) to residents of a

bordering state only if that state extends a similar exemption to residents of this state.

Added by Acts 1997, 75th Leg., ch. 1061, Sec. 14, eff. Sept. 1, 1997.

SUBCHAPTER B. LICENSE OR PERMIT REQUIRED

Sec. 522.011. LICENSE OR PERMIT REQUIRED; OFFENSE. (a) A person may not drive a commercial motor vehicle unless:

(1) the person:

(A) has in the person's immediate possession a commercial driver's license issued by the department appropriate for the class of vehicle being driven; and

(B) is not disqualified or subject to an out-of-service order;

(2) the person:

(A) has in the person's immediate possession a commercial learner's permit and driver's license issued by the department; and

(B) is accompanied by the holder of a commercial driver's license issued by the department with any necessary endorsements appropriate for the class of vehicle being driven, and the license holder:

(i) for the purpose of giving instruction in driving the vehicle, at all times occupies a seat beside the permit holder or, in the case of a passenger vehicle, directly behind the driver in a location that allows for direct observation and supervision of the permit holder; and

(ii) is not disqualified or subject to an out-of-service order; or

(3) the person is authorized to drive the vehicle under Section 522.015.

(b) A person commits an offense if the person violates Subsection (a).

(c) An offense under this section is a misdemeanor punishable by a fine not to exceed \$500, except that the offense is a misdemeanor punishable by a fine not to exceed \$1,000 if it is shown on the trial of the offense that the defendant was convicted of an offense under this section in the year preceding the date of the offense that is the subject of the trial.

(d) It is a defense to prosecution under Subsection (a)(1)(A) if the person charged produces in court a commercial driver's license that:

- (1) was issued to the person;
- (2) is appropriate for the class of vehicle being driven;

and

- (3) was valid when the offense was committed.

(e) It is a defense to prosecution for a violation of Subsection (a)(2)(A) if the person charged produces in court a commercial learner's permit or driver's license, as appropriate, that:

- (1) was issued to the person; and
- (2) was valid when the offense was committed.

(f) The court may assess a defendant an administrative fee not to exceed \$10 if a charge under this section is dismissed because of the defense listed under Subsection (e).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 4, eff. January 1, 2016.

Sec. 522.012. RESTRICTED LICENSE. (a) If the department is authorized under the federal act to grant the waiver, the department by rule may waive the knowledge and skills tests required by Section 522.022 and issue a restricted commercial driver's license to an employee of a farm-related service industry.

(b) In granting a waiver under this section, the department is subject to any condition or requirement established for the waiver by the secretary or the Federal Motor Carrier Safety Administration.

(c) In addition to any restriction or limitation imposed by this chapter or the department, a restricted commercial driver's license issued under this section is subject to any restriction or limitation imposed by the secretary or the Federal Motor Carrier Safety Administration.

(d) In this section, "farm-related service industry" has the meaning assigned by the secretary or the Federal Motor Carrier Safety Administration under the federal act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 4, eff. Sept. 1, 2001.

Sec. 522.013. NON-DOMICILED LICENSE OR PERMIT. (a) The department may issue a non-domiciled commercial driver's license or commercial learner's permit to a person domiciled in a foreign jurisdiction if the secretary has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established by 49 C.F.R. Part 383.

(b) An applicant for a non-domiciled commercial driver's license must surrender any non-domiciled commercial driver's license issued by another state.

(c) Before issuing a non-domiciled commercial driver's license, the department must establish the practical capability of disqualifying the person under the conditions applicable to a commercial driver's license issued to a resident of this state. Before issuing a non-domiciled commercial learner's permit, the department must establish the practical capability of disqualifying the person under the conditions applicable to a commercial learner's permit issued to a resident of this state.

(d) "Non-domiciled" must appear on the face of a license or permit issued under this section.

(e) The department may issue a temporary non-domiciled commercial driver's license to a person who does not present a social security card as required by Section 522.021(a-1)(1) but who otherwise meets the requirements for a non-domiciled commercial driver's license, including the requirement that the commercial motor vehicle testing and licensing standards of the country of which the applicant is domiciled not meet the testing and licensing standards established by 49 C.F.R. Part 383. A license issued under this subsection:

(1) expires on the earlier of:

(A) the 60th day after the date the license is issued;

or

(B) the expiration date of any Form I-94

Arrival/Departure record, or a successor document, presented under Section 522.021(a-1); and

(2) may not be renewed.

(f) The department may not issue more than one temporary non-domiciled commercial driver's license to a person.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1319 (S.B. 1260), Sec. 1, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 5, eff. January 1, 2016.

Sec. 522.014. PERMIT. (a) The department may issue a commercial learner's permit to an individual who:

(1) has been issued a driver's license by the department;
and

(2) has passed the vision and written tests required for the class of vehicle to be driven.

(b) A commercial learner's permit must be a separate document from a driver's license or a commercial driver's license.

(c) The issuance of a commercial learner's permit is required for:

(1) the initial issuance of a commercial driver's license;
or

(2) the upgrade in classification of a commercial driver's license that requires a skills test.

(d) A commercial learner's permit holder may not take a commercial driver's license skills test before the 15th day after the date of the issuance of the permit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 6, eff. January 1, 2016.

Sec. 522.015. LICENSE OR PERMIT ISSUED BY OTHER JURISDICTION. A person may drive a commercial motor vehicle in this state if:

(1) the person has a commercial driver's license or a commercial learner's permit issued by:

(A) another state in accordance with the minimum federal standards for the issuance of a commercial motor vehicle

driver's license; or

(B) a foreign jurisdiction the testing and licensing standards of which the United States Department of Transportation has determined meet the requirements of the federal act;

(2) the person's license or permit is appropriate for the class of vehicle being driven;

(3) the person is not disqualified from driving a commercial motor vehicle and is not subject to an out-of-service order;

(4) the person has not had a domicile in this state for more than 30 days; and

(5) if the person has a permit, the person also has a driver's license issued by the same jurisdiction that issued the permit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 7, eff. January 1, 2016.

SUBCHAPTER C. LICENSE OR PERMIT APPLICATION AND ISSUANCE

Sec. 522.021. APPLICATION; OFFENSE. (a) An application for a commercial driver's license or commercial learner's permit must include:

(1) the full name and current residence and mailing address of the applicant;

(2) a physical description of the applicant, including sex, height, and eye color;

(3) the applicant's date of birth;

(4) the applicant's social security number, unless the application is for a non-domiciled commercial driver's license and the applicant is domiciled in a foreign jurisdiction;

(5) certifications, including those required by 49 C.F.R. Section 383.71(a); and

(6) any other information required by the department.

(a-1) If the application is for a non-domiciled commercial driver's license and the applicant is domiciled in a foreign jurisdiction that does not meet the testing and licensing standards established by 49 C.F.R. Part 383, the applicant must present:

- (1) a social security card issued to the applicant;
- (2) an unexpired foreign passport issued to the applicant;
- (3) either:
 - (A) a Form I-94 Arrival/Departure record or a successor document; or
 - (B) an unexpired employment authorization document; and
- (4) documentation demonstrating proof of Texas residence as provided by Section 522.0225.

(b) The application must be sworn to and signed by the applicant. An officer or employee of the department may administer the oath. An officer or employee of this state may not charge for administering the oath.

(c) The application must meet the requirements of an application under Section 521.141 and must be accompanied by the fee required under Section 522.029. The department may require documentary evidence to verify the information required by Subsection (a).

(c-1) If the department requires proof of an applicant's identity as part of an application under this section, the department must accept as satisfactory proof of identity an offender identification card or similar form of identification issued to an inmate by the Texas Department of Criminal Justice if the applicant also provides supplemental verifiable records or documents that aid in establishing identity.

(d) A person who knowingly falsifies information or a certification required by Subsection (a) commits an offense and is subject to a 60-day disqualification of the person's commercial driver's license, commercial learner's permit, or application. An offense under this subsection is a Class C misdemeanor.

(e) When the department issues a license to which this section applies, the department shall provide the person to whom the license is issued with written information about the Glenda Dawson Donate Life-Texas Registry operated under Chapter 692A, Health and Safety Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1218 (H.B. 967), Sec. 5, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1319 (S.B. 1260), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 14.03, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 8, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1261 (H.B. 3283), Sec. 6, eff. January 1, 2016.

Sec. 522.022. LICENSE REQUIREMENTS. The department may not issue a commercial driver's license other than a non-domiciled license to a person unless the person:

(1) has a domicile:

(A) in this state; or

(B) in another state and is a member of the United States armed forces, including a member of the National Guard or a reserve or auxiliary unit of any branch of the armed forces, whose temporary or permanent duty station is located in this state;

(2) has passed knowledge and skills tests for driving a commercial motor vehicle that comply with minimal federal standards established by 49 C.F.R. Part 383, Subparts G and H; and

(3) has satisfied the requirements imposed by the federal act, federal regulation, or state law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 190 (S.B. 229), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 9, eff. January 1, 2016.

Sec. 522.0225. VERIFICATION OF DOMICILE. (a) The department shall adopt rules for determining whether a domicile has been established under Section 522.022, including rules prescribing the types of documentation the department may require from the applicant to determine the validity of the claimed domicile.

(b) The department may contract with a third-party personal data verification service to assist the department in verifying a

claim of domicile, including whether the physical address provided by the applicant is the applicant's actual residence.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 13.05, eff. June 19, 2009.

Sec. 522.0226. POST OFFICE BOX NOT VALID AS ADDRESS. (a) In this section, "post office box address" means a United States Postal Service post office box address or a private mailbox address.

(b) Unless an exception exists under state or federal law, an applicant may receive delivery of a commercial driver's license at a post office box address only if the applicant has provided the department the physical address where the applicant resides.

(c) The department may require the applicant to provide documentation that the department determines necessary to verify the validity of the physical address provided under Subsection (b).

(d) The department may contract with a third-party personal data verification service to assist the department in verifying whether the physical address provided by the applicant is the applicant's actual residence.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 13.05, eff. June 19, 2009.

Sec. 522.023. TESTS. (a) The tests required by Section 522.022 must be prescribed by the department.

(b) The knowledge test must be conducted by the department. The department shall provide each applicant who has a reading impairment an opportunity to take the knowledge test orally or, at the applicant's option, the applicant may have the questions read to the applicant and may answer in writing.

(c) Except as provided by Subsection (d), the department must conduct the skills test.

(d) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility or other private institution, or a department, agency, or instrumentality of local government, to administer the skills test specified by this section if:

(1) the test is the same that would be administered by the

department; and

(2) the person has entered into an agreement with the department that complies with 49 C.F.R. Section 383.75.

(e) The skills test must be taken in a commercial motor vehicle that is representative of the type of vehicle the person drives or expects to drive.

(f) The department may waive the skills test for an applicant who meets the requirements of 49 C.F.R. Section 383.77.

(g) The department shall test the applicant's ability to understand highway traffic signs and signals that are written in English.

(h) An applicant who pays the applicable fee required by Section 522.029 is entitled to three examinations of each element under Section 522.022. If the applicant has not qualified after the third examination, the applicant must submit a new application accompanied by the required fee.

(i) The department may not issue a commercial driver's license to a person who has not passed each examination required under this chapter.

(j) The department may administer a skills test to a person who holds a commercial learner's permit issued by another state or jurisdiction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. [1372](#)), Sec. 5, eff. January 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. [1888](#)), Sec. 10, eff. January 1, 2016.

Sec. 522.0235. WAIVER OF VISUAL STANDARDS FOR INTRASTATE DRIVER. (a) Except as provided by Subsection (b), the department by rule may provide for a waiver of the visual standards for a commercial driver's license in 49 C.F.R. Part 391, Subpart E, if the person who is applying for a commercial driver's license or who has been issued a commercial driver's license is a person who drives a commercial motor vehicle only in this state.

(b) Subsection (a) does not apply to standards for distant binocular acuity.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.100(a), eff. Sept. 1, 1997.

Sec. 522.024. ADDITIONAL TESTING. To ensure compliance with the federal act and to promote the systematic conversion to commercial driver's licenses, the department may require the commercial driver's license testing of a person to whom the department has previously issued a driver's license that authorizes the driving of a vehicle that may be subject to this chapter. The testing may be required before the expiration of an existing license.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.025. LIMITATIONS ON ISSUANCE OF LICENSE OR PERMIT.

(a) The department may not issue a commercial driver's license or commercial learner's permit to a person who is disqualified from driving a commercial motor vehicle or while the person's driver's license or driving privilege is suspended, revoked, or canceled in any state.

(b) The department may not issue a commercial driver's license to a person who has a driver's license, commercial driver's license, or commercial learner's permit issued by another state unless the person surrenders the license or permit. The department shall notify the issuing state of the surrendered license or permit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 11, eff. January 1, 2016.

Sec. 522.026. LIMITATION ON NUMBER OF DRIVER'S LICENSES; OFFENSE. (a) A person commits an offense if the person drives a commercial motor vehicle and has more than one driver's license.

(b) It is an affirmative defense to prosecution of an offense under this section that the offense occurred during the 10-day period beginning on the date the person was issued a driver's license.

(c) An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.027. MINIMUM AGE. The department may not issue a commercial driver's license or a commercial learner's permit to a person who is younger than 18 years of age.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 12, eff. January 1, 2016.

Sec. 522.028. CHECK OF DRIVING RECORD. Before issuing a commercial driver's license or commercial learner's permit, the department shall check the applicant's driving record as required by 49 C.F.R. Section 383.73.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 13, eff. January 1, 2016.

Sec. 522.029. FEES. (a) The fee for a commercial driver's license issued by the department is \$60, except as provided by Subsections (f), (h), (j), and (k).

(b) The fee for a commercial driver's license shall be reduced by \$4 for each remaining year of validity of a driver's license, other than a commercial driver's license issued by the department to the applicant.

(c) The fee for a duplicate commercial driver's license or commercial learner's permit is \$10.

(d) An applicant who is changing a class of license, endorsement, or restriction or who is adding a class of vehicle other than a motorcycle to the license must pay a fee of \$10 for the examination, except for a renewal or original issuance of a commercial driver's license.

(e) The fees required by this chapter and collected by an officer or agent of the department shall be remitted without deduction to the department.

(f) If a commercial driver's license includes an authorization to operate a motorcycle or moped, the fee for the driver's license is increased by \$8.

(g) An applicant who is applying for additional authorization to operate a motorcycle shall pay a fee of \$15 for the examination.

(h) The fee for a commercial driver's license issued under Section 522.033 is \$20.

(h-1) The fee for the issuance or renewal of a commercial learner's permit is \$24.

(i) Except as provided by Section 662.011, each fee collected under this section shall be deposited to the credit of the Texas mobility fund.

(j) The fee for issuance or renewal of a commercial driver's license is \$25 for a license with an expiration date established under Section 522.054.

(k) The fee for a non-domiciled commercial driver's license or a non-domiciled commercial learner's permit is \$120. The fee for a temporary non-domiciled commercial driver's license is \$20.

(l) The fee for the administration of a skills test to a person who is not domiciled in this state is \$60.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1156, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1372, Sec. 5, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 546, Sec. 9, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1325, Sec. 11.05, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 37 (H.B. 84), Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1319 (S.B. 1260), Sec. 3, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(106), eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.002(35), eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 14, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 15, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 44, eff.

January 1, 2016.

Sec. 522.030. CONTENT OF LICENSE. (a) A commercial driver's license or commercial learner's permit must:

(1) be marked:

(A) "Commercial Driver License" or "CDL" for a commercial driver's license; or

(B) "Commercial Learner's Permit" or "CLP" for a commercial learner's permit;

(2) be, to the extent practicable, tamper-proof; and

(3) include:

(A) the name and domicile address of the person to whom it is issued;

(B) the person's photograph;

(C) a physical description of the person, including sex, height, and eye color;

(D) the person's date of birth;

(E) a number or identifier the department considers appropriate;

(F) the person's signature;

(G) each class of commercial motor vehicle that the person is authorized to drive, with any endorsements or restrictions;

(H) the name of this state; and

(I) the dates between which the license is valid.

(b) Except as provided by this section, a commercial driver's license issued under this chapter:

(1) must:

(A) be in the same format;

(B) have the same appearance and orientation; and

(C) contain the same type of information; and

(2) may not include any information that this chapter does not reference or require.

(c) To the extent of a conflict or inconsistency between this section and Section 522.013 or 522.051, Section 522.013 or 522.051 controls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.13, eff.

September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 16, eff. January 1, 2016.

Sec. 522.031. NOTIFICATION OF LICENSE ISSUANCE. (a) After issuing a commercial driver's license, the department shall notify the commercial driver's license information system of that fact and provide the information required to ensure identification of the person.

(b) In this section, "commercial driver's license information system" means the information system established under the federal act as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.032. CHANGE OF NAME OR ADDRESS OF LICENSE OR PERMIT HOLDER; OFFENSE. (a) The holder of a commercial driver's license or commercial learner's permit who changes the holder's name or mailing address must apply for a duplicate license or permit not later than the 30th day after the date of the change in the manner provided by Section 521.054.

(b) The holder of a commercial driver's license or commercial learner's permit who changes the holder's residence address shall notify the department not later than the 30th day after the date of the change.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 17, eff. January 1, 2016.

Sec. 522.033. COMMERCIAL DRIVER'S LICENSE ISSUED TO CERTAIN SEX OFFENDERS. (a) The department may issue an original or renewal commercial driver's license or commercial learner's permit to a person whose driver's license or personal identification certificate

record indicates that the person is subject to the registration requirements of Chapter 62, Code of Criminal Procedure, only if the person is otherwise eligible for the commercial driver's license or commercial learner's permit and:

(1) applies in person for the issuance of a license or permit under this section; and

(2) pays a fee of:

(A) \$20 for a commercial driver's license; or

(B) \$24 for a commercial learner's permit.

(b) Notwithstanding Sections 522.013 and 522.051, a commercial driver's license issued under this section, including a renewal, duplicate, or corrected license, expires on the first birthday of the license holder occurring after the date of application, except that the initial license issued under this section expires on the second birthday of the license holder occurring after the date of application.

Added by Acts 2001, 77th Leg., ch. 546, Sec. 10, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.14, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 18, eff. January 1, 2016.

Sec. 522.034. APPLICATION FOR AUTHORIZATION TO OPERATE MOTORCYCLE. (a) An applicant for an original commercial driver's license that includes an authorization to operate a motorcycle must furnish to the department evidence satisfactory to the department that the applicant has successfully completed a basic motorcycle operator training course approved by the department under Chapter 662.

(b) The department may not issue an original commercial driver's license that includes an authorization to operate a motorcycle to an applicant who fails to comply with Subsection (a).

(c) When the department issues a license or permit to which this section applies, the department shall provide the person to whom the license is issued with written information about the Glenda Dawson Donate Life-Texas Registry program established under Chapter 692A, Health and Safety Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1391 (S.B. 1967), Sec. 5, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 554 (H.B. 2904), Sec. 9, eff. January 1, 2012.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 19, eff. January 1, 2016.

SUBCHAPTER D. CLASSIFICATION, ENDORSEMENT, OR RESTRICTION OF LICENSE

Sec. 522.041. CLASSIFICATIONS. (a) The department may issue a Class A, Class B, or Class C commercial driver's license or commercial learner's permit.

(b) Class A covers a combination of vehicles with a gross combination weight rating of 26,001 pounds or more, if the gross vehicle weight rating of the towed vehicle or vehicles exceeds 10,000 pounds.

(c) Class B covers:

(1) a single vehicle with a gross vehicle weight rating of 26,001 pounds or more;

(2) a single vehicle with a gross vehicle weight rating of 26,001 pounds or more towing a vehicle with a gross vehicle weight rating of 10,000 pounds or less; and

(3) a vehicle designed to transport 24 passengers or more, including the driver.

(d) Class C covers a single vehicle or combination of vehicles not described by Subsection (b) or (c) that is:

(1) designed to transport 16-23 passengers, including the driver; or

(2) used in the transportation of hazardous materials that require the vehicle to be placarded under 49 C.F.R. Part 172, Subpart F.

(e) The holder of a commercial driver's license or commercial learner's permit may drive any vehicle in the class for which the license or permit is issued and lesser classes of vehicles except a motorcycle or moped. The holder may drive a motorcycle only if authorization to drive a motorcycle is shown on the commercial driver's license and the requirements for issuance of a motorcycle license have been met.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 20, eff. January 1, 2016.

Sec. 522.042. ENDORSEMENTS; OFFENSE. (a) The department may issue a commercial driver's license with endorsements:

(1) authorizing the driving of a vehicle transporting hazardous materials, subject to the requirements of Title 49 C.F.R. Part 1572;

(2) authorizing the towing of a double or triple trailer or a trailer over a specified weight;

(3) authorizing the driving of a vehicle carrying passengers;

(4) authorizing the driving of a tank vehicle;

(5) representing a combination of hazardous materials and tank vehicle endorsements; or

(6) authorizing the driving of a school bus, as defined by Section 541.201.

(b) The department may issue a commercial learner's permit with endorsements authorizing the driving of a passenger vehicle, a school bus, or a tank vehicle.

(c) An endorsement under Subsection (b) for a passenger vehicle or a school bus allows a permit holder to operate a vehicle with only the following passengers:

(1) federal or state auditors and inspectors, test examiners, or other permit holders; and

(2) the commercial driver's license holder required under Section 522.011(a)(2)(B).

(d) An endorsement under Subsection (b) for a tank vehicle allows a permit holder to operate only an empty tank vehicle that has been purged of any hazardous materials.

(e) The holder of a commercial driver's license or commercial learner's permit may not drive a vehicle that requires an endorsement unless the proper endorsement appears on the license or permit.

(f) A person commits an offense if the person violates Subsection (c), (d), or (e). An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 6, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 358 (S.B. [1258](#)), Sec. 1, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. [1888](#)), Sec. 21, eff. January 1, 2016.

Sec. 522.0425. HAZARDOUS MATERIALS ENDORSEMENT; CANCELLATION.

(a) The department shall cancel or deny the issuance of a hazardous materials endorsement of a person's commercial driver's license within 15 days of the date the department receives notification from a federal agency authorized to make a final determination of threat assessment under 49 C.F.R. Section 1572.13.

(b) On receipt of a notification from a federal agency authorized to make an initial determination of threat assessment under 49 C.F.R. Section 1572.13, the department shall immediately cancel or deny the person the issuance of a hazardous materials endorsement of a commercial driver's license.

(c) The cancellation or denial of a hazardous materials endorsement under this section shall be reported to the commercial driver's license information system before the 16th day after the date of cancellation or denial.

Added by Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. [1372](#)), Sec. 6, eff. January 1, 2008.

Sec. 522.043. RESTRICTIONS; OFFENSE. (a) On issuing a commercial driver's license, the department for good cause may impose one or more restrictions suitable to the license holder's driving ability and limitations, including restrictions:

(1) prohibiting the license holder from driving a vehicle equipped with air brakes; and

(2) as provided by 49 C.F.R. Part 391, prohibiting driving a commercial vehicle in interstate commerce by a person who:

(A) is under 21 years of age;

(B) does not meet applicable physical guidelines; or

(C) cannot sufficiently read and speak the English

language.

(b) For purposes of this section, the department may not administer examinations or tests relating to the applicant's proficiency in the English language, but if an applicant cannot speak English sufficiently to communicate to department personnel the applicant's need for a commercial driver's license, the department may issue to the person a commercial driver's license restricted to operation in intrastate commerce.

(c) A person commits an offense if the person drives a commercial motor vehicle in violation of a restriction. An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. EXPIRATION AND RENEWAL OF LICENSE OR PERMIT

Sec. 522.051. EXPIRATION OF LICENSE OR PERMIT. (a) Except as provided by Subsection (f) and Sections 522.013(e), 522.033, and 522.054, an original commercial driver's license expires five years after the applicant's next birthday.

(b) Except as provided by Section 522.054, a commercial driver's license issued to a person holding a Texas Class A, B, C, or M license that would expire one year or more after the date of issuance of the commercial driver's license expires five years after the applicant's next birthday.

(c) Except as provided by Section 522.054, a commercial driver's license issued to a person holding a Texas Class A, B, C, or M license that would expire less than one year after the date of issuance of the commercial driver's license or that has been expired for less than one year expires five years after the expiration date shown on the Class A, B, C, or M license.

(d) Except as provided by Section 522.054, a commercial driver's license issued to a person holding a Texas Class A, B, C, or M license that has been expired for at least one year but not more than two years expires five years after the applicant's last birthday.

(e) For purposes of this section, a person's "last birthday" is the birthday that occurs on or before the date of issuance, and a person's "next birthday" is the birthday that occurs on or after the date of issuance.

(f) Except as provided by Section 522.013, a non-domiciled commercial driver's license other than a temporary non-domiciled commercial driver's license under Section 522.013(e) expires on:

(1) the earlier of:

(A) the first birthday of the license holder occurring after the fifth anniversary of the date of the application; or

(B) the expiration date of the license holder's lawful presence in the United States as determined by the appropriate United States agency in compliance with federal law; or

(2) the first anniversary of the date of issuance, if there is no definitive expiration date for the applicant's authorized stay in the United States.

(g) A commercial driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance. The department by rule shall establish the fee for a commercial driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility.

(h) A commercial learner's permit expires on the earlier of:

(1) the expiration date of the driver's license or commercial driver's license; or

(2) the 181st day after the date of issuance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1372, Sec. 6, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 546, Sec. 11, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 358 (S.B. 1258), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 37 (H.B. 84), Sec. 7, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1319 (S.B. 1260), Sec. 4, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 23.006, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1288 (H.B. 2161), Sec. 7, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 22, eff. January 1, 2016.

Sec. 522.052. RENEWAL OF LICENSE. (a) Except as provided by Subsection (g), a commercial driver's license issued by the department may be renewed in the year preceding the expiration date.

(b) Except as provided by Section 522.054, a renewal of a commercial driver's license that has been expired for less than one year expires five years after the expiration date shown on the commercial driver's license.

(c) Except as provided by Section 522.054, a renewal of a commercial driver's license that has been expired for at least one year but not more than two years expires six years after the applicant's last birthday.

(d) If a commercial driver's license has been expired for more than two years, the person must make an application and meet the requirements for original issuance of a commercial driver's license.

(e) A commercial learner's permit may be renewed once for an additional 180 days without requiring the applicant to retake the general and endorsement knowledge tests.

(f) For purposes of this section, a person's "last birthday" is the birthday that occurs on or before the date of issuance.

(g) A commercial driver's license issued under Section 522.033 or to which Section 522.054 applies may not be renewed before the 60th day preceding the expiration date.

(h) A renewal commercial driver's license issued to a person whose residence or domicile is a correctional facility or a parole facility expires on the first birthday of the license holder occurring after the first anniversary of the date of issuance.

(i) Unless the information has been previously provided to the department, the department shall require each applicant for a renewal or duplicate commercial driver's license to furnish to the department:

- (1) proof of the applicant's United States citizenship; or
- (2) documentation described by Section 521.142(a).

(j) The department may not deny a renewal or duplicate commercial driver's license to an applicant who provides documentation described by Section 521.142(a) based on the duration of the person's authorized stay in the United States, as indicated by the documentation presented under Section 521.142(a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1372, Sec. 7, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 546, Sec. 12, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 358 (S.B. 1258), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 37 (H.B. 84), Sec. 8, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1288 (H.B. 2161), Sec. 8, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 72.15, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 23, eff. January 1, 2016.

Sec. 522.053. LICENSE RENEWAL PROCEDURES. (a) A person applying for renewal of a commercial driver's license must complete the application form required by the department, including updated information and required certifications.

(b) To retain a hazardous materials endorsement, an applicant must pass the written test for that endorsement.

(c) The department may require an examination, including a vision test, for the renewal of a commercial driver's license.

(d) Before renewing a commercial driver's license, the department shall check the applicant's driving record as required by 49 C.F.R. Section 383.73.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.054. LICENSE EXPIRATION: PERSON AT LEAST 85 YEARS OF AGE. (a) Each original commercial driver's license of a person 85 years of age or older expires on the license holder's second birthday after the date of the license application.

(b) A commercial driver's license of a person 85 years of age or older that is renewed expires on the second anniversary of the expiration date before renewal.

Added by Acts 2007, 80th Leg., R.S., Ch. 37 (H.B. 84), Sec. 9, eff. September 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 24, eff. January 1, 2016.

Sec. 522.0541. DENIAL OF RENEWAL OF COMMERCIAL DRIVER LICENSE OR LEARNER PERMIT. (a) In the manner ordered by a court in another state in connection with a matter involving the violation of a state law or local ordinance relating to motor vehicle traffic control and on receipt of the necessary information from the other state, the department may deny renewal of the commercial driver's license or commercial learner's permit issued to a person by the department for the person's:

(1) failure to appear in connection with a complaint or citation;

(2) failure to pay or satisfy a judgment ordering the payment of a fine and costs; or

(3) failure to answer a citation or to pay fines, penalties, or costs related to the original violation.

(b) The information necessary under Subsection (a) may be transmitted through the commercial driver's license information system and must include:

(1) the name, date of birth, and the commercial driver's license number of the license held by the person;

(2) notice that the person failed to appear as required by law or failed to satisfy a judgment that ordered the payment of a fine and costs in the manner ordered by the court;

(3) the nature of the violation; and

(4) any other information required by the department.

(c) The department shall apply any notification received under Subsection (a) as a conviction to the person's driving record.

Added by Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. 1372), Sec. 7, eff. January 1, 2008.

Renumbered from Transportation Code, Section 522.054 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(107), eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 25, eff. January 1, 2016.

Sec. 522.055. CLEARANCE NOTICE TO DEPARTMENT. On receipt of notice from the other state that the grounds for denial of the renewal of the commercial driver's license or commercial learner's permit based on the holder's previous failure to appear or failure to pay a fine and costs previously reported by that state under Section 522.0541 have ceased to exist, the department shall renew the person's commercial driver's license or commercial learner's permit.

Added by Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. 1372), Sec. 7, eff. January 1, 2008.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.002(36), eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 26, eff. January 1, 2016.

SUBCHAPTER F. NOTIFICATION OF CONVICTION, ADMINISTRATIVE ACTION, OR PREVIOUS EMPLOYMENT

Sec. 522.061. NOTIFICATION OF CONVICTION TO DEPARTMENT OR EMPLOYER. (a) A person who holds or is required to hold a commercial driver's license or a commercial learner's permit under this chapter and who is convicted in another state of violating a state law or local ordinance relating to motor vehicle traffic control shall notify the department in the manner specified by the department not later than the seventh day after the date of conviction.

(b) A person who holds or is required to hold a commercial driver's license or commercial learner's permit under this chapter and who is convicted in this state or another state of violating a state law or local ordinance relating to motor vehicle traffic control, including a law regulating the operation of vehicles on highways, shall notify the person's employer in writing of the conviction not later than the seventh day after the date of conviction.

(c) A notification to the department or an employer must be in writing and must contain:

- (1) the driver's full name;

- (2) the driver's license or permit number;
 - (3) the date of conviction;
 - (4) the nature of the violation;
 - (5) a notation of whether the violation was committed in a commercial motor vehicle;
 - (6) the location where the offense was committed; and
 - (7) the driver's signature.
- (d) This section does not apply to a parking violation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 17.01, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 27, eff. January 1, 2016.

Sec. 522.062. NOTIFICATION OF CONVICTION TO LICENSING AUTHORITY IN OTHER STATE. (a) If a person holds a driver's license, commercial driver's license, or commercial learner's permit issued by another state and is finally convicted of a violation of a state traffic law or local traffic ordinance that was committed in a commercial motor vehicle, the department shall notify the driver's licensing authority in the issuing state of that conviction, in the time and manner required by 49 U.S.C. Section 31311.

(b) This section does not apply to a parking violation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 7, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 28, eff. January 1, 2016.

Sec. 522.063. NOTIFICATION OF DISQUALIFICATION. A person who is denied the privilege of driving a commercial motor vehicle in a state for any period, who is disqualified from driving a commercial motor vehicle, or who is subject to an out-of-service order shall notify the person's employer of that fact before the end of the first business day after the date the person receives notice of that fact.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.064. NOTIFICATION OF PREVIOUS EMPLOYMENT AND OFFENSES.

(a) A person who applies for employment as a commercial motor vehicle driver shall provide the employer, at the time of the application, with the following information for the 10 years preceding the date of application:

(1) a list of the names and addresses of the applicant's previous employers for which the applicant drove a commercial motor vehicle;

(2) the dates between which the applicant drove for each employer;

(3) the reason for leaving the employment of each employer; and

(4) each specific criminal offense or serious traffic violation of which the applicant has been convicted and each suspension, revocation, or cancellation of driving privileges that resulted from the conviction.

(b) The applicant must certify that the information furnished is true and complete. An employer may require an applicant to provide additional information. Before an application is submitted, the employer shall inform the applicant that the information provided by the applicant under this section may be used, and the applicant's previous employers may be contacted, to investigate the applicant's work history.

(c) An employer shall require each applicant to provide the information specified by Subsections (a) and (b).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER G. UNAUTHORIZED DRIVING

Sec. 522.071. DRIVING WHILE DISQUALIFIED PROHIBITED. (a) A person commits an offense if the person drives a commercial motor vehicle on a highway:

(1) after the person has been denied the issuance of a license or permit, unless the person has a driver's license appropriate for the class of vehicle being driven that was subsequently issued;

(2) during a period that a disqualification of the person's driver's license, permit, or privilege is in effect;

(3) while the person's driver's license or permit is expired, if the license or permit expired during a period of disqualification;

(4) during a period that the person was subject to an order prohibiting the person from obtaining a driver's license or permit;
or

(5) during a period in which the person, the person's employer, or the vehicle being operated is subject to an out-of-service order.

(b) It is not a defense to prosecution that the person had not received notice of a disqualification imposed as a result of a conviction that results in an automatic disqualification of the person's driver's license, permit, or privilege.

(c) Except as provided by Subsection (b), it is an affirmative defense to prosecution of an offense under this section that the person had not received notice of a denial, disqualification, prohibition order, or out-of-service order concerning the person's driver's license, permit, or privilege to operate a motor vehicle. For purposes of this subsection, notice is presumed if the notice was sent by first class mail to the last known address of the person as shown by the records of the department or licensing authority of another state.

(d) An offense under this section is a misdemeanor punishable as provided for an offense under Section 521.457.

(e) For the purposes of Subsection (a)(5), "commercial motor vehicle" has the meaning assigned by Section 644.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1409, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. [1372](#)), Sec. 8, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 499 (S.B. [333](#)), Sec. 1, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. [1888](#)), Sec. 29, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. [1888](#)), Sec. 30, eff. January 1, 2016.

Sec. 522.072. EMPLOYER RESPONSIBILITIES. (a) An employer may not knowingly permit a person to drive a commercial motor vehicle during a period in which:

(1) the person has been denied the privilege of driving a commercial motor vehicle;

(2) the person is disqualified from driving a commercial motor vehicle;

(3) the person, the person's employer, or the vehicle being operated is subject to an out-of-service order in a state; or

(4) the person has more than one commercial driver's license, except during the 10-day period beginning on the date the person is issued a driver's license.

(b) An employer may not knowingly require a driver to operate a commercial motor vehicle in violation of a federal, state, or local law that regulates the operation of a motor vehicle at a railroad grade crossing.

(b-1) An employer who violates Subsection (a) or (b) commits an offense. An offense under this subsection is a Class B misdemeanor.

(c) In addition to any penalty imposed under this chapter, an employer who violates this section may be penalized or disqualified under 49 C.F.R. Part 383.

(d) For purposes of Subsections (a)(1)(C) and (a)(2), "commercial motor vehicle" has the meaning assigned by Section 644.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 8, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 941, Sec. 9, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 13 (S.B. 332), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. 1372), Sec. 9, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 782 (S.B. 1093), Sec. 2, eff. September 1, 2009.

SUBCHAPTER H. DISQUALIFICATION FROM DRIVING COMMERCIAL MOTOR VEHICLE

Sec. 522.081. DISQUALIFICATION. (a) This subsection applies to a violation committed while operating any motor vehicle, including a commercial motor vehicle. A person who holds a commercial driver's license or commercial learner's permit is disqualified from driving a commercial motor vehicle for:

(1) 60 days if convicted of:

(A) two serious traffic violations that occur within a three-year period; or

(B) one violation of a law that regulates the operation of a motor vehicle at a railroad grade crossing; or

(2) 120 days if convicted of:

(A) three serious traffic violations arising from separate incidents occurring within a three-year period; or

(B) two violations of a law that regulates the operation of a motor vehicle at a railroad grade crossing that occur within a three-year period.

(b) Except as provided by this subsection, this subsection applies to a violation committed while operating any type of motor vehicle, including a commercial motor vehicle. A person who holds a commercial driver's license or commercial learner's permit is disqualified from driving a commercial motor vehicle for one year:

(1) if convicted of three violations of a law that regulates the operation of a motor vehicle at a railroad grade crossing that occur within a three-year period;

(2) on first conviction of:

(A) driving a motor vehicle under the influence of alcohol or a controlled substance, including a violation of Section 49.04, 49.045, or 49.07, Penal Code;

(B) leaving the scene of an accident involving a motor vehicle driven by the person;

(C) using a motor vehicle in the commission of a felony, other than a felony described by Subsection (d)(2);

(D) causing the death of another person through the negligent or criminal operation of a motor vehicle; or

(E) driving a commercial motor vehicle while the person's commercial driver's license or commercial learner's permit is revoked, suspended, or canceled, or while the person is disqualified from driving a commercial motor vehicle, for an action or conduct that occurred while operating a commercial motor vehicle;

(3) for refusing to submit to a test under Chapter 724 to

determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug while operating a motor vehicle in a public place; or

(4) if an analysis of the person's blood, breath, or urine under Chapter 522, 524, or 724 determines that the person:

(A) had an alcohol concentration of 0.04 or more, or that a controlled substance or drug was present in the person's body, while operating a commercial motor vehicle in a public place; or

(B) had an alcohol concentration of 0.08 or more while operating a motor vehicle, other than a commercial motor vehicle, in a public place.

(c) A person who holds a commercial driver's license is disqualified from operating a commercial motor vehicle for three years if:

(1) the person:

(A) is convicted of an offense listed in Subsection (b)(2) and the vehicle being operated by the person was transporting a hazardous material required to be placarded; or

(B) refuses to submit to a test under Chapter 724 to determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug while operating a motor vehicle in a public place and the vehicle being operated by the person was transporting a hazardous material required to be placarded; or

(2) an analysis of the person's blood, breath, or urine under Chapter 522, 524, or 724 determines that while transporting a hazardous material required to be placarded the person:

(A) while operating a commercial motor vehicle in a public place had an alcohol concentration of 0.04 or more, or a controlled substance or drug present in the person's body; or

(B) while operating a motor vehicle, other than a commercial motor vehicle, in a public place had an alcohol concentration of 0.08 or more.

(d) A person is disqualified from driving a commercial motor vehicle for life:

(1) if the person is convicted two or more times of an offense specified by Subsection (b)(2), or a combination of those offenses, arising from two or more separate incidents;

(2) if the person uses a motor vehicle in the commission of a felony involving:

(A) the manufacture, distribution, or dispensing of a controlled substance; or

(B) possession with intent to manufacture, distribute, or dispense a controlled substance;

(3) for any combination of two or more of the following, arising from two or more separate incidents:

(A) a conviction of the person for an offense described by Subsection (b)(2);

(B) a refusal by the person described by Subsection (b)(3); and

(C) an analysis of the person's blood, breath, or urine described by Subsection (b)(4); or

(4) if the person uses a motor vehicle in the commission of an offense under 8 U.S.C. Section 1324 that involves the transportation, concealment, or harboring of an alien.

(e) A person may not be issued a commercial driver's license or a commercial learner's permit and is disqualified from operating a commercial motor vehicle if, in connection with the person's operation of a commercial motor vehicle, the person commits an offense or engages in conduct that would disqualify the holder of a commercial driver's license from operating a commercial motor vehicle, or is determined to have had an alcohol concentration of 0.04 or more or to have had a controlled substance or drug present in the person's body. The period of prohibition under this subsection is equal to the appropriate period of disqualification required by Subsections (a)-(d).

(f) In this section, "felony" means an offense under state or federal law that is punishable by death or imprisonment for a term of more than one year.

(g) A person who holds a commercial driver's license or commercial learner's permit is disqualified from operating a commercial motor vehicle if the person's driving is determined to constitute an imminent hazard under 49 C.F.R. Section 383.52. The disqualification is for the disqualification period imposed under that section and shall be noted on the person's driving record.

(h) A disqualification imposed under Subsection (g) must run concurrently with any imminent hazard disqualification that is then currently in effect.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 2001, 77th Leg., ch. 941, Sec. 10, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 991, Sec. 7, eff. June 1, 2005; Acts 2003, 78th Leg., ch. 1325, Sec. 8.02, eff. June 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 357 (S.B. 1257), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. 1372), Sec. 10, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 18.01, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 31, eff. January 1, 2016.

Sec. 522.082. REINSTATEMENT FOLLOWING DISQUALIFICATION FOR LIFE. (a) The department may adopt rules establishing guidelines, including conditions, under which a person disqualified for life under Section 522.081(d)(1) may apply to the department for reinstatement of the person's commercial driver's license, if authorized under federal law.

(b) A person is not eligible for reinstatement unless the person has been disqualified for at least 10 years and meets the department's conditions for reinstatement.

(c) If a reinstated driver is subsequently convicted of another disqualifying offense as specified by Section 522.081(b), the person is permanently disqualified and is not eligible for reinstatement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.083. UPDATE OF RECORDS. After disqualifying a person, the department shall update its records to reflect that action.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.084. NOTIFICATION TO OTHER JURISDICTION. After disqualifying a person who has a domicile in another state or in a foreign jurisdiction, the department shall give notice of that fact to the licensing authority of the state that issued the person's driver's license, commercial driver's license, or commercial

learner's permit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 32, eff. January 1, 2016.

Sec. 522.085. PROBATION OF DISQUALIFICATION PROHIBITED.

Notwithstanding Section 521.303, if a person is disqualified under this chapter, the disqualification may not be probated.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.086. ISSUANCE OF ESSENTIAL NEED OR OCCUPATIONAL DRIVER'S LICENSE PROHIBITED. A person who is disqualified from operating a commercial motor vehicle may not be granted an essential need or occupational driver's license that would authorize operation of a commercial motor vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.087. PROCEDURES APPLICABLE TO DISQUALIFICATION. (a)

A person is automatically disqualified under Section 522.081(a)(1)(B), Section 522.081(b)(2), or Section 522.081(d)(2). An appeal may not be taken from the disqualification.

(b) Disqualifying a person under Section 522.081(a), other than under Subdivision (1)(B) of that subsection, Section 522.081(b)(1), or Section 522.081(d)(1) or (3) is subject to the notice and hearing procedures of Sections 521.295-521.303. An appeal of the disqualification is subject to Section 521.308.

(c) A disqualification imposed under Section 522.081(a) must run consecutively to any other disqualification that is then currently in effect.

(d) A disqualification imposed under Section 522.081(a)(1)(B) or 522.081(b)(2) or (d)(2) takes effect on the 10th day after the date the department issues the order of disqualification.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 1999, 76th Leg., ch. 1117, Sec. 3, eff. Sept. 1, 2000; Acts 2001, 77th Leg., ch. 941, Sec. 11, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 991, Sec. 8, eff. June 1, 2005; Acts 2003, 78th Leg., ch. 1325, Sec. 8.03, eff. June 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. 1372), Sec. 11, eff. January 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 33, eff. January 1, 2016.

Text of section effective until January 1, 2017

Sec. 522.088. APPLICABILITY OF OTHER LAW. Section 521.344 of this code and Section 13, Article 42.12, Code of Criminal Procedure, do not apply to a person disqualified under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.91, eff. January 1, 2017.

Text of section effective on January 1, 2017

Sec. 522.088. APPLICABILITY OF OTHER LAW. Section 521.344 of this code and Subchapter I, Chapter 42A, Code of Criminal Procedure, except Article 42A.409 of that subchapter, do not apply to a person disqualified under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.91, eff. January 1, 2017.

Sec. 522.089. EFFECT OF SUSPENSION, REVOCATION, CANCELLATION, OR DENIAL OF LICENSE OR PERMIT UNDER OTHER LAW. (a) A suspension, revocation, cancellation, or denial of a driver's license, permit, or privilege under Chapter 521 or another law of this state disqualifies the person under this chapter.

(b) If the department disqualifies a person under this chapter

for a longer period than the other law, the person is disqualified for the longer period.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 34, eff. January 1, 2016.

Sec. 522.090. ADDITIONAL PENALTY. In addition to any penalty imposed under this chapter, a person convicted of an offense under Section 522.071(a)(5) may be penalized or disqualified under 49 C.F.R. Part 383.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.091. RECOGNITION OF ACTION TAKEN BY OTHER STATE. (a) The department shall give an out-of-state conviction, disqualification, or denial full faith and credit and treat it for sanctioning purposes under this chapter as if it occurred in this state.

(b) The department may include the conviction, disqualification, or denial on the person's driving record.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.092. SUSPENSION, REVOCATION, CANCELLATION, OR DENIAL OF DRIVER'S LICENSE UNDER OTHER LAWS. A person subject to disqualification under this chapter may also have the person's driver's license suspended, revoked, canceled, or denied under one or more of the following, if the conduct that is a ground for disqualification is also a ground for the suspension, revocation, cancellation, or denial of a driver's license suspension under:

- (1) Chapter 521;
- (2) Chapter 524;
- (3) Chapter 601; or
- (4) Chapter 724.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.093. SELF-CERTIFICATION OF MEDICAL STATUS. The department shall remove the commercial driver's license privilege from the holder of a commercial driver's license or a commercial learner's permit if the holder:

(1) fails to provide the department a self-certification of operating status; or

(2) fails to provide and maintain with the department a current medical examiner's certificate that is required based on the self-certification.

Added by Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 35, eff. January 30, 2016.

SUBCHAPTER I. DRIVING WHILE HAVING ALCOHOL, CONTROLLED SUBSTANCE, OR DRUG IN SYSTEM

Sec. 522.101. DRIVING WHILE HAVING ALCOHOL IN SYSTEM PROHIBITED. (a) Notwithstanding any other law of this state, a person may not drive a commercial motor vehicle in this state while having a measurable or detectable amount of alcohol in the person's system.

(b) A person who violates Subsection (a) or who refuses to submit to an alcohol test under Section 522.102 shall be placed out of service for 24 hours.

(c) A peace officer may issue an out-of-service order based on probable cause that the person has violated this section. The order must be on a form approved by the department. The peace officer shall submit the order to the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.102. IMPLIED CONSENT TO TAKING OF SPECIMEN. (a) A person who drives a commercial motor vehicle in this state is considered to have consented, subject to Chapter 724, to the taking of one or more specimens of the person's breath, blood, or urine for the purpose of analysis to determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug.

(b) Notwithstanding Chapter 724, one or more specimens may be taken at the request of a peace officer who, after stopping or detaining a person driving a commercial motor vehicle, has probable cause to believe that the person was driving the vehicle while having alcohol, a controlled substance, or a drug in the person's system.

(c) This section and Section 522.103 apply only to a person who is stopped or detained while driving a commercial motor vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 12, eff. Sept. 1, 2001.

Sec. 522.103. WARNING BY PEACE OFFICER. (a) A peace officer requesting a person to submit a specimen under Section 522.102 shall warn the person that a refusal to submit a specimen will result in the person's being immediately placed out of service for 24 hours and being disqualified from driving a commercial motor vehicle for at least one year under Section 522.081.

(b) A peace officer requesting a person to submit a specimen under Section 522.102 is not required to comply with Section 724.015.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 13, eff. Sept. 1, 2001.

Sec. 522.104. SUBMISSION OF REPORT TO DEPARTMENT. If a person driving a commercial motor vehicle refuses to give a specimen or submits a specimen that discloses an alcohol concentration of 0.04 or more, the peace officer shall submit to the department a sworn report, on a form approved by the department, certifying that the specimen was requested under Section 522.102 and that the person refused to submit a specimen or submitted a specimen that disclosed an alcohol concentration of 0.04 or more.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 522.105. DISQUALIFICATION OF DRIVER. (a) On receipt of a report under Section 522.104, the department shall disqualify the person from driving a commercial motor vehicle under Section 522.081 beginning on the 45th day after the date the report is received

unless a hearing is granted.

(b) Except as provided by Subsection (c), the procedure for notice and disqualification under this section is that specified by Subchapters C and D, Chapter 724, or Chapter 524.

(c) The department shall disqualify the person from driving a commercial motor vehicle for the period authorized by this chapter if, in a hearing held under this section, the court finds that:

(1) probable cause existed that the person was driving a commercial motor vehicle while having alcohol, a controlled substance, or a drug in the person's system;

(2) the person was offered an opportunity to give a specimen under this chapter; and

(3) the person submitted a specimen that disclosed an alcohol concentration of 0.04 or more or refused to submit a specimen.

(d) An appeal of a disqualification under this section is subject to Sections 524.041-524.044.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 36, eff. January 1, 2016.

Sec. 522.106. AFFIDAVIT BY CERTIFIED BREATH TEST TECHNICAL SUPERVISOR. (a) In a proceeding under this chapter, the certified breath test technical supervisor responsible for maintaining and directing the operation of the breath test instruments in compliance with department rules, in lieu of appearing in court, may attest by affidavit to:

(1) the reliability of the instrument used to take or analyze a specimen of a person's breath to determine alcohol concentration; and

(2) the validity of the results of the analysis.

(b) An affidavit submitted under this section must contain statements regarding:

(1) the reliability of the instrument and the analytical results; and

(2) compliance with state law in the administration of the program.

(c) A certified copy of an affidavit prepared in accordance with this section is admissible only if the department serves a copy of the affidavit on the person or the person's attorney not later than the seventh day before the date on which the hearing begins.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER J. ANATOMICAL GIFTS

Sec. 522.151. DEFINITION. In this subchapter, "registry" means the Glenda Dawson Donate Life-Texas Registry established under Section 692A.020, Health and Safety Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 1261 (H.B. 3283), Sec. 7, eff. January 1, 2016.

Sec. 522.152. VOLUNTARY CONTRIBUTION TO DONOR REGISTRY. (a) When an individual applies for an original or renewal commercial driver's license under this chapter, the individual may contribute \$1 or more to the nonprofit organization administering the registry.

(b) The department shall:

(1) include space on each application for a new or renewal commercial driver's license that allows an individual applying for a new or renewal commercial driver's license to indicate that the individual is voluntarily contributing \$1 or more to the organization; and

(2) provide an opportunity for the individual to contribute \$1 or more to the organization during the application process for a new or renewal commercial driver's license on the department's Internet website.

(c) The department shall remit any contribution made under this section to the comptroller for deposit to the credit of the Glenda Dawson Donate Life-Texas Registry fund created under Section 692A.020, Health and Safety Code. Before sending the money to the comptroller, the department may deduct an amount, not to exceed five percent of the money collected under this section, for the reasonable expenses incurred by the department in administering this section.

(d) The organization shall submit an annual report to the director of the department that includes the total dollar amount of contributions received by the organization under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 1261 (H.B. 3283), Sec. 7, eff. January 1, 2016.

Sec. 522.153. STATEMENT OF GIFT; PROVISION OF REGISTRY INFORMATION. (a) An individual who wishes to be an organ, tissue, or eye donor may execute a statement of gift.

(b) The statement of gift may be shown on a donor's commercial driver's license or by a card designed to be carried by the donor to evidence the donor's consent with respect to organ, tissue, and eye donation. A donor card signed by the donor shall be given effect as if executed under Section 692A.005, Health and Safety Code.

(c) The donor registry or organ procurement organizations, tissue banks, or eye banks, as those terms are defined by Section 692A.002, Health and Safety Code, shall provide donor registry information to the department and the Texas Department of Transportation. The department, with expert input and support from the nonprofit organization administering the registry, shall:

(1) provide to each applicant for the issuance of an original, renewal, corrected, or duplicate commercial driver's license who applies in person, by mail, over the Internet, or by other electronic means:

(A) the opportunity to indicate on the person's commercial driver's license or personal identification certificate that the person is willing to make an anatomical gift, in the event of death, in accordance with Section 692A.005, Health and Safety Code; and

(B) an opportunity for the individual to consent to inclusion in the registry and release to procurement organizations in the manner provided by Subsection (d); and

(2) provide a means to distribute registry information to interested individuals in each office authorized to issue commercial driver's licenses.

(d) The department shall:

(1) specifically ask each applicant only the question, "Would you like to register as an organ donor?"; and

(2) if the applicant responds affirmatively to the question asked under Subdivision (1), provide the individual's name, date of birth, commercial driver's license number, most recent address, and other information needed for identification purposes at the time of

donation to the nonprofit organization contracted to maintain the registry for inclusion in the registry.

(e) An affirmative statement of gift on an individual's commercial driver's license executed after August 31, 2015, shall be conclusive evidence of a decedent's status as a donor and serve as consent for organ, tissue, and eye removal.

(f) The department shall distribute at all field offices Donate Life brochures that provide basic donation information in English and Spanish and include a contact phone number and e-mail address. The department shall include the question required under Subsection (d)(1) and information on the donor registry Internet website in renewal notices.

Added by Acts 2015, 84th Leg., R.S., Ch. 1261 (H.B. 3283), Sec. 7, eff. January 1, 2016.

Sec. 522.154. REVOCATION OF STATEMENT OF GIFT. (a) To revoke an affirmative statement of gift on an individual's commercial driver's license, the individual must apply to the department for an amendment to the license.

(b) The fee for an amendment is the same as the fee for a duplicate license.

(c) To have an individual's name removed from the registry, the individual must provide written notice to the nonprofit organization selected under Chapter 692A, Health and Safety Code, to maintain the registry directing the removal of the individual's name from the registry. On receipt of a written notice under this subsection, the organization shall promptly remove the individual's name and information from the registry.

Added by Acts 2015, 84th Leg., R.S., Ch. 1261 (H.B. 3283), Sec. 7, eff. January 1, 2016.

CHAPTER 523. DRIVER'S LICENSE COMPACT OF 1993

Sec. 523.001. ENACTMENT. The Driver's License Compact of 1993 is enacted and entered into.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 523.002. FINDINGS AND DECLARATION OF POLICY. (a) The states find that:

(1) the safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles;

(2) violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property; and

(3) the continuance in force of a license to drive is predicated on compliance with laws and ordinances relating to the operation of motor vehicles in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the states to:

(1) promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where the operators drive motor vehicles; and

(2) make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances, and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the states.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 523.003. DEFINITIONS. In this compact:

(1) "Conviction" has the same meaning as provided in Section 522.003.

(2) "Executive director" means the director of the Department of Public Safety or the equivalent officer of another state.

(3) "Home state" means the state which has issued a license or permit and has the power to suspend or revoke use of the license or permit to operate a motor vehicle.

(4) "License" means a license or permit to operate a motor vehicle issued by a state.

(5) "Licensing authority" means the Department of Public

Safety or the equivalent agency of another state.

(6) "State" means a state, territory, or possession of the United States, the District of Columbia, or the commonwealth of Puerto Rico.

(7) "Violation" means the commission of an offense related to the use or operation of a motor vehicle, even if there has been no conviction. A suspension by reason of a violation includes a suspension for failure to appear in court or comply with a court order or suspension for violating an implied consent law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 523.004. REPORTS OF CONVICTIONS. The licensing authority of a state shall report each conviction of a person from another state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code, or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of bail, bond, or other security; and include any special findings made in connection with the conviction. A conviction or judicial or administrative action of a federal or military court or tribunal may be reported to this state subject to this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1257, Sec. 1, eff. Sept. 1, 1999.

Sec. 523.005. EFFECT OF CONVICTION. (a) The licensing authority in the home state, for the purpose of suspension, revocation, cancellation, denial, disqualification, or limitation of the privilege to operate a motor vehicle, shall give the same effect to the conduct reported pursuant to Section 523.004 as it would if such conduct had occurred in the home state in the case of conviction for:

(1) manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) driving a motor vehicle while under the influence of alcoholic beverages or a narcotic to a degree which renders the

driver incapable of safely driving a motor vehicle;

(3) any felony in the commission of which a motor vehicle is used; or

(4) failure to stop and render aid or information in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) As to other convictions reported pursuant to this compact, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(c) If the laws of a state do not provide for offenses or violations denominated or described in precisely the words employed in Subsection (a), those offenses or violations of a substantially similar nature and the laws of that state shall be understood to contain such provisions as may be necessary to ensure that full force and effect is given to this compact.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 523.006. APPLICATIONS FOR NEW LICENSES. On receiving an application for a license to drive, the licensing authority in a state shall ascertain whether the applicant has ever held or is the holder of a license to drive issued by any other state. The licensing authority in the state where application is made shall not issue a license to the applicant if the applicant:

(1) has held a license but the license has been suspended by reason, in whole or in part, of a violation and the suspension period has not terminated;

(2) has held a license but the license has been revoked by reason, in whole or in part, of a violation and the revocation has not terminated, except that after the expiration of one year from the date the license was revoked the person may apply for a new license if permitted by law; the licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant the person the privilege of driving a motor vehicle on the public highways; or

(3) is the holder of a license issued by another state currently in force unless the applicant surrenders such license or provides an affidavit prescribed by the licensing authority that such license is no longer in the person's possession.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 523.007. APPLICABILITY OF OTHER LAWS. Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any state to apply any of its other laws relating to licenses to drive to any person or circumstance nor to invalidate or prevent any driver's license agreement or other cooperative arrangement between a member state and a nonmember state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 523.008. COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION AND COMPENSATION OF EXPENSES. (a) The compact administrator shall be appointed by the executive director of the licensing authority. A compact administrator may provide for the discharge of his duties and the performance of his position by an alternate. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each state shall furnish to the administrator of each other state any information or documents reasonably necessary to facilitate the administration of this compact.

(c) The compact administrator provided for in this compact shall not be entitled to any additional compensation on account of his service as such administrator but shall be entitled to expenses incurred in connection with his duties and responsibilities as such administrator in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 523.009. EFFECTIVE DATE; WITHDRAWAL FROM COMPACT. (a) This compact shall enter into force and become effective as to any state when it has enacted the compact into law.

(b) Any member state may withdraw from this compact by enacting

a statute repealing the compact, but no such withdrawal shall take effect until six months after the executive director of the withdrawing state has given notice of the withdrawal to the executive directors of all other member states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 523.010. RULEMAKING AUTHORITY. The licensing authority may adopt any rules and regulations deemed necessary by the executive director to administer and enforce the provisions of this compact.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 523.011. CONSTRUCTION AND SEVERABILITY. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable; if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect in the remaining states and in full force and effect in the state affected with regard to all severable matters.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**CHAPTER 524. ADMINISTRATIVE SUSPENSION OF DRIVER'S LICENSE FOR
FAILURE TO PASS TEST FOR INTOXICATION
SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 524.001. DEFINITIONS. In this chapter:

- (1) "Adult" means an individual 21 years of age or older.
- (2) "Alcohol concentration" has the meaning assigned by

Section 49.01, Penal Code.

(3) "Alcohol-related or drug-related enforcement contact" means a driver's license suspension, disqualification, or prohibition order under the laws of this state or another state resulting from:

(A) a conviction of an offense prohibiting the operation of a motor vehicle or watercraft while:

(i) intoxicated;

(ii) under the influence of alcohol; or

(iii) under the influence of a controlled substance;

(B) a refusal to submit to the taking of a breath or blood specimen following an arrest for an offense prohibiting the operation of a motor vehicle or an offense prohibiting the operation of a watercraft, if the watercraft was powered with an engine having a manufacturer's rating of 50 horsepower or more, while:

(i) intoxicated;

(ii) under the influence of alcohol; or

(iii) under the influence of a controlled substance; or

(C) an analysis of a breath or blood specimen showing an alcohol concentration of a level specified by Section 49.01, Penal Code, following an arrest for an offense prohibiting the operation of a motor vehicle or watercraft while intoxicated.

(4) "Arrest" includes the taking into custody of a child, as defined by Section 51.02, Family Code.

(5) "Conviction" includes an adjudication under Title 3, Family Code.

(6) "Criminal charge" includes a charge that may result in a proceeding under Title 3, Family Code.

(7) "Criminal prosecution" includes a proceeding under Title 3, Family Code.

(8) "Department" means the Department of Public Safety.

(9) "Director" means the public safety director of the department.

(10) "Driver's license" has the meaning assigned by Section 521.001. The term includes a commercial driver's license or a commercial learner's permit issued under Chapter 522.

(11) "Minor" means an individual under 21 years of age.

(12) "Public place" has the meaning assigned by Section 1.07(a), Penal Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 21, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 444, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 10, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 37, eff. January 1, 2016.

Sec. 524.002. RULES; APPLICATION OF ADMINISTRATIVE PROCEDURE ACT. (a) The department and the State Office of Administrative Hearings shall adopt rules to administer this chapter.

(b) Chapter 2001, Government Code, applies to a proceeding under this chapter to the extent consistent with this chapter.

(c) The State Office of Administrative Hearings may adopt a rule that conflicts with Chapter 2001, Government Code, if a conflict is necessary to expedite the hearings process within the time required by this chapter and applicable federal funding guidelines.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. SUSPENSION DETERMINATION AND NOTICE

Sec. 524.011. OFFICER'S DUTIES FOR DRIVER'S LICENSE SUSPENSION.

(a) An officer arresting a person shall comply with Subsection (b) if:

(1) the person is arrested for an offense under Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08 of that code involving the operation of a motor vehicle or watercraft, submits to the taking of a specimen of breath or blood and an analysis of the specimen shows the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code; or

(2) the person is a minor arrested for an offense under Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08, Penal Code, involving the operation of a motor vehicle or watercraft and:

(A) the minor is not requested to submit to the taking

of a specimen; or

(B) the minor submits to the taking of a specimen and an analysis of the specimen shows that the minor had an alcohol concentration of greater than .00 but less than the level specified by Section 49.01(2)(B), Penal Code.

(b) A peace officer shall:

(1) serve or, if a specimen is taken and the analysis of the specimen is not returned to the arresting officer before the person is admitted to bail, released from custody, delivered as provided by Title 3, Family Code, or committed to jail, attempt to serve notice of driver's license suspension by delivering the notice to the arrested person;

(2) take possession of any driver's license issued by this state and held by the person arrested;

(3) issue a temporary driving permit to the person unless department records show or the officer otherwise determines that the person does not hold a driver's license to operate a motor vehicle in this state; and

(4) send to the department not later than the fifth business day after the date of the arrest:

(A) a copy of the driver's license suspension notice;

(B) any driver's license taken by the officer under this subsection;

(C) a copy of any temporary driving permit issued under this subsection; and

(D) a sworn report of information relevant to the arrest.

(c) The report required under Subsection (b)(4)(D) must:

(1) identify the arrested person;

(2) state the arresting officer's grounds for believing the person committed the offense;

(3) give the analysis of the specimen if any; and

(4) include a copy of the criminal complaint filed in the case, if any.

(d) A peace officer shall make the report on a form approved by the department and in the manner specified by the department.

(e) The department shall develop forms for the notice of driver's license suspension and temporary driving permits to be used by all state and local law enforcement agencies.

(f) A temporary driving permit issued under this section

expires on the 41st day after the date of issuance. If the person was driving a commercial motor vehicle, as defined by Section 522.003, a temporary driving permit that authorizes the person to drive a commercial motor vehicle is not effective until 24 hours after the time of arrest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 609, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1013, Sec. 22, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 444, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 20.0045, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 11, eff. September 1, 2009.

Sec. 524.012. DEPARTMENT'S DETERMINATION FOR DRIVER'S LICENSE SUSPENSION. (a) On receipt of a report under Section 524.011, if the officer did not serve a notice of suspension of driver's license at the time the results of the analysis of a breath or blood specimen were obtained, the department shall determine from the information in the report whether to suspend the person's driver's license.

(b) The department shall suspend the person's driver's license if the department determines that:

(1) the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code, while operating a motor vehicle in a public place or while operating a watercraft; or

(2) the person was a minor on the date that the breath or blood specimen was obtained and had any detectable amount of alcohol in the minor's system while operating a motor vehicle in a public place or while operating a watercraft.

(c) The department may not suspend a person's driver's license if:

(1) the person is an adult and the analysis of the person's breath or blood specimen determined that the person had an alcohol concentration of a level below that specified by Section 49.01(2)(B), Penal Code, at the time the specimen was taken; or

(2) the person is a minor and the department does not determine that the minor had any detectable amount of alcohol in the

minor's system when the minor was arrested.

(d) A determination under this section is final unless a hearing is requested under Section 524.031.

(e) A determination under this section:

(1) is a civil matter;

(2) is independent of and is not an estoppel to any matter in issue in an adjudication of a criminal charge arising from the occurrence that is the basis for the suspension; and

(3) does not preclude litigation of the same or similar facts in a criminal prosecution.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.102, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1013, Sec. 23, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 12, eff. September 1, 2009.

Sec. 524.013. NOTICE OF DEPARTMENT'S DETERMINATION. (a) If the department suspends a person's driver's license, the department shall send a notice of suspension by first class mail to the person's address:

(1) in the records of the department; or

(2) in the peace officer's report if it is different from the address in the department's records.

(b) Notice is considered received on the fifth day after the date the notice is mailed.

(c) If the department determines not to suspend a person's driver's license, the department shall notify the person of that determination and shall rescind any notice of driver's license suspension served on the person.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1409, Sec. 4, eff. Sept. 1, 1999.

Sec. 524.014. NOTICE OF SUSPENSION. A notice of suspension under Section 524.013 must state:

(1) the reason and statutory grounds for the suspension;

(2) the effective date of the suspension;

- (3) the right of the person to a hearing;
- (4) how to request a hearing; and
- (5) the period in which the person must request a hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 524.015. EFFECT OF DISPOSITION OF CRIMINAL CHARGE ON DRIVER'S LICENSE SUSPENSION. (a) Except as provided by Subsection (b), the disposition of a criminal charge does not affect a driver's license suspension under this chapter and does not bar any matter in issue in a driver's license suspension proceeding under this chapter.

(b) A suspension may not be imposed under this chapter on a person who is acquitted of a criminal charge under Section 49.04, 49.045, 49.06, 49.07, or 49.08, Penal Code, or Section 106.041, Alcoholic Beverage Code, arising from the occurrence that was the basis for the suspension. If a suspension was imposed before the acquittal, the department shall rescind the suspension and shall remove any reference to the suspension from the person's computerized driving record.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 24, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 13, eff. September 1, 2009.

SUBCHAPTER C. SUSPENSION PROVISIONS

Sec. 524.021. SUSPENSION EFFECTIVE DATE. (a) A driver's license suspension under this chapter takes effect on the 40th day after the date the person:

- (1) receives a notice of suspension under Section 524.011;

or

- (2) is presumed to have received notice of suspension under Section 524.013.

(b) A suspension under this chapter may not be probated.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 524.022. PERIOD OF SUSPENSION. (a) A period of suspension under this chapter for an adult is:

(1) 90 days if the person's driving record shows no alcohol-related or drug-related enforcement contact during the 10 years preceding the date of the person's arrest; or

(2) one year if the person's driving record shows one or more alcohol-related or drug-related enforcement contacts during the 10 years preceding the date of the person's arrest.

(b) A period of suspension under this chapter for a minor is:

(1) 60 days if the minor has not been previously convicted of an offense under Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08, Penal Code, involving the operation of a motor vehicle or a watercraft;

(2) 120 days if the minor has been previously convicted once of an offense listed by Subdivision (1); or

(3) 180 days if the minor has been previously convicted twice or more of an offense listed by Subdivision (1).

(c) For the purposes of determining whether a minor has been previously convicted of an offense described by Subsection (b)(1):

(1) an adjudication under Title 3, Family Code, that the minor engaged in conduct described by Subsection (b)(1) is considered a conviction under that provision; and

(2) an order of deferred adjudication for an offense alleged under a provision described by Subsection (b)(1) is considered a conviction of an offense under that provision.

(d) A minor whose driver's license is suspended under this chapter is not eligible for an occupational license under Subchapter L, Chapter 521, for:

(1) the first 30 days of a suspension under Subsection (b)(1);

(2) the first 90 days of a suspension under Subsection (b)(2); or

(3) the entire period of a suspension under Subsection (b)(3).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 25, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 444, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 14, eff. September 1, 2009.

Sec. 524.023. APPLICATION OF SUSPENSION UNDER OTHER LAWS. (a) If a person is convicted of an offense under Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.045, 49.06, 49.07, or 49.08, Penal Code, and if any conduct on which that conviction is based is a ground for a driver's license suspension under this chapter and Section 106.041, Alcoholic Beverage Code, Subchapter O, Chapter 521, or Subchapter H, Chapter 522, each of the suspensions shall be imposed.

(b) The court imposing a driver's license suspension under Section 106.041, Alcoholic Beverage Code, or Chapter 521 or 522 as required by Subsection (a) shall credit a period of suspension imposed under this chapter toward the period of suspension required under Section 106.041, Alcoholic Beverage Code, or Subchapter O, Chapter 521, or Subchapter H, Chapter 522, unless the person was convicted of an offense under Article 67011-1, Revised Statutes, as that law existed before September 1, 1994, Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994, Section 49.04, 49.045, 49.06, 49.07, or 49.08, Penal Code, or Section 106.041, Alcoholic Beverage Code, before the date of the conviction on which the suspension is based, in which event credit may not be given.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 26, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 15, eff. September 1, 2009.

SUBCHAPTER D. HEARING AND APPEAL

Sec. 524.031. HEARING REQUEST. If, not later than the 15th day after the date on which the person receives notice of suspension under Section 524.011 or is presumed to have received notice under Section 524.013, the department receives at its headquarters in Austin, in writing, including a facsimile transmission, or by another manner prescribed by the department, a request that a hearing be held, a hearing shall be held as provided by this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 524.032. HEARING DATE; RESCHEDULING. (a) A hearing requested under this subchapter shall be held not earlier than the 11th day after the date on which the person requesting the hearing is notified of the hearing unless the parties agree to waive this requirement. The hearing shall be held before the effective date of the suspension.

(b) A hearing shall be rescheduled if, before the fifth day before the date scheduled for the hearing, a request for a continuance from the person who requested the hearing is received in accordance with the memorandum of understanding adopted under Section 524.033(c). Unless both parties agree otherwise, the hearing shall be rescheduled for a date not earlier than the fifth day after the date the request for continuance is received.

(c) A person who requests a hearing under this chapter may obtain only one continuance under this section unless the person shows that a medical condition prevents the person from attending the rescheduled hearing, in which event one additional continuance may be granted for a period not to exceed 10 days.

(d) A request for a hearing stays suspension of a person's driver's license until the date of the final decision of the administrative law judge. If the person's driver's license was taken by a peace officer under Section 524.011(b), the department shall notify the person of the effect of the request on the suspension of the person's license before the expiration of any temporary driving permit issued to the person, if the person is otherwise eligible, in a manner that will permit the person to establish to a peace officer that the person's driver's license is not suspended.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 444, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 21, eff. September 1, 2016.

Sec. 524.033. STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a) A hearing under this subchapter shall be heard by an administrative law

judge employed by the State Office of Administrative Hearings.

(b) The State Office of Administrative Hearings shall provide for the stenographic or electronic recording of the hearing.

(c) The department and chief administrative law judge of the State Office of Administrative Hearings shall adopt and at least biennially update a memorandum of understanding establishing that the State Office of Administrative Hearings has primary scheduling responsibility for a hearing under this subchapter. The memorandum of understanding must, at a minimum:

(1) set out the roles and responsibilities of the State Office of Administrative Hearings and the department in scheduling a hearing under this subchapter, including which agency is responsible for scheduling each stage of a hearing;

(2) ensure that the State Office of Administrative Hearings and the department have timely access to scheduling and continuance information; and

(3) provide for the transfer of funding for department employees responsible for scheduling hearings under this subchapter from the department to the State Office of Administrative Hearings when the State Office of Administrative Hearings assumes responsibility for initial scheduling of hearings under this subchapter.

(d) The State Office of Administrative Hearings and the department shall consult with the Department of Information Resources and the Office of Court Administration of the Texas Judicial System in developing any information technology solutions needed to complete the transfer of scheduling responsibilities, as outlined in the memorandum of understanding adopted under Subsection (c).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 228 (H.B. [2154](#)), Sec. 22, eff. September 1, 2015.

Sec. 524.034. HEARING LOCATION. A hearing under this subchapter shall be held:

(1) at a location designated by the State Office of Administrative Hearings:

(A) in the county of arrest if the arrest occurred in a

county with a population of 300,000 or more; or

(B) in the county in which the person is alleged to have committed the offense for which the person was arrested or not more than 75 miles from the county seat of the county in which the person was arrested; or

(2) with the consent of the person and the department, by telephone conference call.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 524.035. HEARING. (a) The issues that must be proved at a hearing by a preponderance of the evidence are:

(1) whether:

(A) the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code, while operating a motor vehicle in a public place or while operating a watercraft; or

(B) the person was a minor on the date that the breath or blood specimen was obtained and had any detectable amount of alcohol in the minor's system while operating a motor vehicle in a public place or while operating a watercraft; and

(2) whether reasonable suspicion to stop or probable cause to arrest the person existed.

(b) If the administrative law judge finds in the affirmative on each issue in Subsection (a), the suspension is sustained.

(c) If the administrative law judge does not find in the affirmative on each issue in Subsection (a), the department shall:

(1) return the person's driver's license to the person, if the license was taken by a peace officer under Section 524.011(b);

(2) reinstate the person's driver's license; and

(3) rescind an order prohibiting the issuance of a driver's license to the person.

(d) An administrative law judge may not find in the affirmative on the issue in Subsection (a)(1) if:

(1) the person is an adult and the analysis of the person's breath or blood determined that the person had an alcohol concentration of a level below that specified by Section 49.01, Penal Code, at the time the specimen was taken; or

(2) the person was a minor on the date that the breath or blood specimen was obtained and the administrative law judge does not

find that the minor had any detectable amount of alcohol in the minor's system when the minor was arrested.

(e) The decision of the administrative law judge is final when issued and signed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 27, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 444, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 16, eff. September 1, 2009.

Sec. 524.036. FAILURE TO APPEAR. A person who requests a hearing and fails to appear without just cause waives the right to a hearing and the department's determination is final.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 524.037. CONTINUANCE. (a) A continuance under Section 524.032 stays the suspension of a driver's license until the date of the final decision of the administrative law judge.

(b) A suspension order may not go into effect pending a final decision of the administrative law judge as a result of a continuance granted under Section 524.039.

(c) If the person's driver's license was taken by a peace officer under Section 524.011(b), the department shall notify the person of the effect of the continuance on the suspension of the person's license before the expiration of any temporary driving permit issued to the person, if the person is otherwise eligible, in a manner that will permit the person to establish to a peace officer that the person's driver's license is not suspended.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 444, Sec. 6, eff. Sept. 1, 2001.

Sec. 524.038. INSTRUMENT RELIABILITY AND ANALYSIS VALIDITY.

(a) The reliability of an instrument used to take or analyze a specimen of a person's breath to determine alcohol concentration and

the validity of the results of the analysis may be attested to in a proceeding under this subchapter by affidavit from the certified breath test technical supervisor responsible for maintaining and directing the operation of breath test instruments in compliance with department rule.

(b) An affidavit submitted under Subsection (a) must contain statements on:

(1) the reliability of the instrument and the analytical results; and

(2) compliance with state law in the administration of the program.

(c) An affidavit of an expert witness contesting the reliability of the instrument or the results is admissible.

(d) An affidavit from a person whose presence is timely requested under this section is inadmissible if the person fails to appear at a hearing without a showing of good cause. Otherwise, an affidavit under this section may be submitted in lieu of an appearance at the hearing by the breath test operator, breath test technical supervisor, or expert witness.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 524.039. APPEARANCE OF TECHNICIANS AT HEARING. (a) Not later than the fifth day before the date of a scheduled hearing, the person who requested a hearing may apply to the State Office of Administrative Hearings to issue a subpoena for the attendance of the breath test operator who took the specimen of the person's breath to determine alcohol concentration or the certified breath test technical supervisor responsible for maintaining and directing the operation of the breath test instrument used to analyze the specimen of the person's breath, or both. The State Office of Administrative Hearings shall issue the subpoena only on a showing of good cause.

(b) The department may reschedule a hearing once not less than 48 hours before the hearing if a person subpoenaed under Subsection (a) is unavailable. The department may also reschedule the hearing on showing good cause that a person subpoenaed under Subsection (a) is not available at the time of the hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 3.01, eff. September 1, 2009.

Sec. 524.040. NOTICE REQUIREMENTS. (a) Notice required to be provided by the department under this subchapter may be given by telephone or other electronic means. If notice is given by telephone or other electronic means, written notice must also be provided.

(b) Notice by mail is considered received on the fifth day after the date the notice is deposited with the United States Postal Service.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 524.041. APPEAL FROM ADMINISTRATIVE HEARING. (a) A person whose driver's license suspension is sustained may appeal the decision by filing a petition not later than the 30th day after the date the administrative law judge's decision is final. The administrative law judge's final decision is immediately appealable without the requirement of a motion for rehearing.

(b) A petition under Subsection (a) must be filed in a county court at law in the county in which the person was arrested or, if there is not a county court at law in the county, in the county court. If the county judge is not a licensed attorney, the county judge shall transfer the case to a district court for the county on the motion of either party or of the judge.

(c) A person who files an appeal under this section shall send a copy of the petition by certified mail to the department and to the State Office of Administrative Hearings at each agency's headquarters in Austin. The copy must be certified by the clerk of the court in which the petition is filed.

(d) The department's right to appeal is limited to issues of law.

(e) A district or county attorney may represent the department in an appeal.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 524.042. STAY OF SUSPENSION ON APPEAL. (a) A suspension

of a driver's license under this chapter is stayed on the filing of an appeal petition only if:

(1) the person's driver's license has not been suspended as a result of an alcohol-related or drug-related enforcement contact during the five years preceding the date of the person's arrest; and

(2) the person has not been convicted during the 10 years preceding the date of the person's arrest of an offense under:

(A) Article 67011-1, Revised Statutes, as that law existed before September 1, 1994;

(B) Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994;

(C) Section 49.04, 49.045, or 49.06, Penal Code;

(D) Section 49.07 or 49.08, Penal Code, if the offense involved the operation of a motor vehicle or a watercraft; or

(E) Section 106.041, Alcoholic Beverage Code.

(b) A stay under this section is effective for not more than 90 days after the date the appeal petition is filed. On the expiration of the stay, the department shall impose the suspension. The department or court may not grant an extension of the stay or an additional stay.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 28, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 17, eff. September 1, 2009.

Sec. 524.043. REVIEW; ADDITIONAL EVIDENCE. (a) Review on appeal is on the record certified by the State Office of Administrative Hearings with no additional testimony.

(b) On appeal, a party may apply to the court to present additional evidence. If the court is satisfied that the additional evidence is material and that there were good reasons for the failure to present it in the proceeding before the administrative law judge, the court may order that the additional evidence be taken before an administrative law judge on conditions determined by the court.

(c) There is no right to a jury trial in an appeal under this section.

(d) An administrative law judge may change a finding or

decision as to whether the person had an alcohol concentration of a level specified in Section 49.01, Penal Code, or whether a minor had any detectable amount of alcohol in the minor's system because of the additional evidence and shall file the additional evidence and any changes, new findings, or decisions with the reviewing court.

(e) A remand under this section does not stay the suspension of a driver's license.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 29, eff. Sept. 1, 1997.

Sec. 524.044. TRANSCRIPT OF ADMINISTRATIVE HEARING. (a) To obtain a transcript of an administrative hearing, the party who appeals the administrative law judge's decision must apply to the State Office of Administrative Hearings.

(b) On payment of a fee not to exceed the actual cost of preparing the transcript, the State Office of Administrative Hearings shall promptly furnish both parties with a transcript of the administrative hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. REINSTATEMENT AND REISSUANCE OF DRIVER'S LICENSE

Sec. 524.051. REINSTATEMENT AND REISSUANCE. (a) A driver's license suspended under this chapter may not be reinstated or another driver's license issued to the person until the person pays the department a fee of \$125 in addition to any other fee required by law.

(b) The payment of a reinstatement fee is not required if a suspension under this chapter is:

- (1) rescinded by the department; or
- (2) not sustained by an administrative law judge, or a

court.

(c) Each fee collected under this section shall be deposited to the credit of the Texas mobility fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 444, Sec. 14(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1325, Sec. 11.06, eff. Sept. 1, 2003.

CHAPTER 525. MOTORCYCLE AND BICYCLE AWARENESS

Sec. 525.001. MOTORCYCLE AND BICYCLE AWARENESS. (a) In this section, "motorcycle" has the meaning assigned that term by Section 502.001, and includes a motorcycle equipped with a sidecar.

(b) The Department of Public Safety shall include motorcycle and bicycle awareness information in any edition of the Texas driver's handbook published after the department exhausts the supply of the handbook that the department had on September 1, 1993.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBTITLE C. RULES OF THE ROAD**CHAPTER 541. DEFINITIONS****SUBCHAPTER A. PERSONS AND GOVERNMENTAL AUTHORITIES**

Sec. 541.001. PERSONS. In this subtitle:

(1) "Operator" means, as used in reference to a vehicle, a person who drives or has physical control of a vehicle.

(2) "Owner" means, as used in reference to a vehicle, a person who has a property interest in or title to a vehicle. The term:

(A) includes a person entitled to use and possess a vehicle subject to a security interest; and

(B) excludes a lienholder and a lessee whose lease is not intended as security.

(3) "Pedestrian" means a person on foot.

(4) "Person" means an individual, firm, partnership, association, or corporation.

(5) "School crossing guard" means a responsible person who is at least 18 years of age and is designated by a local authority to direct traffic in a school crossing zone for the protection of children going to or leaving a school.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.103, eff. Sept. 1, 1997.

Sec. 541.002. GOVERNMENTAL AUTHORITIES. In this subtitle:

(1) "Department" means the Department of Public Safety

acting directly or through its authorized officers and agents.

(2) "Director" means the public safety director.

(3) "Local authority" means:

(A) a county, municipality, or other local entity authorized to enact traffic laws under the laws of this state; or

(B) a school district created under the laws of this state only when it is designating school crossing guards for schools operated by the district.

(4) "Police officer" means an officer authorized to direct traffic or arrest persons who violate traffic regulations.

(5) "State" has the meaning assigned by Section 311.005, Government Code, and includes a province of Canada.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. PROPERTY AREAS

Sec. 541.101. METROPOLITAN AREA. In this subtitle, "metropolitan area" means an area that:

(1) contains at least one municipality with a population of at least 100,000; and

(2) includes the adjacent municipalities and unincorporated urban districts.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 541.102. RESTRICTED DISTRICTS. In this subtitle:

(1) "Business district" means the territory adjacent to and including a highway if buildings used for business or industrial purposes, including a building used as a hotel, bank, office building, public building, or railroad station:

(A) are located within a 600-foot segment along the highway; and

(B) within that segment the buildings occupy at least 300 feet of frontage:

(i) on one side of the highway; or

(ii) collectively on both sides of the highway.

(2) "Residence district" means the territory, other than a business district, adjacent to and including a highway, if at least 300 feet of the highway frontage is primarily improved with:

- (A) residences; or
- (B) buildings used for business purposes and

residences.

(3) "Urban district" means the territory adjacent to and including a highway, if the territory:

- (A) is not in a municipality; and

- (B) is improved with structures that are used for business, industry, or dwelling houses and located at intervals of less than 100 feet for a distance of at least one-quarter mile on either side of the highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. VEHICLES, RAIL TRANSPORTATION, AND EQUIPMENT

Sec. 541.201. VEHICLES. In this subtitle:

(1) "Authorized emergency vehicle" means:

- (A) a fire department or police vehicle;

- (B) a public or private ambulance operated by a person who has been issued a license by the Department of State Health Services;

- (C) an emergency medical services vehicle:

- (i) authorized under an emergency medical services provider license issued by the Department of State Health Services under Chapter 773, Health and Safety Code; and

- (ii) operating under a contract with an emergency services district that requires the emergency medical services provider to respond to emergency calls with the vehicle;

- (D) a municipal department or public service corporation emergency vehicle that has been designated or authorized by the governing body of a municipality;

- (E) a county-owned or county-leased emergency management vehicle that has been designated or authorized by the commissioners court;

- (F) a vehicle that has been designated by the department under Section 546.0065;

- (G) a private vehicle of a volunteer firefighter or a certified emergency medical services employee or volunteer when responding to a fire alarm or medical emergency;

- (H) an industrial emergency response vehicle, including

an industrial ambulance, when responding to an emergency, but only if the vehicle is operated in compliance with criteria in effect September 1, 1989, and established by the predecessor of the Texas Industrial Emergency Services Board of the State Firemen's and Fire Marshals' Association of Texas;

(I) a vehicle of a blood bank or tissue bank, accredited or approved under the laws of this state or the United States, when making emergency deliveries of blood, drugs, medicines, or organs;

(J) a vehicle used for law enforcement purposes that is owned or leased by a federal governmental entity; or

(K) a private vehicle of an employee or volunteer of a county emergency management division in a county with a population of more than 46,500 and less than 48,000 that is designated as an authorized emergency vehicle by the commissioners court of that county.

(2) "Bicycle" means a device that a person may ride and that is propelled by human power and has two tandem wheels at least one of which is more than 14 inches in diameter.

(3) "Bus" means:

(A) a motor vehicle used to transport persons and designed to accommodate more than 10 passengers, including the operator; or

(B) a motor vehicle, other than a taxicab, designed and used to transport persons for compensation.

(4) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement to draw an implement of husbandry, including a plow or a mowing machine.

(5) "House trailer" means a trailer or semitrailer, other than a towable recreational vehicle, that:

(A) is transportable on a highway in one or more sections;

(B) is less than 40 feet in length, excluding tow bar, while in the traveling mode;

(C) is built on a permanent chassis;

(D) is designed to be used as a dwelling or for commercial purposes if connected to required utilities; and

(E) includes plumbing, heating, air-conditioning, and electrical systems.

(6) "Implement of husbandry" means:

(A) a vehicle, other than a passenger car or truck, that is designed and adapted for use as a farm implement, machinery, or tool for tilling the soil;

(B) a towed vehicle that transports to the field and spreads fertilizer or agricultural chemicals; or

(C) a motor vehicle designed and adapted to deliver feed to livestock.

(7) "Light truck" means a truck, including a pickup truck, panel delivery truck, or carryall truck, that has a manufacturer's rated carrying capacity of 2,000 pounds or less.

(8) "Moped" means a motor-driven cycle that cannot attain a speed in one mile of more than 30 miles per hour and the engine of which:

(A) cannot produce more than two-brake horsepower; and

(B) if an internal combustion engine, has a piston displacement of 50 cubic centimeters or less and connects to a power drive system that does not require the operator to shift gears.

(9) "Motorcycle" means a motor vehicle, other than a tractor, that is equipped with a rider's saddle and designed to have when propelled not more than three wheels on the ground.

(10) "Motor-driven cycle" means a motorcycle equipped with a motor that has an engine piston displacement of 250 cubic centimeters or less. The term does not include an electric bicycle.

(11) "Motor vehicle" means a self-propelled vehicle or a vehicle that is propelled by electric power from overhead trolley wires. The term does not include an electric bicycle or an electric personal assistive mobility device, as defined by Section 551.201.

(11-a) "Multifunction school activity bus" means a motor vehicle that was manufactured in compliance with the federal motor vehicle safety standards for school buses in effect on the date of manufacture other than the standards requiring the bus to display alternately flashing red lights and to be equipped with movable stop arms, and that is used to transport preprimary, primary, or secondary students on a school-related activity trip other than on routes to and from school. The term does not include a school bus, a school activity bus, a school-chartered bus, or a bus operated by a mass transit authority.

(12) "Passenger car" means a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate 10 or fewer passengers, including the operator.

(13) "Pole trailer" means a vehicle without motive power:

(A) designed to be drawn by another vehicle and secured to the other vehicle by pole, reach, boom, or other security device; and

(B) ordinarily used to transport a long or irregularly shaped load, including poles, pipes, or structural members, generally capable of sustaining themselves as beams between the supporting connections.

(13-a) "Police vehicle" means a vehicle used by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, for law enforcement purposes that:

(A) is owned or leased by a governmental entity;

(B) is owned or leased by the police department of a private institution of higher education that commissions peace officers under Section 51.212, Education Code; or

(C) is:

(i) a private vehicle owned or leased by the peace officer; and

(ii) approved for use for law enforcement purposes by the head of the law enforcement agency that employs the peace officer, or by that person's designee, provided that use of the private vehicle must, if applicable, comply with any rule adopted by the commissioners court of a county under Section 170.001, Local Government Code, and that the private vehicle may not be considered an authorized emergency vehicle for exemption purposes under Section 228.054, 284.070, 366.178, or 370.177, Transportation Code, unless the vehicle is marked.

(14) "Road tractor" means a motor vehicle designed and used to draw another vehicle but not constructed to carry a load independently or a part of the weight of the other vehicle or its load.

(15) "School activity bus" means a bus designed to accommodate more than 15 passengers, including the operator, that is owned, operated, rented, or leased by a school district, county school, open-enrollment charter school, regional education service center, or shared services arrangement and that is used to transport public school students on a school-related activity trip, other than on routes to and from school. The term does not include a chartered bus, a bus operated by a mass transit authority, a school bus, or a multifunction school activity bus.

(16) "School bus" means a motor vehicle that was manufactured in compliance with the federal motor vehicle safety standards for school buses in effect on the date of manufacture and that is used to transport pre-primary, primary, or secondary students on a route to or from school or on a school-related activity trip other than on routes to and from school. The term does not include a school-chartered bus or a bus operated by a mass transit authority.

(17) "Semitrailer" means a vehicle with or without motive power, other than a pole trailer:

(A) designed to be drawn by a motor vehicle and to transport persons or property; and

(B) constructed so that part of the vehicle's weight and load rests on or is carried by another vehicle.

(18) "Special mobile equipment" means a vehicle that is not designed or used primarily to transport persons or property and that is only incidentally operated on a highway. The term:

(A) includes ditchdigging apparatus, well boring apparatus, and road construction and maintenance machinery, including an asphalt spreader, bituminous mixer, bucket loader, tractor other than a truck tractor, ditcher, levelling grader, finishing machine, motor grader, road roller, scarifier, earth-moving carryall and scraper, power shovel or dragline, or self-propelled crane and earth-moving equipment; and

(B) excludes a vehicle that is designed to transport persons or property and that has machinery attached, including a house trailer, dump truck, truck-mounted transit mixer, crane, and shovel.

(19) "Towable recreational vehicle" means a nonmotorized vehicle that:

(A) is designed:

(i) to be towable by a motor vehicle; and

(ii) for temporary human habitation for uses including recreational camping or seasonal use;

(B) is permanently built on a single chassis;

(C) may contain one or more life-support systems; and

(D) may be used permanently or temporarily for advertising, selling, displaying, or promoting merchandise or services, but is not used for transporting property for hire or for distribution by a private carrier.

(20) "Trailer" means a vehicle, other than a pole trailer,

with or without motive power:

(A) designed to be drawn by a motor vehicle and to transport persons or property; and

(B) constructed so that no part of the vehicle's weight and load rests on the motor vehicle.

(21) "Truck" means a motor vehicle designed, used, or maintained primarily to transport property.

(22) "Truck tractor" means a motor vehicle designed and used primarily to draw another vehicle but not constructed to carry a load other than a part of the weight of the other vehicle and its load.

(23) "Vehicle" means a device that can be used to transport or draw persons or property on a highway. The term does not include:

(A) a device exclusively used on stationary rails or tracks; or

(B) manufactured housing as that term is defined by Chapter 1201, Occupations Code.

(24) "Electric bicycle" means a bicycle that:

(A) is designed to be propelled by an electric motor, exclusively or in combination with the application of human power;

(B) cannot attain a speed of more than 20 miles per hour without the application of human power; and

(C) does not exceed a weight of 100 pounds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts, 75th Leg., ch. 1020, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1438, Sec. 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 663, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 797, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1085, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1318, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.833, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 558 (H.B. [1267](#)), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. [11](#)), Sec. 4.06, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 923 (H.B. [3190](#)), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. [1831](#)), Sec. 1.20, eff.

September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 17 (S.B. 223), Sec. 1, eff. May 10, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 254 (H.B. 567), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 275 (H.B. 802), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 630 (S.B. 1917), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 78 (S.B. 971), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 17.007, eff. September 1, 2015.

Sec. 541.202. RAIL TRANSPORTATION. In this subtitle:

(1) "Railroad" means a carrier that operates cars, other than streetcars, on stationary rails to transport persons or property.

(2) "Railroad train" means a steam engine or electric or other motor with or without an attached car operated on rails, other than a streetcar.

(3) "Streetcar" means a car, other than a railroad train, used to transport persons or property and operated on rails located primarily within a municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 541.203. EQUIPMENT. In this subtitle:

(1) "Exhaust emission system" means a motor vehicle engine modification designed to control or reduce the emission of substances from a motor vehicle or motor vehicle engine, of a model year of 1968 or later, and installed on or incorporated in a motor vehicle or motor vehicle engine in compliance with requirements imposed by the Motor Vehicle Air Pollution Control Act (42 U.S.C. Section 1857 et seq.) or other applicable law.

(2) "Metal tire" includes a tire the surface of which in contact with the highway is wholly or partly made of metal or other hard, nonresilient material.

(3) "Muffler" means a device that reduces noise using:

(A) a mechanical design, including a series of chambers or baffle plates, to receive exhaust gas from an internal combustion engine; or

(B) turbine wheels to receive exhaust gas from a diesel engine.

(4) "Solid tire" includes only a tire that:

(A) is made of rubber or another resilient material; and

(B) does not use compressed air to support its load.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. TRAFFIC, TRAFFIC AREAS, AND TRAFFIC CONTROL

Sec. 541.301. TRAFFIC. In this subtitle "traffic" means pedestrians, ridden or herded animals, and conveyances, including vehicles and streetcars, singly or together while using a highway for the purposes of travel.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 541.302. TRAFFIC AREAS. In this subtitle:

(1) "Alley" means a street that:

(A) is not used primarily for through traffic; and

(B) provides access to rear entrances of buildings or lots along a street.

(2) "Crosswalk" means:

(A) the portion of a roadway, including an intersection, designated as a pedestrian crossing by surface markings, including lines; or

(B) the portion of a roadway at an intersection that is within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway.

(3) "Freeway" means a divided, controlled-access highway for through traffic.

(4) "Freeway main lane" means a freeway lane having an uninterrupted flow of through traffic.

(5) "Highway or street" means the width between the

boundary lines of a publicly maintained way any part of which is open to the public for vehicular travel.

(6) "Improved shoulder" means a paved shoulder.

(7) "Laned roadway" means a roadway that is divided into at least two clearly marked lanes for vehicular travel.

(8) "Limited-access or controlled-access highway" means a highway or roadway to which:

(A) persons, including owners or occupants of abutting real property, have no right of access; and

(B) access by persons to enter or exit the highway or roadway is restricted under law except at a place and in the manner determined by the authority that has jurisdiction over the highway or roadway.

(9) "Private road or driveway" means a privately owned way or place used for vehicular travel and used only by the owner and persons who have the owner's express or implied permission.

(10) "Ramp" means an interconnecting roadway of a traffic interchange, or a connecting roadway between highways at different levels or between parallel highways, that allows a vehicle to enter or exit a roadway.

(11) "Roadway" means the portion of a highway, other than the berm or shoulder, that is improved, designed, or ordinarily used for vehicular travel. If a highway includes at least two separate roadways, the term applies to each roadway separately.

(12) "Safety zone" means the area in a roadway officially designated for exclusive pedestrian use and that is protected or so marked or indicated by adequate signs as to be plainly visible at all times while so designated.

(13) "School crossing zone" means a reduced-speed zone designated on a street by a local authority to facilitate safe crossing of the street by children going to or leaving a public or private elementary or secondary school during the time the reduced speed limit applies.

(14) "School crosswalk" means a crosswalk designated on a street by a local authority to facilitate safe crossing of the street by children going to or leaving a public or private elementary or secondary school.

(15) "Shoulder" means the portion of a highway that is:

(A) adjacent to the roadway;

(B) designed or ordinarily used for parking;

(C) distinguished from the roadway by different design, construction, or marking; and

(D) not intended for normal vehicular travel.

(16) "Sidewalk" means the portion of a street that is:

(A) between a curb or lateral line of a roadway and the adjacent property line; and

(B) intended for pedestrian use.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 541.303. INTERSECTION. (a) In this subtitle, "intersection" means the common area at the junction of two highways, other than the junction of an alley and a highway.

(b) The dimensions of an intersection include only the common area:

(1) within the connection of the lateral curb lines or, in the absence of curb lines, the lateral boundary lines of the roadways of intersecting highways that join at approximate right angles; or

(2) at the place where vehicles could collide if traveling on roadways of intersecting highways that join at any angle other than an approximate right angle.

(c) Each junction of each roadway of a highway that includes two roadways at least 30 feet apart with the roadway of an intersecting highway, including each roadway of an intersecting highway that includes two roadways at least 30 feet apart, is a separate intersection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 541.304. TRAFFIC CONTROL. In this subtitle:

(1) "Official traffic-control device" means a sign, signal, marking, or device that is:

(A) consistent with this subtitle;

(B) placed or erected by a public body or officer having jurisdiction; and

(C) used to regulate, warn, or guide traffic.

(2) "Railroad sign or signal" means a sign, signal, or device erected by a railroad, public body, or public officer to notify traffic of railroad tracks or an approaching railroad train.

(3) "Traffic-control signal" means a manual, electric, or mechanical device that alternately directs traffic to stop and to proceed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. MISCELLANEOUS TERMS

Sec. 541.401. MISCELLANEOUS TERMS. In this subtitle:

(1) "Daytime" means the period beginning one-half hour before sunrise and ending one-half hour after sunset.

(2) "Explosive" means a chemical compound or mechanical mixture that:

(A) is commonly intended for use or used to produce an explosion; and

(B) contains ingredients, which may include oxidizing or combustive units, in packing, proportions, or quantities that, if ignited by fire, friction, concussion, percussion, or detonator, could suddenly generate highly heated gases that could damage surrounding objects or destroy life or limb.

(3) "Flammable liquid" means a liquid that has a flash point of not more than 70 degrees Fahrenheit as determined by a tagliabue or equivalent closed-cup test device.

(4) "Gross vehicle weight" means the weight of a vehicle and the weight of its load.

(5) "Nighttime" means the period beginning one-half hour after sunset and ending one-half hour before sunrise.

(6) "Park" or "parking" means to stand an occupied or unoccupied vehicle, other than temporarily while loading or unloading merchandise or passengers.

(7) "Personal injury" means an injury to any part of the human body and that requires treatment.

(8) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian that is approaching from a direction, at a speed, and within a proximity that could cause a collision unless one grants precedence to the other.

(9) "Stand" or "standing" means to halt an occupied or unoccupied vehicle, other than temporarily while receiving or discharging passengers.

(10) "Stop" or "stopping" means:

(A) when required, to completely cease movement; and

(B) when prohibited, to halt, including momentarily halting, an occupied or unoccupied vehicle, unless necessary to avoid conflict with other traffic or to comply with the directions of a police officer or a traffic-control sign or signal.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 542. GENERAL PROVISIONS

SUBCHAPTER A. APPLICABILITY

Sec. 542.001. VEHICLES ON HIGHWAYS. A provision of this subtitle relating to the operation of a vehicle applies only to the operation of a vehicle on a highway unless the provision specifically applies to a different place.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 542.002. GOVERNMENT VEHICLES. A provision of this subtitle applicable to an operator of a vehicle applies to the operator of a vehicle owned or operated by the United States, this state, or a political subdivision of this state, except as specifically provided otherwise by this subtitle for an authorized emergency vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 542.003. ANIMALS AND ANIMAL-DRAWN VEHICLES. A person riding an animal on a roadway or operating a vehicle drawn by an animal on a roadway has the rights and duties applicable to the operator of a vehicle under this subtitle, except a right or duty that by its nature cannot apply to a person riding an animal or operating a vehicle drawn by an animal.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 542.004. PERSONS AND EQUIPMENT ENGAGED IN WORK ON HIGHWAY

SURFACE. This subtitle does not apply to a person, team, motor vehicle, or other equipment engaged in work on a highway unless the provision is specifically made applicable, but does apply to those persons and vehicles while traveling to or from that work.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 542.005. RULES ON PRIVATE PROPERTY. This subtitle does not prevent an owner of private property that is a private road from:

- (1) regulating or prohibiting use of the property by the public for vehicular travel; or
- (2) requiring conditions different from or in addition to those specified by this subtitle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 542.006. SPEED RESTRICTIONS ON PRIVATE ROADS. (a) The owners of a majority of the parcels of real property abutting a private road may petition the Texas Transportation Commission to extend the speed restrictions of this subtitle to the portion of the road in a subdivision or across adjacent subdivisions if:

- (1) the road is not in a municipality;
- (2) the total number of residents in the subdivision and subdivisions adjacent to the subdivision is at least 400; and
- (3) a plat for the subdivision and each adjacent subdivision included to determine the number of residents under Subdivision (2) has been filed in the deed records of the county.

(b) After the commission receives a petition and verifies the property ownership of its signers, the commission may issue an order extending the speed restrictions to the private road if the commission finds the order is in the interests of the area residents and the public generally.

(c) If the commission rejects the petition, the commission shall hold a public hearing on the advisability of making the speed restrictions applicable. The hearing must be held in the county in which the portion of the road that is the subject of the petition is located. The commission shall publish notice of the hearing in a newspaper of general circulation in that county at least 10 days before the date of the hearing.

(d) At the hearing, if the commission finds that it would be in the interests of the area residents and the public generally, the commission shall issue an order extending the speed restrictions to the private road.

(e) After the commission issues an order under this section, the private road is a public highway for purposes of setting and enforcing speed restrictions under this subtitle, and the commission shall post speed limit signs on property abutting the private road with the consent of the owner of the property on which a sign is placed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 308, Sec. 1, eff. May 29, 1999.

Sec. 542.007. TRAFFIC REGULATIONS: PRIVATE SUBDIVISION IN CERTAIN COUNTIES. (a) This section applies only to a subdivision that is located in the unincorporated area of a county with a population of 500,000 or less.

(b) On petition of 25 percent of the property owners residing in a subdivision in which the roads are privately maintained or on the request of the governing body of the entity that maintains those roads, the commissioners court of the county by order may extend any traffic rules that apply to a county road to the roads of the subdivision if the commissioners court finds the order in the interest of the county generally. The petition must specify the traffic rules that are sought to be extended. The court order may extend any or all of the requested traffic rules.

(c) As a condition of extending a traffic rule under Subsection (b), the commissioners court may require that owners of the property in the subdivision pay all or part of the cost of extending and enforcing the traffic rules in the subdivision. The commissioners court shall consult with the sheriff to determine the cost of enforcing traffic rules in the subdivision.

(d) On issuance of an order under this section, the private roads in the subdivision are considered to be county roads for purposes of the application and enforcement of the specified traffic rules. The commissioners court may place official traffic control devices on property abutting the private roads if:

- (1) those devices relate to the specified traffic rule;

and

- (2) the consent of the owner of that property is obtained.

Added by Acts 1999, 76th Leg., ch. 1393, Sec. 1, eff. Sept. 1, 1999.
Amended by Acts 2001, 77th Leg., ch. 913, Sec. 2, eff. Sept. 1, 2001;
Acts 2003, 78th Leg., ch. 243, Sec. 1, eff. Sept. 1, 2003.

Sec. 542.008. TRAFFIC REGULATIONS: PRIVATE SUBDIVISIONS IN CERTAIN MUNICIPALITIES. (a) This section applies only to a subdivision in which the roads are privately owned or maintained that is located in a municipality with a population of 300 or more.

(b) On petition of 25 percent of the property owners residing in the subdivision or on the request of the governing body of the entity that maintains the roads, the governing body of the municipality may extend by ordinance any traffic rules that apply to a road owned by the municipality, or by the county in which the municipality is located, to the roads in the subdivision so that the roads of the subdivision are under the same traffic rules, if the governing body of the municipality finds the ordinance in the interest of the municipality generally. A petition under this subsection must specify the traffic rules that are sought to be extended. The ordinance may extend any or all of the requested rules.

(c) As a condition of extending a traffic rule under Subsection (b), the governing body of the municipality may require that owners of property in the subdivision pay all or part of the cost of extending and enforcing the traffic rules in the subdivision, including the costs associated with the placement of necessary official traffic control devices. The governing body of the municipality shall consult with the appropriate law enforcement entity to determine the cost of enforcing traffic rules in the subdivision.

(d) On issuance of an order under this section, the private roads in the subdivision are considered to be public highways or streets for purposes of the application and enforcement of the specified traffic rules. The governing body of the municipality may place official traffic control devices on property abutting the private roads if:

- (1) those devices relate to the specified traffic rule;

and

(2) the consent of the owner of that property is obtained or an easement is available for the placement.

Added by Acts 2001, 77th Leg., ch. 913, Sec. 1, eff. Sept. 1, 2001.

Sec. 542.0081. TRAFFIC REGULATIONS: SPECIAL DISTRICT IN CERTAIN COUNTIES. (a) This section applies only to a road owned or maintained by a special district that is located in the unincorporated area of a county with a population of less than one million.

(b) The residents of all or any portion of a special district may file a petition with the commissioners court of the county in which the roads are located requesting that county enforcement of traffic rules on county roads be extended to the roads of the district. The petition must:

(1) specify the roads over which county enforcement is sought;

(2) specify the traffic rules for which county enforcement is sought; and

(3) be signed by 50 percent of the property owners residing in the area that is served by the roads of the district over which county enforcement is sought.

(c) If the commissioners court finds that granting the request is in the interest of the county generally, the commissioners court shall by order extend the enforcement of traffic rules by the county to the roads of the district specified in the petition. The order may grant enforcement of some or all traffic rules requested in the petition.

(d) As a condition of extending a traffic rule under Subsection (c), the commissioners court may require the special district to pay for all or a part of the costs of extending enforcement to the roads of the district. The commissioners court shall consult with the sheriff to determine the cost of extending enforcement.

(e) On issuance of an order under this section, the roads specified in the order are considered to be county roads for the purposes of the application and enforcement of the specified traffic rules. The commissioners court may place official traffic control devices on the right-of-way of the roads of the district if those

devices relate to the specified traffic rules.

Added by Acts 2011, 82nd Leg., R.S., Ch. 812 (H.B. 2541), Sec. 1, eff. June 17, 2011.

Sec. 542.009. OPERATORS OF CERTAIN MOBILITY DEVICES. (a) In this section, "motorized mobility device" means a device designed for transportation of persons with physical disabilities that:

- (1) has three or more wheels;
- (2) is propelled by a battery-powered motor;
- (3) has not more than one forward gear; and
- (4) is not capable of speeds exceeding eight miles per

hour.

(b) For the purposes of this subtitle, a person operating a nonmotorized wheelchair or motorized mobility device is considered to be a pedestrian.

Added by Acts 2001, 77th Leg., ch. 497, Sec. 2, eff. June 11, 2001. Renumbered from Transportation Code Sec. 542.008 by Acts 2003, 78th Leg., ch. 1275, Sec. 2(135), eff. Sept. 1, 2003.

SUBCHAPTER B. UNIFORMITY AND INTERPRETATION OF TRAFFIC LAWS

Sec. 542.201. GENERAL RULE OF UNIFORMITY. This subtitle applies uniformly throughout this state. A local authority may not enact or enforce an ordinance or rule that conflicts with this subtitle unless expressly authorized by this subtitle. However, a local authority may regulate traffic in a manner that does not conflict with this subtitle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 542.202. POWERS OF LOCAL AUTHORITIES. (a) This subtitle does not prevent a local authority, with respect to a highway under its jurisdiction and in the reasonable exercise of the police power, from:

- (1) regulating traffic by police officers or traffic-control devices;
- (2) regulating the stopping, standing, or parking of a

vehicle;

(3) regulating or prohibiting a procession or assemblage on a highway;

(4) regulating the operation and requiring registration and licensing of a bicycle or electric bicycle, including payment of a registration fee, except as provided by Section 551.106;

(5) regulating the time, place, and manner in which a roller skater may use a highway;

(6) regulating the speed of a vehicle in a public park;

(7) regulating or prohibiting the turning of a vehicle or specified type of vehicle at an intersection;

(8) designating an intersection as a stop intersection or a yield intersection and requiring each vehicle to stop or yield at one or more entrances to the intersection;

(9) designating a highway as a through highway;

(10) designating a highway as a one-way highway and requiring each vehicle on the highway to move in one specific direction;

(11) designating school crossing guards and school crossing zones;

(12) altering a speed limit as authorized by this subtitle; or

(13) adopting other traffic rules specifically authorized by this subtitle.

(b) In this section:

(1) "Roller skater" means a person wearing footwear with a set of wheels attached.

(2) "Through highway" means a highway or a portion of a highway on which:

(A) vehicular traffic is given preferential right-of-way; and

(B) vehicular traffic entering from an intersecting highway is required by law to yield right-of-way in compliance with an official traffic-control device.

(3) "Regulating" means criminal, civil, and administrative enforcement against a person, including the owner or operator of a motor vehicle, in accordance with a state law or a municipal ordinance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 2001, 77th Leg., ch. 1085, Sec. 6, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 359, Sec. 1, eff. Sept. 1, 2003.

Sec. 542.203. LIMITATION ON LOCAL AUTHORITIES. (a) A local authority may not erect or maintain a traffic-control device to direct the traffic on a state highway, including a farm-to-market or ranch-to-market road, to stop or yield before entering or crossing an intersecting highway unless permitted by agreement between the local authority and the Texas Department of Transportation under Section 221.002.

(b) An ordinance or rule of a local authority is not effective until signs giving notice are posted on or at the entrance to the highway or part of the highway, as may be most appropriate. This subsection applies only to an ordinance or rule that:

- (1) regulates the speed of a vehicle in a public park;
- (2) alters a speed limit as authorized by this subtitle;
- (3) designates an intersection as a stop intersection or a yield intersection; or
- (4) designates a highway as a one-way highway or a through highway.

(c) An ordinance or rule of a local authority regulating the time, place, and manner in which a roller skater may use a highway may not alter the local authority's standard of care or liability with regard to construction, design, or maintenance of a highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 542.2035. LIMITATION ON MUNICIPALITIES. (a) A municipality may not implement or operate an automated traffic control system with respect to a highway or street under its jurisdiction for the purpose of enforcing compliance with posted speed limits. The attorney general shall enforce this subsection.

(b) In this section, "automated traffic control system" means a photographic device, radar device, laser device, or other electrical or mechanical device designed to:

- (1) record the speed of a motor vehicle; and
 - (2) obtain one or more photographs or other recorded images
- of:

- (A) the vehicle;
- (B) the license plate attached to the vehicle; or
- (C) the operator of the vehicle.

Added by Acts 2007, 80th Leg., R.S., Ch. 646 (H.B. 922), Sec. 1, eff. June 15, 2007.

Sec. 542.204. POWERS RELATED TO INTERSECTIONS. The Texas Transportation Commission and a local authority may, in a matter of highway or traffic engineering design, consider the separate intersections of divided highways with medians at least 30 feet apart as components of a single intersection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 542.205. CONFLICT BETWEEN THIS SUBTITLE AND AN ORDER, RULE, OR REGULATION OF CERTAIN AGENCIES. (a) If this subtitle conflicts with an order, rule, regulation, or requirement of the federal Surface Transportation Board or the department relating to a vehicle safety requirement, including a requirement relating to vehicle equipment, compliance by the owner or operator of the vehicle with the order, rule, regulation, or requirement of the federal Surface Transportation Board or the department is compliance with this subtitle.

(b) The owner or operator of a vehicle shall comply with any requirement of this subtitle that is in addition to, but not in conflict with, a requirement of the federal Surface Transportation Board or the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.104, eff. Sept. 1, 1997.

Sec. 542.206. EFFECT OF SPEED LIMITS IN A CIVIL ACTION. A provision of this subtitle declaring a maximum or minimum speed limit does not relieve the plaintiff in a civil action from the burden of proving negligence of the defendant as the proximate cause of an accident.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. OFFENSES

Sec. 542.301. GENERAL OFFENSE. (a) A person commits an offense if the person performs an act prohibited or fails to perform an act required by this subtitle.

(b) Except as otherwise provided, an offense under this subtitle is a misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 542.302. OFFENSE BY PERSON OWNING OR CONTROLLING VEHICLE. A person who owns a vehicle or employs or otherwise directs the operator of a vehicle commits an offense if the person requires or knowingly permits the operator of the vehicle to operate the vehicle in a manner that violates law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 542.303. INCHOATE OFFENSE. (a) A person who attempts to commit or conspires to commit an act declared by this subtitle to be an offense is guilty of the offense.

(b) A person who falsely, fraudulently, or wilfully permits another to violate this subtitle is guilty of the violation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. PENALTIES AND COSTS OF COURT

Sec. 542.401. GENERAL PENALTY. A person convicted of an offense that is a misdemeanor under this subtitle for which another penalty is not provided shall be punished by a fine of not less than \$1 or more than \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

For expiration of Subsections (f) and (g), see Subsection (g).

Sec. 542.402. DISPOSITION OF FINES. (a) Except as provided by Subsection (b-1), a municipality or county shall use a fine collected for a violation of a highway law in this title to:

(1) construct and maintain roads, bridges, and culverts in the municipality or county;

(2) enforce laws regulating the use of highways by motor vehicles; and

(3) defray the expense of county traffic officers.

(b) In each fiscal year, a municipality having a population of less than 5,000 may retain, from fines collected for violations of this title and from special expenses collected under Article 45.051, Code of Criminal Procedure, in cases in which a violation of this title is alleged, an amount equal to 30 percent of the municipality's revenue for the preceding fiscal year from all sources, other than federal funds and bond proceeds, as shown by the audit performed under Section 103.001, Local Government Code. After a municipality has retained that amount, the municipality shall send to the comptroller any portion of a fine or a special expense collected that exceeds \$1.

(b-1) Subject to Subsection (b-2), a county may use a fine collected for a violation of a highway law as the county determines appropriate if:

(1) the county has a population of less than 5,000; and

(2) the commissioners court of the county by resolution elects to spend the revenue in a manner other than as provided by Subsection (a).

(b-2) In each fiscal year, a county described by Subsection (b-1) may retain, from fines collected for violations of this title and from special expenses collected under Article 45.051, Code of Criminal Procedure, in cases in which a violation of this title is alleged, an amount equal to 30 percent of the county's revenue for the preceding fiscal year from all sources, other than federal funds and bond proceeds, as shown by an audit performed under Chapter 115, Local Government Code. After a county has retained that amount, the county shall send to the comptroller any portion of a fine or a special expense collected that exceeds \$1.

(c) The comptroller shall enforce Subsections (b) and (b-2).

(d) In a fiscal year in which a municipality retains from fines and special expenses collected for violations of this title an amount equal to at least 20 percent of the municipality's revenue for the

preceding fiscal year from all sources other than federal funds and bond proceeds, not later than the 120th day after the last day of the municipality's fiscal year, the municipality shall send to the comptroller:

(1) a copy of the municipality's financial statement for that fiscal year filed under Chapter 103, Local Government Code; and

(2) a report that shows the total amount collected for that fiscal year from fines and special expenses under Subsection (b).

(d-1) In a fiscal year in which a county retains from fines and special expenses collected for violations of this title an amount equal to at least 20 percent of the county's revenue for the preceding fiscal year from all sources other than federal funds and bond proceeds, not later than the 120th day after the last day of the county's fiscal year, the county shall send to the comptroller:

(1) a copy of the county's financial statement; and

(2) a report that shows the total amount collected for that fiscal year from fines and special expenses under Subsection (b-1).

(e) If an audit is conducted by the comptroller under Subsection (c) and it is determined that the municipality or county is retaining more than 20 percent of the amounts under Subsection (b) or (b-2), as applicable, and has not complied with Subsection (d) or (d-1), as applicable, the municipality or county shall pay the costs incurred by the comptroller in conducting the audit.

(f) A municipality may include the revenue generated from services provided in the municipality by a utility company operating within the municipality as municipal revenue for a fiscal year under Subsection (b) if:

(1) the municipality has a population of more than 1,000 but less than 1,200; and

(2) part of the municipality's boundary is a river that forms part of the boundary between two counties.

(g) This subsection and Subsection (f) expire on September 1, 2021.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.105(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1336, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1545, Sec. 72, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1286 (H.B. [1517](#)), Sec. 1, eff.

September 1, 2011.

Sec. 542.403. COURT COSTS. (a) In addition to other costs, a person convicted of a misdemeanor under this subtitle shall pay \$3 as a cost of court.

(b) The officer who collects a cost under this section shall:

(1) deposit in the municipal treasury a cost collected in a municipal court case; and

(2) deposit in the county treasury a cost collected in a justice court case or in a county court case, including a case appealed from a justice or municipal court.

(c) In this section, "conviction" has the meaning assigned by Section 133.101, Local Government Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 209, Sec. 77(a), eff. Jan. 1, 2004.

Sec. 542.4031. STATE TRAFFIC FINE. (a) In addition to the fine prescribed by Section 542.401 or another section of this subtitle, as applicable, a person who enters a plea of guilty or nolo contendere to or is convicted of an offense under this subtitle shall pay \$30 as a state traffic fine. The person shall pay the state traffic fine when the person enters the person's plea of guilty or nolo contendere, or on the date of conviction, whichever is earlier. The state traffic fine shall be paid regardless of whether:

(1) a sentence is imposed on the person;

(2) the court defers final disposition of the person's case; or

(3) the person is placed on community supervision, including deferred adjudication community supervision.

(b) An officer collecting a state traffic fine under this section in a case in municipal court shall keep separate records of the money collected and shall deposit the money in the municipal treasury.

(c) An officer collecting a state traffic fine under this section in a justice, county, or district court shall keep separate records of the money collected and shall deposit the money in the county treasury.

(d) Each calendar quarter, an officer collecting a state traffic fine under this section shall submit a report to the comptroller. The report must comply with Articles 103.005(c) and (d), Code of Criminal Procedure.

(e) The custodian of money in a municipal or county treasury may deposit money collected under this section in an interest-bearing account. The custodian shall:

(1) keep records of the amount of money collected under this section that is on deposit in the treasury; and

(2) not later than the last day of the month following each calendar quarter, remit to the comptroller money collected under this section during the preceding quarter, as required by the comptroller.

(f) A municipality or county may retain five percent of the money collected under this section as a service fee for the collection if the municipality or county remits the funds to the comptroller within the period prescribed in Subsection (e). The municipality or county may retain any interest accrued on the money if the custodian of the money deposited in the treasury keeps records of the amount of money collected under this section that is on deposit in the treasury and remits the funds to the comptroller within the period prescribed in Subsection (e).

(g) Of the money received by the comptroller under this section, the comptroller shall deposit:

(1) 67 percent to the credit of the undedicated portion of the general revenue fund; and

(2) 33 percent to the credit of the designated trauma facility and emergency medical services account under Section 780.003, Health and Safety Code.

(h) Notwithstanding Subsection (g)(1), in any state fiscal year the comptroller shall deposit 67 percent of the money received under Subsection (e)(2) to the credit of the general revenue fund only until the total amount of the money deposited to the credit of the general revenue fund under Subsection (g)(1) and Section 780.002(b), Health and Safety Code, equals \$250 million for that year. If in any state fiscal year the amount received by the comptroller under those laws for deposit to the credit of the general revenue fund exceeds \$250 million, the comptroller shall deposit the additional amount to the credit of the Texas mobility fund.

(i) Money collected under this section is subject to audit by the comptroller. Money spent is subject to audit by the state

auditor.

(j) Repealed by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 6.02.

(k) Repealed by Acts 2005, 79th Leg., Ch. 1123, Sec. 6(2), eff. September 1, 2005.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 12.01(a), eff. Sept. 1, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 2.01, 2.02, 6.02(2), eff. Jan. 11, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 1123 (H.B. 2470), Sec. 6(2), eff. September 1, 2005.

Sec. 542.404. FINE FOR OFFENSE IN CONSTRUCTION OR MAINTENANCE WORK ZONE. (a) Except as provided by Subsection (c), if an offense under this subtitle, other than an offense under Chapter 548 or 552 or Section 545.412 or 545.413, is committed in a construction or maintenance work zone when workers are present and any written notice to appear issued for the offense states on its face that workers were present when the offense was committed:

(1) the minimum fine applicable to the offense is twice the minimum fine that would be applicable to the offense if it were committed outside a construction or maintenance work zone; and

(2) the maximum fine applicable to the offense is twice the maximum fine that would be applicable to the offense if it were committed outside a construction or maintenance work zone.

(b) In this section, "construction or maintenance work zone" has the meaning assigned by Section 472.022.

(c) The fine prescribed by Subsection (a) applies to a violation of a prima facie speed limit authorized by Subchapter H, Chapter 545, only if the construction or maintenance work zone is marked by a sign indicating the applicable maximum lawful speed.

Added by Acts 1997, 75th Leg., ch. 674, Sec. 2, eff. Jan. 1, 1998.

Amended by Acts 1999, 76th Leg., ch. 789, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 658 (H.B. 1097), Sec. 1, eff. September 1, 2013.

Sec. 542.4045. PENALTIES FOR FAILURE TO YIELD RIGHT-OF-WAY OFFENSE RESULTING IN ACCIDENT. If it is shown on the trial of an offense under this subtitle in which an element is the failure by the operator of a vehicle to yield the right-of-way to another vehicle that an accident resulted from the operator's failure to yield the right-of-way:

(1) the offense is punishable by a fine of not less than \$500 or more than \$2,000, if a person other than the operator of the vehicle suffered bodily injury, as defined by Section 1.07, Penal Code, in the accident; and

(2) the offense is punishable by a fine of not less than \$1,000 or more than \$4,000, if a person other than the operator of the vehicle suffered serious bodily injury, as defined by Section 1.07, Penal Code, in the accident.

Added by Acts 2009, 81st Leg., R.S., Ch. 1391 (S.B. 1967), Sec. 6, eff. September 1, 2009.

Sec. 542.405. AMOUNT OF CIVIL PENALTY; LATE PAYMENT PENALTY. If a local authority enacts an ordinance to enforce compliance with the instructions of a traffic-control signal by the imposition of a civil or administrative penalty, the amount of:

(1) the civil or administrative penalty may not exceed \$75; and

(2) a late payment penalty may not exceed \$25.

Added by Acts 2007, 80th Leg., R.S., Ch. 1027 (H.B. 1623), Sec. 9, eff. September 1, 2007.

Sec. 542.406. DEPOSIT OF REVENUE FROM CERTAIN TRAFFIC PENALTIES. (a) In this section, "photographic traffic signal enforcement system" means a system that:

(1) consists of a camera system and vehicle sensor installed to exclusively work in conjunction with an electrically operated traffic-control signal;

(2) is capable of producing one or more recorded photographic or digital images that depict the license plate attached to the front or the rear of a motor vehicle that is not operated in compliance with the instructions of the traffic-control signal; and

(3) is designed to enforce compliance with the instructions of the traffic-control signal by imposition of a civil or administrative penalty against the owner of the motor vehicle.

(b) This section applies only to a civil or administrative penalty imposed on the owner of a motor vehicle by a local authority that operates or contracts for the operation of a photographic traffic signal enforcement system with respect to a highway under its jurisdiction or that operates or contracts for the operation of any other type of electronic traffic law enforcement system consisting of a camera system that automatically produces one or more recorded photographs or digital images of the license plate on a motor vehicle or the operator of a motor vehicle.

(c) Not later than the 60th day after the end of a local authority's fiscal year, after deducting amounts the local authority is authorized by Subsection (d) to retain, the local authority shall:

(1) send 50 percent of the revenue derived from civil or administrative penalties collected by the local authority under this section to the comptroller for deposit to the credit of the designated trauma facility and emergency medical services account established under Section 780.003, Health and Safety Code; and

(2) deposit the remainder of the revenue in a special account in the local authority's treasury that may be used only to fund traffic safety programs, including pedestrian safety programs, public safety programs, intersection improvements, and traffic enforcement.

(d) A local authority may retain an amount necessary to cover the costs of:

(1) purchasing or leasing equipment that is part of or used in connection with the photographic traffic signal enforcement system in the local authority;

(2) installing the photographic traffic signal enforcement system at sites in the local authority, including the costs of installing cameras, flashes, computer equipment, loop sensors, detectors, utility lines, data lines, poles and mounts, networking equipment, and associated labor costs;

(3) operating the photographic traffic signal enforcement system in the local authority, including the costs of creating, distributing, and delivering violation notices, review of violations conducted by employees of the local authority, the processing of fine payments and collections, and the costs associated with

administrative adjudications and appeals; and

(4) maintaining the general upkeep and functioning of the photographic traffic signal enforcement system.

(e) Chapter 133, Local Government Code, applies to fee revenue described by Subsection (c)(1).

(f) If under Section 133.059, Local Government Code, the comptroller conducts an audit of a local authority and determines that the local authority retained more than the amounts authorized by this section or failed to deposit amounts as required by this section, the comptroller may impose a penalty on the local authority equal to twice the amount the local authority:

(1) retained in excess of the amount authorized by this section; or

(2) failed to deposit as required by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1027 (H.B. 1623), Sec. 9, eff. September 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 38, eff. September 1, 2015.

SUBCHAPTER E. MISCELLANEOUS

Sec. 542.501. OBEDIENCE REQUIRED TO POLICE OFFICERS AND TO SCHOOL CROSSING GUARDS. A person may not wilfully fail or refuse to comply with a lawful order or direction of:

(1) a police officer; or

(2) a school crossing guard who:

(A) is performing crossing guard duties in a school crosswalk to stop and yield to a pedestrian; or

(B) has been trained under Section 600.004 and is directing traffic in a school crossing zone.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 724, Sec. 1, eff. Aug. 30, 1999.

CHAPTER 543. ARREST AND PROSECUTION OF VIOLATORS

SUBCHAPTER A. ARREST AND CHARGING PROCEDURES; NOTICES AND PROMISES TO APPEAR

Sec. 543.001. ARREST WITHOUT WARRANT AUTHORIZED. Any peace

officer may arrest without warrant a person found committing a violation of this subtitle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 543.002. PERSON ARRESTED TO BE TAKEN BEFORE MAGISTRATE.

(a) A person arrested for a violation of this subtitle punishable as a misdemeanor shall be immediately taken before a magistrate if:

(1) the person is arrested on a charge of failure to stop in the event of an accident causing damage to property; or

(2) the person demands an immediate appearance before a magistrate or refuses to make a written promise to appear in court as provided by this subchapter.

(b) The person must be taken before a magistrate who:

(1) has jurisdiction of the offense;

(2) is in the county in which the offense charged is alleged to have been committed; and

(3) is nearest or most accessible to the place of arrest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 543.003. NOTICE TO APPEAR REQUIRED: PERSON NOT TAKEN BEFORE MAGISTRATE. An officer who arrests a person for a violation of this subtitle punishable as a misdemeanor and who does not take the person before a magistrate shall issue a written notice to appear in court showing the time and place the person is to appear, the offense charged, the name and address of the person charged, and, if applicable, the license number of the person's vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 701, Sec. 3, eff. Aug. 30, 1999.

Sec. 543.004. NOTICE TO APPEAR REQUIRED: CERTAIN OFFENSES.

(a) An officer shall issue a written notice to appear if:

(1) the offense charged is speeding or a violation of the open container law, Section 49.03, Penal Code; and

(2) the person makes a written promise to appear in court as provided by Section 543.005.

(b) If the person is a resident of or is operating a vehicle licensed in a state or country other than this state, Subsection (a) applies only as provided by Chapter 703.

(c) The offenses specified by Subsection (a) are the only offenses for which issuance of a written notice to appear is mandatory.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.07, eff. Sept. 1, 1999.

Sec. 543.005. PROMISE TO APPEAR; RELEASE. To secure release, the person arrested must make a written promise to appear in court by signing the written notice prepared by the arresting officer. The signature may be obtained on a duplicate form or on an electronic device capable of creating a copy of the signed notice. The arresting officer shall retain the paper or electronic original of the notice and deliver the copy of the notice to the person arrested. The officer shall then promptly release the person from custody.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 701, Sec. 4, eff. Aug. 30, 1999.

Sec. 543.006. TIME AND PLACE OF APPEARANCE. (a) The time specified in the notice to appear must be at least 10 days after the date of arrest unless the person arrested demands an earlier hearing.

(b) The place specified in the notice to appear must be before a magistrate having jurisdiction of the offense who is in the municipality or county in which the offense is alleged to have been committed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 543.007. NOTICE TO APPEAR: COMMERCIAL VEHICLE OR LICENSE. A notice to appear issued to the operator of a commercial motor vehicle or holder of a commercial driver's license or commercial learner's permit, for the violation of a law regulating the operation of vehicles on highways, must contain the information required by department rule, to comply with Chapter 522 and the federal

Commercial Motor Vehicle Safety Act of 1986 (Title 49, U.S.C. Section 2701 et seq.).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 701, Sec. 5, eff. Aug. 30, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 38, eff. January 1, 2016.

Sec. 543.008. VIOLATION BY OFFICER. A violation by an officer of a provision of Sections 543.003-543.007 is misconduct in office and the officer is subject to removal from the officer's position.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 543.009. COMPLIANCE WITH OR VIOLATION OF PROMISE TO APPEAR. (a) A person may comply with a written promise to appear in court by an appearance by counsel.

(b) A person who wilfully violates a written promise to appear in court, given as provided by this subchapter, commits a misdemeanor regardless of the disposition of the charge on which the person was arrested.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 543.010. SPECIFICATIONS OF SPEEDING CHARGE. The complaint and the summons or notice to appear on a charge of speeding under this subtitle must specify:

(1) the maximum or minimum speed limit applicable in the district or at the location; and

(2) the speed at which the defendant is alleged to have driven.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 543.011. PERSONS LICENSED BY STATE DEPARTMENT OR CLAIMING DIPLOMATIC OR CONSULAR IMMUNITY. (a) This section applies to a

person who:

(1) is stopped or issued a notice to appear by a peace officer in connection with a violation of:

(A) this subtitle;

(B) Section 49.03 or 49.04, Penal Code; or

(C) Section 49.07 or 49.08, Penal Code, involving operation of a motor vehicle; and

(2) presents to the peace officer a driver's license issued by the United States Department of State or claims immunities or privileges under 22 U.S.C. Chapter 6.

(b) A peace officer who stops or issues a notice to appear to a person to whom this section applies shall record all relevant information from any driver's license or identification card presented by the person or any statement made by the person relating to immunities or privileges and promptly deliver the record to the law enforcement agency that employs the peace officer.

(c) The law enforcement agency shall:

(1) as soon as practicable contact the United States Department of State to verify the person's status and immunity, if any; and

(2) not later than the fifth working day after the date of the stop or issuance of the notice to appear, send to the Bureau of Diplomatic Security Office of Foreign Missions of the United States Department of State the following:

(A) a copy of any notice to appear issued to the person and any accident report prepared; or

(B) if a notice to appear was not issued and an accident report was not prepared, a written report of the incident.

(d) This section does not affect application of a law described by Subsection (a)(1) to a person to whom this section applies.

Added by Acts 2001, 77th Leg., ch. 446, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER B. DISMISSAL OF CERTAIN MISDEMEANOR CHARGES ON COMPLETING DRIVING SAFETY COURSE

Sec. 543.111. REGULATION BY CERTAIN STATE AGENCIES. (a) The Texas Commission of Licensing and Regulation shall enter into a memorandum of understanding with the Texas Department of Insurance for the interagency development of a curriculum for driving safety

courses.

(b) The Texas Commission of Licensing and Regulation and Texas Department of Licensing and Regulation, as appropriate, shall:

(1) adopt and administer comprehensive rules governing driving safety courses; and

(2) investigate options to develop and implement procedures to electronically transmit information pertaining to driving safety courses to municipal and justice courts.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.106(d), eff. Sept. 1, 1997. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 65, eff. September 1, 2015.

Sec. 543.112. STANDARDS FOR UNIFORM CERTIFICATE OF COURSE COMPLETION. (a) The Texas Commission of Licensing and Regulation by rule shall provide for the design and distribution of uniform certificates of course completion so as to prevent to the greatest extent possible the unauthorized production or misuse of the certificates.

(b) The uniform certificate of course completion must include an identifying number by which the Texas Department of Licensing and Regulation, the court, or the department may verify its authenticity with the course provider and must be in a form adopted by the Texas Department of Licensing and Regulation.

(c) The Texas Commission of Licensing and Regulation by rule shall determine the amount of the fee to be charged for issuance of a duplicate certificate by persons who are licensed providers of courses approved under Chapter 1001, Education Code.

(d) A driving safety course provider shall electronically submit data identified by the Texas Department of Licensing and Regulation pertaining to issued uniform certificates of course completion to the Texas Department of Licensing and Regulation as directed by the Texas Department of Licensing and Regulation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.106(e), eff. Sept. 1, 1997. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 65, eff.

September 1, 2015.

Sec. 543.113. FEES FOR PRINTING AND SUPPLYING CERTIFICATE. (a) The Texas Department of Licensing and Regulation shall issue course completion certificate numbers and supply them to persons who are licensed providers of courses approved under Chapter 1001, Education Code. The Texas Commission of Licensing and Regulation by rule shall establish a fee for each certificate.

(b) A course provider shall charge an operator a fee equal to the fee paid to the agency for a certificate.

(c) Money collected by the Texas Department of Licensing and Regulation under this section may be used to pay monetary awards for information relating to abuse of uniform certificates that leads to the conviction or removal of an approval, license, or authorization.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.106(f), eff. Sept. 1, 1997. Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 66, eff. September 1, 2015.

Sec. 543.114. DISTRIBUTION OF WRITTEN INFORMATION ON PROVIDER.

(a) A person may not distribute written information to advertise a provider of a driving safety course within 500 feet of a court having jurisdiction over an offense to which this subchapter applies. A violation of this section by a provider or a provider's agent, employee, or representative results in loss of the provider's status as a provider of a course approved under Chapter 1001, Education Code.

(b) This section does not apply to distribution of information:

- (1) by a court;
- (2) to a court to obtain approval of the course; or
- (3) to a court to advise the court of the availability of the course.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 67, eff. September 1, 2015.

Sec. 543.115. FEES FOR DRIVING SAFETY COURSE. (a) A driving safety course may not be provided to a student for less than \$25.

(b) A course provider shall charge each student a fee for course materials and for overseeing and administering the course. The fee may not be less than \$3.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.106(g), eff. Sept. 1, 1997.

Sec. 543.116. DELIVERY OF UNIFORM CERTIFICATE OF COURSE COMPLETION. (a) A driving safety course provider shall mail an issued uniform certificate of course completion to a person who successfully completes the course.

(b) The certificate must be mailed not later than the 15th working day after the date a person successfully completes the course.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.106(g), eff. Sept. 1, 1997.

SUBCHAPTER C. RECORDS AND INFORMATION MAINTAINED BY DEPARTMENT

Sec. 543.201. CONVICTION REPORTED TO DEPARTMENT. Each magistrate or judge of a court not of record and each clerk of a court of record shall keep a record of each case in which a person is charged with a violation of law regulating the operation of vehicles on highways.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 543.202. FORM OF RECORD. (a) In this section, "race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) The record must be made on a form or by a data processing method acceptable to the department and must include:

(1) the name, address, physical description, including race or ethnicity, date of birth, and driver's license number of the

person charged;

(2) the registration number of the vehicle involved;

(3) whether the vehicle was a commercial motor vehicle as defined by Chapter 522 or was involved in transporting hazardous materials;

(4) the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial learner's permit;

(5) the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522;

(6) whether a search of the vehicle was conducted and whether consent for the search was obtained;

(7) the plea, the judgment, whether the individual was adjudicated under Article 45.0511, Code of Criminal Procedure, and whether bail was forfeited;

(8) the date of conviction; and

(9) the amount of the fine or forfeiture.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 947, Sec. 6, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1325, Sec. 8.04, eff. June. 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 39, eff. January 1, 2016.

Sec. 543.203. SUBMITTING RECORD TO DEPARTMENT. Not later than the seventh day after the date of conviction or forfeiture of bail of a person on a charge of violating a law regulating the operation of a vehicle on a highway or conviction of a person of negligent homicide or a felony in the commission of which a vehicle was used, the magistrate, judge, or clerk of the court in which the conviction was had or bail was forfeited shall immediately submit to the department a written record of the case containing the information required by Section 543.202.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 17.02, eff. September 1, 2009.

Sec. 543.204. SUBMISSION OF RECORD PROHIBITED. (a) A justice of the peace or municipal judge who defers further proceedings, suspends all or part of the imposition of the fine, and places a defendant on probation under Article 45.051, Code of Criminal Procedure, or a county court judge who follows that procedure under Article 42.111, Code of Criminal Procedure, may not submit a written record to the department, except that if the justice or judge subsequently adjudicates the defendant's guilt, the justice or judge shall submit the record not later than the seventh day after the date on which the justice or judge adjudicates guilt.

(b) The department may not keep a record for which submission is prohibited by this section.

(c) The department may receive a record prepared by a department employee from court records.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1545, Sec. 73, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 17.03, eff. September 1, 2009.

Sec. 543.205. RECORD RECEIVED AT MAIN OFFICE. The department shall receive all records under Section 543.204(a) at its main office.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 543.206. VIOLATION. A violation by a judicial officer of this subchapter may constitute misconduct in office and may be grounds for removal from the officer's position.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 544. TRAFFIC SIGNS, SIGNALS, AND MARKINGS

Sec. 544.001. ADOPTION OF SIGN MANUAL FOR STATE HIGHWAYS. The Texas Transportation Commission shall adopt a manual and

specifications for a uniform system of traffic-control devices consistent with this chapter that correlates with and to the extent possible conforms to the system approved by the American Association of State Highway and Transportation Officials.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 544.002. PLACING AND MAINTAINING TRAFFIC-CONTROL DEVICE.

(a) To implement this subtitle, the Texas Department of Transportation may place and maintain a traffic-control device on a state highway as provided by the manual and specifications adopted under Section 544.001. The Texas Department of Transportation may provide for the placement and maintenance of the device under Section 221.002.

(b) To implement this subtitle or a local traffic ordinance, a local authority may place and maintain a traffic-control device on a highway under the authority's jurisdiction. The traffic-control device must conform to the manual and specifications adopted under Section 544.001.

(c) A local authority may not place or maintain a traffic-control device on a highway under the jurisdiction of the Texas Department of Transportation without that department's permission, except as authorized under Section 545.3561.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 216 (H.B. 109), Sec. 1, eff. September 1, 2011.

Sec. 544.003. AUTHORITY TO DESIGNATE THROUGH HIGHWAY AND STOP AND YIELD INTERSECTIONS. (a) The Texas Transportation Commission may:

(1) designate a state or county highway as a through highway and place a stop or yield sign at a specified entrance; or
(2) designate an intersection on a state or county highway as a stop intersection or a yield intersection and place a sign at one or more entrances to the intersection.

(b) A local authority may:

(1) designate a highway under its jurisdiction as a through

highway and place a stop or yield sign at a specified entrance; or

(2) designate an intersection on a highway under its jurisdiction as a stop intersection or a yield intersection and place a sign at one or more entrances to the intersection.

(c) The stop or yield sign indicating the preferential right-of-way must:

(1) conform to the manual and specifications adopted under Section 544.001; and

(2) be located:

(A) as near as practicable to the nearest line of the crosswalk; or

(B) in the absence of a crosswalk, at the nearest line of the roadway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 544.004. COMPLIANCE WITH TRAFFIC-CONTROL DEVICE. (a) The operator of a vehicle or streetcar shall comply with an applicable official traffic-control device placed as provided by this subtitle unless the person is:

(1) otherwise directed by a traffic or police officer; or

(2) operating an authorized emergency vehicle and is subject to exceptions under this subtitle.

(b) A provision of this subtitle requiring an official traffic-control device may not be enforced against an alleged violator if at the time and place of the alleged violation the device is not in proper position and sufficiently legible to an ordinarily observant person. A provision of this subtitle that does not require an official traffic-control device is effective regardless of whether a device is in place.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 544.005. INTERFERENCE WITH TRAFFIC-CONTROL DEVICE OR RAILROAD SIGN OR SIGNAL. A person may not, without lawful authority, alter, injure, knock down, or remove or attempt to alter, injure, knock down, or remove:

(1) an official traffic-control device or railroad sign or signal;

(2) an inscription, shield, or insignia on an official traffic-control device or railroad sign or signal; or

(3) another part of an official traffic-control device or railroad sign or signal.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 544.0055. TRAFFIC-CONTROL SIGNAL PREEMPTION DEVICE; OFFENSE. (a) In this section, "traffic-control signal preemption device" means a device designed, intended, or used to interfere with or alter the operation of a traffic-control signal.

(b) Except as provided by Subsection (e), a person commits an offense if the person uses, sells, offers for sale, purchases, or possesses for use or sale a traffic-control signal preemption device.

(c) The possession of a traffic-control signal preemption device creates the presumption that the person possessed the device for use or sale.

(d) An offense under this section is a Class C misdemeanor.

(e) This section does not apply to:

(1) a person who provides fire-fighting, law enforcement, ambulance, medical, or other emergency services in the course of providing those services;

(2) a manufacturer, wholesaler, or retailer of traffic-control signal preemption devices in the course of manufacturing, selling, providing, or transporting a traffic-control signal preemption device to a person described by Subdivision (1); or

(3) a transit vehicle operated by an authority under Chapter 451 or 452 or a transit department under Chapter 453.

Added by Acts 2005, 79th Leg., Ch. 244 (H.B. 364), Sec. 1, eff. May 30, 2005.

Sec. 544.006. DISPLAY OF UNAUTHORIZED SIGNS, SIGNALS, OR MARKINGS. (a) A person may not place, maintain, or display on or in view of a highway an unauthorized sign, signal, marking, or device that:

(1) imitates or resembles an official traffic-control device or railroad sign or signal;

(2) attempts to direct the movement of traffic; or

(3) hides from view or hinders the effectiveness of an official traffic-control device or railroad sign or signal.

(b) A person may not place or maintain on a highway, and a public authority may not permit on a highway, a traffic sign or signal bearing commercial advertising.

(c) A person may not place or maintain a flashing light or flashing electric sign within 1,000 feet of an intersection except under a permit issued by the Texas Transportation Commission.

(d) This section does not prohibit a person from placing on private property adjacent to a highway a sign that gives useful directional information and that cannot be mistaken for an official sign.

(e) A sign, signal, light, or marking prohibited under this section is a public nuisance. The authority with jurisdiction over the highway may remove that sign, signal, light, or marking without notice.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 544.007. TRAFFIC-CONTROL SIGNALS IN GENERAL. (a) A traffic-control signal displaying different colored lights or colored lighted arrows successively or in combination may display only green, yellow, or red and applies to operators of vehicles as provided by this section.

(b) An operator of a vehicle facing a circular green signal may proceed straight or turn right or left unless a sign prohibits the turn. The operator shall yield the right-of-way to other vehicles and to pedestrians lawfully in the intersection or an adjacent crosswalk when the signal is exhibited.

(c) An operator of a vehicle facing a green arrow signal, displayed alone or with another signal, may cautiously enter the intersection to move in the direction permitted by the arrow or other indication shown simultaneously. The operator shall yield the right-of-way to a pedestrian lawfully in an adjacent crosswalk and other traffic lawfully using the intersection.

(d) An operator of a vehicle facing only a steady red signal shall stop at a clearly marked stop line. In the absence of a stop line, the operator shall stop before entering the crosswalk on the near side of the intersection. A vehicle that is not turning shall

remain standing until an indication to proceed is shown. After stopping, standing until the intersection may be entered safely, and yielding right-of-way to pedestrians lawfully in an adjacent crosswalk and other traffic lawfully using the intersection, the operator may:

(1) turn right; or

(2) turn left, if the intersecting streets are both one-way streets and a left turn is permissible.

(e) An operator of a vehicle facing a steady yellow signal is warned by that signal that:

(1) movement authorized by a green signal is being terminated; or

(2) a red signal is to be given.

(f) The Texas Transportation Commission, a municipal authority, or the commissioners court of a county may prohibit within the entity's jurisdiction a turn by an operator of a vehicle facing a steady red signal by posting notice at the intersection that the turn is prohibited.

(g) This section applies to an official traffic-control signal placed and maintained at a place other than an intersection, except for a provision that by its nature cannot apply. A required stop shall be made at a sign or marking on the pavement indicating where the stop shall be made. In the absence of such a sign or marking, the stop shall be made at the signal.

(h) The obligations imposed by this section apply to an operator of a streetcar in the same manner they apply to the operator of a vehicle.

(i) An operator of a vehicle facing a traffic-control signal, other than a freeway entrance ramp control signal or a pedestrian hybrid beacon, that does not display an indication in any of the signal heads shall stop as provided by Section 544.010 as if the intersection had a stop sign.

(j) In this section:

(1) "Freeway entrance ramp control signal" means a traffic-control signal that controls the flow of traffic entering a freeway.

(2) "Pedestrian hybrid beacon" means a pedestrian-controlled traffic-control signal that displays different colored lights successively only when activated by a pedestrian.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 2003, 78th Leg., ch. 1325, Sec. 19.04, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 485 (H.B. 885), Sec. 1, eff. June 17, 2011.

Sec. 544.0075. CERTAIN TRAFFIC-ACTUATED ELECTRIC TRAFFIC-CONTROL SIGNALS. (a) This section applies only to a traffic-actuated electric traffic-control signal that consists of a traffic-control signal for which the intervals vary according to the demands of vehicular traffic as registered by a detector and that is installed and operating at an intersection.

(b) In addition to any other type of vehicle the presence of which the detector for the traffic-actuated electric traffic-control signal may register, the detector for a traffic-actuated electric traffic-control device to which this section applies must be capable of registering the presence of a motorcycle.

Added by Acts 2007, 80th Leg., R.S., Ch. 219 (H.B. 1279), Sec. 1, eff. September 1, 2007.

Sec. 544.008. FLASHING SIGNALS. (a) The operator of a vehicle facing a flashing red signal shall stop at a clearly marked stop line. In the absence of a stop line, the operator shall stop before entering the crosswalk on the near side of the intersection. In the absence of a crosswalk, the operator shall stop at the place nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway. The right to proceed is subject to the rules applicable after stopping at a stop sign.

(b) The operator of a vehicle facing a flashing yellow signal may proceed through an intersection or past the signal only with caution.

(c) This section does not apply at a railroad crossing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 544.009. LANE-DIRECTION-CONTROL SIGNALS. If a lane-direction-control signal is placed over an individual lane of a highway, a vehicle may travel in a lane over which a green signal is

shown but may not enter or travel in a lane over which a red signal is shown.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 544.010. STOP SIGNS AND YIELD SIGNS. (a) Unless directed to proceed by a police officer or traffic-control signal, the operator of a vehicle or streetcar approaching an intersection with a stop sign shall stop as provided by Subsection (c).

(b) If safety requires, the operator of a vehicle approaching a yield sign shall stop as provided by Subsection (c).

(c) An operator required to stop by this section shall stop before entering the crosswalk on the near side of the intersection. In the absence of a crosswalk, the operator shall stop at a clearly marked stop line. In the absence of a stop line, the operator shall stop at the place nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 544.011. LANE USE SIGNS. If, on a highway having more than one lane with vehicles traveling in the same direction, the Texas Department of Transportation or a local authority places a sign that directs slower traffic to travel in a lane other than the farthest left lane, the sign must read "left lane for passing only."

Added by Acts 1997, 75th Leg., ch. 628, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.08, eff. Sept. 1, 1999.

Sec. 544.012. NOTIFICATION OF PHOTOGRAPHIC TRAFFIC MONITORING SYSTEM. (a) In this section:

(1) "Photographic traffic monitoring system" means a system that:

(A) consists of a camera and vehicle sensor installed to work in conjunction with an electrically operated traffic-control signal; and

(B) is capable of producing one or more recorded images

that depict the license plate attached to a motor vehicle that is not operated in compliance with the instructions of the traffic-control signal.

(2) "Recorded image" means an image that:

(A) depicts a motor vehicle; and

(B) is automatically recorded on a photograph or digital image.

(b) This section applies only to a municipality that pursuant to an ordinance of the municipality employs a photographic traffic monitoring system to enforce compliance with the instructions of traffic-control signals in the municipality.

(c) The municipality shall install signs along each roadway that leads to an intersection at which a photographic traffic monitoring system is in active use. The signs must be at least 100 feet from the intersection or located according to standards established in the manual adopted by the Texas Transportation Commission under Section 544.001, be easily readable to any operator approaching the intersection, and clearly indicate the presence of a photographic monitoring system that records violations that may result in the issuance of a notice of violation and the imposition of a monetary penalty.

(d) A municipality that fails to comply with Subsection (c) may not impose or attempt to impose a civil or administrative penalty against a person, including the owner of a motor vehicle or an operator, for a failure to comply with the instructions of a traffic-control signal located at the applicable intersection.

(e) Subsection (d) does not prohibit a peace officer from arresting or issuing a citation and notice to appear to a person whom the officer observes to have failed to comply with the instructions of a traffic-control signal located at the intersection.

Added by Acts 2007, 80th Leg., R.S., Ch. 653 (H.B. 1052), Sec. 1, eff. September 1, 2007.

Sec. 544.013. CHANGEABLE MESSAGE SIGN SYSTEM. (a) In this section, "changeable message sign" means a sign that conforms to the manual and specifications adopted under Section 544.001. The term includes a dynamic message sign.

(b) The Texas Department of Transportation in cooperation with

local governments shall actively manage a system of changeable message signs located on highways under the jurisdiction of the department to mitigate traffic congestion by providing current information to the traveling public, including information about traffic incidents, weather conditions, road construction, and alternative routes when applicable.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 53, eff. September 1, 2011.

CHAPTER 545. OPERATION AND MOVEMENT OF VEHICLES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 545.001. DEFINITIONS. In this chapter:

(1) "Pass" or "passing" used in reference to a vehicle means to overtake and proceed past another vehicle moving in the same direction as the passing vehicle or to attempt that maneuver.

(2) "School bus" includes a multifunction school activity bus.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 923 (H.B. [3190](#)), Sec. 3, eff. September 1, 2007.

Sec. 545.002. OPERATOR. In this chapter, a reference to an operator includes a reference to the vehicle operated by the operator if the reference imposes a duty or provides a limitation on the movement or other operation of that vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. DRIVING ON RIGHT SIDE OF ROADWAY AND PASSING

Sec. 545.051. DRIVING ON RIGHT SIDE OF ROADWAY. (a) An operator on a roadway of sufficient width shall drive on the right half of the roadway, unless:

(1) the operator is passing another vehicle;

(2) an obstruction necessitates moving the vehicle left of the center of the roadway and the operator yields the right-of-way to

a vehicle that:

(A) is moving in the proper direction on the unobstructed portion of the roadway; and

(B) is an immediate hazard;

(3) the operator is on a roadway divided into three marked lanes for traffic; or

(4) the operator is on a roadway restricted to one-way traffic.

(b) An operator of a vehicle on a roadway moving more slowly than the normal speed of other vehicles at the time and place under the existing conditions shall drive in the right-hand lane available for vehicles, or as close as practicable to the right-hand curb or edge of the roadway, unless the operator is:

(1) passing another vehicle; or

(2) preparing for a left turn at an intersection or into a private road or driveway.

(c) An operator on a roadway having four or more lanes for moving vehicles and providing for two-way movement of vehicles may not drive left of the center line of the roadway except:

(1) as authorized by an official traffic-control device designating a specified lane to the left side of the center of the roadway for use by a vehicle not otherwise permitted to use the lane;

(2) under the conditions described by Subsection (a)(2);

or

(3) in crossing the center line to make a left turn into or out of an alley, private road, or driveway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.052. DRIVING PAST VEHICLE MOVING IN OPPOSITE DIRECTION. An operator moving in the opposite direction of the movement of another operator shall:

(1) move to or remain to the right; and

(2) on a roadway wide enough for not more than one line of vehicle movement in each direction, give the other operator:

(A) at least one-half of the main traveled portion of the roadway; or

(B) if complying with Paragraph (A) is not possible, as much of the roadway as possible.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.053. PASSING TO THE LEFT; RETURN; BEING PASSED. (a) An operator passing another vehicle:

(1) shall pass to the left of the other vehicle at a safe distance; and

(2) may not move back to the right side of the roadway until safely clear of the passed vehicle.

(b) An operator being passed by another vehicle:

(1) shall, on audible signal, move or remain to the right in favor of the passing vehicle; and

(2) may not accelerate until completely passed by the passing vehicle.

(c) Subsection (b) does not apply when passing to the right is permitted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.054. PASSING TO THE LEFT: SAFE DISTANCE. (a) An operator may not drive on the left side of the center of the roadway in passing another vehicle unless:

(1) driving on the left side of the center of the roadway is authorized by this subtitle; and

(2) the left side is clearly visible and free of approaching traffic for a distance sufficient to permit passing without interfering with the operation of the passed vehicle or a vehicle approaching from the opposite direction.

(b) An operator passing another vehicle shall return to an authorized lane of travel:

(1) before coming within 200 feet of an approaching vehicle, if a lane authorized for vehicles approaching from the opposite direction is used in passing; or otherwise

(2) as soon as practicable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.055. PASSING TO THE LEFT: PASSING ZONES. (a) An operator shall obey the directions of a sign or marking in Subsection

(c) or (d) if the sign or marking is in place and clearly visible to an ordinarily observant person.

(b) An operator may not drive on the left side of the roadway in a no-passing zone or on the left side of any pavement striping designed to mark a no-passing zone. This subsection does not prohibit a driver from crossing pavement striping, or the center line in a no-passing zone marked by signs only, to make a left turn into or out of an alley or private road or driveway.

(c) The Texas Transportation Commission, on a state highway under the jurisdiction of the commission, may:

(1) determine those portions of the highway where passing or driving to the left of the roadway would be especially hazardous; and

(2) show the beginning and end of each no-passing zone by appropriate signs or markings on the roadway.

(d) A local authority, on a highway under the jurisdiction of the local authority, may:

(1) determine those portions of the highway where passing or driving to the left of the roadway would be especially hazardous; and

(2) show the beginning and end of each no-passing zone by appropriate signs or markings on the roadway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.056. DRIVING TO LEFT OF CENTER OF ROADWAY:

LIMITATIONS OTHER THAN PASSING. (a) An operator may not drive to the left side of the roadway if the operator is:

(1) approaching within 100 feet of an intersection or railroad grade crossing in a municipality;

(2) approaching within 100 feet of an intersection or railroad grade crossing outside a municipality and the intersection or crossing is shown by a sign or marking in accordance with Section 545.055;

(3) approaching within 100 feet of a bridge, viaduct, or tunnel; or

(4) awaiting access to a ferry operated by the Texas Transportation Commission.

(b) The limitations in Subsection (a) do not apply:

- (1) on a one-way roadway; or
- (2) to an operator turning left into or from an alley or private road or driveway.

(c) The Texas Transportation Commission shall post signs along the approach to a ferry operated by the commission notifying operators that passing is prohibited if there is a standing line of vehicles awaiting access to the ferry.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.057. PASSING TO THE RIGHT. (a) An operator may pass to the right of another vehicle only if conditions permit safely passing to the right and:

- (1) the vehicle being passed is making or about to make a left turn; and
- (2) the operator is:
 - (A) on a highway having unobstructed pavement not occupied by parked vehicles and sufficient width for two or more lines of moving vehicles in each direction; or
 - (B) on a one-way street or on a roadway having traffic restricted to one direction of movement and the roadway is free from obstructions and wide enough for two or more lines of moving vehicles.

(b) An operator may not pass to the right by leaving the main traveled portion of a roadway except as provided by Section 545.058.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.058. DRIVING ON IMPROVED SHOULDER. (a) An operator may drive on an improved shoulder to the right of the main traveled portion of a roadway if that operation is necessary and may be done safely, but only:

- (1) to stop, stand, or park;
- (2) to accelerate before entering the main traveled lane of traffic;
- (3) to decelerate before making a right turn;
- (4) to pass another vehicle that is slowing or stopped on the main traveled portion of the highway, disabled, or preparing to make a left turn;

- (5) to allow another vehicle traveling faster to pass;
- (6) as permitted or required by an official traffic-control device; or
- (7) to avoid a collision.

(b) An operator may drive on an improved shoulder to the left of the main traveled portion of a divided or limited-access or controlled-access highway if that operation may be done safely, but only:

- (1) to slow or stop when the vehicle is disabled and traffic or other circumstances prohibit the safe movement of the vehicle to the shoulder to the right of the main traveled portion of the roadway;
- (2) as permitted or required by an official traffic-control device; or
- (3) to avoid a collision.

(c) A limitation in this section on driving on an improved shoulder does not apply to:

- (1) an authorized emergency vehicle responding to a call;
- (2) a police patrol; or
- (3) a bicycle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.059. ONE-WAY ROADWAYS AND ROTARY TRAFFIC ISLANDS. (a) The Texas Transportation Commission may designate a highway or separate roadway under the jurisdiction of the commission for one-way traffic and shall erect appropriate signs giving notice of the designation.

(b) On a roadway that is designated and on which signs are erected for one-way traffic, an operator shall drive only in the direction indicated.

(c) An operator moving around a rotary traffic island shall drive only to the right of the island.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.060. DRIVING ON ROADWAY LANED FOR TRAFFIC. (a) An operator on a roadway divided into two or more clearly marked lanes for traffic:

(1) shall drive as nearly as practical entirely within a single lane; and

(2) may not move from the lane unless that movement can be made safely.

(b) If a roadway is divided into three lanes and provides for two-way movement of traffic, an operator on the roadway may not drive in the center lane except:

(1) if passing another vehicle and the center lane is clear of traffic within a safe distance;

(2) in preparing to make a left turn; or

(3) where the center lane is designated by an official traffic-control device for movement in the direction in which the operator is moving.

(c) Without regard to the center of the roadway, an official traffic-control device may be erected directing slow-moving traffic to use a designated lane or designating lanes to be used by traffic moving in a particular direction.

(d) Official traffic-control devices prohibiting the changing of lanes on sections of roadway may be installed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.061. DRIVING ON MULTIPLE-LANE ROADWAY. On a roadway divided into three or more lanes and providing for one-way movement of traffic, an operator entering a lane of traffic from a lane to the right shall yield the right-of-way to a vehicle entering the same lane of traffic from a lane to the left.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.062. FOLLOWING DISTANCE. (a) An operator shall, if following another vehicle, maintain an assured clear distance between the two vehicles so that, considering the speed of the vehicles, traffic, and the conditions of the highway, the operator can safely stop without colliding with the preceding vehicle or veering into another vehicle, object, or person on or near the highway.

(b) An operator of a truck or of a motor vehicle drawing another vehicle who is on a roadway outside a business or residential district and who is following another truck or motor vehicle drawing

another vehicle shall, if conditions permit, leave sufficient space between the vehicles so that a vehicle passing the operator can safely enter and occupy the space. This subsection does not prohibit a truck or a motor vehicle drawing another vehicle from passing another vehicle.

(c) An operator on a roadway outside a business or residential district driving in a caravan of other vehicles or a motorcade shall allow sufficient space between the operator and the vehicle preceding the operator so that another vehicle can safely enter and occupy the space. This subsection does not apply to a funeral procession.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.063. DRIVING ON DIVIDED HIGHWAY. (a) On a highway having two or more roadways separated by a space, physical barrier, or clearly indicated dividing section constructed to impede vehicular traffic, an operator shall drive on the right roadway unless directed or permitted to use another roadway by an official traffic-control device or police officer.

(b) An operator may not drive over, across, or in a dividing space, physical barrier, or section constructed to impede vehicular traffic except:

(1) through an opening in the physical barrier or dividing section or space; or

(2) at a crossover or intersection established by a public authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.064. RESTRICTED ACCESS. An operator may not drive on or from a limited-access or controlled-access roadway except at an entrance or exit that is established by a public authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.065. STATE AND LOCAL REGULATION OF LIMITED-ACCESS OR CONTROLLED-ACCESS HIGHWAYS. (a) The Texas Transportation Commission by resolution or order recorded in its minutes may prohibit the use

of a limited-access or controlled-access highway under the jurisdiction of the commission by a parade, funeral procession, pedestrian, bicycle, electric bicycle, motor-driven cycle, or nonmotorized traffic.

(b) If the commission adopts a rule under Subsection (a), the commission shall erect and maintain official traffic-control devices on the portions of the limited-access or controlled-access highway to which the rule applies.

(c) A local authority by ordinance may prohibit the use of a limited-access or controlled-access roadway under the jurisdiction of the authority by a parade, funeral procession, pedestrian, bicycle, electric bicycle, motor-driven cycle, or nonmotorized traffic.

(d) If a local authority adopts an ordinance under Subsection (c), the authority shall erect and maintain official traffic-control devices on the portions of the limited-access or controlled-access roadway to which the ordinance applies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1085, Sec. 7, eff. Sept. 1, 2001.

Sec. 545.0651. RESTRICTION ON USE OF HIGHWAY. (a) In this section:

(1) "Commission" means the Texas Transportation Commission.

(1-a) "Department" means the Texas Department of Transportation.

(2) "Highway" means a public highway that:

(A) is in the designated state highway system;

(B) is designated a controlled access facility; and

(C) has a minimum of three travel lanes, excluding access or frontage roads, in each direction of traffic that may be part of a single roadway or may be separate roadways that are constructed as an upper and lower deck.

(b) The commission by order may restrict, by class of vehicle, through traffic to two or more designated lanes of a highway. If the lanes to be restricted by the commission are located within a municipality, the commission shall consult with the municipality before adopting an order under this section. A municipality by ordinance may restrict, by class of vehicle, through traffic to two or more designated lanes of a highway in the municipality.

(c) An order or ordinance under Subsection (b) must allow a restricted vehicle to use any lane of the highway to pass another vehicle and to enter and exit the highway.

(d) Before adopting an ordinance, a municipality shall submit to the department a description of the proposed restriction. The municipality may not enforce the restrictions unless the department's executive director or the executive director's designee has approved the restrictions.

(e) Department approval under Subsection (d) must:

- (1) be based on a traffic study performed by the department to evaluate the effect of the proposed restriction; and
- (2) to the greatest extent practicable, ensure a systems approach to preclude the designation of inconsistent lane restrictions among adjacent municipalities.

(f) The department's executive director or the executive director's designee may suspend or rescind approval of any restrictions approved under Subsection (d) for one or more of the following reasons:

- (1) a change in pavement conditions;
- (2) a change in traffic conditions;
- (3) a geometric change in roadway configuration;
- (4) construction or maintenance activity; or
- (5) emergency or incident management.

(g) The department shall erect and maintain official traffic control devices necessary to implement and enforce an order adopted or an ordinance adopted and approved under this section. A restriction approved under this section may not be enforced until the appropriate traffic control devices are in place.

Added by Acts 1997, 75th Leg., ch. 384, Sec. 1, eff. May 28, 1997.
Amended by Acts 2003, 78th Leg., ch. 1049, Sec. 9, eff. June 20, 2003.

Sec. 545.0652. COUNTY RESTRICTION ON USE OF HIGHWAY. (a) In this section:

- (1) "Department" means the Texas Department of Transportation.
- (2) "Highway" means a public roadway that:
 - (A) is in the designated state highway system;

(B) is designated a controlled access facility; and
(C) has a minimum of three travel lanes, excluding access or frontage roads, in each direction of traffic.

(b) A county commissioners court by order may restrict, by class of vehicle, through traffic to two or more designated lanes of a highway located in the county and outside the jurisdiction of a municipality.

(c) An order under Subsection (b) must allow a restricted vehicle to use any lane of the highway to pass another vehicle and to enter and exit the highway.

(d) Before issuing an order under this section, the commissioners court shall submit to the department a description of the proposed restriction. The commissioners court may not enforce the restrictions unless:

(1) the department's executive director or the executive director's designee has approved the restrictions; and

(2) the appropriate traffic-control devices are in place.

(e) Department approval under Subsection (d) must to the greatest extent practicable ensure a systems approach to preclude the designation of inconsistent lane restrictions among adjacent counties or municipalities.

(f) The department's executive director or the executive director's designee may suspend or rescind approval under this section for one or more of the following reasons:

(1) a change in pavement conditions;

(2) a change in traffic conditions;

(3) a geometric change in roadway configuration;

(4) construction or maintenance activity; or

(5) emergency or incident management.

(g) The department shall erect and maintain official traffic-control devices necessary to implement and enforce an order issued and approved under this section.

Added by Acts 2003, 78th Leg., ch. 846, Sec. 1, eff. Sept. 1, 2003.

Sec. 545.0653. RESTRICTION ON USE OF HIGHWAY IN MAINTENANCE OR CONSTRUCTION WORK ZONE. (a) In this section:

(1) "Commercial motor vehicle" has the meaning assigned by Section 548.001.

(2) "Construction or maintenance work zone" has the meaning assigned by Section 472.022.

(3) "Department" means the Texas Department of Transportation.

(4) "Executive director" means the executive director of the department.

(b) The executive director or the executive director's designee may restrict a commercial motor vehicle to a specific lane of traffic in a construction or maintenance work zone for a highway that is part of the state highway system if the executive director or the executive director's designee determines that, based on a traffic study performed by the department to evaluate the effect of the restriction, the restriction is necessary to improve safety.

(c) The department shall erect and maintain official traffic control devices necessary to implement and enforce a lane restriction imposed under this section. A lane restriction may not be enforced until the appropriate traffic control devices are in place.

(d) The executive director or the executive director's designee may rescind a lane restriction imposed under this section at any time that the executive director or the executive director's designee determines that the restriction is no longer necessary to improve safety.

(e) A lane restriction imposed under this section expires when the lane that is subject to the restriction is no longer in a construction or maintenance work zone.

(f) The department shall remove traffic control devices erected under this section if the lane restriction is rescinded under Subsection (d) or expires under Subsection (e).

Added by Acts 2015, 84th Leg., R.S., Ch. 578 (H.B. [3225](#)), Sec. 1, eff. September 1, 2015.

Sec. 545.066. PASSING A SCHOOL BUS; OFFENSE. (a) An operator on a highway, when approaching from either direction a school bus stopped on the highway to receive or discharge a student:

(1) shall stop before reaching the school bus when the bus is operating a visual signal as required by Section 547.701; and

(2) may not proceed until:

(A) the school bus resumes motion;

(B) the operator is signaled by the bus driver to proceed; or

(C) the visual signal is no longer actuated.

(b) An operator on a highway having separate roadways is not required to stop:

(1) for a school bus that is on a different roadway; or

(2) if on a controlled-access highway, for a school bus that is stopped:

(A) in a loading zone that is a part of or adjacent to the highway; and

(B) where pedestrians are not permitted to cross the roadway.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,250, except that the offense is:

(1) a misdemeanor punishable by a fine of not less than \$1,000 or more than \$2,000 if the person is convicted of a second or subsequent offense under this section committed within five years of the date on which the most recent preceding offense was committed;

(2) a Class A misdemeanor if the person causes serious bodily injury to another; or

(3) a state jail felony if the person has been previously convicted under Subdivision (2).

(d) The court may order that the driver's license of a person convicted of a second or subsequent offense under this section be suspended for not longer than six months beginning on the date of conviction. In this subsection, "driver's license" has the meaning assigned by Chapter 521.

(e) If a person does not pay the previously assessed fine or costs on a conviction under this section, or is determined by the court to have insufficient resources or income to pay a fine or costs on a conviction under this section, the court may order the person to perform community service. The court shall set the number of hours of service under this subsection.

(f) For the purposes of this section:

(1) a highway is considered to have separate roadways only if the highway has roadways separated by an intervening space on which operation of vehicles is not permitted, a physical barrier, or a clearly indicated dividing section constructed to impede vehicular traffic; and

(2) a highway is not considered to have separate roadways if the highway has roadways separated only by a left turn lane.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1438, Sec. 9, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1325, Sec. 19.06(a), eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 661 (H.B. 1174), Sec. 1, eff. September 1, 2013.

SUBCHAPTER C. TURNING AND SIGNALS FOR STOPPING AND TURNING

Sec. 545.101. TURNING AT INTERSECTION. (a) To make a right turn at an intersection, an operator shall make both the approach and the turn as closely as practicable to the right-hand curb or edge of the roadway.

(b) To make a left turn at an intersection, an operator shall:

(1) approach the intersection in the extreme left-hand lane lawfully available to a vehicle moving in the direction of the vehicle; and

(2) after entering the intersection, turn left, leaving the intersection so as to arrive in a lane lawfully available to traffic moving in the direction of the vehicle on the roadway being entered.

(c) On a street or roadway designated for two-way traffic, the operator turning left shall, to the extent practicable, turn in the portion of the intersection to the left of the center of the intersection.

(d) To turn left, an operator who is approaching an intersection having a roadway designated for one-way traffic and for which signs are posted from a roadway designated for one-way traffic and for which signs are posted shall make the turn as closely as practicable to the left-hand curb or edge of the roadway.

(e) The Texas Transportation Commission or a local authority, with respect to a highway in its jurisdiction, may:

(1) authorize the placement of an official traffic-control device in or adjacent to an intersection; and

(2) require a course different from that specified in this section for movement by vehicles turning at an intersection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.102. TURNING ON CURVE OR CREST OF GRADE. An operator may not turn the vehicle to move in the opposite direction when approaching a curve or the crest of a grade if the vehicle is not visible to the operator of another vehicle approaching from either direction within 500 feet.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.103. SAFELY TURNING. An operator may not turn the vehicle to enter a private road or driveway, otherwise turn the vehicle from a direct course, or move right or left on a roadway unless movement can be made safely.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.104. SIGNALING TURNS; USE OF TURN SIGNALS. (a) An operator shall use the signal authorized by Section 545.106 to indicate an intention to turn, change lanes, or start from a parked position.

(b) An operator intending to turn a vehicle right or left shall signal continuously for not less than the last 100 feet of movement of the vehicle before the turn.

(c) An operator may not light the signals on only one side of the vehicle on a parked or disabled vehicle or use the signals as a courtesy or "do pass" signal to the operator of another vehicle approaching from the rear.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.105. SIGNALING STOPS. An operator may not stop or suddenly decrease the speed of the vehicle without first giving a stop signal as provided by this subchapter to the operator of a vehicle immediately to the rear when there is an opportunity to give the signal.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.106. SIGNALS BY HAND AND ARM OR BY SIGNAL LAMP. (a) Except as provided by Subsection (b), an operator required to give a stop or turn signal shall do so by:

- (1) using the hand and arm; or
- (2) lighting signal lamps approved by the department.

(b) A motor vehicle in use on a highway shall be equipped with signal lamps, and the required signal shall be given by lighting the lamps, if:

(1) the distance from the center of the top of the steering post to the left outside limit of the body, cab, or load of the motor vehicle is more than two feet; or

(2) the distance from the center of the top of the steering post to the rear limit of the body or load, including the body or load of a combination of vehicles, is more than 14 feet.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.107. METHOD OF GIVING HAND AND ARM SIGNALS. An operator who is permitted to give a hand and arm signal shall give the signal from the left side of the vehicle as follows:

- (1) to make a left turn signal, extend hand and arm horizontally;
- (2) to make a right turn signal, extend hand and arm upward, except that a bicycle operator may signal from the right side of the vehicle with the hand and arm extended horizontally; and
- (3) to stop or decrease speed, extend hand and arm downward.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. RIGHT-OF-WAY

Sec. 545.151. VEHICLE APPROACHING OR ENTERING INTERSECTION.

(a) An operator approaching an intersection:

- (1) shall stop, yield, and grant immediate use of the intersection:
 - (A) in obedience to an official traffic-control device, including a stop sign or yield right-of-way sign; or
 - (B) if a traffic-control signal is present but does not display an indication in any of the signal heads; and

(2) after stopping, may proceed when the intersection can be safely entered without interference or collision with traffic using a different street or roadway.

(b) An operator on a single-lane or two-lane street or roadway who approaches an intersection that is not controlled by an official traffic-control device and that is located on a divided highway or on a street or roadway divided into three or more marked traffic lanes:

(1) shall stop, yield, and grant immediate use of the intersection to a vehicle on the other street or roadway that is within the intersection or approaching the intersection in such proximity as to be a hazard; and

(2) after stopping, may proceed when the intersection can be safely entered without interference or collision with traffic using a different street or roadway.

(c) An operator on an unpaved street or roadway approaching an intersection of a paved street or roadway:

(1) shall stop, yield, and grant immediate use of the intersection to a vehicle on the paved street or roadway that is within the intersection or approaching the intersection in such proximity as to be a hazard; and

(2) after stopping, may proceed when the intersection can be safely entered without interference or collision with traffic using the paved street or roadway.

(d) Except as provided in Subsection (e), an operator approaching an intersection of a street or roadway that is not controlled by an official traffic-control device:

(1) shall stop, yield, and grant immediate use of the intersection to a vehicle that has entered the intersection from the operator's right or is approaching the intersection from the operator's right in a proximity that is a hazard; and

(2) after stopping, may proceed when the intersection can be safely entered without interference or collision with traffic using a different street or roadway.

(e) An operator approaching an intersection of a street or roadway from a street or roadway that terminates at the intersection and that is not controlled by an official traffic-control device or controlled as provided by Subsection (b) or (c):

(1) shall stop, yield, and grant immediate use of the intersection to another vehicle that has entered the intersection from the other street or roadway or is approaching the intersection

on the other street or roadway in a proximity that is a hazard; and

(2) after stopping, may proceed when the intersection can be safely entered without interference or collision with the traffic using the other street or roadway.

(f) An operator who is required by this section to stop and yield the right-of-way at an intersection to another vehicle and who is involved in a collision or interferes with other traffic at the intersection to whom right-of-way is to be given is presumed not to have yielded the right-of-way.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1325, Sec. 19.05, eff. Sept. 1, 2003.

Sec. 545.152. VEHICLE TURNING LEFT. To turn left at an intersection or into an alley or private road or driveway, an operator shall yield the right-of-way to a vehicle that is approaching from the opposite direction and that is in the intersection or in such proximity to the intersection as to be an immediate hazard.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.153. VEHICLE ENTERING STOP OR YIELD INTERSECTION. (a) Preferential right-of-way at an intersection may be indicated by a stop sign or yield sign as authorized in Section 544.003.

(b) Unless directed to proceed by a police officer or official traffic-control device, an operator approaching an intersection on a roadway controlled by a stop sign, after stopping as required by Section 544.010, shall yield the right-of-way to a vehicle that has entered the intersection from another highway or that is approaching so closely as to be an immediate hazard to the operator's movement in or across the intersection.

(c) An operator approaching an intersection on a roadway controlled by a yield sign shall:

(1) slow to a speed that is reasonable under the existing conditions; and

(2) yield the right-of-way to a vehicle in the intersection or approaching on another highway so closely as to be an immediate hazard to the operator's movement in or across the intersection.

(d) If an operator is required by Subsection (c) to yield and is involved in a collision with a vehicle in an intersection after the operator drove past a yield sign without stopping, the collision is prima facie evidence that the operator failed to yield the right-of-way.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.154. VEHICLE ENTERING OR LEAVING LIMITED-ACCESS OR CONTROLLED-ACCESS HIGHWAY. An operator on an access or feeder road of a limited-access or controlled-access highway shall yield the right-of-way to a vehicle entering or about to enter the access or feeder road from the highway or leaving or about to leave the access or feeder road to enter the highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.155. VEHICLE ENTERING HIGHWAY FROM PRIVATE ROAD OR DRIVEWAY. An operator about to enter or cross a highway from an alley, building, or private road or driveway shall yield the right-of-way to a vehicle approaching on the highway to be entered.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.156. VEHICLE APPROACHED BY AUTHORIZED EMERGENCY VEHICLE. (a) On the immediate approach of an authorized emergency vehicle using audible and visual signals that meet the requirements of Sections 547.305 and 547.702, or of a police vehicle lawfully using only an audible signal, an operator, unless otherwise directed by a police officer, shall:

- (1) yield the right-of-way;
- (2) immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway clear of any intersection; and
- (3) stop and remain standing until the authorized emergency vehicle has passed.

(b) This section does not exempt the operator of an authorized emergency vehicle from the duty to drive with due regard for the

safety of all persons using the highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.157. PASSING CERTAIN VEHICLES. (a) This section applies only to the following vehicles:

(1) a stationary authorized emergency vehicle using visual signals that meet the requirements of Sections 547.305 and 547.702;

(2) a stationary tow truck using equipment authorized by Section 547.305(d); and

(3) a Texas Department of Transportation vehicle not separated from the roadway by a traffic control channelizing device and using visual signals that comply with the standards and specifications adopted under Section 547.105.

(b) On approaching a vehicle described by Subsection (a), an operator, unless otherwise directed by a police officer, shall:

(1) vacate the lane closest to the vehicle when driving on a highway with two or more lanes traveling in the direction of the vehicle; or

(2) slow to a speed not to exceed:

(A) 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or more; or

(B) five miles per hour when the posted speed limit is less than 25 miles per hour.

(c) A violation of this section is:

(1) a misdemeanor punishable under Section 542.401;

(2) a misdemeanor punishable by a fine of \$500 if the violation results in property damage; or

(3) a Class B misdemeanor if the violation results in bodily injury.

(d) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or under both sections.

(e) In this section:

(1) "Tow truck" means a vehicle that:

(A) has been issued a permit under Subchapter C, Chapter 2308, Occupations Code; and

(B) is operated by a person licensed under Subchapter

D, Chapter 2308, Occupations Code.

(2) "Traffic control channelizing device" means equipment used to warn and alert drivers of conditions created by work activities in or near the traveled way, to protect workers in a temporary traffic control zone, and to guide drivers and pedestrians safely. The term includes a traffic cone, tubular marker, vertical panel, drum, barricade, temporary raised island, concrete or cable barrier, guardrail, or channelizer.

Added by Acts 2003, 78th Leg., ch. 327, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 229 (H.B. 378), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 6 (S.B. 510), Sec. 1, eff. September 1, 2013.

SUBCHAPTER E. STREETCARS

Sec. 545.201. PASSING STREETCAR TO LEFT. (a) An operator may not pass to the left or drive on the left side of a streetcar moving in the same direction, even if the streetcar is temporarily at rest, unless the operator:

- (1) is directed to do so by a police officer;
- (2) is on a one-way street; or
- (3) is on a street on which the location of the tracks

prevents compliance with this section.

(b) An operator when lawfully passing to the left of a streetcar that has stopped to receive or discharge a passenger:

- (1) shall reduce speed;
- (2) may proceed only on exercising due caution for

pedestrians; and

(3) shall accord a pedestrian the right-of-way as required by this subtitle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.202. PASSING STREETCAR TO RIGHT. (a) An operator passing to the right of a streetcar stopped or about to stop to receive or discharge a passenger shall:

- (1) stop the vehicle at least five feet to the rear of the

nearest running board or door of the streetcar; and

(2) remain standing until all passengers have entered the streetcar or, on leaving, have reached a place of safety.

(b) An operator is not required to stop before passing a streetcar to the right if a safety zone has been established and may proceed past the streetcar at a reasonable speed and with due caution for the safety of pedestrians.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.203. DRIVING ON STREETCAR TRACKS. (a) An operator on a streetcar track in front of a streetcar shall move the operator's vehicle off the track as soon as possible after a signal from the operator of the streetcar.

(b) An operator may not drive on or cross a streetcar track in an intersection in front of a streetcar crossing the intersection.

(c) An operator who is passing a streetcar may not turn in front of the streetcar so as to interfere with or impede its movement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.204. STREETCAR APPROACHED BY AUTHORIZED EMERGENCY VEHICLE. (a) On the immediate approach of an authorized emergency vehicle using audible and visual signals that meet the requirements of Sections 547.305 and 547.702, or of a police vehicle lawfully using only an audible signal, the operator of a streetcar shall immediately stop the streetcar clear of any intersection and remain there until the authorized emergency vehicle has passed, unless otherwise directed by a police officer.

(b) This section does not exempt the operator of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.205. CROSSING FIRE HOSE. An operator of a streetcar may not, without the consent of the fire department official in

command, drive over an unprotected hose of a fire department when the hose is on a streetcar track and intended for use at a fire or alarm of fire.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.206. OBSTRUCTION OF OPERATOR'S VIEW OR DRIVING MECHANISM. A passenger in a streetcar may not ride in a position that interferes with the operator's view ahead or to the side or with control over the driving mechanism of the streetcar.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. SPECIAL STOPS AND SPEED RESTRICTIONS

Sec. 545.251. OBEDIENCE TO SIGNAL INDICATING APPROACH OF TRAIN.

(a) An operator approaching a railroad grade crossing shall stop not closer than 15 feet or farther than 50 feet from the nearest rail if:

(1) a clearly visible railroad signal warns of the approach of a railroad train;

(2) a crossing gate is lowered, or a flagger warns of the approach or passage of a train;

(3) a railroad engine approaching within approximately 1,500 feet of the highway crossing emits a signal audible from that distance and the engine is an immediate hazard because of its speed or proximity to the crossing;

(4) an approaching railroad train is plainly visible to the operator and is in hazardous proximity to the crossing; or

(5) the operator is required to stop by:

(A) other law;

(B) a rule adopted under a statute;

(C) an official traffic-control device; or

(D) a traffic-control signal.

(b) An operator of a vehicle required by Subsection (a) to stop shall remain stopped until permitted to proceed and it is safe to proceed.

(c) An operator of a vehicle who approaches a railroad grade crossing equipped with railroad crossbuck signs without automatic, electric, or mechanical signal devices, crossing gates, or a flagger warning of the approach or passage of a train shall yield the right-

of-way to a train in hazardous proximity to the crossing, and proceed at a speed that is reasonable for the existing conditions. If required for safety, the operator shall stop at a clearly marked stop line before the grade crossing or, if no stop line exists, not closer than 15 feet or farther than 50 feet from the nearest rail.

(d) An operator commits an offense if the operator drives around, under, or through a crossing gate or a barrier at a railroad crossing while the gate or barrier is closed, being closed, or being opened.

(e) In a prosecution under this section, proof that at the time of the offense a train was in hazardous proximity to the crossing and that the train was plainly visible to the operator is prima facie evidence that it was not safe for the operator to proceed.

(f) An offense under this section is punishable by a fine of not less than \$50 or more than \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.107(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1097, Sec. 1, eff. Sept. 1, 1997.

Sec. 545.252. ALL VEHICLES TO STOP AT CERTAIN RAILROAD GRADE CROSSINGS. (a) The Texas Department of Transportation or a local authority, with respect to a highway in its jurisdiction, may:

(1) designate a railroad grade crossing as particularly dangerous; and

(2) erect a stop sign or other official traffic-control device at the grade crossing.

(b) An operator approaching a stop sign or other official traffic-control device that requires a stop and that is erected under Subsection (a) shall stop not closer than 15 feet or farther than 50 feet from the nearest rail of the railroad and may proceed only with due care.

(c) The costs of installing and maintaining a mechanically operated grade crossing safety device, gate, sign, or signal erected under this section shall be apportioned and paid on the same percentage ratio and in the same proportionate amounts by this state and all participating political subdivisions of this state as costs are apportioned and paid between the state and the United States.

(d) An offense under this section is punishable by a fine of

not less than \$50 or more than \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.107(b), eff. Sept. 1, 1997.

Sec. 545.253. BUSES TO STOP AT ALL RAILROAD GRADE CROSSINGS.

(a) Except as provided by Subsection (c), the operator of a motor bus carrying passengers for hire, before crossing a railroad grade crossing:

(1) shall stop the vehicle not closer than 15 feet or farther than 50 feet from the nearest rail of the railroad;

(2) while stopped, shall listen and look in both directions along the track for an approaching train and signals indicating the approach of a train; and

(3) may not proceed until it is safe to do so.

(b) After stopping as required by Subsection (a), an operator described by Subsection (a) shall proceed without manually shifting gears while crossing the track.

(c) A vehicle is not required to stop at the crossing if a police officer or a traffic-control signal directs traffic to proceed.

(d) This section does not apply at a railway grade crossing in a business or residence district.

(e) An offense under this section is punishable by a fine of not less than \$50 or more than \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.107(c), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1061, Sec. 15, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1438, Sec. 10, eff. Sept. 1, 1997.

Sec. 545.2535. SCHOOL BUSES TO STOP AT ALL RAILROAD GRADE CROSSINGS. (a) Except as provided by Subsection (c), the operator of a school bus, before crossing a track at a railroad grade crossing:

(1) shall stop the vehicle not closer than 15 feet or farther than 50 feet from the track;

(2) while stopped, shall listen and look in both directions along the track for an approaching train and signals indicating the

approach of a train; and

(3) may not proceed until it is safe to do so.

(b) After stopping as required by Subsection (a), the operator may proceed in a gear that permits the vehicle to complete the crossing without a change of gears. The operator may not shift gears while crossing the track.

(c) An operator is not required to stop at:

(1) an abandoned railroad grade crossing that is marked with a sign reading "tracks out of service"; or

(2) an industrial or spur line railroad grade crossing that is marked with a sign reading "exempt."

(d) A sign under Subsection (c) may be erected only by or with the consent of the appropriate state or local governmental official.

Added by Acts 1997, 75th Leg., ch. 1061, Sec. 16, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1438, Sec. 11, eff. Sept. 1, 1997.

Sec. 545.254. VEHICLES CARRYING EXPLOSIVE SUBSTANCES OR FLAMMABLE LIQUIDS. (a) Before crossing a railroad grade crossing, an operator of a vehicle that has an explosive substance or flammable liquid as the vehicle's principal cargo and that is moving at a speed of more than 20 miles per hour:

(1) shall reduce the speed of the vehicle to 20 miles per hour or less before coming within 200 feet of the nearest rail of the railroad;

(2) shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train; and

(3) may not proceed until the operator determines that the course is clear.

(b) The operator of a vehicle that has an explosive substance or flammable liquid as the vehicle's principal cargo, before crossing a railroad grade crossing on a highway in a municipality:

(1) shall stop the vehicle not closer than 15 feet or farther than 50 feet from the nearest rail of the railroad;

(2) while stopped, shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train; and

(3) may not proceed until the operator determines that the

course is clear.

(c) Subsections (a) and (b) do not apply:

(1) if a police officer, crossing flagger, or traffic-control signal directs traffic to proceed;

(2) where a railroad flashing signal is installed and does not indicate an approaching train;

(3) to an abandoned or exempted grade crossing that is clearly marked by or with the consent of the state, if the markings can be read from the operator's location;

(4) at a streetcar crossing in a business or residential district of a municipality; or

(5) to a railroad track used exclusively for industrial switching purposes in a business district.

(d) This section does not exempt the operator from compliance with Section 545.251 or 545.252.

(e) An offense under this section is punishable by a fine of not less than \$50 or more than \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.107(d), eff. Sept. 1, 1997.

Sec. 545.255. MOVING HEAVY EQUIPMENT AT RAILROAD GRADE CROSSINGS. (a) This section applies only to:

(1) a crawler-type tractor, steam shovel, derrick, or roller; and

(2) any other equipment or structure with:

(A) a normal operating speed of 10 miles per hour or less; or

(B) a vertical body or load clearance of less than one-half inch per foot of the distance between two adjacent axles or less than nine inches measured above the level surface of a roadway.

(b) An operator of a vehicle or equipment may not move on or across a track at a railroad grade crossing unless the operator has given notice to a station agent of the railroad and given the railroad reasonable time to provide proper protection at the crossing.

(c) To move a vehicle or equipment on or across a track at a railroad grade crossing, the operator:

(1) shall stop the vehicle or equipment not closer than 15

feet or farther than 50 feet from the nearest rail of the railroad;

(2) while stopped, shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train; and

(3) may not proceed until it is safe to cross the track.

(d) An operator of a vehicle or equipment may not cross a railroad grade crossing when warning of the immediate approach of a railroad car or train is given by automatic signal, crossing gates, a flagger, or otherwise. If a flagger is provided by the railroad, the operator shall move the vehicle or equipment over the crossing at the flagger's direction.

(e) An offense under this section is punishable by a fine of not less than \$50 or more than \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.107(e), eff. Sept. 1, 1997.

Sec. 545.2555. REPORT AND INVESTIGATION OF CERTAIN RAILROAD CROSSING VIOLATIONS. (a) A person who on site observes a violation of Section 545.251, 545.252, 545.253, 545.254, or 545.255 may file a report of the violation if the person:

- (1) is an on-engine employee of a railroad; and
- (2) observes the violation while on a moving engine.

(b) A report under this section must:

- (1) be made:
 - (A) on a form approved by the department; and
 - (B) not later than 72 hours after the violation;
- (2) be filed with:

(A) an office of the department located in the county in which the violation occurred;

(B) the sheriff of the county in which the violation occurred, if the violation occurred in the unincorporated area of the county; or

(C) the police department of a municipality, if the violation occurred in the municipality; and

(3) contain, in addition, to any other required information:

- (A) the date, time, and location of the violation;
- (B) the license plate number and a description of the

vehicle involved in the violation;

(C) a description of the operator of the vehicle involved in the violation; and

(D) the name, address, and telephone number of the person filing the report.

(c) A peace officer may:

(1) before the seventh day after the date a report under this section is filed, initiate an investigation of the alleged violation; and

(2) request the owner of the reported vehicle, as shown by the vehicle registration records of the Texas Department of Transportation, to disclose the name and address of the individual operating that vehicle at the time of the violation alleged in the report.

(d) Unless the owner of the reported vehicle believes that to provide the peace officer with the name and address of the individual operating the vehicle at the time of the violation alleged would incriminate the owner, the owner shall, to the best of the owner's ability, disclose that individual's name and address.

(e) An investigating peace officer who has probable cause to believe that a charge against an individual for a violation of Section 545.251, 545.252, 545.253, 545.254, or 545.255 is justified may:

(1) prepare a written notice to appear in court that complies with Sections 543.003, 543.006, and 543.007; and

(2) deliver the notice to the individual named in the notice in person or by certified mail.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.108(a), eff. Sept. 1, 1997.

Sec. 545.256. EMERGING FROM AN ALLEY, DRIVEWAY, OR BUILDING. An operator emerging from an alley, driveway, or building in a business or residence district shall:

(1) stop the vehicle before moving on a sidewalk or the sidewalk area extending across an alley or driveway;

(2) yield the right-of-way to a pedestrian to avoid collision; and

(3) on entering the roadway, yield the right-of-way to an

approaching vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER G. STOPPING, STANDING, AND PARKING

Sec. 545.301. STOPPING, STANDING, OR PARKING OUTSIDE A BUSINESS OR RESIDENCE DISTRICT. (a) An operator may not stop, park, or leave standing an attended or unattended vehicle on the main traveled part of a highway outside a business or residence district unless:

- (1) stopping, parking, or leaving the vehicle off the main traveled part of the highway is not practicable;
- (2) a width of highway beside the vehicle is unobstructed and open for the passage of other vehicles; and
- (3) the vehicle is in clear view for at least 200 feet in each direction on the highway.

(b) This section does not apply to an operator of:

- (1) a vehicle that is disabled while on the paved or main traveled part of a highway if it is impossible to avoid stopping and temporarily leaving the vehicle on the highway;
- (2) a vehicle used exclusively to transport solid, semisolid, or liquid waste operated at the time in connection with the removal or transportation of solid, semisolid, or liquid waste from a location adjacent to the highway; or
- (3) a tow truck, as defined by Section 545.157(e), that is performing towing duties under Chapter 2308, Occupations Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 782 (S.B. 1093), Sec. 3, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 229 (H.B. 378), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 6 (S.B. 510), Sec. 2, eff. September 1, 2013.

Sec. 545.302. STOPPING, STANDING, OR PARKING PROHIBITED IN CERTAIN PLACES. (a) An operator may not stop, stand, or park a vehicle:

- (1) on the roadway side of a vehicle stopped or parked at

the edge or curb of a street;

- (2) on a sidewalk;
- (3) in an intersection;
- (4) on a crosswalk;

(5) between a safety zone and the adjacent curb or within 30 feet of a place on the curb immediately opposite the ends of a safety zone, unless the governing body of a municipality designates a different length by signs or markings;

(6) alongside or opposite a street excavation or obstruction if stopping, standing, or parking the vehicle would obstruct traffic;

(7) on a bridge or other elevated structure on a highway or in a highway tunnel;

(8) on a railroad track; or

(9) where an official sign prohibits stopping.

(b) An operator may not, except momentarily to pick up or discharge a passenger, stand or park an occupied or unoccupied vehicle:

(1) in front of a public or private driveway;

(2) within 15 feet of a fire hydrant;

(3) within 20 feet of a crosswalk at an intersection;

(4) within 30 feet on the approach to a flashing signal, stop sign, yield sign, or traffic-control signal located at the side of a roadway;

(5) within 20 feet of the driveway entrance to a fire station and on the side of a street opposite the entrance to a fire station within 75 feet of the entrance, if the entrance is properly marked with a sign; or

(6) where an official sign prohibits standing.

(c) An operator may not, except temporarily to load or unload merchandise or passengers, park an occupied or unoccupied vehicle:

(1) within 50 feet of the nearest rail of a railroad crossing; or

(2) where an official sign prohibits parking.

(d) A person may stop, stand, or park a bicycle on a sidewalk if the bicycle does not impede the normal and reasonable movement of pedestrian or other traffic on the sidewalk.

(e) A municipality may adopt an ordinance exempting a private vehicle operated by an elevator constructor responding to an elevator emergency from Subsections (a)(1), (a)(5), (a)(6), (a)(9), (b), and

(c).

(f) Subsections (a), (b), and (c) do not apply if the avoidance of conflict with other traffic is necessary or if the operator is complying with the law or the directions of a police officer or official traffic-control device.

(g) If the governing body of a municipality determines that it is necessary to improve the economic development of the municipality's central business district and that it will not adversely affect public safety, the governing body may adopt an ordinance regulating the standing, stopping, or parking of a vehicle at a place described by Subsection (a)(1), other than a road or highway in the state highway system, in the central business district of the municipality as defined in the ordinance. To the extent of any conflict between the ordinance and Subsection (a)(1), the ordinance controls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 814, Sec. 1, eff. June 18, 1999.

Sec. 545.303. ADDITIONAL PARKING REGULATIONS. (a) An operator who stops or parks on a two-way roadway shall do so with the right-hand wheels of the vehicle parallel to and within 18 inches of the right-hand curb or edge of the roadway.

(b) An operator who stops or parks on a one-way roadway shall stop or park the vehicle parallel to the curb or edge of the roadway in the direction of authorized traffic movement with the right-hand wheels within 18 inches of the right-hand curb or edge of the roadway or the left-hand wheels within 18 inches of the left-hand curb or edge of the roadway. This subsection does not apply where a local ordinance otherwise regulates stopping or parking on the one-way roadway.

(c) A local authority by ordinance may permit angle parking on a roadway. This subsection does not apply to a federal-aid or state highway unless the director of the Texas Department of Transportation determines that the roadway is wide enough to permit angle parking without interfering with the free movement of traffic.

(d) The Texas Department of Transportation, on a highway under the jurisdiction of that department, may place signs prohibiting or restricting the stopping, standing, or parking of a vehicle on the

highway where the director of the Texas Department of Transportation determines that stopping, standing, or parking is dangerous to, or would unduly interfere with, the free movement of traffic on the highway.

(e) To the extent of any conflict between Subsection (a) or (b) and a municipal ordinance adopted under Section 545.302(g), the ordinance controls.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 814, Sec. 2, eff. June 18, 1999.

Sec. 545.304. MOVING THE VEHICLE OF ANOTHER; UNLAWFUL PARKING. A person may not move a vehicle that is not lawfully under the person's control:

- (1) into an area where a vehicle is prohibited under Section 545.302; or
- (2) away from a curb a distance that is unlawful under Section 545.303.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.305. REMOVAL OF UNLAWFULLY STOPPED VEHICLE. (a) A peace officer listed under Article 2.12, Code of Criminal Procedure, or a license and weight inspector of the department may remove or require the operator or a person in charge of a vehicle to move a vehicle from a highway if the vehicle:

- (1) is unattended on a bridge, viaduct, or causeway or in a tube or tunnel and the vehicle is obstructing traffic;
- (2) is unlawfully parked and blocking the entrance to a private driveway;
- (3) has been reported as stolen;
- (4) is identified as having been stolen in a warrant issued on the filing of a complaint;
- (5) is unattended and the officer has reasonable grounds to believe that the vehicle has been abandoned for longer than 48 hours;
- (6) is disabled so that normal operation is impossible or impractical and the owner or person in charge of the vehicle is:
 - (A) incapacitated and unable to provide for the vehicle's removal or custody; or

(B) not in the immediate vicinity of the vehicle;

(7) is disabled so that normal operation is impossible or impractical and the owner or person in charge of the vehicle does not designate a particular towing or storage company;

(8) is operated by a person an officer arrests for an alleged offense and the officer is required by law to take the person into custody; or

(9) is, in the opinion of the officer, a hazard, interferes with a normal function of a governmental agency, or because of a catastrophe, emergency, or unusual circumstance is imperiled.

(b) An officer acting under Subsection (a) may require that the vehicle be taken to:

(1) the nearest garage or other place of safety;

(2) a garage designated or maintained by the governmental agency that employs the officer; or

(3) a position off the paved or main traveled part of the highway.

(c) A law enforcement agency other than the department that removes an abandoned vehicle in an unincorporated area shall notify the sheriff.

(d) The owner of a vehicle that is removed or stored under this section is liable for all reasonable towing and storage fees incurred.

(e) In this section:

(1) "Towing company" means an individual, corporation, partnership, or other association engaged in the business of towing vehicles on a highway for compensation or with the expectation of compensation for the towing or storage of the vehicles and includes the owner, operator, employee, or agent of a towing company.

(2) "Storage company" means an individual, corporation, partnership, or other association engaged in the business of storing or repairing vehicles for compensation or with the expectation of compensation for the storage or repair of vehicles and includes the owner, operator, employee, or agent of a storage company.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.3051. REMOVAL OF PERSONAL PROPERTY FROM ROADWAY OR RIGHT-OF-WAY. (a) In this section:

(1) "Authority" means:

(A) a metropolitan rapid transit authority operating under Chapter 451; or

(B) a regional transportation authority operating under Chapter 452.

(2) "Law enforcement agency" means:

(A) the department;

(B) the police department of a municipality;

(C) the sheriff's office of a county; or

(D) a constable's office of a county.

(3) "Personal property" means:

(A) a vehicle described by Section 545.305;

(B) spilled cargo;

(C) a hazardous material as defined by 49 U.S.C. Section 5102 and its subsequent amendments; or

(D) a hazardous substance as defined by Section 26.263, Water Code.

(b) An authority or a law enforcement agency may remove personal property from a roadway or right-of-way if the authority or law enforcement agency determines that the property blocks the roadway or endangers public safety.

(c) Personal property may be removed under this section without the consent of the owner or carrier of the property.

(d) The owner and any carrier of personal property removed under this section shall reimburse the authority or law enforcement agency for any reasonable cost of removal and disposition of the property.

(e) Notwithstanding any other provision of law, an authority or a law enforcement agency is not liable for:

(1) any damage to personal property removed from a roadway or right-of-way under this section, unless the removal is carried out recklessly or in a grossly negligent manner; or

(2) any damage resulting from the failure to exercise the authority granted by this section.

Added by Acts 2003, 78th Leg., ch. 803, Sec. 1, eff. June 20, 2003.

Sec. 545.306. REGULATION OF TOWING COMPANIES IN CERTAIN COUNTIES. (a) The commissioners court of a county with a population

of 3.3 million or more shall by ordinance provide for the licensing of or the granting of a permit to a person to remove or store a vehicle authorized by Section 545.305 to be removed in an unincorporated area of the county. The ordinance must include rules to ensure the protection of the public and the safe and efficient operation of towing and storage services in the county and may not regulate or restrict the use of lighting equipment more than the extent allowed by state and federal law. The sheriff shall determine the rules included in the ordinance with the review and consent of the commissioners court.

(b) The commissioners court shall set the fee for the license or permit in an amount that reasonably offsets the costs of enforcing the ordinance. The commissioners court shall use each license or permit fee to pay salaries and expenses of the sheriff's office for conducting inspections to determine compliance with the ordinance and laws relating to dealers in scrap metal and salvage.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 143, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1034, Sec. 3, eff. Sept. 1, 2003.

Sec. 545.307. OVERNIGHT PARKING OF COMMERCIAL MOTOR VEHICLE IN OR NEAR RESIDENTIAL SUBDIVISION. (a) In this section:

(1) "Commercial motor vehicle" means:

(A) a commercial motor vehicle, as defined by Section 522.003, and includes a vehicle meeting that definition regardless of whether the vehicle is used for a commercial purpose; or

(B) a road tractor, truck tractor, pole trailer, or semitrailer, as those terms are defined by Section 541.201.

(2) "Residential subdivision" means a subdivision in a county with a population greater than 220,000:

(A) for which a plat is recorded in the county real property records; and

(B) in which the majority of lots are subject to deed restrictions limiting the lots to residential use.

(b) Except as provided by Subsection (b-1), after 10 p.m. and before 6 a.m., a person may not park a commercial motor vehicle or leave the vehicle parked on a street that is maintained by a county or municipality and for which signs are posted as provided by

Subsection (c) if the street:

- (1) is located within a residential subdivision; or
- (2) is adjacent to a residential subdivision and within 1,000 feet of the property line of a residence, school, place of worship, or park.

(b-1) A person may park a commercial motor vehicle or leave the vehicle parked on a street for which signs are posted as provided by Subsection (c) if the commercial motor vehicle:

- (1) is transporting persons or property to or from the residential subdivision or performing work in the subdivision; and
- (2) remains parked in or adjacent to the subdivision only for the period necessary to complete the transportation or work.

(c) The residents of a residential subdivision may petition a county or municipality in which the subdivision is located for the posting of signs prohibiting the overnight parking of a commercial motor vehicle in the subdivision or on a street adjacent to the subdivision and within 1,000 feet of the property line of a residence, school, place of worship, or park. The petition must be signed by at least 25 percent of the owners or tenants of residences in the subdivision. Not more than one person for each residence may sign the petition, and each person signing must be at least 18 years of age. Promptly after the filing of a petition meeting the requirements of this subsection and subject to Subsection (d), the county or municipality receiving the petition shall post the signs. The signs must:

- (1) be posted:
 - (A) at each entrance of the subdivision through which a commercial motor vehicle may enter the subdivision or within the subdivision if there is not defined entrance to the subdivision; or
 - (B) on a street adjacent to the subdivision; and
- (2) state, in letters at least two inches in height, that overnight parking of a commercial motor vehicle is prohibited in the subdivision or on a street adjacent to the subdivision.

(d) A county or municipality receiving a petition under Subsection (c) may condition the posting of the signs on payment by the residents of the residential subdivision of the cost of providing the signs.

(e) A person commits an offense if the person parks a commercial motor vehicle in violation of Subsection (b).

(f) This section does not limit the power of a municipality to

regulate the parking of commercial motor vehicles.

(g) For the purposes of this section, contiguous subdivisions that are developed by the same entity or a successor to that entity and that are given the same public name or a variation of the same public name are considered one subdivision. Separation of one of the subdivisions from another by a road, stream, greenbelt, or similar barrier does not make the subdivisions noncontiguous.

(h) This section does not apply to:

(1) a vehicle owned by a utility that an employee of the utility who is on call 24 hours a day parks at the employee's residence; or

(2) a vehicle owned by a commercial establishment that is parked on the street adjacent to where the establishment is located.

Added by Acts 1997, 75th Leg., ch. 173, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 731, Sec. 1, eff. Sept. 1, 1999;
Acts 1999, 76th Leg., ch. 1419, Sec. 1, eff. June 19, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1021 (H.B. 1522), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1021 (H.B. 1522), Sec. 2, eff. September 1, 2007.

Sec. 545.308. PRESUMPTION. The governing body of a local authority, by ordinance, order, or other official action, may provide that in a prosecution for an offense under this subchapter involving the stopping, standing, or parking of an unattended motor vehicle it is presumed that the registered owner of the vehicle is the person who stopped, stood, or parked the vehicle at the time and place the offense occurred.

Added by Acts 2001, 77th Leg., ch. 1080, Sec. 2, eff. Sept. 1, 2001.

SUBCHAPTER H. SPEED RESTRICTIONS

Sec. 545.351. MAXIMUM SPEED REQUIREMENT. (a) An operator may not drive at a speed greater than is reasonable and prudent under the circumstances then existing.

(b) An operator:

(1) may not drive a vehicle at a speed greater than is

reasonable and prudent under the conditions and having regard for actual and potential hazards then existing; and

(2) shall control the speed of the vehicle as necessary to avoid colliding with another person or vehicle that is on or entering the highway in compliance with law and the duty of each person to use due care.

(c) An operator shall, consistent with Subsections (a) and (b), drive at an appropriate reduced speed if:

(1) the operator is approaching and crossing an intersection or railroad grade crossing;

(2) the operator is approaching and going around a curve;

(3) the operator is approaching a hill crest;

(4) the operator is traveling on a narrow or winding roadway; and

(5) a special hazard exists with regard to traffic, including pedestrians, or weather or highway conditions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.109, eff. Sept. 1, 1997.

Sec. 545.352. PRIMA FACIE SPEED LIMITS. (a) A speed in excess of the limits established by Subsection (b) or under another provision of this subchapter is prima facie evidence that the speed is not reasonable and prudent and that the speed is unlawful.

(b) Unless a special hazard exists that requires a slower speed for compliance with Section 545.351(b), the following speeds are lawful:

(1) 30 miles per hour in an urban district on a street other than an alley and 15 miles per hour in an alley;

(2) except as provided by Subdivision (4), 70 miles per hour on a highway numbered by this state or the United States outside an urban district, including a farm-to-market or ranch-to-market road;

(3) except as provided by Subdivision (4), 60 miles per hour on a highway that is outside an urban district and not a highway numbered by this state or the United States;

(4) outside an urban district:

(A) 60 miles per hour if the vehicle is a school bus that has passed a commercial motor vehicle inspection under Section

548.201 and is on a highway numbered by the United States or this state, including a farm-to-market road; or

(B) 50 miles per hour if the vehicle is a school bus that:

(i) has not passed a commercial motor vehicle inspection under Section 548.201; or

(ii) is traveling on a highway not numbered by the United States or this state;

(5) on a beach, 15 miles per hour; or

(6) on a county road adjacent to a public beach, 15 miles per hour, if declared by the commissioners court of the county.

(c) The speed limits for a bus or other vehicle engaged in the business of transporting passengers for compensation or hire, for a commercial vehicle used as a highway post office vehicle for highway post office service in the transportation of United States mail, for a light truck, and for a school activity bus are the same as required for a passenger car at the same time and location.

(d) In this section:

(1) "Interstate highway" means a segment of the national system of interstate and defense highways that is:

(A) located in this state;

(B) officially designated by the Texas Transportation Commission; and

(C) approved under Title 23, United States Code.

(2) "Light truck" means a truck with a manufacturer's rated carrying capacity of not more than 2,000 pounds, including a pick-up truck, panel delivery truck, and carry-all truck.

(3) "Urban district" means the territory adjacent to and including a highway, if the territory is improved with structures that are used for business, industry, or dwelling houses and are located at intervals of less than 100 feet for a distance of at least one-quarter mile on either side of the highway.

(e) An entity that establishes or alters a speed limit under this subchapter shall establish the same speed limit for daytime and nighttime.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.110(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1020, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 663, Sec. 2, eff. June 18, 1999; Acts 1999,

76th Leg., ch. 739, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1346, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 265 (H.B. 1353), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 265 (H.B. 1353), Sec. 2, eff. September 1, 2011.

Sec. 545.353. AUTHORITY OF TEXAS TRANSPORTATION COMMISSION TO ALTER SPEED LIMITS. (a) If the Texas Transportation Commission determines from the results of an engineering and traffic investigation that a prima facie speed limit in this subchapter is unreasonable or unsafe on a part of the highway system, the commission, by order recorded in its minutes, and except as provided in Subsection (d), may determine and declare:

- (1) a reasonable and safe prima facie speed limit; and
- (2) another reasonable and safe speed because of wet or inclement weather.

(b) In determining whether a prima facie speed limit on a part of the highway system is reasonable and safe, the commission shall consider the width and condition of the pavement, the usual traffic at the affected area, and other circumstances.

(c) A prima facie speed limit that is declared by the commission under this section is effective when the commission erects signs giving notice of the new limit. A new limit that is enacted for a highway under this section is effective at all times or at other times as determined.

(d) Except as provided by Subsection (h-1), the commission may not:

- (1) modify the rules established by Section 545.351(b);
- (2) establish a speed limit of more than 75 miles per hour;

or

(3) increase the speed limit for a vehicle described by Section 545.352(b)(4).

(e) The commission, in conducting the engineering and traffic investigation specified by Subsection (a), shall follow the "Procedure for Establishing Speed Zones" as adopted by the commission. The commission may revise the procedure to accommodate technological advancement in traffic operation, the design and

construction of highways and motor vehicles, and the safety of the motoring public.

(f) The commission's authority to alter speed limits applies:

- (1) to any part of a highway officially designated or marked by the commission as part of the state highway system; and
- (2) both inside and outside the limits of a municipality, including a home-rule municipality, for a limited-access or controlled-access highway.

(g) For purposes of this section, "wet or inclement weather" means a condition of the roadway that makes driving on the roadway unsafe and hazardous and that is caused by precipitation, including water, ice, and snow.

(h) Notwithstanding Section 545.352(b), the commission may establish a speed limit of 75 miles per hour on a part of the highway system if the commission determines that 75 miles per hour is a reasonable and safe speed for that part of the highway system.

(h-1) Notwithstanding Section 545.352(b), the commission may establish a speed limit of 80 miles per hour on a part of Interstate Highway 10 or Interstate Highway 20 in Crockett, Culberson, Hudspeth, Jeff Davis, Kerr, Kimble, Pecos, Reeves, Sutton, or Ward County if the commission determines that 80 miles per hour is a reasonable and safe speed for that part of the highway.

(h-2) Notwithstanding Section 545.352(b), the commission may establish a speed limit not to exceed 85 miles per hour on a part of the state highway system if:

- (1) that part of the highway system is designed to accommodate travel at that established speed or a higher speed; and
- (2) the commission determines, after an engineering and traffic investigation, that the established speed limit is reasonable and safe for that part of the highway system.

(i) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 265, Sec. 9, eff. September 1, 2011.

(j) The commission may not determine or declare, or agree to determine or declare, a prima facie speed limit for environmental purposes on a part of the highway system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.111, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1518, Sec. 1, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 1331, Sec. 25, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 730 (H.B. 2257), Sec. 1, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 259 (H.B. 1201), Sec. 11, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 265 (H.B. 1353), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 265 (H.B. 1353), Sec. 9, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.019, eff. September 1, 2013.

Sec. 545.3535. AUTHORITY OF TEXAS TRANSPORTATION COMMISSION TO ALTER SPEED LIMITS ON CERTAIN ROADS. (a) The commissioners court of a county by resolution may request the Texas Transportation Commission to determine and declare a reasonable and safe prima facie speed limit that is lower than a speed limit established by Section 545.352 on any part of a farm-to-market or a ranch-to-market road of the highway system that is located in that county and is without improved shoulders.

(b) The commission shall give consideration to local public opinion and may determine and declare a lower speed limit on any part of the road without an engineering and traffic investigation, but the commission must use sound and generally accepted traffic engineering practices in determining and declaring the lower speed limit.

(c) The commission by rule shall establish standards for determining lower speed limits within a set range.

Added by Acts 1997, 75th Leg., ch. 1171, Sec. 1.45, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1346, Sec. 2, eff. Sept. 1, 1999.

Sec. 545.354. AUTHORITY OF REGIONAL TOLLWAY AUTHORITIES TO ALTER SPEED LIMITS ON TURNPIKE PROJECTS. (a) (1) In this section, "authority" means a regional tollway authority governed by Chapter 366.

(2) If an authority determines from the results of an engineering and traffic investigation that a prima facie speed limit

described in this subchapter is unreasonable or unsafe on a part of a turnpike constructed and maintained by the authority, the authority by order recorded in its minutes shall determine and declare a reasonable and safe prima facie speed limit for vehicles or classes of vehicles on the turnpike.

(b) In determining whether a prima facie speed limit on a part of a turnpike constructed and maintained by the authority is reasonable or safe, the authority shall consider the width and condition of the pavement, the usual traffic on the turnpike, and other circumstances.

(c) A prima facie speed limit that is declared by the authority in accordance with this section is effective when the authority erects signs giving notice of the new limit. A new limit that is adopted for a turnpike project constructed and maintained by the authority in accordance with this section is effective at all times or at other times as determined.

(d) The authority's power to alter prima facie speed limits is effective and exclusive on any part of a turnpike project constructed and maintained by the authority inside and outside the limits of a municipality, including a home-rule municipality.

(e) The authority may not:

(1) alter the general rule established by Section 545.351(a); or

(2) establish a speed limit of more than 75 miles per hour.

(f) The authority, in conducting the engineering and traffic investigation specified by Subsection (a), shall follow the procedure for establishing speed zones adopted by the Texas Department of Transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 576, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 920, Sec. 18, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 74, 75, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.71, 15.72, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 265 (H.B. [1353](#)), Sec. 4, eff. September 1, 2011.

Sec. 545.355. AUTHORITY OF COUNTY COMMISSIONERS COURT TO ALTER

SPEED LIMITS. (a) The commissioners court of a county, for a county road or highway outside the limits of the right-of-way of an officially designated or marked highway or road of the state highway system and outside a municipality, has the same authority to increase prima facie speed limits from the results of an engineering and traffic investigation as the Texas Transportation Commission on an officially designated or marked highway of the state highway system.

(b) The commissioners court of a county may declare a lower speed limit of not less than:

(1) 30 miles per hour on a county road or highway to which this section applies, if the commissioners court determines that the prima facie speed limit on the road or highway is unreasonable or unsafe; or

(2) 20 miles per hour in a residence district, unless the roadway has been designated as a major thoroughfare by a city planning commission.

(c) The commissioners court may not modify the rule established by Section 545.351(a) or establish a speed limit of more than 70 miles per hour.

(d) The commissioners court may modify a prima facie speed limit in accordance with this section only by an order entered on its records.

(e) The commissioners court of a county with a population of more than 2.8 million may establish from the results of an engineering and traffic investigation a speed limit of not more than 75 miles per hour on any part of a highway of that county that is a limited-access or controlled-access highway, regardless of the location of the part of the highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 58, Sec. 1, eff. May 9, 1997; Acts 1997, 75th Leg., ch. 833, Sec. 1, eff. June 18, 1997; Acts 2003, 78th Leg., ch. 852, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 265 (H.B. 1353), Sec. 5, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 936 (H.B. 1607), Sec. 1, eff. June 14, 2013.

Sec. 545.356. AUTHORITY OF MUNICIPALITY TO ALTER SPEED LIMITS.

(a) The governing body of a municipality, for a highway or part of a highway in the municipality, including a highway of the state highway system, has the same authority to alter by ordinance prima facie speed limits from the results of an engineering and traffic investigation as the Texas Transportation Commission on an officially designated or marked highway of the state highway system. The governing body of a municipality may not modify the rule established by Section 545.351(a) or establish a speed limit of more than 75 miles per hour.

(b) The governing body of a municipality, for a highway or part of a highway in the municipality, including a highway of the state highway system, has the same authority to alter prima facie speed limits from the results of an engineering and traffic investigation as the commission for an officially designated or marked highway of the state highway system, when the highway or part of the highway is under repair, construction, or maintenance. A municipality may not modify the rule established by Section 545.351(a) or establish a speed limit of more than 75 miles per hour.

(b-1) Except as provided by Subsection (b-3), the governing body of a municipality, for a highway or a part of a highway in the municipality that is not an officially designated or marked highway or road of the state highway system, may declare a lower speed limit of not less than 25 miles per hour, if the governing body determines that the prima facie speed limit on the highway is unreasonable or unsafe.

(b-2) Subsection (b-1) applies only to a two-lane, undivided highway or part of a highway.

(b-3) The governing body of a municipality with a population of 2,000 or less, for a highway or a part of a highway in the municipality that is a one-lane highway used for two-way access and that is not an officially designated or marked highway or road of the state highway system, may declare a lower speed limit of not less than 10 miles per hour, if the governing body determines that the prima facie speed limit on the highway is unreasonable or unsafe.

(c) A prima facie speed limit that is altered by the governing body of a municipality under Subsection (b), (b-1), or (b-3) is effective when the governing body erects signs giving notice of the new limit and at all times or at other times as determined.

(d) The governing body of a municipality that declares a lower

speed limit on a highway or part of a highway under Subsection (b-1) or (b-3), not later than February 1 of each year, shall publish on its Internet website and submit to the department a report that compares for each of the two previous calendar years:

(1) the number of traffic citations issued by peace officers of the municipality and the alleged speed of the vehicles, for speed limit violations on the highway or part of the highway;

(2) the number of warning citations issued by peace officers of the municipality on the highway or part of the highway; and

(3) the number of vehicular accidents that resulted in injury or death and were attributable to speed limit violations on the highway or part of the highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 166 (H.B. 87), Sec. 1, eff. May 27, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1144 (H.B. 2682), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 265 (H.B. 1353), Sec. 6, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1016 (H.B. 2596), Sec. 1, eff. June 17, 2011.

Sec. 545.3561. AUTHORITY OF MUNICIPALITY OR COUNTY TO TEMPORARILY LOWER SPEED LIMIT AT VEHICULAR ACCIDENT RECONSTRUCTION SITE. (a) The governing body of a municipality by ordinance may give a designated official with transportation engineering experience establishing speed limits discretion to temporarily lower a prima facie speed limit for a highway or part of a highway in the municipality, including a highway of the state highway system, at the site of an investigation using vehicular accident reconstruction.

(b) A county commissioners court by order may give a designated official with transportation engineering experience establishing speed limits discretion to temporarily lower prima facie speed limits for a county road or highway outside the boundaries of a municipality at the site of an investigation using vehicular accident reconstruction. The authority granted under this subsection does not

include a road or highway in the state highway system.

(c) The Texas Department of Transportation shall develop safety guidelines for the use of vehicular accident reconstruction in investigations. A municipality, county, or designated official shall comply with the guidelines.

(d) A designated official may temporarily lower prima facie speed limits without the approval of or permission from the Texas Department of Transportation. A designated official who intends to temporarily lower a prima facie speed limit at the site of an investigation using vehicular accident reconstruction shall, at least 48 hours before temporary speed limit signs are posted for the vehicular accident reconstruction site, provide to the Texas Department of Transportation notice that includes:

- (1) the date and time of the accident reconstruction;
- (2) the location of the accident reconstruction site;
- (3) the entities involved at the site;
- (4) the general size of the area affected by the site; and
- (5) an estimate of how long the site will be used for the

accident reconstruction.

(e) A temporary speed limit established under this section:

- (1) is a prima facie prudent and reasonable speed limit enforceable in the same manner as other prima facie speed limits established under other provisions of this subchapter; and
- (2) supersedes any other established speed limit that would permit a person to operate a motor vehicle at a higher rate of speed.

(f) A designated official who temporarily lowers a speed limit shall:

- (1) place and maintain at the vehicular accident reconstruction site temporary speed limit signs that conform to the manual and specifications adopted under Section 544.001;
- (2) temporarily conceal all other signs on the highway segment affected by the vehicular accident reconstruction site that give notice of a speed limit that would permit a person to operate a motor vehicle at a higher rate of speed; and
- (3) remove all temporary speed limit signs placed under Subdivision (1) and concealments of other signs placed under Subdivision (2) when the official finds that the vehicular accident reconstruction is complete and all equipment is removed from the vehicular accident reconstruction site.

(g) A temporary speed limit established under this section is

effective when a designated official places temporary speed limit signs and conceals other signs that would permit a person to operate a motor vehicle at a higher rate of speed as required under Subsection (f).

(h) A temporary speed limit established under this section is effective until the designated official under Subsection (a) or (b):

(1) finds that the vehicular accident reconstruction is complete; and

(2) removes all temporary signs, concealments, and equipment used at the vehicular accident reconstruction site.

(i) If a designated official does not comply with the requirements of Subsection (f)(3) for a vehicular accident reconstruction on a state highway associated with the reconstruction, the Texas Department of Transportation may remove signs and concealments.

Added by Acts 2011, 82nd Leg., R.S., Ch. 216 (H.B. 109), Sec. 2, eff. September 1, 2011.

Sec. 545.357. PUBLIC HEARING TO CONSIDER SPEED LIMITS WHERE CERTAIN SCHOOLS ARE LOCATED. (a) The governing body of a municipality in which a public or private elementary or secondary school or an institution of higher education as defined by Section 61.003(8) or (15), Education Code, is located shall on request hold a public hearing at least once each calendar year to consider prima facie speed limits on a highway in the municipality, including a highway of the state highway system, near the school or institution of higher education.

(b) If a county road outside the state highway system is located within 500 feet of a public or private elementary or secondary school or an institution of higher education that is not in a municipality, the commissioners court of the county on request shall hold a public hearing at least once each calendar year to consider the prima facie speed limit on the road near the school or institution of higher education.

(c) A municipal governing body or commissioners court on request may hold one public hearing for all public and private elementary and secondary schools and institutions of higher education in its jurisdiction.

(d) The Texas Transportation Commission, on request, shall hold a public hearing at least once each calendar year to consider prima facie speed limits on highways in the state highway system that are near public or private elementary or secondary schools or institutions of higher education.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 350, Sec. 1, eff. Sept. 1, 1997.

Sec. 545.358. AUTHORITY OF COMMANDING OFFICER OF UNITED STATES MILITARY RESERVATION TO ALTER SPEED LIMITS. The commanding officer of a United States military reservation, for a highway or part of a highway in the military reservation, including a highway of the state highway system, has the same authority by order to alter prima facie speed limits from the results of an engineering and traffic investigation as the Texas Transportation Commission for an officially designated or marked highway of the state highway system. A commanding officer may not modify the rule established by Section 545.351(a) or establish a speed limit of more than 75 miles per hour.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 265 (H.B. 1353), Sec. 7, eff. September 1, 2011.

Sec. 545.359. CONFLICTING DESIGNATED SPEED LIMITS. An order of the Texas Transportation Commission declaring a speed limit on a part of a designated or marked route of the state highway system made under Section 545.353 or 545.362 supersedes any conflicting designated speed established under Sections 545.356 and 545.358.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.360. DUTY OF TEXAS TRANSPORTATION COMMISSION AND STATE BOARD OF EDUCATION TO PROVIDE INFORMATION AND ASSISTANCE. The chairman of the Texas Transportation Commission and the chairman of the State Board of Education shall provide assistance and information relevant to consideration of speed limits to commissioners courts,

municipal governing bodies, and other interested persons.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.361. SPECIAL SPEED LIMITATIONS. (a) An operator of a motor-driven cycle may not drive at a speed of more than 35 miles per hour during the time specified by Section 547.302(a) unless the cycle is equipped with a headlamp or lamps that reveal a person or vehicle 300 feet ahead.

(b) An operator of a vehicle equipped with solid rubber or cushion tires may not drive at a speed of more than 10 miles per hour.

(c) An operator driving over a bridge or other elevated structure that is a part of a highway may not drive at a speed of more than the maximum speed that can be maintained with safety to the bridge or structure, when signs are posted as provided by this section.

(d) An operator of self-propelled machinery designed or adapted for applying plant food materials or agricultural chemicals and not designed or adapted for the sole purpose of transporting the materials or chemicals may not drive at a speed of more than 30 miles per hour unless the machinery is registered under Chapter 502.

(e) The Texas Transportation Commission, for a state highway, the Texas Turnpike Authority, for any part of a turnpike constructed and maintained by the authority, and a local authority for a highway under the jurisdiction of the local authority, may investigate a bridge or other elevated structure that is a part of a highway. If after conducting the investigation the commission, turnpike authority, or local authority finds that the structure cannot safely withstand vehicles traveling at a speed otherwise permissible under this subtitle, the commission, turnpike authority, or local authority shall:

(1) determine and declare the maximum speed of vehicles that the structure can safely withstand; and

(2) post and maintain signs before each end of the structure stating the maximum speed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.362. TEMPORARY SPEED LIMITS. (a) Subject to Subsection (c), the Texas Transportation Commission may enter an order establishing prima facie speed limits of not more than 75 miles per hour applicable to all highways, including a turnpike under the authority of the Texas Turnpike Authority or a highway under the control of a municipality or county. An order entered under this section does not have the effect of increasing a speed limit on any highway.

(b) The limits established under this section:

(1) are prima facie prudent and reasonable speed limits enforceable in the same manner as prima facie limits established under other provisions of this subchapter; and

(2) supersede any other established speed limit that would permit a person to operate a motor vehicle at a higher rate of speed.

(c) An order may be issued under Subsection (a) only if the commission finds and states in the order that:

(1) a severe shortage of motor fuel or other petroleum product exists, the shortage was caused by war, national emergency, or other circumstances, and a reduction of speed limits will foster conservation and safety; or

(2) the failure to alter state speed limits will prevent the state from receiving money from the United States for highway purposes.

(d) Unless a specific speed limit is required by federal law or directive under threat of loss of highway money of the United States, the commission may not set prima facie speed limits under this section of all vehicles at less than 60 miles per hour, except on a divided highway of at least four lanes, for which the commission may not set prima facie speed limits of all vehicles at less than 65 miles per hour.

(e) Before the commission may enter an order establishing a prima facie speed limit, it must hold a public hearing preceded by the publication in at least three newspapers of general circulation in the state of a notice of the date, time, and place of the hearing and of the action proposed to be taken. The notice must be published at least 12 days before the date of the hearing. At the hearing, all interested persons may present oral or written testimony regarding the proposed order.

(f) If the commission enters an order under this section, it shall file the order in the office of the governor. The governor

shall then make an independent finding of fact and determine the existence of the facts in Subsection (c). Before the 13th day after the date the order is filed in the governor's office, the governor shall conclude the finding of fact, issue a proclamation stating whether the necessary facts exist to support the issuance of the commission's order, and file copies of the order and the proclamation in the office of the secretary of state.

(g) If the governor's proclamation states that the facts necessary to support the issuance of the commission's order exist, the order takes effect according to Subsection (h). Otherwise, the order has no effect.

(h) In an order issued under this section, the commission may specify the date the order takes effect, but that date may not be sooner than the eighth day after the date the order is filed with the governor. If the order does not have an effective date, it takes effect on the 21st day after the date it is filed with the governor. Unless the order by its own terms expires earlier, it remains in effect until a subsequent order adopted by the procedure prescribed by this section amends or repeals it, except that an order adopted under this section expires when this section expires. The procedure for repealing an order is the same as for adopting an order, except that the commission and the governor must find that the facts required to support the issuance of an order under Subsection (c) no longer exist.

(i) If an order is adopted in accordance with this section, the commission and all governmental authorities responsible for the maintenance of highway speed limit signs shall take appropriate action to conceal or remove all signs that give notice of a speed limit of more than the one contained in the order and to erect appropriate signs. All governmental entities responsible for administering traffic safety programs and enforcing traffic laws shall use all available resources to notify the public of the effect of the order. To accomplish this purpose, the governmental entities shall request the cooperation of all news media in the state.

(j) A change in speed limits under this section is effective until the commission makes a finding that the conditions in Subsection (c) require or authorize an additional change in those speed limits or in the highway or sections of highway to which those speed limits apply.

(k) This section expires when the national maximum speed limits

are repealed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 265 (H.B. 1353), Sec. 8, eff. September 1, 2011.

Sec. 545.3625. CONFIDENTIALITY OF VIOLATION INFORMATION: FUEL CONSERVATION SPEED LIMIT. (a) If a person violates a maximum prima facie speed limit imposed under Section 545.362, as that law existed immediately before December 8, 1995, and the person was not traveling at a speed, as alleged in the citation, if not contested by the person, or, if contested by the person, as alleged in the complaint and found by the court, that is greater than the maximum prima facie speed limit for the location that has been established under this chapter, other than under Section 545.362, information in the custody of the department concerning the violation is confidential.

(b) The department may not release the information to any person or to another state governmental entity.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.112(a), eff. Sept. 1, 1997.

Sec. 545.363. MINIMUM SPEED REGULATIONS. (a) An operator may not drive so slowly as to impede the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law.

(b) When the Texas Transportation Commission, the Texas Turnpike Authority, the commissioners court of a county, or the governing body of a municipality, within the jurisdiction of each, as applicable, as specified in Sections 545.353 to 545.357, determines from the results of an engineering and traffic investigation that slow speeds on a part of a highway consistently impede the normal and reasonable movement of traffic, the commission, authority, county commissioners court, or governing body may determine and declare a minimum speed limit on the highway.

(c) If appropriate signs are erected giving notice of a minimum speed limit adopted under this section, an operator may not drive a vehicle more slowly than that limit except as necessary for safe

operation or in compliance with law.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.365. SPEED LIMIT EXCEPTION FOR EMERGENCIES; MUNICIPAL REGULATION. (a) The regulation of the speed of a vehicle under this subchapter does not apply to:

(1) an authorized emergency vehicle responding to a call;
 (2) a police patrol; or
 (3) a physician or ambulance responding to an emergency call.

(b) A municipality by ordinance may regulate the speed of:
 (1) an ambulance;
 (2) an emergency medical services vehicle; or
 (3) an authorized vehicle operated by a blood or tissue bank.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER I. MISCELLANEOUS RULES

Sec. 545.401. RECKLESS DRIVING; OFFENSE. (a) A person commits an offense if the person drives a vehicle in wilful or wanton disregard for the safety of persons or property.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine not to exceed \$200;
 (2) confinement in county jail for not more than 30 days;
 or
 (3) both the fine and the confinement.

(c) Notwithstanding Section 542.001, this section applies to:

(1) a private access way or parking area provided for a client or patron by a business, other than a private residential property or the property of a garage or parking lot for which a charge is made for the storing or parking of motor vehicles; and
 (2) a highway or other public place.

(d) Notwithstanding Section 542.004, this section applies to a person, a team, or motor vehicles and other equipment engaged in work on a highway surface.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.402. MOVING A PARKED VEHICLE. An operator may not begin movement of a stopped, standing, or parked vehicle unless the movement can be made safely.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.403. DRIVING THROUGH SAFETY ZONE. An operator may not drive through or in a safety zone.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.404. UNATTENDED MOTOR VEHICLE. (a) Except as provided by Subsection (b), an operator may not leave a vehicle unattended without:

- (1) stopping the engine;
- (2) locking the ignition;
- (3) removing the key from the ignition;
- (4) setting the parking brake effectively; and
- (5) if standing on a grade, turning the front wheels to the curb or side of the highway.

(b) The requirements of Subsections (a)(1), (2), and (3) do not apply to an operator who starts the engine of a vehicle by using a remote starter or other similar device that:

- (1) remotely starts the vehicle's engine without placing the key in the ignition; and
- (2) requires the key to be placed in the ignition or physically present in the vehicle before the vehicle can be operated.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1066 (H.B. [2194](#)), Sec. 1, eff. June 19, 2015.

Sec. 545.405. DRIVING ON MOUNTAIN HIGHWAY. An operator moving through a defile or canyon or on a mountain highway shall:

(1) hold the vehicle under control and as near the right-hand edge of the highway as possible; and

(2) on approaching a curve that obstructs the view of the highway for 200 feet, give warning with the horn of the motor vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.406. COASTING. (a) An operator moving on a downgrade may not coast with the gears or transmission of the vehicle in neutral.

(b) An operator of a truck, tractor, or bus moving on a downgrade may not coast with the clutch disengaged.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.407. FOLLOWING OR OBSTRUCTING FIRE APPARATUS OR AMBULANCE. (a) An operator, unless on official business, may not follow closer than 500 feet a fire apparatus responding to a fire alarm or drive into or park the vehicle in the block where the fire apparatus has stopped to answer a fire alarm.

(b) An operator may not:

(1) follow closer than 500 feet an ambulance that is flashing red lights unless the operator is on official business; or

(2) drive or park the vehicle where an ambulance has been summoned for an emergency call in a manner intended to interfere with the arrival or departure of the ambulance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.408. CROSSING FIRE HOSE. An operator may not, without the consent of the fire department official in command, drive over an unprotected hose of a fire department if the hose is on a street or private driveway and is intended for use at a fire or alarm of fire.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.409. DRAWBARS AND TRAILER HITCHES; SADDLE-MOUNT TOWING. (a) The drawbar or other connection between a vehicle drawing another vehicle and the drawn vehicle:

(1) must be strong enough to pull all weight drawn; and
(2) may not exceed 15 feet between the vehicles except for a connection between two vehicles transporting poles, pipe, machinery, or other objects of structural nature that cannot readily be dismembered.

(b) An operator drawing another vehicle and using a chain, rope, or cable to connect the vehicles shall display on the connection a white flag or cloth not less than 12 inches square.

(c) A motor vehicle may not draw more than three motor vehicles attached to it by the triple saddle-mount method. In this subsection, "triple saddle-mount method" means the mounting of the front wheels of trailing vehicles on the bed of another vehicle while leaving the rear wheels only of the trailing vehicles in contact with the roadway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.410. TOWING SAFETY CHAINS. (a) An operator of a passenger car or light truck may not draw a trailer, semitrailer, house trailer, or another motor vehicle unless safety chains of a type approved by the department are attached in a manner approved by the department from the trailer, semitrailer, house trailer, or drawn motor vehicle to the drawing vehicle. This subsection does not apply to the drawing of a trailer or semitrailer used for agricultural purposes.

(b) The department shall adopt rules prescribing the type of safety chains required to be used according to the weight of the trailer, semitrailer, house trailer, or motor vehicle being drawn. The rules shall:

(1) require safety chains to be strong enough to maintain the connection between the trailer, semitrailer, house trailer, or drawn motor vehicle and the drawing vehicle; and

(2) show the proper method to attach safety chains between the trailer, semitrailer, house trailer, or drawn motor vehicle and the drawing vehicle.

(c) Subsection (b) does not apply to trailers, semitrailers, or

house trailers that are equipped with safety chains installed by the original manufacturer before the effective date of the rules.

(d) This section does not apply to a trailer, semitrailer, house trailer, or drawn motor vehicle that is operated in compliance with the federal motor carrier safety regulations.

(e) In this section, "safety chains" means flexible tension members connected from the front of a drawn vehicle to the rear of the drawing vehicle to maintain connection between the vehicles if the primary connecting system fails.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.113(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1357, Sec. 1, eff. Sept. 1, 1999.

Sec. 545.411. USE OF REST AREA: OFFENSE. (a) A person commits an offense if the person remains at a rest area for longer than 24 hours or erects a tent, shelter, booth, or structure at the rest area and the person:

(1) has notice while conducting the activity that the activity is prohibited; or

(2) receives notice that the activity is prohibited but does not depart or remove the structure within eight hours after receiving notice.

(b) For purposes of this section, a person:

(1) has notice if a sign stating the prohibited activity and penalty is posted on the premises; or

(2) receives notice if a peace officer orally communicates to the person the prohibited activity and penalty for the offense.

(c) It is an exception to Subsection (a) if a nonprofit organization erects a temporary structure at a rest area to provide food services, food, or beverages to travelers and the Texas Department of Transportation:

(1) finds that the services would constitute a public service for the benefit of the traveling public; and

(2) issues a permit to the organization.

(d) In this section, "rest area" means public real property designated as a rest area, comfort station, picnic area, roadside park, or scenic overlook by the Texas Department of Transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.412. CHILD PASSENGER SAFETY SEAT SYSTEMS; OFFENSE.

(a) A person commits an offense if the person operates a passenger vehicle, transports a child who is younger than eight years of age, unless the child is taller than four feet, nine inches, and does not keep the child secured during the operation of the vehicle in a child passenger safety seat system according to the instructions of the manufacturer of the safety seat system.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 and not more than \$250.

(b-1) Repealed by Acts 2011, 82nd Leg., 1st C.S., Ch. 4, Sec. 69.01(1), eff. September 28, 2011.

(c) It is a defense to prosecution under this section that the person was operating the vehicle in an emergency or for a law enforcement purpose.

(d) Repealed by Acts 2003, 78th Leg., ch. 204, Sec. 8.01.

(e) This section does not apply to a person:

(1) operating a vehicle transporting passengers for hire, excluding third-party transport service providers when transporting clients pursuant to a contract to provide nonemergency Medicaid transportation; or

(2) transporting a child in a vehicle in which all seating positions equipped with child passenger safety seat systems or safety belts are occupied.

(f) In this section:

(1) "Child passenger safety seat system" means an infant or child passenger restraint system that meets the federal standards for crash-tested restraint systems as set by the National Highway Traffic Safety Administration.

(2) "Passenger vehicle" means a passenger car, light truck, sport utility vehicle, passenger van designed to transport 15 or fewer passengers, including the driver, truck, or truck tractor.

(3) "Safety belt" means a lap belt and any shoulder straps included as original equipment on or added to a vehicle.

(4) "Secured," in connection with use of a safety belt, means using the lap belt and any shoulder straps according to the instructions of:

(A) the manufacturer of the vehicle, if the safety belt is original equipment; or

(B) the manufacturer of the safety belt, if the safety belt has been added to the vehicle.

(g) A judge, acting under Article 45.0511, Code of Criminal Procedure, who elects to defer further proceedings and to place a defendant accused of a violation of this section on probation under that article, in lieu of requiring the defendant to complete a driving safety course approved by the Texas Department of Licensing and Regulation, shall require the defendant to attend and present proof that the defendant has successfully completed a specialized driving safety course approved by the Texas Department of Licensing and Regulation under Chapter 1001, Education Code, that includes four hours of instruction that encourages the use of child passenger safety seat systems and the wearing of seat belts and emphasizes:

(1) the effectiveness of child passenger safety seat systems and seat belts in reducing the harm to children being transported in motor vehicles; and

(2) the requirements of this section and the penalty for noncompliance.

(h) Notwithstanding Section 542.402(a), a municipality or county, at the end of the municipality's or county's fiscal year, shall send to the comptroller an amount equal to 50 percent of the fines collected by the municipality or the county for violations of this section. The comptroller shall deposit the amount received to the credit of the tertiary care fund for use by trauma centers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.114(a), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 618, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 910, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1042, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 204, Sec. 8.01, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 913 (H.B. 183), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 913 (H.B. 183), Sec. 2, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 255 (S.B. 61), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1257 (H.B. 537), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 69.01(1), eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1391 (H.B. 1294), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 68, eff. September 1, 2015.

Sec. 545.4121. DISMISSAL; OBTAINING CHILD PASSENGER SAFETY SEAT SYSTEM. (a) This section applies to an offense committed under Section 545.412.

(b) It is a defense to prosecution of an offense to which this section applies that the defendant provides to the court evidence satisfactory to the court that:

(1) at the time of the offense:

(A) the defendant was not arrested or issued a citation for violation of any other offense;

(B) the defendant did not possess a child passenger safety seat system in the vehicle; and

(C) the vehicle the defendant was operating was not involved in an accident; and

(2) subsequent to the time of the offense, the defendant obtained an appropriate child passenger safety seat system for each child required to be secured in a child passenger safety seat system under Section 545.412(a).

Added by Acts 2005, 79th Leg., Ch. 913 (H.B. 183), Sec. 3, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1391 (H.B. 1294), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1391 (H.B. 1294), Sec. 3, eff. September 1, 2013.

Sec. 545.413. SAFETY BELTS; OFFENSE. (a) A person commits an offense if:

(1) the person:

(A) is at least 15 years of age;

(B) is riding in a passenger vehicle while the vehicle

is being operated;

(C) is occupying a seat that is equipped with a safety belt; and

(D) is not secured by a safety belt; or

(2) as the operator of a school bus equipped with a safety belt for the operator's seat, the person is not secured by the safety belt.

(b) A person commits an offense if the person:

(1) operates a passenger vehicle that is equipped with safety belts; and

(2) allows a child who is younger than 17 years of age and who is not required to be secured in a child passenger safety seat system under Section 545.412(a) to ride in the vehicle without requiring the child to be secured by a safety belt, provided the child is occupying a seat that is equipped with a safety belt.

(b-1) A person commits an offense if the person allows a child who is younger than 17 years of age and who is not required to be secured in a child passenger safety seat system under Section 545.412(a) to ride in a passenger van designed to transport 15 or fewer passengers, including the driver, without securing the child individually by a safety belt, if the child is occupying a seat that is equipped with a safety belt.

(c) A passenger vehicle or a seat in a passenger vehicle is considered to be equipped with a safety belt if the vehicle is required under Section 547.601 to be equipped with safety belts.

(d) An offense under Subsection (a) is a misdemeanor punishable by a fine of not less than \$25 or more than \$50. An offense under Subsection (b) is a misdemeanor punishable by a fine of not less than \$100 or more than \$200.

(e) It is a defense to prosecution under this section that:

(1) the person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(2) the person presents to the court, not later than the 10th day after the date of the offense, a statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;

(3) the person is employed by the United States Postal Service and performing a duty for that agency that requires the operator to service postal boxes from a vehicle or that requires

frequent entry into and exit from a vehicle;

(4) the person is engaged in the actual delivery of newspapers from a vehicle or is performing newspaper delivery duties that require frequent entry into and exit from a vehicle;

(5) the person is employed by a public or private utility company and is engaged in the reading of meters or performing a similar duty for that company requiring the operator to frequently enter into and exit from a vehicle;

(6) the person is operating a commercial vehicle registered as a farm vehicle under the provisions of Section 502.433 that does not have a gross weight, registered weight, or gross weight rating of 48,000 pounds or more; or

(7) the person is the operator of or a passenger in a vehicle used exclusively to transport solid waste and performing duties that require frequent entry into and exit from the vehicle.

(f) The department shall develop and implement an educational program to encourage the wearing of safety belts and to emphasize:

(1) the effectiveness of safety belts and other restraint devices in reducing the risk of harm to passengers in motor vehicles; and

(2) the requirements of this section and the penalty for noncompliance.

(g) Repealed by Acts 2003, 78th Leg., ch. 204, Sec. 8.01.

(h) In this section, "passenger vehicle," "safety belt," and "secured" have the meanings assigned by Section 545.412.

(i) A judge, acting under Article 45.0511, Code of Criminal Procedure, who elects to defer further proceedings and to place a defendant accused of a violation of Subsection (b) on probation under that article, in lieu of requiring the defendant to complete a driving safety course approved by the Texas Department of Licensing and Regulation, shall require the defendant to attend and present proof that the defendant has successfully completed a specialized driving safety course approved by the Texas Department of Licensing and Regulation under Chapter 1001, Education Code, that includes four hours of instruction that encourages the use of child passenger safety seat systems and the wearing of seat belts and emphasizes:

(1) the effectiveness of child passenger safety seat systems and seat belts in reducing the harm to children being transported in motor vehicles; and

(2) the requirements of this section and the penalty for

noncompliance.

(j) Notwithstanding Section 542.402(a), a municipality or county, at the end of the municipality's or county's fiscal year, shall send to the comptroller an amount equal to 50 percent of the fines collected by the municipality or the county for violations of Subsection (b) of this section. The comptroller shall deposit the amount received to the credit of the tertiary care fund for use by trauma centers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.115(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 316, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 515, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 618, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 910, Sec. 2, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1042, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 204, Sec. 8.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 431, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 913 (H.B. 183), Sec. 4, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 923 (H.B. 3190), Sec. 4, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 974 (H.B. 3638), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1257 (H.B. 537), Sec. 2, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.020, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1044 (H.B. 1786), Sec. 69, eff. September 1, 2015.

Sec. 545.414. RIDING IN OPEN BEDS; OFFENSE. (a) A person commits an offense if the person operates an open-bed pickup truck or an open flatbed truck or draws an open flatbed trailer when a child younger than 18 years of age is occupying the bed of the truck or trailer.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$200.

(c) It is a defense to prosecution under this section that the person was:

- (1) operating or towing the vehicle in a parade or in an emergency;
- (2) operating the vehicle to transport farmworkers from one field to another field on a farm-to-market road, ranch-to-market road, or county road outside a municipality;
- (3) operating the vehicle on a beach;
- (4) operating a vehicle that is the only vehicle owned or operated by the members of a household; or
- (5) operating the vehicle in a hayride permitted by the governing body of or a law enforcement agency of each county or municipality in which the hayride will occur.

(d) Compliance or noncompliance with Subsection (a) is not admissible evidence in a civil trial.

(e) In this section, "household" has the meaning assigned by Section 71.005, Family Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 79, Sec. 1, eff. Sept. 1, 2001.

Sec. 545.4145. RIDING IN OR ON BOAT OR PERSONAL WATERCRAFT DRAWN BY VEHICLE; OFFENSE. (a) A person commits an offense if the person operates a motor vehicle on a highway or street when a child younger than 18 years of age is occupying a boat or personal watercraft being drawn by the motor vehicle.

(b) It is a defense to prosecution under this section that the person was:

- (1) operating the motor vehicle in a parade or in an emergency; or
- (2) operating the motor vehicle on a beach.

(c) In this section, "boat" and "personal watercraft" have the meanings assigned by Section 31.003, Parks and Wildlife Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1172 (H.B. 2981), Sec. 1, eff. September 1, 2011.

Sec. 545.415. BACKING A VEHICLE. (a) An operator may not back the vehicle unless the movement can be made safely and without

interference with other traffic.

(b) An operator may not back the vehicle on a shoulder or roadway of a limited-access or controlled-access highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.416. RIDING ON MOTORCYCLE. (a) An operator of a motorcycle shall ride on the permanent and regular seat attached to the motorcycle.

(b) An operator may not carry another person on the motorcycle, and a person who is not operating the motorcycle may not ride on the motorcycle, unless the motorcycle is:

- (1) designed to carry more than one person; and
- (2) equipped with footrests and handholds for use by the passenger.

(c) If the motorcycle is designed to carry more than one person, a passenger may ride only on the permanent and regular seat, if designed for two persons, or on another seat firmly attached to the motorcycle behind or to the side of the operator.

(d) Except as provided by Subsection (e), an operator may not carry another person on a motorcycle unless the other person is at least five years of age. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$100 or more than \$200. It is a defense to prosecution under this subsection that the operator was operating the motorcycle in an emergency or for a law enforcement purpose.

(e) Subsection (d) does not prohibit an operator from carrying on a motorcycle a person younger than five years of age who is seated in a sidecar attached to the motorcycle.

(f) For purposes of Subsections (c) and (d), an autocytle as defined by Section 501.008 is considered to be a motorcycle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1257 (H.B. 537), Sec. 3, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1111 (H.B. 3838), Sec. 3, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 67 (S.B. 449), Sec. 5, eff. May 22, 2015.

Sec. 545.4165. OPERATION OF CERTAIN MOTORCYCLES. A person may not operate a motorcycle described by Section 521.001(a)(6-a)(C)(vii) on a public highway for which the posted speed limit is more than 45 miles per hour, except that the operator may cross an intersection with a public highway that has a posted speed limit of more than 45 miles per hour.

Added by Acts 2015, 84th Leg., R.S., Ch. 1217 (S.B. 1756), Sec. 5, eff. June 19, 2015.

Sec. 545.417. OBSTRUCTION OF OPERATOR'S VIEW OR DRIVING MECHANISM. (a) An operator may not drive a vehicle when it is loaded so that, or when the front seat has a number of persons, exceeding three, so that:

(1) the view of the operator to the front or sides of the vehicle is obstructed; or

(2) there is interference with the operator's control over the driving mechanism of the vehicle.

(b) A passenger in a vehicle may not ride in a position that interferes with the operator's view to the front or sides or control over the driving mechanism of the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.418. OPENING VEHICLE DOORS. A person may not:

(1) open the door of a motor vehicle on the side available to moving traffic, unless the door may be opened in reasonable safety without interfering with the movement of other traffic; or

(2) leave a door on the side of a vehicle next to moving traffic open for longer than is necessary to load or unload a passenger.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.419. RIDING IN HOUSE TRAILER. A person may not occupy a house trailer while it is being moved.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.4191. PERSON RIDING IN TRAILER OR SEMITRAILER DRAWN BY TRUCK, ROAD TRACTOR, OR TRUCK TRACTOR. (a) A person may not operate a truck, road tractor, or truck tractor when another person occupies a trailer or semitrailer being drawn by the truck, road tractor, or truck tractor.

(b) It is a defense to prosecution under this section that:

(1) the person was operating or towing the vehicle:

(A) in a parade or in an emergency;

(B) to transport farmworkers from one field to another field on a farm-to-market road, ranch-to-market road, or county road outside a municipality; or

(C) in a hayride permitted by the governing body of or a law enforcement agency of each county or municipality in which the hayride will occur;

(2) the person operating or towing the vehicle did not know that another person occupied the trailer or semitrailer; or

(3) the person occupying the trailer or semitrailer was in a part of the trailer or semitrailer designed for human habitation.

(c) An offense under this section is a Class B misdemeanor.

Added by Acts 2003, 78th Leg., ch. 641, Sec. 1, eff. Sept. 1, 2003.

Sec. 545.420. RACING ON HIGHWAY. (a) A person may not participate in any manner in:

(1) a race;

(2) a vehicle speed competition or contest;

(3) a drag race or acceleration contest;

(4) a test of physical endurance of the operator of a vehicle; or

(5) in connection with a drag race, an exhibition of vehicle speed or acceleration or to make a vehicle speed record.

(b) In this section:

(1) "Drag race" means the operation of:

(A) two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other; or

(B) one or more vehicles over a common selected course, from the same place to the same place, for the purpose of comparing the relative speeds or power of acceleration of the vehicle or vehicles in a specified distance or time.

(2) "Race" means the use of one or more vehicles in an attempt to:

(A) outgain or outdistance another vehicle or prevent another vehicle from passing;

(B) arrive at a given destination ahead of another vehicle or vehicles; or

(C) test the physical stamina or endurance of an operator over a long-distance driving route.

(c) [Blank]

(d) Except as provided by Subsections (e)-(h), an offense under Subsection (a) is a Class B misdemeanor.

(e) An offense under Subsection (a) is a Class A misdemeanor if it is shown on the trial of the offense that:

(1) the person has previously been convicted one time of an offense under that subsection; or

(2) the person, at the time of the offense:

(A) was operating the vehicle while intoxicated, as defined by Section 49.01, Penal Code; or

(B) was in possession of an open container, as defined by Section 49.031, Penal Code.

(f) An offense under Subsection (a) is a state jail felony if it is shown on the trial of the offense that the person has previously been convicted two times of an offense under that subsection.

(g) An offense under Subsection (a) is a felony of the third degree if it is shown on the trial of the offense that as a result of the offense, an individual suffered bodily injury.

(h) An offense under Subsection (a) is a felony of the second degree if it is shown on the trial of the offense that as a result of the offense, an individual suffered serious bodily injury or death.

(i) This subsection applies only to a motor vehicle used in the commission of an offense under this section that results in an accident with property damage or personal injury. A peace officer shall require the vehicle to be taken to the nearest licensed vehicle storage facility unless the vehicle is seized as evidence, in which case the vehicle may be taken to a storage facility as designated by

the peace officer involved. Notwithstanding Article 18.23, Code of Criminal Procedure, the owner of a motor vehicle that is removed or stored under this subsection is liable for all removal and storage fees incurred and is not entitled to take possession of the vehicle until those fees are paid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 535, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1258 (H.B. 548), Sec. 1, eff. September 1, 2009.

Sec. 545.421. FLEEING OR ATTEMPTING TO ELUDE POLICE OFFICER; OFFENSE. (a) A person commits an offense if the person operates a motor vehicle and wilfully fails or refuses to bring the vehicle to a stop or flees, or attempts to elude, a pursuing police vehicle when given a visual or audible signal to bring the vehicle to a stop.

(b) A signal under this section that is given by a police officer pursuing a vehicle may be by hand, voice, emergency light, or siren. The officer giving the signal must be in uniform and prominently display the officer's badge of office. The officer's vehicle must bear the insignia of a law enforcement agency, regardless of whether the vehicle displays an emergency light.

(c) Except as provided by Subsection (d), an offense under this section is a Class B misdemeanor.

(d) An offense under this section is a Class A misdemeanor if the person, during the commission of the offense, recklessly engages in conduct that places another in imminent danger of serious bodily injury.

(e) A person is presumed to have recklessly engaged in conduct placing another in imminent danger of serious bodily injury under Subsection (d) if the person while intoxicated knowingly operated a motor vehicle during the commission of the offense. In this subsection, "intoxicated" has the meaning assigned by Section 49.01, Penal Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 1.21, eff. September 1, 2009.

Sec. 545.422. CROSSING SIDEWALK OR HIKE AND BIKE TRAIL. (a) A person may not drive a motor vehicle on a sidewalk, sidewalk area, or hike and bike trail except on a permanent or authorized temporary driveway.

(b) Subsection (a) does not prohibit the operation of a motor vehicle on a hike and bike trail in connection with maintenance of the trail.

(c) In this section, "hike and bike trail" means a trail designed for the exclusive use of pedestrians, bicyclists, or both.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.116(a), eff. Sept. 1, 1997.

Sec. 545.423. CROSSING PROPERTY. (a) An operator may not cross a sidewalk or drive through a driveway, parking lot, or business or residential entrance without stopping the vehicle.

(b) An operator may not cross or drive in or on a sidewalk, driveway, parking lot, or business or residential entrance at an intersection to turn right or left from one highway to another highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 545.424. OPERATION OF VEHICLE BY PERSON UNDER 18 YEARS OF AGE. (a) A person under 18 years of age may not operate a motor vehicle while using a wireless communications device, except in case of emergency.

(a-1) A person under 18 years of age may not operate a motor vehicle:

(1) after midnight and before 5 a.m. unless the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

(2) with more than one passenger in the vehicle under 21 years of age who is not a family member.

(b) A person under 17 years of age who holds a restricted motorcycle license or moped license may not operate a motorcycle or

moped while using a wireless communications device, except in case of emergency.

(b-1) A person under 17 years of age who holds a restricted motorcycle license or moped license, during the 12-month period following the issuance of an original motorcycle license or moped license to the person, may not operate a motorcycle or moped after midnight and before 5 a.m. unless:

(1) the person is in sight of the person's parent or guardian; or

(2) the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency.

(c) This section does not apply to:

(1) a person operating a motor vehicle while accompanied in the manner required by Section 521.222(d)(2) for the holder of an instruction permit; or

(2) a person licensed by the Federal Communications Commission to operate a wireless communication device or a radio frequency device.

(d) For the purposes of this section, employment includes work on a family farm by a member of the family that owns or operates the farm.

(e) A peace officer may not stop a vehicle or detain the operator of a vehicle for the sole purpose of determining whether the operator of the vehicle has violated this section.

(f) In this section, "wireless communication device" means a handheld or hands-free device that uses commercial mobile service, as defined by 47 U.S.C. Section 332.

Added by Acts 2001, 77th Leg., ch. 1251, Sec. 3, eff. Jan. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 357 (S.B. [1257](#)), Sec. 4, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 12.11, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1253 (H.B. [339](#)), Sec. 18, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1160 (H.B. [2466](#)), Sec. 4, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 716 (H.B. [3483](#)), Sec. 5, eff.

September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1101 (H.B. 3676), Sec. 1, eff. September 1, 2013.

Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE IN A SCHOOL CROSSING ZONE OR WHILE OPERATING A SCHOOL BUS WITH A MINOR PASSENGER; OFFENSE. (a) In this section:

(1) "Hands-free device" means speakerphone capability or a telephone attachment or other piece of equipment, regardless of whether permanently installed in the motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands.

(2) "Wireless communication device" means a device that uses a commercial mobile service, as defined by 47 U.S.C. Section 332.

(b) Except as provided by Subsection (c), an operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone, as defined by Section 541.302, Transportation Code, unless:

(1) the vehicle is stopped; or

(2) the wireless communication device is used with a hands-free device.

(b-1) Except as provided by Subsection (b-2), a municipality, county, or other political subdivision that enforces this section shall post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision. The department shall adopt standards that:

(1) allow for a sign required to be posted under this subsection to be attached to an existing sign at a minimal cost; and

(2) require that a sign required to be posted under this subsection inform an operator that:

(A) the use of a wireless communication device is prohibited in the school crossing zone; and

(B) the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone.

(b-2) A municipality, county, or other political subdivision that by ordinance or rule prohibits the use of a wireless communication device while operating a motor vehicle throughout the

jurisdiction of the political subdivision is not required to post a sign as required by Subsection (b-1) if the political subdivision:

(1) posts signs that are located at each point at which a state highway, U.S. highway, or interstate highway enters the political subdivision and that state:

(A) that an operator is prohibited from using a wireless communication device while operating a motor vehicle in the political subdivision; and

(B) that the operator is subject to a fine if the operator uses a wireless communication device while operating a motor vehicle in the political subdivision; and

(2) subject to all applicable United States Department of Transportation Federal Highway Administration rules, posts a message that complies with Subdivision (1) on any dynamic message sign operated by the political subdivision located on a state highway, U.S. highway, or interstate highway in the political subdivision.

(b-3) A sign posted under Subsection (b-2)(1) must be readable to an operator traveling at the applicable speed limit.

(b-4) The political subdivision shall pay the costs associated with the posting of signs under Subsection (b-2).

(c) An operator may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus unless the passenger bus is stopped.

(d) It is an affirmative defense to prosecution of an offense under this section that:

(1) the wireless communication device was used to make an emergency call to:

(A) an emergency response service, including a rescue, emergency medical, or hazardous material response service;

(B) a hospital;

(C) a fire department;

(D) a health clinic;

(E) a medical doctor's office;

(F) an individual to administer first aid treatment; or

(G) a police department; or

(2) a sign required by Subsection (b-1) was not posted at the entrance to the school crossing zone at the time of an offense committed in the school crossing zone.

(d-1) The affirmative defense available in Subsection (d)(2) is not available for an offense under Subsection (b) committed in a

school crossing zone located in a municipality, county, or other political subdivision that is in compliance with Subsection (b-2).

(e) This section does not apply to:

(1) an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity; or

(2) an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.

(f) Except as provided by Subsection (b-2), this section preempts all local ordinances, rules, or regulations that are inconsistent with specific provisions of this section adopted by a political subdivision of this state relating to the use of a wireless communication device by the operator of a motor vehicle.

Added by Acts 2005, 79th Leg., Ch. 357 (S.B. [1257](#)), Sec. 5, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1105 (H.B. [55](#)), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 774 (H.B. [1899](#)), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 240 (H.B. [347](#)), Sec. 1, eff. September 1, 2013.

Sec. 545.4252. USE OF WIRELESS COMMUNICATION DEVICE ON SCHOOL PROPERTY; OFFENSE. (a) In this section:

(1) "Hands-free device" has the meaning assigned by Section 545.425.

(2) "Wireless communication device" has the meaning assigned by Section 545.425.

(b) Except as provided by Section 545.425(c), an operator may not use a wireless communication device while operating a motor vehicle on the property of a public elementary, middle, junior high, or high school for which a local authority has designated a school crossing zone, during the time a reduced speed limit is in effect for the school crossing zone, unless:

(1) the vehicle is stopped; or

(2) the wireless communication device is used with a hands-

free device.

(c) It is an affirmative defense to prosecution of an offense under this section that the wireless communication device was used to make an emergency call to:

- (1) an emergency response service, including a rescue, emergency medical, or hazardous material response service;
- (2) a hospital;
- (3) a fire department;
- (4) a health clinic;
- (5) a medical doctor's office;
- (6) an individual to administer first aid treatment; or
- (7) a police department.

(d) This section does not apply to:

- (1) an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity; or
- (2) an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.

(e) This section preempts all local ordinances, rules, or regulations that are inconsistent with specific provisions of this section adopted by a political subdivision of this state relating to the use of a wireless communication device by the operator of a motor vehicle, except that a political subdivision may by ordinance or rule prohibit the use of a wireless communication device while operating a motor vehicle throughout the jurisdiction of the political subdivision.

Added by Acts 2013, 83rd Leg., R.S., Ch. 240 (H.B. 347), Sec. 2, eff. September 1, 2013.

Sec. 545.426. OPERATION OF SCHOOL BUS. (a) A person may not operate a school bus if:

- (1) the door of the school bus is open; or
- (2) the number of passengers on the bus is greater than the manufacturer's design capacity for the bus.

(b) An operator of a school bus, while operating the bus, shall prohibit a passenger from:

- (1) standing in the bus; or

(2) sitting:

(A) on the floor of the bus; or

(B) in any location on the bus that is not designed as a seat.

(c) The department may adopt rules necessary to administer and enforce this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 923 (H.B. 3190), Sec. 5, eff. September 1, 2007.

Sec. 545.427. OPERATION OF VEHICLE WITH INSUFFICIENT UNDERCARRIAGE CLEARANCE. (a) An operator may not drive on or cross a railroad grade crossing unless the vehicle being operated has sufficient undercarriage clearance.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200.

Added by Acts 2007, 80th Leg., R.S., Ch. 424 (S.B. 1372), Sec. 12, eff. January 1, 2008.

Renumbered from Transportation Code, Section 545.426 by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 27.001(108), eff. September 1, 2009.

CHAPTER 546. OPERATION OF AUTHORIZED EMERGENCY VEHICLES AND CERTAIN OTHER VEHICLES

SUBCHAPTER A. AUTHORIZED EMERGENCY VEHICLES

Sec. 546.001. PERMISSIBLE CONDUCT. In operating an authorized emergency vehicle the operator may:

(1) park or stand, irrespective of another provision of this subtitle;

(2) proceed past a red or stop signal or stop sign, after slowing as necessary for safe operation;

(3) exceed a maximum speed limit, except as provided by an ordinance adopted under Section 545.365, as long as the operator does not endanger life or property; and

(4) disregard a regulation governing the direction of movement or turning in specified directions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 546.002. WHEN CONDUCT PERMISSIBLE. (a) In this section, "police escort" means facilitating the movement of a funeral, oversized or hazardous load, or other traffic disruption for public safety purposes by a peace officer described by Articles 2.12(1)-(4), (8), (12), and (22), Code of Criminal Procedure.

(b) Section 546.001 applies only when the operator is:

- (1) responding to an emergency call;
- (2) pursuing an actual or suspected violator of the law;
- (3) responding to but not returning from a fire alarm;
- (4) directing or diverting traffic for public safety purposes; or
- (5) conducting a police escort.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 66, Sec. 1, eff. May 16, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 834 (S.B. 866), Sec. 1, eff. June 17, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 540 (S.B. 545), Sec. 1, eff. June 14, 2013.

Sec. 546.003. AUDIBLE OR VISUAL SIGNALS REQUIRED. Except as provided by Section 546.004, the operator of an authorized emergency vehicle engaging in conduct permitted by Section 546.001 shall use, at the discretion of the operator in accordance with policies of the department or the local government that employs the operator, audible or visual signals that meet the pertinent requirements of Sections 547.305 and 547.702.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 546.004. EXCEPTIONS TO SIGNAL REQUIREMENT. (a) A volunteer fire fighter who operates a private vehicle as an authorized emergency vehicle may engage in conduct permitted by Section 546.001 only when the fire fighter is using visual signals meeting the pertinent requirements of Sections 547.305 and 547.702.

(b) An authorized emergency vehicle that is operated as a

police vehicle is not required to be equipped with or display a red light visible from the front of the vehicle.

(c) A police officer may operate an authorized emergency vehicle for a law enforcement purpose without using the audible or visual signals required by Section 546.003 if the officer is:

(1) responding to an emergency call or pursuing a suspected violator of the law with probable cause to believe that:

(A) knowledge of the presence of the officer will cause the suspect to:

(i) destroy or lose evidence of a suspected felony;

(ii) end a suspected continuing felony before the officer has obtained sufficient evidence to establish grounds for arrest; or

(iii) evade apprehension or identification of the suspect or the suspect's vehicle; or

(B) because of traffic conditions on a multilaned roadway, vehicles moving in response to the audible or visual signals may:

(i) increase the potential for a collision; or

(ii) unreasonably extend the duration of the pursuit; or

(2) complying with a written regulation relating to the use of audible or visible signals adopted by the local government that employs the officer or by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 546.005. DUTY OF CARE. This chapter does not relieve the operator of an authorized emergency vehicle from:

(1) the duty to operate the vehicle with appropriate regard for the safety of all persons; or

(2) the consequences of reckless disregard for the safety of others.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 546.006. DESIGNATED EMERGENCY VEHICLE DURING DECLARED DISASTERS. (a) From recommendations made under Section 418.013(c), Government Code, the department shall designate which vehicles may be

operated by which designated organizations as emergency vehicles during declared disasters.

(b) A vehicle designated under Subsection (a) may be operated by a designated organization as if the vehicle were an authorized emergency vehicle under this subtitle if:

(1) the governor declares a state of disaster under Section 418.014, Government Code;

(2) the department requests assistance from the designated organization; and

(3) the vehicle is operated by the designated organization or a member of the designated organization in response to the state of disaster.

(c) The department shall adopt rules as necessary to implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 5.02, eff. September 1, 2007.

Sec. 546.0065. AUTHORIZED EMERGENCY VEHICLES OF THE TEXAS DIVISION OF EMERGENCY MANAGEMENT. The department shall designate vehicles of the Texas Division of Emergency Management that may be operated as authorized emergency vehicles.

Added by Acts 2013, 83rd Leg., R.S., Ch. 17 (S.B. 223), Sec. 2, eff. May 10, 2013.

Sec. 546.007. CLOSURE OF ROAD OR HIGHWAY BY FIREFIGHTER. (a) This section applies only to a firefighter who is employed by or a member of:

(1) a fire department operated by an emergency services district;

(2) a volunteer fire department; or

(3) a fire department of a general-law municipality.

(b) A firefighter, when performing the firefighter's official duties, may close one or more lanes of a road or highway to protect the safety of persons or property.

(c) The closure shall be limited to the affected lane or lanes and one additional lane unless the safety of emergency personnel operating on the road or highway requires more lanes to be closed.

(d) In making a closure under this section, the firefighter shall deploy one or more authorized emergency vehicles with audible and visual signals that meet the requirements of Sections 547.305 and 547.702.

Added by Acts 2011, 82nd Leg., R.S., Ch. 490 (H.B. 993), Sec. 1, eff. September 1, 2011.

SUBCHAPTER B. OPERATION OF CERTAIN FIRE-FIGHTING EQUIPMENT

Sec. 546.021. MUTUAL AID ORGANIZATIONS. (a) Two or more businesses whose activities require the maintenance of fire-fighting equipment may form a mutual aid organization in which the member businesses agree to assist each other during an emergency by supplying fire-fighting equipment or services.

(b) The presiding officer or director of an organization formed under this section shall deliver a list to the county fire marshal, or to the commissioners court of a county if the county does not have a fire marshal, in each county in which a member business is located. The list must contain the name of the registered owner and license plate number of each motor vehicle that each member intends to use in supplying fire-fighting equipment or services.

(c) If the county fire marshal or commissioners court determines that the operation of the vehicles on the list is in the public interest and not a threat to public safety, the marshal or court shall approve the list.

(d) On approval of the list by the county fire marshal or commissioners court, a person operating a listed motor vehicle in response to a call for emergency fire-fighting assistance from a member has the rights and restrictions placed by this subtitle on the operator of an authorized emergency vehicle.

(e) A county is not liable for damage to a person or property caused by a person approved by the county under this section to operate a motor vehicle for emergency fire-fighting assistance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 547. VEHICLE EQUIPMENT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 547.001. DEFINITIONS. In this chapter:

(1) "Air-conditioning equipment" means mechanical vapor compression refrigeration equipment used to cool a motor vehicle passenger or operator compartment.

(2) "Explosive cargo vehicle" means a motor vehicle used to transport explosives or a cargo tank truck used to transport a flammable liquid or compressed gas.

(2-a) "Golf cart" has the meaning assigned by Section 502.001.

(3) "Light transmission" means the ratio of the amount of light that passes through a material to the amount of light that falls on the material and the glazing.

(4) "Luminous reflectance" means the ratio of the amount of light that is reflected by a material to the amount of light that falls on the material.

(5) "Multipurpose vehicle" means a motor vehicle that is:
(A) designed to carry 10 or fewer persons; and
(B) constructed on a truck chassis or with special features for occasional off-road use.

(6) "Safety glazing material" includes only a glazing material that is constructed, treated, or combined with another material to reduce substantially, as compared to ordinary sheet or plate glass, the likelihood of injury to persons by an external object or by cracked or broken glazing material.

(7) "Slow-moving vehicle" means:

(A) a motor vehicle designed to operate at a maximum speed of 25 miles per hour or less, not including an electric personal assistive mobility device, as defined by Section 551.201; or

(B) a vehicle, implement of husbandry, or machinery, including road construction machinery, that is towed by:

(i) an animal; or

(ii) a motor vehicle designed to operate at a maximum speed of 25 miles per hour or less.

(8) "Slow-moving-vehicle emblem" means a triangular emblem that conforms to standards and specifications adopted by the director under Section 547.104.

(9) "Sunscreening device" means a film, material, or device that meets the department's standards for reducing effects of the sun.

(10) "Vehicle equipment" means:

(A) a system, part, or device that is manufactured or sold as original or replacement equipment or as a vehicle accessory;
or

(B) a device or apparel manufactured or sold to protect a vehicle operator or passenger.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1318, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 7, eff. September 1, 2009.

Sec. 547.002. APPLICABILITY. Unless a provision is specifically made applicable, this chapter and the rules of the department adopted under this chapter do not apply to:

- (1) an implement of husbandry;
- (2) road machinery;
- (3) a road roller;
- (4) a farm tractor;
- (5) a bicycle, a bicyclist, or bicycle equipment;
- (6) an electric bicycle, an electric bicyclist, or electric bicycle equipment; or
- (7) a golf cart that is operated only as authorized by Section 551.403.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 896, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1085, Sec. 8, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 8, eff. September 1, 2009.

Sec. 547.003. EQUIPMENT NOT AFFECTED. This chapter does not prohibit and the department by rule may not prohibit the use of:

- (1) equipment required by an agency of the United States;
or
- (2) a part or accessory not inconsistent with this chapter or a rule adopted under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.004. GENERAL OFFENSES. (a) A person commits an offense that is a misdemeanor if the person operates or moves or, as an owner, knowingly permits another to operate or move, a vehicle that:

(1) is unsafe so as to endanger a person;

(2) is not equipped in a manner that complies with the vehicle equipment standards and requirements established by this chapter; or

(3) is equipped in a manner prohibited by this chapter.

(b) A person commits an offense that is a misdemeanor if the person operates a vehicle equipped with an item of vehicle equipment that the person knows has been determined in a compliance proceeding under Section 547.206 to not comply with a department standard.

(c) A court may dismiss a charge brought under this section if the defendant:

(1) remedies the defect before the defendant's first court appearance; and

(2) pays an administrative fee not to exceed \$10.

(d) Subsection (c) does not apply to an offense involving a commercial motor vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1027 (H.B. 1623), Sec. 10, eff. September 1, 2007.

Sec. 547.005. OFFENSE RELATING TO VIOLATION OF SPECIAL-USE PROVISIONS. (a) A person may not use a slow-moving-vehicle emblem on a stationary object or a vehicle other than a slow-moving vehicle.

(b) A person may not operate a motor vehicle bearing the words "school bus" unless the vehicle is used primarily to transport persons to or from school or a school-related activity. In this subsection, "school" means a privately or publicly supported elementary or secondary school, day-care center, preschool, or institution of higher education and includes a church if the church is engaged in providing formal education.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. ADOPTION OF RULES AND STANDARDS

Sec. 547.101. RULES AND STANDARDS IN GENERAL. (a) The department may adopt rules necessary to administer this chapter.

(b) The department may adopt standards for vehicle equipment to:

(1) protect the public from unreasonable risk of death or injury; and

(2) enforce safety standards of the United States as permitted under the federal motor vehicle act.

(c) A department standard must:

(1) duplicate a standard of the United States that applies to the same aspect of vehicle equipment performance as the department standard; or

(2) if there is no standard of the United States for the same aspect of vehicle equipment performance as the department standard, conform as closely as possible to a relevant standard of the United States, similar standards established by other states, and a standard issued or endorsed by recognized national standard-setting organizations or agencies.

(d) The department may not adopt a vehicle equipment standard inconsistent with a standard provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.102. SCHOOL BUS EQUIPMENT STANDARDS. The department may adopt standards and specifications that:

(1) supplement the standards and specifications provided by this chapter;

(2) apply to lighting and warning device equipment required for a school bus; and

(3) at the time adopted, correlate with and conform as closely as possible to specifications approved by the Society of Automotive Engineers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.103. AIR-CONDITIONING EQUIPMENT STANDARDS. The department may adopt safety requirements, rules, and specifications that:

- (1) apply to air-conditioning equipment; and
- (2) correlate with and conform as closely as possible to recommended practices or standards approved by the Society of Automotive Engineers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.104. SLOW-MOVING-VEHICLE EMBLEM STANDARDS. The director shall adopt standards and specifications that:

- (1) apply to the color, size, and mounting position of a slow-moving-vehicle emblem; and
- (2) at the time adopted, correlate with and conform as closely as practicable to the standards and specifications adopted or approved by the American Society of Agricultural Engineers for a uniform emblem to identify a slow-moving vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.105. MAINTENANCE AND SERVICE EQUIPMENT LIGHTING STANDARDS. (a) The Texas Department of Transportation shall adopt standards and specifications that:

- (1) apply to lamps on highway maintenance and service equipment, including snow-removal equipment; and
- (2) correlate with and conform as closely as possible to standards and specifications approved by the American Association of State Highway and Transportation Officials.

(b) The Texas Department of Transportation may adopt standards and specifications for lighting that permit the use of flashing lights for identification purposes on highway maintenance and service equipment, including snow-removal equipment.

(c) The standards and specifications adopted under this section are in lieu of the standards and specifications otherwise provided by this chapter for lamps on vehicles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**SUBCHAPTER C. PROVISIONS RELATING TO THE OFFER, DISTRIBUTION, AND
SALE OF VEHICLE EQUIPMENT**

Sec. 547.201. OFFENSES RELATING TO THE OFFER, DISTRIBUTION, AND SALE OF VEHICLE EQUIPMENT. (a) A person may not offer or distribute for sale or sell an item of vehicle equipment for which a standard is prescribed by this chapter or the department and that does not comply with the standard. It is an affirmative defense to prosecution under this subsection that the person did not have reason to know in the exercise of due care that the item did not comply with the applicable standard.

(b) A person may not offer or distribute for sale or sell an item of vehicle equipment for which a standard is prescribed by this chapter or the department, unless the item or its package:

- (1) bears the manufacturer's trademark or brand name; or
- (2) complies with each applicable identification requirement established by an agency of the United States or the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.202. DEPARTMENT CERTIFICATION OR APPROVAL OF VEHICLE EQUIPMENT. (a) When or after an item of vehicle equipment is sold in this state, the department shall determine whether a department standard is prescribed for the item. If a department standard is prescribed, the department shall determine whether the item complies with the standard.

(b) If a standard of an agency of the United States or of the department is not prescribed, the department by rule may require departmental approval before the sale of the item.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.203. VEHICLE EQUIPMENT TESTING: DEPARTMENT STANDARDS. (a) The department shall prescribe standards for and approve testing facilities to:

- (1) review test data submitted by a manufacturer to show compliance with a department standard; and
- (2) test an item of vehicle equipment independently in connection with a proceeding to determine compliance with a

department standard.

(b) The department may not impose a product certification or approval fee, including a fee for testing facility approval.

(c) The department may:

(1) by rule, require a manufacturer of an item of vehicle equipment sold in this state to submit adequate test data to show that the item complies with department standards;

(2) periodically require a manufacturer to submit revised test data to demonstrate continuing compliance;

(3) purchase an item of vehicle equipment at retail for the purpose of review and testing under Subsection (a); and

(4) enter into cooperative arrangements with other states and interstate agencies to reduce duplication of testing and to facilitate compliance with rules under Subsection (c)(1).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.204. VEHICLE EQUIPMENT TESTING: FEDERAL STANDARDS.

(a) For a vehicle or item of vehicle equipment subject to a motor vehicle safety standard of the United States, the department may, on or after the first sale of the vehicle or item of vehicle equipment:

(1) require the manufacturer to submit adequate test data to show that the vehicle or item of vehicle equipment complies with standards of the United States;

(2) review the manufacturer's laboratory test data and the qualifications of the laboratory; and

(3) independently test the vehicle or item of vehicle equipment.

(b) The department may not require certification or approval of an item of vehicle equipment subject to a motor vehicle safety standard of the United States.

(c) The department may not require a manufacturer of a vehicle or of an item of vehicle equipment subject to a motor vehicle safety standard of the United States to use an outside laboratory or a specified laboratory.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.205. INITIATION OF COMPLIANCE PROCEEDING. (a) The

department may initiate a proceeding to determine whether an item of vehicle equipment complies with a department standard if the department reasonably believes that the item is being offered or distributed for sale or sold in violation of the standard.

(b) The department shall send written notice of the proceeding to the manufacturer of the item by certified mail, return receipt requested.

(c) The notice required by Subsection (b) must:

(1) cite the standard that the item allegedly violates;

and

(2) state that the manufacturer must file a written request with the department for a hearing not later than the 30th day after the date the notice is received to obtain a hearing on the issue of compliance.

(d) When the department sends notice under Subsection (b), the department shall require the manufacturer to submit to the department, not later than the 30th day after the date the notice is received, the names and addresses of the persons the manufacturer knows to be offering the item for sale to retail merchants.

(e) On receipt under Subsection (d) of the names and addresses, the department shall send by certified mail, return receipt requested, written notice of the compliance proceeding to those persons.

(f) The notice must:

(1) cite the standard that the item allegedly violates;

(2) state that the manufacturer of the item has been notified and may request a hearing on the issue of compliance before a stated date;

(3) state that if the manufacturer or another person requests a hearing, the person may appear at the hearing;

(4) state that if the manufacturer does not request a hearing, the person may request a hearing by filing a written request with the department not later than the 30th day after the date notice is received; and

(5) state that the person may determine from the department whether a hearing will be held and the time and place of the hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.206. COMPLIANCE PROCEEDING HEARING. The department shall conduct a hearing on the issue of compliance if a person required by Section 547.205 to be notified requests a hearing in the manner and within the time specified by that section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.207. COMPLIANCE PROCEEDING ISSUES. (a) In a hearing under Section 547.206 or in the absence of a request for a hearing, the department may make a determination of the following issues only:

(1) whether an item of vehicle equipment has been offered, distributed, or sold in violation of a department standard;

(2) whether the manufacturer did not submit test data required by the department under Section 547.203; and

(3) whether an item of vehicle equipment has been offered, distributed, or sold without the identification required by Section 547.201.

(b) The department by order shall prohibit the manufacture, offer for sale, distribution for sale, or sale of the item if the department finds affirmatively on at least one of the issues.

(c) After entering its order, the department shall send written notice by certified mail, return receipt requested, to each person the department notified under Section 547.205.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.208. JUDICIAL REVIEW AND JUDICIAL ENFORCEMENT. (a) A person may appeal an order entered under Section 547.207 to a district court in Travis County only if a hearing was held by the department and the person:

(1) is aggrieved by the order; and

(2) appeared at the hearing on compliance.

(b) The department may bring suit in a district court of Travis County for an injunction to prohibit the manufacture, offer, distribution, or sale of an item of vehicle equipment that is the subject of a department order entered under Section 547.207. The attorney general shall represent the department in the suit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. GENERAL PROVISIONS REGARDING LIGHTING REQUIREMENTS

Sec. 547.301. GENERAL PROVISIONS RELATING TO MEASUREMENTS. (a) Unless expressly stated otherwise, a visibility distance requirement imposed by this chapter for a lamp or device applies when a lighted lamp or device is required and is measured as if the vehicle were unloaded and on a straight, level, unlighted highway under normal atmospheric conditions.

(b) A mounted height requirement imposed by this chapter for a lamp or device is measured as if the vehicle were unloaded and on level ground and is measured from the center of the lamp or device to the ground.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.302. DUTY TO DISPLAY LIGHTS. (a) A vehicle shall display each lighted lamp and illuminating device required by this chapter to be on the vehicle:

(1) at nighttime; and

(2) when light is insufficient or atmospheric conditions are unfavorable so that a person or vehicle on the highway is not clearly discernible at a distance of 1,000 feet ahead.

(b) A signaling device, including a stoplamp or a turn signal lamp, shall be lighted as prescribed by this chapter.

(c) At least one lighted lamp shall be displayed on each side of the front of a motor vehicle.

(d) Not more than four of the following may be lighted at one time on the front of a motor vehicle:

(1) a headlamp required by this chapter; or

(2) a lamp, including an auxiliary lamp or spotlight, that projects a beam with an intensity brighter than 300 candlepower.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.303. COLOR REQUIREMENTS. (a) Unless expressly provided otherwise, a lighting device or reflector mounted on the rear of a vehicle must be or reflect red.

(b) A signaling device mounted on the rear of a vehicle may be

red, amber, or yellow.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.304. APPLICABILITY. (a) A provision of this chapter that requires a vehicle to be equipped with fixed electric lights does not apply to a farm trailer or fertilizer trailer registered under Section 502.146 or a boat trailer with a gross weight of 3,000 pounds or less if the trailer is not operated at a time or under a condition specified by Section 547.302(a).

(b) Except for Sections 547.323 and 547.324, a provision of this chapter that requires a vehicle to be equipped with fixed electric lights does not apply to a boat trailer with a gross weight of less than 4,500 pounds if the trailer is not operated at a time or under a condition specified by Section 547.302(a).

(c) Except for Sections 547.323 and 547.324, a provision of this chapter that requires a vehicle to be equipped with lamps, reflectors, and lighting equipment does not apply to a mobile home if the mobile home:

(1) is moved under a permit issued by the Texas Department of Motor Vehicles under Subchapter D, Chapter 623; and

(2) is not moved at a time or under a condition specified by Section 547.302(a).

(d) A mobile home lighted as provided by this section may be moved only during daytime.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 280 (H.B. 505), Sec. 4, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 96, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.021, eff. September 1, 2013.

Sec. 547.305. RESTRICTIONS ON USE OF LIGHTS. (a) A motor vehicle lamp or illuminating device, other than a headlamp, spotlight, auxiliary lamp, turn signal lamp, or emergency vehicle, tow truck, or school bus warning lamp, that projects a beam with an intensity

brighter than 300 candlepower shall be directed so that no part of the high-intensity portion of the beam strikes the roadway at a distance of more than 75 feet from the vehicle.

(b) Except as expressly authorized by law, a person may not operate or move equipment or a vehicle, other than a police vehicle, with a lamp or device that displays a red light visible from directly in front of the center of the equipment or vehicle.

(c) A person may not operate a motor vehicle equipped with a red, white, or blue beacon, flashing, or alternating light unless the equipment is:

(1) used as specifically authorized by this chapter; or

(2) a running lamp, headlamp, taillamp, backup lamp, or turn signal lamp that is used as authorized by law.

(d) A vehicle may be equipped with alternately flashing lighting equipment described by Section 547.701 or 547.702 only if the vehicle is:

(1) a school bus;

(2) an authorized emergency vehicle;

(3) a church bus that has the words "church bus" printed on the front and rear of the bus so as to be clearly discernable to other vehicle operators;

(4) a tow truck while under the direction of a law enforcement officer at the scene of an accident or while hooking up to a disabled vehicle on a roadway; or

(5) a tow truck with a mounted light bar which has turn signals and stop lamps in addition to those required by Sections 547.322, 547.323, and 547.324, Transportation Code.

(e) A person may not operate highway maintenance or service equipment, including snow-removal equipment, that is not equipped with lamps or that does not display lighted lamps as required by the standards and specifications adopted by the Texas Department of Transportation.

(f) In this section "tow truck" means a motor vehicle or mechanical device that is adapted or used to tow, winch, or move a disabled vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 380, Sec. 1, eff. July 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 229 (H.B. 378), Sec. 3, eff.

September 1, 2011.

Sec. 547.306. LED GROUND EFFECT LIGHTING EQUIPMENT ON MOTORCYCLE. (a) In this section, "LED ground effect lighting equipment" means light emitting diode (LED) technology that is attached to the underbody of a motorcycle for the purpose of illuminating:

- (1) the body of the motorcycle; or
- (2) the ground below the motorcycle.

(b) A person may operate a motorcycle equipped with LED ground effect lighting that emits a non-flashing amber or white light.

Added by Acts 2015, 84th Leg., R.S., Ch. 641 (S.B. 1918), Sec. 1, eff. September 1, 2015.

SUBCHAPTER E. GENERAL LIGHTING REQUIREMENTS FOR VEHICLES

Sec. 547.321. HEADLAMPS REQUIRED. (a) A motor vehicle shall be equipped with at least two headlamps.

(b) At least one headlamp shall be mounted on each side of the front of the vehicle.

(c) Each headlamp shall be mounted at a height from 24 to 54 inches.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.3215. USE OF FEDERAL STANDARD. Unless specifically prohibited by this chapter, lighting, reflective devices, and associated equipment on a vehicle or motor vehicle must comply with:

- (1) the current federal standards in 49 C.F.R. Section 571.108; or
- (2) the federal standards in that section in effect, if any, at the time the vehicle or motor vehicle was manufactured.

Added by Acts 1997, 75th Leg., ch. 324, Sec. 1, eff. Sept. 1, 1997.

Sec. 547.322. TAILLAMPS REQUIRED. (a) Except as provided by Subsection (b), a motor vehicle, trailer, semitrailer, pole trailer,

or vehicle that is towed at the end of a combination of vehicles shall be equipped with at least two taillamps.

(b) A passenger car or truck that was manufactured or assembled before the model year 1960 shall be equipped with at least one taillamp.

(c) Taillamps shall be mounted on the rear of the vehicle:

(1) at a height from 15 to 72 inches; and

(2) at the same level and spaced as widely apart as practicable if a vehicle is equipped with more than one lamp.

(d) A taillamp shall emit a red light plainly visible at a distance of 1,000 feet from the rear of the vehicle.

(e) If vehicles are traveling in combination, only the taillamps on the rearmost vehicle are required to emit a light for the distance specified in Subsection (d).

(f) A taillamp or a separate lamp shall be constructed and mounted to emit a white light that:

(1) illuminates the rear license plate; and

(2) makes the plate clearly legible at a distance of 50 feet from the rear.

(g) A taillamp, including a separate lamp used to illuminate a rear license plate, must emit a light when a headlamp or auxiliary driving lamp is lighted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.323. STOPLAMPS REQUIRED. (a) Except as provided by Subsection (b), a motor vehicle, trailer, semitrailer, or pole trailer shall be equipped with at least two stoplamps.

(b) A passenger car manufactured or assembled before the model year 1960 shall be equipped with at least one stoplamp.

(c) A stoplamp shall be mounted on the rear of the vehicle.

(d) A stoplamp shall emit a red or amber light, or a color between red and amber, that is:

(1) visible in normal sunlight at a distance of at least 300 feet from the rear of the vehicle; and

(2) displayed when the vehicle service brake is applied.

(e) If vehicles are traveling in combination, only the stoplamps on the rearmost vehicle are required to emit a light for the distance specified in Subsection (d).

(f) A stoplamp may be included as a part of another rear lamp.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.324. TURN SIGNAL LAMPS REQUIRED. (a) Except as provided by Subsection (b), a motor vehicle, trailer, semitrailer, or pole trailer shall be equipped with electric turn signal lamps that indicate the operator's intent to turn by displaying flashing lights to the front and rear of a vehicle or combination of vehicles and on that side of the vehicle or combination toward which the turn is to be made.

(b) Subsection (a) does not apply to a passenger car or truck less than 80 inches wide manufactured or assembled before the model year 1960.

(c) Turn signal lamps:

(1) shall be mounted at the same level and spaced as widely apart as practicable on the front and on the rear of the vehicle; and

(2) may be included as a part of another lamp on the vehicle.

(d) A turn signal lamp shall emit:

(1) a white or amber light, or a color between white and amber, if the lamp is mounted on the front of the vehicle; or

(2) a red or amber light, or a color between red and amber, if the lamp is mounted on the rear of the vehicle.

(e) A turn signal lamp must be visible in normal sunlight at a distance of:

(1) at least 500 feet from the front and rear of the vehicle if the vehicle is at least 80 inches wide; and

(2) at least 300 feet from the front and rear of the vehicle if the vehicle is less than 80 inches wide.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.325. REFLECTORS REQUIRED. (a) Except as provided by Subchapter F, a motor vehicle, trailer, semitrailer, or pole trailer shall be equipped with at least two red reflectors on the rear of the vehicle. A red reflector may be included as a part of a taillamp.

(b) A reflector shall be:

- (1) mounted at a height from 15 to 60 inches; and
- (2) visible at night at all distances:
 - (A) from 100 to 600 feet when directly in front of lawful lower beams of headlamps; or
 - (B) from 100 to 350 feet when directly in front of lawful upper beams of headlamps if the vehicle was manufactured or assembled before January 1, 1972.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.326. MINIMUM LIGHTING EQUIPMENT REQUIRED. (a) A vehicle that is not specifically required to be equipped with lamps or other lighting devices shall be equipped at the times specified in Section 547.302(a) with at least one lamp that emits a white light visible at a distance of at least 1,000 feet from the front and:

- (1) two lamps that emit a red light visible at a distance of at least 1,000 feet from the rear; or
- (2) one lamp that emits a red light visible at a distance of at least 1,000 feet from the rear and two red reflectors visible when illuminated by the lawful lower beams of headlamps at all distances from 100 to 600 feet to the rear.

(b) This section also applies to an animal-drawn vehicle and a vehicle exempted from this chapter by Section 547.002.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.327. SPOTLAMPS PERMITTED. (a) A motor vehicle may be equipped with not more than two spotlamps.

(b) A spotlamp shall be aimed so that no part of the high-intensity portion of the beam strikes the windshield, window, mirror, or occupant of another vehicle in use.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.328. FOG LAMPS PERMITTED. (a) A motor vehicle may be equipped with not more than two fog lamps.

(b) A fog lamp shall be:

- (1) mounted on the front of the vehicle at a height from 12

to 30 inches; and

(2) aimed so that no part of the high-intensity portion of the beam from a lamp mounted to the left of center on a vehicle projects a beam of light at a distance of 25 feet that is higher than four inches below the level of the center of the lamp.

(c) Lighted fog lamps may be used with lower headlamp beams as specified by Section 547.333.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.329. AUXILIARY PASSING LAMPS PERMITTED. (a) A motor vehicle may be equipped with no more than two auxiliary passing lamps.

(b) An auxiliary passing lamp shall be mounted on the front of the vehicle at a height from 24 to 42 inches.

(c) An auxiliary passing lamp may be used with headlamps as specified by Section 547.333.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.330. AUXILIARY DRIVING LAMPS PERMITTED. (a) A motor vehicle may be equipped with no more than two auxiliary driving lamps.

(b) An auxiliary driving lamp shall be mounted on the front of the vehicle at a height from 16 to 42 inches.

(c) Auxiliary driving lamps may be used with headlamps as specified by Section 547.333.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.331. HAZARD LAMPS PERMITTED. (a) A vehicle may be equipped with lamps to warn other vehicle operators of a vehicular traffic hazard that requires unusual care in approaching, overtaking, or passing.

(b) The lamps shall be:

(1) mounted at the same level and spaced as widely apart as practicable on the front and on the rear of the vehicle; and

(2) visible at a distance of at least 500 feet in normal

sunlight.

(c) The lamps shall display simultaneously flashing lights that emit:

(1) a white or amber light, or a color between white and amber, if the lamp is mounted on the front of the vehicle; or

(2) a red or amber light, or a color between red and amber, if the lamp is mounted on the rear of the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.332. OTHER LAMPS PERMITTED. A motor vehicle may be equipped with:

(1) not more than two side cowl or fender lamps that emit an amber or white light without glare;

(2) not more than two running board courtesy lamps, one on each side of the vehicle, that emit an amber or white light without glare; and

(3) one or more backup lamps that:

(A) emit an amber or white light only when the vehicle is not moving forward; and

(B) may be displayed separately or in combination with another lamp.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.333. MULTIPLE-BEAM LIGHTING EQUIPMENT REQUIRED. (a) Unless provided otherwise, a headlamp, auxiliary driving lamp, auxiliary passing lamp, or combination of those lamps mounted on a motor vehicle, other than a motorcycle or motor-driven cycle:

(1) shall be arranged so that the operator can select at will between distributions of light projected at different elevations; and

(2) may be arranged so that the operator can select the distribution automatically.

(b) A lamp identified by Subsection (a) shall produce:

(1) an uppermost distribution of light or composite beam that is aimed and emits light sufficient to reveal a person or vehicle at a distance of at least 450 feet ahead during all conditions of loading; and

(2) a lowermost distribution of light or composite beam that:

(A) is aimed and emits light sufficient to reveal a person or vehicle at a distance of at least 150 feet ahead; and

(B) is aimed so that no part of the high-intensity portion of the beam on a vehicle that is operated on a straight, level road under any condition of loading projects into the eyes of an approaching vehicle operator.

(c) A person who operates a vehicle on a roadway or shoulder shall select a distribution of light or composite beam that is aimed and emits light sufficient to reveal a person or vehicle at a safe distance ahead of the vehicle, except that:

(1) an operator approaching an oncoming vehicle within 500 feet shall select:

(A) the lowermost distribution of light or composite beam, regardless of road contour or condition of loading; or

(B) a distribution aimed so that no part of the high-intensity portion of the lamp projects into the eyes of an approaching vehicle operator; and

(2) an operator approaching a vehicle from the rear within 300 feet may not select the uppermost distribution of light.

(d) A motor vehicle of a model year of 1948 or later, other than a motorcycle or motor-driven cycle, that has multiple-beam lighting equipment shall be equipped with a beam indicator that is:

(1) designed and located so that the lighted indicator is visible without glare to the vehicle operator; and

(2) lighted only when the uppermost distribution of light is in use.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.334. SINGLE-BEAM LIGHTING EQUIPMENT PERMITTED. (a) In lieu of the multiple-beam lighting equipment required by Section 547.333, a headlamp system that provides a single distribution of light and meets the requirements of Subsection (b) is permitted for:

(1) a farm tractor; or

(2) a motor vehicle manufactured and sold before September 4, 1948.

(b) The headlamp system specified by Subsection (a) shall:

(1) emit a light sufficient to reveal a person or vehicle at a distance of at least 200 feet; and

(2) be aimed so that no part of the high-intensity portion of the lamp projects a beam:

(A) higher than five inches below the level of the center of the lamp at a distance of 25 feet ahead; or

(B) higher than 42 inches above the ground at a distance of 75 feet ahead.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.335. ALTERNATIVE ROAD LIGHTING EQUIPMENT PERMITTED. In lieu of the multiple-beam or single-beam lighting equipment otherwise required by this subchapter, a motor vehicle that is operated at a speed of not more than 20 miles per hour under the conditions specified in Section 547.302(a) may be equipped with two lighted lamps:

(1) mounted on the front of the vehicle; and

(2) capable of revealing a person or vehicle 100 feet ahead.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. ADDITIONAL LIGHTING REQUIREMENTS FOR CERTAIN LARGE VEHICLES

Sec. 547.351. APPLICABILITY. The color, mounting, and visibility requirements in this subchapter apply only to equipment on a vehicle described by Section 547.352.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.352. ADDITIONAL LIGHTING EQUIPMENT REQUIREMENTS. In addition to other equipment required by this chapter:

(1) a bus, truck, trailer, or semitrailer that is at least 80 inches wide shall be equipped with:

(A) two clearance lamps on the front, one at each side;

(B) two clearance lamps on the rear, one at each side;

(C) four side marker lamps, one on each side at or near

the front and one on each side at or near the rear;

(D) four reflectors, one on each side at or near the front and one on each side at or near the rear; and

(E) hazard lamps that meet the requirements of Section 547.331;

(2) a bus or truck that is at least 30 feet long shall be equipped with hazard lamps that meet the requirements of Section 547.331;

(3) a trailer or semitrailer that is at least 30 feet long shall be equipped with:

(A) two side marker lamps, one centrally mounted on each side with respect to the length of the vehicle;

(B) two reflectors, one centrally mounted on each side with respect to the length of the vehicle; and

(C) hazard lamps that meet the requirements of Section 547.331;

(4) a pole trailer shall be equipped with:

(A) two side marker lamps, one at each side at or near the front of the load;

(B) one reflector at or near the front of the load;

(C) one combination marker lamp that:

(i) emits an amber light to the front and a red light to the rear and side; and

(ii) is mounted on the rearmost support for the load to indicate the maximum width of the trailer; and

(D) hazard lamps that meet the requirements of Section 547.331, if the pole trailer is at least 30 feet long or at least 80 inches wide;

(5) a truck-tractor shall be equipped with:

(A) two clearance lamps, one at each side on the front of the cab; and

(B) hazard lamps that meet the requirements of Section 547.331, if the truck-tractor is at least 30 feet long or at least 80 inches wide; and

(6) a vehicle at least 80 inches wide may be equipped with:

(A) not more than three front identification lamps without glare; and

(B) not more than three rear identification lamps without glare.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.353. COLOR REQUIREMENTS. (a) A clearance lamp, identification lamp, side marker lamp, or reflector mounted on the front, on the side near the front, or in the center of the vehicle must be or reflect amber.

(b) A clearance lamp, identification lamp, side marker lamp, or reflector mounted on the rear or the side near the rear of the vehicle must be or reflect red.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.354. MOUNTING REQUIREMENTS. (a) A reflector shall be mounted:

(1) at a height from 24 to 60 inches; or

(2) as high as practicable on the permanent structure of the vehicle if the highest part of the permanent structure is less than 24 inches.

(b) A rear reflector may be:

(1) included as a part of a taillamp if the reflector meets each other requirement of this subchapter; and

(2) mounted on each side of the bolster or load, if the vehicle is a pole trailer.

(c) A clearance lamp shall be mounted, if practicable, on the permanent structure of the vehicle to indicate the extreme height and width of the vehicle, except that:

(1) a clearance lamp on a truck-tractor shall be mounted to indicate the extreme width of the cab; and

(2) a front clearance lamp may be mounted at a height that indicates, as near as practicable, the extreme width of the trailer if mounting of the lamp as otherwise provided by this section would not indicate the extreme width of the trailer.

(d) A clearance lamp and side marker lamp may be mounted in combination if each lamp complies with the visibility requirements of Section 547.355.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.355. VISIBILITY REQUIREMENTS. (a) A clearance lamp, identification lamp, or side marker lamp shall be visible and recognizable under normal atmospheric conditions at all distances from 50 to 500 feet from the vehicle on the side, front, or rear where the lamp is mounted.

(b) A reflector required by this chapter mounted on a vehicle subject to this subchapter shall be visible from the rear, if a rear reflector, or from the applicable side, if a side reflector, at nighttime at all distances from 100 to 600 feet from the vehicle when the reflector is directly in front of:

- (1) lawful lower beams of headlamps; or
- (2) lawful upper beams of headlamps on a vehicle manufactured or assembled before January 1, 1972.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER G. ALTERNATIVE LIGHTING REQUIREMENTS FOR FARM TRACTORS, FARM EQUIPMENT, AND IMPLEMENTS OF HUSBANDRY

Sec. 547.371. GENERAL LIGHTING EQUIPMENT REQUIREMENTS. (a) Except as provided by Subsection (b), a farm tractor, self-propelled unit of farm equipment, or implement of husbandry shall be equipped with:

- (1) at least two headlamps that comply with Section 547.333, 547.334, or 547.335;
- (2) at least one red lamp visible at a distance of at least 1,000 feet from the rear and mounted as far to the left of the center of the vehicle as practicable;
- (3) at least two red reflectors visible at all distances from 100 to 600 feet from the rear when directly in front of lawful lower beams of headlamps; and
- (4) hazard lamps as described in Section 547.331, which shall be lighted and visible in normal sunlight at a distance of at least 1,000 feet from the front and rear.

(b) A farm tractor, self-propelled unit of farm equipment, or implement of husbandry manufactured or assembled on or before January 1, 1972, is required to be equipped as provided by Subsection (a) only at the times specified by Section 547.302(a), and hazard lamps are not required.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.372. LIGHTING REQUIREMENTS FOR COMBINATION VEHICLES.

(a) If a unit of farm equipment or implement of husbandry is towed by a farm tractor and the towed object or its load extends more than four feet to the rear of the tractor or obscures a light on the tractor, the towed object shall be equipped at the times specified by Section 547.302(a) with at least two rear red reflectors that are:

- (1) visible at all distances from 100 to 600 feet when directly in front of lawful lower beams of headlamps; and
- (2) mounted to indicate, as nearly as practicable, the extreme width of the vehicle or combination of vehicles.

(b) If a unit of farm equipment or implement of husbandry is towed by a farm tractor and extends more than four feet to the left of the centerline of the tractor, the towed object shall be equipped at the times specified by Section 547.302(a) with a front amber reflector that is:

- (1) visible at all distances from 100 to 600 feet when directly in front of lawful lower beams of headlamps; and
- (2) mounted to indicate, as nearly as practicable, the extreme left projection of the towed object.

(c) Reflective tape or paint may be used as an alternative to the reflectors required by this section if the alternative complies with the other requirements of this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER H. LIGHTING REQUIREMENTS IN SPECIAL CIRCUMSTANCES

Sec. 547.381. OBSTRUCTED LIGHTS ON COMBINATION VEHICLES. (a)

A motor vehicle when operated in combination with another vehicle is not required to display a lighted lamp, other than a taillamp, if the lamp is obscured because of its location by another vehicle in the combination of vehicles.

(b) Subsection (a) is not an exception for the lighting as provided by this chapter of:

- (1) front clearance lamps on the frontmost vehicle in the combination; or
- (2) rear lamps on the rearmost vehicle in the combination.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.382. LIGHTING EQUIPMENT ON PROJECTING LOADS. (a) A vehicle transporting a load that extends to the rear at least four feet beyond the bed or body of the vehicle shall display on the extreme end of the load at the times specified in Section 547.302(a):

(1) two red lamps visible at a distance of at least 500 feet from the rear;

(2) two red reflectors that indicate the maximum width and are visible at nighttime at all distances from 100 to 600 feet from the rear when directly in front of lawful lower beams of headlamps; and

(3) two red lamps, one on each side, that indicate the maximum overhang and are visible at a distance of at least 500 feet from the side.

(b) At all other times, a vehicle transporting a load that extends beyond the vehicle's sides or more than four feet beyond the vehicle's rear shall display red flags that:

(1) are at least 12 inches square;

(2) mark the extremities of the load; and

(3) are placed where a lamp is required by this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.383. LIGHTING REQUIREMENTS ON PARKED VEHICLES. (a) A vehicle, other than a motor-driven cycle, shall be equipped with at least one lamp, or a combination of lamps, that:

(1) emits a white or amber light visible at a distance of 1,000 feet from the front and a red light visible at a distance of 1,000 feet from the rear; and

(2) is mounted so that at least one lamp is installed as near as practicable to the side of the vehicle that is closest to passing traffic.

(b) A vehicle, other than a motor-driven cycle, that is parked or stopped on a roadway or shoulder at a time specified in Section 547.302(a) shall display a lamp that complies with Subsection (a).

(c) A vehicle that is lawfully parked on a highway is not required to display lights at night-time if there is sufficient light to reveal a person or vehicle on the highway at a distance of 1,000

feet.

(d) A lighted headlamp on a parked vehicle shall be dimmed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER I. PROVISIONS RELATING TO BRAKE REQUIREMENTS ON VEHICLES

Sec. 547.401. BRAKES REQUIRED. (a) Except as provided by Subsection (b), a motor vehicle, trailer, semitrailer, pole trailer, or combination of those vehicles shall be equipped with brakes that comply with this chapter.

(b) A trailer, semitrailer, or pole trailer is not required to have brakes if:

- (1) its gross weight is 4,500 pounds or less; or
- (2) its gross weight is heavier than 4,500 pounds but not heavier than 15,000 pounds, and it is drawn at a speed of not more than 30 miles per hour.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.402. OPERATION AND MAINTENANCE OF BRAKES. (a) Required brakes shall operate on each wheel of a vehicle except:

- (1) special mobile equipment;
- (2) a vehicle that is towed as a commodity when at least one set of the towed vehicle's wheels is on the roadway, if the combination of vehicles complies with the performance requirements of this chapter; and
- (3) a trailer, semitrailer, or pole trailer with a gross weight heavier than 4,500 pounds but not heavier than 15,000 pounds drawn at a speed of more than 30 miles per hour, if the brakes operate on both wheels of the rear axle.

(b) A truck or truck-tractor that has at least three axles is not required to have brakes on the front wheels, but must have brakes that:

- (1) operate on the wheels of one steerable axle if the vehicle is equipped with at least two steerable axles; and
- (2) comply with the performance requirements of this chapter.

(c) A trailer or semitrailer that has a gross weight of 15,000 pounds or less may use surge or inertia brake systems to satisfy the

requirements of Subsection (a).

(d) Brakes shall be maintained in good working order and adjusted to operate on wheels on each side of the vehicle as equally as practicable.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.403. SERVICE BRAKES REQUIRED. (a) A vehicle required to have brakes by this subchapter, other than special mobile equipment, shall be equipped with service brakes that:

(1) comply with the performance requirements of this subchapter; and

(2) are adequate to control the movement of the vehicle, including stopping and holding, under all loading conditions and when on any grade on which the vehicle is operated.

(b) A vehicle required to have brakes by this subchapter shall be equipped so that one control device operates the service brakes. This subsection does not prohibit an additional control device that may be used to operate brakes on a towed vehicle. A vehicle that tows another vehicle as a commodity when at least one set of the towed vehicle's wheels is on the roadway is not required to comply with this requirement unless the brakes on the towing and towed vehicles are designed to be operated by a single control on the towing vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.404. PARKING BRAKES REQUIRED. (a) A vehicle required to have brakes by this subchapter, other than a motorcycle or motor-driven cycle, shall be equipped with parking brakes adequate to hold the vehicle:

(1) on any grade on which the vehicle is operated;

(2) under all loading conditions; and

(3) on a surface free from snow, ice, or loose material.

(b) The parking brakes shall be:

(1) designed to operate continuously as required once applied, despite a leakage or an exhaustion of power source; and

(2) activated by the vehicle operator's muscular effort, by spring action, or by equivalent means.

(c) The parking brakes may be assisted by the service brakes or by another power source, unless a failure in the power source would prevent the parking brakes from operating as required by this section.

(d) The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with wheel brake assemblies may be used for the parking brakes and service brakes.

(e) If the means of applying the parking brakes and service brakes are connected, the brake system shall be constructed so that the failure of one part will not cause the vehicle to be without operative brakes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.405. EMERGENCY BRAKES REQUIRED. (a) A vehicle used to tow another vehicle equipped with air-controlled brakes shall be equipped with the following means, together or separate, for applying the trailer brakes in an emergency:

(1) an automatic device that applies the brakes to a fixed pressure from 20 to 45 pounds per square inch if the towing vehicle's air supply is reduced; and

(2) a manual device to apply and release the brakes that is readily operable by a person seated in the operator's seat and arranged so that:

(A) its emergency position or method of operation is clearly indicated; and

(B) its use does not prevent operation of the automatic brakes.

(b) In addition to the single control device required by Section 547.403, a vehicle used to tow another vehicle equipped with vacuum brakes shall be equipped with a second control device that:

(1) is used to operate the brakes on a towed vehicle in an emergency;

(2) is independent of brake air, hydraulic, or other pressure and independent of other controls, unless the braking system is arranged to automatically apply the towed vehicle's brakes if the pressure for the second control device on the towing vehicle fails; and

(3) is not required to provide modulated braking.

(c) Subsections (a) and (b) do not apply to a vehicle that tows another vehicle as a commodity when at least one set of wheels of the towed vehicle is on the roadway.

(d) A trailer, semitrailer, or pole trailer that is equipped with air or vacuum brakes or that has a gross weight heavier than 3,000 pounds shall be equipped with brakes that:

(1) operate on all wheels; and

(2) are promptly applied automatically and remain applied for at least 15 minutes in case of a breakaway from the towing vehicle.

(e) A motor vehicle used to tow a trailer, semitrailer, or pole trailer equipped with brakes shall be equipped with service brakes arranged so that, in case of a breakaway of the towed vehicle, the towing vehicle is capable of stopping by use of its service brakes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.406. BRAKE RESERVOIR OR RESERVE CAPACITY REQUIRED.

(a) A bus, truck, or truck-tractor equipped with air brakes shall be equipped with at least one reservoir that:

(1) is sufficient to ensure that the service brakes can be fully applied without lowering the reservoir pressure, if fully charged to the maximum pressure as regulated by the air compressor governor cut-out setting, by more than 20 percent; and

(2) has a means for readily draining accumulated oil or water.

(b) A truck with at least three axles that is equipped with vacuum brakes or a truck-tractor or truck used to tow a vehicle equipped with vacuum brakes shall be equipped with a reserve capacity or a vacuum reservoir sufficient to ensure that, with the reserve capacity or vacuum reservoir fully charged and with the engine stopped, the service brakes can be fully applied without depleting the vacuum supply by more than 40 percent.

(c) A motor vehicle, trailer, semitrailer, or pole trailer that is equipped with an air or vacuum reservoir or reserve capacity shall be equipped with a check valve or equivalent device to prevent depletion of the air or vacuum supply by failure or leakage.

(d) An air brake system installed on a trailer shall be

designed to prevent a backflow of air from the supply reservoir through the supply line.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.407. BRAKE WARNING DEVICES REQUIRED. (a) A bus, truck, or truck-tractor that uses air to operate its brakes or the brakes of a towed vehicle shall be equipped with:

(1) a warning signal, other than a pressure gauge, that is readily audible or visible to the vehicle operator and that shows when the air reservoir pressure is below 50 percent of the air compressor governor cut-out pressure; and

(2) a pressure gauge visible to the vehicle operator that shows in pounds per square inch the pressure available for braking.

(b) A truck-tractor or truck used to tow a vehicle equipped with vacuum brakes, or a truck with at least three axles that is equipped with vacuum brakes, shall be equipped with a warning signal, other than a gauge showing vacuum, that is readily audible or visible to the vehicle operator and that shows when the vacuum in the reservoir or reserve capacity is less than eight inches of mercury. This subsection does not apply to an operation in which a motor vehicle, trailer, or semitrailer is transported as a commodity when at least one set of the vehicle's wheels is on the roadway.

(c) If a vehicle required to be equipped with a warning device is equipped with air and vacuum power to operate its brakes or the brakes on a towed vehicle, the warning devices required may be combined into a single device that is not a pressure or vacuum gauge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.408. PERFORMANCE REQUIREMENTS FOR BRAKES. (a) A motor vehicle or combination of vehicles shall be equipped with service brakes capable of:

(1) developing a braking force that is not less than:

(A) 52.8 percent of the gross weight of the vehicle for a passenger vehicle; or

(B) 43.5 percent of the gross weight of the vehicle for a vehicle other than a passenger vehicle;

(2) decelerating to a stop from 20 miles per hour or less

at not less than:

- (A) 17 feet per second per second for a passenger vehicle; or
 - (B) 14 feet per second per second for other vehicles;
- and

(3) stopping from a speed of 20 miles per hour in a distance, measured from the location where the service brake pedal or control is activated, of not more than:

- (A) 25 feet for a passenger vehicle;
- (B) 30 feet for a motorcycle, motor-driven cycle, or single unit vehicle with a manufacturer's gross vehicle weight rating of 10,000 pounds or less;
- (C) 40 feet for:
 - (i) a single unit vehicle with a manufacturer's gross weight rating of more than 10,000 pounds;
 - (ii) a two-axle towing vehicle and trailer combination with a weight of 3,000 pounds or less;
 - (iii) a bus that does not have a manufacturer's gross weight rating; and
 - (iv) the combination of vehicles in an operation exempted by Section 547.407(b); and
- (D) 50 feet for other vehicles.

(b) A test for deceleration or stopping distance shall be performed on a dry, smooth, hard surface that:

- (1) is free of loose material; and
- (2) does not exceed plus or minus one percent grade.

(c) In this section, "passenger vehicle" means a vehicle that has a maximum seating capacity of 10 persons, including the operator, and that does not have a manufacturer's gross vehicle weight rating.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER J. PROVISIONS RELATING TO WARNING DEVICE REQUIREMENTS ON VEHICLES

Sec. 547.501. AUDIBLE WARNING DEVICES. (a) A motor vehicle shall be equipped with a horn in good working condition that emits a sound audible under normal conditions at a distance of at least 200 feet.

(b) A vehicle may not be equipped with and a person may not use

on a vehicle a siren, whistle, or bell unless the vehicle is:

(1) a commercial vehicle that is equipped with a theft alarm signal device arranged so that the device cannot be used as an ordinary warning signal; or

(2) an authorized emergency vehicle that is equipped with a siren, whistle, or bell that complies with Section 547.702.

(c) A motor vehicle operator shall use a horn to provide audible warning only when necessary to insure safe operation.

(d) A warning device, including a horn, may not emit an unreasonably loud or harsh sound or a whistle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.502. VISIBLE WARNING DEVICES REQUIRED. (a) Except as provided by Subsection (b), a person who operates, outside an urban district or on a divided highway, a truck, bus, or truck-tractor or a motor vehicle towing a house trailer shall carry in the vehicle:

(1) at daytime:

(A) at least two red flags at least 12 inches square;

and

(B) standards to support the flags; and

(2) at nighttime:

(A) at least three flares and at least three red-burning fusees;

(B) at least three red electric lanterns; or

(C) at least three portable red emergency reflectors.

(b) A person who operates an explosive cargo vehicle at nighttime:

(1) shall carry in the vehicle three red electric lanterns or three portable red emergency reflectors; and

(2) may not carry in the vehicle a flare, fusee, or signal produced by flame.

(c) A flare, electric lantern, or portable reflector must be visible and distinguishable at a distance of at least 600 feet at night under normal atmospheric conditions.

(d) A portable reflector unit must be designed and constructed to reflect a red light clearly visible at all distances from 100 to 600 feet under normal atmospheric conditions at night when directly in front of lawful lower beams of headlamps.

(e) A flare, fusee, electric lantern, portable reflector, or warning flag must be a type approved by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.503. DISPLAY OF HAZARD LAMPS. (a) The operator of a vehicle that is described by Subsection (b) and that is stopped on a roadway or shoulder shall immediately display vehicular hazard warning lamps that comply with Section 547.331, unless the vehicle:

- (1) is parked lawfully in an urban district;
- (2) is stopped lawfully to receive or discharge a passenger;
- (3) is stopped to avoid conflict with other traffic;
- (4) is stopped to comply with a direction of a police officer or an official traffic-control device; or
- (5) displays other warning devices as required by Sections 547.504-547.507.

(b) This section applies to a truck, bus, truck-tractor, trailer, semitrailer, or pole trailer at least 80 inches wide or at least 30 feet long.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.504. DISPLAY OF DEVICES WHEN LIGHTED LAMPS REQUIRED.

(a) Unless sufficient light exists to reveal a person or vehicle at a distance of 1,000 feet, the operator of a vehicle described by Section 547.503(b) or an explosive cargo vehicle shall display warning devices that comply with the requirements of Section 547.502:

- (1) when lighted lamps are required; and
- (2) under the conditions stated in this section.

(b) Except as provided by Section 547.506 and Subsection (d), the operator of a vehicle described by Section 547.503(b) or an explosive cargo vehicle that is disabled, or stopped for more than 10 minutes, on a roadway outside an urban district shall:

- (1) immediately place a lighted red electric lantern or a portable red emergency reflector at the traffic side of the vehicle in the direction of the nearest approaching traffic; and
- (2) place in the following order and as soon as practicable within 15 minutes one lighted red electric lamp or portable red

emergency reflector:

(A) in the center of the lane occupied by the vehicle toward approaching traffic approximately 100 feet from the vehicle; and

(B) in the center of the lane occupied by the vehicle in the opposite direction approximately 100 feet from the vehicle.

(c) Except as provided by Section 547.506 and Subsection (d), the operator of a vehicle described by Section 547.503(b) or an explosive cargo vehicle that is disabled, or stopped for more than 10 minutes, on a roadway of a divided highway shall place the warning devices described by Subsection (b):

(1) in the center of the lane occupied by the vehicle toward approaching traffic approximately 200 feet from the vehicle;

(2) in the center of the lane occupied by the vehicle toward approaching traffic approximately 100 feet from the vehicle; and

(3) at the traffic side approximately 10 feet from the vehicle in the direction of the nearest approaching traffic.

(d) As an alternative to the use of electric lamps or red reflectors and except as provided by Subsection (e), the operator of a vehicle described by Section 547.503(b) may display a lighted fusee to comply with the requirements of Subsection (b)(1) or liquid-burning flares to comply with the requirements of Subsections (b)(2) and (c). If the operator uses liquid-burning flares to comply with Subsection (b)(2), the operator shall also, after complying with Subsection (b)(2)(B), place a liquid-burning flare at the traffic side of the vehicle at least 10 feet in the direction of the nearest approaching traffic. If a fusee is used to comply with Subsection (b)(1), the operator shall comply with Subsection (b)(2) within the burning period of the fusee.

(e) The operator of an explosive cargo vehicle may not display as a warning device a flare, fusee, or signal produced by flame.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.505. DISPLAY OF DEVICES WHEN LIGHTED LAMPS ARE NOT REQUIRED. (a) The operator of a vehicle described by Section 547.503(b) or an explosive cargo vehicle that is disabled, or stopped for more than 10 minutes, on a roadway outside an urban district or

on a roadway of a divided highway when lighted lamps are not required shall display two red flags that comply with Section 547.502.

(b) If traffic on the roadway moves in two directions, one flag shall be placed approximately 100 feet to the rear and one approximately 100 feet ahead of the vehicle in the center of the lane occupied by the vehicle.

(c) If traffic on the roadway moves in one direction, one flag shall be placed approximately 100 feet and one approximately 200 feet to the rear of the vehicle in the center of the lane occupied by the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.506. DISPLAY OF DEVICES: VEHICLES OFF ROADWAY. The operator of a vehicle described by Section 547.503(b) or an explosive cargo vehicle that is stopped entirely on the shoulder at a time and in a place referred to in this subchapter shall place required warning devices on the shoulder as close as practicable to the edge of the roadway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.507. DISPLAY OF DEVICES WHEN VIEW OF VEHICLE OBSTRUCTED. Unless sufficient light exists to reveal a person or vehicle at a distance of 1,000 feet, the operator of a vehicle described by Section 547.503(b) or an explosive cargo vehicle that is disabled, or stopped for more than 10 minutes, within 500 feet of a curve, hillcrest, or other obstruction to view shall place the required warning device for the direction of the obstruction from 100 to 500 feet from the vehicle so as to provide ample warning to other traffic.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.508. OFFENSE RELATING TO WARNING DEVICES. (a) Except as provided by Subsection (b), a person may not remove, damage, destroy, misplace, or extinguish a warning device required under Sections 547.502-547.507 when the device is being displayed or used

as required.

(b) This section does not apply to:

- (1) an owner of a vehicle or the owner's authorized agent or employee; or
- (2) a peace officer acting in an official capacity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER K. PROVISIONS RELATING TO OTHER VEHICLE EQUIPMENT

Sec. 547.601. SAFETY BELTS REQUIRED. A motor vehicle required by Chapter 548 to be inspected shall be equipped with front safety belts if safety belt anchorages were part of the manufacturer's original equipment on the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.602. MIRRORS REQUIRED. A motor vehicle, including a motor vehicle used to tow another vehicle, shall be equipped with a mirror located to reflect to the operator a view of the highway for a distance of at least 200 feet from the rear of the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.603. WINDSHIELD WIPERS REQUIRED. A motor vehicle shall be equipped with a device that is operated or controlled by the operator of the vehicle and that cleans moisture from the windshield. The device shall be maintained in good working condition.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.604. MUFFLER REQUIRED. (a) A motor vehicle shall be equipped with a muffler in good working condition that continually operates to prevent excessive or unusual noise.

(b) A person may not use a muffler cutout, bypass, or similar device on a motor vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.605. EMISSION SYSTEMS REQUIRED. (a) The engine and power mechanism of a motor vehicle shall be equipped and adjusted to prevent the escape of excessive smoke or fumes.

(b) A motor vehicle or motor vehicle engine, of a model year after 1967, shall be equipped to prevent the discharge of crankcase emissions into the ambient atmosphere.

(c) The owner or operator of a motor vehicle or motor vehicle engine, of a model year after 1967, that is equipped with an exhaust emission system:

(1) shall maintain the system in good working condition;

(2) shall use the system when the motor vehicle or motor vehicle engine is operated; and

(3) may not remove the system or a part of the system or intentionally make the system inoperable in this state, unless the owner or operator removes the system or part to install another system or part intended to be equally effective in reducing atmospheric emissions.

(d) Except when travel conditions require the downshifting or use of lower gears to maintain reasonable momentum, a person commits an offense if the person operates, or as an owner knowingly permits another person to operate, a vehicle that emits:

(1) visible smoke for 10 seconds or longer; or

(2) visible smoke that remains suspended in the air for 10 seconds or longer before fully dissipating.

(e) An offense under this section is a misdemeanor punishable by a fine of not less than \$1 and not more than \$350 for each violation. If a person has previously been convicted of an offense under this section, an offense under this section is a misdemeanor punishable by a fine of not less than \$200 and not more than \$1,000 for each violation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1075, Sec. 6, eff. Sept. 1, 2001.

Sec. 547.606. SAFETY GUARDS OR FLAPS REQUIRED. (a) A road tractor, truck, trailer, truck-tractor in combination with a semitrailer, or semitrailer in combination with a towing vehicle that

has at least four tires or at least two super single tires on the rearmost axle of the vehicle or the rearmost vehicle in the combination shall be equipped with safety guards or flaps that:

- (1) are of a type prescribed by the department; and
- (2) are located and suspended behind the rearmost wheels of

the vehicle or the rearmost vehicle in the combination within eight inches of the surface of the highway.

(b) This section does not apply to a truck-tractor operated alone or a pole trailer.

(c) In this section, "super single tire" means a wide-base, single tire that may be used in place of two standard tires on the same axle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 752 (H.B. 1330), Sec. 1, eff. September 1, 2011.

Sec. 547.607. FIRE EXTINGUISHER REQUIRED. A school bus or a motor vehicle that transports passengers for hire or lease shall be equipped with at least one quart of chemical-type fire extinguisher in good condition and located for immediate use.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.608. SAFETY GLAZING MATERIAL REQUIRED. (a) Except as provided by Subsection (b), a person who sells or registers a new passenger-type motor vehicle, including a passenger bus and school bus, shall equip the vehicle doors, windows, and windshield with safety glazing material of a type approved by the department.

(b) The requirements of Subsection (a) do not apply to a glazing material in a compartment of a truck, including a truck-tractor, that is not designed and equipped for a person to ride in.

(c) A person may not replace or require the replacement of glass in a door, window, or windshield of any motor vehicle if the replacement is not made with safety glazing material.

(d) A person who sells or attaches to a motor vehicle a camper manufactured or assembled after January 1, 1972, shall equip the camper doors and windows with safety glazing material of a type

approved by the department. In this subsection "camper" means a structure designed to:

- (1) be loaded on or attached to a motor vehicle; and
- (2) provide temporary living quarters for recreation, travel, or other use.

(e) A person who sells imperfect safety glass for a door, window, or windshield of a motor vehicle shall:

- (1) label the glass "second," "imperfect," or by a similar term in red letters at least one inch in size to indicate to the consumer the quality of the glass;
- (2) orally notify the consumer of each imperfection and the possible result of using imperfect glass; and
- (3) deliver written notice at the time of purchase notifying the consumer of each imperfection and the possible result of using imperfect glass.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.609. REQUIRED LABEL FOR SUNSCREENING DEVICES. A sunscreening device must have a label that:

- (1) is legible;
- (2) contains information required by the department on light transmission and luminous reflectance of the device;
- (3) if the device is placed on or attached to a windshield or a side or rear window, states that the light transmission of the device is consistent with Section 547.613(b)(1) or (2), as applicable; and
- (4) is permanently installed between the material and the surface to which the material is applied.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 750 (S.B. 589), Sec. 1, eff. September 1, 2009.

Sec. 547.610. SAFE AIR-CONDITIONING EQUIPMENT REQUIRED; SALE OF NONCOMPLYING VEHICLE. (a) Air-conditioning equipment:

- (1) shall be manufactured, installed, and maintained to ensure the safety of the vehicle occupants and the public; and

(2) may not contain any refrigerant that is flammable or is toxic to persons unless the refrigerant is included in the list published by the United States Environmental Protection Agency as a safe alternative motor vehicle air conditioning substitute for chlorofluorocarbon-12, pursuant to 42 U.S.C. Section 7671k(c).

(b) A person may not possess or offer for sale, sell, or equip a motor vehicle with air-conditioning equipment that does not comply with the requirements of this section and Section 547.103.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 282 (S.B. 2019), Sec. 1, eff. May 30, 2009.

Sec. 547.611. USE OF CERTAIN VIDEO EQUIPMENT AND TELEVISION RECEIVERS. (a) A motor vehicle may be equipped with video receiving equipment, including a television, a digital video disc player, a videocassette player, or similar equipment, only if the equipment is located so that the video display is not visible from the operator's seat unless the vehicle's transmission is in park or the vehicle's parking brake is applied.

(b) A motor vehicle specially designed as a mobile unit used by a licensed television station may have video receiving equipment located so that the video display is visible from the operator's side, but the receiver may be used only when the vehicle is stopped.

(c) This section does not prohibit the use of:

(1) equipment used:

(A) exclusively for receiving digital information for commercial purposes;

(B) exclusively for a safety or law enforcement purpose, if each installation is approved by the department;

(C) in a remote television transmission truck; or

(D) exclusively for monitoring the performance of equipment installed on a vehicle used for safety purposes in connection with the operations of a natural gas, water, or electric utility; or

(2) a monitoring device that:

(A) produces an electronic display; and

(B) is used exclusively in conjunction with a mobile

navigation system installed in the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.117(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 20, Sec. 1, 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 942 (H.B. 3832), Sec. 1, eff. June 15, 2007.

Sec. 547.612. RESTRICTIONS ON USE AND SALE OF TIRES. (a) A solid rubber tire used on a vehicle must have rubber on the traction surface that extends above the edge of the flange of the periphery.

(b) A person may not operate or move a motor vehicle, trailer, or semitrailer that has a metal tire in contact with the roadway, unless:

(1) the vehicle is a farm wagon or farm trailer that has a gross weight of less than 5,000 pounds; and

(2) the owner is transporting farm products to market, for processing, or from farm to farm.

(c) A tire used on a moving vehicle may not have on its periphery a block, stud, flange, cleat, or spike or other protuberance of a material other than rubber that projects beyond the tread of the traction surface, unless the protuberance:

(1) does not injure the highway; or

(2) is a tire chain of reasonable proportion that is used as required for safety because of a condition that might cause the vehicle to skid.

(d) The Texas Transportation Commission and a local authority within its jurisdiction may issue a special permit that authorizes a person to operate a tractor or traction engine that has movable tracks with transverse corrugations on the periphery or a farm tractor or other farm machinery.

(e) A person commits an offense if the person offers for sale or sells a private passenger automobile tire that is regrooved. An offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$2,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.613. RESTRICTIONS ON WINDOWS. (a) Except as provided by Subsection (b), a person commits an offense that is a misdemeanor:

(1) if the person operates a motor vehicle that has an object or material that is placed on or attached to the windshield or side or rear window and that obstructs or reduces the operator's clear view; or

(2) if a person, including an installer or manufacturer, places on or attaches to the windshield or side or rear window of a motor vehicle a transparent material that alters the color or reduces the light transmission.

(a-1) A person in the business of placing or attaching transparent material that alters the color or reduces the light transmission to the windshield or side or rear window of a motor vehicle commits a misdemeanor punishable by a fine not to exceed \$1,000 if the person:

(1) places or attaches such transparent material to the windshield or side or rear window of a motor vehicle; and

(2) does not install a label that complies with Section 547.609 between the transparent material and the windshield or side or rear window of the vehicle, as applicable.

(b) Subsection (a) does not apply to:

(1) a windshield that has a sunscreening device that:

(A) in combination with the windshield has a light transmission of 25 percent or more;

(B) in combination with the windshield has a luminous reflectance of 25 percent or less;

(C) is not red, blue, or amber; and

(D) does not extend downward beyond the AS-1 line or more than five inches from the top of the windshield, whichever is closer to the top of the windshield;

(2) a wing vent or a window that is to the left or right of the vehicle operator if the vent or window has a sunscreening device that in combination with the vent or window has:

(A) a light transmission of 25 percent or more; and

(B) a luminous reflectance of 25 percent or less;

(2-a) a side window that is to the rear of the vehicle operator;

(3) a rear window, if the motor vehicle is equipped with an outside mirror on each side of the vehicle that reflects to the vehicle operator a view of the highway for a distance of at least 200

feet from the rear;

- (4) a rearview mirror;
- (5) an adjustable nontransparent sun visor that is mounted in front of a side window and not attached to the glass;
- (6) a direction, destination, or termination sign on a passenger common carrier motor vehicle, if the sign does not interfere with the vehicle operator's view of approaching traffic;
- (7) a rear window wiper motor;
- (8) a rear trunk lid handle or hinge;
- (9) a luggage rack attached to the rear trunk;
- (10) a side window that is to the rear of the vehicle operator on a multipurpose vehicle;
- (11) a window that has a United States, state, or local certificate placed on or attached to it as required by law;
- (12) a motor vehicle that is not registered in this state;
- (13) a window that complies with federal standards for window materials, including a factory-tinted or a pretinted window installed by the vehicle manufacturer, or a replacement window meeting the specifications required by the vehicle manufacturer;
- (14) a vehicle that is:
 - (A) used regularly to transport passengers for a fee; and
 - (B) authorized to operate under license or permit by a local authority;
- (15) a vehicle that is maintained by a law enforcement agency and used for law enforcement purposes; or
- (16) a commercial motor vehicle as defined by Section 644.001.

(c) A manufacturer shall certify to the department that the sunscreening device made or assembled by the manufacturer complies with the light transmission and luminous reflectance specifications established by Subsection (b) for suncreening devices in combination with a window.

(d) The department may determine that a window that has a sunscreening device is exempt under Subsection (b)(2) if the light transmission or luminous reflectance varies by no more than three percent from the standard established in that subsection.

(e) It is a defense to prosecution under Subsection (a) that the defendant or a passenger in the vehicle at the time of the violation is required for a medical reason to be shielded from direct

rays of the sun.

(f) It is not an offense under this section for a person to offer for sale or sell a motor vehicle with a windshield or window that does not comply with this section.

(g) In this section:

(1) "Installer" means a person who fabricates, laminates, or tempers a safety glazing material to incorporate, during the installation process, the capacity to reflect light or reduce light transmission.

(2) "Manufacturer" means a person who:

(A) manufactures or assembles a sunscreening device;

or

(B) fabricates, laminates, or tempers safety glazing material to incorporate, during the manufacturing process, the capacity to reflect light or reduce light transmission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.118(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 136, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 368 (S.B. 329), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 750 (S.B. 589), Sec. 2, eff. September 1, 2009.

Sec. 547.614. RESTRICTIONS ON AIRBAGS. (a) In this section, "counterfeit airbag" means an airbag that does not meet all applicable federal safety regulations for an airbag designed to be installed in a vehicle of a particular make, model, and year.

(a-1) A person commits an offense if the person knowingly:

(1) installs or purports to install an airbag in a vehicle;

and

(2) does not install an airbag or installs a counterfeit airbag.

(a-2) A person commits an offense if the person:

(1) makes or sells a counterfeit airbag to be installed in a motor vehicle;

(2) intentionally alters an airbag that is not counterfeit in a manner that causes the airbag to not meet all applicable federal

safety regulations for an airbag designed to be installed in a vehicle of a particular make, model, and year;

(3) represents to another person that a counterfeit airbag installed in a motor vehicle is not counterfeit; or

(4) causes another person to violate Subsection (a-1) or Subdivision (1), (2), or (3) or assists a person in violating Subsection (a-1) or Subdivision (1), (2), or (3).

(b) Except as provided by Subsections (c), (d), and (e), an offense under this section is a state jail felony.

(c) An offense under this section is a felony of the third degree if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section.

(d) An offense under this section is a felony of the second degree if it is shown on the trial of the offense that as a result of the offense an individual suffered bodily injury.

(e) An offense under this section is a felony of the first degree if it is shown on the trial of the offense that the offense resulted in the death of a person.

Added by Acts 2001, 77th Leg., ch. 910, Sec. 3, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 269 (H.B. 71), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 843 (H.B. 38), Sec. 1, eff. September 1, 2013.

Sec. 547.615. RECORDING DEVICES. (a) In this section:

(1) "Owner" means a person who:

(A) has all the incidents of ownership of a motor vehicle, including legal title, regardless of whether the person lends, rents, or creates a security interest in the vehicle;

(B) is entitled to possession of a motor vehicle as a purchaser under a security agreement; or

(C) is entitled to possession of a motor vehicle as a lessee under a written lease agreement if the agreement is for a period of not less than three months.

(2) "Recording device" means a feature that is installed by the manufacturer in a motor vehicle and that does any of the following for the purpose of retrieving information from the vehicle

after an accident in which the vehicle has been involved:

- (A) records the speed and direction the vehicle is traveling;
- (B) records vehicle location data;
- (C) records steering performance;
- (D) records brake performance, including information on whether brakes were applied before an accident;
- (E) records the driver's safety belt status; or
- (F) transmits information concerning the accident to a central communications system when the accident occurs.

(b) A manufacturer of a new motor vehicle that is sold or leased in this state and that is equipped with a recording device shall disclose that fact in the owner's manual of the vehicle.

(c) Information recorded or transmitted by a recording device may not be retrieved by a person other than the owner of the motor vehicle in which the recording device is installed except:

- (1) on court order;
- (2) with the consent of the owner for any purpose, including for the purpose of diagnosing, servicing, or repairing the motor vehicle;
- (3) for the purpose of improving motor vehicle safety, including for medical research on the human body's reaction to motor vehicle accidents, if the identity of the owner or driver of the vehicle is not disclosed in connection with the retrieved information; or
- (4) for the purpose of determining the need for or facilitating emergency medical response in the event of a motor vehicle accident.

(d) For information recorded or transmitted by a recording device described by Subsection (a)(2)(B), a court order may be obtained only after a showing that:

- (1) retrieval of the information is necessary to protect the public safety; or
- (2) the information is evidence of an offense or constitutes evidence that a particular person committed an offense.

(e) For the purposes of Subsection (c)(3):

- (1) disclosure of a motor vehicle's vehicle identification number with the last six digits deleted or redacted is not disclosure of the identity of the owner or driver; and
- (2) retrieved information may be disclosed only:

(A) for the purposes of motor vehicle safety and medical research communities to advance the purposes described in Subsection (c)(3); or

(B) to a data processor solely for the purposes described in Subsection (c)(3).

(f) If a recording device is used as part of a subscription service, the subscription service agreement must disclose that the device may record or transmit information as described by Subsection (a)(2). Subsection (c) does not apply to a subscription service under this subsection.

Added by Acts 2005, 79th Leg., Ch. 910 (H.B. 160), Sec. 1, eff. September 1, 2006.

Sec. 547.616. RADAR INTERFERENCE DEVICES; OFFENSE. (a) In this section, "radar interference device" means a device, a mechanism, an instrument, or equipment that is designed, manufactured, used, or intended to be used to interfere with, scramble, disrupt, or otherwise cause to malfunction a radar or laser device used to measure the speed of a motor vehicle by a law enforcement agency of this state or a political subdivision of this state, including a "radar jamming device," "jammer," "scrambler," or "diffuser." The term does not include a ham radio, band radio, or similar electronic device.

(b) A person, other than a law enforcement officer in the discharge of the officer's official duties, may not use, attempt to use, install, operate, or attempt to operate a radar interference device in a motor vehicle operated by the person.

(c) A person may not purchase, sell, or offer for sale a radar interference device to be used in a manner described by Subsection (b).

(d) A person who violates this section commits an offense. An offense under this subsection is a Class C misdemeanor.

Added by Acts 2011, 82nd Leg., R.S., Ch. 739 (H.B. 1116), Sec. 1, eff. September 1, 2011.

Sec. 547.617. MOTORCYCLE FOOTRESTS AND HANDHOLDS REQUIRED. (a) A motorcycle that is designed to carry more than one person must be

equipped with footrests and handholds for use by the passenger.

(b) This section does not apply to an autocycle as defined by Section 501.008 or a motorcycle as defined by Section 521.001(a)(6-a).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1111 (H.B. 3838), Sec. 4, eff. January 1, 2015.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 67 (S.B. 449), Sec. 6, eff. May 22, 2015.

**SUBCHAPTER L. ADDITIONAL EQUIPMENT REQUIREMENTS FOR SCHOOL BUSES,
AUTHORIZED EMERGENCY VEHICLES, AND SLOW-MOVING VEHICLES**

Sec. 547.701. ADDITIONAL EQUIPMENT REQUIREMENTS FOR SCHOOL BUSES AND OTHER BUSES USED TO TRANSPORT SCHOOLCHILDREN. (a) A school bus shall be equipped with:

(1) a convex mirror or other device that reflects to the school bus operator a clear view of the area immediately in front of the vehicle that would otherwise be hidden from view; and

(2) signal lamps that:

(A) are mounted as high and as widely spaced laterally as practicable;

(B) display four alternately flashing red lights, two located on the front at the same level and two located on the rear at the same level; and

(C) emit a light visible at a distance of 500 feet in normal sunlight.

(b) A school bus may be equipped with:

(1) rooftop warning lamps:

(A) that conform to and are placed on the bus in accordance with specifications adopted under Section 34.002, Education Code; and

(B) that are operated under rules adopted by the school district; and

(2) movable stop arms:

(A) that conform to regulations adopted under Section 34.002, Education Code; and

(B) that may be operated only when the bus is stopped to load or unload students.

(c) When a school bus is being stopped or is stopped on a highway to permit students to board or exit the bus, the operator of the bus shall activate all flashing warning signal lights and other equipment on the bus designed to warn other drivers that the bus is stopping to load or unload children. A person may not operate such a light or other equipment except when the bus is being stopped or is stopped on a highway to permit students to board or exit the bus.

(d) The exterior of a school bus may not bear advertising or another paid announcement directed at the public if the advertising or announcement distracts from the effectiveness of required safety warning equipment. The department shall adopt rules to implement this subsection. A school bus that violates this section or rules adopted under this section shall be placed out of service until it complies.

Text of subsection effective September 1, 2009, in accordance with Acts 2009, 81st Leg., R.S., Ch. 1328, Sec. 90.

(e) In this subsection, "bus" includes a school bus and a school activity bus. A bus operated by or contracted for use by a school district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This subsection applies to:

- (1) each bus purchased by a school district on or after September 1, 2010, for the transportation of schoolchildren; and
- (2) each school-chartered bus contracted for use by a school district on or after September 1, 2011, for the transportation of schoolchildren.

(f) A school district is required to comply with Subsection (e) only to the extent that the legislature has appropriated money for the purpose of reimbursing school districts for expenses incurred in complying with Subsection (e).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1438, Sec. 12, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 183, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 259 (H.B. 323), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 259 (H.B. 323), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1328 (H.B. 3646), Sec. 90(c),

eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 451 (S.B. 1610), Sec. 1, eff. September 1, 2011.

Sec. 547.7011. ADDITIONAL EQUIPMENT REQUIREMENTS FOR OTHER BUSES. (a) A bus, other than a school bus, that provides public transportation and that was acquired on or after September 1, 1997, shall be equipped with two or more hazard lamps that:

- (1) are mounted at the same level on the rear of the bus;
- (2) are visible at a distance of 500 feet in normal

sunlight;

- (3) flash; and
- (4) emit amber light.

(b) An operator of a bus to which this section applies shall activate the hazard lamps if the bus stops to load or unload a person under 18 years of age.

(c) A bus to which this section applies must bear a sign on the rear of the bus stating: "Caution--children may be exiting".

Added by Acts 1997, 75th Leg., ch. 1131, Sec. 1, eff. Sept. 1, 1997.

Sec. 547.7012. REQUIREMENTS FOR MULTIFUNCTION SCHOOL ACTIVITY BUSES. A multifunction school activity bus may not be painted National School Bus Glossy Yellow.

Added by Acts 2007, 80th Leg., R.S., Ch. 923 (H.B. 3190), Sec. 6, eff. September 1, 2007.

Sec. 547.7015. RULES RELATING TO SCHOOL BUSES. (a) The department shall adopt and enforce rules governing the design, color, lighting and other equipment, construction, and operation of a school bus for the transportation of schoolchildren that is:

- (1) owned and operated by a school district in this state;

or

- (2) privately owned and operated under a contract with a school district in this state.

(b) In adopting rules under this section, the department shall emphasize:

- (1) safety features; and
- (2) long-range, maintenance-free factors.

(c) Rules adopted under this section:

- (1) apply to each school district, the officers and employees of a district, and each person employed under contract by a school district; and
- (2) shall by reference be made a part of any contract that is entered into by a school district in this state for the transportation of schoolchildren on a privately owned school bus.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.119(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 309, Sec. 9.02, eff. June 18, 2003.

Sec. 547.702. ADDITIONAL EQUIPMENT REQUIREMENTS FOR AUTHORIZED EMERGENCY VEHICLES. (a) An authorized emergency vehicle may be equipped with a siren, exhaust whistle, or bell:

- (1) of a type approved by the department; and
- (2) that emits a sound audible under normal conditions at a distance of at least 500 feet.

(b) The operator of an authorized emergency vehicle shall use the siren, whistle, or bell when necessary to warn other vehicle operators or pedestrians of the approach of the emergency vehicle.

(c) Except as provided by this section, an authorized emergency vehicle shall be equipped with signal lamps that:

- (1) are mounted as high and as widely spaced laterally as practicable;
- (2) display four alternately flashing red lights, two located on the front at the same level and two located on the rear at the same level; and
- (3) emit a light visible at a distance of 500 feet in normal sunlight.

(d) A private vehicle operated by a volunteer firefighter responding to a fire alarm or a medical emergency may, but is not required to, be equipped with signal lamps that comply with the requirements of Subsection (c).

(e) A private vehicle operated by a volunteer firefighter responding to a fire alarm or a medical emergency may be equipped with a signal lamp that is temporarily attached to the vehicle roof

and flashes a red light visible at a distance of at least 500 feet in normal sunlight.

(f) A police vehicle may, but is not required to, be equipped with signal lamps that comply with Subsection (c).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 547.703. ADDITIONAL EQUIPMENT REQUIREMENTS FOR SLOW-MOVING VEHICLES. (a) Except as provided by Subsection (b), a slow-moving vehicle shall display a slow-moving-vehicle emblem that:

(1) has a reflective surface designed to be clearly visible in daylight or at night from the light of standard automobile headlamps at a distance of at least 500 feet;

(2) is mounted base down on the rear of the vehicle at a height from three to five feet above the road surface; and

(3) is maintained in a clean, reflective condition.

(b) Subsection (a) does not apply to a vehicle that is used in construction or maintenance work and is traveling in a construction area that is marked as required by the Texas Transportation Commission.

(c) If a motor vehicle displaying a slow-moving-vehicle emblem tows machinery, including an implement of husbandry, and the visibility of the emblem is not obstructed, the towed unit is not required to display a slow-moving-vehicle emblem.

(d) A golf cart that is operated at a speed of not more than 25 miles per hour is required to display a slow-moving-vehicle emblem when it is operated on a public highway, as defined by Section 502.001, under Section 551.403 or 551.404.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1136, Sec. 12(2), eff. September 1, 2009.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 9, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 12(2), eff. September 1, 2009.

SUBCHAPTER M. ADDITIONAL OR ALTERNATIVE EQUIPMENT REQUIREMENTS FOR

MOTORCYCLES AND MOTOR-DRIVEN CYCLES

Sec. 547.801. LIGHTING EQUIPMENT. (a) A motorcycle, including a motor-driven cycle, shall be equipped with:

(1) not more than two headlamps mounted at a height from 24 to 54 inches;

(2) at least one taillamp mounted at a height from 20 to 72 inches;

(3) a taillamp or separate lamp to illuminate the rear license plate that complies with the requirements of Sections 547.322(f) and (g);

(4) at least one stoplamp that complies with the requirements of Section 547.323(d); and

(5) at least one rear red reflector that complies with the requirements of Section 547.325(b) and may be included as a part of the taillamp.

(b) A motorcycle, other than a motor-driven cycle, shall be equipped with multiple-beam lighting equipment that produces:

(1) an uppermost distribution of light that reveals a person or vehicle at a distance of at least 300 feet ahead; and

(2) a lowermost distribution of light that:

(A) reveals a person or vehicle at a distance of at least 150 feet ahead; and

(B) is aimed so that no part of the high-intensity portion of the beam on the motorcycle that is on a straight and level road under any condition of loading projects into the eyes of an approaching vehicle operator.

(c) A motor-driven cycle shall be equipped with:

(1) multiple-beam lighting equipment that complies with the requirements of Subsection (b); or

(2) single-beam lighting equipment that:

(A) emits light sufficient to reveal a person or vehicle:

(i) at a distance of at least 100 feet when the cycle is operated at a speed less than 25 miles per hour;

(ii) at a distance of at least 200 feet when the cycle is operated at a speed of 25 miles per hour or more; and

(iii) at a distance of at least 300 feet when the cycle is operated at a speed of 35 miles per hour or more; and

(B) is aimed so that no part of the high-intensity portion of the beam from the lamp on a loaded cycle projects a beam

higher than the level center of the lamp for a distance of 25 feet ahead.

(d) A motorcycle may not be operated at any time unless at least one headlamp on the motorcycle is illuminated. This subsection does not apply to a motorcycle manufactured before the model year 1975.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 782, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1022, Sec. 1, eff. Sept. 1, 1999.

Sec. 547.802. BRAKE EQUIPMENT. (a) If a motorcycle, including a motor-driven cycle, complies with the performance requirements of Section 547.408, brakes are not required on the wheel of a sidecar attached to the cycle.

(b) If a motor-driven cycle complies with the performance standards of Section 547.408, brakes are not required on the front wheel of the cycle.

(c) The director may require an inspection of a motor-driven cycle braking system and may disapprove a system that:

(1) does not comply with the brake performance requirements in Section 547.408; or

(2) is not designed or constructed to ensure reasonable and reliable performance during actual use.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 548. COMPULSORY INSPECTION OF VEHICLES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 548.001. DEFINITIONS. In this chapter:

(1) "Commercial motor vehicle" means a self-propelled or towed vehicle, other than a farm vehicle with a gross weight, registered weight, or gross weight rating of less than 48,000 pounds, that is used on a public highway to transport passengers or cargo if:

(A) the vehicle, including a school activity bus as defined in Section 541.201, or combination of vehicles has a gross weight, registered weight, or gross weight rating of more than 26,000 pounds;

(B) the vehicle, including a school activity bus as

defined in Section 541.201, is designed or used to transport more than 15 passengers, including the driver; or

(C) the vehicle is used to transport hazardous materials in a quantity requiring placarding by a regulation issued under the Hazardous Materials Transportation Act (49 U.S.C. Section 5101 et seq.).

(2) "Commission" means the Public Safety Commission.

(3) "Conservation commission" means the Texas Commission on Environmental Quality.

(4) "Department" means the Department of Public Safety.

(5) "Farm vehicle" has the meaning assigned by the federal motor carrier safety regulations.

(6) "Federal motor carrier safety regulation" has the meaning assigned by Section 644.001.

(7) "Inspection station" means a facility certified to conduct inspections of vehicles under this chapter.

(8) "Inspector" means an individual certified to conduct inspections of vehicles under this chapter.

(9) "Nonattainment area" means an area so designated within the meaning of Section 107(d) of the Clean Air Act (42 U.S.C. Section 7407).

(10) "Vehicle inspection report" means a report issued by an inspector or an inspection station for a vehicle that indicates whether the vehicle has passed the safety and, if applicable, emissions inspections required by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.120, 30.122(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1061, Sec. 17, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1069, Sec. 4, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 663, Sec. 4, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 359, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 16.01, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 323 (H.B. [2565](#)), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. [2305](#)), Sec. 17, eff. March 1, 2015.

Sec. 548.002. DEPARTMENT RULES. The department may adopt rules to administer and enforce this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 548.003. DEPARTMENT CERTIFICATION AND SUPERVISION OF INSPECTION STATIONS. (a) The department may certify inspection stations to carry out this chapter and may instruct and supervise the inspection stations and mechanics for the inspection of vehicles and equipment subject to this chapter.

(b) The department shall certify at least one inspection station for each county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 548.004. DEPARTMENT CERTIFICATION OF INSPECTION STATIONS FOR POLITICAL SUBDIVISIONS AND STATE AGENCIES. (a) The department may certify a vehicle maintenance facility owned and operated by a political subdivision or agency of this state as an inspection station.

(b) An inspection station certified under this section is subject to the requirements of this chapter applicable to another inspection station, except as otherwise provided by this chapter.

(c) The facility may inspect only a vehicle owned by the political subdivision or state agency.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. [2305](#)), Sec. 18, eff. March 1, 2015.

Sec. 548.005. INSPECTION ONLY BY STATE-CERTIFIED AND SUPERVISED INSPECTION STATION. A compulsory inspection under this chapter may be made only by an inspection station, except that the department may:

(1) permit inspection to be made by an inspector under terms and conditions the department prescribes;

(2) authorize the acceptance in this state of a certificate

of inspection and approval issued in another state having a similar inspection law; and

(3) authorize the acceptance in this state of a certificate of inspection and approval issued in compliance with 49 C.F.R. Part 396 to a motor bus, as defined by Section 502.001, that is registered in this state but is not domiciled in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.09, eff. September 1, 2009.

Sec. 548.006. ADVISORY COMMITTEE. (a) An advisory committee consisting of nine members shall:

(1) advise the conservation commission and the department on the conservation commission's and department's rules relating to the operation of the vehicle inspection program under this chapter;

(2) make recommendations to the conservation commission and the department relating to the content of rules involving the operation of the vehicle inspection program; and

(3) perform any other advisory function requested by the conservation commission or the department in administering this chapter and Chapter 382, Health and Safety Code.

(b) The members of the commission shall appoint seven members of the committee as follows:

(1) four persons to represent inspection station owners and operators, with two of those persons from counties conducting vehicle emissions testing under Subchapter F and two of those persons from counties conducting safety only inspections;

(2) one person to represent manufacturers of motor vehicle emissions inspection devices;

(3) one person to represent independent vehicle equipment repair technicians; and

(4) one person to represent the public interest.

(c) The presiding officer of the conservation commission and the presiding officer of the commission shall each appoint one member of the committee who will alternate serving as the presiding officer of the committee.

(d) Committee members serve staggered three-year terms.

(e) A vacancy on the committee is filled in the same manner as other appointments to the committee.

(f) A member of the committee is not entitled to compensation, but is entitled to reimbursement of the member's travel expenses as provided in the General Appropriations Act for state employees.

(g) The committee may elect an assistant presiding officer and a secretary from among its members and may adopt rules for the conduct of its own activities.

(h) The committee is entitled to review and comment on rules to be considered for adoption by the conservation commission, the commission, or the department under this chapter or Chapter 382, Health and Safety Code, before the rules are adopted.

(i) The committee shall hold a meeting at least once each quarter.

(j) Chapter 2110, Government Code, does not apply to the committee.

Added by Acts 2001, 77th Leg., ch. 1075, Sec. 7, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 323 (H.B. 2565), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 1.01, eff. September 1, 2009.

Sec. 548.007. CONTRACTS AND INSTRUMENTS TO IMPLEMENT CERTAIN INSPECTION AND MAINTENANCE PROGRAMS. The department may execute any contract or instrument that is necessary or convenient to exercise its powers or perform its duties in implementing a motor vehicle emissions inspection and maintenance program under Section 382.302, Health and Safety Code.

Added by Acts 2003, 78th Leg., ch. 203, Sec. 3, eff. June 10, 2003.

Sec. 548.008. VEHICLE INSPECTION PROGRAM DIRECTOR. (a) The vehicle inspection program is managed by a program director. The program director may not be a commissioned officer.

(b) The office of the vehicle inspection program director must be located in Austin, Texas.

(c) The duties of the program director include:

- (1) responsibility for the quality of the vehicle inspection program;
 - (2) coordination of the regional offices;
 - (3) compilation of regional and statewide performance data;
 - (4) the establishment of best practices and distribution of those practices to the regional offices;
 - (5) setting goals for the entire program, in consultation with the public safety director or the public safety director's designee, and setting goals for each regional office in consultation with the regional managers;
 - (6) monitoring the progress toward the goals set in Subdivision (5) and evaluating the program based on that progress; and
 - (7) coordination with the Texas Highway Patrol to enforce provisions related to vehicle inspection.
- (d) The regional offices shall make reports as requested by the program director.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 1.02, eff. September 1, 2009.

SUBCHAPTER B. VEHICLES AND EQUIPMENT SUBJECT TO INSPECTION AND REINSPECTION

Sec. 548.051. VEHICLES AND EQUIPMENT SUBJECT TO INSPECTION.

- (a) A motor vehicle, trailer, semitrailer, pole trailer, or mobile home, registered in this state, must have the following items inspected at an inspection station or by an inspector:
- (1) tires;
 - (2) wheel assembly;
 - (3) safety guards or flaps, if required by Section 547.606;
 - (4) brake system, including power brake unit;
 - (5) steering system, including power steering;
 - (6) lighting equipment;
 - (7) horns and warning devices;
 - (8) mirrors;
 - (9) windshield wipers;
 - (10) sunscreening devices, unless the vehicle is exempt from sunscreen device restrictions under Section 547.613;
 - (11) front seat belts in vehicles on which seat belt

anchorages were part of the manufacturer's original equipment;

(12) exhaust system;

(13) exhaust emission system;

(14) fuel tank cap, using pressurized testing equipment approved by department rule; and

(15) emissions control equipment as designated by department rule.

(b) A moped is subject to inspection in the same manner as a motorcycle, except that the only items of equipment required to be inspected are the brakes, headlamps, rear lamps, and reflectors, which must comply with the standards prescribed by Sections 547.408 and 547.801.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 29, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 34, eff. September 1, 2015.

Sec. 548.052. VEHICLES NOT SUBJECT TO INSPECTION. This chapter does not apply to:

(1) a trailer, semitrailer, pole trailer, or mobile home moving under or bearing a current factory-delivery license plate or current in-transit license plate;

(2) a vehicle moving under or bearing a paper dealer in-transit tag, machinery license, disaster license, parade license, prorated tab, one-trip permit, vehicle temporary transit permit, antique license, custom vehicle license, street rod license, temporary 24-hour permit, or permit license;

(3) a trailer, semitrailer, pole trailer, or mobile home having an actual gross weight or registered gross weight of 4,500 pounds or less;

(4) farm machinery, road-building equipment, a farm trailer, or a vehicle required to display a slow-moving-vehicle emblem under Section 547.703;

(5) a former military vehicle, as defined by Section 504.502;

(6) a vehicle qualified for a tax exemption under Section 152.092, Tax Code; or

(7) a vehicle for which a certificate of title has been issued but that is not required to be registered.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.121(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 963, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1423, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 19.006, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.012, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 729 (H.B. 890), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 237, eff. January 1, 2012.

Sec. 548.053. REINSPECTION OF VEHICLE REQUIRING ADJUSTMENT, CORRECTION, OR REPAIR. (a) If an inspection discloses the necessity for adjustment, correction, or repair, an inspection station or inspector may not issue a passing vehicle inspection report until the adjustment, correction, or repair is made. The owner of the vehicle may have the adjustment, correction, or repair made by a qualified person of the owner's choice, subject to reinspection. The vehicle shall be reinspected once free of charge within 15 days after the date of the original inspection, not including the date the original inspection is made, at the same inspection station after the adjustment, correction, or repair is made.

(b) A vehicle that is inspected and is subsequently involved in an accident affecting the safe operation of an item of inspection must be reinspected following repair. The reinspection must be at an inspection station and shall be treated and charged as an initial inspection.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1291, Sec. 50(1), eff. March 1, 2015.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 19, eff. March 1, 2015.

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 50(1),

eff. March 1, 2015.

**SUBCHAPTER C. PERIODS OF INSPECTION; PREREQUISITES TO ISSUANCE OF
PASSING VEHICLE INSPECTION REPORT**

Sec. 548.101. GENERAL ONE-YEAR INSPECTION PERIOD. Except as provided by Section 548.102, the department shall require an annual inspection. The department shall set the periods of inspection and may make rules with respect to those periods. The rules must provide that:

(1) a vehicle owner may obtain an inspection not earlier than 90 days before the date of expiration of the vehicle's registration; and

(2) a used motor vehicle sold by a dealer, as defined by Section 503.001, must be inspected in the 180 days preceding the date the dealer sells the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 21, eff. March 1, 2015.

Sec. 548.102. TWO-YEAR INITIAL INSPECTION PERIOD FOR PASSENGER CAR OR LIGHT TRUCK. (a) The initial inspection period is two years for a passenger car or light truck that:

(1) is sold in this state or purchased by a commercial fleet buyer described by Section 501.0234(b)(4) for use in this state;

(2) has not been previously registered in this or another state; and

(3) on the date of sale is of the current or preceding model year.

(b) This section does not affect a requirement that a motor vehicle emission inspection be conducted during an initial inspection period in a county covered by an inspection and maintenance program approved by the United States Environmental Protection Agency under Section 548.301 and the Clean Air Act (42 U.S.C. Section 7401 et seq.).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 295 (H.B. 2115), Sec. 1, eff. June 1, 2015.

Sec. 548.103. EXTENDED INSPECTION PERIOD FOR CERTAIN VEHICLES. The department may extend the time within which the resident owner of a vehicle that is not in this state when an inspection is required must obtain a vehicle inspection report in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 22, eff. March 1, 2015.

Sec. 548.104. EQUIPMENT-RELATED PREREQUISITES TO ISSUANCE OF PASSING VEHICLE INSPECTION REPORT. (a) The commission shall adopt uniform standards of safety applicable to each item required to be inspected by Section 548.051. The standards and the list of items to be inspected shall be posted in each inspection station.

(b) An inspection station or inspector may issue a passing vehicle inspection report only if the vehicle is inspected and found to be in proper and safe condition and to comply with this chapter and the rules adopted under this chapter.

(c) An inspection station or inspector may inspect only the equipment required to be inspected by Section 548.051 and may not:

(1) falsely and fraudulently represent to an applicant that equipment required to be inspected must be repaired, adjusted, or replaced before the vehicle will pass inspection; or

(2) require an applicant to have another part of the vehicle or other equipment inspected as a prerequisite for issuance of a passing vehicle inspection report.

(d) An inspection station or inspector may not issue a passing vehicle inspection report for a vehicle equipped with:

(1) a sunscreening device prohibited by Section 547.613, except that the department by rule shall provide procedures for issuance of a passing vehicle inspection report for a vehicle exempt under Section 547.613(c); or

(2) a compressed natural gas container unless the owner

demonstrates in accordance with department rules proof:

(A) that:

(i) the container has met the inspection requirements under 49 C.F.R. Section 571.304; and

(ii) the manufacturer's recommended service life for the container, as stated on the container label required by 49 C.F.R. Section 571.304, has not expired; or

(B) that the vehicle is a fleet vehicle for which the fleet operator employs a technician certified to inspect the container.

(e) The department shall adopt rules relating to inspection of and issuance of a vehicle inspection report for a moped.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 1, eff. September 1, 2014.

Amended by Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 1, eff. March 1, 2015.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1255 (H.B. 1905), Sec. 35, eff. September 1, 2015.

Sec. 548.105. EVIDENCE OF FINANCIAL RESPONSIBILITY AS PREREQUISITE TO ISSUANCE OF PASSING VEHICLE INSPECTION REPORT. (a) An inspection station or inspector may not issue a passing vehicle inspection report for a vehicle unless the owner or operator furnishes evidence of financial responsibility at the time of inspection. Evidence of financial responsibility may be shown in the manner specified under Section 601.053(a). A personal automobile insurance policy used as evidence of financial responsibility must be written for a term of 30 days or more as required by Section 1952.054, Insurance Code.

(b) An inspection station is not liable to a person, including a third party, for issuing a passing vehicle inspection report in reliance on evidence of financial responsibility furnished to the station. An inspection station that is the seller of a motor vehicle may rely on an oral insurance binder.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 23, eff. March 1, 2015.

SUBCHAPTER D. INSPECTION OF COMMERCIAL MOTOR VEHICLES

Sec. 548.201. COMMERCIAL MOTOR VEHICLE INSPECTION PROGRAM. (a) The commission shall establish an inspection program for commercial motor vehicles that:

(1) meets the requirements of federal motor carrier safety regulations; and

(2) requires a commercial motor vehicle registered in this state to pass an annual inspection of all safety equipment required by the federal motor carrier safety regulations.

(b) A program under this section also applies to any:

(1) vehicle or combination of vehicles with a gross weight rating of more than 10,000 pounds that is operated in interstate commerce and registered in this state;

(2) school activity bus, as defined in Section 541.201, that has a gross weight, registered weight, or gross weight rating of more than 26,000 pounds, or is designed to transport more than 15 passengers, including the driver; and

(3) school bus that will operate at a speed authorized by Section 545.352(b)(5)(A).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1061, Sec. 18, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 663, Sec. 5, eff. June 18, 1999.

Sec. 548.202. GENERAL APPLICABILITY OF CHAPTER TO COMMERCIAL MOTOR VEHICLES. This chapter applies to a commercial motor vehicle inspection program established under Section 548.201 except as otherwise provided.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 548.203. EXEMPTIONS. The commission by rule may exempt a type of commercial motor vehicle from the application of this subchapter if the vehicle:

(1) was manufactured before September 1, 1995;

(2) is operated only temporarily on a highway of this state and at a speed of less than 30 miles per hour; and

(3) complies with Section 548.051 and each applicable provision in Title 49, Code of Federal Regulations.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.122(b), eff. Sept. 1, 1997.

SUBCHAPTER E. ISSUANCE OF VEHICLE INSPECTION REPORTS; SUBMISSION OF INFORMATION TO DEPARTMENT DATABASE

Sec. 548.251. DEPARTMENT TO MAINTAIN DATABASE. The department shall maintain an electronic database to which inspection stations may electronically submit the information required by Section 548.253.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.123(c), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1069, Sec. 5, eff. June 19, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 25, eff. March 1, 2015.

Sec. 548.252. ISSUANCE OF VEHICLE INSPECTION REPORTS. (a) The department by rule shall require an inspection station to:

(1) issue a vehicle inspection report to the owner or operator of each vehicle inspected by the station; and

(2) issue a passing vehicle inspection report to the owner or operator of each vehicle inspected by the station that passes the inspections required by this chapter.

(b) The department may adopt rules regarding the issuance of vehicle inspection reports, including rules providing for the format and safekeeping of the reports.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 26, eff. March 1, 2015.

Sec. 548.253. INFORMATION TO BE SUBMITTED ON COMPLETION OF INSPECTION. An inspection station or inspector, on completion of an inspection, shall electronically submit to the department's inspection database:

(1) the vehicle identification number of the inspected vehicle and an indication of whether the vehicle passed the inspections required by this chapter; and

(2) any additional information required by rule by the department for the type of vehicle inspected.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 27, eff. March 1, 2015.

Sec. 548.254. VALIDITY OF VEHICLE INSPECTION REPORT. A vehicle inspection report is invalid after the end of the 12th month following the month in which the report is issued.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 28, eff. March 1, 2015.

Sec. 548.256. PROOF OF COMPLIANCE WITH INSPECTION REQUIREMENTS REQUIRED TO REGISTER VEHICLE. (a) Except as provided by Subsection (b) or (c), before a vehicle may be registered, the Texas Department of Motor Vehicles or the county assessor-collector registering the vehicle shall verify that the vehicle complies with the applicable inspection requirements under this chapter and Chapter 382, Health and Safety Code, as indicated in the department's inspection database. If the database information is not available, the owner of the vehicle may present a vehicle inspection report issued for the vehicle.

(b) The Texas Department of Motor Vehicles or a county assessor-collector may register a vehicle that is not in compliance with the applicable inspection requirements under this chapter or Chapter 382, Health and Safety Code, if the vehicle is located in another state at the time the applicant applies for registration or

registration renewal under Chapter 502 and the applicant certifies that the vehicle is located in another state and the applicant will comply with the applicable inspection requirements under this chapter, Chapter 382, Health and Safety Code, and the department's administrative rules regarding inspection requirements once the vehicle is operated in this state. The Texas Department of Motor Vehicles or the county assessor-collector shall add a notation to the Texas Department of Motor Vehicles' registration database for law enforcement to verify the inspection status of the vehicle.

(c) Subsection (a) does not apply to:

- (1) a vehicle that is being registered under the International Registration Plan as authorized by Section 502.091; or
- (2) a token trailer that is being registered under Section 502.255, including a token trailer that is being registered for an extended period under Section 502.0023.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.123(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1069, Sec. 19(2), eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1423, Sec. 8, 9, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 967, Sec. 9, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. [2481](#)), Sec. 22, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. [2305](#)), Sec. 29, eff. March 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. [1888](#)), Sec. 40, eff. January 1, 2016.

Sec. 548.258. USE OF STATE ELECTRONIC INTERNET PORTAL. (a) In this section, "state electronic Internet portal" has the meaning assigned by Section 2054.003, Government Code.

(b) The department may adopt rules to require an inspection station to use the state electronic Internet portal to send to the department a record, report, or other information required by the department.

Added by Acts 2005, 79th Leg., Ch. 1260 (H.B. [2048](#)), Sec. 22, eff. June 18, 2005.

Added by Acts 2005, 79th Leg., Ch. 1292 (H.B. [2593](#)), Sec. 11, eff.

June 18, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 973 (H.B. 1504), Sec. 31, eff.

June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 30, eff.

March 1, 2015.

SUBCHAPTER F. MOTOR VEHICLE EMISSIONS INSPECTION AND MAINTENANCE

Sec. 548.301. COMMISSION TO ESTABLISH PROGRAM. (a) The commission shall establish a motor vehicle emissions inspection and maintenance program for vehicles as required by any law of the United States or the state's air quality state implementation plan.

(b) The commission by rule may establish a motor vehicle emissions inspection and maintenance program for vehicles specified by the conservation commission in a county for which the conservation commission has adopted a resolution requesting the commission to establish such a program and for which the county and the municipality with the largest population in the county by resolution have formally requested a proactive air quality plan consisting of such a program.

(b-1) The commission by rule may establish a motor vehicle emissions inspection and maintenance program for vehicles subject to an early action compact as defined by Section 382.301, Health and Safety Code, that is consistent with the early action compact.

(c) A program established under this section must include registration and reregistration-based enforcement.

(d) A vehicle emissions inspection under this section may be performed by the same facility that performs a safety inspection if the facility is authorized and certified by the department to perform the vehicle emissions inspection and certified by the department to perform the safety inspection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.123(d), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1069, Sec. 6, eff. June 19, 1997; Acts 2001, 77th Leg., ch. 1075, Sec. 8, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 203, Sec. 4, eff. June 10, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 31, eff.

March 1, 2015.

Sec. 548.3011. EMISSIONS TEST ON RESALE. (a) This section applies only to a vehicle:

(1) the most recent certificate of title for which or registration of which was issued in a county without a motor vehicle emissions inspection and maintenance program; and

(2) the ownership of which has changed and which has been the subject of a retail sale as defined by Section 2301.002, Occupations Code.

(b) Notwithstanding Subsection (a), this section does not apply to a vehicle that is a 1996 or newer model that has less than 50,000 miles.

(c) A vehicle subject to this section is not eligible for a title receipt under Section 501.024, a certificate of title under Section 501.027, or registration under Chapter 502 in a county with a motor vehicle emissions inspection and maintenance program unless proof is presented with the application for certificate of title or registration, as appropriate, that the vehicle, not earlier than the 90th day before the date on which the new owner's application for certificate of title or registration is filed with the county clerk or county assessor-collector, as appropriate, has passed an approved vehicle emissions test in the county in which it is to be titled or registered.

(d) The proof required by Subsection (c) may be in the form of a Vehicle Inspection Report (VIR) or other proof of program compliance as authorized by the department.

Added by Acts 2001, 77th Leg., ch. 1075, Sec. 9, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.834, eff. Sept. 1, 2003.

Sec. 548.3012. EXEMPTION: VEHICLE NOT USED PRIMARILY IN COUNTY OF REGISTRATION. (a) This section applies only to a vehicle that:

(1) is to be registered in a county with a motor vehicle emissions inspection and maintenance program; and

(2) will be used in that county for fewer than 60 days during the registration period for which registration is sought.

(b) The owner of a vehicle described by Subsection (a) may obtain for that vehicle an exemption from the vehicle emissions test requirements of this subchapter by submitting to the county assessor-collector an affidavit stating that the named vehicle will be used in the county of registration for fewer than 60 calendar days during the registration period for which registration is sought.

Added by Acts 2001, 77th Leg., ch. 1075, Sec. 9, eff. Sept. 1, 2001.

Sec. 548.302. COMMISSION TO ADOPT STANDARDS AND REQUIREMENTS. The commission shall:

(1) adopt standards for emissions-related inspection criteria consistent with requirements of the United States and the conservation commission applicable to a county in which a program is established under this subchapter; and

(2) develop and impose requirements necessary to ensure that a passing vehicle inspection report is not issued to a vehicle subject to a program established under this subchapter and that information stating that a vehicle has passed an inspection is not submitted to the department's database unless the vehicle has passed a motor vehicle emissions inspection at a facility authorized and certified by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.123(e), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1069, Sec. 7, eff. June 19, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 32, eff. March 1, 2015.

Sec. 548.303. PROGRAM ADMINISTRATION. The commission shall administer the motor vehicle emissions inspection and maintenance program under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.123(f), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1069, Sec. 8, eff. June 19, 1997.

Sec. 548.304. STATIONS LICENSED TO CONDUCT EMISSIONS INSPECTIONS. The department may authorize and certify inspection stations as necessary to implement the emissions-related inspection requirements of the motor vehicle emissions inspection and maintenance program established under this subchapter if the station meets the department's certification requirements.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.123(g), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1069, Sec. 9, eff. June 19, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 33, eff. March 1, 2015.

Sec. 548.3045. APPOINTMENT OF DECENTRALIZED FACILITY. (a) The department may issue an inspection station certificate to a decentralized facility authorized and licensed by the department under Section 548.304 if the facility meets the certification requirements of that section and the department.

(b) A decentralized facility issued a certificate under Subsection (a) is authorized to perform an inspection under this subchapter or Subchapter B.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.123(h), eff. Sept. 1, 1997.

Sec. 548.306. EXCESSIVE MOTOR VEHICLE EMISSIONS. (a) This section applies to a motor vehicle registered or operated for more than 60 days per calendar year in:

- (1) a county or a portion of a county designated by department rule in accordance with Section 548.301; or
- (2) a county adjacent to a county described in Subdivision (1).

(b) The registered owner of a motor vehicle commits an offense if the vehicle, in an area described by Subsection (a), emits:

- (1) hydrocarbons, carbon monoxide, or nitrogen oxide in an amount that is excessive under United States Environmental Protection Agency standards or standards provided by department rule; or
- (2) another vehicle-related pollutant that is listed by a

department rule adopted to comply with Part A, National Emission Standards Act (42 U.S.C. Sections 7602-7619), or rules of the United States Environmental Protection Agency in an amount identified as excessive under that rule.

(c) The department shall provide a notice of violation to the registered owner of a vehicle that is detected violating Subsection (b). The notice of violation must be made by personal delivery to the registered owner or by mailing the notice to the registered owner at the last known address of the owner. The department shall include in the notice the date and location of the violation detected and instructions for the registered owner explaining how the owner must proceed to obtain and pass a verification emissions inspection and to make any repair to the vehicle necessary to pass the inspection and explaining any extension or assistance that may be available to the owner for making any necessary repair. Notice by mail is presumed delivered on the 10th day after the date the notice is deposited in the mail.

(d) A registered owner of a vehicle commits an offense if:

(1) notice is delivered to the owner under Subsection (c);

and

(2) the owner fails to comply with any provision of the notice before the 31st day after the date the notice is delivered.

(e) An offense under this section is a misdemeanor punishable by a fine of not less than \$1 and not more than \$350. If a person has previously been convicted of an offense under this section, an offense under this section is a misdemeanor punishable by a fine of not less than \$200 and not more than \$1,000.

(f) It is an affirmative defense to an offense under this section that the registered owner of the vehicle, before the 31st day after the date the owner receives a notice of violation:

(1) after a verification emissions inspection indicated that the vehicle did not comply with applicable emissions standards, repaired the vehicle as necessary and passed another verification emissions inspection; and

(2) has complied with rules of the department concerning a violation under this section.

(g) The department may contract with a private person to implement this section. The person must comply with terms, policies, rules, and procedures the department adopts to administer this section.

(h) The Texas Department of Transportation may deny reregistration of a vehicle if the registered owner of the vehicle has received notification under Subsection (c) and the vehicle has not passed a verification emissions inspection.

(i) A hearing for a citation issued under this section shall be heard by a justice of the peace of any precinct in the county in which the vehicle is registered.

(j) Enforcement of the remote sensing component of the vehicle emissions inspection and maintenance program may not involve any method of screening in which the registered owner of a vehicle found to have allowable emissions by remote sensing technology is charged a fee.

(k) The department by rule may require that a vehicle determined by on-road testing to have excessive emissions be assessed an on-road emissions testing fee not to exceed the emissions testing fee charged by a certified emissions testing facility.

(l) The department by rule may establish procedures for reimbursing a fee for a verification test required by Subsection (c) if the owner demonstrates to the department's satisfaction that:

(1) the vehicle passed the verification emissions test not later than the 30th day after the date the vehicle owner received notice that the vehicle was detected as having excessive emissions; and

(2) the vehicle did not receive any repair, modification, alteration, or additive to the fuel, fuel tank, fuel delivery system, engine, exhaust system, or any attached emissions control components that would have, or could have, caused the vehicle to experience improved emissions performance between the date of detection and the date of the verification emissions test.

Added by Acts 1997, 75th Leg., ch. 1069, Sec. 10, eff. June 19, 1997. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 30, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1075, Sec. 10, eff. Sept. 1, 2001.

Sec. 548.3065. ADMINISTRATIVE PENALTY. (a) In lieu of criminal proceedings for a violation of Section 548.306, the department may impose an administrative penalty against a person who knowingly violates this chapter or a rule adopted by the commission under this chapter.

(b) The amount of the administrative penalty may not exceed \$1,000 for each violation. The aggregate penalty for multiple violations may not exceed \$10,000. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) For purposes of Subsection (a), the procedures for determining and administering an administrative penalty against a person charged with violating this chapter are the same as those prescribed by Section 643.251 for determining and administering an administrative penalty against a motor carrier under that section.

(c-1) The conservation commission may impose an administrative penalty on a person in the amount of not more than \$500 for each violation of this subchapter or a rule adopted by the conservation commission under this subchapter.

(d) An administrative penalty collected under this section shall be deposited in a special account in the general revenue fund and may be used only by the department.

Added by Acts 2001, 77th Leg., ch. 1075, Sec. 11, eff. Sept. 1, 2001.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1202 (S.B. 197), Sec. 1, eff. September 1, 2011.

Sec. 548.307. ALTERNATIVE TESTING METHODOLOGY FOR CERTAIN COUNTIES. The commission by rule may establish procedures for testing and enforcing vehicle emissions standards by use of alternative testing methodology that meets or exceeds United States Environmental Protection Agency requirements in a county participating in an early action compact under Subchapter H, Chapter 382, Health and Safety Code.

Added by Acts 2003, 78th Leg., ch. 203, Sec. 5, eff. June 10, 2003.

Sec. 548.3075. LIMITED EMISSIONS INSPECTIONS. (a) In this section, "limited emissions inspection" means an emissions inspection of a motor vehicle conducted only by using the onboard diagnostic system of the vehicle.

(b) A department rule that allows a qualified inspection station to perform a limited emissions inspection of a motor vehicle may not restrict the station to fewer than 150 inspections per month.

Added by Acts 2009, 81st Leg., R.S., Ch. 1110 (H.B. 715), Sec. 1, eff. December 31, 2010.

SUBCHAPTER G. CERTIFICATION OF INSPECTION STATION OR INSPECTOR

Sec. 548.401. CERTIFICATION GENERALLY. A person may perform an inspection, issue a vehicle inspection report, or submit inspection information to the department's inspection database only if certified to do so by the department under rules adopted by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 34, eff. March 1, 2015.

Sec. 548.402. APPLICATION FOR CERTIFICATION AS INSPECTION STATION. (a) To operate as an inspection station, a person must apply to the department for certification. The application must:

(1) be filed with the department on a form prescribed and provided by the department; and

(2) state:

(A) the name of the applicant;

(B) if the applicant is an association, the names and addresses of the persons constituting the association;

(C) if the applicant is a corporation, the names and addresses of its principal officers;

(D) the name under which the applicant transacts or intends to transact business;

(E) the location of the applicant's place of business in the state; and

(F) other information required by the department, including information required by the department for identification.

(b) The application must be signed and sworn or affirmed by:

(1) if the applicant is an individual, the owner; or

(2) if the applicant is a corporation, an executive officer or person specifically authorized by the corporation to sign the application, to which shall be attached written evidence of the person's authority.

(c) An applicant who has or intends to have more than one place

of business in this state must file a separate application for each place of business.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 548.403. APPROVAL AND CERTIFICATION AS INSPECTION STATION.

(a) The department may approve an application for certification as an inspection station only if:

(1) the location complies with department requirements;

and

(2) the applicant complies with department rules.

(b) On approval of an application, the department shall issue to the applicant an inspection station certificate. The certificate is valid for each person in whose name the certificate is issued and for the transaction of business at the location designated in the certificate. A certificate is not assignable.

(c) An inspection station certificate shall be conspicuously displayed at the station for which the certificate was issued.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 548.4035. ENTRY ONTO PREMISES. (a) A member, employee, or agent of the department may enter an inspection station during normal business hours to conduct an investigation, inspection, or audit of the inspection station or an inspector to determine whether the inspection station or inspector is in compliance with:

(1) this chapter;

(2) department rules under this chapter; or

(3) Chapter 382, Health and Safety Code.

(b) A member, employee, or agent of the department who enters an inspection station for a purpose described by Subsection (a):

(1) shall notify the manager or person in charge of the inspection station of the presence of the member, employee, or agent;

(2) shall present the manager or person in charge of the inspection station with proper credentials identifying the member, employee, or agent as a member, employee, or agent of the department; and

(3) is entitled to have access to emissions testing equipment, inspection records, and any required inspection station

certificate or inspector certificate.

(c) A member, employee, or agent of the department who enters an inspection station to conduct an investigation, inspection, or audit under Subsection (a) must observe the inspection station's rules relating to safety, security, and fire protection.

(d) Subsection (b) does not prohibit the department from conducting an undercover investigation or a covert audit of an inspection station.

Added by Acts 2001, 77th Leg., ch. 1169, Sec. 1, eff. Sept. 1, 2001.

Sec. 548.404. APPLICATION FOR CERTIFICATION AS INSPECTOR. An application for certification as an inspector shall:

- (1) be made on a form prescribed and provided by the department; and
- (2) state:
 - (A) the name of the applicant;
 - (B) the address of the applicant's residence and place of employment;
 - (C) the applicant's driver's license number; and
 - (D) other information required by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 548.4045. BOND REQUIRED FOR CERTAIN INSPECTION STATIONS.

(a) This section applies only to an inspection station that:

- (1) is located in a county in which the conservation commission has established a motor vehicle emissions inspection and maintenance program under Subchapter F; and
- (2) has been convicted of a violation of this chapter relating to an emissions inspection.

(b) An application for certification as an inspection station must be accompanied by a surety bond in the amount of \$5,000, payable to this state and conditioned on the future compliance with this chapter and rules adopted by the department or the conservation commission under this chapter.

(c) The attorney general or the district or county attorney for the county in which the inspection station is located or in which the inspection station that employs the inspector is located may bring

suit in the name of this state to recover on the bond.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1202 (S.B. 197), Sec. 2, eff. September 1, 2011.

Sec. 548.405. DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATE.

(a) The department may deny a person's application for a certificate, revoke or suspend the certificate of a person, inspection station, or inspector, place on probation a person who holds a suspended certificate, or reprimand a person who holds a certificate if:

(1) the station or inspector conducts an inspection, fails to conduct an inspection, or issues a certificate:

(A) in violation of this chapter or a rule adopted under this chapter; or

(B) without complying with the requirements of this chapter or a rule adopted under this chapter;

(2) the person, station, or inspector commits an offense under this chapter or violates this chapter or a rule adopted under this chapter;

(3) the applicant or certificate holder does not meet the standards for certification under this chapter or a rule adopted under this chapter;

(4) the station or inspector does not maintain the qualifications for certification or does not comply with a certification requirement under Subchapter G;

(5) the certificate holder or the certificate holder's agent, employee, or representative commits an act or omission that would cause denial, revocation, or suspension of a certificate to an individual applicant or certificate holder;

(6) the station or inspector does not pay a fee required by Subchapter H; or

(7) the inspector or owner of an inspection station is convicted of a:

(A) felony or Class A or Class B misdemeanor;

(B) similar crime under the jurisdiction of another state or the federal government that is punishable to the same extent as a felony or a Class A or Class B misdemeanor in this state; or

(C) crime under the jurisdiction of another state or

the federal government that would be a felony or a Class A or Class B misdemeanor if the crime were committed in this state.

(b) For purposes of Subsection (a)(7), a person is convicted of an offense if a court enters against the person an adjudication of the person's guilt, including an order of probation or deferred adjudication.

(c) If the department suspends a certificate because of a violation of Subchapter F, the suspension must be for a period of not less than six months. The suspension may not be probated or deferred.

(d) Until an inspector or inspection station whose certificate is suspended or revoked receives a new certificate, has the certificate reinstated, or has the suspension expire, the inspector or station may not be directly or indirectly involved in an inspection operation.

(e) An immediate family member of an inspector or owner of an inspection station whose certificate is suspended or revoked may not be granted a certificate under this subchapter if the location of the family member's place of business is the same as that of the inspector or owner whose certificate is suspended or revoked unless the family member proves that the inspector or owner whose certificate is suspended or revoked has no involvement with the family member's place of business.

(f) Subsection (a) applies to:

(1) each member of a partnership or association issued a certificate under this subchapter;

(2) each director or officer of a corporation issued a certificate under this subchapter; and

(3) a shareholder who receives compensation from the day-to-day operation of the corporation in the form of a salary.

(g) The department may not suspend, revoke, or deny all certificates of a person who holds more than one inspection station certificate based on a suspension, revocation, or denial of one of that person's inspection station certificates without proof of culpability related to a prior action under this subsection.

(h) The department shall develop, by September 1, 2002, a penalty schedule consisting of warnings, re-education, suspensions, and revocations based on the severity and frequency of offenses committed under Chapter 548, Transportation Code, and rules adopted by the department under this chapter.

(i) The department shall develop, by September 1, 2002, a penalty schedule consisting of suspensions and revocations based on the severity and frequency of offenses committed in the emissions testing of motor vehicles under Section 382.202, Health and Safety Code, and Chapter 548, Subchapter F, of this code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1069, Sec. 11, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1189, Sec. 31, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1169, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 10.008(d), eff. Sept. 1, 2003.

Sec. 548.406. CERTIFICATE HOLDER ON PROBATION MAY BE REQUIRED TO REPORT. The director may require the holder of a suspended certificate who is placed on probation to report regularly to the department on a matter that is the basis of the probation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 548.407. HEARING ON DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATE. (a) Before an application for certification as an inspection station or inspector is denied, the director or a person the director designates shall give the person written notification of:

- (1) the proposed denial;
- (2) each reason for the proposed denial; and
- (3) the person's right to an administrative hearing to determine whether the evidence warrants the denial.

(b) Before a certificate of appointment as an inspector or inspection station is revoked or suspended, the director or a person the director designates shall give written notification to the inspector or inspection station of the revocation or the period of suspension. The notice shall include:

- (1) the effective date of the revocation or the period of the suspension, as applicable;
- (2) each reason for the revocation or suspension; and
- (3) a statement explaining the person's right to an administrative hearing to determine whether the evidence warrants the revocation or suspension.

(c) Notice under Subsection (a) or (b) must be made by personal delivery or by mail to the last address given to the department by the person.

(d) The department may provide that a revocation or suspension takes effect on receipt of notice under Subsection (b) if the department finds that the action is necessary to prevent or remedy a threat to public health, safety, or welfare. Violations that present a threat to public health, safety, or welfare include:

(1) issuing a passing vehicle inspection report or submitting inspection information to the department's database with knowledge that the issuance or submission is in violation of this chapter or rules adopted under this chapter;

(2) falsely or fraudulently representing to the owner or operator of a vehicle that equipment inspected or required to be inspected must be repaired, adjusted, or replaced for the vehicle to pass an inspection;

(3) issuing a vehicle inspection report or submitting inspection information to the department's database:

(A) without authorization to issue the report or submit the information; or

(B) without inspecting the vehicle;

(4) issuing a passing vehicle inspection report or submitting inspection information to the department's database for a vehicle with knowledge that the vehicle has not been repaired, adjusted, or corrected after an inspection has shown a repair, adjustment, or correction to be necessary;

(5) knowingly issuing a passing vehicle inspection report or submitting inspection information to the department's database:

(A) for a vehicle without conducting an inspection of each item required to be inspected; or

(B) for a vehicle that is missing an item required to be inspected or that has an item required to be inspected that is not in compliance with state law or department rules;

(6) refusing to allow a vehicle's owner to have a qualified person of the owner's choice make a required repair, adjustment, or correction;

(7) charging for an inspection an amount greater than the authorized fee;

(8) a violation of Subchapter F;

(9) a violation of Section 548.603; or

(10) a conviction of a felony or a Class A or B misdemeanor that directly relates to or affects the duties or responsibilities of a vehicle inspection station or inspector or a conviction of a similar crime under the jurisdiction of another state or the federal government.

(e) For purposes of Subsection (d)(10), a person is convicted of an offense if a court enters against the person an adjudication of the person's guilt, including an order of probation or deferred adjudication.

(f) To obtain an administrative hearing on a denial, suspension, or revocation under this section, a person must submit a written request for a hearing to the director not later than the 20th day after the date notice is delivered personally or is mailed.

(g) If the director receives a timely request under Subsection (f), the director shall provide the person with an opportunity for a hearing as soon as practicable. A hearing on a revocation or suspension under Subsection (d) that takes effect on receipt of the notice must be held not later than 14 days after the department receives the request for hearing. The revocation or suspension continues in effect until the hearing is completed if the hearing is continued beyond the 14-day period:

(1) at the request of the inspector or inspection station;
or

(2) on a finding of good cause by a judge, administrative law judge, or hearing officer.

(h) If the director does not receive a timely request under Subsection (f), the director may deny the application, revoke or suspend a certificate, or sustain the revocation or suspension of a certificate without a hearing.

(i) Except as provided by Subsection (g), the hearing must be held not earlier than the 11th day after the date written notice of the hearing and a copy of the charges is given to the person by personal service or by certified mail to the last address given to the department by the person.

(j) The director or a person designated by the director shall conduct the hearing and may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, or documents. If the hearing is conducted by a person designated by the director, the director may take action under this section on a recommendation of the designated person.

(k) On the basis of the evidence submitted at the hearing, the director may deny the application or revoke or suspend the certificate.

(l) If an administrative law judge of the State Office of Administrative Hearings conducts a hearing under this section and the proposal for decision supports the position of the department, the proposal for decision may recommend a denial of an application or a revocation or suspension of a certificate only. The proposal may not recommend a reprimand or a probated or otherwise deferred disposition of the denial, revocation, or suspension. If the administrative law judge makes a proposal for a decision to deny an application or to suspend or revoke a certificate, the administrative law judge shall include in the proposal a finding of the costs, fees, expenses, and reasonable and necessary attorney's fees the state incurred in bringing the proceeding. The director may adopt the finding for costs, fees, and expenses and make the finding a part of the final order entered in the proceeding. Proceeds collected from a finding made under this subsection shall be paid to the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1069, Sec. 12, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1189, Sec. 32, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. [2305](#)), Sec. 35, eff. March 1, 2015.

Sec. 548.408. JUDICIAL REVIEW OF ADMINISTRATIVE ACTION. (a) A person dissatisfied with the final decision of the director may appeal the decision by filing a petition as provided by Subchapter G, Chapter 2001, Government Code.

(b) The district or county attorney or the attorney general shall represent the director in the appeal, except that an attorney who is a full-time employee of the department may represent the director in the appeal with the approval of the attorney general.

(c) The court in which the appeal is filed shall:

(1) set the matter for hearing after 10 days' written notice to the director and the attorney representing the director; and

(2) determine whether an enforcement action of the director

shall be suspended pending hearing and enter an order for the suspension.

(d) The court order takes effect when served on the director.

(e) The director shall provide a copy of the petition and court order to the attorney representing the director.

(f) A stay under this section may not be effective for more than 90 days after the date the petition for appeal is filed. On the expiration of the stay, the director's enforcement action shall be reinstated or imposed. The department or court may not extend the stay or grant an additional stay.

(g) Judicial review of the final decision of the director is under the substantial evidence rule.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 33, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1169, Sec. 3, eff. Sept. 1, 2001.

Sec. 548.409. COMPLAINTS. (a) The department shall adopt rules regarding the efficient handling and investigation of complaints by citizens, applicants, inspectors, and inspection stations against an employee or agent of the department who may investigate the compliance of an inspection station or inspector regarding Subchapter F or rules adopted under Subchapter F or this subchapter.

(b) The rules must provide for a fair, expeditious, and equitable investigation and resolution to complaints received by the department.

Added by Acts 2001, 77th Leg., ch. 1169, Sec. 4, eff. Sept. 1, 2001.

SUBCHAPTER H. INSPECTION AND CERTIFICATION FEES

Sec. 548.501. INSPECTION FEES GENERALLY. (a) Except as provided by Sections 548.503 and 548.504, the fee for inspection of a motor vehicle other than a moped is \$12.50. The fee for inspection of a moped is \$5.75.

(b) Out of each fee for an inspection, \$5.50 shall be remitted to the state under Section 548.509.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 1999, 76th Leg., ch. 1189, Sec. 34, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 36, eff. March 1, 2015.

Sec. 548.502. INSPECTION BY POLITICAL SUBDIVISION OR STATE AGENCY. A political subdivision or state agency for which the department certifies an inspection station under Section 548.004:

(1) shall pay to the state \$5.50 for each inspection under Section 548.509; and

(2) may not be required to pay the remainder of the inspection fee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 37, eff. March 1, 2015.

Sec. 548.503. INITIAL TWO-YEAR INSPECTION OF PASSENGER CAR OR LIGHT TRUCK. (a) The fee for inspection of a passenger car or light truck under Section 548.102 shall be set by the department by rule on or before September 1 of each year. A fee set by the department under this subsection must be based on the costs of providing inspections and administering the program, but may not be less than \$21.75.

(b) Out of each fee for an inspection under this section, \$14.75 shall be remitted to the state under Section 548.509.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 35, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 38, eff. March 1, 2015.

Sec. 548.504. INSPECTION OF COMMERCIAL MOTOR VEHICLE. (a) The fee for inspection of a commercial motor vehicle under the program established under Section 548.201 is \$50.

(b) Out of each fee for inspection of a commercial motor

vehicle, \$10 shall be remitted to the state under Section 548.509.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 39, eff. March 1, 2015.

Sec. 548.505. EMISSIONS-RELATED INSPECTION FEE. (a) The department by rule may impose an inspection fee for a vehicle inspected under Section 548.301(a) in addition to the fee provided by Section 548.501, 548.502, 548.503, or 548.504. A fee imposed under this subsection must be based on the costs of:

- (1) providing inspections; and
- (2) administering the program.

(b) The department may provide a maximum fee for an inspection under this subchapter. The department may not set a minimum fee for an inspection under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.123(i), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1069, Sec. 13, eff. June 19, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 40, eff. March 1, 2015.

For expiration of this section, see Subsection (c).

Sec. 548.5055. TEXAS EMISSION REDUCTION PLAN FEE. (a) In addition to other fees required by this subchapter, to fund the Texas emissions reduction plan established under Chapter 386, Health and Safety Code, the department shall collect for every commercial motor vehicle required to be inspected under Subchapter D, a fee of \$10.

(b) The department shall remit fees collected under this section to the comptroller at the time and in the manner prescribed by the comptroller for deposit in the Texas emission reduction plan fund.

(c) This section expires August 31, 2019.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 10, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. 2481), Sec. 21, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 2.18, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. 1796), Sec. 22, eff. September 1, 2009.

Sec. 548.506. FEE FOR CERTIFICATION AS INSPECTOR. An applicant for certification as an inspector must submit with the applicant's first application a fee of \$25 for certification until August 31 of the even-numbered year following the date of certification. To be certified after August 31 of that year, the applicant must pay \$25 as a certificate fee for each subsequent two-year period.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1202 (S.B. 197), Sec. 3, eff. September 1, 2011.

Sec. 548.507. FEE FOR CERTIFICATION AS INSPECTION STATION.

(a) Except as provided by Subsection (b) or (c), after an applicant for certification as an inspection station is notified that the application will be approved, the applicant must pay a fee of \$100 for certification until August 31 of the odd-numbered year after the date of appointment. To be certified after August 31 of that year, the applicant must pay a fee of \$100 for certification for each subsequent two-year period.

(b) If an applicant for certification as an inspection station has been convicted of a violation of this chapter relating to an emissions inspection under Subchapter F, after notification that the application will be approved, the applicant must pay a fee of \$500 for certification until August 31 of the odd-numbered year after the date of appointment. To be certified after August 31 of that year, the applicant must pay a fee of \$100 for certification for each subsequent two-year period.

(c) If an applicant for certification as an inspection station has been convicted of two or more violations of this chapter relating to an emissions inspection under Subchapter F, after notification

that the application will be approved, the applicant must pay a fee of \$1,500 for certification until August 31 of the odd-numbered year after the date of appointment. To be certified after August 31 of that year, the applicant must pay a fee of \$100 for certification for each subsequent two-year period.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1202 (S.B. 197), Sec. 4, eff. September 1, 2011.

Sec. 548.508. DISPOSITION OF FEES. Except as provided by Sections 382.0622 and 382.202, Health and Safety Code, and Section 548.5055, each fee remitted to the comptroller under this subchapter shall be deposited to the credit of the Texas mobility fund.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 11.07, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.013, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 41, eff. March 1, 2015.

Sec. 548.509. COLLECTION OF FEE DURING REGISTRATION. The Texas Department of Motor Vehicles or a county assessor-collector that registers a motor vehicle that is subject to an inspection fee under this chapter shall collect at the time of registration of the motor vehicle the portion of the inspection fee that is required to be remitted to the state. The Texas Department of Motor Vehicles or the county assessor-collector shall remit the fee to the comptroller.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 42, eff. March 1, 2015.

SUBCHAPTER I. VIOLATIONS AND OFFENSES

Sec. 548.601. OFFENSE GENERALLY. (a) A person, including an inspector or an inspection station, commits an offense if the person:

(1) submits information to the department's inspection database or issues a vehicle inspection report with knowledge that the submission or issuance is in violation of this chapter or rules adopted under this chapter;

(2) falsely or fraudulently represents to the owner or operator of a vehicle that equipment inspected or required to be inspected must be repaired, adjusted, or replaced for the vehicle to pass an inspection;

(3) misrepresents:

(A) material information in an application in violation of Section 548.402 or 548.403; or

(B) information filed with the department under this chapter or as required by department rule;

(4) submits information to the department's inspection database or issues a vehicle inspection report:

(A) without authorization to issue the report or submit the information; or

(B) without inspecting the vehicle;

(5) submits information to the department's inspection database indicating that a vehicle has passed the applicable inspections or issues a passing vehicle inspection report for a vehicle with knowledge that the vehicle has not been repaired, adjusted, or corrected after an inspection has shown a repair, adjustment, or correction to be necessary;

(6) knowingly submits information to the department's inspection database or issues a vehicle inspection report:

(A) for a vehicle without conducting an inspection of each item required to be inspected; or

(B) for a vehicle that is missing an item required to be inspected or that has an item required to be inspected that is not in compliance with state law or department rules;

(7) refuses to allow a vehicle's owner to have a qualified person of the owner's choice make a required repair, adjustment, or correction;

(8) charges for an inspection an amount greater than the authorized fee; or

(9) performs an act prohibited by or fails to perform an act required by this chapter or a rule adopted under this chapter.

(b) Unless otherwise specified in this chapter, an offense under this section is a Class C misdemeanor.

(c) A designated representative of the department may issue a notice of an offense or a notice to appear to a person, including an inspector or inspection station, who violates this chapter or a rule adopted under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1069, Sec. 14, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 1189, Sec. 36, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 43, eff. March 1, 2015.

Sec. 548.6015. CIVIL PENALTIES. (a) An inspection station that violates a provision of this chapter relating to an emissions inspection under Subchapter F is liable for a civil penalty of not less than \$250 or more than \$500 for each violation. The district or county attorney for the county in which the inspection station is located or the attorney general may bring suit in the name of this state to collect the penalty.

(b) An inspector who violates a provision of this chapter relating to an emissions inspection under Subchapter F is liable for a civil penalty of not less than \$50 or more than \$150 for each violation. The district or county attorney for the county in which the inspection station that employs the inspector is located or the attorney general may bring suit in the name of this state to collect the penalty.

(c) A penalty imposed under this section is in lieu of a civil or administrative penalty imposed under another provision of this chapter for the same violation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1202 (S.B. 197), Sec. 5, eff. September 1, 2011.

Sec. 548.603. FICTITIOUS OR COUNTERFEIT INSPECTION CERTIFICATE OR INSURANCE DOCUMENT. (a) A person commits an offense if the person:

(1) presents to an official of this state or a political subdivision of this state a vehicle inspection report or insurance document knowing that the report or document is counterfeit, tampered

with, altered, fictitious, issued for another vehicle, issued for a vehicle failing to meet all emissions inspection requirements, or issued in violation of:

(A) this chapter, rules adopted under this chapter, or other law of this state; or

(B) a law of another state, the United States, the United Mexican States, a state of the United Mexican States, Canada, or a province of Canada;

(2) with intent to circumvent the emissions inspection requirements seeks an inspection of a vehicle at a station not certified to perform an emissions inspection if the person knows that the vehicle is required to be inspected under Section 548.301; or

(3) knowingly does not comply with an emissions inspection requirement for a vehicle.

(b) A person commits an offense if the person:

(1) makes or possesses, with the intent to sell, circulate, or pass, a counterfeit vehicle inspection report or insurance document; or

(2) possesses any part of a stamp, dye, plate, negative, machine, or other device that is used or designated for use in making a counterfeit vehicle inspection report or insurance document.

(c) The owner of a vehicle commits an offense if the owner knowingly allows the vehicle to be registered using a vehicle inspection report in violation of Subsection (a).

(d) An offense under Subsection (a) or (c) is a Class B misdemeanor. An offense under Subsection (b) is a third degree felony unless the person acts with the intent to defraud or harm another person, in which event the offense is a second degree felony.

(e) In this section:

(1) "Counterfeit" means an imitation of a document that is printed, engraved, copied, photographed, forged, or manufactured by a person not authorized to take that action under:

(A) this chapter, rules adopted under this chapter, or other law of this state; or

(B) a law of another state, the United States, the United Mexican States, a state of the United Mexican States, Canada, or a province of Canada.

(2) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1291, Sec. 50(5), eff. March 1, 2015.

(3) "Insurance document" means a standard proof of motor

vehicle insurance coverage that is:

(A) in a form prescribed by the Texas Department of Insurance or by a similarly authorized board, agency, or authority of another state; and

(B) issued by an insurer or insurer's agent who is authorized to write motor vehicle insurance coverage.

(4) "Person" includes an inspection station or inspector.

(f) Notwithstanding Subsection (c), an offense under Subsection (a)(1) that involves a fictitious vehicle inspection report is a Class B misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.123(j), (k), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 851, Sec. 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1069, Sec. 16, eff. June 19, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 44, eff. March 1, 2015.

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 45, eff. March 1, 2015.

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 50(5), eff. March 1, 2015.

Sec. 548.6035. FRAUDULENT EMISSIONS INSPECTION OF MOTOR VEHICLE. (a) A person commits an offense if, in connection with a required emissions inspection of a motor vehicle, the person knowingly:

(1) submits information to the department's inspection database stating that a vehicle has passed the applicable inspections or issues a passing vehicle inspection report, if:

(A) the vehicle does not meet the emissions requirements established by the department; or

(B) the person has not inspected the vehicle;

(2) manipulates an emissions test result;

(3) uses or causes to be used emissions data from another motor vehicle as a substitute for the motor vehicle being inspected; or

(4) bypasses or circumvents a fuel cap test.

(b) A first offense under Subsections (a)(1)-(3) is a Class B

misdemeanor.

(c) Except as provided by Subsection (d), a second or subsequent offense under Subsections (a)(1)-(3) is a Class A misdemeanor.

(d) If it is found on trial of an offense under Subsections (a)(1)-(3) that the person committing the offense acted with the intent to defraud or harm another person, the offense is a state jail felony.

(e) An offense under Subsection (a)(4) is a Class C misdemeanor.

(f) It is a defense to prosecution under Subsection (a)(4) that the analyzer used by the person developed a functional problem during the emissions inspection of the fuel cap that prevented the person from properly conducting the fuel cap test portion of the emissions inspection.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1202 (S.B. 197), Sec. 6, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 46, eff. March 1, 2015.

Sec. 548.6036. ACTIONS OF EMPLOYEE. (a) Except as provided by Subsection (b), an inspection station is not subject to an administrative or civil penalty or criminal prosecution under this subchapter for an act of an employee of the inspection station if the inspection station requires the employee to sign a written agreement to abide by the provisions of:

- (1) this chapter;
- (2) Chapter 382, Health and Safety Code; and
- (3) all rules adopted under those chapters.

(b) An inspection station is subject to prosecution under this subchapter for an act of an employee of the inspection station if the inspection station:

(1) has received written notification from the department or another agency that the employee has committed an offense under this chapter; and

(2) continues to allow the employee to perform inspections under this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1202 (S.B. 197), Sec. 6, eff. September 1, 2011.

Sec. 548.604. PENALTY FOR CERTAIN VIOLATIONS. (a) A person commits an offense if the person operates or moves a motor vehicle, trailer, semitrailer, pole trailer, or mobile home, or a combination of those vehicles, that is:

(1) equipped in violation of this chapter or a rule adopted under this chapter; or

(2) in a mechanical condition that endangers a person, including the operator or an occupant, or property.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 548.605. OPERATING A VEHICLE WITHOUT COMPLYING WITH INSPECTION REQUIREMENTS AS CERTIFIED; OFFENSE; DISMISSAL OF CHARGE.

(a) In this section, "working day" means any day other than a Saturday, a Sunday, or a holiday on which county offices are closed.

(b) A person commits an offense if:

(1) the person operates in this state a vehicle for which a certification was provided under Section 548.256(b); and

(2) the vehicle is not in compliance with the applicable inspection requirements under this chapter, Chapter 382, Health and Safety Code, or the department's administrative rules regarding inspection requirements.

(c) A peace officer may require the owner or operator to produce a vehicle inspection report issued for the vehicle if the Texas Department of Motor Vehicles' registration database includes a notation for law enforcement to verify the inspection status of the vehicle.

(d) It is a defense to prosecution under Subsection (b) that a passing vehicle inspection report issued for the vehicle is in effect at the time of the offense.

(e) A court shall:

(1) dismiss a charge under this section if the defendant remedies the defect:

(A) not later than the 20th working day after the date of the citation or before the defendant's first court appearance date, whichever is later; and

(B) not later than the 40th working day after the applicable deadline provided by this chapter, Chapter 382, Health and Safety Code, or the department's administrative rules regarding inspection requirements; and

(2) assess an administrative fee not to exceed \$20 when the charge has been remedied under Subdivision (1).

(f) An offense under this section is a Class C misdemeanor.

Added by Acts 2015, 84th Leg., R.S., Ch. 752 (H.B. 1888), Sec. 41, eff. January 1, 2016.

CHAPTER 550. ACCIDENTS AND ACCIDENT REPORTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 550.001. **APPLICABILITY OF CHAPTER.** This chapter applies only to:

(1) a road owned and controlled by a water control and improvement district;

(2) a private access way or parking area provided for a client or patron by a business, other than a private residential property, or the property of a garage or parking lot for which a charge is made for storing or parking a motor vehicle; and

(3) a highway or other public place.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. DUTIES FOLLOWING ACCIDENT

Sec. 550.021. **ACCIDENT INVOLVING PERSONAL INJURY OR DEATH.** (a) The operator of a vehicle involved in an accident that results or is reasonably likely to result in injury to or death of a person shall:

(1) immediately stop the vehicle at the scene of the accident or as close to the scene as possible;

(2) immediately return to the scene of the accident if the vehicle is not stopped at the scene of the accident;

(3) immediately determine whether a person is involved in the accident, and if a person is involved in the accident, whether that person requires aid; and

(4) remain at the scene of the accident until the operator complies with the requirements of Section 550.023.

(b) An operator of a vehicle required to stop the vehicle by Subsection (a) shall do so without obstructing traffic more than is necessary.

(c) A person commits an offense if the person does not stop or does not comply with the requirements of this section. An offense under this section:

(1) involving an accident resulting in:

(A) death of a person is a felony of the second degree;

or

(B) serious bodily injury, as defined by Section 1.07, Penal Code, to a person is a felony of the third degree; and

(2) involving an accident resulting in injury to which Subdivision (1) does not apply is punishable by:

(A) imprisonment in the Texas Department of Criminal Justice for not more than five years or confinement in the county jail for not more than one year;

(B) a fine not to exceed \$5,000; or

(C) both the fine and the imprisonment or confinement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 97 (H.B. 1840), Sec. 2, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 70 (S.B. 275), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1099 (H.B. 3668), Sec. 1, eff. September 1, 2013.

Sec. 550.022. ACCIDENT INVOLVING DAMAGE TO VEHICLE. (a) Except as provided by Subsection (b), the operator of a vehicle involved in an accident resulting only in damage to a vehicle that is driven or attended by a person shall:

(1) immediately stop the vehicle at the scene of the accident or as close as possible to the scene of the accident without obstructing traffic more than is necessary;

(2) immediately return to the scene of the accident if the vehicle is not stopped at the scene of the accident; and

(3) remain at the scene of the accident until the operator complies with the requirements of Section 550.023.

(b) If an accident occurs on a main lane, ramp, shoulder, median, or adjacent area of a freeway in a metropolitan area and each vehicle involved can be normally and safely driven, each operator shall move the operator's vehicle as soon as possible to a designated accident investigation site, if available, a location on the frontage road, the nearest suitable cross street, or other suitable location to complete the requirements of Section 550.023 and minimize interference with freeway traffic.

(c) A person commits an offense if the person does not stop or does not comply with the requirements of Subsection (a). An offense under this subsection is:

(1) a Class C misdemeanor, if the damage to all vehicles is less than \$200; or

(2) a Class B misdemeanor, if the damage to all vehicles is \$200 or more.

(c-1) A person commits an offense if the person does not comply with the requirements of Subsection (b). An offense under this subsection is a Class C misdemeanor.

(d) In this section, a vehicle can be normally and safely driven only if the vehicle:

(1) does not require towing; and

(2) can be operated under its own power and in its usual manner, without additional damage or hazard to the vehicle, other traffic, or the roadway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1066 (H.B. [1484](#)), Sec. 1, eff. September 1, 2005.

Sec. 550.023. DUTY TO GIVE INFORMATION AND RENDER AID. The operator of a vehicle involved in an accident resulting in the injury or death of a person or damage to a vehicle that is driven or attended by a person shall:

(1) give the operator's name and address, the registration number of the vehicle the operator was driving, and the name of the operator's motor vehicle liability insurer to any person injured or

the operator or occupant of or person attending a vehicle involved in the collision;

(2) if requested and available, show the operator's driver's license to a person described by Subdivision (1); and

(3) provide any person injured in the accident reasonable assistance, including transporting or making arrangements for transporting the person to a physician or hospital for medical treatment if it is apparent that treatment is necessary, or if the injured person requests the transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 550.024. DUTY ON STRIKING UNATTENDED VEHICLE. (a) The operator of a vehicle that collides with and damages an unattended vehicle shall immediately stop and:

(1) locate the operator or owner of the unattended vehicle and give that person the name and address of the operator and the owner of the vehicle that struck the unattended vehicle; or

(2) leave in a conspicuous place in, or securely attach in a plainly visible way to, the unattended vehicle a written notice giving the name and address of the operator and the owner of the vehicle that struck the unattended vehicle and a statement of the circumstances of the collision.

(b) A person commits an offense if the person violates Subsection (a). An offense under this section is:

(1) a Class C misdemeanor, if the damage to all vehicles involved is less than \$200; or

(2) a Class B misdemeanor, if the damage to all vehicles involved is \$200 or more.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 550.025. DUTY ON STRIKING STRUCTURE, FIXTURE, OR HIGHWAY LANDSCAPING. (a) The operator of a vehicle involved in an accident resulting only in damage to a structure adjacent to a highway or a fixture or landscaping legally on or adjacent to a highway shall:

(1) take reasonable steps to locate and notify the owner or person in charge of the property of the accident and of the operator's name and address and the registration number of the

vehicle the operator was driving;

(2) if requested and available, show the operator's driver's license to the owner or person in charge of the property; and

(3) report the accident if required by Section 550.061.

(b) A person commits an offense if the person violates Subsection (a). An offense under this section is:

(1) a Class C misdemeanor, if the damage to all fixtures and landscaping is less than \$200; or

(2) a Class B misdemeanor, if the damage to all fixtures and landscaping is \$200 or more.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 680 (H.B. 42), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 680 (H.B. 42), Sec. 2, eff. September 1, 2011.

Sec. 550.026. IMMEDIATE REPORT OF ACCIDENT. (a) The operator of a vehicle involved in an accident resulting in injury to or death of a person or damage to a vehicle to the extent that it cannot be normally and safely driven shall immediately by the quickest means of communication give notice of the accident to the:

(1) local police department if the accident occurred in a municipality;

(2) local police department or the sheriff's office if the accident occurred not more than 100 feet outside the limits of a municipality; or

(3) sheriff's office or the nearest office of the department if the accident is not required to be reported under Subdivision (1) or (2).

(b) If a section of road is within 100 feet of the limits of more than one municipality, the municipalities may agree regarding the maintenance of reports made under Subsection (a)(2). A county may agree with municipalities in the county regarding the maintenance of reports made under Subsection (a)(2). An agreement under this subsection does not affect the duty to report an accident under Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. INVESTIGATION OF ACCIDENT

Sec. 550.041. INVESTIGATION BY PEACE OFFICER. (a) A peace officer who is notified of a motor vehicle accident resulting in injury to or death of a person or property damage to an apparent extent of at least \$1,000 may investigate the accident and file justifiable charges relating to the accident without regard to whether the accident occurred on property to which this chapter applies.

(b) This section does not apply to:

- (1) a privately owned residential parking area; or
- (2) a privately owned parking lot where a fee is charged for parking or storing a vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 531, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER D. WRITTEN ACCIDENT REPORT

Sec. 550.0601. DEFINITION. In this subchapter, "department" means the Texas Department of Transportation.

Added by Acts 2007, 80th Leg., R.S., Ch. 1407 (S.B. 766), Sec. 2, eff. September 1, 2007.

Sec. 550.061. OPERATOR'S ACCIDENT REPORT. (a) The operator of a vehicle involved in an accident shall make a written report of the accident if the accident is not investigated by a law enforcement officer and the accident resulted in injury to or the death of a person or damage to the property of any one person to an apparent extent of \$1,000 or more.

(b) The report required by Subsection (a) must be filed with the department not later than the 10th day after the date of the accident.

(c) A person commits an offense if the person does not file the report with the department as required by this section.

(d) Venue for the prosecution of an offense under this section is in the county in which the accident occurred.

(e) The department may require:

(1) the operator of a vehicle involved in an accident in which a report is required by this section to file a supplemental report if the department considers the original report insufficient; and

(2) a witness of an accident to make a report with the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 531, Sec. 2, eff. Sept. 1, 2001.

Sec. 550.062. OFFICER'S ACCIDENT REPORT. (a) A law enforcement officer who in the regular course of duty investigates a motor vehicle accident shall make a written report of the accident if the accident resulted in injury to or the death of a person or damage to the property of any one person to the apparent extent of \$1,000 or more.

(b) The report required by Subsection (a) must be filed with the department not later than the 10th day after the date of the accident.

(c) This section applies without regard to whether the officer investigates the accident at the location of the accident and immediately after the accident or afterwards by interviewing those involved in the accident or witnesses to the accident.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 531, Sec. 3, eff. Sept. 1, 2001.

Sec. 550.063. REPORT ON APPROPRIATE FORM. The form of all written accident reports must be approved by the department and the Department of Public Safety. A person who is required to file a written accident report shall report on the appropriate form and shall disclose all information required by the form unless the information is not available.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1407 (S.B. 766), Sec. 3, eff. September 1, 2007.

Sec. 550.064. ACCIDENT REPORT FORMS. (a) The department shall prepare and when requested supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals the accident report forms appropriate for the persons required to make a report and appropriate for the purposes to be served by those reports.

(b) An accident report form prepared by the department must:

(1) require sufficiently detailed information to disclose the cause and conditions of and the persons and vehicles involved in an accident if the form is for the report to be made by a person involved in or investigating the accident;

(2) include a way to designate and identify a peace officer, firefighter, or emergency medical services employee who is involved in an accident while driving a law enforcement vehicle, fire department vehicle, or emergency medical services vehicle while performing the person's duties;

(3) require a statement by a person described by Subdivision (2) as to the nature of the accident; and

(4) include a way to designate whether an individual involved in an accident wants to be contacted by a person seeking to obtain employment as a professional described by Section 38.01(12), Penal Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 750, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 689 (H.B. 343), Sec. 2, eff. September 1, 2011.

Sec. 550.065. RELEASE OF CERTAIN INFORMATION RELATING TO ACCIDENTS. (a) This section applies only to the following information that is held by the department or another governmental entity:

(1) a written report of an accident required under Section 550.061, 550.062, or 601.004; or

(2) accident report information compiled under Section 201.806.

(b) Except as provided by Subsection (c), (c-1), or (e), the information is privileged and for the confidential use of:

(1) the department; and

(2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.

(c) On written request and payment of any required fee, the department or the governmental entity shall release the information to:

(1) an entity described by Subsection (b);

(2) the law enforcement agency that employs the peace officer who investigated the accident and sent the information to the department, including an agent of the law enforcement agency authorized by contract to obtain the information;

(3) the court in which a case involving a person involved in the accident is pending if the report is subpoenaed; or

(4) any person directly concerned in the accident or having a proper interest therein, including:

(A) any person involved in the accident;

(B) the authorized representative of any person involved in the accident;

(C) a driver involved in the accident;

(D) an employer, parent, or legal guardian of a driver involved in the accident;

(E) the owner of a vehicle or property damaged in the accident;

(F) a person who has established financial responsibility for a vehicle involved in the accident in a manner described by Section 601.051, including a policyholder of a motor vehicle liability insurance policy covering the vehicle;

(G) an insurance company that issued an insurance policy covering a vehicle involved in the accident;

(H) an insurance company that issued a policy covering any person involved in the accident;

(I) a person under contract to provide claims or underwriting information to a person described by Paragraph (F), (G), or (H);

(J) a radio or television station that holds a license issued by the Federal Communications Commission;

(K) a newspaper that is:

(i) a free newspaper of general circulation or qualified under Section 2051.044, Government Code, to publish legal notices;

(ii) published at least once a week; and

(iii) available and of interest to the general public in connection with the dissemination of news; or

(L) any person who may sue because of death resulting from the accident.

(c-1) On receiving information to which this section applies, the department or the governmental entity that receives the information shall create a redacted accident report that may be requested by any person. The redacted accident report may not include the items of information described by Subsection (f)(2). A report released under this subsection is not considered personal information under Section 730.003.

(d) The fee for a copy of the accident report is \$6. The copy may be certified by the department or the governmental entity for an additional fee of \$2. The department or the governmental entity may issue a certification that no report or information is on file for a fee of \$6.

(e) In addition to the information required to be released under Subsection (c), the department may release:

(1) accident report information compiled under Section 201.806; or

(2) a vehicle identification number and specific accident information relating to that vehicle.

(f) The department when releasing information under Subsection (c-1) or (e):

(1) may not release personal information, as defined by Section 730.003; and

(2) shall withhold or redact the following items:

(A) the first, middle, and last name of any person listed in an accident report, including a vehicle driver, occupant, owner, or lessee, a bicyclist, a pedestrian, or a property owner;

(B) the number of any driver's license, commercial driver's license, or personal identification certificate issued to any person listed in an accident report;

(C) the date of birth, other than the year, of any person listed in an accident report;

(D) the address, other than zip code, and telephone

number of any person listed in an accident report;

(E) the license plate number of any vehicle listed in an accident report;

(F) the name of any insurance company listed as a provider of financial responsibility for a vehicle listed in an accident report;

(G) the number of any insurance policy issued by an insurance company listed as a provider of financial responsibility;

(H) the date the peace officer who investigated the accident was notified of the accident;

(I) the date the investigating peace officer arrived at the accident site;

(J) the badge number or identification number of the investigating officer;

(K) the date on which any person who died as a result of the accident died;

(L) the date of any commercial motor vehicle report;
and

(M) the place where any person injured or killed in an accident was taken and the person or entity that provided the transportation.

(g) The amount that may be charged for information provided under Subsection (e) shall be calculated in the manner specified by Chapter 552, Government Code, for public information provided by a governmental body under that chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.125(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1187, Sec. 13, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1032, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 470 (S.B. 375), Sec. 1, eff. June 19, 2009.

Acts 2015, 84th Leg., R.S., Ch. 936 (H.B. 2633), Sec. 1, eff. June 18, 2015.

Sec. 550.066. ADMISSIBILITY OF CERTAIN ACCIDENT REPORT INFORMATION. An individual's response to the information requested on an accident report form as provided by Section 550.064(b)(4) is

not admissible evidence in a civil trial.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 550.067. MUNICIPAL AUTHORITY TO REQUIRE ACCIDENT REPORTS.

(a) A municipality by ordinance may require the operator of a vehicle involved in an accident to file with a designated municipal department:

(1) a report of the accident, if the accident results in injury to or the death of a person or the apparent total property damage is \$25 or more; or

(2) a copy of a report required by this chapter to be filed with the department.

(b) A report filed under Subsection (a) is for the confidential use of the municipal department and subject to the provisions of Section 550.065.

(c) A municipality by ordinance may require the person in charge of a garage or repair shop where a motor vehicle is brought if the vehicle shows evidence of having been involved in an accident requiring a report to be filed under Section 550.061 or 550.062 or shows evidence of having been struck by a bullet to report to a department of the municipality within 24 hours after the garage or repair shop receives the motor vehicle, giving the engine number, registration number, and the name and address of the owner or operator of the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 550.068. CHANGING ACCIDENT REPORT. (a) Except as provided by Subsection (b), a change in or a modification of a written report of a motor vehicle accident prepared by a peace officer or the operator of a vehicle involved in an accident that alters a material fact in the report may be made only by the peace officer or person who prepared the report.

(b) A change in or a modification of the written report of the accident may be made by a person other than the peace officer or the operator of the vehicle if:

(1) the change is made by a written supplement to the report; and

(2) the written supplement clearly indicates the name of the person who originated the change.

Added by Acts 1997, 75th Leg., ch. 214, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER E. OTHER REPORTS

Sec. 550.081. REPORT OF MEDICAL EXAMINER OR JUSTICE OF THE PEACE. (a) In this section:

(1) "Department" means the Texas Department of Transportation.

(2) "Bridge collapse" means the abrupt failure of the basic structure of a bridge that impairs the ability of the bridge to serve its intended purpose and that damages a highway located on or under the structure.

(b) A medical examiner or justice of the peace acting as coroner in a county that does not have a medical examiner's office or that is not part of a medical examiner's district shall submit a report in writing to the department of the death of a person that was the result of a traffic accident or bridge collapse:

(1) to which this chapter applies; and

(2) that occurred within the jurisdiction of the medical examiner or justice of the peace in the preceding calendar quarter.

(c) The report must be submitted before the 11th day of each calendar month and include:

(1) the name of the deceased and a statement as to whether the deceased was:

(A) the operator of or a passenger in a vehicle involved in the accident; or

(B) a pedestrian or other nonoccupant of a vehicle;

(2) the date of the accident and the name of the county in which the accident occurred, and, if a bridge collapse, the location of the bridge in that county;

(3) the name of any laboratory, medical examiner's office, or other facility that conducted toxicological testing relative to the deceased; and

(4) the results of any toxicological testing that was conducted.

(d) A report required by this section shall be sent to:

(1) the crash records bureau of the department at its

headquarters in Austin; or

(2) any other office or bureau of the department that the department designates.

(e) If toxicological test results are not available to the medical examiner or justice of the peace on the date a report must be submitted, the medical examiner or justice shall:

(1) submit a report that includes the statement "toxicological test results unavailable"; and

(2) submit a supplement to the report that contains the information required by Subsections (c)(3) and (4) as soon as practicable after the toxicological test results become available.

(f) The department shall prepare and when requested supply to medical examiners' offices and justices of the peace the forms necessary to make the reports required by this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 74 (H.B. 423), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1407 (S.B. 766), Sec. 4, eff. September 1, 2007.

Reenacted and amended by Acts 2009, 81st Leg., R.S., Ch. 522 (S.B. 1218), Sec. 2, eff. September 1, 2009.

CHAPTER 551. OPERATION OF BICYCLES, MOPEDS, AND PLAY VEHICLES
SUBCHAPTER A. APPLICATION OF CHAPTER

Sec. 551.001. PERSONS AFFECTED. Except as provided by Subchapter C, this chapter applies only to a person operating a bicycle on:

(1) a highway; or
 (2) a path set aside for the exclusive operation of bicycles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1318, Sec. 4, eff. Sept. 1, 2003.

Sec. 551.002. MOPED AND ELECTRIC BICYCLE INCLUDED. A provision of this subtitle applicable to a bicycle also applies to:

(1) a moped, other than a provision that by its nature

cannot apply to a moped; and

(2) an electric bicycle, other than a provision that by its nature cannot apply to an electric bicycle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1085, Sec. 9, eff. Sept. 1, 2001.

SUBCHAPTER B. REGULATION OF OPERATION

Sec. 551.101. RIGHTS AND DUTIES. (a) A person operating a bicycle has the rights and duties applicable to a driver operating a vehicle under this subtitle, unless:

(1) a provision of this chapter alters a right or duty; or
 (2) a right or duty applicable to a driver operating a vehicle cannot by its nature apply to a person operating a bicycle.

(b) A parent of a child or a guardian of a ward may not knowingly permit the child or ward to violate this subtitle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 551.102. GENERAL OPERATION. (a) A person operating a bicycle shall ride only on or astride a permanent and regular seat attached to the bicycle.

(b) A person may not use a bicycle to carry more persons than the bicycle is designed or equipped to carry.

(c) A person operating a bicycle may not use the bicycle to carry an object that prevents the person from operating the bicycle with at least one hand on the handlebars of the bicycle.

(d) A person operating a bicycle, coaster, sled, or toy vehicle or using roller skates may not attach either the person or the bicycle, coaster, sled, toy vehicle, or roller skates to a streetcar or vehicle on a roadway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 551.103. OPERATION ON ROADWAY. (a) Except as provided by Subsection (b), a person operating a bicycle on a roadway who is moving slower than the other traffic on the roadway shall ride as near as practicable to the right curb or edge of the roadway, unless:

(1) the person is passing another vehicle moving in the same direction;

(2) the person is preparing to turn left at an intersection or onto a private road or driveway;

(3) a condition on or of the roadway, including a fixed or moving object, parked or moving vehicle, pedestrian, animal, or surface hazard prevents the person from safely riding next to the right curb or edge of the roadway; or

(4) the person is operating a bicycle in an outside lane that is:

(A) less than 14 feet in width and does not have a designated bicycle lane adjacent to that lane; or

(B) too narrow for a bicycle and a motor vehicle to safely travel side by side.

(b) A person operating a bicycle on a one-way roadway with two or more marked traffic lanes may ride as near as practicable to the left curb or edge of the roadway.

(c) Persons operating bicycles on a roadway may ride two abreast. Persons riding two abreast on a laned roadway shall ride in a single lane. Persons riding two abreast may not impede the normal and reasonable flow of traffic on the roadway. Persons may not ride more than two abreast unless they are riding on a part of a roadway set aside for the exclusive operation of bicycles.

(d) Repealed by Acts 2001, 77th Leg., ch. 1085, Sec. 13, eff. Sept. 1, 2001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1085, Sec. 10, 13, eff. Sept. 1, 2001.

Sec. 551.104. SAFETY EQUIPMENT. (a) A person may not operate a bicycle unless the bicycle is equipped with a brake capable of making a braked wheel skid on dry, level, clean pavement.

(b) A person may not operate a bicycle at nighttime unless the bicycle is equipped with:

(1) a lamp on the front of the bicycle that emits a white light visible from a distance of at least 500 feet in front of the bicycle; and

(2) on the rear of the bicycle:

(A) a red reflector that is:

(i) of a type approved by the department; and
(ii) visible when directly in front of lawful upper beams of motor vehicle headlamps from all distances from 50 to 300 feet to the rear of the bicycle; or
(B) a lamp that emits a red light visible from a distance of 500 feet to the rear of the bicycle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1085, Sec. 11, eff. Sept. 1, 2001.

Sec. 551.105. COMPETITIVE RACING. (a) In this section, "bicycle" means a nonmotorized vehicle propelled by human power.

(b) A sponsoring organization may hold a competitive bicycle race on a public road only with the approval of the appropriate local law enforcement agencies.

(c) The local law enforcement agencies and the sponsoring organization may agree on safety regulations governing the movement of bicycles during a competitive race or during training for a competitive race, including the permission for bicycle operators to ride abreast.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 551.106. REGULATION OF ELECTRIC BICYCLES. (a) The department or a local authority may not prohibit the use of an electric bicycle on a highway that is used primarily by motor vehicles. The department or a local authority may prohibit the use of an electric bicycle on a highway used primarily by pedestrians.

(b) The department shall establish rules for the administration of this section.

Added by Acts 2001, 77th Leg., ch. 1085, Sec. 12, eff. Sept. 1, 2001.

SUBCHAPTER C. ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES

Sec. 551.201. DEFINITION. In this subchapter, "electric personal assistive mobility device" means a two non-tandem wheeled device designed for transporting one person that is:

(1) self-balancing; and

(2) propelled by an electric propulsion system with an average power of 750 watts or one horsepower.

Added by Acts 2003, 78th Leg., ch. 1318, Sec. 5, eff. Sept. 1, 2003.

Sec. 551.202. OPERATION ON ROADWAY. (a) A person may operate an electric personal assistive mobility device on a residential street, roadway, or public highway with a speed limit of 30 miles per hour or less only:

(1) while making a direct crossing of a highway in a marked or unmarked crosswalk;

(2) where no sidewalk is available; or

(3) when so directed by a traffic control device or by a law enforcement officer.

(b) A person may operate an electric personal assistive mobility device on a path set aside for the exclusive operation of bicycles.

(c) Any person operating an electric personal assistive mobility device on a residential street, roadway, or public highway shall ride as close as practicable to the right-hand edge.

(d) Except as otherwise provided by this section, provisions of this title applicable to the operation of bicycles apply to the operation of electric personal assistive mobility devices.

Added by Acts 2003, 78th Leg., ch. 1318, Sec. 5, eff. Sept. 1, 2003.

Sec. 551.203. SIDEWALKS. A person may operate an electric personal assistive mobility device on a sidewalk.

Added by Acts 2003, 78th Leg., ch. 1318, Sec. 5, eff. Sept. 1, 2003.

SUBCHAPTER D. NEIGHBORHOOD ELECTRIC VEHICLES

Sec. 551.301. DEFINITION. In this subchapter, "neighborhood electric vehicle" means a vehicle that can attain a maximum speed of 35 miles per hour on a paved level surface and otherwise complies with Federal Motor Vehicle Safety Standard 500 (49 C.F.R. Section 571.500).

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 7, eff. Sept. 1, 2003;
Acts 2003, 78th Leg., ch. 1325, Sec. 19.07, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 2.86, eff. June 14, 2005.

Acts 2005, 79th Leg., Ch. 1242 (H.B. 1596), Sec. 2, eff. June 18, 2005.

Acts 2009, 81st Leg., R.S., Ch. 722 (S.B. 129), Sec. 1, eff. September 1, 2009.

Reenacted by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.014, eff. September 1, 2011.

Sec. 551.302. REGISTRATION. The Texas Department of Motor Vehicles may adopt rules relating to the registration and issuance of license plates to neighborhood electric vehicles.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2I.01, eff. September 1, 2009.

Sec. 551.303. OPERATION ON ROADWAYS. (a) A neighborhood electric vehicle may be operated only on a street or highway for which the posted speed limit is 45 miles per hour or less. A neighborhood electric vehicle may cross a road or street at an intersection where the road or street has a posted speed limit of more than 45 miles per hour. A neighborhood electric vehicle may not be operated on a street or highway at a speed that exceeds the lesser of:

- (1) the posted speed limit; or
- (2) 35 miles per hour.

(b) A county or municipality may prohibit the operation of a neighborhood electric vehicle on a street or highway if the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

(c) The Texas Department of Transportation may prohibit the operation of a neighborhood electric vehicle on a highway if that department determines that the prohibition is necessary in the

interest of safety.

Added by Acts 2003, 78th Leg., ch. 1320, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 722 (S.B. 129), Sec. 2, eff. September 1, 2009.

Sec. 551.304. LIMITED OPERATION. (a) An operator may operate a neighborhood electric vehicle:

(1) in a master planned community:

(A) that has in place a uniform set of restrictive covenants; and

(B) for which a county or municipality has approved a plat;

(2) on a public or private beach; or

(3) on a public highway for which the posted speed limit is not more than 35 miles per hour, if the neighborhood electric vehicle is operated:

(A) during the daytime; and

(B) not more than two miles from the location where the neighborhood electric vehicle is usually parked and for transportation to or from a golf course.

(b) A person is not required to register a neighborhood electric vehicle operated in compliance with this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 94, eff. September 1, 2013.

SUBCHAPTER E. MOTOR-ASSISTED SCOOTERS

Sec. 551.351. DEFINITIONS. In this subchapter:

(1) "Motor-assisted scooter":

(A) means a self-propelled device with:

(i) at least two wheels in contact with the ground during operation;

(ii) a braking system capable of stopping the device under typical operating conditions;

(iii) a gas or electric motor not exceeding 40 cubic centimeters;

(iv) a deck designed to allow a person to stand or

sit while operating the device; and

(v) the ability to be propelled by human power alone; and

(B) does not include a pocket bike or a minimotorbike.

(2) "Pocket bike or minimotorbike" means a self-propelled vehicle that is equipped with an electric motor or internal combustion engine having a piston displacement of less than 50 cubic centimeters, is designed to propel itself with not more than two wheels in contact with the ground, has a seat or saddle for the use of the operator, is not designed for use on a highway, and is ineligible for a certificate of title under Chapter 501. The term does not include:

(A) a moped or motorcycle;

(B) an electric bicycle or motor-driven cycle, as defined by Section 541.201;

(C) a motorized mobility device, as defined by Section 542.009;

(D) an electric personal assistive mobility device, as defined by Section 551.201; or

(E) a neighborhood electric vehicle, as defined by Section 551.301.

Added by Acts 2005, 79th Leg., Ch. 1242 (H.B. 1596), Sec. 3, eff. June 18, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.015, eff. September 1, 2011.

Sec. 551.352. OPERATION ON ROADWAYS OR SIDEWALKS. (a) A motor-assisted scooter may be operated only on a street or highway for which the posted speed limit is 35 miles per hour or less. The motor-assisted scooter may cross a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour.

(b) A county or municipality may prohibit the operation of a motor-assisted scooter on a street, highway, or sidewalk if the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

(c) The department may prohibit the operation of a motor-

assisted scooter on a highway if it determines that the prohibition is necessary in the interest of safety.

(d) A person may operate a motor-assisted scooter on a path set aside for the exclusive operation of bicycles or on a sidewalk. Except as otherwise provided by this section, a provision of this title applicable to the operation of a bicycle applies to the operation of a motor-assisted scooter.

(e) A provision of this title applicable to a motor vehicle does not apply to a motor-assisted scooter.

Added by Acts 2005, 79th Leg., Ch. 1242 (H.B. 1596), Sec. 3, eff. June 18, 2005.

Sec. 551.353. APPLICATION OF SUBCHAPTER TO POCKET BIKE OR MINIMOTORBIKE. This subchapter may not be construed to authorize the operation of a pocket bike or minimotorbike on any:

- (1) highway, road, or street;
- (2) path set aside for the exclusive operation of bicycles;

or

- (3) sidewalk.

Transferred and redesignated from Transportation Code, Section 551.304 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(64), eff. September 1, 2011.

SUBCHAPTER F. GOLF CARTS AND UTILITY VEHICLES

Sec. 551.401. DEFINITIONS. In this subchapter:

(1) "Golf cart" and "public highway" have the meanings assigned by Section 502.001.

(2) "Utility vehicle" means a motor vehicle that is not a golf cart or lawn mower and is:

(A) equipped with side-by-side seating for the use of the operator and a passenger;

(B) designed to propel itself with at least four tires in contact with the ground;

(C) designed by the manufacturer for off-highway use only; and

(D) designed by the manufacturer primarily for utility work and not for recreational purposes.

Added by Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 10, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 239, eff. January 1, 2012.

Sec. 551.402. REGISTRATION NOT AUTHORIZED. (a) The Texas Department of Motor Vehicles may not register a golf cart for operation on a public highway regardless of whether any alteration has been made to the golf cart.

(b) The Texas Department of Motor Vehicles may issue license plates for a golf cart as authorized by Subsection (c).

(c) The Texas Department of Motor Vehicles shall by rule establish a procedure to issue the license plates to be used for operation in accordance with Sections 551.403 and 551.404.

(d) The Texas Department of Motor Vehicles may charge a fee not to exceed \$10 for the cost of the license plate.

Added by Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 10, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 877 (H.B. 719), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 95, eff. September 1, 2013.

Sec. 551.403. LIMITED OPERATION. (a) An operator may operate a golf cart:

(1) in a master planned community:

(A) that has in place a uniform set of restrictive covenants; and

(B) for which a county or municipality has approved a plat;

(2) on a public or private beach; or

(3) on a public highway for which the posted speed limit is not more than 35 miles per hour, if the golf cart is operated:

(A) during the daytime; and

(B) not more than two miles from the location where the

golf cart is usually parked and for transportation to or from a golf course.

(b) The Texas Department of Transportation or a county or municipality may prohibit the operation of a golf cart on a public highway if the department or the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

Added by Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 10, eff. September 1, 2009.

Sec. 551.404. OPERATION IN MUNICIPALITIES AND CERTAIN COUNTIES.

(a) In addition to the operation authorized by Section 551.403, the governing body of a municipality may allow an operator to operate a golf cart on all or part of a public highway that:

- (1) is in the corporate boundaries of the municipality; and
- (2) has a posted speed limit of not more than 35 miles per

hour.

(a-1) In addition to the operation authorized by Section 551.403, the commissioners court of a county described by Subsection (a-2) may allow an operator to operate a golf cart or utility vehicle on all or part of a public highway that:

- (1) is located in the unincorporated area of the county;

and

- (2) has a speed limit of not more than 35 miles per hour.

(a-2) Subsection (a-1) applies only to a county that:

- (1) borders or contains a portion of the Red River;
- (2) borders or contains a portion of the Guadalupe River

and contains a part of a barrier island that borders the Gulf of Mexico; or

- (3) is adjacent to a county described by Subdivision (2)

and:

(A) has a population of less than 30,000; and

(B) contains a part of a barrier island that borders the Gulf of Mexico.

(b) A golf cart or utility vehicle operated under this section must have the following equipment:

- (1) headlamps;
- (2) taillamps;

- (3) reflectors;
- (4) parking brake; and
- (5) mirrors.

Added by Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 10, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 240, eff. January 1, 2012.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 241, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 877 (H.B. 719), Sec. 2, eff. June 14, 2013.

Sec. 551.405. CROSSING CERTAIN ROADWAYS. A golf cart may cross intersections, including a road or street that has a posted speed limit of more than 35 miles per hour.

Added by Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 10, eff. September 1, 2009.

CHAPTER 552. PEDESTRIANS

Sec. 552.001. TRAFFIC CONTROL SIGNALS. (a) A traffic control signal displaying green, red, and yellow lights or lighted arrows applies to a pedestrian as provided by this section unless the pedestrian is otherwise directed by a special pedestrian control signal.

(b) A pedestrian facing a green signal may proceed across a roadway within a marked or unmarked crosswalk unless the sole green signal is a turn arrow.

(c) A pedestrian facing a steady red signal alone or a steady yellow signal may not enter a roadway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 552.002. PEDESTRIAN RIGHT-OF-WAY IF CONTROL SIGNAL PRESENT. (a) A pedestrian control signal displaying "Walk," "Don't Walk," or "Wait" applies to a pedestrian as provided by this section.

(b) A pedestrian facing a "Walk" signal may proceed across a roadway in the direction of the signal, and the operator of a vehicle shall yield the right-of-way to the pedestrian.

(c) A pedestrian may not start to cross a roadway in the direction of a "Don't Walk" signal or a "Wait" signal. A pedestrian who has partially crossed while the "Walk" signal is displayed shall proceed to a sidewalk or safety island while the "Don't Walk" signal or "Wait" signal is displayed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 552.003. PEDESTRIAN RIGHT-OF-WAY AT CROSSWALK. (a) The operator of a vehicle shall yield the right-of-way to a pedestrian crossing a roadway in a crosswalk if:

(1) no traffic control signal is in place or in operation; and

(2) the pedestrian is:

(A) on the half of the roadway in which the vehicle is traveling; or

(B) approaching so closely from the opposite half of the roadway as to be in danger.

(b) Notwithstanding Subsection (a), a pedestrian may not suddenly leave a curb or other place of safety and proceed into a crosswalk in the path of a vehicle so close that it is impossible for the vehicle operator to yield.

(c) The operator of a vehicle approaching from the rear of a vehicle that is stopped at a crosswalk to permit a pedestrian to cross a roadway may not pass the stopped vehicle.

(d) If it is shown on the trial of an offense under Subsection (a) that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a visually impaired or disabled person, the offense is a misdemeanor punishable by:

(1) a fine of not more than \$500; and

(2) 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more than one year.

(d-1) A portion of the community service required under

Subsection (d)(2) shall include sensitivity training.

(e) For the purposes of this section:

(1) "Visually impaired" has the meaning assigned by Section 91.002, Human Resources Code.

(2) "Disabled" means a person who cannot walk without the use or assistance of:

(A) a device, including a brace, cane, crutch, prosthesis, or wheelchair; or

(B) another person.

(f) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1272 (H.B. 1343), Sec. 2, eff. September 1, 2009.

Sec. 552.004. PEDESTRIAN TO KEEP TO RIGHT. A pedestrian shall proceed on the right half of a crosswalk if possible.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 552.005. CROSSING AT POINT OTHER THAN CROSSWALK. (a) A pedestrian shall yield the right-of-way to a vehicle on the highway if crossing a roadway at a place:

(1) other than in a marked crosswalk or in an unmarked crosswalk at an intersection; or

(2) where a pedestrian tunnel or overhead pedestrian crossing has been provided.

(b) Between adjacent intersections at which traffic control signals are in operation, a pedestrian may cross only in a marked crosswalk.

(c) A pedestrian may cross a roadway intersection diagonally only if and in the manner authorized by a traffic control device.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 552.006. USE OF SIDEWALK. (a) A pedestrian may not walk along and on a roadway if an adjacent sidewalk is provided and is accessible to the pedestrian.

(b) If a sidewalk is not provided, a pedestrian walking along and on a highway shall if possible walk on:

- (1) the left side of the roadway; or
- (2) the shoulder of the highway facing oncoming traffic.

(c) The operator of a vehicle emerging from or entering an alley, building, or private road or driveway shall yield the right-of-way to a pedestrian approaching on a sidewalk extending across the alley, building entrance or exit, road, or driveway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 497, Sec. 3, eff. June 11, 2001.

Sec. 552.007. SOLICITATION BY PEDESTRIANS. (a) A person may not stand in a roadway to solicit a ride, contribution, employment, or business from an occupant of a vehicle, except that a person may stand in a roadway to solicit a charitable contribution if authorized to do so by the local authority having jurisdiction over the roadway.

(b) A person may not stand on or near a highway to solicit the watching or guarding of a vehicle parked or to be parked on the highway.

(c) In this section, "charitable contribution" means a contribution to an organization defined as charitable by the standards of the United States Internal Revenue Service.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 552.0071. LOCAL AUTHORIZATION FOR SOLICITATION BY PEDESTRIAN. (a) A local authority shall grant authorization for a person to stand in a roadway to solicit a charitable contribution as provided by Section 552.007(a) if the persons to be engaged in the solicitation are employees or agents of the local authority and the other requirements of this section are met.

(b) A person seeking authorization under this section shall file a written application with the local authority not later than the 11th day before the date the solicitation is to begin. The application must include:

(1) the date or dates and times when the solicitation is to occur;

(2) each location at which solicitation is to occur; and

(3) the number of solicitors to be involved in solicitation at each location.

(c) This section does not prohibit a local authority from requiring a permit or the payment of reasonable fees to the local authority.

(d) The applicant shall also furnish to the local authority advance proof of liability insurance in the amount of at least \$1 million to cover damages that may arise from the solicitation. The insurance must provide coverage against claims against the applicant and claims against the local authority.

(e) A local authority, by acting under this section or Section 552.007, does not waive or limit any immunity from liability applicable under law to the local authority. The issuance of an authorization under this section and the conducting of the solicitation authorized is a governmental function of the local authority.

(f) Notwithstanding any provision of this section, the existing rights of individuals or organizations under Section 552.007 are not impaired.

(g) For purposes of a solicitation under Subsection (a), a roadway is defined to include the roadbed, shoulder, median, curbs, safety zones, sidewalks, and utility easements located adjacent to or near the roadway.

Added by Acts 2005, 79th Leg., Ch. 12 (S.B. 245), Sec. 2, eff. May 3, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 333 (H.B. 3089), Sec. 1, eff. June 15, 2007.

Sec. 552.008. DRIVERS TO EXERCISE DUE CARE. Notwithstanding another provision of this chapter, the operator of a vehicle shall:

(1) exercise due care to avoid colliding with a pedestrian on a roadway;

(2) give warning by sounding the horn when necessary; and

(3) exercise proper precaution on observing a child or an

obviously confused or incapacitated person on a roadway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 552.009. ORDINANCES RELATING TO PEDESTRIANS. A local authority may by ordinance:

- (1) require pedestrians to comply strictly with the directions of an official traffic control signal; and
- (2) prohibit pedestrians from crossing a roadway in a business district or a designated highway except in a crosswalk.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 552.010. BLIND PEDESTRIANS. (a) No person may carry a white cane on a public street or highway unless the person is totally or partially blind.

(b) The driver of a vehicle approaching an intersection or crosswalk where a pedestrian guided by an assistance animal or carrying a white cane is crossing or attempting to cross shall take necessary precautions to avoid injuring or endangering the pedestrian. The driver shall bring the vehicle to a full stop if injury or danger can be avoided only by that action.

(c) If it is shown on the trial of an offense under this section that as a result of the commission of the offense a collision occurred causing serious bodily injury or death to a blind person, the offense is a misdemeanor punishable by:

- (1) a fine of not more than \$500; and
- (2) 30 hours of community service to an organization or agency that primarily serves visually impaired or disabled persons, to be completed in not less than six months and not more than one year.

(c-1) A portion of the community service required under Subsection (c)(2) shall include sensitivity training.

(d) For the purposes of this section:

(1) "Assistance animal" has the meaning assigned by Section 121.002, Human Resources Code.

(2) "White cane" has the meaning assigned by Section 121.002, Human Resources Code.

(e) If conduct constituting an offense under this section also

constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or both sections.

Acts 1979, 66th Leg., p. 2428, ch. 842, art. 1, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1985, 69th Leg., ch. 278, Sec. 5, eff. June 5, 1985; Acts 1997, 75th Leg., ch. 649, Sec. 8, eff. Sept. 1, 1997. Renumbered from Human Resources Code, Section 121.007 and amended by Acts 2009, 81st Leg., R.S., Ch. 1272 (H.B. 1343), Sec. 1, eff. September 1, 2009.

CHAPTER 553. ENACTMENT AND ENFORCEMENT OF CERTAIN TRAFFIC LAWS IN CERTAIN MUNICIPALITIES

Sec. 553.001. APPLICABILITY. This chapter applies only to a municipality with a population of less than 2,500 in a county with a population of 250,000 or more.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 553.002. TRAFFIC SIGNALS OR SIGNS IN MUNICIPALITY. (a) A municipality may not enact an ordinance governing the erection or operation of a traffic signal or sign in the municipality on a state highway funded in whole or in part by the state without prior approval by the Texas Department of Transportation.

(b) A municipality intending to erect or operate a traffic signal or sign described by Subsection (a) must apply in writing to the Texas Department of Transportation. After the application is filed, the Texas Department of Transportation shall designate an employee to investigate the application and shall grant or refuse the application not later than the 90th day after the date of the designation.

(c) In granting an application, the Texas Department of Transportation:

(1) may prescribe the conditions under which the municipality may erect and operate the signal or sign and all other aspects of the signal or sign; and

(2) shall consider the convenience of the traveling public in raising speed limits in noncongested areas and the control of traffic for the protection of schoolchildren and other inhabitants of

small communities where there are areas of congestion and cross-traffic.

(d) This section does not apply to an ordinance enacted or a temporary speed limit sign erected or operated under Section 545.3561.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 216 (H.B. 109), Sec. 3, eff. September 1, 2011.

Sec. 553.003. INJUNCTION AGAINST UNAUTHORIZED SIGNAL OR SIGN.

(a) If a municipality erects or maintains a traffic signal or sign without meeting the requirements of this chapter, the district or county attorney of the county where the signal or sign is located shall bring a suit to enjoin the erection and maintenance of the signal or sign.

(b) If the district or county attorney does not institute a suit under Subsection (a) within 15 days after the date a request to do so is received from a resident of the state, any state resident may institute and prosecute the suit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 600. MISCELLANEOUS PROVISIONS

Sec. 600.001. REMOVING MATERIAL FROM HIGHWAY. (a) A person who drops or permits to be dropped or thrown on a highway destructive or injurious material shall immediately remove the material or cause it to be removed.

(b) A person who removes a wrecked or damaged vehicle from a highway shall remove glass or another injurious substance dropped on the highway from the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 600.002. IDENTIFICATION REQUIRED FOR VEHICLE NEAR MEXICAN BORDER. On demand of a peace officer within 250 feet of the Mexican border at a checkpoint authorized by Section 411.0095, Government

Code, as added by Chapter 497, Acts of the 73rd Legislature, Regular Session, 1993, the driver of a vehicle shall produce a driver's license and proof of compliance with Chapter 601.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 600.003. ENFORCEMENT OF CERTAIN TRAFFIC LAWS BY PRIVATE INSTITUTIONS OF HIGHER EDUCATION. (a) In this section, "private or independent institution of higher education" has the meaning assigned by Section 61.003(15), Education Code.

(b) A private or independent institution of higher education may enforce a traffic law of this state under Chapter 545 restricting or prohibiting the operation or movement of vehicles on a road of the institution if:

(1) the road of the institution is open to the public at the time the traffic law is enforced;

(2) the governing body of the institution adopts a regulation to enforce the traffic law; and

(3) the restriction or prohibition on the operation and movement of vehicles adopted by the institution:

(A) is posted by means of a sign, marking, signal, or other device visible to and, if it contains writing, able to be read by an operator of a vehicle to whom the restriction or prohibition applies in the same manner as a similar restriction or prohibition on the operation and movement of vehicles would be posted by a municipality; and

(B) has been approved by:

(i) the commissioners court of the county in which the applicable road of the institution is located, if the road is located in the unincorporated area of a county; or

(ii) the governing body of the municipality in which the applicable road of the institution is located, if the road is located in a municipality.

(c) Campus security personnel of the institution commissioned under Section 51.212, Education Code, are authorized to enforce the provisions of this section and have the authority to issue and use traffic tickets and summons in a form prescribed by the Texas Department of Public Safety to enforce this chapter only on the property of the institution that commissioned the campus security

personnel under Section 51.212, Education Code.

(d) The same procedures that apply to a traffic ticket or summons by a commissioned peace officer of an institution of higher education under Sections 51.206 and 51.210, Education Code, also apply to a ticket or summons issued under this section.

(e) The governing body of the municipality or the commissioners court of the county that approves the enforcement of traffic laws under Subsection (b) shall also determine the disposition of funds collected under this section from any fees or fines from the enforcement of a traffic law of this state.

Added by Acts 1997, 75th Leg., ch. 620, Sec. 1, eff. Sept. 1, 1997.

Sec. 600.004. TRAINING OF SCHOOL CROSSING GUARD. (a) A local authority may authorize a school crossing guard to direct traffic in a school crossing zone if the guard successfully completes a training program in traffic direction as defined by the basic peace officer course curriculum established by the Commission on Law Enforcement Standards and Education.

(b) A school crossing guard trained under this section:

- (1) is not a peace officer; and
- (2) may not carry a weapon while directing traffic in a school crossing zone.

Added by Acts 1999, 76th Leg., ch. 724, Sec. 2, eff. Aug. 30, 1999.

SUBTITLE D. MOTOR VEHICLE SAFETY RESPONSIBILITY
CHAPTER 601. MOTOR VEHICLE SAFETY RESPONSIBILITY ACT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 601.001. SHORT TITLE. This chapter may be cited as the Texas Motor Vehicle Safety Responsibility Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.002. DEFINITIONS. In this chapter:

- (1) "Department" means the Department of Public Safety.
- (2) "Driver's license" has the meaning assigned by Section 521.001.

(3) "Financial responsibility" means the ability to respond in damages for liability for an accident that:

(A) occurs after the effective date of the document evidencing the establishment of the financial responsibility; and

(B) arises out of the ownership, maintenance, or use of a motor vehicle.

(4) "Highway" means the entire width between property lines of a road, street, or way in this state that is not privately owned or controlled and:

(A) some part of which is open to the public for vehicular traffic; and

(B) over which the state has legislative jurisdiction under its police power.

(5) "Motor vehicle" means a self-propelled vehicle designed for use on a highway, a trailer or semitrailer designed for use with a self-propelled vehicle, or a vehicle propelled by electric power from overhead wires and not operated on rails. The term does not include:

(A) a traction engine;

(B) a road roller or grader;

(C) a tractor crane;

(D) a power shovel;

(E) a well driller;

(F) an implement of husbandry; or

(G) an electric personal assistive mobility device, as defined by Section 551.201.

(6) "Nonresident" means a person who is not a resident of this state.

(7) "Nonresident's operating privilege" means the privilege conferred on a nonresident by the laws of this state relating to the operation of a motor vehicle in this state by the nonresident or the use in this state of a motor vehicle owned by the nonresident.

(8) "Operator" means the person in actual physical control of a motor vehicle.

(9) "Owner" means:

(A) the person who holds legal title to a motor vehicle;

(B) the purchaser or lessee of a motor vehicle subject to an agreement for the conditional sale or lease of the vehicle, if the person has:

(i) the right to purchase the vehicle on performing conditions stated in the agreement; and

(ii) an immediate right to possess the vehicle; or

(C) a mortgagor of a motor vehicle who is entitled to possession of the vehicle.

(10) "Person" means an individual, firm, partnership, association, or corporation.

(11) "State" means:

(A) a state, territory, or possession of the United States; or

(B) the District of Columbia.

(12) "Vehicle registration" means:

(A) a registration certificate, registration receipt, or number plate issued under Chapter 502; or

(B) a dealer's license plate or temporary tag issued under Chapter 503.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1318, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 793 (S.B. [1235](#)), Sec. 15, eff. September 1, 2009.

Sec. 601.003. JUDGMENT; SATISFIED JUDGMENT. (a) For purposes of this chapter, judgment refers only to a final judgment that is no longer appealable or has been finally affirmed on appeal and that was rendered by a court of any state, a province of Canada, or the United States on a cause of action:

(1) for damages for bodily injury, death, or damage to or destruction of property arising out of the ownership, maintenance, or use of a motor vehicle; or

(2) on an agreement of settlement for damages for bodily injury, death, or damage to or destruction of property arising out of the ownership, maintenance, or use of a motor vehicle.

(b) For purposes of this chapter, a judgment is considered to be satisfied as to the appropriate part of the judgment set out by this subsection if:

(1) the total amount credited on one or more judgments for bodily injury to or death of one person resulting from one accident

equals or exceeds the amount required under Section 601.072(a)(1) to establish financial responsibility;

(2) the total amount credited on one or more judgments for bodily injury to or death of two or more persons resulting from one accident equals or exceeds the amount required under Section 601.072(a)(2) to establish financial responsibility; or

(3) the total amount credited on one or more judgments for damage to or destruction of property of another resulting from one accident equals or exceeds the amount required under Section 601.072(a)(3) to establish financial responsibility.

(c) In determining whether a judgment is satisfied under Subsection (b), a payment made in settlement of a claim for damages for bodily injury, death, or damage to or destruction of property is considered to be an amount credited on a judgment.

(d) For purposes of this section:

(1) damages for bodily injury or death include damages for care and loss of services; and

(2) damages for damage to or destruction of property include damages for loss of use.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.004. ACCIDENT REPORT. (a) The operator of a motor vehicle that is involved in an accident in this state shall report the accident to the Texas Department of Transportation not later than the 10th day after the date of the accident if:

(1) the accident is not investigated by a law enforcement officer; and

(2) at least one person, including the operator, sustained:

(A) bodily injury or death; or

(B) property damage to an apparent extent of at least \$1,000.

(b) If the operator is physically incapable of making the report, the owner of the motor vehicle shall make the report not later than the 10th day after the date the owner learns of the accident.

(c) The report must be made in writing in the form prescribed by the Texas Department of Transportation and the department and must contain information as necessary to enable the department to

determine if the requirements for the deposit of security under Subchapter F do not apply because of the existence of insurance or an exception specified in this chapter. The operator or owner shall provide additional information as required by the department.

(d) A written report of an accident made to the Texas Department of Transportation under Section 550.061 or 550.062 complies with this section if that report contains the information required by this section.

(e) The department may rely on the accuracy of information contained in the report unless the department has reason to believe that the information is erroneous.

(f) An accident report that is released for insurance purposes, other than investigation of a specific accident, may show only an accident for which the insured was issued a citation for a violation of Subtitle C.

(g) The department shall suspend the driver's license or nonresident's operating privilege of a person who fails to make a report as required by this section if another person sustained bodily injury, death, or property damage to the extent described by Subsection (a)(2)(B). The suspension continues until a date set by the department that is not earlier than the date the report is filed and not later than the 30th day after the date the report is filed.

(h) A person commits an offense if the person fails to report an accident as required by this section. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$25.

(i) A person commits an offense if the person provides information under this section that the person knows or has reason to believe is false. An offense under this subsection is a misdemeanor punishable by:

- (1) a fine not to exceed \$1,000;
- (2) confinement in county jail for a term not to exceed one year; or
- (3) both the fine and the confinement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 531, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1407 (S.B. 766), Sec. 5, eff. September 1, 2007.

Sec. 601.005. EVIDENCE IN CIVIL SUIT. On the filing of a report under Section 601.004, a person at a trial for damages may not refer to or offer as evidence of the negligence or due care of a party:

- (1) an action taken by the department under this chapter;
- (2) the findings on which that action is based; or
- (3) the security or evidence of financial responsibility filed under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.006. APPLICABILITY TO CERTAIN OWNERS AND OPERATORS. If an owner or operator of a motor vehicle involved in an accident in this state does not have a driver's license or vehicle registration or is a nonresident, the person may not be issued a driver's license or registration until the person has complied with this chapter to the same extent that would be necessary if, at the time of the accident, the person had a driver's license or registration.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.007. APPLICABILITY OF CHAPTER TO GOVERNMENT VEHICLES.

- (a) This chapter does not apply to a government vehicle.
- (b) The provisions of this chapter, other than Section 601.004, do not apply to an officer, agent, or employee of the United States, this state, or a political subdivision of this state while operating a government vehicle in the course of that person's employment.
- (c) The provisions of this chapter, other than Sections 601.004 and 601.054, do not apply to a motor vehicle that is subject to Chapter 643.
- (d) In this section, "government vehicle" means a motor vehicle owned by the United States, this state, or a political subdivision of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.126(a), eff. Sept. 1, 1997.

Sec. 601.008. VIOLATION OF CHAPTER; OFFENSE. (a) A person

commits an offense if the person violates a provision of this chapter for which a penalty is not otherwise provided.

(b) An offense under this section is a misdemeanor punishable by:

- (1) a fine not to exceed \$500;
- (2) confinement in county jail for a term not to exceed 90 days; or
- (3) both the fine and the confinement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.009. REPORT FROM OTHER STATE OR CANADA. (a) On receipt of a certification by the department that the operating privilege of a resident of this state has been suspended or revoked in another state or a province of Canada under a financial responsibility law, the department shall contact the official who issued the certification to request information relating to the specific nature of the resident's failure to comply.

(b) Except as provided by Subsection (c), the department shall suspend the resident's driver's license and vehicle registrations if the evidence shows that the resident's operating privilege was suspended in the other state or the province for violation of a financial responsibility law under circumstances that would require the department to suspend a nonresident's operating privilege had the accident occurred in this state.

(c) The department may not suspend the resident's driver's license and registration if the alleged failure to comply is based on the failure of the resident's insurance company or surety company to:

- (1) obtain authorization to write motor vehicle liability insurance in the other state or the province; or
- (2) execute a power of attorney directing the appropriate official in the other state or the province to accept on the company's behalf service of notice or process in an action under the policy arising out of an accident.

(d) Suspension of a driver's license and vehicle registrations under this section continues until the resident furnishes evidence of compliance with the financial responsibility law of the other state or the province.

(e) In this section, "financial responsibility law" means a law

authorizing suspension or revocation of an operating privilege for failure to:

- (1) deposit security for the payment of a judgment;
- (2) satisfy a judgment; or
- (3) file evidence of financial responsibility.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. ADMINISTRATION BY DEPARTMENT

Sec. 601.021. DEPARTMENT POWERS AND DUTIES; RULES. The department shall:

- (1) administer and enforce this chapter; and
- (2) provide for hearings on the request of a person aggrieved by an act of the department under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.023. PAYMENT OF STATUTORY FEES. The department may pay:

- (1) a statutory fee required by the Texas Department of Motor Vehicles for a certified abstract or in connection with suspension of a vehicle registration; or
- (2) a statutory fee payable to the comptroller for issuance of a certificate of deposit required by Section 601.122.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.05, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. [3097](#)), Sec. 2J.01, eff. September 1, 2009.

SUBCHAPTER C. FINANCIAL RESPONSIBILITY; REQUIREMENTS

Sec. 601.051. REQUIREMENT OF FINANCIAL RESPONSIBILITY. A person may not operate a motor vehicle in this state unless financial responsibility is established for that vehicle through:

- (1) a motor vehicle liability insurance policy that complies with Subchapter D;
- (2) a surety bond filed under Section 601.121;

- (3) a deposit under Section 601.122;
- (4) a deposit under Section 601.123; or
- (5) self-insurance under Section 601.124.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.052. EXCEPTIONS TO FINANCIAL RESPONSIBILITY REQUIREMENT. (a) Section 601.051 does not apply to:

- (1) the operation of a motor vehicle that:
 - (A) is a former military vehicle or is at least 25 years old;
 - (B) is used only for exhibitions, club activities, parades, and other functions of public interest and not for regular transportation; and
 - (C) for which the owner files with the department an affidavit, signed by the owner, stating that the vehicle is a collector's item and used only as described by Paragraph (B);

(2) the operation of a neighborhood electric vehicle or a golf cart that is operated only as authorized by Section 551.304 or 551.403; or

(3) a volunteer fire department for the operation of a motor vehicle the title of which is held in the name of a volunteer fire department.

(b) Subsection (a)(3) does not exempt from the requirement of Section 601.051 a person who is operating a vehicle described by that subsection.

(c) In this section:

(1) "Former military vehicle" has the meaning assigned by Section 504.502(i).

(2) "Volunteer fire department" means a company, department, or association that is:

(A) organized in an unincorporated area to answer fire alarms and extinguish fires or to answer fire alarms, extinguish fires, and provide emergency medical services; and

(B) composed of members who:

- (i) do not receive compensation; or
- (ii) receive only nominal compensation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.127(a), eff. Sept. 1, 1997;

Acts 1997, 75th Leg., ch. 896, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 11, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.016, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 96, eff. September 1, 2013.

Sec. 601.053. EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) As a condition of operating in this state a motor vehicle to which Section 601.051 applies, the operator of the vehicle on request shall provide to a peace officer, as defined by Article 2.12, Code of Criminal Procedure, or a person involved in an accident with the operator evidence of financial responsibility by exhibiting:

(1) a motor vehicle liability insurance policy covering the vehicle that satisfies Subchapter D or a photocopy of the policy;

(2) a standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance under Section 601.081 and issued by a liability insurer for the motor vehicle;

(2-a) an image displayed on a wireless communication device that includes the information required by Section 601.081 as provided by a liability insurer;

(3) an insurance binder that confirms the operator is in compliance with this chapter;

(4) a surety bond certificate issued under Section 601.121;

(5) a certificate of a deposit with the comptroller covering the vehicle issued under Section 601.122;

(6) a copy of a certificate of a deposit with the appropriate county judge covering the vehicle issued under Section 601.123; or

(7) a certificate of self-insurance covering the vehicle issued under Section 601.124 or a photocopy of the certificate.

(b) Except as provided by Subsection (c), an operator who does not exhibit evidence of financial responsibility under Subsection (a) is presumed to have operated the vehicle in violation of Section 601.051.

(c) Subsection (b) does not apply if the peace officer determines through use of the verification program established under

Subchapter N that financial responsibility has been established for the vehicle. If a peace officer has access to the verification program, the officer may not issue a citation for a violation of Section 601.051 unless the officer attempts to verify through the program that financial responsibility has been established for the vehicle and is unable to make that verification.

(d) The display of an image that includes financial responsibility information on a wireless communication device under Subsection (a)(2-a) does not constitute effective consent for a law enforcement officer, or any other person, to access the contents of the wireless communication device except to view the financial responsibility information.

(e) The authorization of the use of a wireless communication device to display financial responsibility information under Subsection (a)(2-a) does not prevent:

(1) a court of competent jurisdiction from requiring a person to provide a paper copy of the person's evidence of financial responsibility in a hearing or trial or in connection with discovery proceedings; or

(2) the commissioner of insurance from requiring a person to provide a paper copy of the person's evidence of financial responsibility in connection with any inquiry or transaction conducted by or on behalf of the commissioner.

(f) A telecommunications provider, as defined by Section 51.002, Utilities Code, may not be held liable to the operator of the motor vehicle for the failure of a wireless communication device to display financial responsibility information under Subsection (a)(2-a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.06, eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 15A.01, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 153 (S.B. 181), Sec. 1, eff. May 24, 2013.

Sec. 601.054. OWNER MAY PROVIDE EVIDENCE OF FINANCIAL RESPONSIBILITY FOR OTHERS. (a) The department shall accept evidence

of financial responsibility from an owner for another person required to establish evidence of financial responsibility if the other person is:

- (1) an operator employed by the owner; or
- (2) a member of the owner's immediate family or household.

(b) The evidence of financial responsibility applies to a person who becomes subject to Subsection (a)(1) or (2) after the effective date of that evidence.

(c) Evidence of financial responsibility accepted by the department under Subsection (a) is a substitute for evidence by the other person and permits the other person to operate a motor vehicle for which the owner has provided evidence of financial responsibility.

(d) The department shall designate the restrictions imposed by this section on the face of the other person's driver's license.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.055. SUBSTITUTION OF EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) If a person who has filed evidence of financial responsibility substitutes other evidence of financial responsibility that complies with this chapter, and the department accepts the other evidence, the department shall:

- (1) consent to the cancellation of a bond or certificate of insurance filed as evidence of financial responsibility; or
- (2) direct the comptroller to return money or securities deposited with the comptroller as evidence of financial responsibility to the person entitled to the return of the money or securities.

(b) The comptroller shall return money or securities deposited with the comptroller in accordance with the direction of the department under Subsection (a)(2).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.07, eff. Sept. 1, 1997.

Sec. 601.056. CANCELLATION, RETURN, OR WAIVER OF EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) As provided by this section, the department, on request, shall:

(1) consent to the cancellation of a bond or certificate of insurance filed as evidence of financial responsibility;

(2) direct the comptroller to return money or securities deposited with the comptroller as evidence of financial responsibility to the person entitled to the return of the money or securities; or

(3) waive the requirement of filing evidence of financial responsibility.

(b) Evidence of financial responsibility may be canceled, returned, or waived under Subsection (a) if:

(1) the department, during the two years preceding the request, has not received a record of a conviction or a forfeiture of bail that would require or permit the suspension or revocation of the driver's license, vehicle registration, or nonresident's operating privilege of the person by or for whom the evidence was provided;

(2) the person for whom the evidence of financial responsibility was provided dies or has a permanent incapacity to operate a motor vehicle; or

(3) the person for whom the evidence of financial responsibility was provided surrenders the person's license and vehicle registration to the department.

(c) A cancellation, return, or waiver under Subsection (b)(1) may be made only after the second anniversary of the date the evidence of financial responsibility was required.

(d) The comptroller shall return the money or securities as directed by the department under Subsection (a)(2).

(e) The department may not act under Subsection (a)(1) or (2) if:

(1) an action for damages on a liability covered by the evidence of financial responsibility is pending;

(2) a judgment for damages on a liability covered by the evidence of financial responsibility is not satisfied; or

(3) the person for whom the bond has been filed or for whom money or securities have been deposited has, within the two years preceding the request for cancellation or return of the evidence of financial responsibility, been involved as an operator or owner in a motor vehicle accident resulting in bodily injury to, or property damage to the property of, another person.

(f) In the absence of evidence to the contrary in the records of the department, the department shall accept as sufficient an

affidavit of the person requesting action under Subsection (a) stating that:

- (1) the facts described by Subsection (e) do not exist; or
- (2) the person has been released from the liability or has been finally adjudicated as not liable for bodily injury or property damage described by Subsection (e)(3).

(g) A person whose evidence of financial responsibility has been canceled or returned under Subsection (b)(3) may not be issued a new driver's license or vehicle registration unless the person establishes financial responsibility for the remainder of the two-year period beginning on the date the evidence of financial responsibility was required.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.08, eff. Sept. 1, 1997.

Sec. 601.057. EVIDENCE THAT DOES NOT FULFILL REQUIREMENTS; SUSPENSION. If evidence filed with the department does not continue to fulfill the purpose for which it was required, the department shall suspend the driver's license and all vehicle registrations or nonresident's operating privilege of the person who filed the evidence pending the filing of other evidence of financial responsibility.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. ESTABLISHMENT OF FINANCIAL RESPONSIBILITY THROUGH MOTOR VEHICLE LIABILITY INSURANCE

Sec. 601.071. MOTOR VEHICLE LIABILITY INSURANCE; REQUIREMENTS. For purposes of this chapter, a motor vehicle liability insurance policy must be an owner's or operator's policy that:

- (1) except as provided by Section 601.083, is issued by an insurance company authorized to write motor vehicle liability insurance in this state;
- (2) is written to or for the benefit of the person named in the policy as the insured; and
- (3) meets the requirements of this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.072. MINIMUM COVERAGE AMOUNTS; EXCLUSIONS.

(a-1) Effective January 1, 2011, the minimum amounts of motor vehicle liability insurance coverage required to establish financial responsibility under this chapter are:

(1) \$30,000 for bodily injury to or death of one person in one accident;

(2) \$60,000 for bodily injury to or death of two or more persons in one accident, subject to the amount provided by Subdivision (1) for bodily injury to or death of one of the persons; and

(3) \$25,000 for damage to or destruction of property of others in one accident.

(b) The coverage required under this section may exclude, with respect to one accident:

(1) the first \$250 of liability for bodily injury to or death of one person;

(2) the first \$500 of liability for bodily injury to or death of two or more persons, subject to the amount provided by Subdivision (1) for bodily injury to or death of one of the persons; and

(3) the first \$250 of liability for property damage to or destruction of property of others.

(c) The Texas Department of Insurance shall establish an outreach program to inform persons of the requirements of this chapter and the ability to comply with the financial responsibility requirements of this chapter through motor vehicle liability insurance coverage. The commissioner, by rule, shall establish the requirements for the program. The program must be designed to encourage compliance with the financial responsibility requirements, and must be made available in English and Spanish.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1298 (S.B. 502), Sec. 1, eff. September 1, 2007.

Sec. 601.073. REQUIRED POLICY TERMS. (a) A motor vehicle

liability insurance policy must state:

- (1) the name and address of the named insured;
- (2) the coverage provided under the policy;
- (3) the premium charged for the policy;
- (4) the policy period; and
- (5) the limits of liability.

(b) The policy must contain an agreement or endorsement that the insurance coverage provided under the policy is:

- (1) provided in accordance with the coverage required by this chapter for bodily injury, death, and property damage; and
- (2) subject to this chapter.

(c) The liability of the insurance company for the insurance required by this chapter becomes absolute at the time bodily injury, death, or damage covered by the policy occurs. The policy may not be canceled as to this liability by an agreement between the insurance company and the insured that is entered into after the occurrence of the injury or damage. A statement made by or on behalf of the insured or a violation of the policy does not void the policy.

(d) The policy may not require the insured to satisfy a judgment for bodily injury, death, or property damage as a condition precedent under the policy to the right or duty of the insurance company to make payment for the injury, death, or damage.

(e) The insurance company may settle a claim covered by the policy. If the settlement is made in good faith, the amount of the settlement is deductible from the amounts specified in Section 601.072.

(f) The policy, any written application for the policy, and any rider or endorsement that does not conflict with this chapter constitute the entire contract between the parties.

(g) Subsections (c)-(f) apply to the policy without regard to whether those provisions are stated in the policy.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.074. OPTIONAL TERMS. (a) A motor vehicle liability insurance policy may provide that the insured shall reimburse the insurance company for a payment that, in the absence of this chapter, the insurance company would not have been obligated to make under the terms of the policy.

(b) A policy may allow prorating of the insurance provided under the policy with other collectible insurance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.075. PROHIBITED TERMS. A motor vehicle liability insurance policy may not insure against liability:

(1) for which the insured or the insured's insurer may be held liable under a workers' compensation law;

(2) for bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or in domestic employment if benefits for the injury are payable or required to be provided under a workers' compensation law; or

(3) for injury to or destruction of property owned by, rented to, in the care of, or transported by the insured.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.076. REQUIRED TERMS: OWNER'S POLICY. An owner's motor vehicle liability insurance policy must:

(1) cover each motor vehicle for which coverage is to be granted under the policy; and

(2) pay, on behalf of the named insured or another person who, as insured, uses a covered motor vehicle with the express or implied permission of the named insured, amounts the insured becomes obligated to pay as damages arising out of the ownership, maintenance, or use of the motor vehicle in the United States or Canada, subject to the amounts, excluding interest and costs, and exclusions of Section 601.072.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.077. REQUIRED TERMS: OPERATOR'S POLICY. An operator's motor vehicle liability insurance policy must pay, on behalf of the named insured, amounts the insured becomes obligated to pay as damages arising out of the use by the insured of a motor vehicle the insured does not own, subject to the same territorial

limits, payment limits, and exclusions as for an owner's policy under Section 601.076.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.078. ADDITIONAL COVERAGE. (a) An insurance policy that provides the coverage required for a motor vehicle liability insurance policy may also provide lawful coverage in excess of or in addition to the required coverage.

(b) The excess or additional coverage is not subject to this chapter.

(c) In the case of a policy that provides excess or additional coverage, the term "motor vehicle liability insurance policy" applies only to that part of the coverage that is required under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.079. MULTIPLE POLICIES. The requirements for a motor vehicle liability insurance policy may be satisfied by a combination of policies of one or more insurance companies if the policies in combination meet the requirements.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.080. INSURANCE BINDER. A binder issued pending the issuance of a motor vehicle liability insurance policy satisfies the requirements for such a policy.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.081. STANDARD PROOF OF MOTOR VEHICLE LIABILITY INSURANCE FORM. (a) In this section, "named driver policy" has the meaning assigned by Section 1952.0545, Insurance Code.

(b) A standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance must include:

- (1) the name of the insurer;

- (2) the insurance policy number;
- (3) the policy period;
- (4) the name and address of each insured;
- (5) the policy limits or a statement that the coverage of the policy complies with the minimum amounts of motor vehicle liability insurance required by this chapter;
- (6) the make and model of each covered vehicle; and
- (7) for a named driver policy, the required disclosure under Section 1952.0545, Insurance Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 803 (S.B. 1567), Sec. 2, eff. September 1, 2013.

Sec. 601.082. MOTOR VEHICLE LIABILITY INSURANCE; CERTIFICATION. If evidence of financial responsibility is required to be filed with the department under this chapter, a motor vehicle liability insurance policy that is to be used as evidence must be certified under Section 601.083 or 601.084.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.083. CERTIFICATE OF MOTOR VEHICLE LIABILITY INSURANCE.

(a) A person may provide evidence of financial responsibility by filing with the department the certificate of an insurance company authorized to write motor vehicle liability insurance in this state certifying that a motor vehicle liability insurance policy for the benefit of the person required to provide evidence of financial responsibility is in effect.

(b) The certificate must state the effective date of the policy, which must be the same date as the effective date of the certificate.

(c) The certificate must cover each motor vehicle owned by the person required to provide the evidence of financial responsibility, unless the policy is issued to a person who does not own a motor vehicle.

(d) A motor vehicle may not be registered in the name of a person required to provide evidence of financial responsibility

unless the vehicle is covered by a certificate.

(e) If a person files a certificate of insurance to establish financial responsibility under Section 601.153, the certificate must state that the requirements of Section 601.153(b) are satisfied.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 178, Sec. 1, eff. Sept. 1, 1997.

Sec. 601.084. NONRESIDENT CERTIFICATE. (a) Subject to Subsection (c), a nonresident owner of a motor vehicle that is not registered in this state may provide evidence of financial responsibility by filing with the department the certificate of an insurance company authorized to transact business in the state in which the vehicle is registered certifying that a motor vehicle liability insurance policy for the benefit of the person required to provide evidence of financial responsibility is in effect.

(b) Subject to Subsection (c), a nonresident who does not own a motor vehicle may provide evidence of financial responsibility by filing with the department the certificate of an insurance company authorized to transact business in the state in which the nonresident resides.

(c) The department shall accept the certificate of an insurer not authorized to transact business in this state if the certificate otherwise complies with this chapter and the insurance company:

(1) executes a power of attorney authorizing the department to accept on its behalf service of notice or process in an action arising out of a motor vehicle accident in this state; and

(2) agrees in writing that its policies will be treated as conforming to the laws of this state relating to the terms of a motor vehicle liability insurance policy.

(d) The department may not accept a certificate of an insurance company not authorized to transact business in this state during the period that the company is in default in any undertaking or agreement under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.085. TERMINATION OF CERTIFIED POLICY. (a) If an insurer has certified a policy under Section 601.083 or 601.084, the

policy may not be terminated before the sixth day after the date a notice of the termination is received by the department except as provided by Subsection (b).

(b) A policy that is obtained and certified terminates a previously certified policy on the effective date of the certification of a subsequent policy.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.086. RESPONSE OF INSURANCE COMPANY IF POLICY NOT IN EFFECT. An insurance company that is notified by the department of an accident in connection with which an owner or operator has reported a motor vehicle liability insurance policy with the company shall advise the department if a policy is not in effect as reported.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.088. EFFECT ON CERTAIN OTHER POLICIES. (a) This chapter does not apply to or affect a policy of motor vehicle liability insurance required by another law of this state. If that policy contains an agreement or is endorsed to conform to the requirements of this chapter, the policy may be certified as evidence of financial responsibility under this chapter.

(b) This chapter does not apply to or affect a policy that insures only the named insured against liability resulting from the maintenance or use of a motor vehicle that is not owned by the insured by persons who are:

- (1) employed by the insured; or
- (2) acting on the insured's behalf.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. ALTERNATIVE METHODS OF ESTABLISHING FINANCIAL RESPONSIBILITY

Sec. 601.121. SURETY BOND. (a) A person may establish financial responsibility by filing with the department a bond:

(1) with at least two individual sureties, each of whom owns real property in this state that is not exempt from execution

under the constitution or laws of this state;

(2) conditioned for payment in the amounts and under the same circumstances as required under a motor vehicle liability insurance policy;

(3) that is not cancelable before the sixth day after the date the department receives written notice of the cancellation;

(4) accompanied by the fee required by Subsection (e); and

(5) approved by the department.

(b) The real property required by Subsection (a)(1) must be described in the bond approved by a judge of a court of record. The assessor-collector of the county in which the property is located must certify the property as free of any tax lien. The sureties in combination must have equity in the property in an amount equal to at least twice the amount of the bond.

(c) The bond is a lien in favor of the state on the real property described in the bond. The lien exists in favor of a person who holds a final judgment against the person who filed the bond.

(d) On filing of a bond, the department shall issue to the person who filed the bond a certificate of compliance with this section.

(e) The department shall file notice of the bond in the office of the county clerk of the county in which the real property is located. The notice must include a description of the property described in the bond. The county clerk or the county clerk's deputy, on receipt of the notice, shall acknowledge the notice and record it in the lien records. The recording of the notice is notice in accordance with statutes governing the recordation of a lien on real property.

(f) If a judgment rendered against the person who files a bond under this section is not satisfied before the 61st day after the date the judgment becomes final, the judgment creditor, for the judgment creditor's own use and benefit and at the judgment creditor's expense, may bring an action in the name of the state against the sureties on the bond, including an action to foreclose a lien on the real property of a surety. The foreclosure action must be brought in the same manner as, and is subject to the law applicable to, an action to foreclose a mortgage on real property.

(g) Cancellation of a bond filed under this section does not prevent recovery for a right or cause of action arising before the date of the cancellation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.122. DEPOSIT OF CASH OR SECURITIES WITH COMPTROLLER.

(a) A person may establish financial responsibility by depositing \$55,000 with the comptroller in:

- (1) cash; or
- (2) securities that:

(A) are of the type that may legally be purchased by savings banks or trust funds; and

(B) have a market value equal to the required amount.

(b) On receipt of the deposit, the comptroller shall issue to the person making the deposit a certificate stating that a deposit complying with this section has been made.

(c) The comptroller may not accept the deposit and the department may not accept the certificate unless the deposit or certificate is accompanied by evidence that an unsatisfied judgment of any character against the person making the deposit does not exist in the county in which the person making the deposit resides.

(d) The comptroller shall hold a deposit made under this section to satisfy, in accordance with this chapter, an execution on a judgment issued against the person making the deposit for damages that:

(1) result from the ownership, maintenance, use, or operation of a motor vehicle after the date the deposit was made; and

(2) are for:

(A) bodily injury to or death of any person, including damages for care and loss of services; or

(B) damage to or destruction of property, including the loss of use of the property.

(e) Money or securities deposited under this section are not subject to attachment or execution unless the attachment or execution arises out of a suit for damages described by Subsection (d).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.09, eff. Sept. 1, 1997.

Sec. 601.123. DEPOSIT OF CASH OR CASHIER'S CHECK WITH COUNTY

JUDGE. (a) A person may establish financial responsibility by making a deposit with the county judge of the county in which the motor vehicle is registered.

(b) The deposit must be made in cash or a cashier's check in the amount of at least \$55,000.

(c) On receipt of the deposit, the county judge shall issue to the person making the deposit a certificate stating that a deposit complying with this section has been made. The certificate must be acknowledged by the sheriff of that county and filed with the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.124. SELF-INSURANCE. (a) A person in whose name more than 25 motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the department as provided by this section.

(b) The department may issue a certificate of self-insurance to a person if:

(1) the person applies for the certificate; and

(2) the department is satisfied that the person has and will continue to have the ability to pay judgments obtained against the person.

(c) The self-insurer must supplement the certificate with an agreement that, for accidents occurring while the certificate is in force, the self-insurer will pay the same judgments in the same amounts as an insurer would be obligated to pay under an owner's motor vehicle liability insurance policy issued to the self-insurer if such policy were issued.

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. SECURITY FOLLOWING ACCIDENT

Sec. 601.151. APPLICABILITY OF SUBCHAPTER. (a) This

subchapter applies only to a motor vehicle accident in this state that results in bodily injury or death or in damage to the property of one person of at least \$1,000.

(b) This subchapter does not apply to:

(1) an owner or operator who has in effect at the time of the accident a motor vehicle liability insurance policy that covers the motor vehicle involved in the accident;

(2) an operator who is not the owner of the motor vehicle, if a motor vehicle liability insurance policy or bond for the operation of a motor vehicle the person does not own is in effect at the time of the accident;

(3) an owner or operator whose liability for damages resulting from the accident, in the judgment of the department, is covered by another liability insurance policy or bond;

(4) an owner or operator, if there was not bodily injury to or damage of the property of a person other than the owner or operator;

(5) the owner or operator of a motor vehicle that at the time of the accident was legally parked or legally stopped at a traffic signal;

(6) the owner of a motor vehicle that at the time of the accident was being operated without the owner's express or implied permission or was parked by a person who had been operating the vehicle without that permission; or

(7) a person qualifying as a self-insurer under Section 601.124 or a person operating a motor vehicle for a self-insurer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.152. SUSPENSION OF DRIVER'S LICENSE AND VEHICLE REGISTRATION OR PRIVILEGE. (a) Subject to Section 601.153, the department shall suspend the driver's license and vehicle registrations of the owner and operator of a motor vehicle if:

(1) the vehicle is involved in any manner in an accident; and

(2) the department finds that there is a reasonable probability that a judgment will be rendered against the person as a result of the accident.

(b) If the owner or operator is a nonresident, the department

shall suspend the person's nonresident operating privilege and the privilege of use of any motor vehicle owned by the nonresident.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.153. DEPOSIT OF SECURITY; EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) The department may not suspend a driver's license, vehicle registration, or nonresident's privilege under this subchapter if the owner or operator:

(1) deposits with the department security in an amount determined to be sufficient under Section 601.154 or 601.157 as appropriate; and

(2) files evidence of financial responsibility as required by this chapter.

(b) If the owner or operator chooses to establish financial responsibility under Subsection (a)(2) by filing evidence of motor vehicle liability insurance, the owner or operator must file a certificate of insurance for a policy that has a policy period of at least six months and for which the premium for the entire policy period is paid in full.

(c) Notwithstanding Section 601.085, coverage for a motor vehicle under a motor vehicle liability policy for which a person files with the department a certificate of insurance under Subsection (b) may not be canceled unless:

(1) the person no longer owns the motor vehicle;

(2) the person dies;

(3) the person has a permanent incapacity that renders the person unable to drive the motor vehicle; or

(4) the person surrenders to the department the person's driver's license and the vehicle registration for the motor vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 178, Sec. 2, eff. Sept. 1, 1997.

Sec. 601.154. DEPARTMENT DETERMINATION OF PROBABILITY OF LIABILITY. (a) Subject to Subsection (d), if the department finds that there is a reasonable probability that a judgment will be rendered against an owner or operator as a result of an accident, the department shall determine the amount of security sufficient to

satisfy any judgment for damages resulting from the accident that may be recovered from the owner or operator.

(b) The department may not require security in an amount:

- (1) less than \$1,000; or
- (2) more than the limits prescribed by Section 601.072.

(c) In determining whether there is a reasonable probability that a judgment will be rendered against the person as a result of an accident and the amount of security that is sufficient under Subsection (a), the department may consider:

- (1) a report of an investigating officer;
- (2) an accident report of a party involved; and
- (3) an affidavit of a person who has knowledge of the

facts.

(d) The department shall make the determination required by Subsection (a) only if the department has not received, before the 21st day after the date the department receives a report of a motor vehicle accident, satisfactory evidence that the owner or operator has:

- (1) been released from liability;
- (2) been finally adjudicated not to be liable; or
- (3) executed an acknowledged written agreement providing for the payment of an agreed amount in installments for all claims for injuries or damages resulting from the accident.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

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

(b) The notice must state that:

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

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

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

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

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

(d) For purposes of this section, notice is presumed to be received if the notice was mailed to the person's last known address, as shown by the department's records.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1395, Sec. 1, eff. Sept. 1, 1997.

Sec. 601.156. SETTING OF HEARING. (a) A hearing under this subchapter is subject to the notice and hearing procedures of Sections 521.295-521.303 and shall be heard by a judge of a municipal court or a justice of the peace of the county in which the person requesting the hearing resides. A party is not entitled to a jury.

(b) The court shall set a date for the hearing. The hearing must be held at the earliest practical time after notice is given to the person requesting the hearing.

(c) The department shall summon the person requesting the hearing to appear at the hearing. Notice under this subsection shall be delivered through personal service or mailed by first class mail to the person's last known address, as shown by the department's records. The notice must include written charges issued by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1117, Sec. 4, eff. Sept. 1, 2000; Acts 1999, 76th Leg., ch. 1409, Sec. 6, eff. Sept. 1, 1999.

Sec. 601.157. HEARING PROCEDURES. (a) The judge may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books and papers.

(b) The judge at the hearing shall determine:

(1) whether there is a reasonable probability that a judgment will be rendered against the person requesting the hearing

as a result of the accident; and

(2) if there is a reasonable probability that a judgment will be rendered, the amount of security sufficient to satisfy any judgment for damages resulting from the accident.

(c) The amount of security under Subsection (b)(2) may not be less than the amount specified as a minimum by Section 601.154.

(d) The judge shall report the judge's determination to the department.

(e) The judge may receive a fee to be paid from the general revenue fund of the county for holding a hearing under this subchapter. The fee must be approved by the commissioners court of the county and may not be more than \$5 for each hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.158. APPEAL. (a) If, after a hearing under this subchapter, the judge determines that there is a reasonable probability that a judgment will be rendered against the person requesting the hearing as a result of the accident, the person may appeal the determination.

(b) To appeal a determination under Subsection (a), the person must file a petition not later than the 30th day after the date of the determination in the county court at law of the county in which the person resides, or, if there is no county court at law, in the county court of the county.

(c) A person who files an appeal under this section shall send a file-stamped copy of the petition by certified mail to the department at the department's headquarters in Austin. The copy must be certified by the clerk of the court in which the petition is filed.

(d) The filing of a petition of appeal as provided by this section stays an order of suspension until the earlier of the 91st day after the date the appeal petition is filed or the date the trial is completed and final judgment is rendered.

(e) On expiration of the stay, the department shall impose the suspension. The stay may not be extended, and an additional stay may not be granted.

(f) A trial on appeal is de novo.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 1999, 76th Leg., ch. 1117, Sec. 5, eff. Sept. 1, 2000.

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

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

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

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

(C) complies with Section 601.153; or

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

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

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

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.160. SUSPENSION STAYED PENDING HEARING OR APPEAL. The department may not suspend a driver's license, vehicle registration, or nonresident's operating privilege pending the outcome of a hearing and any appeal under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.161. NOTICE OF SUSPENSION. Not later than the 11th day before the effective date of a suspension under Section 601.159, the department shall send notice of the suspension to each affected owner or operator. The notice must state the amount required as security under Section 601.153 and the necessity for the owner or

operator to file evidence of financial responsibility with the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.162. DURATION OF SUSPENSION. (a) The suspension of a driver's license, vehicle registration, or nonresident's operating privilege under this subchapter remains in effect, the license, registration, or privilege may not be renewed, and a license or vehicle registration may not be issued to the holder of the suspended license, registration, or privilege, until:

(1) the date the person, or a person acting on the person's behalf, deposits security and files evidence of financial responsibility under Section 601.153;

(2) the second anniversary of the date of the accident, if evidence satisfactory to the department is filed with the department that, during the two-year period, an action for damages arising out of the accident has not been instituted; or

(3) the date evidence satisfactory to the department is filed with the department of:

(A) a release from liability for claims arising out of the accident;

(B) a final adjudication that the person is not liable for claims arising out of the accident; or

(C) an installment agreement described by Section 601.154(d)(3).

(b) If a suspension is terminated under Subsection (a)(3)(C), on notice of a default in the payment of an installment under the agreement, the department shall promptly suspend the driver's license and vehicle registration or nonresident's operating privilege of the person defaulting. A suspension under this subsection continues until:

(1) the person deposits and maintains security in accordance with Section 601.153 in an amount determined by the department at the time of suspension under this subsection and files evidence of financial responsibility in accordance with Section 601.153; or

(2) the second anniversary of the date security was required under Subdivision (1) if, during that period, an action on

the agreement has not been instituted in a court in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 20.005, eff. September 1, 2005.

Sec. 601.163. FORM OF SECURITY. (a) The security required under this subchapter shall be made:

- (1) by cash deposit;
- (2) through a bond that complies with Section 601.168; or
- (3) in another form as required by the department.

(b) A person depositing security shall specify in writing the person on whose behalf the deposit is made. A single deposit of security is applicable only on behalf of persons required to provide security because of the same accident and the same motor vehicle.

(c) The person depositing the security may amend in writing the specification of the person on whose behalf the deposit is made to include an additional person. This amendment may be made at any time the deposit is in the custody of the department or the comptroller.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.10, eff. Sept. 1, 1997.

Sec. 601.164. REDUCTION IN SECURITY. (a) The department may reduce the amount of security ordered in a case within six months after the date of the accident if, in the department's judgment, the amount is excessive.

(b) The amount of security originally deposited that exceeds the reduced amount shall be returned promptly to the depositor or the depositor's personal representative.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.165. CUSTODY OF CASH SECURITY. The department shall place cash deposited in compliance with this subchapter in the custody of the comptroller.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.11, eff. Sept. 1, 1997.

Sec. 601.166. PAYMENT OF CASH SECURITY. (a) Cash security may be applied only to the payment of:

(1) a judgment rendered against the person on whose behalf the deposit is made for damages arising out of the accident; or

(2) a settlement, agreed to by the depositor, of a claim arising out of the accident.

(b) For payment under Subsection (a), the action under which the judgment was rendered must have been instituted before the second anniversary of the later of:

(1) the date of the accident; or

(2) the date of the deposit, in the case of a deposit of security under Section 601.162(b).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.167. RETURN OF CASH SECURITY. Cash security or any balance of the security shall be returned to the depositor or the depositor's personal representative when:

(1) evidence satisfactory to the department is filed with the department that there has been:

(A) a release of liability;

(B) a final adjudication that the person on whose behalf the deposit is made is not liable; or

(C) an agreement as described by Section 601.154(d)(3);

(2) reasonable evidence is provided to the department after the second anniversary of the date of the accident that no action arising out of the accident is pending and no judgment rendered in such an action is unpaid; or

(3) in the case of a deposit of security under Section 601.162(b), reasonable evidence is provided to the department after the second anniversary of the date of the deposit that no action arising out of the accident is pending and no unpaid judgment rendered in such an action is unpaid.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.168. INSURANCE POLICY OR BOND; LIMITS. (a) A bond or motor vehicle liability insurance policy under this subchapter must:

- (1) be issued by a surety company or insurance company:
 - (A) authorized to write motor vehicle liability insurance in this state; or
 - (B) that complies with Subsection (b); and
- (2) cover the amounts, excluding interest and costs, required to establish financial responsibility under Section 601.072.

(b) A bond or motor vehicle liability insurance policy issued by a surety company or insurance company that is not authorized to do business in this state is effective under this subchapter only if:

- (1) the bond or policy is issued for a motor vehicle that:
 - (A) is not registered in this state; or
 - (B) was not registered in this state on the effective date of the most recent renewal of the policy; and
- (2) the surety company or insurance company executes a power of attorney authorizing the department to accept on the company's behalf service of notice or process in an action arising out of the accident on the bond or policy.

(c) The bond must be filed with and approved by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.169. REASONABLE PROBABILITY NOT ADMISSIBLE IN CIVIL SUIT. A determination under Section 601.154 or 601.157 that there is a reasonable probability that a judgment will be rendered against a person as a result of an accident may not be introduced in evidence in a suit for damages arising from that accident.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.170. DEPARTMENT ACTING ON ERRONEOUS INFORMATION. If the department is given erroneous information relating to a matter covered by Section 601.151(b)(1) or (b)(2) or to a person's status as an employee of the United States acting within the scope of the person's employment, the department shall take appropriate action as provided by this subchapter not later than the 60th day after the date the department receives correct information.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER G. FAILURE TO MAINTAIN MOTOR VEHICLE LIABILITY INSURANCE OR OTHERWISE ESTABLISH FINANCIAL RESPONSIBILITY; CRIMINAL PENALTIES

Sec. 601.191. OPERATION OF MOTOR VEHICLE IN VIOLATION OF MOTOR VEHICLE LIABILITY INSURANCE REQUIREMENT; OFFENSE. (a) A person commits an offense if the person operates a motor vehicle in violation of Section 601.051.

(b) Except as provided by Subsections (c) and (d), an offense under this section is a misdemeanor punishable by a fine of not less than \$175 or more than \$350.

(c) If a person has been previously convicted of an offense under this section, an offense under this section is a misdemeanor punishable by a fine of not less than \$350 or more than \$1,000.

(d) If the court determines that a person who has not been previously convicted of an offense under this section is economically unable to pay the fine, the court may reduce the fine to less than \$175.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.193. DEFENSE: FINANCIAL RESPONSIBILITY IN EFFECT AT TIME OF ALLEGED OFFENSE. (a) It is a defense to prosecution under Section 601.191 or 601.195 that the person charged produces to the court one of the documents listed in Section 601.053(a) that was valid at the time that the offense is alleged to have occurred.

(b) After the court verifies a document produced under Subsection (a), the court shall dismiss the charge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 844, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 961, Sec. 1, eff. Sept. 1, 1999.

Sec. 601.194. DEFENSE: POSSESSION OF MOTOR VEHICLE FOR MAINTENANCE OR REPAIR. It is a defense to prosecution of an offense under Section 601.191 that the motor vehicle operated by the person charged:

- (1) was in the possession of that person for the sole

purpose of maintenance or repair; and

(2) was not owned in whole or in part by that person.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.195. OPERATION OF MOTOR VEHICLE IN VIOLATION OF REQUIREMENT TO ESTABLISH FINANCIAL RESPONSIBILITY; OFFENSE. (a) A person commits an offense if the person:

(1) is required to establish financial responsibility under Subchapter F or K;

(2) does not maintain evidence of financial responsibility; and

(3) during the period evidence of financial responsibility must be maintained:

(A) operates on a highway a motor vehicle owned by the person; or

(B) knowingly permits another person, who is not otherwise permitted to operate a vehicle under this chapter, to operate on a highway a motor vehicle owned by the person.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine not to exceed \$500;

(2) confinement in county jail for a term not to exceed six months; or

(3) both the fine and the confinement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**SUBCHAPTER H. FAILURE TO MAINTAIN EVIDENCE OF FINANCIAL
RESPONSIBILITY; SUSPENSION OF DRIVER'S LICENSE AND MOTOR VEHICLE
REGISTRATION**

Sec. 601.231. SUSPENSION OF DRIVER'S LICENSE AND VEHICLE REGISTRATION. (a) If a person is convicted of an offense under Section 601.191 and a prior conviction of that person under that section has been reported to the department by a magistrate or the judge or clerk of a court, the department shall suspend the driver's license and vehicle registrations of the person unless the person files and maintains evidence of financial responsibility with the department until the second anniversary of the date of the subsequent

conviction.

(b) The department may waive the requirement of maintaining evidence of financial responsibility under Subsection (a) if satisfactory evidence is filed with the department showing that at the time of arrest the person was in compliance with the financial responsibility requirement of Section 601.051 or was exempt from that section under Section 601.007 or 601.052(a)(3).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.232. NOTICE OF SUSPENSION. (a) The department shall mail in a timely manner a notice to each person whose driver's license and vehicle registrations are suspended under Section 601.231.

(b) The notice must state that the person's driver's license and registration are suspended and that the person may apply for reinstatement of the license and vehicle registration or issuance of a new license and registration as provided by Sections 601.162 and 601.376.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.233. NOTICE OF POTENTIAL SUSPENSION. (a) A citation for an offense under Section 601.191 issued as a result of Section 601.053 must include, in type larger than other type on the citation, except for the type of the statement required by Section 708.105, the following statement:

"A second or subsequent conviction of an offense under the Texas Motor Vehicle Safety Responsibility Act will result in the suspension of your driver's license and motor vehicle registration unless you file and maintain evidence of financial responsibility with the Department of Public Safety for two years from the date of conviction. The department may waive the requirement to file evidence of financial responsibility if you file satisfactory evidence with the department showing that at the time this citation was issued, the vehicle was covered by a motor vehicle liability insurance policy or that you were otherwise exempt from the requirements to provide evidence of

financial responsibility."

(b) A judge presiding at a trial at which a person is convicted of an offense under Section 601.191 shall notify the person that the person's driver's license is subject to suspension if the person fails to provide to the department evidence of financial responsibility as required by Section 601.231.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 1123 (H.B. 2470), Sec. 3, eff. September 1, 2005.

Sec. 601.234. ISSUANCE OR CONTINUATION OF VEHICLE REGISTRATION. A motor vehicle may not be registered in the name of a person required to file evidence of financial responsibility unless evidence of financial responsibility is furnished for the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER I. FAILURE TO MAINTAIN EVIDENCE OF FINANCIAL RESPONSIBILITY; IMPOUNDMENT OF MOTOR VEHICLE

Sec. 601.261. IMPOUNDMENT OF MOTOR VEHICLE. On a second or subsequent conviction for an offense under Section 601.191, the court shall order the sheriff of the county in which the court has jurisdiction to impound the motor vehicle operated by the defendant at the time of the offense if the defendant:

- (1) was an owner of the motor vehicle at the time of the offense; and
- (2) is an owner on the date of that conviction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.262. DURATION OF IMPOUNDMENT. (a) The duration of an impoundment under Section 601.261 is 180 days.

(b) The court may not order the release of the vehicle unless the defendant applies to the court for the vehicle's release and provides evidence of financial responsibility that complies with Section 601.053 and this section.

(c) The evidence of financial responsibility must cover the two-year period immediately following the date the defendant applies for release of the impounded vehicle. The court, by order, shall permit a defendant to provide evidence of insurability in increments of a period of not less than six months.

(d) If an insurance binder is offered as evidence of financial responsibility under this section, the binder must confirm to the court's satisfaction that the defendant is in compliance with this chapter for the period required by Subsection (c).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 313 (H.B. 586), Sec. 1, eff. September 1, 2009.

Sec. 601.263. COST FOR IMPOUNDMENT. The court shall impose against the defendant a cost of \$15 a day for each day of impoundment of the defendant's vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.264. PENALTIES CUMULATIVE. Impoundment of a motor vehicle under this subchapter is in addition to any other punishment imposed under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.265. TRANSFER OF TITLE OF IMPOUNDED MOTOR VEHICLE.

(a) To transfer title to a motor vehicle impounded under Section 601.261, the owner must apply to the court for permission.

(b) If the court finds that the transfer is being made in good faith and is not being made to circumvent this chapter, the court shall approve the transfer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.266. RELEASE ON INVOLUNTARY TRANSFER OF TITLE OF

IMPOUNDED MOTOR VEHICLE. (a) Notwithstanding Section 601.262, the court shall order the release of a motor vehicle impounded under Section 601.261 if, while the vehicle is impounded, title to the vehicle is transferred by:

- (1) foreclosure;
- (2) sale on execution;
- (3) cancellation of a conditional sales contract; or
- (4) judicial order.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.267. RELEASE OF IMPOUNDED MOTOR VEHICLE BY SHERIFF. A sheriff who impounds a motor vehicle shall release the vehicle:

- (1) on presentation of an order of release from the court and payment of the fee for the impoundment by the defendant or a person authorized by the owner; or
- (2) to a person who is shown as a lienholder on the vehicle's certificate of title on presentation of the certificate of title and an accompanying affidavit from an officer of the lienholder establishing that the debt secured by the vehicle is in default or has matured.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER J. IMPOUNDMENT OF MOTOR VEHICLE NOT REGISTERED IN THIS STATE

Sec. 601.291. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to the owner or operator of a motor vehicle that:

- (1) is not registered in this state; and
- (2) is involved in a motor vehicle accident in this state that results in bodily injury, death, or damage to the property of one person to an apparent extent of at least \$500.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.292. DUTY TO PROVIDE EVIDENCE OF FINANCIAL RESPONSIBILITY TO INVESTIGATING OFFICER. A person to whom this subchapter applies shall provide evidence of financial responsibility

to a law enforcement officer of this state or a political subdivision of this state who is conducting an investigation of the accident.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.293. FAILURE TO PROVIDE EVIDENCE OF FINANCIAL RESPONSIBILITY; MAGISTRATE'S INQUIRY AND ORDER. (a) A person to whom this subchapter applies who fails to provide evidence under Section 601.292 shall be taken before a magistrate as soon as practicable.

(b) The magistrate shall conduct an inquiry on the issues of negligence and liability for bodily injury, death, or property damage sustained in the accident.

(c) If the magistrate determines that there is a reasonable possibility that a judgment will be rendered against the person for bodily injury, death, or property damage sustained in the accident, the magistrate shall order the person to provide:

(1) evidence of financial responsibility for the bodily injury, death, or property damage; or

(2) evidence that the person is exempt from the requirement of Section 601.051.

(d) A determination of negligence or liability under Subsection (c) does not act as collateral estoppel on an issue in a criminal or civil adjudication arising from the accident.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.294. IMPOUNDMENT OF MOTOR VEHICLE. If a person to whom this subchapter applies does not provide evidence required under Section 601.293(c), the magistrate shall enter an order directing the sheriff of the county or the chief of police of the municipality to impound the motor vehicle owned or operated by the person that was involved in the accident.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.295. DURATION OF IMPOUNDMENT; RELEASE. (a) A motor vehicle impounded under Section 601.294 remains impounded until the

owner, operator, or person authorized by the owner presents to the person authorized to release the vehicle:

- (1) a certificate of release obtained from the department;
- and
- (2) payment for the cost of impoundment.

(b) On presentation of the items described by Subsection (a), the person authorized to release an impounded motor vehicle shall release the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.296. CERTIFICATE OF RELEASE. (a) The department shall issue a certificate of release of an impounded motor vehicle to the owner, operator, or person authorized by the owner on submission to the department of:

- (1) evidence of financial responsibility under Section 601.053 that shows that at the time of the accident the vehicle was in compliance with Section 601.051 or was exempt from the requirement of Section 601.051;

- (2) a release executed by each person damaged in the accident other than the operator of the vehicle for which the certificate of release is requested; or

- (3) security in a form and amount determined by the department to secure the payment of damages for which the operator may be liable.

(b) A person may satisfy the requirement of Subsection (a)(1) or (2) by submitting a photocopy of the item required.

(c) The department shall adopt the form, content, and procedures for issuance of a certificate of release.

(d) Security provided under this section is subject to Sections 601.163 to 601.167.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.297. LIABILITY FOR COST OF IMPOUNDMENT. The owner of an impounded vehicle is liable for the costs of the impoundment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**SUBCHAPTER K. EVIDENCE OF FINANCIAL RESPONSIBILITY FOLLOWING
JUDGMENT, CONVICTION, PLEA, OR FORFEITURE OR FOLLOWING SUSPENSION OR
REVOCATION**

Sec. 601.331. REPORT OF UNSATISFIED JUDGMENT OR CONVICTION, PLEA, OR FORFEITURE OF BAIL; NONRESIDENT. (a) If a person does not satisfy a judgment before the 61st day after the date of the judgment, the clerk of the court, on the written request of a judgment creditor or a judgment creditor's attorney, immediately shall send a certified copy of the judgment to the department.

(b) The clerk of the court immediately shall send to the department a certified copy of the action of the court in relation to:

(1) a conviction for a violation of a motor vehicle law;

or

(2) a guilty plea or forfeiture of bail by a person charged with violation of a motor vehicle law.

(c) A certified copy sent to the department under Subsection (b) is prima facie evidence of the conviction, plea, forfeiture, or other action.

(d) If the court does not have a clerk, the judge of the court shall send the certified copy required by this section.

(e) If the defendant named in a judgment reported to the department is a nonresident, the department shall send a certified copy of the judgment to the official in charge of issuing driver's licenses and vehicle registrations of the state, province of Canada, or state of Mexico in which the defendant resides.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 75, Sec. 1, eff. Sept. 1, 1997.

Sec. 601.332. SUSPENSION OF DRIVER'S LICENSE AND VEHICLE REGISTRATION OR NONRESIDENT'S OPERATING PRIVILEGE FOR UNSATISFIED JUDGMENT. (a) Except as provided by Sections 601.333, 601.334, and 601.336, on receipt of a certified copy of a judgment under Section 601.331, the department shall suspend the judgment debtor's:

(1) driver's license and vehicle registrations; or

(2) nonresident's operating privilege.

(b) Subject to Sections 601.333, 601.334, and 601.336, the suspension continues, and the person's driver's license, vehicle

registrations, or nonresident's operating privilege may not be renewed or the person issued a driver's license or registration in the person's name, until:

- (1) the judgment is stayed or satisfied; and
- (2) the person provides evidence of financial responsibility.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.333. RELIEF FROM SUSPENSION: MOTOR VEHICLE LIABILITY INSURANCE. (a) A person whose driver's license, vehicle registrations, or nonresident's operating privilege has been suspended or is subject to suspension under Section 601.332 may file with the department:

- (1) evidence that there was a motor vehicle liability insurance policy covering the motor vehicle involved in the accident out of which the judgment arose in effect at the time of the accident;
- (2) an affidavit stating that the person was insured at the time of the accident, that the insurance company is liable to pay the judgment, and the reason, if known, that the insurance company has not paid the judgment;
- (3) the original policy of insurance or a certified copy of the policy, if available; and
- (4) any other documents required by the department to show that the loss, injury, or damage for which the judgment was rendered was covered by the insurance.

(b) The department may not suspend the driver's license, vehicle registrations, or nonresident's operating privilege, and shall reinstate a license, registration, or privilege that has been suspended, if it is satisfied from the documents filed under Subsection (a) that:

- (1) there was a motor vehicle liability insurance policy in effect for the vehicle at the time of the accident;
- (2) the insurance company that issued the policy was authorized to issue the policy in this state at the time the policy was issued; and
- (3) the insurance company is liable to pay the judgment to the extent and for the amounts required by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.334. RELIEF FROM SUSPENSION: CONSENT OF JUDGMENT CREDITOR. (a) The department may allow a judgment debtor's driver's license and vehicle registrations or nonresident's operating privilege to continue, notwithstanding Section 601.332, if:

(1) the judgment creditor consents to the continuation in writing in the form prescribed by the department; and

(2) the judgment debtor provides evidence of financial responsibility to the department.

(b) Continuation of a judgment debtor's driver's license and vehicle registrations or nonresident's operating privilege expires on the later of:

(1) the date the consent of the judgment creditor is revoked in writing; or

(2) the expiration of six months after the effective date of the consent.

(c) Subsection (b) applies notwithstanding default in the payment of the judgment or any installments to be made under Section 601.335.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.335. INSTALLMENT PAYMENTS AUTHORIZED. (a) A judgment debtor, on notice to the judgment creditor, may apply to the court in which judgment was rendered to pay the judgment in installments.

(b) The court may order payment in installments and may establish the amounts and times of the payments.

(c) An order issued under this section is issued without prejudice to any other legal remedy that the judgment creditor has.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.336. RELIEF FROM SUSPENSION: INSTALLMENT PAYMENTS; DEFAULT. (a) Subject to Subsection (c), the department may not suspend a judgment debtor's driver's license, vehicle registration, or nonresident's operating privilege under Section 601.332 if the judgment debtor:

(1) files evidence of financial responsibility with the department; and

(2) obtains an order under Section 601.335 permitting the payment of the judgment in installments.

(b) Subject to Subsection (c), the department shall restore a judgment debtor's driver's license, vehicle registrations, or nonresident's operating privilege that was suspended following nonpayment of a judgment if the judgment debtor complies with Subsections (a)(1) and (2).

(c) On notice that a judgment debtor has failed to pay an installment as specified in an order issued under Section 601.335, the department shall suspend the judgment debtor's driver's license, vehicle registrations, or nonresident's operating privilege. The suspensions continue until the judgment is satisfied as provided by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.337. EFFECT OF BANKRUPTCY. A discharge in bankruptcy after a judgment is rendered relieves the judgment debtor from the requirements of this chapter, except for financial responsibility requirements arising after the date of the discharge.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.338. EVIDENCE OF FINANCIAL RESPONSIBILITY OR SUSPENSION OF DRIVER'S LICENSE AND VEHICLE REGISTRATION OF OWNER OF MOTOR VEHICLE. (a) The department shall suspend the driver's license and vehicle registrations of the owner of a motor vehicle that was used with the owner's consent by another person at the time of an offense resulting in conviction or a plea of guilty, if under state law the department:

(1) suspends or revokes the driver's license of the other person on receipt of a record of a conviction; or

(2) suspends the vehicle registration of the other person on receipt of a record of a plea of guilty.

(b) The department may not suspend the driver's license and vehicle registration of an owner under this section if the owner files and maintains evidence of financial responsibility with the

department for each motor vehicle registered in the name of the owner.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.339. EVIDENCE OF FINANCIAL RESPONSIBILITY FOLLOWING CONVICTION, PLEA, OR FORFEITURE. (a) Except as provided by Subsection (c), the department may not issue a driver's license to a person who does not hold a driver's license and who:

(1) enters a plea of guilty to an offense or is convicted by a final order or a judgment that:

(A) requires the suspension or revocation of a driver's license;

(B) is imposed for operating a motor vehicle on a highway without a driver's license; or

(C) is imposed for operating an unregistered motor vehicle on a highway; or

(2) forfeits bail or collateral deposited to secure an appearance for trial for an offense described by Subdivision (1).

(b) Except as described by Subsection (c), a motor vehicle may not be registered in the name of a person described by Subsection (a).

(c) Notwithstanding Subsections (a) and (b), a driver's license may be issued or a motor vehicle may be registered if the person files and maintains evidence of financial responsibility with the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.340. EVIDENCE OF FINANCIAL RESPONSIBILITY OR SUSPENSION OF VEHICLE REGISTRATION FOLLOWING SUSPENSION OR REVOCATION OF DRIVER'S LICENSE. (a) Except as provided by Subsection (b) or (c), the department shall suspend the registration of each motor vehicle registered in the name of a person if the department:

(1) under any state law, other than Section 521.341(7), suspends or revokes the person's driver's license on receipt of a record of a conviction or a forfeiture of bail; or

(2) receives a record of a guilty plea of the person entered for an offense for which the department would be required to

suspend the driver's license of a person convicted of the offense.

(b) The department, unless otherwise required by law, may not suspend a registration under Subsection (a) if the person files and maintains evidence of financial responsibility with the department for each motor vehicle registered in the name of the person.

(c) This section does not apply to a suspension of a driver's license for an offense under Chapter 106, Alcoholic Beverage Code, other than an offense that includes confinement as an authorized sanction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.128, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1013, Sec. 30, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 20.006, eff. September 1, 2005.

Sec. 601.341. EVIDENCE OF FINANCIAL RESPONSIBILITY; TERMINATION OF PENALTY. Unless a person whose driver's license or vehicle registration has been suspended or revoked under this subchapter files and maintains evidence of financial responsibility with the department:

- (1) the suspension or revocation may not be terminated;
 - (2) the driver's license or registration may not be renewed;
 - (3) a new driver's license may not be issued to the person;
- or
- (4) a motor vehicle may not be registered in the name of the person.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.129, eff. Sept. 1, 1997.

Sec. 601.342. EVIDENCE OF FINANCIAL RESPONSIBILITY FOLLOWING SUSPENSION OR REVOCATION OF NONRESIDENT'S OPERATING PRIVILEGE. The department may not terminate the suspension or revocation of a nonresident's operating privilege suspended or revoked under this subchapter because of a conviction, forfeiture of bail, or guilty plea unless the person files and maintains evidence of financial

responsibility with the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.129, eff. Sept. 1, 1997.

SUBCHAPTER L. EFFECT OF SUSPENSION

Sec. 601.371. OPERATION OF MOTOR VEHICLE IN VIOLATION OF SUSPENSION; OFFENSE. (a) A person commits an offense if the person, during a period that a suspension of the person's vehicle registration is in effect under this chapter, knowingly permits a motor vehicle owned by the person to be operated on a highway.

(b) It is an affirmative defense to prosecution under this section that the person had not received notice of a suspension order concerning the person's vehicle registration. For purposes of this subsection, notice is presumed to be received if the notice was mailed in accordance with this chapter to the last known address of the person as shown by department records.

(c) Except as provided by Subsection (d), an offense under this section is a misdemeanor punishable by:

- (1) a fine of not less than \$100 or more than \$500; and
- (2) confinement in county jail for a term of not less than 72 hours or more than six months.

(d) If it is shown on the trial of an offense under this section that the person has previously been convicted of an offense under this section, the offense is punishable as a Class A misdemeanor.

(e) In this section, a conviction for an offense that involves operation of a motor vehicle after August 31, 1987, is a final conviction, whether the sentence for the conviction is imposed or probated.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 855, Sec. 2, eff. Sept. 1, 2003.

Sec. 601.372. RETURN OF DRIVER'S LICENSE AND VEHICLE REGISTRATION TO DEPARTMENT. (a) The department shall give written notice of a suspension of a driver's license and vehicle registration to a person who is required to maintain a motor vehicle liability insurance policy or bond under this chapter and whose policy or bond

is canceled or terminated or who does not provide other evidence of financial responsibility on the request of the department.

(b) The notice must be by personal delivery to the person or by deposit in the United States mail addressed to the person at the last address supplied to the department by the person. Notice by mail is presumed to be received on the 10th day after the date the notice is mailed.

(c) The department by rule may require the person to send the person's driver's license and vehicle registrations not later than the 10th day after the date the person receives written notice from the department.

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

(1) the notice was prepared in the regular course of business and placed in the United States mail as part of the regular organized activity of the department; or

(2) the employee delivered the notice in person.

(e) A certificate under Subsection (d)(2) must specify the name of the person to whom the notice was given and the time, place, and manner of the delivery of the notice.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 884, Sec. 3, eff. Sept. 1, 1999.

Sec. 601.373. FAILURE TO RETURN DRIVER'S LICENSE OR VEHICLE REGISTRATION; OFFENSE. (a) A person commits an offense if the person wilfully fails to send a driver's license or vehicle registration as required by Section 601.372. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$200.

(b) The department may direct a department employee to obtain and send to the department the driver's license and vehicle registration of a person who fails to send the person's license or registration in accordance with Section 601.372. The director of the department or the person designated by the director may file a complaint against a person for an offense under Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 884, Sec. 4, eff. Sept. 1, 1999.

Sec. 601.374. TRANSFER OF VEHICLE REGISTRATION PROHIBITED. (a) An owner whose vehicle registration has been suspended under this chapter may not:

- (1) transfer the registration unless the transfer is authorized under Subsection (b); or
- (2) register in another name the motor vehicle to which the registration applies.

(b) The department may authorize the transfer of vehicle registration if the department is satisfied that the transfer is proposed in good faith and not to defeat the purposes of this chapter.

(c) This section does not affect the rights of a conditional vendor or lessor of, or person with a security interest in, a motor vehicle owned by a person who is subject to this section if the vendor, lessor, or secured party is not the registered owner of the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.375. COOPERATION WITH OTHER STATE OR CANADA. (a) The department shall send a certified copy of the record of the department's action suspending a nonresident's operating privilege under Subchapter F or under Sections 601.332, 601.333, and 601.334 to the official in charge of issuing driver's licenses and vehicle registrations of the state or province of Canada in which the nonresident resides.

(b) Subsection (a) applies only if the law of the other state or the province provides for action similar to the action required by Section 601.009.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 601.376. REINSTATEMENT FEE. (a) A driver's license, vehicle registration, or nonresident's operating privilege that has been suspended under this chapter may not be reinstated and a new license or registration may not be issued to the holder of the suspended license, registration, or privilege until the person:

- (1) pays to the department a fee of \$100; and
- (2) complies with the other requirements of this chapter.

(b) The fee imposed by this section is in addition to other fees imposed by law.

(c) A person is required to pay only one fee under this section, without regard to the number of driver's licenses and vehicle registrations to be reinstated for or issued to the person in connection with the payment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 38, eff. Sept. 1, 1999.

SUBCHAPTER M. APPEAL OF DEPARTMENT ACTION

Sec. 601.401. DEPARTMENT ACTIONS SUBJECT TO REVIEW. (a) An action of the department under this chapter may be appealed, unless:

(1) an order of suspension by the department is based on an existing unsatisfied final judgment rendered against a person by a court in this state arising out of the use of a motor vehicle in this state; or

(2) the suspension is automatic under Section 601.231(a).

(b) To appeal an action of the department, the person must file a petition not later than the 30th day after the date of the action in the county court at law in the county in which the person resides or the county court of the county in which the person resides, if the county does not have a county court at law.

(c) A person who files an appeal under this section shall send a file-stamped copy of the petition by certified mail to the department at the department's headquarters in Austin. The copy must be certified by the clerk of the court in which the petition is filed.

(d) The filing of a petition of appeal as provided by this section stays an order of suspension until the earlier of the 91st day after the date the appeal petition is filed or the date the trial is completed and final judgment is rendered.

(e) On expiration of the stay, the department shall impose the suspension. The stay may not be extended, and an additional stay may not be granted.

(f) A trial on appeal is de novo.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1117, Sec. 6, eff. Sept. 1, 2000.

SUBCHAPTER N. FINANCIAL RESPONSIBILITY VERIFICATION PROGRAM

Sec. 601.451. DEFINITION. In this subchapter, "implementing agencies" means:

- (1) the department;
- (2) the Texas Department of Motor Vehicles;
- (3) the Texas Department of Insurance; and
- (4) the Department of Information Resources.

Added by Acts 2005, 79th Leg., Ch. 892 (S.B. 1670), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2J.02, eff. September 1, 2009.

Sec. 601.452. IMPLEMENTATION OF PROGRAM; RULES. (a) The Texas Department of Insurance in consultation with the other implementing agencies shall establish a program for verification of whether owners of motor vehicles have established financial responsibility. The program established must be:

- (1) the program most likely to:
 - (A) reduce the number of uninsured motorists in this state;
 - (B) operate reliably;
 - (C) be cost-effective;
 - (D) sufficiently protect the privacy of the motor vehicle owners;
 - (E) sufficiently safeguard the security and integrity of information provided by insurance companies;
 - (F) identify and employ a method of compliance that improves public convenience; and
 - (G) provide information that is accurate and current;
- and

- (2) capable of being audited by an independent auditor.

(b) The implementing agencies shall jointly adopt rules to administer this subchapter.

(c) The implementing agencies shall convene a working group to facilitate the implementation of the program, assist in the development of rules, and coordinate a testing phase and necessary changes identified in the testing phase. The working group must

consist of representatives of the implementing agencies and the insurance industry and technical experts with the skills and knowledge, including knowledge of privacy laws, required to create and maintain the program.

Added by Acts 2005, 79th Leg., Ch. 892 (S.B. 1670), Sec. 1, eff. September 1, 2005.

Sec. 601.453. AGENT. (a) The Texas Department of Insurance in consultation with the other implementing agencies, under a competitive bidding procedure, shall select an agent to develop, implement, operate, and maintain the program.

(b) The implementing agencies shall jointly enter into a contract with the selected agent.

(c) A contract under this section may not have a term of more than five years.

Added by Acts 2005, 79th Leg., Ch. 892 (S.B. 1670), Sec. 1, eff. September 1, 2005.

Sec. 601.454. INFORMATION PROVIDED BY INSURANCE COMPANY; PRIVACY. (a) Each insurance company providing motor vehicle liability insurance policies in this state shall provide necessary information for those policies to allow the agent to carry out this subchapter, subject to the agent's contract with the implementing agencies and rules adopted under this subchapter.

(b) The agent is entitled only to information that is at that time available from the insurance company and that is determined by the implementing agencies to be necessary to carry out this subchapter.

(c) Information obtained under this subchapter is confidential. The agent:

(1) may use the information only for a purpose authorized under this subchapter;

(2) may not use the information for a commercial purpose; and

(3) on request, and subject to appropriate safeguards to protect the privacy of motor vehicle owners developed by the implementing agencies and the attorney general, may provide the

information to the attorney general for the purpose of enforcing child support obligations.

(d) A person commits an offense if the person knowingly uses information obtained under this subchapter for any purpose not authorized under this subchapter. An offense under this subsection is a Class B misdemeanor.

Added by Acts 2005, 79th Leg., Ch. 892 (S.B. 1670), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 767 (S.B. 865), Sec. 36, eff. June 19, 2009.

SUBTITLE E. VEHICLE SIZE AND WEIGHT

CHAPTER 621. GENERAL PROVISIONS RELATING TO VEHICLE SIZE AND WEIGHT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 621.001. DEFINITIONS. In this chapter:

(1) "Commercial motor vehicle" means a motor vehicle, other than a motorcycle, designed or used for:

- (A) the transportation of property; or
- (B) delivery purposes.

(2) "Commission" means the Texas Transportation Commission.

(3) "Department" means the Texas Department of Motor Vehicles.

(4) "Director" means:

- (A) the executive director of the department; or
- (B) an employee of the department who is:
 - (i) a division or special office director or holds a rank higher than division or special office director; and
 - (ii) designated by the executive director.

(5) "Motor vehicle" means a vehicle that is self-propelled.

(6) "Semitrailer" means a vehicle without motive power that is designed, or used with a motor vehicle, so that some of its weight and the weight of its load rests on or is carried by the motor vehicle.

(7) "Trailer" means a vehicle without motive power that is:

- (A) designed or used to carry property or passengers on its own structure exclusively; and
- (B) drawn by a motor vehicle.

(8) "Truck-tractor" means a motor vehicle designed or used primarily for drawing another vehicle:

(A) that is not constructed to carry a load other than a part of the weight of the vehicle and load being drawn; or

(B) that is engaged with a semitrailer in the transportation of automobiles or boats and that transports the automobiles or boats on part of the truck-tractor.

(9) "Vehicle" means a mechanical device, other than a device moved by human power or used exclusively upon stationary rails or tracks, in, on, or by which a person or property can be transported on a public highway. The term includes a motor vehicle, commercial motor vehicle, truck-tractor, trailer, or semitrailer but does not include manufactured housing as defined by Chapter 1201, Occupations Code.

(10) "Single axle weight" means the total weight transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

(11) "Tandem axle weight" means the total weight transmitted to the road by two or more consecutive axles whose centers may be included between parallel transverse vertical planes spaced more than 40 inches and not more than 96 inches apart, extending across the full width of the vehicle.

(12) "Port of entry" means a place designated by executive order of the president of the United States, by order of the United States secretary of the treasury, or by act of the United States Congress at which a customs officer is authorized to accept entries of merchandise, collect duties, and enforce customs and navigation laws. The term includes a publicly owned or privately owned international port of entry between this state and the United Mexican States.

(13) "Board" means the board of the Texas Department of Motor Vehicles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 14, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1227, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.835, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 313 (S.B. 619), Sec. 1, eff. September

1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 54, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 97, eff. September 1, 2013.

Sec. 621.002. VEHICLE REGISTRATION RECEIPT FOR CERTAIN HEAVY VEHICLES. (a) A copy of the registration receipt issued under Section 502.057 for a commercial motor vehicle, truck-tractor, trailer, or semitrailer shall be:

(1) carried on the vehicle when the vehicle is on a public highway; and

(2) presented to an officer authorized to enforce this chapter on request of the officer.

(b) A copy of the registration receipt is:

(1) admissible in evidence in any cause in which the gross registered weight of the vehicle is an issue; and

(2) prima facie evidence of the gross weight for which the vehicle is registered.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.022, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 98, eff. September 1, 2013.

Sec. 621.003. RECIPROCAL AGREEMENT WITH ANOTHER STATE FOR ISSUANCE OF PERMITS. (a) The board by rule may authorize the director to enter into with the proper authority of another state an agreement that authorizes:

(1) the authority of the other state to issue on behalf of the department to the owner or operator of a vehicle, or combination of vehicles, that exceeds the weight or size limits allowed by this state a permit that authorizes the operation or transportation on a highway in this state of the vehicle or combination of vehicles; and

(2) the department to issue on behalf of the authority of the other state to the owner or operator of a vehicle, or combination

of vehicles, that exceeds the weight or size limits allowed by that state a permit that authorizes the operation or transportation on a highway of that state of the vehicle or combination of vehicles.

(b) A permit issued by the authority of another state under an agreement entered into under this section has the same validity in this state as a permit issued by the department.

(c) The holder of a permit issued by the authority of another state under an agreement entered into under this section is subject to all applicable laws of this state and rules of the department.

(d) The department may contract with a third party to act as the department's agent in the processing of a permit application and the distribution of a permit issued by the department under this section.

(e) An agreement entered into under this section may provide for a third party to act as the agent of each state in the processing of a permit application and the distribution of a permit issued by a state under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 515, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 55, eff. September 1, 2011.

Sec. 621.004. ADMISSIBILITY OF CERTIFICATE OF VERTICAL CLEARANCE. In each civil or criminal proceeding in which a violation of this chapter may be an issue, a certificate of the vertical clearance of a structure, including a bridge or underpass, signed by the executive director of the Texas Department of Transportation is admissible in evidence for all purposes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 56, eff. September 1, 2011.

Sec. 621.005. EFFECT OF INCREASED LIMITS BY UNITED STATES. If the United States prescribes or adopts vehicle size or weight limits greater than those prescribed by 23 U.S.C. Section 127 on March 18,

1975, for the national system of interstate and defense highways, the increased limits apply to the national system of interstate and defense highways in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 621.006. RESTRICTED OPERATION ON CERTAIN HOLIDAYS. The commission by rule may impose restrictions on the weight and size of vehicles to be operated on state highways on the following holidays only:

- (1) New Year's Day;
- (2) Memorial Day;
- (3) Independence Day;
- (4) Labor Day;
- (5) Thanksgiving Day; and
- (6) Christmas Day.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 57, eff. September 1, 2011.

Sec. 621.007. EVIDENCE OF VIOLATION. (a) In a proceeding in which a violation of a weight restriction under this subtitle may be an issue, a document is admissible as relevant evidence of the violation if:

- (1) the document is:
 - (A) a record kept under Section 621.410; or
 - (B) a bill of lading, freight bill, weight certification, or similar document that is issued by a person consigning cargo for shipment or engaged in the business of transporting or forwarding cargo; and
- (2) the document states:
 - (A) a gross weight of the vehicle or combination of vehicles and cargo that exceeds a weight restriction under this subtitle; or
 - (B) a gross weight of the cargo that combined with the empty weight of the vehicle or combination of vehicles exceeds a weight restriction under this subtitle.

(b) This section does not limit the admissibility of any other evidence relating to the violation.

Added by Acts 2001, 77th Leg., ch. 1227, Sec. 3, eff. Sept. 1, 2001.

Sec. 621.008. RULEMAKING AUTHORITY. The board may adopt rules necessary to implement and enforce this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 58, eff. September 1, 2011.

SUBCHAPTER B. WEIGHT LIMITATIONS

Sec. 621.101. MAXIMUM WEIGHT OF VEHICLE OR COMBINATION. (a) A vehicle or combination of vehicles may not be operated over or on a public highway or at a port-of-entry between Texas and the United Mexican States if the vehicle or combination has:

(1) a single axle weight heavier than 20,000 pounds, including all enforcement tolerances;

(2) a tandem axle weight heavier than 34,000 pounds, including all enforcement tolerances;

(3) an overall gross weight on a group of two or more consecutive axles heavier than the weight computed using the following formula and rounding the result to the nearest 500 pounds:

$$W = 500((LN/(N - 1)) + 12N + 36)$$

where:

"W" is maximum overall gross weight on the group;

"L" is distance in feet between the axles of the group that are the farthest apart; and

"N" is number of axles in the group; or

(4) tires that carry a weight heavier than the weight specified and marked on the sidewall of the tire, unless the vehicle is being operated under the terms of a special permit.

(b) Notwithstanding Subsection (a)(3), two consecutive sets of tandem axles may carry a gross load of not more than 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets is 36 feet or more. The overall gross weight on a group of two or more consecutive axles may not be heavier than 80,000 pounds, including all enforcement tolerances, regardless of tire ratings, axle spacing (bridge), and number of axles.

(c) This section does not:

(1) authorize size or weight limits on the national system of interstate and defense highways in this state greater than those permitted under 23 U.S.C. Section 127, as amended;

(2) prohibit the operation of a vehicle or combination of vehicles that could be lawfully operated on a highway or road of this state on December 16, 1974; or

(3) apply to a vehicle or combination of vehicles that operates exclusively:

(A) at a private port of entry;

(B) on private roads associated with the port of entry;

and

(C) across a public highway between private roads associated with the port of entry under a contract under Section 623.052.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 601, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 941, Sec. 15, eff. Sept. 1, 2001 and Acts 2001, 77th Leg., ch. 1227, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 313 (S.B. 619), Sec. 2, eff. September 1, 2005.

Sec. 621.102. AUTHORITY TO SET MAXIMUM WEIGHTS. (a) The executive director of the Texas Department of Transportation may set the maximum single axle weight, tandem axle weight, or gross weight of a vehicle, or maximum single axle weight, tandem axle weight, or gross weight of a combination of vehicles and loads, that may be moved over a state highway or a farm or ranch road if the executive director finds that heavier maximum weight would rapidly deteriorate or destroy the road or a bridge or culvert along the road. A maximum weight set under this subsection may not exceed the maximum set by statute for that weight.

(b) The executive director of the Texas Department of Transportation must make the finding under this section on an engineering and traffic investigation and in making the finding shall consider the width, condition, and type of pavement structures and other circumstances on the road.

(c) A maximum weight or load set under this section becomes effective on a highway or road when appropriate signs giving notice of the maximum weight or load are erected on the highway or road by the Texas Department of Transportation.

(d) A vehicle operating under a permit issued under Section 623.011, 623.071, 623.094, 623.121, 623.142, 623.181, 623.192, 623.212, or 623.321, as added by Chapter 1135 (H.B. 2741), Acts of the 83rd Legislature, Regular Session, 2013, may operate under the conditions authorized by the permit over a road for which the executive director of the Texas Department of Transportation has set a maximum weight under this section.

(e) For the purpose of this section, a farm or ranch road is a state highway that is shown in the records of the commission to be a farm-to-market or ranch-to-market road.

(f) This section does not apply to a vehicle delivering groceries, farm products, or liquefied petroleum gas.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.131, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 920, Sec. 19, eff. June 14, 2001; Acts 2001, 77th Leg., ch. 941, Sec. 16, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 312, Sec. 76, 77, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 15.73, 15.74, eff. June 21, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 571 (H.B. 3309), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 59, eff. September 1, 2011.

Reenacted by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.023, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1184 (S.B. 1171), Sec. 1, eff. June 19, 2015.

SUBCHAPTER C. SIZE LIMITATIONS

Sec. 621.201. MAXIMUM WIDTH. (a) The total width of a vehicle operated on a public highway other than a vehicle to which Subsection (b) applies, including a load on the vehicle but excluding any safety device determined by the United States Department of Transportation

or the Texas Department of Public Safety to be necessary for the safe and efficient operation of motor vehicles of that type, may not be greater than 102 inches.

(b) The total width of a passenger vehicle and its load may not be greater than eight feet. This subsection does not apply to a motor bus or trolley bus operated exclusively in the territory of a municipality, in suburbs contiguous to the municipality, or in the county in which the municipality is located.

(c) A passenger vehicle may not carry a load extending more than three inches beyond the left side line of its fenders or more than six inches beyond the right side line of its fenders.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 621.202. COMMISSION'S AUTHORITY TO SET MAXIMUM WIDTH. (a) To comply with safety and operational requirements of federal law, the commission by order may set the maximum width of a vehicle, including the load on the vehicle, at eight feet for a designated highway or segment of a highway if the results of an engineering and traffic study, conducted by the Texas Department of Transportation, that includes an analysis of structural capacity of bridges and pavements, traffic volume, unique climatic conditions, and width of traffic lanes support the change.

(b) An order under this section becomes effective on the designated highway or segment when appropriate signs giving notice of the limitations are erected by the Texas Department of Transportation.

(c) This section is intended to comply with the Surface Transportation Assistance Act of 1982 (23 U.S.C.A. Section 101 et seq.) and is conditioned on that Act and federal regulations implementing that Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 60, eff. September 1, 2011.

Sec. 621.203. MAXIMUM LENGTH OF MOTOR VEHICLE. (a) A motor vehicle, other than a truck-tractor, may not be longer than 45 feet.

(b) A motor bus as defined by Section 502.001 that is longer than 35 feet but not longer than 45 feet may be operated on a highway if the motor bus is equipped with air brakes and has either three or more axles or a minimum of four tires on the rear axle.

(c) The limitation prescribed by Subsection (a) does not apply to a house trailer or towable recreational vehicle or a combination of a house trailer or towable recreational vehicle and a motor vehicle. A house trailer or towable recreational vehicle and motor vehicle combination may not be longer than 65 feet.

(d) In this section, "house trailer" and "towable recreational vehicle" have the meanings assigned by Section 541.201.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1020, Sec. 3, eff. Sept. 1, 1997.

Sec. 621.204. MAXIMUM LENGTH OF SEMITRAILER OR TRAILER. (a) A semitrailer that is operated in a truck-tractor and semitrailer combination may not be longer than 59 feet, excluding the length of the towing device.

(b) A semitrailer or trailer that is operated in a truck-tractor, semitrailer, and trailer combination may not be longer than 28-1/2 feet, excluding the length of the towing device.

(c) The limitations prescribed by this section do not include any safety device determined by regulation of the United States Department of Transportation or by rule of the Department of Public Safety to be necessary for the safe and efficient operation of motor vehicles.

(d) The limitations prescribed by this section do not apply to a semitrailer or trailer that has the dimensions of a semitrailer or trailer, as appropriate, that was being operated lawfully in this state on December 1, 1982.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 17, eff. Sept. 1, 2001.

Sec. 621.205. MAXIMUM LENGTH OF VEHICLE COMBINATIONS. (a) Except as provided by this section, a combination of not more than three vehicles, including a truck and semitrailer, truck and trailer, truck-tractor and semitrailer and trailer, or a truck-tractor and two

trailers, may be coupled together if the combination of vehicles, other than a truck-tractor combination, is not longer than 65 feet.

(b) A passenger car or another motor vehicle that has an unloaded weight of less than 2,500 pounds may not be coupled with more than one other vehicle or towing device at one time. This subsection does not apply to the towing of a disabled vehicle to the nearest intake place for repair.

(c) A motor vehicle, including a passenger car, that has an unloaded weight of 2,500 pounds or more may be coupled with a towing device and one other vehicle.

(d) In this section:

(1) "Passenger car" means a motor vehicle designed to transport 10 or fewer persons simultaneously.

(2) "Towing device" means a device used to tow a vehicle behind a motor vehicle by supporting one end of the towed vehicle above the surface of the road and permitting the wheels at the other end of the towed vehicle to remain in contact with the road.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 621.206. MAXIMUM EXTENDED LENGTH OF LOAD. (a) A vehicle or combination of vehicles may not carry a load that extends more than three feet beyond its front or, except as permitted by other law, more than four feet beyond its rear.

(b) Subsection (a) does not apply to vehicles collecting garbage, rubbish, refuse, or recyclable materials which are equipped with front-end loading attachments and containers provided that the vehicle is actively engaged in the collection of garbage, rubbish, refuse, or recyclable materials.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 25, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 165, Sec. 30.132, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 941, Sec. 18, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 19.0065, eff. Sept. 1, 2001.

Sec. 621.2061. EXCEPTION TO MAXIMUM EXTENDED LENGTH OF LOAD: CERTAIN MOTOR VEHICLES. Notwithstanding Section 621.206, a trailer may carry a load that extends more than four feet beyond the rear of

the trailer if the load consists of a motor vehicle that:

- (1) is designed and intended to be carried at the rear of the trailer;
- (2) is used or intended to be used to load or unload a commodity on or off the trailer;
- (3) does not extend more than seven feet beyond the rear of the trailer; and
- (4) complies with each applicable federal motor carrier safety regulation.

Added by Acts 1997, 75th Leg., ch. 25, Sec. 2, eff. Sept. 1, 1997.

Sec. 621.207. MAXIMUM HEIGHT. (a) A vehicle and its load may not be higher than 14 feet.

(b) The operator of a vehicle that is higher than 13 feet 6 inches shall ensure that the vehicle will pass through each vertical clearance of a structure in its path without touching the structure.

(c) Any damage to a bridge, underpass, or similar structure that is caused by the height of a vehicle is the responsibility of the owner of the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. LOCAL REGULATIONS

Sec. 621.301. COUNTY'S AUTHORITY TO SET MAXIMUM WEIGHTS. (a) The commissioners court of a county may establish load limits for any county road or bridge only with the concurrence of the Texas Department of Transportation. A load limit shall be deemed concurred with by the Texas Department of Transportation 30 days after the county submits to the Texas Department of Transportation the load limit accompanied by supporting documentation and calculations reviewed and sealed by an engineer licensed in this state, though the Texas Department of Transportation may review the load limit and withdraw concurrence at any time after the 30-day period.

(b) The commissioners court may limit the maximum weights to be moved on or over a county road, bridge, or culvert by exercising its authority under this subsection in the same manner and under the same conditions provided by Section 621.102 for the Texas Department of Transportation to limit maximum weights on highways and roads to

which that section applies.

(c) The commissioners court shall record an action under Subsection (b) in its minutes.

(d) A maximum weight set under this section becomes effective on a road when appropriate signs giving notice of the maximum weight are erected by the Texas Department of Transportation on the road under order of the commissioners court.

(e) A vehicle operating under a permit issued under Section 623.011, 623.071, 623.094, 623.121, 623.142, 623.181, 623.192, 623.212, or 623.321, as added by Chapter 1135 (H.B. 2741), Acts of the 83rd Legislature, Regular Session, 2013, may operate under the conditions authorized by the permit over a road for which the commissioners court has set a maximum weight under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 19, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1227, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 61, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 99, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1184 (S.B. 1171), Sec. 2, eff. June 19, 2015.

Sec. 621.302. EXCEPTION TO COUNTY'S WEIGHT LIMITATIONS. A maximum weight set under Section 621.301 does not apply to a vehicle delivering groceries or farm products to a destination requiring travel over a road for which the maximum is set.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 621.303. MUNICIPAL REGULATION OF LOADS AND EQUIPMENT. The governing body of any municipality may regulate the movement and operation on a public road, other than a state highway in the territory of the municipality, of:

- (1) an overweight, oversize, or overlength commodity that cannot reasonably be dismantled; and
- (2) superheavy or oversize equipment for the transportation

of an overweight, oversize, or overlength commodity that cannot be reasonably dismantled.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 621.304. RESTRICTION ON LOCAL GOVERNMENT AUTHORITY TO REGULATE OVERWEIGHT VEHICLES AND LOADS ON STATE HIGHWAY SYSTEM. Except as expressly authorized by this subtitle, a county or municipality may not require a permit, bond, fee, or license for the movement of a vehicle or combination of vehicles or any load carried by the vehicle or vehicles on the state highway system in the county or municipality that exceeds the weight or size limits on the state highway system.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 100, eff. September 1, 2013.

SUBCHAPTER E. FEES

Sec. 621.351. ESCROW ACCOUNT FOR PREPAYMENT OF PERMIT FEES.

(a) The department may establish one or more escrow accounts in the Texas Department of Motor Vehicles fund for the prepayment of a fee for a permit issued by the department that authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitations.

(b) The fees and any fees established by the department for the administration of this section shall be administered in accordance with an agreement containing terms and conditions agreeable to the department.

(c) The department shall deposit each fee established under this section to the credit of the Texas Department of Motor Vehicles fund. The fees may be appropriated only to the department for purposes of administering this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 47, eff. September 1, 2013.

Sec. 621.352. FEES FOR PERMITS ISSUED UNDER RECIPROCAL AGREEMENT. (a) The board by rule may establish fees for the administration of Section 621.003 in an amount that, when added to the other fees collected by the department, does not exceed the amount sufficient to recover the actual cost to the department of administering that section. An administrative fee collected under this section shall be sent to the comptroller for deposit to the credit of the Texas Department of Motor Vehicles fund and may be appropriated only to the department for the administration of Section 621.003.

(b) A permit fee collected by the department under Section 621.003 for another state shall be sent to the comptroller for deposit to the credit of the permit distributive account in the general revenue fund. The comptroller shall distribute money in the permit distributive account only to the proper authorities of other states and only as directed by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.12, eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 62, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. [2202](#)), Sec. 48, eff. September 1, 2013.

Sec. 621.353. DISTRIBUTION OF FEE FOR PERMIT FOR EXCESS WEIGHT. (a) The comptroller shall send \$50 of each base fee collected under Section 623.011 for an excess weight permit to the counties of the state, with each county receiving an amount determined according to the ratio of the total number of miles of county roads maintained by the county to the total number of miles of county roads maintained by all of the counties of this state. The comptroller shall deposit \$40 of each base fee, plus each fee collected under Section 623.0112, to the credit of the Texas Department of Motor Vehicles fund. Money deposited to the credit of that fund under this subsection may be appropriated only to the department to administer this section and Sections 623.011, 623.0111, and 623.0112.

(b) The comptroller shall send the amount due each county under Subsection (a) to the county treasurer or officer performing the

function of that office at least twice each fiscal year.

(c) The comptroller shall send each fee collected under Section 623.0111 for an excess weight permit to the counties designated on the application for the permit, with each county shown on the application receiving an amount determined according to the ratio of the total number of miles of county roads maintained by the county to the total number of miles of county roads maintained by all of the counties designated on the application.

(d) The county treasurer or officer shall deposit amounts received under this section to the credit of the county road and bridge fund. Money deposited to the credit of that fund under this subsection may be used only for a purpose authorized by Section 256.001(a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.133(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 18.13, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 700 (H.B. 441), Sec. 3, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 49, eff. September 1, 2013.

Sec. 621.354. DISPOSITION OF FEES FOR PERMIT FOR MOVEMENT OF CYLINDRICAL HAY BALES. Of each fee collected under Section 623.017, the department shall deposit:

(1) 90 percent in the state treasury to the credit of the state highway fund; and

(2) 10 percent in the state treasury to the credit of the Texas Department of Motor Vehicles fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 50, eff. September 1, 2013.

Sec. 621.355. DISTRIBUTION OF FEES FOR REGISTRATION OF

ADDITIONAL WEIGHT. (a) If an operator or owner is required to pay for registration of additional weight under Section 621.406 in a county other than the county in which the owner resides, the assessor-collector of the county in which the payment is made shall send the amount collected to the department for deposit to the credit of the state highway fund.

(b) The department shall send the county's share of the amount collected under Section 621.406 to the county in which the owner resides.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 621.356. FORM OF PAYMENT. The board may adopt rules prescribing the method for payment of a fee for a permit issued by the department that authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitations. The rules may:

(1) authorize the use of electronic funds transfer or a credit card issued by:

(A) a financial institution chartered by a state or the federal government; or

(B) a nationally recognized credit organization approved by the board; and

(2) require the payment of a discount or service charge for a credit card payment in addition to the fee.

Added by Acts 1997, 75th Leg., ch. 515, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 63, eff. September 1, 2011.

SUBCHAPTER F. ENFORCEMENT

Sec. 621.401. DEFINITION. In this subchapter, "weight enforcement officer" means:

(1) a license and weight inspector of the Department of Public Safety;

(2) a highway patrol officer;

(3) a sheriff or sheriff's deputy;

(4) a municipal police officer in a municipality with a

population of:

- (A) 100,000 or more; or
- (B) 74,000 or more in a county with a population of more than 1.5 million;
- (5) a police officer certified under Section 644.101; or
- (6) a constable or deputy constable designated under Section 621.4015.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 364, Sec. 3, eff. May 27, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 17.09, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1523, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 931 (H.B. 602), Sec. 1, eff. June 18, 2005.

Sec. 621.4015. DESIGNATION BY COMMISSIONERS COURT. (a) A county commissioners court may designate a constable or deputy constable of the county as a weight enforcement officer in a county:

- (1) that is a county with a population of 1.5 million or more and is within 200 miles of an international border; or
- (2) that is adjacent to a county with a population of 3.3 million or more; and
- (3) in which a planned community is located that has 20,000 or more acres of land, that was originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.), and that is subject to restrictive covenants containing ad valorem or annual variable budget based assessments on real property.

(b) A constable or deputy constable designated under this section shall be subject to the requirements of Subchapter C, Chapter 644, Transportation Code.

Added by Acts 2005, 79th Leg., Ch. 931 (H.B. 602), Sec. 2, eff. June 18, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 175, eff. September 1, 2011.

Sec. 621.402. WEIGHING LOADED VEHICLE. (a) A weight enforcement officer who has reason to believe that the single axle weight, tandem axle weight, or gross weight of a loaded motor vehicle is unlawful may:

(1) weigh the vehicle using portable or stationary scales furnished or approved by the Department of Public Safety; or

(2) require the vehicle to be weighed by a public weigher.

(b) The officer may require that the vehicle be driven to the nearest available scales.

(c) A noncommissioned employee of the Department of Public Safety who is certified for the purpose by the public safety director and who is supervised by an officer of the Department of Public Safety may, in a port of entry or at a commercial motor vehicle inspection site, weigh a vehicle, require the vehicle to be weighed, or require a vehicle to be driven to the nearest scale under Subsections (a) and (b).

(d) Prior to assessment of a penalty for weight which exceeds the maximum allowable axle weights, the owner or operator is authorized to shift the load to reduce or eliminate such excess axle weight penalties as long as no part of the shipment is removed.

(e) The Department of Public Safety:

(1) shall establish by rule uniform weighing procedures for weight enforcement officers to ensure an accurate weight is obtained for a motor vehicle; and

(2) may revoke or rescind the authority of:

(A) a weight enforcement officer who fails to comply with those rules; or

(B) weight enforcement officers of a municipal police department, sheriff's department, or constable's office that fails to comply with those rules.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 737, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 941, Sec. 20, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1275, Sec. 2(136), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 12 (S.B. 330), Sec. 1, eff. April 23, 2007.

Acts 2015, 84th Leg., R.S., Ch. 715 (H.B. 1252), Sec. 1, eff. September 1, 2015.

Sec. 621.403. UNLOADING VEHICLE IF GROSS WEIGHT EXCEEDED. (a) If the gross weight of a motor vehicle weighed under Section 621.402 is heavier than the weight equal to the maximum gross weight authorized by law for that vehicle plus a tolerance allowance equal to five percent of that maximum weight, the weight enforcement officer shall require the operator or owner of the vehicle to unload a part of the load necessary to decrease the gross weight of the vehicle to a gross weight that is not heavier than the weight equal to the vehicle's maximum gross weight plus the applicable tolerance allowance.

(b) The operator or owner of the vehicle immediately shall unload the vehicle to the extent necessary to reduce the gross weight as required by Subsection (a), and the vehicle may not be operated further over a public highway or road of this state until the gross weight has been reduced as required by Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 621.404. UNLOADING VEHICLE IF AXLE WEIGHT EXCEEDED. (a) If the axle weight of a motor vehicle weighed under Section 621.402 is heavier than the maximum axle weight authorized by law for the vehicle plus a tolerance allowance equal to five percent of that maximum weight, the weight enforcement officer shall require the operator or owner of the vehicle to rearrange the vehicle's cargo, if possible, to bring the vehicle's axles within the maximum axle weight allowed by law for that vehicle. If the requirement cannot be satisfied by rearrangement of cargo, a part of the vehicle's load shall be unloaded to decrease the axle weight to a weight that is not heavier than the maximum axle weight allowed by law for the vehicle plus the applicable tolerance allowance.

(b) The vehicle may not be operated further over the public highways or roads of the state until the axle weight of the vehicle has been reduced as required by Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 21, eff. Sept. 1, 2001.

Sec. 621.405. UNLOADING EXCEPTIONS. (a) The operator or owner of a vehicle is not required to unload any part of the vehicle's load under Section 621.403 or 621.404 if the vehicle is:

(1) a motor vehicle loaded with timber, pulp wood, or agricultural products in their natural state being transported from the place of production to the place of marketing or first processing; or

(2) a vehicle crossing a highway as provided by Subchapter C, Chapter 623.

(b) The operator of a motor vehicle may proceed to the vehicle's destination without unloading the vehicle as required by Section 621.403 or 621.404 if the vehicle is loaded with livestock.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 22, eff. Sept. 1, 2001.

Sec. 621.406. ADDITIONAL GROSS WEIGHT REGISTRATION. (a) If the gross weight of the motor vehicle is not heavier than the maximum gross weight allowed for the vehicle but is heavier than the registered gross weight for the vehicle, the weight enforcement officer shall require the operator or owner of the vehicle to apply to the nearest available county assessor-collector to increase the gross weight for which the vehicle is registered to a weight equal to or heavier than the gross weight of the vehicle before the operator or owner may proceed.

(b) The vehicle may not be operated further over the public highways or roads of the state until the registered gross weight of the vehicle has been increased as required by Subsection (a) unless the load consists of livestock or perishable merchandise, in which event the operator or owner may proceed with the vehicle in the direction of the vehicle's destination to the nearest practical location at which the vehicle's load can be protected from damage or destruction before increasing the registered weight.

(c) If an operator or owner is found to be carrying a load that is heavier than the load allowed for the registered gross weight of the vehicle, the operator or owner shall pay for the registration of the additional weight for the entire period for which the vehicle is registered without regard to whether the owner or operator has been carrying similar loads from the date of purchase of the vehicle's

current license registration for that registration period.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 621.407. FORMS; ACCOUNTING PROCEDURES. The department shall prescribe all forms and accounting procedures necessary to carry out Sections 621.401 to 621.406.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 621.408. POWERS OF WEIGHT ENFORCEMENT OFFICERS. (a) Except for the authority granted to a port-of-entry supervisor or inspector by Section 621.409, weight enforcement officers have exclusive authority to enforce this subchapter in any area of this state, including all ports of entry between Texas and the United Mexican States.

(b) If a noncommissioned employee weighs a vehicle under Section 621.402 and determines that an enforcement action, such as the issuance of a citation, is warranted, the employee may take enforcement action only if the employee is under the supervision of an officer of the Department of Public Safety.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 601, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1523, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 737, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 313 (S.B. 619), Sec. 3, eff. September 1, 2005.

Sec. 621.409. WEIGHING OF LOADED VEHICLES BY PORT-OF-ENTRY SUPERVISORS, INSPECTORS, OR WEIGHT ENFORCEMENT OFFICERS. (a) A port-of-entry supervisor, an inspector employed by the Alcoholic Beverage Commission, or a weight enforcement officer who has reason to believe that the axle or gross weight of a loaded motor vehicle is unlawful may weigh the vehicle using portable or stationary scales furnished or approved by the Department of Public Safety.

(b) If the vehicle exceeds the maximum gross weight authorized

by law, plus the tolerance allowance provided by Section 621.403, the supervisor, inspector, or weight enforcement officer may prohibit the vehicle from proceeding farther into the state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 364, Sec. 4, eff. May 27, 1997; Acts 2001, 77th Leg., ch. 941, Sec. 23, eff. Sept. 1, 2001.

Sec. 621.410. WEIGHT RECORD. (a) This section applies only to cargo other than timber or another agricultural product in its natural state transported by a commercial motor vehicle.

(b) A person who weighs cargo before or after unloading shall keep a written record, in the form prescribed by the department, containing the information required by Subsection (c).

(c) A record under this section must state:

- (1) the origin, weight, and composition of the cargo;
- (2) the date of loading or unloading, as applicable;
- (3) the name and address of the shipper;
- (4) the total number of axles on the vehicle or combination of vehicles transporting the cargo;
- (5) an identification number of the vehicle or other identification of the vehicle required by department rules; and
- (6) any other information required by the department.

(d) A person required to keep a record under this section shall keep the record for not less than 180 days after the date it is created. The person shall make the record available to inspection and copying by a weight enforcement officer on demand.

(e) This section does not apply to a vehicle that:

- (1) transports material regulated under Section 623.161;
- (2) is weighed by a weight enforcement officer;
- (3) is weighed on scales owned by the state or a political subdivision of the state; or
- (4) is weighed on scales owned by an enterprise principally engaged in the retail sale of motor fuels to the general public.

Added by Acts 2001, 77th Leg., ch. 1227, Sec. 6, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 256, Sec. 1, eff. June 18, 2003.

Sec. 621.411. JOINT OPERATION OF CERTAIN FIXED-SITE FACILITIES.

A county and the Department of Public Safety may enter into an agreement for the joint operation of a fixed-site facility located within the boundaries of the county.

Added by Acts 2013, 83rd Leg., R.S., Ch. 876 (H.B. 714), Sec. 1, eff. September 1, 2013.

SUBCHAPTER G. OFFENSES AND PENALTIES

Sec. 621.501. FAILURE TO CARRY OR PRESENT VEHICLE LICENSE RECEIPT. (a) A person commits an offense if the person fails in violation of Section 621.002 to carry or present a vehicle registration receipt.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 621.502. PROHIBITIONS ON SIZE AND WEIGHT; RESTRICTIONS ON CONSTRUCTION AND EQUIPMENT. (a) A person may not operate or move a vehicle on a highway if:

(1) the vehicle's size is larger than the applicable maximum size authorized for that vehicle by this subtitle;

(2) the vehicle's single axle weight, tandem axle weight, or gross weight is greater than the applicable weight authorized for that vehicle by this subtitle; or

(3) the vehicle is not constructed or equipped as required by this subtitle.

(b) The owner of a vehicle the size of which or the weight, axle load, or wheel load of which is greater than the applicable maximum size, weight, or load authorized for that vehicle by this subtitle or a vehicle that is not constructed or equipped as required by this chapter may not cause or allow the vehicle to be operated or moved on a highway.

(c) A person may not transport on a vehicle a load the size or weight of which is more than the applicable maximum size, weight, or load authorized for that vehicle by this subtitle.

(d) Intent to operate a vehicle at a weight that is heavier than the weight authorized by a permit issued under Section 623.011 is presumed if:

(1) the vehicle is operated at a weight that is heavier than the applicable weight plus the tolerance allowance provided by Section 623.011(a); and

(2) a permit to operate at that weight has not been issued for the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 24, eff. Sept. 1, 2001.

Sec. 621.503. PROHIBITION OF LOADING MORE THAN WEIGHT LIMITATION. (a) A person may not load, or cause to be loaded, a vehicle for operation on a public highway of this state that exceeds the weight limitations for operation of that vehicle provided by Section 621.101.

(b) Intent to violate a limitation is presumed if the weight of the loaded vehicle is heavier than the applicable axle or gross weight limit by 15 percent or more.

(c) This section does not apply to the loading of an agricultural or a forestry commodity before the commodity is changed in processing from its natural state.

(d) A violation of this section is subject to administrative enforcement under Subchapter N, Chapter 623, except that administrative enforcement may not be imposed on a person described by Subsection (a) if the person is an entity or is owned by the same entity that operated the loaded vehicle and has been assessed a criminal penalty under this subtitle for a violation associated with the load.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 364, Sec. 5, eff. May 27, 1997; Acts 2001, 77th Leg., ch. 941, Sec. 25, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 101, eff. September 1, 2013.

Sec. 621.504. BRIDGE OR UNDERPASS CLEARANCE. A person may not operate or attempt to operate a vehicle over or on a bridge or through an underpass or similar structure unless the height of the vehicle, including load, is less than the vertical clearance of the

structure as shown by the records of the Texas Department of Transportation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 64, eff. September 1, 2011.

Sec. 621.506. OFFENSE OF OPERATING OR LOADING OVERWEIGHT VEHICLE; PENALTY; DEFENSE. (a) A person commits an offense if the person:

(1) operates a vehicle or combination of vehicles in violation of Section 621.101, 622.012, 622.031, 622.041, 622.0435, 622.051, 622.061, 622.133, 622.953, or 623.162; or

(2) loads a vehicle or causes a vehicle to be loaded in violation of Section 621.503.

(b) Except as provided by Subsections (b-1), (b-2), and (b-3), an offense under this section is a misdemeanor punishable:

(1) by a fine of not less than \$100 and not more than \$250;

(2) on conviction of an offense involving a vehicle having a single axle weight or tandem axle weight that is heavier than the vehicle's allowable weight, by a fine according to the following schedule:

Pounds Overweight	Fine Range
less than 2,500	\$100 to \$500
2,500-5,000	\$500 to \$1,000
more than 5,000	\$1,000 to \$2,500; or

(3) on conviction of an offense involving a vehicle having a gross weight that is heavier than the vehicle's allowable weight, by a fine according to the following schedule:

Pounds Overweight	Fine Range
less than 2,500	\$100 to \$500
2,500-5,000	\$500 to \$1,000
5,001-10,000	\$1,000 to \$2,500
10,001-20,000	\$2,500 to \$5,000
20,001-40,000	\$5,000 to \$7,000
more than 40,000	\$7,000 to \$10,000.

(b-1) On conviction of a third offense punishable under

Subsection (b)(2) or (3), before the first anniversary of the date of a previous conviction of an offense punishable under Subsection (b)(2) or (3), the defendant shall be punished by a fine in an amount not to exceed twice the maximum amount specified by Subsection (b)(2) or (3).

(b-2) A defendant operating a vehicle or combination of vehicles at a weight for which a permit issued under this subtitle would authorize the operation, but who does not hold the permit, shall be punished by a fine in addition to the fine imposed under Subsection (b) of not less than \$500 or more than \$1,000, except that for a second or subsequent conviction under this section, the offense is punishable by an additional fine of not less than \$2,500 or more than \$5,000.

(b-3) A defendant operating a vehicle or combination of vehicles at a weight in excess of 84,000 pounds with a load that can reasonably be dismantled shall be punished by a fine in addition to the fine imposed under Subsection (b) of not less than \$500 or more than \$1,000, except that for a second or subsequent conviction under this section, the offense is punishable by an additional fine of not less than \$2,500 or more than \$5,000.

(c) On conviction of a violation of an axle weight limitation, the court may assess a fine less than the applicable minimum amount prescribed by Subsection (b) if the court finds that when the violation occurred:

(1) the vehicle was registered to carry the maximum gross weight authorized for that vehicle under Section 621.101; and

(2) the gross weight of the vehicle did not exceed that maximum gross weight.

(d) A judge or justice shall promptly report to the Department of Public Safety each conviction obtained in the judge's or the justice's court under this section. The Department of Public Safety shall keep a record of each conviction reported to it under this subsection.

(e) If a corporation fails to pay the fine assessed on conviction of an offense under this section, the district or county attorney in the county in which the conviction occurs may file suit against the corporation to collect the fine.

(f) A justice or municipal court has jurisdiction of an offense under this section.

(g) Except as provided by Subsection (h), a governmental entity

that collects a fine under this section for an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 pounds heavier than the vehicle's allowable weight shall send an amount equal to 50 percent of the fine to the comptroller in the manner provided by Subchapter B, Chapter 133, Local Government Code.

(h) If the offense described by Subsection (g) occurred within 20 miles of an international border, the entire amount of the fine shall be deposited for the purposes of road maintenance in:

(1) the municipal treasury, if the fine was imposed by a municipal court; or

(2) the county treasury, if the fine was imposed by a justice court.

(i) A fine may not be imposed under this section that exceeds the minimum dollar amount that may be imposed unless the vehicle's weight was determined by a portable or stationary scale furnished or approved by the Department of Public Safety.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.133(b), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1101, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 941, Sec. 26, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 78(a), eff. Jan. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 332 (S.B. [737](#)), Sec. 1, eff. June 17, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 102, eff. September 1, 2013.

Sec. 621.507. GENERAL OFFENSE; PENALTY. (a) A person commits an offense if the person violates a provision of this subtitle for which an offense is not specified by another section of this subtitle.

(b) An offense under this section is a misdemeanor punishable:

(1) by a fine not to exceed \$200;

(2) on conviction before the first anniversary of the date of a previous conviction under this section:

(A) by a fine not to exceed \$500, by confinement in a county jail for not more than 60 days, or by both the fine and

confinement; or

(B) if the convicted person is a corporation, by a fine not to exceed \$1,000; or

(3) on a conviction before the first anniversary of the date of a previous conviction under this section that was punishable under Subdivision (2) or this subdivision:

(A) by a fine not to exceed \$1,000, by confinement in the county jail for not more than six months, or by both the fine and confinement; or

(B) if the convicted person is a corporation, by a fine not to exceed \$2,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 27, eff. Sept. 1, 2001.

Sec. 621.508. AFFIRMATIVE DEFENSE FOR OPERATING VEHICLE OVER MAXIMUM ALLOWABLE WEIGHT. (a) It is an affirmative defense to prosecution of, or an action under Subchapter F for, the offense of operating a vehicle with a single axle weight or tandem axle weight heavier than the axle weight authorized by law that at the time of the offense the vehicle:

(1) had a single axle weight or tandem axle weight that was not heavier than the axle weight authorized by law plus 12 percent;

(2) was loaded with timber, pulp wood, wood chips, or cotton, livestock, or other agricultural products that are:

(A) in their natural state; and

(B) being transported from the place of production to the place of first marketing or first processing; and

(3) was not being operated on a portion of the national system of interstate and defense highways.

(b) It is an affirmative defense to prosecution of, or an action under Subchapter F for, the offense of operating a vehicle with a single axle weight, tandem axle weight, or gross weight heavier than the weight authorized by law that at the time of the offense the weight enforcement officer failed to follow the weighing procedures established under Section 621.402(e) when determining the weight of the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 28, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 715 (H.B. [1252](#)), Sec. 2, eff. September 1, 2015.

Sec. 621.509. FAILURE TO MAINTAIN WEIGHT RECORD. (a) A person commits an offense if the person fails to keep a weight record in violation of Section 621.410.

(b) An offense under this section is a Class C misdemeanor.

Added by Acts 2001, 77th Leg., ch. 1227, Sec. 7, eff. Oct. 1, 2001.

Sec. 621.510. PERMIT VOID. A permit issued under this chapter is void on the failure of the owner or the owner's representative to comply with a rule of the board or with a condition placed on the permit by the department.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 103, eff. September 1, 2013.

**CHAPTER 622. SPECIAL PROVISIONS AND EXCEPTIONS FOR OVERSIZE OR
OVERWEIGHT VEHICLES**

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 622.001. DEFINITIONS. In this chapter:

- (1) "Commission" means the Texas Transportation Commission.
- (2) "Department" means the Texas Department of Motor

Vehicles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 65, eff. September 1, 2011.

Sec. 622.002. RULEMAKING AUTHORITY. The board of the department may adopt rules necessary to implement and enforce this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 66,

eff. September 1, 2011.

SUBCHAPTER B. VEHICLES TRANSPORTING READY-MIXED CONCRETE

Sec. 622.011. DEFINITION; DESIGNATION AS PERISHABLE. (a) In this subchapter, "ready-mixed concrete truck" means:

(1) a vehicle designed exclusively to transport or manufacture ready-mixed concrete and includes a vehicle designed exclusively to transport and manufacture ready-mixed concrete; or

(2) a concrete pump truck.

(b) Ready-mixed concrete is a perishable product.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.134(a), eff. Sept. 1, 1997.

Sec. 622.012. AXLE WEIGHT RESTRICTIONS. (a) A ready-mixed concrete truck may be operated on a public highway of this state only if the tandem axle weight is not heavier than 46,000 pounds and the single axle weight is not heavier than 23,000 pounds.

(b) A truck may be operated at a weight that exceeds the maximum single axle or tandem axle weight limitation by not more than 10 percent if the gross weight is not heavier than 69,000 pounds and the department has issued a permit that authorizes the operation of the vehicle under Section 623.0171.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.135, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 941, Sec. 29, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 104, eff. September 1, 2013.

Sec. 622.014. LOCAL REGULATION. (a) The governing body of a county or municipality that determines a public highway under its jurisdiction is insufficient to carry a load authorized by Section 622.012 may prescribe, by order or ordinance, rules governing the operation of a ready-mixed concrete truck over a public highway maintained by the county or municipality.

(b) The rules may include weight limitations on a truck with:

- (1) a tandem axle weight that is heavier than 36,000 pounds;
- (2) a single axle weight that is heavier than 12,000 pounds; or
- (3) a gross weight that is heavier than 48,000 pounds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 31, eff. Sept. 1, 2001.

Sec. 622.015. LOCAL SURETY BOND. The governing body of a county or municipality may require the owner of a ready-mixed concrete truck to file a surety bond in an amount not to exceed \$15,000 and conditioned that the owner of the truck will pay to the county or municipality any damage to a highway caused by the operation of the truck with a tandem axle weight that is heavier than 34,000 pounds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 32, eff. Sept. 1, 2001.

Sec. 622.016. INTERSTATE AND DEFENSE HIGHWAYS. (a) This subchapter does not authorize the operation on the national system of interstate and defense highways in this state of a vehicle of a size or weight greater than that authorized by 23 U.S.C. Section 127, as amended.

(b) If the United States authorizes the operation on the national system of interstate and defense highways of a vehicle of a size or weight greater than that authorized on January 1, 1977, the new limit automatically takes effect on the national system of interstate and defense highways in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. VEHICLES TRANSPORTING MILK

Sec. 622.031. LENGTH AND AXLE WEIGHT RESTRICTIONS. A vehicle used exclusively to transport milk may be operated on a public highway of this state only if:

- (1) the distance between the front wheel of the forward

tandem axle and the rear wheel of the rear tandem axle, measured longitudinally, is 28 feet or more; and

(2) the weight carried on any group of axles is not heavier than 68,000 pounds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 33, eff. Sept. 1, 2001.

Sec. 622.032. INTERSTATE AND DEFENSE HIGHWAYS. (a) This subchapter does not authorize the operation on the national system of interstate and defense highways in this state of a vehicle of a size or weight greater than that authorized by 23 U.S.C. Section 127, as amended.

(b) If the United States authorizes the operation on the national system of interstate and defense highways of a vehicle of a size or weight greater than that authorized by 23 U.S.C. Section 127 on August 29, 1977, the new limit takes effect on the national system of interstate and defense highways in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER D. VEHICLES TRANSPORTING TIMBER OR TIMBER PRODUCTS

Sec. 622.041. LENGTH LIMITATION. (a) A person may operate over a highway or road of this state a vehicle or combination of vehicles that is used exclusively for transporting poles, piling, or unrefined timber from the point of origin of the timber (the forest where the timber is felled) to a wood processing mill if:

(1) the vehicle, or combination of vehicles, is not longer than 90 feet, including the load; and

(2) the distance from the point of origin to the destination or delivery point does not exceed 125 miles.

(b) Subsection (a)(1) does not apply to a truck-tractor or truck-tractor combination transporting poles, piling, or unrefined timber.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 34, eff. Sept. 1, 2001.

Sec. 622.042. TIME OF OPERATION; DISPLAY OF FLAG, CLOTH, OR STROBE LIGHT. (a) A vehicle subject to this subchapter may be operated only during daytime.

(b) In this section, "daytime" has the meaning assigned by Section 541.401.

(c) A red flag or cloth not less than 12 inches square or a strobe light must be displayed at the rear of the load carried on the vehicle so that the light or the entire area of the flag or cloth is visible to the driver of a vehicle approaching from the rear.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.134(b), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 749, Sec. 1, eff. Sept. 1, 1999.

Sec. 622.043. CONFORMITY WITH GENERAL PROVISIONS RELATING TO VEHICLE SIZE AND WEIGHT. The width, height, and gross weight of a vehicle or combination of vehicles subject to this subchapter shall conform to Chapter 621.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 622.0435. VEHICLES TRANSPORTING RAW WOOD PRODUCTS. (a) The width, height, and gross weight of a vehicle or combination of vehicles subject to this subchapter that is transporting raw wood products shall conform to Chapters 621 and 623, except that a vehicle or combination of vehicles transporting raw wood products that has an outer bridge of 39 feet or more may have a maximum gross weight of 80,000 pounds.

(b) Notwithstanding any other provision of law, Subsection (a) does not authorize the operation of a vehicle or combination of vehicles subject to this subchapter that is transporting raw wood products on a bridge with a load limitation at a weight that exceeds that limitation.

Added by Acts 1997, 75th Leg., ch. 1106, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 35, eff. Sept. 1, 2001.

Sec. 622.044. EXTENSION OF LOAD BEYOND REAR OF VEHICLE. Section 621.206(a) does not apply to a vehicle to which this subchapter applies to the extent that section prescribes a limit on the extension of the load beyond the rear of the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 622.045. INTERSTATE AND DEFENSE HIGHWAYS. (a) This subchapter does not authorize the operation on the national system of interstate and defense highways in this state of a vehicle of a size or weight greater than those permitted under 23 U.S.C. Section 127, as amended.

(b) If the United States authorizes the operation on the national system of interstate and defense highways of a vehicle of a size or weight greater than those permitted under 23 U.S.C. Section 127 on August 29, 1997, the new limit automatically takes effect on the national system of interstate and defense highways in this state.

Added by Acts 2001, 77th Leg., ch. 941, Sec. 36, eff. Sept. 1, 2001.

SUBCHAPTER E. VEHICLES TRANSPORTING ELECTRIC POWER TRANSMISSION POLES

Sec. 622.051. LENGTH LIMITATION; FEE. (a) A person may operate over a highway or road of this state a vehicle or combination of vehicles that is used exclusively for transporting poles required for the maintenance of electric power transmission and distribution lines if:

(1) the vehicle, or combination of vehicles, is not longer than 75 feet, including the load; and

(2) the operator of the vehicle, or combination of vehicles, pays to the department \$120 each calendar year.

(b) Subsection (a)(1) does not apply to a truck-tractor or truck-tractor combination transporting poles for the maintenance of electric power transmission or distribution lines.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 37, eff. Sept. 1, 2001.

Sec. 622.052. TIME OF OPERATION; SPEED; LIGHTING

REQUIREMENTS. (a) A vehicle to which this subchapter applies may be operated only:

- (1) between sunrise and sunset as defined by law; and
- (2) at a speed not to exceed 50 miles per hour.

(b) A vehicle to which this subchapter applies shall display on the extreme end of the load:

- (1) two red lamps visible at a distance of at least 500 feet from the rear;
- (2) two red reflectors that indicate the maximum width and are visible, when light is insufficient or atmospheric conditions are unfavorable, at all distances from 100 to 600 feet from the rear when directly in front of lawful lower beams of headlamps; and
- (3) two red lamps, one on each side, that indicate the maximum overhang and are visible at a distance of at least 500 feet from the side.

(c) The limitation in Subsection (a)(1) does not apply to a vehicle being operated to prevent interruption or impairment of electric service or to restore electric service that has been interrupted.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 749, Sec. 2, 3, eff. Sept. 1, 1999.

Sec. 622.053. CONFORMITY WITH GENERAL PROVISIONS RELATING TO VEHICLE SIZE AND WEIGHT. The width, height, and gross weight of a vehicle or combination of vehicles to which this subchapter applies shall conform to Chapter 621.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER F. VEHICLES TRANSPORTING POLES OR PIPE

Sec. 622.061. LENGTH LIMITATION. (a) A person may operate over a highway or road of this state a vehicle or combination of vehicles exclusively for the transportation of poles or pipe if the vehicle or combination of vehicles is not longer than 65 feet, including the load.

(b) Subsection (a) does not apply to a truck-tractor or truck-tractor combination transporting poles or pipe.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 38, eff. Sept. 1, 2001.

Sec. 622.062. TIME OF OPERATION; LIGHTING REQUIREMENTS. (a) A vehicle to which this subchapter applies may be operated only during daytime.

(b) A vehicle to which this subchapter applies shall display on the extreme end of the load:

(1) two red lamps visible at a distance of at least 500 feet from the rear;

(2) two red reflectors that indicate the maximum width and are visible, when light is insufficient or atmospheric conditions are unfavorable, at all distances from 100 to 600 feet from the rear when directly in front of lawful lower beams of headlamps; and

(3) two red lamps, one on each side, that indicate the maximum overhang and are visible at a distance of at least 500 feet from the side.

(c) In this section, "daytime" has the meaning assigned by Section 541.401.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.134(c), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1106, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 749, Sec. 4, 5, eff. Sept. 1, 1999.

Sec. 622.063. CONFORMITY WITH GENERAL PROVISIONS RELATING TO VEHICLE SIZE AND WEIGHT. A vehicle or combination of vehicles to which this subchapter applies shall conform to the length, width, height, and weight requirements of Chapter 621.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER G. SPECIAL MOBILE EQUIPMENT

Sec. 622.071. DEFINITION. In this subchapter, "special mobile equipment" has the meaning assigned by Section 541.201.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 622.072. IDENTIFICATION MARKINGS ON SPECIAL MOBILE EQUIPMENT; OFFENSE. (a) Before the 31st day after the date a person becomes the owner of a unit of special mobile equipment, the person shall mark in a conspicuous place on the main chassis the manufacturer's serial number, an operation identification number recognized by law enforcement agencies, or a company identification number in a manner that is visible from not less than 50 feet.

(b) A person commits an offense if the person:

- (1) owns a unit of special mobile equipment; and
- (2) fails to mark the unit as provided by this section.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 or more than \$100 for each unit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 622.073. TRANSPORTATION OF SPECIAL MOBILE EQUIPMENT; OFFENSE. (a) A person commits an offense if the person transports on a public road or highway a unit of special mobile equipment that is not marked as required by Section 622.072.

(b) Except as provided by Subsection (c), an offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$200.

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$200 or more than \$500, confinement in the county jail for a term of not less than 60 days or more than 180 days, or both the fine and the confinement if:

(1) the person committing the offense fails or refuses to exhibit, on demand of a peace officer, a document that contains:

(A) the name, address, and telephone number of the owner of the unit of special mobile equipment;

(B) the place of origin of the unit, including the address of and telephone number at that point and the date the unit was picked up;

(C) the destination of the unit, including the address or telephone number;

(D) a description of the unit being transported, including the manufacturer's serial number and other identification numbers;

(E) a description of the motor vehicle transporting the

unit; and

(F) the name, address, and telephone number of the person operating the motor vehicle transporting the unit;

(2) the person committing the offense exhibits a false or forged document purporting to contain the information described by Subdivision (1); or

(3) on inspection by the peace officer, the peace officer determines that the identification number of the unit of special mobile equipment has been removed, covered, or altered.

(d) For purposes of Subsection (c)(3), a peace officer has probable cause to inspect a unit of special mobile equipment to determine the identification numbers of the unit if:

(1) the person operating the motor vehicle transporting the unit fails or refuses to exhibit on demand a document described by Subsection (c)(1); or

(2) the unit is not marked as required by Section 622.072.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 622.074. NONAPPLICABILITY OF SUBCHAPTER. This subchapter does not apply to:

(1) farm equipment used for a purpose other than construction;

(2) special mobile equipment owned by a dealer or distributor;

(3) a vehicle used to propel special mobile equipment that is registered as a farm vehicle under Section 502.433; or

(4) equipment while being used by a commercial hauler to transport special mobile equipment under hire of a person who derives \$500 in gross receipts annually from a farming or ranching enterprise.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.024, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 105, eff. September 1, 2013.

**SUBCHAPTER I. VEHICLES TRANSPORTING CERTAIN AGRICULTURAL
PRODUCTS OR EQUIPMENT**

Sec. 622.101. VEHICLE TRANSPORTING CERTAIN AGRICULTURAL PRODUCTS OR PROCESSING EQUIPMENT. (a) A single motor vehicle used exclusively to transport chile pepper modules, seed cotton, cotton, cotton burrs, or equipment used to transport or process chile pepper modules or cotton, including a motor vehicle or burr spreader, may not be operated on a highway or road if the vehicle is:

- (1) wider than 10 feet and the highway has not been designated by the commission under Section 621.202;
- (2) longer than 48 feet; or
- (3) higher than 14 feet 6 inches.

(b) A motor vehicle that transports agricultural products under this section must be registered under Section 504.505.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 848, Sec. 2, eff. June 18, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 247 (H.B. 749), Sec. 3, eff. September 1, 2005.

SUBCHAPTER J. CERTAIN VEHICLES TRANSPORTING RECYCLABLE MATERIALS

Sec. 622.131. DEFINITION. In this subchapter, "recyclable material" has the meaning assigned by Section 361.421, Health and Safety Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.136(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 436, Sec. 1, eff. July 15, 1997.

Sec. 622.132. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a vehicle other than a tractor-trailer combination, only if equipped with a container roll-off unit or a front-end loader.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.136(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 436, Sec. 1, eff. July 15, 1997.

Sec. 622.133. AXLE WEIGHT RESTRICTIONS. A single motor vehicle

used exclusively to transport recyclable materials may be operated on a public highway only if the tandem axle weight is not heavier than 44,000 pounds, a single axle load is not heavier than 21,000 pounds, and the gross load is not heavier than 64,000 pounds.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.136(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 436, Sec. 1, eff. July 15, 1997. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 39, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 942, Sec. 4, eff. Sept. 1, 2001.

Sec. 622.134. SURETY BOND. (a) Except as provided by Subsection (c), the owner of a vehicle covered by this subchapter with a tandem axle weight heavier than 34,000 pounds shall before operating the vehicle on a public highway of this state file with the department a surety bond subject to the approval of the Texas Department of Transportation in the principal amount set by the Texas Department of Transportation not to exceed \$15,000 for each vehicle.

(b) The bond must be conditioned that the owner of the vehicle will pay, within the limits of the bond, to the Texas Department of Transportation any damage to a highway, to a county any damage to a county road, and to a municipality any damage to a municipal street caused by the operation of the vehicle.

(c) Subsection (a) does not apply to a vehicle owned by a municipality or a county.

(d) A copy of the bond shall be:

(1) carried on the vehicle when the vehicle is on a public highway; and

(2) presented to an officer authorized to enforce this chapter on request of the officer.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.136(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 436, Sec. 1, eff. July 15, 1997. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 40, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 942, Sec. 5, eff. Sept. 1, 2001. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 68, eff. September 1, 2011.

Sec. 622.135. INTERSTATE AND DEFENSE HIGHWAYS. (a) This

subchapter does not authorize the operation on the national system of interstate and defense highways in this state of a vehicle of a size or weight greater than authorized in 23 U.S.C. Section 127, as amended.

(b) If the United States government authorizes the operation on the national system of interstate and defense highways of vehicles of a size or weight greater than those authorized on January 1, 1983, the new limit automatically takes effect on the national system of interstate and defense highways in this state.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.136(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 436, Sec. 1, eff. July 15, 1997.

Without reference to the amendment of this section by Acts 2001, 77th Leg., ch. 942, Sec. 6, this section was repealed by Acts 2001, 77th Leg., ch. 941, Sec. 44 effective September 1, 2001.

Sec. 622.136. PENALTY. A person commits an offense if the person fails in violation of Section 622.134(d) to carry or present the copy of the bond filed with the department. An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.136(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 436, Sec. 1, eff. July 15, 1997. Amended by Acts 2001, 77th Leg., ch. 942, Sec. 6, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 16.004, eff. Sept. 1, 2003.

Sec. 622.137. DEFENSE TO PROSECUTION: BOND IN EFFECT. (a) It is a defense to prosecution under Section 622.136 that the person charged produces a surety bond that complies with Section 622.134 that was valid at the time the offense is alleged to have occurred.

(b) If the court verifies the bond produced by the person, the court shall dismiss the charge.

Added by Acts 2001, 77th Leg., ch. 942, Sec. 7, eff. Sept. 1, 2001.

SUBCHAPTER Y. MISCELLANEOUS SIZE EXCEPTIONS

Sec. 622.901. WIDTH EXCEPTIONS. (a) In this section, "farm

tractor" and "implement of husbandry" have the meanings assigned by Section 541.201.

(b) The width limitation provided by Section 621.201 does not apply to:

(1) highway building or maintenance machinery that is traveling:

(A) during daylight on a public highway other than a highway that is part of the national system of interstate and defense highways; or

(B) for not more than 50 miles on a highway that is part of the national system of interstate and defense highways;

(2) a vehicle traveling during daylight on a public highway other than a highway that is part of the national system of interstate and defense highways or traveling for not more than 50 miles on a highway that is part of the national system of interstate and defense highways if the vehicle is:

(A) a farm tractor or implement of husbandry; or

(B) a vehicle on which a farm tractor, implement of husbandry, or equipment used in the harvesting and production of timber, other than a tractor, implement, or equipment being transported from one dealer to another, is being moved by the owner of the tractor, implement, or equipment or by an agent or employee of the owner:

(i) to deliver the tractor, implement, or equipment to a new owner;

(ii) to transport the tractor, implement, or equipment to or from a mechanic for maintenance or repair; or

(iii) in the course of an agricultural or forestry operation;

(3) machinery that is used solely for drilling water wells, including machinery that is a unit or a unit mounted on a conventional vehicle or chassis, and that is traveling:

(A) during daylight on a public highway other than a highway that is part of the national system of interstate and defense highways; or

(B) for not more than 50 miles on a highway that is part of the national system of interstate and defense highways;

(4) a vehicle owned or operated by a public, private, or volunteer fire department;

(5) a vehicle registered under Section 502.431; or

(6) a recreational vehicle to which Section 622.903 applies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 491, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.025, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 106, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 78 (S.B. 971), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1184 (S.B. 1171), Sec. 3, eff. June 19, 2015.

Sec. 622.902. LENGTH EXCEPTIONS. The length limitations provided by Sections 621.203 to 621.205 do not apply to:

(1) machinery used exclusively for drilling water wells, including machinery that is itself a unit or that is a unit mounted on a conventional vehicle or chassis;

(2) a vehicle owned or operated by a public, private, or volunteer fire department;

(3) a vehicle or combination of vehicles operated exclusively in the territory of a municipality or to a combination of vehicles operated by a municipality in a suburb adjoining the municipality in which the municipality has been using the equipment or similar equipment in connection with an established service to the suburb;

(4) a truck-tractor, truck-tractor combination, or truck-trailer combination exclusively transporting machinery, materials, and equipment used in the construction, operation, and maintenance of facilities, including pipelines, that are used for the discovery, production, and processing of natural gas or petroleum;

(5) a drive-away saddlemount vehicle transporter combination or a drive-away saddlemount with fullmount vehicle transporter combination, as defined by 23 C.F.R. Part 658 or its successor, if:

(A) the overall length of the combination is not longer than 97 feet; and

(B) the combination does not have more than three saddlemounted vehicles if the combination does not include more than one fullmount vehicle;

(6) the combination of a tow truck and another vehicle or vehicle combination if:

(A) the other vehicle or vehicle combination cannot be normally or safely driven or was abandoned on a highway; and

(B) the tow truck is towing the other vehicle or vehicle combination directly to the nearest authorized place of repair, terminal, or destination of unloading;

(7) a vehicle or combination of vehicles used to transport a harvest machine that is used in farm custom harvesting operations on a farm if the overall length of the vehicle or combination is not longer than:

(A) 75 feet if the vehicle is traveling on a highway that is part of the national system of interstate and defense highways or the federal aid primary highway system; or

(B) 81-1/2 feet if the vehicle is not traveling on a highway that is part of the national system of interstate and defense highways or the federal aid primary highway system; or

(8) a truck-tractor operated in combination with a semitrailer and trailer or semitrailer and semitrailer if:

(A) the combination is used to transport a harvest machine that is used in farm custom harvesting operations on a farm;

(B) the overall length of the combination, excluding the length of the truck-tractor, is not longer than 81-1/2 feet; and

(C) the combination is traveling on a highway that:

(i) is not part of the national system of interstate and defense highways or the federal aid primary highway system; and

(ii) is located in a county with a population of less than 300,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.137(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1144, Sec. 1, eff. June 19, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 83 (S.B. 331), Sec. 1, eff. May 14, 2007.

Acts 2009, 81st Leg., R.S., Ch. 212 (S.B. 969), Sec. 1, eff.

September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 956 (S.B. 1338), Sec. 1, eff. June 18, 2015.

Sec. 622.903. WIDTH LIMITATION ON CERTAIN RECREATIONAL VEHICLES. (a) In this section:

(1) "Appurtenance" includes an awning, a grab handle, lighting equipment, or a vent. The term does not include a load-carrying device.

(2) "Recreational vehicle" has the meaning assigned by Section 522.004.

(b) A recreational vehicle may exceed a width limitation established by Section 621.201 or 621.202 if the excess width is attributable to an appurtenance that extends six inches or less beyond a fender on one or both sides of the vehicle.

Added by Acts 2003, 78th Leg., ch. 491, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER Z. MISCELLANEOUS WEIGHT EXCEPTIONS

Sec. 622.952. FIRE DEPARTMENT VEHICLE. (a) The weight limitations of Section 621.101 do not apply to a vehicle owned or operated by a public, private, or volunteer fire department.

(b) The weight of a fire department's vehicle may not be heavier than the manufacturer's gross vehicle weight capacity or axle design rating.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 622.953. VEHICLE TRANSPORTING SEED COTTON OR CHILE PEPPER MODULES. (a) The weight limitations of Section 621.101 do not apply to a single motor vehicle used exclusively to transport chile pepper modules, seed cotton, or equipment, including a motor vehicle, used to transport or process chile pepper modules or seed cotton.

(b) The overall gross weight of a single motor vehicle used to transport seed cotton or equipment used to transport or process seed cotton may not be heavier than 64,000 pounds.

(c) The overall gross weight of a single motor vehicle used to transport chile pepper modules or equipment used to transport or

process chile pepper modules may not be heavier than 54,000 pounds.

(d) The owner of a single motor vehicle to which this section applies that has a gross weight above the gross weight authorized by this section that is applicable to the vehicle is liable to the state, county, or municipality for any damage to a highway, street, road, or bridge caused by the weight of the load.

(e) A vehicle to which this section applies may not be operated on the national system of interstate and defense highways if the vehicle exceeds the maximum weight authorized by 23 U.S.C. Section 127, as amended.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 41, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 247 (H.B. 749), Sec. 4, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 3, eff. September 1, 2007.

Sec. 622.954. TOW TRUCKS. (a) A permit is not required to exceed the weight limitations of Section 621.101 by a combination of a tow truck and another vehicle or vehicle combination if:

(1) the nature of the service provided by the tow truck is needed to remove disabled, abandoned, or accident-damaged vehicles; and

(2) the tow truck is towing the other vehicle or vehicle combination directly to the nearest authorized place of repair, terminal, or vehicle storage facility.

(b) This section does not authorize the operation on the national system of interstate and defense highways in this state of vehicles with a weight greater than authorized by federal law.

Added by Acts 2001, 77th Leg., ch. 135, Sec. 1, eff. May 16, 2001.

Sec. 622.955. INCREASE OF MAXIMUM WEIGHT FOR VEHICLES WITH IDLE REDUCTION SYSTEMS. (a) For purposes of this section, "idle reduction system" means a system that provides heating, cooling, or electrical service to a commercial vehicle's sleeper berth for the purpose of reducing the idling of a motor vehicle.

(b) Notwithstanding any provision to the contrary, the maximum gross vehicle weight limit and axle weight limit for any vehicle or combination of vehicles equipped with an idle reduction system shall be increased by an amount necessary to compensate for the additional weight of the idle reduction system.

(c) The weight increase under Subsection (b) may not be greater than 400 pounds.

(d) On request by an appropriate law enforcement officer or an official of an appropriate regulatory agency, the vehicle operator shall provide proof that:

(1) the idle reduction technology is fully functional at all times; and

(2) the weight increase is not used for any purpose other than the use of an idle reduction system.

Added by Acts 2011, 82nd Leg., R.S., Ch. 390 (S.B. 493), Sec. 2, eff. June 17, 2011.

CHAPTER 623. PERMITS FOR OVERSIZE OR OVERWEIGHT VEHICLES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 623.001. DEFINITIONS. In this chapter:

(1) "Department" means the Texas Department of Motor Vehicles.

(2) "Shipper" means a person who consigns the movement of a shipment.

(3) "Shipper's certificate of weight" means a document described by Section 623.274.

(4) "Board" means the board of the Texas Department of Motor Vehicles.

(5) "Commission" means the Texas Transportation Commission.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 14, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 69, eff. September 1, 2011.

Sec. 623.002. RULEMAKING AUTHORITY. The board may adopt rules

necessary to implement and enforce this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 70, eff. September 1, 2011.

Sec. 623.003. ROUTE DETERMINATION. (a) To the extent the department is required to determine a route under this chapter, the department shall base the department's routing decision on information provided by the Texas Department of Transportation.

(b) The Texas Department of Transportation shall provide the department with all routing information necessary to complete a permit issued under Section 623.071, 623.121, 623.142, or 623.192.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 70, eff. September 1, 2011.

SUBCHAPTER B. GENERAL PERMITS

Sec. 623.011. PERMIT FOR EXCESS AXLE OR GROSS WEIGHT. (a) The department may issue a permit that authorizes the operation of a commercial motor vehicle, trailer, semitrailer, or combination of those vehicles, or a truck-tractor or combination of a truck-tractor and one or more other vehicles:

(1) at an axle weight that is not heavier than the weight equal to the maximum allowable axle weight for the vehicle or combination plus a tolerance allowance of 10 percent of that allowable weight; and

(2) at a gross weight that is not heavier than the weight equal to the maximum allowable gross weight for the vehicle or combination plus a tolerance allowance of five percent.

(b) To qualify for a permit under this section:

(1) the vehicle must be registered under Chapter 502 for the maximum gross weight applicable to the vehicle under Section 621.101, not to exceed 80,000 pounds;

(2) the security requirement of Section 623.012 must be satisfied; and

(3) a base permit fee of \$90, any additional fee required by Section 623.0111, and any additional fee set by the board under Section 623.0112 must be paid.

(c) A permit issued under this section:

- (1) is valid for one year; and
- (2) must be carried in the vehicle for which it is issued.

(d) When the department issues a permit under this section, the department shall issue a sticker to be placed on the front windshield of the vehicle. The department shall design the form of the sticker to aid in the enforcement of weight limits for vehicles.

(e) The sticker must:

- (1) indicate the expiration date of the permit; and
- (2) be removed from the vehicle when:
 - (A) the permit for operation of the vehicle expires;
 - (B) a lease of the vehicle expires; or
 - (C) the vehicle is sold.

(f) A person commits an offense if the person fails to display the sticker in the manner required by Subsection (d). An offense under this subsection is a Class C misdemeanor. Section 623.019(g) applies to an offense under this subsection.

(g) A vehicle operating under a permit issued under this section may exceed the maximum allowable gross weight tolerance allowance by not more than five percent, regardless of the weight of any one axle or tandem axle, if no axle or tandem axle exceeds the tolerance permitted by Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.138(a), eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1227, Sec. 8, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 700 (H.B. 441), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 107, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 47, eff. March 1, 2015.

Sec. 623.0111. ADDITIONAL FEE FOR OPERATION OF VEHICLE UNDER PERMIT. (a) When a person applies for a permit under Section 623.011, the person must:

- (1) designate in the application each county in which the vehicle will be operated; and
- (2) pay in addition to other fees an annual fee in an

amount determined according to the following table:

Number of Counties Designated	Fee
1-5	\$175
6-20	\$250
21-40	\$450
41-60	\$625
61-80	\$800
81-100	\$900
101-254	\$1,000

(b) A permit issued under Section 623.011 does not authorize the operation of the vehicle in a county that is not designated in the application.

(c) Of the fees collected under Subsection (a), the following amounts shall be deposited to the general revenue fund, 90 percent of the remainder shall be deposited to the credit of the state highway fund, and 10 percent of the remainder shall be deposited to the credit of the Texas Department of Motor Vehicles fund:

Number of Counties Designated	Amount Allocated to General Revenue Fund
1-5	\$125
6-20	\$125
21-40	\$345
41-60	\$565
61-80	\$785
81-100	\$900
101-254	\$1,000

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.138(b), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 4, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 51, eff. September 1, 2013.

Sec. 623.0112. ADDITIONAL ADMINISTRATIVE FEE. When a person applies for a permit under Section 623.011, the person must pay in

addition to other fees an administrative fee adopted by board rule in an amount not to exceed the direct and indirect cost to the department of:

- (1) issuing a sticker under Section 623.011(d);
- (2) distributing fees under Section 621.353; and
- (3) notifying counties under Section 623.013.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.138(b), eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 71, eff. September 1, 2011.

Sec. 623.0113. ROUTE RESTRICTIONS. (a) Except as provided by Subsection (b), a permit issued under Section 623.011 does not authorize the operation of a vehicle on:

(1) the national system of interstate and defense highways in this state if the weight of the vehicle is greater than authorized by federal law; or

(2) a bridge for which a maximum weight and load limit has been established and posted by the Texas Transportation Commission under Section 621.102 or the commissioners court of a county under Section 621.301, if the gross weight of the vehicle and load or the axles and wheel loads are greater than the limits established and posted under those sections.

(b) The restrictions under Subsection (a)(2) do not apply if a bridge described by Subsection (a)(2) provides the only public vehicular access from an origin or to a destination by a holder of a permit issued under Section 623.011.

Added by Acts 2001, 77th Leg., ch. 1227, Sec. 9, eff. Sept. 1, 2001.

Sec. 623.012. SECURITY FOR PERMIT. (a) An applicant for a permit under Section 623.011, other than a permit under that section to operate a vehicle loaded with timber or pulp wood, wood chips, cotton, or agricultural products in their natural state, and an applicant for a permit under Section 623.321 shall file with the department:

- (1) a blanket bond; or

(2) an irrevocable letter of credit issued by a financial institution the deposits of which are guaranteed by the Federal Deposit Insurance Corporation.

(b) The bond or letter of credit must:

(1) be in the amount of \$15,000 payable to the Texas Department of Transportation and the counties of this state;

(2) be conditioned that the applicant will pay the Texas Department of Transportation for any damage to a state highway, and a county for any damage to a road or bridge of the county, caused by the operation of the vehicle:

(A) for which the permit is issued at a heavier weight than the maximum weights authorized by Subchapter B of Chapter 621 or Section 621.301 or 623.321; or

(B) that is in violation of Section 623.323; and

(3) provide that the issuer is to notify the Texas Department of Transportation and the applicant in writing promptly after a payment is made by the issuer on the bond or letter of credit.

(c) If an issuer of a bond or letter of credit pays under the bond or letter of credit, the permit holder shall file with the department before the 31st day after the date on which the payment is made:

(1) a replacement bond or letter of credit in the amount prescribed by Subsection (b) for the original bond or letter of credit; or

(2) a notification from the issuer of the existing bond or letter of credit that the bond or letter of credit has been restored to the amount prescribed by Subsection (b).

(d) If the filing is not made as required by Subsection (c), each permit held by the permit holder under Section 623.011 automatically expires on the 31st day after the date on which the payment is made on the bond or letter of credit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 72, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 108, eff. September 1, 2013.

Sec. 623.013. DEPARTMENT'S NOTICE TO COUNTY. (a) Not later than the 14th day after the date the department issues a permit under Section 623.011, the department shall notify the county clerk of each county listed in the application for the permit. The notice must include:

(1) the name and address of the person for whom a permit was issued; and

(2) the vehicle identification number and license plate number of the vehicle.

(b) The department shall send a copy of the permit and the bond or letter of credit required for the permit with the notice required by this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.138(c), eff. Sept. 1, 1997.

Sec. 623.014. TRANSFER OF PERMIT. (a) A permit issued under Section 623.011 may not be transferred.

(b) If the vehicle for which a permit was issued is destroyed or permanently inoperable, a person may apply to the department for a credit for the remainder of the permit period.

(c) The department shall issue the prorated credit if the person:

(1) pays the fee adopted by the board; and

(2) provides the department with:

(A) the original permit; or

(B) if the original permit does not exist, written evidence in a form approved by the department that the vehicle has been destroyed or is permanently inoperable.

(d) The fee adopted by the board under Subsection (c)(1) may not exceed the cost of issuing the credit. A fee collected by the department under Subsection (c)(1) shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

(e) A credit issued under Subsection (c) may be used only toward the payment of a permit fee under this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.138(d), eff. Sept. 1, 1997. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 109, eff.

September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 52, eff. September 1, 2013.

Sec. 623.015. LIABILITY FOR DAMAGE. (a) The liability of a holder of a permit issued under Section 623.011 for damage to a state road or highway or a county road is not limited to the amount of the bond or letter of credit required for the issuance of the permit.

(b) The holder of a permit issued under Section 623.011 who has filed the bond or letter of credit required for the permit and who has filed the notice required by Section 623.013 is liable to the county only for the actual damage to a county road, bridge, or culvert with a load limitation established under Subchapter B of Chapter 621 or Section 621.301 caused by the operation of the vehicle in excess of the limitation. If a county judge, county commissioner, county road supervisor, or county traffic officer requires the vehicle to travel over a designated route, it is presumed that the designated route, including a bridge or culvert on the route, is of sufficient strength and design to carry and withstand the weight of the vehicle traveling over the designated route.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.0155. INDEMNIFICATION FROM MOTOR CARRIER PROHIBITED.

(a) A person may not require indemnification from a motor carrier as a condition to:

(1) the transportation of property for compensation or hire by the carrier;

(2) entrance on property by the carrier for the purpose of loading, unloading, or transporting property for compensation or hire; or

(3) a service incidental to an activity described by Subdivision (1) or (2), including storage of property.

(b) Subsection (a) does not apply to:

(1) a claim arising from damage or loss from a wrongful or negligent act or omission of the carrier; or

(2) services or goods other than those described by Subsection (a).

(c) In this section, "motor carrier" means a common carrier, specialized carrier, or contract carrier that transports property for hire. The term does not include a person who transports property as an incidental activity of a nontransportation business activity regardless of whether the person imposes a separate charge for the transportation.

(d) A provision that is contrary to Subsection (a) is not enforceable.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.139(a); Acts 1997, 75th Leg., ch. 1061, Sec. 19.

Sec. 623.016. RECOVERY ON PERMIT SECURITY. (a) The Texas Department of Transportation or a county may recover on the bond or letter of credit required for a permit issued under Section 623.011 only by a suit against the permit holder and the issuer of the bond or letter of credit.

(b) Venue for a suit by the Texas Department of Transportation is in a district court in:

(1) the county in which the defendant resides;

(2) the county in which the defendant has its principal place of business in this state if the defendant is a corporation or partnership; or

(3) Travis County if the defendant is a corporation or partnership that does not have a principal place of business in this state.

(c) Venue for a suit by a county is in district court in:

(1) the county in which the defendant resides;

(2) the county in which the defendant has its principal place of business in this state; or

(3) the county in which the damage occurred.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 455, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 73, eff. September 1, 2011.

Sec. 623.017. PERMIT FOR MOVEMENT OF CYLINDRICAL HAY BALES.

(a) The department may issue an annual permit to authorize the movement of a vehicle that is used to carry cylindrical bales of hay and that is wider than the maximum allowable vehicle width but not wider than 12 feet.

(b) A \$10 permit fee must accompany an application for a permit under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.0171. PERMIT FOR READY-MIXED CONCRETE TRUCKS. (a) In this section, "ready-mixed concrete truck" has the meaning assigned by Section 622.011.

(b) The department may issue a permit that authorizes the operation of a ready-mixed concrete truck with three axles.

(c) To qualify for a permit under this section, a base permit fee of \$1,000 must be paid, except as provided by Subsection (g).

(d) A permit issued under this section:

(1) is valid for one year, except as provided by Subsection (g); and

(2) must be carried in the vehicle for which it is issued.

(e) When the department issues a permit under this section, the department shall issue a sticker to be placed on the front windshield of the vehicle above the inspection certificate issued to the vehicle. The department shall design the form of the sticker to aid in the enforcement of weight limits for vehicles.

(f) The sticker must:

(1) indicate the expiration date of the permit; and

(2) be removed from the vehicle when:

(A) the permit for operation of the vehicle expires;

(B) a lease of the vehicle expires; or

(C) the vehicle is sold.

(g) The department may issue a permit under this section that is valid for a period of less than one year. The department shall prorate the applicable fee required by Subsection (c) for a permit issued under this subsection as necessary to reflect the term of the permit.

(h) Unless otherwise provided by state or federal law, a county or municipality may not require a permit, fee, or license for the operation of a ready-mixed concrete truck in addition to a permit,

fee, or license required by state law.

(i) Section 622.015 does not apply to an owner of a ready-mixed concrete truck who holds a permit under this section for the truck.

(j) Unless otherwise provided by state or federal law, a ready-mixed concrete truck may operate on a state, county, or municipal road, including a load-zoned county road or a frontage road adjacent to a federal interstate highway, if the truck displays a sticker required by Subsection (e) and does not exceed the maximum gross weight authorized under Section 622.012.

(k) For the purposes of Subsection (l), the department by rule shall require an applicant to designate in the permit application the counties in which the applicant intends to operate.

(l) Of the fee collected under this section for a permit:

(1) 50 percent of the amount collected shall be deposited to the credit of the state highway fund; and

(2) the other 50 percent shall be divided among and distributed to the counties designated in permit applications under Subsection (k) according to department rule.

(m) At least once each fiscal year, the comptroller shall send the amount due each county under Subsection (l) to the county treasurer or officer performing the function of that office for deposit to the credit of the county road and bridge fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 110, eff. September 1, 2013.

Sec. 623.018. COUNTY PERMIT. (a) The commissioners court of a county, through the county judge, may issue a permit for:

(1) the transportation over highways of that county, other than state highways and public roads in the territory of a municipality, of an overweight, oversize, or overlength commodity that cannot be reasonably dismantled; or

(2) the operation over a highway of that county other than a state highway or public road in the territory of a municipality of:

(A) superheavy or oversize equipment for the transportation of an overweight, oversize, or overlength commodity that cannot be reasonably dismantled; or

(B) vehicles or combinations of vehicles that exceed the weights authorized under Subchapter B, Chapter 621, or Section

621.301.

(b) A permit under Subsection (a) may not be issued for longer than 90 days.

(c) The commissioners court of a county, through the county judge, may issue an annual permit to a dealer in implements of husbandry to allow the dealer to use vehicles that exceed the width limitations provided by this chapter to transport an implement on a highway. The county judge may exercise authority under this subsection independently of the commissioners court until the commissioners court takes action on the request.

(d) If a vehicle has a permit issued under Section 623.011, a commissioners court may not:

(1) issue a permit under this section or charge an additional fee for or otherwise regulate or restrict the operation of the vehicle because of weight; or

(2) require the owner or operator to execute or comply with a road use agreement or indemnity agreement, to make a filing or application, or to provide a bond or letter of credit other than the bond or letter of credit prescribed by Section 623.012.

(e) The commissioners court may require a bond to be executed by an applicant in an amount sufficient to guarantee the payment of any damage to a road or bridge sustained as a consequence of the transportation authorized by the permit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.0181. PERMITS FOR AUXILIARY POWER UNITS. The department may issue a permit that authorizes the operation of a commercial motor vehicle, trailer, semitrailer, or combination of those vehicles, or a truck-tractor or combination of a truck-tractor and one or more other vehicles, that exceeds the maximum weight limit as set by the department due to the presence of an auxiliary power unit that allows the vehicle to operate on electricity or battery power if the department finds that such an exemption would reduce nitrogen oxide emissions.

Added by Acts 2011, 82nd Leg., R.S., Ch. 941 (H.B. 422), Sec. 1, eff. June 17, 2011.

Sec. 623.019. VIOLATIONS OF SUBCHAPTER; OFFENSES. (a) A person who holds a permit issued under Section 623.011 commits an offense if:

(1) the person:

(A) operates or directs the operation of the vehicle for which the permit was issued on a public highway or road; and

(B) is criminally negligent with regard to the operation of the vehicle at a weight heavier than the weight limit authorized by Section 623.011; or

(2) the person operates or directs the operation of the vehicle for which the permit was issued:

(A) in a county not designated in the person's application under Section 623.0111; and

(B) at a weight heavier than a weight limit established under:

(i) Subchapter E, Chapter 251;

(ii) Chapter 621 or 622; or

(iii) this chapter.

(b) Except as provided by Subsections (c) and (d), an offense under Subsection (a) is a misdemeanor punishable by a fine of not less than \$100 or more than \$250.

(c) An offense under Subsection (a) is a misdemeanor and, except as provided by Subsection (d), is punishable by a fine according to the following schedules if the offense involves a vehicle:

(1) having a single axle weight or tandem axle weight that is heavier than the vehicle's allowable weight:

Pounds Overweight	Fine Range
less than 2,500	\$100 to \$500
2,500-5,000	\$500 to \$1,000
more than 5,000	\$1,000 to \$2,500; or

(2) having a gross weight that is heavier than the vehicle's allowable gross weight:

Pounds Overweight	Fine Range
less than 2,500	\$100 to \$500
2,500-5,000	\$500 to \$1,000
5,001-10,000	\$1,000 to \$2,500
10,001-20,000	\$2,500 to \$5,000
20,001-40,000	\$5,000 to \$7,000
more than 40,000	\$7,000 to \$10,000

(d) On conviction of a third offense under Subsection (a), before the first anniversary of the date of a previous conviction under that subsection, the defendant shall be punished by a fine in an amount not to exceed twice the maximum amount specified by Subsection (c).

(e) A governmental entity collecting a fine under Subsection (c) shall send an amount equal to 50 percent of the fine to the comptroller.

(f) A justice of the peace has jurisdiction of any offense under this section. A municipal court has jurisdiction of an offense under this section in which the fine does not exceed \$500.

(g) A justice or judge who renders a conviction under this section shall report the conviction to the Department of Public Safety. The Department of Public Safety shall keep a record of each conviction reported under this subsection.

(h) A fine may not be imposed under this section that exceeds the minimum dollar amount that may be imposed unless the vehicle's weight was determined by a portable or stationary scale furnished or approved by the Department of Public Safety.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.139(c), eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 111, eff. September 1, 2013.

SUBCHAPTER C. CONTRACTS FOR CROSSING ROADS

Sec. 623.051. CONTRACT ALLOWING OVERSIZE OR OVERWEIGHT VEHICLE TO CROSS ROAD; SURETY BOND. (a) A person may operate a vehicle that cannot comply with one or more of the restrictions of Subchapter C of Chapter 621 or Section 621.101 to cross the width of any road or highway under the jurisdiction of the Texas Department of Transportation, other than a controlled access highway as defined by Section 203.001, from private property to other private property if the person contracts with the commission to indemnify the Texas Department of Transportation for the cost of maintenance and repair of the part of the highway crossed by the vehicle.

(b) The commission shall adopt rules relating to the forms and procedures to be used under this section and other matters that the

commission considers necessary to carry out this section.

(c) To protect the safety of the traveling public, minimize any delays and inconveniences to the operators of vehicles in regular operation, and assure payment for the added wear on the highways in proportion to the reduction of service life, the commission, in adopting rules under this section, shall consider:

(1) the safety and convenience of the general traveling public;

(2) the suitability of the roadway and subgrade on the road or highway to be crossed, variation in soil grade prevalent in the different regions of the state, and the seasonal effects on highway load capacity, the highway shoulder design, and other highway geometrics; and

(3) the state's investment in its highway system.

(d) Before exercising any right under a contract under this section, a person must execute with a corporate surety authorized to do business in this state a surety bond in an amount determined by the commission to compensate for the cost of maintenance and repairs as provided by this section. The bond must be approved by the comptroller and the attorney general and must be conditioned on the person fulfilling the obligations of the contract.

(e) Repealed by Acts 1997, 75th Leg., ch. 165, Sec. 30.140, eff. Sept. 1, 1997.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.140, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 18.14, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 74, eff. September 1, 2011.

Sec. 623.052. CONTRACT ALLOWING OVERWEIGHT VEHICLE WITH COMMODITIES OR PRODUCTS TO CROSS HIGHWAY; SURETY BOND. (a) A person may operate a vehicle that exceeds the overall gross weight limits provided by Section 621.101 to cross the width of a highway from private property to other private property if:

(1) the vehicle is transporting grain, sand, or another commodity or product and the vehicle's overall gross weight is not heavier than 110,000 pounds; or

(2) the vehicle is an unlicensed vehicle that is transporting sand, gravel, stones, rock, caliche, or a similar commodity.

(b) Before a person may operate a vehicle under this section, the person must:

(1) contract with the Texas Department of Transportation to indemnify the Texas Department of Transportation for the cost of the maintenance and repair for damage caused by a vehicle crossing that part of the highway; and

(2) execute an adequate surety bond to compensate for the cost of maintenance and repair, approved by the comptroller and the attorney general, with a corporate surety authorized to do business in this state, conditioned on the person fulfilling each obligation of the agreement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.15, eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 75, eff. September 1, 2011.

SUBCHAPTER D. HEAVY EQUIPMENT

Sec. 623.071. PERMIT TO MOVE CERTAIN EQUIPMENT. (a) The department may issue a permit to a person to operate over a state highway superheavy or oversize equipment that:

(1) is used to transport cylindrically shaped bales of hay or a commodity that cannot reasonably be dismantled; and

(2) has a gross weight or size that exceeds the limits allowed by law to be transported over a state highway.

(b) The department may issue a permit to a person to operate over a farm-to-market or ranch-to-market road superheavy or oversize equipment that:

(1) is used to transport oilfield drill pipe or drill collars stored in a pipe box; and

(2) has a gross weight or size that exceeds the limits allowed by law to be transported over a state highway.

(c) The department may issue an annual permit to allow the operation on a state highway of equipment that exceeds weight and size limits provided by law for the movement of:

- (1) an implement of husbandry by a dealer;
- (2) water well drilling machinery and equipment or harvesting equipment being moved as part of an agricultural operation; or
- (3) superheavy or oversize equipment that:
 - (A) cannot reasonably be dismantled; and
 - (B) does not exceed:
 - (i) 12 feet in width;
 - (ii) 14 feet in height;
 - (iii) 110 feet in length; or
 - (iv) 120,000 pounds gross weight.

(c-1) The department may issue an annual permit that allows a person to operate over a state highway or road a vehicle or combination of vehicles that exceeds the length and height limits provided by law, except that:

- (1) the maximum length allowed may not exceed 110 feet; and
- (2) the maximum height allowed may not exceed 14 feet.

(d) The department may issue an annual permit to a motor carrier, as defined by Section 643.001, that allows the motor carrier to operate on a state highway two or more vehicles for the movement of superheavy or oversize equipment described by Subsection (c)(3). An application under this subsection must be on the form prescribed by the department and include a description of each vehicle to be operated by the motor carrier under the permit. A permit issued under this subsection:

- (1) may not authorize the operation of more than one vehicle at the same time; and
- (2) must be carried in the vehicle that is being operated to move the superheavy or oversize equipment under the permit.

(e) The department may not issue a permit under this section unless the equipment may be operated without material damage to the highway.

(f) In this section, "pipe box" means a container specifically constructed to safely transport and handle oilfield drill pipe and drill collars.

(g) A single trip permit that increases the height or width limits established in Subsection (c)(3)(B)(i) or (ii) may be issued by the department and used in conjunction with an annual permit issued under Subsection (c).

(h) If on completion of a route and engineering study the

department determines that the additional length can be transported safely, the department may issue to a person a single trip permit that allows the person to operate over a highway in this state superheavy or oversize equipment exceeding the length limitation established by Subsection (c) and that may be used in conjunction with an annual permit issued under that subsection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 568, Sec. 1, eff. June 2, 1997; Acts 1999, 76th Leg., ch. 807, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 941 (H.B. 422), Sec. 3, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 18 (S.B. 562), Sec. 1, eff. May 15, 2015.

Acts 2015, 84th Leg., R.S., Ch. 18 (S.B. 562), Sec. 2, eff. May 15, 2015.

Sec. 623.0711. PERMITS AUTHORIZED BY BOARD. (a) The board by rule may authorize the department to issue a permit to a motor carrier, as defined by Section 643.001, to transport multiple loads of the same commodity over a state highway if all of the loads are traveling between the same general locations.

(b) The board may not authorize the issuance of a permit that would allow a vehicle to:

- (1) violate federal regulations on size and weight requirements; or
- (2) transport equipment that could reasonably be dismantled for transportation as separate loads.

(c) The board rules must require that, before the department issues a permit under this section, the department:

- (1) determine that the state will benefit from the consolidated permitting process; and
- (2) complete a route and engineering study that considers:
 - (A) the estimated number of loads to be transported by the motor carrier under the permit;
 - (B) the size and weight of the commodity;
 - (C) available routes that can accommodate the size and weight of the vehicle and load to be transported;

(D) the potential roadway damage caused by repeated use of the road by the permitted vehicle;

(E) any disruption caused by the movement of the permitted vehicle; and

(F) the safety of the traveling public.

(d) The board rules may authorize the department to impose on the motor carrier any condition regarding routing, time of travel, axle weight, and escort vehicles necessary to ensure safe operation and minimal damage to the roadway.

(e) A permit issued under this section may provide multiple routes to minimize damage to the roadways.

(f) The board shall require the motor carrier to file a bond in an amount set by the board, payable to the Texas Department of Transportation and conditioned on the motor carrier paying to the Texas Department of Transportation any damage that is sustained to a state highway because of the operation of a vehicle under a permit issued under this section.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 1135
(H.B. 2741), Sec. 113

(g) An application for a permit under this section must be accompanied by the permit fee established by the board for the permit, not to exceed \$9,000. The department shall send each fee to the comptroller for deposit to the credit of the state highway fund.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 1287
(H.B. 2202), Sec. 53

(g) An application for a permit under this section must be accompanied by the permit fee established by the department, in consultation with the commission, for the permit, not to exceed \$9,000. The department shall send each fee to the comptroller, who shall deposit:

(1) 90 percent of the fee to the credit of the state highway fund; and

(2) 10 percent of the fee to the credit of the Texas Department of Motor Vehicles fund.

(h) In addition to the fee established under Subsection (g), the board rules must authorize the department to collect a consolidated permit payment for a permit under this section in an amount not to exceed 15 percent of the fee established under Subsection (g), of which:

(1) 90 percent shall be deposited to the credit of the state highway fund; and

(2) 10 percent shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

(i) The executive director of the department or the executive director's designee may suspend a permit issued under this section or alter a designated route because of:

- (1) a change in pavement conditions;
- (2) a change in traffic conditions;
- (3) a geometric change in roadway configuration;
- (4) construction or maintenance activity; or
- (5) emergency or incident management.

(j) A violation of a permit issued under this section is subject to the administrative sanctions of Subchapter N.

(k) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1135, Sec. 140(2), eff. September 1, 2013.

Added by Acts 2011, 82nd Leg., R.S., Ch. 941 (H.B. 422), Sec. 2, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 112, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 113, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 140(2), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 53, eff. September 1, 2013.

Sec. 623.072. DESIGNATED ROUTE IN MUNICIPALITY. (a) A municipality having a state highway in its territory shall designate to the department the route in the municipality to be used by equipment described by Section 623.071 operating over the state highway. The department shall show the designated route on each map routing the equipment.

(b) If a municipality does not designate a route, the department shall determine the route of the equipment and the commodity on each state highway in the municipality.

(c) A municipality may not require a fee, permit, or license

for movement of superheavy or oversize equipment on the route of a state highway designated by the municipality or department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.074. APPLICATION. (a) The department may issue a permit under this subchapter on the receipt of an application for the permit.

(b) The application must:

- (1) be in writing;
- (2) state the kind of equipment to be operated;
- (3) describe the equipment;
- (4) give the weight and dimensions of the equipment;
- (5) give the width, height, and length of the equipment;
- (6) state the kind of commodity to be transported and the weight of the total load; and
- (7) be dated and signed by the applicant.

(c) An application for a permit under Section 623.071(a) or (b) must also state:

- (1) each highway over which the equipment is to be operated, if the permit is for a single trip; or
- (2) the region or area, as required by rule, over which the equipment is to be operated, if the permit is for other than a single trip.

(d) The department may by rule authorize an applicant to submit an application electronically. An electronically submitted application shall be considered signed if a digital signature is transmitted with the application and intended by the applicant to authenticate the application. For purposes of this subsection, "digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 515, Sec. 4, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 568, Sec. 2, eff. June 2, 1997; Acts 1997, 75th Leg., ch. 1171, Sec. 1.30, eff. Sept. 1, 1997.

Sec. 623.075. BOND. (a) Before the department may issue a

permit under this subchapter, the applicant shall file with the department a bond in an amount set by the Texas Department of Transportation, payable to the Texas Department of Transportation, and conditioned that the applicant will pay to the Texas Department of Transportation any damage that might be sustained to the highway because of the operation of the equipment for which a permit is issued.

(b) Venue of a suit for recovery on the bond is in Travis County.

(c) This section applies to the delivery of farm equipment to a farm equipment dealer. This section does not apply to:

(1) the driving or transporting of farm equipment that is being used for an agricultural purpose and is driven or transported by or under the authority of the owner of the equipment; or

(2) a vehicle or equipment operated by a motor carrier registered under Chapter 643 or Chapter 645.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.141(a), eff. Sept. 1, 1997. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 76, eff. September 1, 2011.

Sec. 623.076. PERMIT FEE. (a) An application for a permit under this subchapter must be accompanied by a permit fee of:

(1) \$60 for a single-trip permit;

(2) \$120 for a permit that is valid for a period not exceeding 30 days;

(3) \$180 for a permit that is valid for a period of 31 days or more but not exceeding 60 days;

(4) \$240 for a permit that is valid for a period of 61 days or more but not exceeding 90 days;

(5) \$270 for a permit issued under Section 623.071(c)(1) or (2); or

(6) \$960 for a permit issued under Section 623.071(c-1).

(a-1) The following amounts collected under Subsection (a) shall be deposited to the general revenue fund, 90 percent of the remainder shall be deposited to the credit of the state highway fund, and 10 percent of the remainder shall be deposited to the credit of

the Texas Department of Motor Vehicles fund:

Amount of Fee	Amount Allocated to General Revenue Fund
\$60 (single-trip permit)	\$30
\$120 (30-day permit)	\$60
\$180	\$90
\$240	\$120
\$270	\$135
\$960	\$480

(b) The board may adopt rules for the payment of a fee under Subsection (a). The rules may:

(1) authorize the use of electronic funds transfer;

(2) authorize the use of a credit card issued by:

(A) a financial institution chartered by a state or the United States; or

(B) a nationally recognized credit organization approved by the board; and

(3) require the payment of a discount or service charge for a credit card payment in addition to the fee prescribed by Subsection (a).

(b-1) The department shall deposit a fee collected under Subsection (b)(3) to the credit of the Texas Department of Motor Vehicles fund.

(c) An application for a permit under Section 623.071(c)(3) or (d) must be accompanied by the permit fee established by the board, in consultation with the commission, for the permit, not to exceed \$7,000. Of each fee collected under this subsection, the department shall send:

(1) the first \$1,000 to the comptroller for deposit to the credit of the general revenue fund; and

(2) any amount in excess of \$1,000 to the comptroller, who shall deposit:

(A) 90 percent of the excess to the credit of the state highway fund; and

(B) 10 percent of the excess to the credit of the Texas Department of Motor Vehicles fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended

by Acts 1997, 75th Leg., ch. 515, Sec. 5, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 568, Sec. 3, eff. June 2, 1997; Acts 1999, 76th Leg., ch. 807, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 5, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 77, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 54, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 18 (S.B. 562), Sec. 3, eff. May 15, 2015.

Sec. 623.077. HIGHWAY MAINTENANCE FEE. (a) An applicant for a permit under this subchapter, other than a permit under Section 623.071(c)(3), must also pay a highway maintenance fee in an amount determined according to the following table:

Vehicle Weight in Pounds	Fee
80,001 to 120,000	\$150
120,001 to 160,000	\$225
160,001 to 200,000	\$300
200,001 and above	\$375

(b) The department shall send each fee collected under Subsection (a) to the comptroller, who shall deposit:

(1) 90 percent of the fee to the credit of the state highway fund; and

(2) 10 percent of the fee to the credit of the Texas Department of Motor Vehicles fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 568, Sec. 4, eff. June 2, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 18.16, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 6, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 55, eff. September 1, 2013.

Sec. 623.078. VEHICLE SUPERVISION FEE. (a) Each applicant for a permit under this subchapter for a vehicle that is heavier than 200,000 pounds must also pay a vehicle supervision fee in an amount determined by the Texas Department of Transportation and designed to recover the direct cost of providing safe transportation of the vehicle over the state highway system, including the cost of:

- (1) bridge structural analysis;
- (2) the monitoring of the trip process; and
- (3) moving traffic control devices.

(b) The department shall send each fee collected under Subsection (a) to the comptroller for deposit to the credit of the state highway fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 18.17, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 78, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 114, eff. September 1, 2013.

Sec. 623.079. REGISTRATION OF EQUIPMENT. A permit under this subchapter may be issued only if the equipment to be operated under the permit is registered under Chapter 502 for maximum gross weight applicable to the vehicle under Section 621.101 that is not heavier than 80,000 pounds overall gross weight.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.080. CONTENTS OF PERMIT. (a) Except as provided by Subsection (b), a permit under this subchapter must include:

- (1) the name of the applicant;
- (2) the date of issuance;
- (3) the signature of the director of the department;
- (4) a statement of the kind of equipment to be transported over the highway, the weight and dimensions of the equipment, and the kind and weight of each commodity to be transported; and
- (5) a statement of any condition on which the permit is issued.

(b) A permit issued under Section 623.071(a) or (b) must also state:

- (1) each highway over which the equipment is to be transported, if the permit is for a single trip; or
- (2) the region or area, as required by rule, over which the equipment is to be operated, if the permit is for other than a single trip.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 515, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 79, eff. September 1, 2011.

Sec. 623.081. PERMIT ISSUED BY TELEPHONE. (a) The department shall provide for issuing a permit by telephone for the operation of an overweight or oversize motor vehicle over a state highway.

(b) The department shall issue a permit under this section for a period and at the rate provided by Section 623.076(a).

(c) An applicant for a permit under this section must provide by telephone to the department:

- (1) the information required for a permit issued under Section 623.071(a) or (b), other than the applicant's signature; and
- (2) the account number of a credit card approved by the department.

(d) On granting a permit under this section, the agent shall:

- (1) issue to the applicant an approval number; and
- (2) provide to the applicant the agent's name, designation, and office address.

(e) After receiving an approval number, the applicant shall prepare, on a form provided by the department, a permit with the information provided to the agent under Subsection (c) and the information received under Subsection (d).

(f) The applicant shall keep the permit in the vehicle for which the permit was issued until the day after the date the permit expires.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 515, Sec. 7, eff. Sept. 1, 1997.

Sec. 623.082. PENALTIES. (a) A person commits an offense if the person violates this subchapter.

(b) Except as provided by Subsection (c), an offense under this section is a misdemeanor punishable:

(1) by a fine of not more than \$200;

(2) on conviction within one year after the date of a prior conviction under this section that was punishable under Subdivision (1), by a fine of not more than \$500, by confinement in the county jail for not more than 60 days, or by both the fine and the confinement; or

(3) on conviction within one year after the date of a prior conviction under this section that was punishable under Subdivision (2) or this subdivision, by a fine of not more than \$1,000, by confinement in the county jail for not more than six months, or by both the fine and the confinement.

(c) A corporation is not subject to confinement for an offense under this section, but two times the maximum fine provided for in the applicable subdivision of Subsection (b) may be imposed against the corporation.

(d) The judge shall report a conviction under this section to the Department of Public Safety. The Department of Public Safety shall keep a record of each conviction.

(e) If a corporation does not pay a fine assessed under this section, the district or county attorney for the county in which the conviction was obtained may file suit to collect the fine.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. MANUFACTURED AND INDUSTRIALIZED HOUSING

Sec. 623.091. DEFINITION. In this subchapter, "manufactured house" means "industrialized building" as defined by Chapter 1202, Occupations Code, "industrialized housing" as defined by Chapter 1202, Occupations Code, or "manufactured home" as defined by Chapter 1201, Occupations Code. The term includes a temporary chassis system or returnable undercarriage used for the transportation of a manufactured house and a transportable section of a manufactured house that is transported on a chassis system or returnable undercarriage and that is constructed so that it cannot, without dismantling or destruction, be transported within the legal size

limits for a motor vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 14A.836, eff. Sept. 1, 2003.

Sec. 623.092. PERMIT REQUIREMENT. (a) A manufactured house in excess of legal size limits for a motor vehicle may not be moved over a highway, road, or street in this state except in accordance with a permit issued by the department.

(b) A county or municipality may not require a permit, bond, fee, or license, in addition to that required by state law, for the movement of a manufactured house.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.093. CONTENTS OF APPLICATION AND PERMIT. (a) The application for a permit and the permit must be in the form prescribed by the department. The permit must show:

(1) the length, width, and height of the manufactured house and the towing vehicle in combination;

(2) the complete identification or serial number, the Department of Housing and Urban Development label number, or the state seal number of the house;

(3) the name of the owner of the house;

(4) the location from which the house is being transported;

(5) the location to which the house is being transported;

and

(6) the route for the transportation of the house.

(b) The length of the manufactured house and the towing vehicle in combination includes the length of the hitch or towing device. The height is measured from the roadbed to the highest elevation of the manufactured house. The width of the house or section includes any roof or eave extension or overhang on either side.

(c) The route must be the shortest distance from the place where the transportation begins in this state to the place where the transportation ends in this state and include divided and interstate systems, except where construction is in progress or bridge or overpass width or height creates a safety hazard. A county or municipality may designate to the department the route to be used

inside the territory of the county or municipality.

(d) Repealed by Acts 2005, 79th Leg., Ch. 1284, Sec. 34(3), eff. June 18, 2005.

(e) Each quarter the department shall send a copy of each permit for the transportation of a manufactured house that begins or ends in this state, or provide the essential information in the permit, to the chief appraiser of the appraisal district in each county in which the transportation begins or ends.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1135, Sec. 140(2), eff. September 1, 2013.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.142(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 791, Sec. 19, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(107), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 988, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 14A.837, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1284 (H.B. [2438](#)), Sec. 34(3), eff. June 18, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 80, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 140(2), eff. September 1, 2013.

Sec. 623.094. PERMIT ISSUANCE. (a) Except as authorized by Section 623.095, the department may issue a permit only to:

- (1) a person licensed by the Texas Department of Housing and Community Affairs as a manufacturer, retailer, or installer; or
- (2) motor carriers registered with the department.

(b) The license or registration number of the person to whom the permit is issued shall be affixed to the rear of the manufactured house during transportation and have letters and numbers that are at least eight inches high.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.143(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 791, Sec. 20, eff. Sept. 1, 1997.

Sec. 623.095. PERMIT TYPES. (a) The department may issue a single-trip permit for the transportation of a manufactured house to:

(1) the owner of a manufactured house if:

(A) the title to the manufactured house and the title to the towing vehicle show that the owner of the manufactured house and the owner of the towing vehicle are the same person; or

(B) a lease shows that the owner of the manufactured house and the lessee of the towing vehicle are the same person;

(2) a person authorized to be issued permits by Section 623.094.

(b) A person or owner must have proof of the insurance coverage required by Section 623.103.

(c) In lieu of a single-trip permit, the department may issue an annual permit to any person authorized to be issued permits by Section 623.094 for the transportation of new manufactured homes from a manufacturing facility to a temporary storage location not to exceed 20 miles from the point of manufacture. A copy of the permit must be carried in the vehicle transporting a manufactured home from the manufacturer to temporary storage. The department may adopt rules concerning requirements for a permit issued under this subsection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.143(b), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 791, Sec. 21, eff. Sept. 1, 1997.

Sec. 623.096. PERMIT FEE. (a) The department shall collect a fee of \$40 for each permit issued under this subchapter. Of each fee, \$19.70 shall be deposited to the credit of the general revenue fund and of the remainder:

(1) 90 percent shall be deposited to the credit of the state highway fund; and

(2) 10 percent shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

(b) The board, in consultation with the Texas Department of Transportation, shall adopt rules concerning fees for each annual permit issued under Section 623.095(c) at a cost not to exceed \$3,000.

(c) The department may establish an escrow account within the

Texas Department of Motor Vehicles fund for the payment of permit fees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.144(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 791, Sec. 22, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 7, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 81, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 56, eff. September 1, 2013.

Sec. 623.097. DURATION OF PERMIT. A permit is valid for a five-day period.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.098. CAUTION LIGHTS. (a) A manufactured house that is wider than 12 feet must have one rotating amber beacon of not less than eight inches mounted at the rear of the manufactured house on the roof or one flashing amber light mounted at each rear corner of the manufactured house approximately six feet above ground level. In addition, the towing vehicle must have one rotating amber beacon of not less than eight inches mounted on top of the cab.

(b) Each beacon shall be operated during a move under a permit and while on a highway, road, or street in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.145(a), eff. Sept. 1, 1997.

Sec. 623.099. ESCORT FLAG VEHICLE. (a) A manufactured house that is wider than 16 feet, but is not wider than 18 feet, must have one escort flag vehicle that must:

- (1) precede the house on a two-lane roadway; or
- (2) follow the house on a roadway of four or more lanes.

(b) A manufactured house that is wider than 18 feet must be

preceded and followed by escort flag vehicles while moving over a highway, road, or street in this state.

(c) An escort flag vehicle must have:

(1) on top of the vehicle and visible from the front and rear:

(A) two lights flashing simultaneously; or

(B) one rotating amber beacon of not less than eight inches;

(2) four red 16-inch square flags mounted on the four corners of the vehicle so that one flag is on each corner; and

(3) signs that:

(A) are mounted on the front and rear of the vehicle; and

(B) have a yellow background and black letters at least eight inches high stating "wide load."

(d) Two transportable sections of a multisection manufactured house or two single-section manufactured houses towed in convoy are considered one house for purposes of the escort flag vehicle requirements of this section if the distance between the two does not exceed 1,000 feet.

(e) The Texas Department of Transportation shall publish and annually revise a map or list of the bridges or overpasses that because of height or width require an escort flag vehicle to stop oncoming traffic while a manufactured house crosses the bridge or overpass.

(f) An escort flag vehicle may not be required under this subchapter except as expressly provided by this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 487, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 82, eff. September 1, 2011.

Sec. 623.100. TIMES AND DAYS OF MOVEMENT. (a) Movement authorized by a permit issued under this subchapter may be made on any day, except a national holiday, but shall be made only during daylight hours.

(b) The Texas Department of Transportation may limit the hours

for travel on certain routes because of heavy traffic conditions.

(c) The Texas Department of Transportation shall publish the limitation on movements prescribed by this section and the limitations adopted under Subsection (b) and shall make the publications available to the public. Each limitation adopted by the Texas Department of Transportation must be made available to the public before it takes effect.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 83, eff. September 1, 2011.

Sec. 623.101. SPEED LIMIT. (a) A manufactured house or house trailer may not be towed in excess of the posted speed limit or 55 miles per hour, whichever is less.

(b) In this section, "house trailer" has the meaning assigned by Section 541.201.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1020, Sec. 4, eff. Sept. 1, 1997.

Sec. 623.102. EQUIPMENT. (a) The brakes on a towing vehicle and a manufactured house must be capable of stopping the vehicle and house from an initial velocity of 20 miles per hour in not more than 40 feet.

(b) Each manufactured house must be equipped with a wiring harness during transportation over a roadway to provide on the rear of the house:

- (1) right-turn and left-turn signal lights;
- (2) braking or stopping lights; and
- (3) parking lights.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.103. LIABILITY INSURANCE. A vehicle towing a manufactured house shall be covered by liability insurance of not less than \$300,000 combined single limit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.104. CIVIL AND CRIMINAL PENALTIES. (a) A person commits an offense if the person violates this subchapter. An offense under this subsection is a Class C misdemeanor, except as provided by Subsection (d).

(b) A person convicted of an offense under Subsection (a) may also be assessed a civil penalty of not less than \$200 or more than \$500 for failure to:

- (1) obtain a permit;
- (2) have a required rotating amber beacon on the manufactured house or towing vehicle;
- (3) provide a required escort flag vehicle; or
- (4) have the required insurance.

(c) The civil penalty:

- (1) may be awarded by a court having jurisdiction over a Class C misdemeanor; and
- (2) shall be paid to the county in which the person was convicted.

(d) Except as provided by Subsection (e), if the offense involves the movement of a manufactured house over a highway, road, or street in this state without a permit issued by the department, the offense is a misdemeanor punishable by a fine of \$1,000.

(e) If it is shown on the trial of an offense punishable under Subsection (d) that the defendant has previously been punished under Subsection (d):

- (1) one time, the offense is punishable by a fine of \$2,000; or
- (2) two or more times, the offense is punishable by a fine of \$4,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 988, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 338, Sec. 48, eff. June 18, 2003.

Sec. 623.105. PENALTY FOR COMPENSATING CERTAIN UNLAWFUL ACTIONS. (a) A person commits an offense if the person:

- (1) provides compensation to another for the movement of a

manufactured home over a highway, road, or street in this state; and
(2) knows the other person is not authorized by law to move the home.

(b) An offense under this section is a misdemeanor punishable by a fine of \$1,000.

Added by Acts 2003, 78th Leg., ch. 338, Sec. 49, eff. June 18, 2003.

SUBCHAPTER F. PORTABLE BUILDING UNITS

Sec. 623.121. PERMIT TO MOVE PORTABLE BUILDING UNIT. (a) The department may issue a permit to a person to operate equipment to move over a state highway one or more portable building units that in combination with the towing vehicle are in excess of the length or width limitations provided by law but less than 80 feet in length.

(b) The length limitation in this section does not apply to a truck-tractor or truck-tractor combination towing or carrying the portable building units.

(c) In this section, "portable building unit" means the prefabricated structural and other components incorporated and delivered by the manufacturer as a complete inspected unit with a distinct serial number. The term includes a fully assembled configuration, a partially assembled configuration, or a kit or unassembled configuration, when loaded for transport.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.146(a), eff. Sept. 1, 1997.

Sec. 623.122. DESIGNATED ROUTE IN MUNICIPALITY. (a) A municipality having a state highway in its territory shall designate to the department the route in the municipality to be used by equipment described by Section 623.121 moving over the state highway. The department shall show the designated route on each map routing the equipment.

(b) If a municipality does not designate a route, the department shall determine the route to be used by the equipment on the state highway within the municipality.

(c) A municipality may not require a fee or license for movement of a portable building unit on the route of a state highway designated by the department or the municipality.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.123. APPLICATION. The application for a permit under Section 623.121 must:

- (1) be in writing;
- (2) state the make and model of the portable building unit or units;
- (3) state the length and width of the portable building unit or units;
- (4) state the make and model of the towing vehicle;
- (5) state the length and width of the towing vehicle;
- (6) state the length and width of the combined portable building unit or units and towing vehicle;
- (7) state each highway over which the portable building unit or units are to be moved;
- (8) indicate the point of origin and destination; and
- (9) be dated and signed by the applicant.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.124. FEE. (a) An application for a permit must be accompanied by a fee of \$15.

(b) The department shall send each fee collected under this section to the comptroller. Of each fee received from the department, the comptroller shall deposit:

- (1) \$7.50 to the credit of the general revenue fund; and
- (2) of the remainder:
 - (A) 90 percent to the credit of the state highway fund;
 and
 - (B) 10 percent to the credit of the Texas Department of Motor Vehicles fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 8, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 57, eff. September 1, 2013.

Sec. 623.126. FORM OF PERMIT. (a) A permit issued under this subchapter must:

- (1) contain the name of the applicant;
- (2) be dated and signed by the director of the department or a designated agent;
- (3) state the make and model of the portable building unit or units to be transported over the highways;
- (4) state the make and model of the towing vehicle;
- (5) state the combined length and width of the portable building unit or units and towing vehicle; and
- (6) state each highway over which the portable building unit or units are to be moved.

(b) A permit is valid if it is substantially in the form provided by this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 84, eff. September 1, 2011.

Sec. 623.127. DURATION OF PERMIT. A permit issued under this subchapter is effective for a 10-day period and valid only for a single continuous movement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.128. TIME OF MOVEMENT. Movement authorized by a permit issued under this subchapter shall be made only during daylight hours.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.129. ESCORT FLAG VEHICLE. The escort flag vehicle requirements provided by Section 623.099 apply to the movement of portable building units and compatible cargo under this subchapter as if such building units and cargo were a manufactured house.

Added by Acts 1997, 75th Leg., ch. 487, Sec. 2, eff. Sept. 1, 1997.

Sec. 623.130. COMPATIBLE CARGO. (a) A permit issued under this subchapter may authorize the movement of cargo, other than a portable building unit, manufactured, assembled, or distributed by a portable building unit manufacturer, as an authorized distributor if:

(1) the movement is conducted by employees of the manufacturer or by independent drivers and equipment under exclusive contract to the manufacturer during the movement;

(2) the movement is to or from a location where the manufacturer's building units may be legally stored, sold, or delivered; and

(3) the cargo is compatible with the movement of portable building units in that:

(A) the cargo does not cause the load to exceed applicable height or weight limits; and

(B) the cargo is loaded to properly distribute weight, width, and height to maximize safety and economy without exceeding size or weight limits authorized for movement of portable building units.

(b) If cargo moved under this section exceeds any width limit that would apply to the cargo if it were moved in a manner not governed by this section, the department shall collect an amount equal to any fee that would apply to movement of the cargo if the cargo were moved in a manner not governed by this section in addition to the fee required under this subchapter.

Added by Acts 1997, 75th Leg., ch. 487, Sec. 2, eff. Sept. 1, 1997.

SUBCHAPTER G. OIL WELL SERVICING AND DRILLING MACHINERY

Sec. 623.141. OPTIONAL PROCEDURE. This subchapter provides an optional procedure for the issuance of a permit for the movement of oversize or overweight oil well servicing or oil well drilling machinery and equipment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.142. PERMIT TO MOVE OIL WELL SERVICING OR DRILLING MACHINERY. (a) The department may, on application, issue a permit

for the movement over a road or highway under the jurisdiction of the Texas Department of Transportation of a vehicle that:

(1) is a piece of fixed-load mobile machinery or equipment used to service, clean out, or drill an oil well; and

(2) cannot comply with the restrictions set out in Subchapter C of Chapter 621 and Section 621.101.

(b) The department may not issue a permit under this section unless the vehicle may be moved without material damage to the highway or serious inconvenience to highway traffic.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. [1420](#)), Sec. 85, eff. September 1, 2011.

Sec. 623.143. DESIGNATED ROUTE IN MUNICIPALITY. (a) A municipality having a state highway in its territory may designate to the department the route in the municipality to be used by a vehicle described by Section 623.142 operating over the state highway. When the route is designated, the department shall show the route on each map routing the vehicles.

(b) If a municipality does not designate a route, the department shall determine the route to be used by a vehicle on a state highway in the municipality.

(c) A municipality may not require a fee, permit, or license for movement of vehicles on the route of a state highway designated by the municipality or department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.144. REGISTRATION OF VEHICLE. (a) A person may not operate a vehicle permitted under this subchapter on a public highway unless the vehicle is registered under Chapter 502 for the maximum gross weight applicable to the vehicle under Section 621.101 or has specialty license plates as provided by Section 502.146 if applicable to the vehicle.

(b) The department may not issue specialty license plates to a vehicle described by Section 502.146(b)(3) unless the applicant complies with the requirements of that subsection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 280 (H.B. 505), Sec. 5, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 9, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.026, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 115, eff. September 1, 2013.

Sec. 623.145. RULES; FORMS AND PROCEDURES; FEES. (a) The board, in consultation with the commission, by rule shall provide for the issuance of permits under this subchapter. The rules must include each matter the board and commission determine necessary to implement this subchapter and:

- (1) requirements for forms and procedures used in applying for a permit;
- (2) conditions with regard to route and time of movement;
- (3) requirements for flags, flaggers, and warning devices;
- (4) the fee for a permit; and
- (5) standards to determine whether a permit is to be issued for one trip only or for a period established by the commission.

(b) In adopting a rule or establishing a fee, the board and commission shall consider and be guided by:

- (1) the state's investment in its highway system;
- (2) the safety and convenience of the general traveling public;
- (3) the registration or license fee paid on the vehicle for which the permit is requested;
- (4) the fees paid by vehicles operating within legal limits;
- (5) the suitability of roadways and subgrades on the various classes of highways of the system;
- (6) the variation in soil grade prevalent in the different regions of the state;
- (7) the seasonal effects on highway load capacity;
- (8) the highway shoulder design and other highway geometrics;

- (9) the load capacity of the highway bridges;
- (10) administrative costs;
- (11) added wear on highways; and
- (12) compensation for inconvenience and necessary delays to highway users.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 86, eff. September 1, 2011.

Sec. 623.146. VIOLATION OF RULE. A permit under this subchapter is void on the failure of an owner or the owner's representative to comply with a rule of the board or with a condition placed on the permit, and immediately on the violation, further movement over the highway of an oversize or overweight vehicle violates the law regulating the size or weight of a vehicle on a public highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 86, eff. September 1, 2011.

Sec. 623.147. DEPOSIT OF FEE IN STATE HIGHWAY FUND AND IN TEXAS DEPARTMENT OF MOTOR VEHICLES FUND. A fee collected under this subchapter shall be deposited as follows:

- (1) 90 percent to the credit of the state highway fund; and
- (2) 10 percent to the credit of the Texas Department of Motor Vehicles fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 58, eff. September 1, 2013.

Sec. 623.148. LIABILITY FOR DAMAGE TO HIGHWAYS. (a) By issuing a permit under this subchapter, the department does not

guarantee that a highway can safely accommodate the movement.

(b) The owner of a vehicle involved in the movement of an oversize or overweight vehicle, even if a permit has been issued for the movement, is strictly liable for any damage the movement causes the highway system or any of its structures or appurtenances.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.149. DETERMINATION WHETHER VEHICLE SUBJECT TO REGISTRATION OR ELIGIBLE FOR DISTINGUISHING LICENSE PLATE. (a) The department may establish criteria to determine whether oil well servicing, oil well clean out, or oil well drilling machinery or equipment is subject to registration under Chapter 502 or eligible for the distinguishing license plate provided by Section 502.146.

(b) Notwithstanding Subsection (a), a vehicle authorized by the department before August 22, 1963, to operate without registration under Chapter 502 may not be required to register under that chapter.

(c) In this section, "oil well servicing, oil well clean out, or oil well drilling machinery or equipment" means a vehicle constructed as a machine used solely for servicing, cleaning out, or drilling an oil well and consisting in general of a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for one or more of those purposes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 280 (H.B. 505), Sec. 6, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 10, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.027, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 116, eff. September 1, 2013.

Sec. 623.150. NONAPPLICABILITY OF SUBCHAPTER. This subchapter does not apply to a person issued a registration certificate under Chapter 643, even if not all the operations of the person are performed under that certificate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.147, eff. Sept. 1, 1997.

SUBCHAPTER H. VEHICLES TRANSPORTING SOLID WASTE

Sec. 623.161. DEFINITION. In this subchapter, "solid waste" has the meaning assigned by Chapter 361, Health and Safety Code, except that it does not include hazardous waste.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.162. AXLE WEIGHT RESTRICTIONS. A single vehicle used exclusively to transport solid waste may be operated on a public highway of this state only if the tandem axle weight is not heavier than 44,000 pounds, the single axle weight is not heavier than 21,000 pounds, and the gross weight is not heavier than 64,000 pounds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 941, Sec. 42, eff. Sept. 1, 2001.

Sec. 623.163. SURETY BOND. (a) The owner of a vehicle used exclusively to transport solid waste with a tandem axle load heavier than 34,000 pounds shall before operating the vehicle on a public highway of this state file with the department a surety bond subject to the approval of the Texas Department of Transportation in the principal amount set by the Texas Department of Transportation not to exceed \$15,000 for each vehicle.

(b) The bond must be conditioned that the owner of the vehicle will pay to the Texas Department of Transportation and to any municipality in which the vehicle is operated on a municipal street, within the limit of the bond, any damages to a highway or municipal street caused by the operation of the vehicle.

(c) This section does not apply to a vehicle owned by a municipality.

(d) A copy of the bond shall be:

(1) carried on the vehicle when the vehicle is on a public highway; and

(2) presented to an officer authorized to enforce this chapter on request of the officer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 942, Sec. 8, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 87, eff. September 1, 2011.

Sec. 623.164. INTERSTATE AND DEFENSE HIGHWAYS. (a) This subchapter does not authorize the operation on the national system of interstate and defense highways in this state of a vehicle of a size or weight greater than that authorized by 23 U.S.C. Section 127, as amended.

(b) If the United States authorizes the operation on the national system of interstate and defense highways of a vehicle of a size or weight greater than that authorized on January 1, 1983, the new limit automatically takes effect on the national system of interstate and defense highways in this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.165. PENALTY. A person commits an offense if the person fails in violation of Section 623.163(d) to carry or present the copy of the bond filed with the department. An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 942, Sec. 9, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 16.004, eff. Sept. 1, 2003.

Sec. 623.166. DEFENSE TO PROSECUTION: BOND IN EFFECT. (a) It is a defense to prosecution under Section 623.165 that the person charged produces a surety bond that complies with Section 623.163 that was valid at the time the offense is alleged to have occurred.

(b) If the court verifies the bond produced by the person, the court shall dismiss the charge.

Added by Acts 2001, 77th Leg., ch. 942, Sec. 10, eff. Sept. 1, 2001.

SUBCHAPTER I. UNLADEN LIFT EQUIPMENT MOTOR VEHICLES; ANNUAL PERMIT

Sec. 623.181. ANNUAL PERMIT. (a) The department may issue an annual permit for the movement over a highway or road of this state of an unladen lift equipment motor vehicle that because of its design for use as lift equipment exceeds the maximum weight or width limitations prescribed by statute.

(b) The department may issue a permit on receipt of an application for the permit.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.182. PERMIT FEE. (a) The fee for a permit under this subchapter is \$100.

(b) The department shall send each fee collected under this subchapter to the comptroller. Of each fee received from the department, the comptroller shall deposit \$50 to the credit of the general revenue fund and of the remainder the department shall deposit:

(1) 90 percent to the credit of the state highway fund; and

(2) 10 percent to the credit of the Texas Department of Motor Vehicles fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 11, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 59, eff. September 1, 2013.

SUBCHAPTER J. UNLADEN LIFT EQUIPMENT MOTOR VEHICLES; TRIP PERMITS

Sec. 623.191. OPTIONAL PROCEDURE. This subchapter provides an optional procedure for the issuance of a permit for the movement of an unladen lift equipment motor vehicle that because of its design for use as lift equipment exceeds the maximum weight and width limitations prescribed by statute.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.192. PERMIT TO MOVE UNLADEN LIFT EQUIPMENT MOTOR VEHICLES. (a) The department may, on application, issue a permit to a person to move over a road or highway under the jurisdiction of the Texas Department of Transportation an unladen lift equipment motor vehicle that cannot comply with the restrictions set out in Subchapter C of Chapter 621 and Section 621.101.

(b) The department may not issue a permit under this section unless the vehicle may be moved without material damage to the highway or serious inconvenience to highway traffic.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 88, eff. September 1, 2011.

Sec. 623.193. DESIGNATED ROUTE IN MUNICIPALITY. (a) A municipality having a state highway in its territory may designate to the department the route in the municipality to be used by a vehicle described by Section 623.192 operating over the state highway. The department shall show the designated route on each map routing the vehicle.

(b) If a municipality does not designate a route, the department shall determine the route of the vehicle on each state highway in the municipality.

(c) A municipality may not require a fee, permit, or license for movement of the vehicles on the route of a state highway designated by the municipality or department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.194. REGISTRATION OF VEHICLE. A permit under this subchapter may be issued only if the vehicle to be moved is registered under Chapter 502 for the maximum gross weight applicable to the vehicle under Section 621.101 or has the distinguishing license plates as provided by Section 502.146 if applicable to the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 280 (H.B. 505), Sec. 7, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 12, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.028, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 117, eff. September 1, 2013.

Sec. 623.195. RULES; FORMS AND PROCEDURES; FEES. (a) The board, in consultation with the commission, by rule shall provide for the issuance of a permit under this subchapter. The rules must include each matter the board and the commission determine necessary to implement this subchapter and:

- (1) requirements for forms and procedures used in applying for a permit;
- (2) conditions with regard to route and time of movement;
- (3) requirements for flags, flaggers, and warning devices;
- (4) the fee for a permit; and
- (5) standards to determine whether a permit is to be issued for one trip only or for a period established by the commission.

(b) In adopting a rule or establishing a fee, the board and the commission shall consider and be guided by:

- (1) the state's investment in its highway system;
- (2) the safety and convenience of the general traveling public;
- (3) the registration or license fee paid on the vehicle for which the permit is requested;
- (4) the fees paid by vehicles operating within legal limits;
- (5) the suitability of roadways and subgrades on the various classes of highways of the system;
- (6) the variation in soil grade prevalent in the different regions of the state;
- (7) the seasonal effects on highway load capacity;
- (8) the highway shoulder design and other highway geometrics;
- (9) the load capacity of highway bridges;
- (10) administrative costs;

- (11) added wear on highways; and
- (12) compensation for inconvenience and necessary delays to highway users.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 89, eff. September 1, 2011.

Sec. 623.196. VIOLATION OF RULE. A permit under this subchapter is void on the failure of an owner or the owner's representative to comply with a rule of the board or with a condition placed on the permit, and immediately on the violation, further movement over a highway of an oversize or overweight vehicle violates the law regulating the size or weight of a vehicle on a public highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 89, eff. September 1, 2011.

Sec. 623.197. DEPOSIT OF FEE IN STATE HIGHWAY FUND AND IN TEXAS DEPARTMENT OF MOTOR VEHICLES FUND. A fee collected under this subchapter shall be deposited as follows:

- (1) 90 percent to the credit of the state highway fund; and
- (2) 10 percent to the credit of the Texas Department of Motor Vehicles fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 60, eff. September 1, 2013.

Sec. 623.198. LIABILITY FOR DAMAGE TO HIGHWAYS. (a) By issuing a permit under this subchapter, the department does not guarantee that a highway can safely accommodate the movement.

- (b) The owner of a vehicle involved in the movement of an

oversize or overweight vehicle, even if a permit has been issued for the movement, is strictly liable for any damage the movement causes the highway system or any of its structures or appurtenances.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 623.199. DETERMINATION WHETHER VEHICLE SUBJECT TO REGISTRATION OR ELIGIBLE FOR DISTINGUISHING LICENSE PLATE. (a) The department may establish criteria to determine whether an unladen lift equipment motor vehicle that because of its design for use as lift equipment exceeds the maximum weight and width limitations prescribed by statute is subject to registration under Chapter 502 or eligible for the distinguishing license plate provided by Section 502.146.

(b) Notwithstanding Subsection (a), a vehicle authorized by the department before June 11, 1985, to operate without registration under Chapter 502 may not be required to register under that chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 280 (H.B. 505), Sec. 8, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 13, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.029, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 118, eff. September 1, 2013.

Sec. 623.200. NONAPPLICABILITY OF SUBCHAPTER. This subchapter does not apply to a person issued a registration certificate under Chapter 643, even if not all the operations of the person are performed under that certificate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.147, eff. Sept. 1, 1997.

SUBCHAPTER K. PORT AUTHORITY PERMITS

Sec. 623.210. OPTIONAL PROCEDURE. This subchapter provides an optional procedure for the issuance of a permit for the movement of oversize or overweight vehicles carrying cargo on state highways located in counties contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf and:

- (1) adjacent to at least two counties with a population of 550,000 or more; or
- (2) bordering the United Mexican States.

Added by Acts 1997, 75th Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 967 (H.B. 1305), Sec. 1, eff. June 17, 2011.

Sec. 623.211. DEFINITION. In this subchapter, "port authority" means a port authority or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

Added by Acts 1997, 75th Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 967 (H.B. 1305), Sec. 2, eff. June 17, 2011.

Sec. 623.212. PERMITS BY PORT AUTHORITY. The commission may authorize a port authority to issue permits for the movement of oversize or overweight vehicles carrying cargo on state highways located in counties contiguous to the Gulf of Mexico or a bay or inlet opening into the gulf and:

- (1) adjacent to at least two counties with a population of 550,000 or more; or
- (2) bordering the United Mexican States.

Added by Acts 1997, 75th Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 967 (H.B. 1305), Sec. 3, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 90, eff. September 1, 2011.

Sec. 623.214. PERMIT FEES. (a) A port authority may collect a fee for permits issued under this subchapter. Such fees shall not exceed \$80 per trip.

(b) Fees collected under Subsection (a), less administrative costs, shall be used solely to provide funds for the maintenance and improvement of state highways subject to this subchapter. The administrative costs, which may not exceed 15 percent of the fees collected, may be retained by the port authority. The fees, less administrative costs, shall be deposited in the State Highway Fund.

Added by Acts 1997, 75th Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 624, Sec. 1, eff. June 18, 1999.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 61 (S.B. 1373), Sec. 1.01, eff. May 19, 2009.

Sec. 623.215. PERMIT REQUIREMENTS. (a) A permit issued under this subchapter must include:

- (1) the name of the applicant;
- (2) the date of issuance;
- (3) the signature of the director of the port authority;
- (4) a statement of the kind of cargo being transported under the permit, the maximum weight and dimensions of the equipment, and the kind and weight of each commodity to be transported provided the gross weight of such equipment and commodities shall not exceed 125,000 pounds;
- (5) a statement of any condition on which the permit is issued;
- (6) a statement of the route designated under Section 623.219;
- (7) the name of the driver of the vehicle in which the cargo is to be transported; and
- (8) the location where the cargo was loaded.

(b) A port authority shall report to the Texas Department of Transportation all permits issued under this subchapter.

Added by Acts 1997, 75th Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 624, Sec. 2, eff. June 18, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 61 (S.B. 1373), Sec. 1.02, eff. May 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 91, eff. September 1, 2011.

Sec. 623.216. TIME OF MOVEMENT. A permit issued under this subchapter shall specify the time in which movement authorized by the permit is allowed.

Added by Acts 1997, 75th Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1997.

Sec. 623.217. SPEED LIMIT. Movement authorized by a permit issued under this subchapter shall not exceed the posted speed limit or 55 miles per hour, whichever is less. Violation of this provision shall constitute a moving violation.

Added by Acts 1997, 75th Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1997.

Sec. 623.218. ENFORCEMENT. The Department of Public Safety shall have authority to enforce the provisions of this subchapter.

Added by Acts 1997, 75th Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1997.

Sec. 623.219. ROUTE DESIGNATION. (a) For a permit issued by a port authority located in a county that borders the United Mexican States, the commission shall, with the consent of the port authority, designate the most direct route from:

(1) the Gateway International Bridge or the Veterans International Bridge at Los Tomates to the entrance of the Port of Brownsville using State Highways 48 and 4 or United States Highways 77 and 83 or using United States Highway 77 and United States Highway 83, East Loop Corridor, and State Highway 4; and

(2) the Free Trade International Bridge to:

(A) the entrance of the Port of Brownsville using Farm-to-Market Road 509, United States Highways 77 and 83, Farm-to-Market Road 511, State Highway 550, and East Loop (State Highway 32);

(B) the eastern entrance of the Port of Harlingen using Farm-to-Market Road 509, United States Highway 77 Business, and Farm-to-Market Road 1846;

(C) the western entrance of the Port of Harlingen using Farm-to-Market Roads 509 and 106;

(D) the southern entrance of the Harlingen Industrial Park using Farm-to-Market Road 509; and

(E) the southern entrance of the Harlingen Aerotropolis at Valley International Airport using Farm-to-Market Road 509.

(b) For a permit issued by a port authority located in a county that is adjacent to at least two counties with a population of 550,000 or more, the commission shall, with the consent of the port authority, designate the most direct route from:

(1) the intersection of Farm-to-Market Road 523 and Moller Road to the entrance of Port Freeport using Farm-to-Market Roads 523 and 1495;

(2) the intersection of State Highway 288 and Chlorine Road to the entrance of Port Freeport using State Highway 288;

(3) the intersection of State Highway 288 and Chlorine Road to the entrance of Port Freeport using State Highways 288 and 332 and Farm-to-Market Roads 523 and 1495;

(4) the intersection of North Velasco Boulevard and South Avenue J in the city of Freeport to the entrance of Port Freeport using North Velasco Boulevard and Farm-to-Market Road 1495; and

(5) 21441 Loop 419 in the city of Sweeny to the entrance of Port Freeport using Loop 419, State Highways 35 and 36, and Farm-to-Market Road 1495.

(c) If the commission designates a route or changes the route designated under this section, the commission shall notify the port authority of the route not later than the 60th day before the date that the designation takes effect.

Added by Acts 1997, 75th Leg., ch. 1194, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 624, Sec. 3, eff. June 18, 1999;
Acts 2003, 78th Leg., ch. 976, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 411 (S.B. 1641), Sec. 1, eff. June 17, 2005.

Acts 2009, 81st Leg., R.S., Ch. 61 (S.B. 1373), Sec. 1.03, eff. May 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 967 (H.B. 1305), Sec. 4, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 705 (H.B. 3125), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 350 (H.B. 1321), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 353 (H.B. 1741), Sec. 1, eff. September 1, 2015.

SUBCHAPTER L. VICTORIA COUNTY NAVIGATION DISTRICT PERMITS

Sec. 623.230. OPTIONAL PROCEDURE. This subchapter provides an optional procedure for the issuance of a permit by the Victoria County Navigation District for the movement of oversize or overweight vehicles carrying cargo in Victoria County.

Added by Acts 2003, 78th Leg., ch. 786, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 613 (S.B. 524), Sec. 1, eff. September 1, 2011.

Sec. 623.231. DEFINITION. In this subchapter, "district" means the Victoria County Navigation District.

Added by Acts 2003, 78th Leg., ch. 786, Sec. 1, eff. Sept. 1, 2003.

Sec. 623.232. ISSUANCE OF PERMITS. The Texas Transportation Commission may authorize the district to issue permits for the movement of oversize or overweight vehicles carrying cargo only on the following highways and roads located in Victoria County:

(1) Farm-to-Market Road 1432 between the Port of Victoria and State Highway 185;

(2) State Highway 185 between U.S. Highway 59 and McCoy Road;

(3) U.S. Highway 59, including a frontage road of U.S. Highway 59, between State Highway 185 and Loop 463; and

(4) Loop 463 between U.S. Highway 59 and North Lone Tree Road.

Added by Acts 2003, 78th Leg., ch. 786, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 613 (S.B. 524), Sec. 2, eff.
September 1, 2011.

Sec. 623.233. MAINTENANCE CONTRACTS. The district shall make payments to the Texas Department of Transportation to provide funds for the maintenance of state highways subject to this subchapter.

Added by Acts 2003, 78th Leg., ch. 786, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 92, eff.
September 1, 2011.

Sec. 623.234. PERMIT FEES. (a) The district may collect a fee for permits issued under this subchapter. The fees shall not exceed \$100 per trip.

(b) Fees collected under Subsection (a) shall be used solely to provide funds for the payments provided for under Section 623.233 less administrative costs, which shall not exceed 15 percent of the fees collected. The fees shall be deposited in the state highway fund. Fees deposited in the state highway fund under this section are exempt from the application of Section 403.095, Government Code.

Added by Acts 2003, 78th Leg., ch. 786, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 613 (S.B. 524), Sec. 3, eff.
September 1, 2011.

Sec. 623.235. PERMIT REQUIREMENTS. (a) A permit issued under this subchapter must include:

- (1) the name of the applicant;
- (2) the date of issuance;
- (3) the signature of the director of the district or the director's designee;
- (4) a statement of the kind of cargo being transported, the maximum weight and dimensions of the equipment, and the kind and weight of each commodity to be transported, provided that the gross

weight of such equipment and commodities shall not exceed 140,000 pounds;

(5) a statement of any condition on which the permit is issued;

(6) a statement that the cargo shall only be transported on a road designated under Section 623.232;

(7) the name of the driver of the vehicle in which the cargo is to be transported; and

(8) the location where the cargo was loaded.

(b) The district shall report to the Texas Department of Transportation all permits issued under this subchapter.

Added by Acts 2003, 78th Leg., ch. 786, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 613 (S.B. 524), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 93, eff. September 1, 2011.

Sec. 623.236. TIME OF MOVEMENT. A permit issued under this subchapter shall specify the time in which movement authorized by the permit is allowed.

Added by Acts 2003, 78th Leg., ch. 786, Sec. 1, eff. Sept. 1, 2003.

Sec. 623.237. SPEED LIMIT. Movement authorized by a permit issued under this subchapter shall not exceed the posted speed limit or 55 miles per hour, whichever is less. Violation of this provision shall constitute a moving violation.

Added by Acts 2003, 78th Leg., ch. 786, Sec. 1, eff. Sept. 1, 2003.

Sec. 623.238. ENFORCEMENT. The Department of Public Safety shall have authority to enforce the provisions of this subchapter.

Added by Acts 2003, 78th Leg., ch. 786, Sec. 1, eff. Sept. 1, 2003.

Sec. 623.239. RULES. The Texas Transportation Commission may adopt rules necessary to implement this subchapter.

Added by Acts 2003, 78th Leg., ch. 786, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER M. CHAMBERS COUNTY PERMITS

Sec. 623.250. OPTIONAL PROCEDURE. This subchapter provides an optional procedure for the issuance of a permit by Chambers County for the movement of oversize or overweight vehicles carrying cargo on certain state highways located in Chambers County.

Added by Acts 2005, 79th Leg., Ch. 538 (H.B. 1044), Sec. 1, eff. June 17, 2005.

Sec. 623.251. DEFINITION. In this subchapter, "county" means Chambers County.

Added by Acts 2005, 79th Leg., Ch. 538 (H.B. 1044), Sec. 1, eff. June 17, 2005.

Sec. 623.252. ISSUANCE OF PERMITS. (a) The Texas Transportation Commission may authorize the county to issue permits for the movement of oversize or overweight vehicles carrying cargo on state highways located in Chambers County.

(b) A permit issued under this subchapter may authorize:

(1) the transport of cargo only on the following roads in Chambers County:

(A) Farm-to-Market Road 1405 between its intersection with Farm-to-Market Road 2354 and its intersection with Farm-to-Market Road 565;

(B) the frontage road of State Highway 99 between its crossing with Cedar Bayou and its intersection with Interstate Highway 10, including the portion of the frontage road located in the Cedar Crossing Business and Industrial Park;

(C) Farm-to-Market Road 565 from its intersection with Farm-to-Market Road 1405 to its intersection with State Highway 99; and

(D) Farm-to-Market Road 2354 from its intersection with

Farm-to-Market Road 1405 northwest approximately 300 linear feet to the termination of the state-maintained portion of the road; and

(2) the movement of equipment and commodities weighing 100,000 pounds or less.

Added by Acts 2005, 79th Leg., Ch. 538 (H.B. 1044), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1053 (H.B. 4594), Sec. 1, eff. June 19, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 137 (S.B. 274), Sec. 1, eff. September 1, 2013.

Sec. 623.253. MAINTENANCE CONTRACTS. The county shall make payments to the Texas Department of Transportation to provide funds for the maintenance of state highways subject to this subchapter.

Added by Acts 2005, 79th Leg., Ch. 538 (H.B. 1044), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 94, eff. September 1, 2011.

Sec. 623.254. PERMIT FEES. (a) The county may collect a fee for permits issued under this subchapter. The fee may not exceed \$80 per trip.

(b) Fees collected under Subsection (a) may be used only to provide funds for the payments under Section 623.253 and for the county's administrative costs, which may not exceed 15 percent of the fees collected. The fees shall be deposited in the state highway fund. Fees deposited in the state highway fund under this section are exempt from the application of Section 403.095, Government Code.

Added by Acts 2005, 79th Leg., Ch. 538 (H.B. 1044), Sec. 1, eff. June 17, 2005.

Sec. 623.255. PERMIT REQUIREMENTS. (a) A permit issued under this subchapter must include:

- (1) the name of the applicant;
 - (2) the date of issuance;
 - (3) the signature of the designated agent for the county;
 - (4) a statement of the kind of cargo being transported, the maximum weight and dimensions of the equipment, and the kind and weight of each commodity to be transported;
 - (5) a statement of any condition on which the permit is issued;
 - (6) a statement that the cargo may be transported in Chambers County only over the roads described by Section 623.252(b)(1); and
 - (7) the location where the cargo was loaded.
- (b) The county shall report to the department all permits issued under this subchapter.

Added by Acts 2005, 79th Leg., Ch. 538 (H.B. 1044), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1053 (H.B. 4594), Sec. 2, eff. June 19, 2009.

Sec. 623.256. TIME OF MOVEMENT. A permit issued under this subchapter must specify the time during which movement authorized by the permit is allowed.

Added by Acts 2005, 79th Leg., Ch. 538 (H.B. 1044), Sec. 1, eff. June 17, 2005.

Sec. 623.257. SPEED LIMIT. Movement authorized by a permit issued under this subchapter may not exceed the posted speed limit or 55 miles per hour, whichever is less. A violation of this provision constitutes a moving violation.

Added by Acts 2005, 79th Leg., Ch. 538 (H.B. 1044), Sec. 1, eff. June 17, 2005.

Sec. 623.258. ENFORCEMENT. The Department of Public Safety has authority to enforce this subchapter.

Added by Acts 2005, 79th Leg., Ch. 538 (H.B. 1044), Sec. 1, eff. June 17, 2005.

Sec. 623.259. RULES. The Texas Transportation Commission may adopt rules necessary to implement this subchapter.

Added by Acts 2005, 79th Leg., Ch. 538 (H.B. 1044), Sec. 1, eff. June 17, 2005.

SUBCHAPTER N. ADMINISTRATIVE SANCTIONS

Sec. 623.271. ADMINISTRATIVE ENFORCEMENT. (a) The department may investigate and, except as provided by Subsection (f), may impose an administrative penalty or revoke an oversize or overweight permit issued under this chapter if the person or the holder of the permit, as applicable:

(1) provides false information on the permit application or another form required by the department for the issuance of an oversize or overweight permit;

(2) violates this chapter, Chapter 621, or Chapter 622;

(3) violates a rule or order adopted under this chapter, Chapter 621, or Chapter 622; or

(4) fails to obtain an oversize or overweight permit if a permit is required.

(b) The notice and hearing requirements of Section 643.2525 apply to the imposition of an administrative penalty or the revocation of a permit under this section as if the action were being taken under that section.

(c) It is an affirmative defense to administrative enforcement under this section that the person or holder of the permit relied on the shipper's certificate of weight.

(d) The amount of an administrative penalty imposed under this section is calculated in the same manner as the amount of an administrative penalty imposed under Section 643.251.

(e) A person who has been ordered to pay an administrative penalty under this section and the vehicle that is the subject of the enforcement order may not be issued a permit under this chapter until the amount of the penalty has been paid to the department.

(f) This subsection applies only to a vehicle or combination

that is used to transport agricultural products or timber products from the place of production to the place of first marketing or first processing. In connection with a violation of a vehicle or combination weight restriction or limitation in this chapter, Chapter 621, or Chapter 622, the department may not impose an administrative penalty against a person or the holder of an overweight permit if the weight of the vehicle or combination involved in the violation did not exceed the allowable weight by more than three percent.

Added by Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 15, eff. September 1, 2007.

Sec. 623.272. ADMINISTRATIVE PENALTY FOR FALSE INFORMATION ON CERTIFICATE. (a) The department may investigate and impose an administrative penalty on a shipper who provides false information on a shipper's certificate of weight that the shipper delivers to a person transporting a shipment.

(b) The notice and hearing requirements of Section 643.2525 apply to the imposition of an administrative penalty under this section as if the action were being taken under that section.

(c) The amount of an administrative penalty imposed under this section is calculated in the same manner as the amount of an administrative penalty imposed under Section 643.251.

Added by Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 15, eff. September 1, 2007.

Sec. 623.273. INJUNCTIVE RELIEF. (a) The attorney general, at the request of the department, may petition a district court for appropriate injunctive relief to prevent or abate a violation of this chapter or a rule or order adopted under this chapter.

(b) Venue in a suit for injunctive relief under this section is in Travis County.

(c) On application for injunctive relief and a finding that a person is violating or has violated this chapter or a rule or order adopted under this chapter, the court shall grant the appropriate relief without bond.

(d) The attorney general and the department may recover reasonable expenses incurred in obtaining injunctive relief under

this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

(e) Money collected by the department under Subsection (d) shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

Added by Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 15, eff. September 1, 2007.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 61, eff. September 1, 2013.

Sec. 623.274. SHIPPER'S CERTIFICATE OF WEIGHT. (a) The department shall prescribe a form to be used for a shipper's certificate of weight. The form must provide space for the maximum weight of the shipment being transported.

(b) For a shipper's certificate of weight to be valid, the shipper must:

(1) certify that the information contained on the form is accurate; and

(2) deliver the certificate to the motor carrier or other person transporting the shipment before the motor carrier or other person applies for an overweight permit under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 15, eff. September 1, 2007.

SUBCHAPTER O. PORT OF CORPUS CHRISTI AUTHORITY ROADWAY PERMITS

Sec. 623.280. OPTIONAL PROCEDURE. This subchapter provides an optional procedure for the issuance of a permit by the Port of Corpus Christi Authority for the movement of oversize or overweight vehicles carrying cargo on a roadway owned and maintained by the Port of Corpus Christi Authority that is located in San Patricio County or Nueces County.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Sec. 623.281. DEFINITION. In this subchapter, "port authority" means the Port of Corpus Christi Authority.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Sec. 623.282. ISSUANCE OF PERMITS. The port authority may issue permits for the movement of oversize or overweight vehicles carrying cargo on a roadway owned and maintained by the port authority that is located in San Patricio County or Nueces County. A permit issued under this subchapter is in addition to other permits required by law.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Sec. 623.283. PERMIT FEES. (a) The port authority may collect a fee for permits issued under this subchapter. The fees may not exceed \$80 per trip.

(b) Fees collected under Subsection (a) shall be used solely for the construction and maintenance of port authority roadways.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Sec. 623.284. PERMIT REQUIREMENTS. A permit issued under this subchapter must include:

- (1) the name of the applicant;
- (2) the date of issuance;
- (3) the signature of the manager of transportation of the port authority;
- (4) a statement of the kind of cargo being transported, the maximum weight and dimensions of the equipment, and the kind and weight of each commodity to be transported;
- (5) a statement of any condition on which the permit is issued;
- (6) a statement that the cargo may only be transported on roadways that are owned and maintained by the port authority and

located in San Patricio County or Nueces County; and
(7) the location where the cargo was loaded.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Sec. 623.285. TIME OF MOVEMENT. A permit issued under this subchapter must specify the time in which movement authorized by the permit is allowed.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Sec. 623.286. SPEED LIMIT. Movement authorized by a permit issued under this subchapter may not exceed the posted speed limit or 55 miles per hour, whichever is less. Violation of this provision shall constitute a moving violation.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Sec. 623.287. ENFORCEMENT. The Department of Public Safety shall have authority to enforce the provisions of this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Sec. 623.288. RULES. The Texas Transportation Commission may adopt rules necessary to implement this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

SUBCHAPTER P. PORT OF CORPUS CHRISTI AUTHORITY PERMITS

Sec. 623.301. OPTIONAL PROCEDURE. This subchapter provides an optional procedure for the issuance of a permit by the Port of Corpus

Christi Authority for the movement of oversize or overweight vehicles carrying cargo on certain roads located in San Patricio and Nueces Counties.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 205 (S.B. 1059), Sec. 2, eff. May 28, 2015.

Sec. 623.302. DEFINITION. In this subchapter, "port authority" means the Port of Corpus Christi Authority.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 205 (S.B. 1059), Sec. 3, eff. May 28, 2015.

Sec. 623.303. ISSUANCE OF PERMITS. (a) The Texas Transportation Commission may authorize the port authority to issue permits for the movement of oversize or overweight vehicles carrying cargo in San Patricio and Nueces Counties on:

(1) the following roads:

(A) U.S. Highway 181 between its intersection with Burleson Street in the city of Corpus Christi and its intersection with County Road 3567 (Midway Road) in San Patricio County;

(B) State Highway 35 between its intersection with Burleson Street in the city of Corpus Christi and its intersection with Farm-to-Market Road 3512;

(C) State Highway 361 between its intersection with State Highway 35 and its intersection with Farm-to-Market Road 1069 (Main Street) in the city of Ingleside; and

(D) proposed State Highway 200 between its intersection with State Highway 361 and its intersection with Farm-to-Market Road 1069 (Main Street) in the city of Ingleside, if proposed State Highway 200 is constructed; or

(2) another route designated by the commission in consultation with the authority.

(b) The port authority may issue a permit under this subchapter only if the cargo being transported weighs 125,000 pounds or less.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 205 (S.B. 1059), Sec. 4, eff. May 28, 2015.

Sec. 623.304. MAINTENANCE CONTRACTS. The port authority shall make payments to the Texas Department of Transportation to provide funds for the maintenance of state highways subject to this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 95, eff. September 1, 2011.

Sec. 623.305. PERMIT FEES. (a) The port authority may collect a fee for permits issued under this subchapter. The fees may not exceed \$80 per trip.

(b) Fees collected under Subsection (a) shall be used solely to provide funds for the payments provided for under Section 623.304 and for the port authority's administrative costs, which may not exceed 15 percent of the fees collected. The fees shall be deposited in the state highway fund. Fees deposited in the state highway fund under this section are exempt from the application of Section 403.095, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Sec. 623.306. PERMIT REQUIREMENTS. (a) A permit issued under this subchapter must include:

- (1) the name of the applicant;
- (2) the date of issuance;

(3) the signature of the manager of transportation of the port authority;

(4) a statement of the kind of cargo being transported, the maximum weight and dimensions of the equipment, and the kind and weight of each commodity to be transported;

(5) a statement of any condition on which the permit is issued;

(6) a statement that the cargo may be transported in San Patricio and Nueces Counties only over the roads described by or designated under Section 623.303; and

(7) the location where the cargo was loaded.

(b) The port authority shall report to the department all permits issued under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 205 (S.B. 1059), Sec. 5, eff. May 28, 2015.

Sec. 623.307. TIME OF MOVEMENT. A permit issued under this subchapter must specify the time in which movement authorized by the permit is allowed.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Sec. 623.308. SPEED LIMIT. Movement authorized by a permit issued under this subchapter may not exceed the posted speed limit or 55 miles per hour, whichever is less. Violation of this provision shall constitute a moving violation.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Sec. 623.309. ENFORCEMENT. The Department of Public Safety may enforce the provisions of this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

Sec. 623.310. RULES. The Texas Transportation Commission may adopt rules necessary to implement this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 812 (S.B. 1571), Sec. 1, eff. September 1, 2009.

SUBCHAPTER Q. VEHICLES TRANSPORTING TIMBER

Sec. 623.321. PERMIT. (a) The department may issue a permit under this subchapter, as an alternative to a permit issued under Section 623.011, authorizing a person to operate a vehicle or combination of vehicles that is being used to transport unrefined timber, wood chips, or woody biomass in a county identified as a timber producing county in the most recent edition of the Texas A&M Forest Service's Harvest Trends Report as of May 15, 2013, at the weight limits prescribed by Subsection (b).

(b) A person may operate over a road or highway a vehicle or combination of vehicles issued a permit under this section at a gross weight that is not heavier than 84,000 pounds, if the gross load carried on any tandem axle of the vehicle or combination of vehicles does not exceed 44,000 pounds.

(c) Section 621.508 does not apply to a vehicle or combination of vehicles operated under this section.

(d) The department shall annually update the number of timber producing counties described by Subsection (a) based on the most recent edition of the Texas A&M Forest Service's Harvest Trends Report.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 119, eff. September 1, 2013.

Sec. 623.322. QUALIFICATION; REQUIREMENTS. (a) To qualify for a permit under this subchapter for a vehicle or combination of vehicles, a person must:

- (1) pay a permit fee of \$900;
- (2) designate in the permit application the timber

producing counties described by Section 623.321(a) in which the vehicle or combination of vehicles will be operated; and

(3) satisfy the security requirement of Section 623.012.

(b) A permit issued under this subchapter:

(1) is valid for one year; and

(2) must be carried in the vehicle for which it is issued.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 119, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1184 (S.B. 1171), Sec. 4, eff. June 19, 2015.

Sec. 623.323. NOTIFICATION. (a) For purposes of this section, "financially responsible party" means the owner of the vehicle or combination of vehicles, the party operating the vehicle or combination of vehicles, or a person that hires, leases, rents, or subcontracts the vehicle or combination of vehicles for use on a road maintained by a county or a state highway.

(b) Before a vehicle or combination of vehicles for which a permit is issued under this subchapter may be operated on a road maintained by a county or a state highway, the financially responsible party shall execute a notification document and agree to reimburse the county or the state, as applicable, for damage to a road or highway sustained as a consequence of the transportation authorized by the permit. At a minimum, the notification document must include:

(1) the name and address of the financially responsible party;

(2) a description of each permit issued for the vehicle or combination of vehicles;

(3) a description of the method of compliance by the financially responsible party with Sections 601.051 and 623.012;

(4) the address or location of the geographic area in which the financially responsible party wishes to operate a vehicle or combination of vehicles and a designation of the specific route of travel anticipated by the financially responsible party, including the name or number of each road maintained by a county or state highway;

(5) a calendar or schedule of duration that includes the days and hours of operation during which the financially responsible party reasonably anticipates using the county road or state highway identified in Subdivision (4); and

(6) a list of each vehicle or combination of vehicles by license plate number or other registration information, and a description of the means by which financial responsibility is established for each vehicle or combination of vehicles if each vehicle or combination of vehicles is not covered by a single insurance policy, surety bond, deposit, or other means of financial assurance.

(c) A financially responsible party shall electronically file the notification document described by Subsection (b) with the department under rules adopted by the department not later than the second business day before the first business day listed by the financially responsible party under Subsection (b)(5). The department shall immediately send an electronic copy of the notification document to each county identified in the notification document and the Texas Department of Transportation and an electronic receipt for the notification document to the financially responsible party. Not later than the first business day listed by the financially responsible party under Subsection (b)(5), a county or the Texas Department of Transportation may inspect a road or highway identified in the notification document. If an inspection is conducted under this subsection, a county or the Texas Department of Transportation shall:

(1) document the condition of the roads or highways and take photographs of the roads or highways as necessary to establish a baseline for any subsequent assessment of damage sustained by the financially responsible party's use of the roads or highways; and

(2) provide a copy of the documentation to the financially responsible party.

(d) If an inspection has been conducted under Subsection (c), a county or the Texas Department of Transportation, as applicable, shall, not later than the fifth business day after the expiration of the calendar or schedule of duration described by Subsection (b)(5):

(1) conduct an inspection described by Subsection (c)(1) to determine any damage sustained by the financially responsible party's use of the roads or highways; and

(2) provide a copy of the inspection documentation to the

financially responsible party.

(e) The state or a county required to be notified under this section may assert a claim against any security posted under Section 623.012 or insurance filed under Section 643.103 for damage to a road or highway sustained as a consequence of the transportation authorized by the permit.

(f) This section does not apply to a vehicle or combination of vehicles that are being used to transport unrefined timber, wood chips, or woody biomass from:

- (1) a storage yard to the place of first processing; or
- (2) outside this state to a place of first processing in this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 119, eff. September 1, 2013.

Sec. 623.324. DISPOSITION OF FEE. (a) Of the fee collected under Section 623.322 for a permit:

- (1) 50 percent of the amount collected shall be deposited to the credit of the state highway fund; and
- (2) the other 50 percent shall be divided equally among all counties designated in the permit application under Section 623.322(a)(2).

(b) At least once each fiscal year, the comptroller shall send the amount due each county under Subsection (a) to the county treasurer or officer performing the function of that office for deposit to the credit of the county road and bridge fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 119, eff. September 1, 2013.

Sec. 623.325. INTERSTATE AND DEFENSE HIGHWAYS. (a) This subchapter does not authorize the operation on the national system of interstate and defense highways in this state of a vehicle of a size or weight greater than those permitted under 23 U.S.C. Section 127.

(b) If the United States authorizes the operation on the national system of interstate and defense highways of a vehicle of a size or weight greater than those permitted under 23 U.S.C. Section 127 on September 1, 2013, the new limit automatically takes effect on

the national system of interstate and defense highways in this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 119, eff. September 1, 2013.

SUBCHAPTER R. PERMIT TO DELIVER RELIEF SUPPLIES DURING NATIONAL EMERGENCY

Sec. 623.341. PERMIT TO DELIVER RELIEF SUPPLIES. (a)

Notwithstanding any other law, the department may issue a special permit during a major disaster as declared by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.) to an overweight or oversize vehicle or load that:

- (1) can easily be dismantled or divided; and
- (2) will be used only to deliver relief supplies.

(b) A permit issued under this section expires not later than the 120th day after the date of the major disaster declaration.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 120, eff. September 1, 2013.

Sec. 623.342. RULES. The board may adopt rules necessary to implement this subchapter, including rules that establish the requirements for obtaining a permit.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 120, eff. September 1, 2013.

Sec. 623.343. PERMIT CONDITIONS. The department may impose conditions on a permit holder to ensure the safe operation of a permitted vehicle and minimize damage to roadways, including requirements related to vehicle routing, hours of operation, weight limits, and lighting and requirements for escort vehicles.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 120, eff. September 1, 2013.

SUBCHAPTER S. REGIONAL MOBILITY AUTHORITY PERMITS

Sec. 623.361. OPTIONAL PROCEDURE. This subchapter provides an optional procedure for the issuance of a permit by a regional mobility authority for the movement of oversize or overweight vehicles carrying cargo on certain roads located in Hidalgo County.

Added by Acts 2013, 83rd Leg., R.S., Ch. 635 (H.B. 474), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 623.320 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(61), eff. September 1, 2015.

Sec. 623.362. DEFINITION. In this subchapter, "authority" means the regional mobility authority authorized to issue permits under Section 623.363.

Added by Acts 2013, 83rd Leg., R.S., Ch. 635 (H.B. 474), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 623.321 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(61), eff. September 1, 2015.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.002(32), eff. September 1, 2015.

Sec. 623.363. ISSUANCE OF PERMITS. (a) The commission may authorize a regional mobility authority to issue permits for the movement of oversize or overweight vehicles carrying cargo in Hidalgo County on:

(1) the following roads:

(A) U.S. Highway 281 between its intersection with the Pharr-Reynosa International Bridge and its intersection with State Highway 336;

(B) State Highway 336 between its intersection with U.S. Highway 281 and its intersection with Farm-to-Market Road 1016;

(C) Farm-to-Market Road 1016 between its intersection with State Highway 336 and its intersection with Trinity Road;

(D) Trinity Road between its intersection with Farm-to-Market Road 1016 and its intersection with Farm-to-Market Road 396;

(E) Farm-to-Market Road 396 between its intersection with Trinity Road and its intersection with the Anzalduas International Bridge;

(F) Farm-to-Market Road 2061 between its intersection with Farm-to-Market Road 3072 and its intersection with U.S. Highway 281;

(G) U.S. Highway 281 between its intersection with the Pharr-Reynosa International Bridge and its intersection with Spur 29;

(H) Spur 29 between its intersection with U.S. Highway 281 and its intersection with Doffin Canal Road;

(I) Doffin Canal Road between its intersection with the Pharr-Reynosa International Bridge and its intersection with Spur 29;

(J) Farm-to-Market Road 1015 between its intersection with U.S. Highway 281 and its intersection with U.S. Highway 83 Business;

(K) U.S. Highway 83 Business between its intersection with Farm-to-Market Road 1015 and its intersection with South Pleasantview Drive;

(L) Farm-to-Market Road 1015 between its intersection with U.S. Highway 83 Business and its intersection with Mile 9 Road North; and

(M) Mile 9 Road North between its intersection with Farm-to-Market Road 1015 and its intersection with Joe Stephens Avenue; or

(2) another route designated by the commission in consultation with the authority.

(b) The authority authorized under this section must serve the same geographic location as the roads over which the permit is valid.

Added by Acts 2013, 83rd Leg., R.S., Ch. 635 (H.B. 474), Sec. 1, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1053 (H.B. 1969), Sec. 1, eff. September 1, 2015.

Redesignated from Transportation Code, Section 623.322 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(61), eff. September 1, 2015.

Sec. 623.364. PERMIT FEES. (a) The authority may collect a

fee for permits issued under this subchapter. Beginning September 1, 2013, the maximum amount of the fee may not exceed \$80 per trip. On September 1 of each subsequent year, the authority may adjust the maximum fee amount as necessary to reflect the percentage change during the preceding year in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, published monthly by the United States Bureau of Labor Statistics or its successor in function.

(b) Fees collected under Subsection (a) shall be used only for the construction and maintenance of the roads described by or designated under Section 623.363 and for the authority's administrative costs, which may not exceed 15 percent of the fees collected. The authority shall make payments to the Texas Department of Transportation to provide funds for the maintenance of roads and highways subject to this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 635 (H.B. 474), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 623.323 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(61), eff. September 1, 2015.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.002(33), eff. September 1, 2015.

Sec. 623.365. PERMIT REQUIREMENTS. (a) A permit issued under this subchapter must include:

- (1) the name of the applicant;
- (2) the date of issuance;
- (3) the signature of the designated agent for the authority;
- (4) a statement of the kind of cargo being transported, the maximum weight and dimensions of the equipment, and the kind and weight of each commodity to be transported;
- (5) a statement:
 - (A) that the gross weight of the vehicle for which a permit is issued may not exceed 125,000 pounds; and
 - (B) of any other condition on which the permit is issued;
- (6) a statement that the cargo may be transported in

Hidalgo County only over the roads described by or designated under Section 623.363; and

(7) the location where the cargo was loaded.

(b) The authority shall report to the department all permits issued under this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 635 (H.B. 474), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 623.324 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(61), eff. September 1, 2015.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.002(34), eff. September 1, 2015.

Sec. 623.366. TIME OF MOVEMENT. A permit issued under this subchapter must specify the time during which movement authorized by the permit is allowed.

Added by Acts 2013, 83rd Leg., R.S., Ch. 635 (H.B. 474), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 623.325 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(61), eff. September 1, 2015.

Sec. 623.367. SPEED LIMIT. Movement authorized by a permit issued under this subchapter may not exceed the posted speed limit or 55 miles per hour, whichever is less. A violation of this provision constitutes a moving violation.

Added by Acts 2013, 83rd Leg., R.S., Ch. 635 (H.B. 474), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 623.326 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(61), eff. September 1, 2015.

Sec. 623.368. ENFORCEMENT. The Department of Public Safety has authority to enforce this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 635 (H.B. 474), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 623.327 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(61), eff. September 1, 2015.

Sec. 623.369. RULES. The commission may adopt rules necessary to implement this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 635 (H.B. 474), Sec. 1, eff. September 1, 2013.

Redesignated from Transportation Code, Section 623.328 by Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 21.001(61), eff. September 1, 2015.

Sec. 623.370. BOND. (a) The authority shall file with the Texas Department of Transportation a bond in an amount set by the Texas Department of Transportation under Subsection (b), payable to the Texas Department of Transportation, and conditioned that the authority will pay to the Texas Department of Transportation the amount by which the annual cost to repair any damage to roads and highways subject to this subchapter from the movement of oversize and overweight vehicles for which permits are issued under this subchapter exceeds the annual amount paid to the Texas Department of Transportation under Section 623.364(b).

(b) The Texas Department of Transportation shall set the amount of the bond required under Subsection (a) in an amount equal to the estimated annual cost to repair any damage to roads and highways subject to this subchapter from the movement of oversize and overweight vehicles for which permits are issued under this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 1053 (H.B. 1969), Sec. 2(b), eff. September 1, 2015.

SUBCHAPTER T. WEBB COUNTY PERMITS

Sec. 623.381. OPTIONAL PROCEDURE. This subchapter provides an optional procedure for the issuance of a permit by the City of Laredo

for the movement of oversize or overweight vehicles carrying cargo on certain roadways located in Webb County.

Added by Acts 2015, 84th Leg., R.S., Ch. 870 (H.B. 2861), Sec. 1, eff. September 1, 2015.

Sec. 623.382. ISSUANCE OF PERMITS. (a) The commission may authorize the City of Laredo to issue permits for the movement of oversize or overweight vehicles carrying cargo in Webb County on the following roadways:

(1) Farm-to-Market Road 1472 between its intersection with State Highway Loop 20 and the northernmost of its intersections with World Trade Center Loop;

(2) Farm-to-Market Road 1472 between the northernmost of its intersections with World Trade Center Loop and its intersection with Hachar Loop, if the Hachar Loop project in Webb County is constructed;

(3) Hachar Loop between its intersection with Farm-to-Market Road 1472 and its intersection with Interstate Highway 35, if the Hachar Loop project in Webb County is constructed; and

(4) Beltway Parkway between its intersection with Hachar Loop and its intersection with Interstate Highway 35, if the Hachar Loop project in Webb County is constructed.

(b) In addition to the roadways described by Subsection (a), the City of Laredo may designate and issue permits for the movement of oversize or overweight vehicles carrying cargo in Webb County on roadways under the city's jurisdiction and control.

Added by Acts 2015, 84th Leg., R.S., Ch. 870 (H.B. 2861), Sec. 1, eff. September 1, 2015.

Sec. 623.383. SURETY BOND. The commission may require the City of Laredo to execute, at its own expense, a surety bond payable to the Texas Department of Transportation in an amount of not less than \$500,000 for costs of maintenance for the roadways described by Section 623.382(a).

Added by Acts 2015, 84th Leg., R.S., Ch. 870 (H.B. 2861), Sec. 1, eff. September 1, 2015.

Sec. 623.384. PERMIT FEES. (a) The City of Laredo may collect a fee for permits issued under this subchapter. Except as otherwise provided by this subsection, the maximum amount of the fee may not exceed \$200 per trip. On September 1 of each year, the city may adjust the maximum fee amount as necessary to reflect the percentage change during the preceding year in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, published monthly by the United States Bureau of Labor Statistics or its successor in function.

(b) Fees collected under Subsection (a) may be used only for the operation and maintenance of the roadways described by or designated under Section 623.382 and for the City of Laredo's administrative costs, which may not exceed 15 percent of the fees collected.

(c) The distribution of the fees collected under Subsection (a) less the City of Laredo's administrative costs must be distributed between the state and the city based on lane mile calculations between on and off system roadways subject to this subchapter. Lane mile calculations must be adjusted on a biannual basis.

(d) The City of Laredo shall send the state's portion of the fees collected under Subsection (a) to the comptroller for deposit to the credit of the state highway fund. Fees deposited in the state highway fund under this section are exempt from the application of Section 403.095, Government Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 870 (H.B. [2861](#)), Sec. 1, eff. September 1, 2015.

Sec. 623.385. PERMIT REQUIREMENTS. (a) A permit issued under this subchapter must include:

- (1) the name of the applicant;
- (2) the date of issuance;
- (3) the signature of the designated agent for the City of Laredo;
- (4) a statement of the kind of cargo being transported, the maximum weight and dimensions of the equipment, and the kind and weight of each commodity to be transported;

(5) a statement:

(A) that the gross weight of the vehicle for which a permit is issued may not exceed 125,000 pounds; and

(B) of any other condition on which the permit is issued;

(6) a statement that the cargo may be transported in Webb County only over the roadways described by or designated under Section 623.382;

(7) a statement that the permit does not authorize the transportation of the cargo on an interstate highway; and

(8) the location where the cargo was loaded.

(b) The City of Laredo shall report to the department all permits issued under this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 870 (H.B. 2861), Sec. 1, eff. September 1, 2015.

Sec. 623.386. TIME OF MOVEMENT. A permit issued under this subchapter must specify the time during which movement authorized by the permit is allowed.

Added by Acts 2015, 84th Leg., R.S., Ch. 870 (H.B. 2861), Sec. 1, eff. September 1, 2015.

Sec. 623.387. SPEED LIMIT. Movement authorized by a permit issued under this subchapter may not exceed the posted speed limit or 55 miles per hour, whichever is less. A violation of this provision constitutes a moving violation.

Added by Acts 2015, 84th Leg., R.S., Ch. 870 (H.B. 2861), Sec. 1, eff. September 1, 2015.

Sec. 623.388. ENFORCEMENT. The Department of Public Safety has authority to enforce this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 870 (H.B. 2861), Sec. 1, eff. September 1, 2015.

Sec. 623.389. PAVEMENT MANAGEMENT PLAN. The Texas Department of Transportation shall create a pavement management plan for the roadways described by Section 623.382(a).

Added by Acts 2015, 84th Leg., R.S., Ch. 870 (H.B. 2861), Sec. 1, eff. September 1, 2015.

Sec. 623.390. RULES. The commission may adopt rules necessary to implement this subchapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 870 (H.B. 2861), Sec. 1, eff. September 1, 2015.

SUBTITLE F. COMMERCIAL MOTOR VEHICLES

CHAPTER 642. IDENTIFYING MARKINGS ON COMMERCIAL MOTOR VEHICLES

Sec. 642.001. DEFINITIONS. In this chapter:

(1) "Motor vehicle" means a motor vehicle, other than a motorcycle, that is designed or used primarily for the transportation of persons or property.

(2) "Operator" means the person who is in actual physical control of a motor vehicle.

(3) "Owner" means a person who has:

- (A) legal title to a motor vehicle; or
- (B) the right to possess or control the vehicle.

(4) "Road-tractor" means a motor vehicle that is:

- (A) used for towing manufactured housing; or
- (B) designed and used for drawing other vehicles and not constructed so as to carry any load independently or as a part of the weight of a vehicle or load it is drawing.

(5) "Truck-tractor" means a motor vehicle that:

(A) transports passenger cars loaded on the vehicle while the vehicle is engaged with a semitrailer transporting passenger cars; or

(B) is designed or used primarily for pulling other vehicles and constructed to carry only a part of the weight of a vehicle it is pulling.

(6) "Tow truck" has the meaning assigned that term by Section 2308.002, Occupations Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 4.12(a), eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 23.008, eff. September 1, 2009.

Sec. 642.002. IDENTIFYING MARKINGS ON CERTAIN VEHICLES REQUIRED; OFFENSE; PENALTY. (a) A person commits an offense if:

(1) the person operates on a public street, road, or highway:

(A) a commercial motor vehicle that has three or more axles;

(B) a truck-tractor;

(C) a road-tractor; or

(D) a tow truck; and

(2) the vehicle does not have on each side of the power unit identifying markings that comply with the identifying marking requirements specified by 49 C.F.R. Section 390.21 or that:

(A) show the name of the owner or operator of the vehicle;

(B) have clearly legible letters and numbers of a height of at least two inches; and

(C) show the motor carrier registration number in clearly legible letters and numbers, if the vehicle is required to be registered under this chapter or Chapter 643.

(b) A person commits an offense if the person operates on a public street, road, or highway a tow truck that does not show on each side of the power unit, in addition to the markings required by Subsection (a)(2), the city in which the owner or operator maintains its place of business and the telephone number, including area code, at that place of business in clearly legible letters and numbers.

(c) The owner of a vehicle commits an offense if the owner or operator permits another to operate a vehicle in violation of Subsection (a) or (b).

(d) The Texas Department of Motor Vehicles by rule may prescribe additional requirements regarding the form of the markings required by Subsection (a)(2) that are not inconsistent with that subsection.

(e) An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1171, Sec. 4.12, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 566, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2K.01, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 121, eff. September 1, 2013.

Sec. 642.003. NONAPPLICABILITY. Section 642.002 does not apply to a commercial motor vehicle, road-tractor, or truck-tractor that is:

- (1) registered under Section 502.433;
- (2) required to be registered under Section 113.131, Natural Resources Code;
- (3) operated in private carriage that is subject to Title 49, Code of Federal Regulations, Part 390.21;
- (4) operated under the direct control, supervision, or authority of a public utility, as recognized by the legislature, that is otherwise visibly marked; or
- (5) transporting timber products in their natural state from first point of production or harvest to first point of processing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.149(a), eff. Sept. 1, 1997. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.030, eff. September 1, 2013.

CHAPTER 643. MOTOR CARRIER REGISTRATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 643.001. DEFINITIONS. In this chapter:

- (1) "Department" means the Texas Department of Motor Vehicles.
- (2) "Director" means:
 - (A) the executive director of the department; or
 - (B) an employee of the department who:

(i) is a division or special office director or holds a higher rank; and

(ii) is designated by the director.

(3) "Hazardous material" has the meaning assigned by 49 U.S.C. Section 5102.

(4) "Household goods" has the meaning assigned by 49 U.S.C. Section 13102.

(5) "Insurer" means a person, including a surety, authorized in this state to write lines of insurance coverage required by this chapter.

(6) "Motor carrier" means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a road or highway in this state.

(7) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1046, Sec. 5.01(a)(1), eff. September 1, 2007.

(7-a) "Unified carrier registration system" means a motor vehicle registration system established under 49 U.S.C. Section 14504a or a similar federal registration program that replaces that system.

(8) "Vehicle requiring registration" means a vehicle described by Section 643.051.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1046 (H.B. 2094), Sec. 5.01(a)(1), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 16, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2L.01, eff. September 1, 2009.

Sec. 643.002. EXEMPTIONS. This chapter does not apply to:

(1) motor carrier operations exempt from registration by the Unified Carrier Registration Act of 2005 (49 U.S.C. Section 14504a) or a motor vehicle registered under the single state registration system established under 49 U.S.C. Section 14504(c) when operating exclusively in interstate or international commerce;

(2) a motor vehicle registered as a cotton vehicle under Section 504.505;

(3) a motor vehicle the department by rule exempts because the vehicle is subject to comparable registration and a comparable safety program administered by another governmental entity;

(4) a motor vehicle used to transport passengers operated by an entity whose primary function is not the transportation of passengers, such as a vehicle operated by a hotel, day-care center, public or private school, nursing home, or similar organization;

(5) a vehicle operating under a private carrier permit issued under Chapter 42, Alcoholic Beverage Code;

(6) a vehicle operated by a governmental entity; or

(7) a tow truck, as defined by Section 2308.002, Occupations Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.10(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 603, Sec. 1, eff. Aug. 30, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1046 (H.B. 2094), Sec. 3.06, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 17, eff. September 1, 2007.

Sec. 643.003. RULES. The department may adopt rules to administer this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.004. PAYMENT OF FEES. (a) The department may adopt rules on the method of payment of a fee under this chapter, including:

(1) authorizing the use of:

(A) escrow accounts described by Subsection (b); and

(B) electronic funds transfer or a credit card issued by a financial institution chartered by a state or the United States or by a nationally recognized credit organization approved by the

department; and

(2) requiring the payment of a discount or service charge for a credit card payment in addition to the fee.

(b) The department may establish one or more escrow accounts in the Texas Department of Motor Vehicles fund for the prepayment of a fee under this chapter. Prepaid fees and any fees established by the department for the administration of this section shall be:

(1) administered under an agreement approved by the department; and

(2) deposited to the credit of the Texas Department of Motor Vehicles fund to be appropriated only to the department for the purposes of administering this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.11(a), eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. [2202](#)), Sec. 62, eff. September 1, 2013.

SUBCHAPTER B. REGISTRATION

Sec. 643.051. REGISTRATION REQUIRED. (a) A motor carrier may not operate a commercial motor vehicle, as defined by Section 548.001, on a road or highway of this state unless the carrier registers with the department under this subchapter.

(b) A motor carrier may not operate a vehicle, regardless of size of the vehicle, to transport household goods for compensation unless the carrier registers with the department under this subchapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 6.01, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1046 (H.B. [2094](#)), Sec. 3.07, eff. September 1, 2007.

Sec. 643.052. APPLICATION. To register under this subchapter a

motor carrier must submit to the department an application on a form prescribed by the department. The application must include:

- (1) the name of the owner and the principal business address of the motor carrier;
- (2) the name and address of the legal agent for service of process on the carrier in this state, if different;
- (3) a description of each vehicle requiring registration the carrier proposes to operate, including the motor vehicle identification number, make, and unit number;
- (4) a statement as to whether the carrier proposes to transport household goods or a hazardous material;
- (5) a declaration that the applicant has knowledge of all laws and rules relating to motor carrier safety, including this chapter, Chapter 644, and Subtitle C;
- (6) a certification that the carrier is in compliance with the drug testing requirements of 49 C.F.R. Part 382, and if the carrier belongs to a consortium, as defined by 49 C.F.R. Part 382, the names of the persons operating the consortium;
- (7) a valid identification number issued to the motor carrier by or under the authority of the Federal Motor Carrier Safety Administration or its successor; and
- (8) any other information the department by rule determines is necessary for the safe operation of a motor carrier under this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 991, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 919 (H.B. [2985](#)), Sec. 3, eff. September 1, 2009.

Sec. 643.053. FILING OF APPLICATION. An application under Section 643.052 must be filed with the department and accompanied by:

- (1) an application fee of \$100 plus a \$10 fee for each vehicle requiring registration;
- (2) evidence of insurance or financial responsibility as required by Section 643.103(a); and
- (3) any insurance filing fee required under Section

643.103(c).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1034, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1046 (H.B. 2094), Sec. 3.08, eff. September 1, 2007.

Sec. 643.054. DEPARTMENT APPROVAL AND DENIAL; ISSUANCE OF CERTIFICATE. (a) The department shall register a motor carrier under this subchapter if the carrier complies with Sections 643.052 and 643.053.

(a-1) The department may deny a registration if the applicant has had a registration revoked under Section 643.252.

(a-2) The department may deny a registration if the applicant's business is operated, managed, or otherwise controlled by or affiliated with a person, including the applicant, a relative, family member, corporate officer, or shareholder, whom the Department of Public Safety has determined has:

(1) an unsatisfactory safety rating under 49 C.F.R. Part 385; or

(2) multiple violations of Chapter 644, a rule adopted under that chapter, or Subtitle C.

(a-3) The department may deny a registration if the applicant is a motor carrier whose business is operated, managed, or otherwise controlled by or affiliated with a person, including an owner, relative, family member, corporate officer, or shareholder, whom the Department of Public Safety has determined has:

(1) an unsatisfactory safety rating under 49 C.F.R. Part 385; or

(2) multiple violations of Chapter 644, a rule adopted under that chapter, or Subtitle C.

(b) The department shall issue a certificate containing a single registration number to a motor carrier, regardless of the number of vehicles requiring registration the carrier operates.

(c) To avoid multiple registrations of a single motor carrier, the department shall adopt simplified procedures for the registration of motor carriers transporting household goods as agents for carriers

required to register under this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.12(a), eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 122, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 123, eff. September 1, 2013.

Sec. 643.055. CONDITIONAL ACCEPTANCE. (a) The department may conditionally accept an incomplete application for registration under this subchapter if the motor carrier complies with Section 643.053.

(b) The department shall notify a motor carrier that an application is incomplete and inform the carrier of the information required for completion. If the motor carrier fails to provide the information before the 46th day after the date the department provides the notice, the application is considered withdrawn, and the department shall retain each fee required by Section 643.053(1).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.056. SUPPLEMENTAL REGISTRATION. (a) A motor carrier required to register under this subchapter shall supplement the carrier's application for registration before:

(1) the carrier transports a hazardous material or household goods if the carrier has not provided notice of the transportation to the department in the carrier's initial or a supplemental application for registration;

(2) the carrier operates a vehicle requiring registration that is not described on the carrier's initial or a supplemental application for registration; or

(3) the carrier changes the carrier's principal business address, legal agent, ownership, consortium, as defined by 49 C.F.R. Part 382, or name.

(b) The department shall prescribe the form of a supplemental application for registration under Subsection (a).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 991, Sec. 10, eff. Sept. 1, 2003.

Sec. 643.057. ADDITIONAL VEHICLES AND FEES. (a) A motor carrier may not operate an additional vehicle requiring registration unless the carrier pays a registration fee of \$10 for each additional vehicle and shows the department evidence of insurance or financial responsibility for the vehicle in an amount at least equal to the amount set by the department under Section 643.101.

(b) A motor carrier is not required to pay the applicable registration fee under Subsection (a) for a vehicle for which the same fee is required and that replaces a vehicle for which the fee has been paid.

(c) A registered motor carrier may not transport household goods or a hazardous material unless the carrier shows the department evidence of insurance or financial responsibility in an amount at least equal to the amount set by the department under Section 643.101 for a vehicle carrying household goods or a hazardous material.

(d) The department may not collect more than \$10 in equipment registration fees for a vehicle registered under both this subchapter and Chapter 645.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1034, Sec. 5, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1046 (H.B. 2094), Sec. 3.09, eff. September 1, 2007.

Sec. 643.058. RENEWAL OF REGISTRATION. (a) Except as provided in Section 643.061, a registration issued under this subchapter is valid for one year. The department may adopt a system under which registrations expire at different times during the year.

(b) At least 30 days before the date on which a motor carrier's registration expires, the department shall notify the carrier of the impending expiration. The notice must be in writing and sent to the motor carrier's last known address according to the records of the

department.

(c) A motor carrier may renew a registration under this subchapter by:

(1) supplementing the application with any new information required under Section 643.056;

(2) paying a \$10 fee for each vehicle requiring registration; and

(3) providing the department evidence of continuing insurance or financial responsibility in an amount at least equal to the amount set by the department under Section 643.101.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.13(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 603, Sec. 2, eff. Aug. 30, 1999; Acts 2003, 78th Leg., ch. 1034, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1046 (H.B. 2094), Sec. 3.10, eff. September 1, 2007.

Sec. 643.059. CAB CARDS. (a) The department shall issue a cab card for each vehicle requiring registration. A cab card must:

(1) show the registration number of the certificate issued under Section 643.054(b);

(2) show the vehicle unit number;

(3) show the vehicle identification number; and

(4) contain a statement that the vehicle is registered to operate under this subchapter.

(b) The department shall issue cab cards at the time a motor carrier pays a registration fee under this subchapter. The department may charge a fee of \$1 for each cab card.

(c) A motor carrier required to register under this subchapter must keep the cab card in the cab of each vehicle requiring registration the carrier operates.

(d) The department may order a motor carrier to surrender a cab card if the carrier's registration is suspended or revoked under Section 643.252.

(e) If the department determines that the cab card system described by Subsections (a)-(c) is not an efficient means of enforcing this subchapter, the department by rule may adopt an

alternative method that is accessible by law enforcement personnel in the field and provides for the enforcement of the registration requirements of this subchapter.

(f) A cab card or a vehicle registration issued under the alternative method described in Subsection (e) must be valid for the same duration of time as a motor carrier's certificate issued under Section 643.054(b) or Section 643.061(c)(1).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 603, Sec. 3, eff. Aug. 30, 1999.

Sec. 643.060. TEMPORARY REGISTRATION OF INTERNATIONAL MOTOR CARRIER. The department by rule may provide for the temporary registration of an international motor carrier that provides evidence of insurance as required for a domestic motor carrier. The department may charge a fee for a temporary registration in an amount not to exceed the cost of administering this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.061. OPTIONAL REGISTRATION PERIODS. (a) The department may vary the registration period under this subchapter by adopting rules that provide for:

- (1) an optional two-year registration; and
- (2) an optional temporary registration that is valid for less than one year.

(b) A motor carrier applying for registration under this section must pay:

- (1) a \$20 fee for each vehicle registered under Subsection (a)(1);
- (2) a \$10 fee for each vehicle registered under Subsection (a)(2); and
- (3) application and insurance filing fees the department by rule adopts in an amount not to exceed \$100 each.

(c) The department shall issue to a motor carrier registering under this section:

- (1) a motor carrier's certificate, in the manner provided

by Section 643.054; and

(2) a cab card or the equivalent of a cab card, in the manner provided by Section 643.059.

Added by Acts 1999, 76th Leg., ch. 603, Sec. 4, eff. Aug. 30, 1999.
Amended by Acts 2003, 78th Leg., ch. 1034, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1046 (H.B. 2094), Sec. 3.11, eff. September 1, 2007.

Sec. 643.062. LIMITATION ON INTERNATIONAL MOTOR CARRIER. (a) A foreign-based international motor carrier required to register under this chapter or registered under Chapter 645 may not transport persons or cargo in intrastate commerce in this state.

(b) A person may not assist a foreign-based international motor carrier in violating Subsection (a).

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.14(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 603, Sec. 4, eff. Aug. 30, 1999.

Sec. 643.063. VEHICLES OPERATED UNDER SHORT-TERM LEASE AND SUBSTITUTE VEHICLES. (a) In this section:

(1) "Leasing business" means a person that leases vehicles requiring registration.

(2) "Short-term lease" means a lease of 30 days or less.

(b) A vehicle requiring registration operated under a short-term lease is exempt from the registration requirements of Sections 643.052-643.059. The department shall adopt rules providing for the operation of these vehicles under flexible procedures. A vehicle requiring registration operated under a short-term lease is not required to carry a cab card or other proof of registration if a copy of the lease agreement is carried in the cab of the vehicle.

(c) A motor carrier may operate a substitute vehicle without notifying the department in advance if the substitute is a temporary replacement because of maintenance, repair, or other unavailability of the vehicle originally leased. A substitute vehicle is not required to carry a cab card or other proof of registration if a copy of the lease agreement for the vehicle originally leased is carried

in the cab of the substitute.

(d) Instead of the registration procedures described by Sections 643.052-643.059, the department shall adopt rules that allow a leasing business to report annually to the department on the number of vehicles requiring registration that the leasing business actually operated in the previous 12 months. The rules may not require the vehicles operated to be described with particularity. The registration fee for each vehicle operated may be paid at the time the report is filed.

(e) A leasing business that registers its vehicles under Subsection (d) may comply with the liability insurance requirements of Subchapter C by filing evidence of a contingency liability policy satisfactory to the department.

(f) Rules adopted by the department under this section:

(1) must be designed to avoid requiring a vehicle to be registered more than once in a calendar year; and

(2) may allow a leasing business to register a vehicle on behalf of a lessee.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.15(a), eff. Sept. 1, 1999.

Sec. 643.064. UNITED STATES DEPARTMENT OF TRANSPORTATION NUMBERS. (a) The department by rule shall provide for the issuance to a motor carrier of an identification number authorized by the Federal Motor Carrier Safety Administration. A rule must conform to rules of the Federal Motor Carrier Safety Administration or its successor.

(b) A motor carrier required to register under this subchapter shall maintain an authorized identification number issued to the motor carrier by the Federal Motor Carrier Safety Administration, its successor, or another person authorized to issue the number.

Added by Acts 2009, 81st Leg., R.S., Ch. 919 (H.B. [2985](#)), Sec. 4, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 124, eff. September 1, 2013.

SUBCHAPTER C. INSURANCE

Sec. 643.101. AMOUNT REQUIRED. (a) A motor carrier required to register under Subchapter B shall maintain liability insurance in an amount set by the department for each vehicle requiring registration the carrier operates.

(b) Except as provided by Section 643.1015, the department by rule may set the amount of liability insurance required at an amount that does not exceed the amount required for a motor carrier under a federal regulation adopted under 49 U.S.C. Section 13906(a)(1). In setting the amount the department shall consider:

- (1) the class and size of the vehicle; and
- (2) the persons or cargo being transported.

(c) A motor carrier required to register under Subchapter B that transports household goods shall maintain cargo insurance in the amount required for a motor carrier transporting household goods under federal law.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1046, Sec. 5.01(a)(2), eff. September 1, 2007.

(e) Unless state law permits a commercial motor vehicle to be self-insured, any insurance required for a commercial motor vehicle must be obtained from:

- (1) an insurer authorized to do business in this state whose aggregate net risk, after reinsurance, under any one insurance policy is not in excess of 10 percent of the insurer's policyholders' surplus, and credit for such reinsurance is permitted by law; or
 - (2) an insurer that meets the eligibility requirements of a surplus lines insurer pursuant to Chapter 981, Insurance Code.
- Notwithstanding any other provision in law, an insurer in compliance with this subsection shall be deemed to be in compliance with any rating or financial criteria established for motor carriers by any political subdivision of the state.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1034, Sec. 8, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 144 (H.B. 1018), Sec. 1, eff. May 24, 2005.

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.163, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1046 (H.B. 2094), Sec. 5.01(a)(2), eff. September 1, 2007.

Sec. 643.1015. AMOUNT REQUIRED FOR CERTAIN SCHOOL BUSES. (a) This section applies only to a school bus that:

(1) is owned by a motor carrier required to be registered under Subchapter B;

(2) is in compliance with the requirements of Chapter 548; and

(3) is operated exclusively within the boundaries of a municipality by a person who:

(A) holds a driver's license or commercial driver's license of the appropriate class required for the operation of the school bus; and

(B) meets the requirements of Section 521.022.

(b) The owner of a school bus shall maintain liability insurance in the amount of at least \$500,000 combined single limit.

(c) In this section, "school bus" means a motor vehicle that is operated by a motor carrier and used to transport preprimary, primary, or secondary school students on a route between the students' residences and a public, private, or parochial school or day-care facility.

Added by Acts 2005, 79th Leg., Ch. 144 (H.B. 1018), Sec. 2, eff. May 24, 2005.

Sec. 643.102. SELF-INSURANCE. A motor carrier may comply with Section 643.101 through self-insurance if the carrier demonstrates to the department that it can satisfy its obligations for liability for bodily injury or property damage. In the interest of public safety, the department by rule shall provide for a responsible system of self-insurance for a motor carrier.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.103. FILING; EVIDENCE OF INSURANCE; FEES. (a) A motor carrier that is required to register under Subchapter B must

file with the department evidence of insurance in the amounts required by Section 643.101 or 643.1015, or evidence of financial responsibility as described by Section 643.102, in a form prescribed by the department. The form must be filed:

- (1) at the time of the initial registration;
- (2) at the time of a subsequent registration if the motor carrier was required to be continuously registered under Subchapter B and the carrier failed to maintain continuous registration;
- (3) at the time a motor carrier changes insurers; and
- (4) at the time a motor carrier changes ownership, as determined by rules adopted by the department.

(b) A motor carrier shall keep evidence of insurance in a form approved by the department in the cab of each vehicle requiring registration the carrier operates.

(c) The department may charge a fee of \$100 for a filing under Subsection (a).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 144 (H.B. 1018), Sec. 3, eff. May 24, 2005.

Sec. 643.104. TERMINATION OF INSURANCE COVERAGE. (a) An insurer may not terminate coverage provided to a motor carrier registered under Subchapter B unless the insurer provides the department with notice at least 30 days before the date the termination takes effect.

(b) Notice under Subsection (a) must be in a form approved by the department and the Texas Department of Insurance. The department shall notify the Department of Public Safety and other law enforcement agencies of each motor carrier whose certificate of registration has been revoked for failing to maintain liability insurance coverage.

(c) The Department of Public Safety or a local law enforcement agency shall confirm that no operations are being performed by a motor carrier if notice has been received under Subsection (b) that the certificate of registration for that carrier has been revoked.

(d) A law enforcement officer may detain or impound any

commercial vehicle operating without liability insurance until such coverage is properly filed with the department.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 163, Sec. 1, eff. Sept. 1, 2003.

Sec. 643.105. INSOLVENCY OF INSURER. If an insurer for a motor carrier becomes insolvent, is placed in receivership, or has its certificate of authority suspended or revoked and if the carrier no longer has insurance coverage as required by this subchapter, the carrier shall file with the department, not later than the 10th day after the date the coverage lapses:

(1) evidence of insurance as required by Section 643.103;
and

(2) an affidavit that:

(A) indicates that an accident from which the carrier may incur liability did not occur while the coverage was not in effect; or

(B) contains a plan acceptable to the department indicating how the carrier will satisfy claims of liability against the carrier for an accident that occurred while the coverage was not in effect.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.106. INSURANCE FOR EMPLOYEES. (a) Notwithstanding any provision of any law or regulation, a motor carrier that is required to register under Subchapter B and whose primary business is transportation for compensation or hire between two or more municipalities shall protect its employees by obtaining:

(1) workers' compensation insurance coverage as defined under Subtitle A, Title 5, Labor Code; or

(2) accidental insurance coverage approved by the department from:

(A) a reliable insurance company authorized to write accidental insurance policies in this state; or

(B) a surplus lines insurer under Chapter 981,

Insurance Code.

(b) The department shall determine the amount of insurance coverage under Subsection (a)(2). The amount may not be less than:

- (1) \$300,000 for medical expenses for at least 104 weeks;
- (2) \$100,000 for accidental death and dismemberment;
- (3) 70 percent of an employee's pre-injury income for at least 104 weeks when compensating for loss of income; and
- (4) \$500 for the maximum weekly benefit.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.17(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 886, Sec. 1, eff. Aug. 30, 1999; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.554, eff. Sept. 1, 2003.

SUBCHAPTER D. ECONOMIC REGULATION

Sec. 643.151. PROHIBITION. Except as provided by this subchapter, the department may not regulate the prices, routes, or services provided by a motor carrier.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.152. VOLUNTARY STANDARDS. The department may establish voluntary standards for uniform cargo liability, uniform bills of lading or receipts for cargo being transported, and uniform cargo credit. A standard adopted under this section must be consistent with Subtitle IV, Title 49, United States Code, or a regulation adopted under that law.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.153. MOTOR CARRIER TRANSPORTING HOUSEHOLD GOODS. (a) The department shall adopt rules to protect a consumer using the service of a motor carrier who is transporting household goods for compensation.

(b) The department may adopt rules necessary to ensure that a

customer of a motor carrier transporting household goods is protected from deceptive or unfair practices and unreasonably hazardous activities. The rules must:

(1) establish a formal process for resolving a dispute over a fee or damage;

(2) require a motor carrier to indicate clearly to a customer whether an estimate is binding or nonbinding and disclose the maximum price a customer could be required to pay;

(3) create a centralized process for making complaints about a motor carrier that also allows a customer to inquire about a carrier's complaint record; and

(4) require a motor carrier transporting household goods to list a place of business with a street address in this state and the carrier's registration number issued under this article in any print advertising published in this state.

(c) Repealed by Acts 2005, 79th Leg., Ch. 281, Sec. 6.06, eff. June 14, 2005.

(d) A motor carrier that is required to register under Subchapter B and that transports household goods shall file a tariff with the department that establishes maximum charges for transportation between two or more municipalities. A motor carrier may comply with this requirement by filing a copy of the carrier's tariff governing interstate transportation services on a highway between two or more municipalities. The department shall make tariffs filed under this subsection available for public inspection at the department.

(e) The department may not adopt rules regulating the rates, except as provided by this section, or routes of a motor carrier transporting household goods.

(f) The unauthorized practice of the insurance business under Chapter 101, Insurance Code, does not include the offer of insurance by a household goods motor carrier, or its agent, that transports goods for up to the full value of a customer's property transported or stored, if the offer is authorized by a rule adopted under Subsection (b).

(g) A motor carrier may designate an association or an agent of an association as its collective maximum ratemaking association for the purpose of the filing of a tariff under Subsection (d).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1,

1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.19(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 603, Sec. 5, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.555, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 6.02, eff. June 14, 2005.

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 6.06, eff. June 14, 2005.

Sec. 643.154. ANTITRUST EXEMPTION. (a) Chapter 15, Business & Commerce Code, does not apply to a discussion or agreement between a motor carrier that is required to register under Subchapter B and that transports household goods and an agent of the carrier involving:

(1) the following matters if they occur under the authority of the principal carrier:

(A) a rate for the transportation of household goods;

(B) an access, terminal, storage, or other charge incidental to the transportation of household goods; or

(C) an allowance relating to the transportation of household goods; or

(2) ownership of the carrier by the agent or membership on the board of directors of the carrier by the agent.

(b) An agent under Subsection (a) may itself be a motor carrier required to register under Subchapter B.

(c) The department by rule may exempt a motor carrier required to register under Subchapter B from Chapter 15, Business & Commerce Code, for an activity relating to the establishment of a joint line rate, route, classification, or mileage guide.

(d) A motor carrier that is required to register under Subchapter B and that transports household goods, or an agent of the carrier, may enter into a collective ratemaking agreement with another motor carrier of household goods or an agent of that carrier concerning the establishment and filing of maximum rates, classifications, rules, or procedures. The agreement must be submitted to the department for approval.

(e) The department shall approve an agreement submitted under Subsection (d) if the agreement provides that each meeting of parties

to the agreement is open to the public and that notice of each meeting must be given to customers who are multiple users of the services of a motor carrier that is a party to the agreement. The department may withhold approval of the agreement if it determines, after notice and hearing, that the agreement fails to comply with this subsection.

(f) Unless disapproved by the department, an agreement made under Subsection (d) is valid, and Chapter 15, Business & Commerce Code, does not apply to a motor carrier that is a party to the agreement.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Sec. 643.155. RULES ADVISORY COMMITTEE. (a) The department shall appoint a rules advisory committee consisting of representatives of motor carriers transporting household goods using small, medium, and large equipment, the public, and the department.

(b) Members of the committee serve at the pleasure of the department and are not entitled to compensation or reimbursement of expenses for serving on the committee. The department may adopt rules to govern the operations of the advisory committee.

(c) The committee shall examine the rules adopted by the department under Sections 643.153(a) and (b) and make recommendations to the department on modernizing and streamlining the rules.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.19(b), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 6.03, eff. June 14, 2005.

Sec. 643.156. REGULATION OF ADVERTISING. (a) The department may not by rule restrict competitive bidding or advertising by a motor carrier except to prohibit false, misleading, or deceptive practices.

(b) A rule to prohibit false, misleading, or deceptive practices may not:

(1) restrict the use of:

(A) any medium for an advertisement;

(B) a motor carrier's advertisement under a trade name;

or

(C) a motor carrier's personal appearance or voice in an advertisement, if the motor carrier is an individual; or

(2) relate to the size or duration of an advertisement by a motor carrier.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.20(a), eff. Sept. 1, 1999.

SUBCHAPTER F. ENFORCEMENT

Sec. 643.251. ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty against a motor carrier required to register under Subchapter B that violates this chapter or a rule or order adopted under this chapter.

(b) Except as provided by this section, the amount of an administrative penalty may not exceed \$5,000. If it is found that the motor carrier knowingly committed the violation, the penalty may not exceed \$15,000. If it is found that the motor carrier knowingly committed multiple violations, the aggregate penalty for the multiple violations may not exceed \$30,000. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The amount of the penalty shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited act, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;

(2) the economic harm to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(e) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(f) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(h) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(i) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(j) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(k) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(l) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(m) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(n) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(o) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(p) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(q) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

(r) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(1), eff. September 1, 2007.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. [2093](#)), Sec. 18, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. [2093](#)), Sec. 26(1), eff. September 1, 2007.

Sec. 643.252. ADMINISTRATIVE SANCTIONS. (a) The department may suspend, revoke, or deny a registration issued under this chapter or place on probation a motor carrier whose registration is suspended if a motor carrier:

- (1) fails to maintain insurance or evidence of financial responsibility as required by Section 643.101(a), (b), (c), or (d);
- (2) fails to keep evidence of insurance in the cab of each vehicle as required by Section 643.103(b);
- (3) fails to register a vehicle requiring registration;
- (4) violates any other provision of this chapter;
- (5) knowingly provides false information on any form filed with the department under this chapter; or
- (6) violates a rule or order adopted under this chapter.

(b) The Department of Public Safety may request that the department suspend or revoke a registration issued under this chapter or place on probation a motor carrier whose registration is suspended if a motor carrier has:

- (1) an unsatisfactory safety rating under 49 C.F.R. Part 385; or
- (2) multiple violations of Chapter 644, a rule adopted under that chapter, or Subtitle C.

(c) The department shall revoke or deny a registration issued under this chapter to a for-hire motor carrier of passengers if the motor carrier is required to register with the Federal Motor Carrier Safety Administration and the federal registration is denied, revoked, suspended, or otherwise terminated.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(2), eff. September 1, 2007.

(e) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1396, Sec. 26(2), eff. September 1, 2007.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.21(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1034, Sec. 11, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. [2702](#)), Sec. 6.04, eff. June 14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. [2093](#)), Sec. 19, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. [2093](#)), Sec. 20, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. [2093](#)), Sec. 26(2), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 919 (H.B. 2985), Sec. 5, eff. September 1, 2009.

Sec. 643.2525. ADMINISTRATIVE HEARING PROCESS. (a) If the department determines that a violation has occurred for which an enforcement action is being taken under Section 643.251 or 643.252, the department shall give written notice to the motor carrier by first class mail to the carrier's address as shown in the records of the department.

(b) A notice required by Subsection (a) must include:

- (1) a brief summary of the alleged violation;
- (2) a statement of each administrative sanction being

taken;

- (3) the effective date of each sanction;

(4) a statement informing the carrier of the carrier's right to request a hearing; and

(5) a statement as to the procedure for requesting a hearing, including the period during which a request must be made.

(c) If not later than the 26th day after the date the notice is mailed the department receives a written request for a hearing, the department shall set a hearing and give notice of the hearing to the carrier. The hearing shall be conducted by an administrative law judge of the State Office of Administrative Hearings.

(d) If the motor carrier does not timely request a hearing under Subsection (c), the department's decision becomes final on the expiration of the period described by Subsection (c).

(e) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the director a proposal for a decision as to the occurrence of the violation and the administrative penalties or sanctions.

(f) In addition to a penalty or sanction proposed under Subsection (e), the administrative law judge shall include in the proposal for a decision a finding setting out costs, fees, expenses, and reasonable and necessary attorney's fees incurred by the state in bringing the proceeding. The director may adopt the finding and make it a part of a final order entered in the proceeding.

(g) Based on the findings of fact, conclusions of law, and proposal for a decision, the director by order may find that a violation has occurred and impose the sanctions or may find that a

violation has not occurred.

(h) The director shall provide written notice to the motor carrier of a finding made under Subsection (g) and shall include in the notice a statement of the right of the carrier to judicial review of the order.

(i) Before the 31st day after the date the director's order under Subsection (g) becomes final as provided by Section 2001.144, Government Code, the motor carrier may appeal the order by filing a petition for judicial review contesting the order. Judicial review is under the substantial evidence rule.

(j) A petition filed under Subsection (i) stays the enforcement of the administrative action until the earlier of the 550th day after the date the petition was filed or the date a final judgment is rendered by the court.

(k) If the motor carrier is required to pay a penalty or cost under Subsection (f), failure to pay the penalty or cost before the 61st day after the date the requirement becomes final is a violation of this chapter and may result in an additional penalty, revocation or suspension of a motor carrier registration, or denial of renewal of a motor carrier registration.

(l) A motor carrier that is required to pay a penalty, cost, fee, or expense under this section or Section 643.251 is not eligible for a reinstatement or renewal of a registration under this chapter until all required amounts have been paid to the department.

(m) If the suspension of a motor carrier's registration is probated, the department may require the carrier to report regularly to the department on any matter that is the basis of the probation. Any violation of the probation may result in the imposition of an administrative penalty or the revocation of the registration.

(n) All proceedings under this section are subject to Chapter 2001, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 21, eff. September 1, 2007.

Sec. 643.2526. APPEAL OF DENIAL OF REGISTRATION, RENEWAL, OR REINSTATEMENT. (a) Notwithstanding any other law, a denial of an application for registration, renewal of registration, or reinstatement of registration under this chapter is not required to

be preceded by notice and an opportunity for hearing.

(b) An applicant may appeal a denial under this chapter by filing an appeal with the department not later than the 26th day after the date the department issues notice of the denial to the applicant.

(c) If the appeal of the denial is successful and the application is found to be compliant with this chapter, the application shall be considered to have been properly filed on the date the finding is entered.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 125, eff. September 1, 2013.

Sec. 643.253. OFFENSES AND PENALTIES. (a) A person commits an offense if the person fails to:

- (1) register as required by Subchapter B;
- (2) maintain insurance or evidence of financial responsibility as required by Subchapter C; or
- (3) keep a cab card in the cab of a vehicle as required by Section 643.059.

(b) A person commits an offense if the person engages in or solicits the transportation of household goods for compensation and is not registered as required by Subchapter B.

(c) Except as provided by Subsection (e), an offense under this section is a Class C misdemeanor.

(e) An offense under Subsection (b) is a Class C misdemeanor, except that the offense is:

- (1) a Class B misdemeanor if the person has previously been convicted one time of an offense under Subsection (b); and
- (2) a Class A misdemeanor if the person has previously been convicted two or more times of an offense under Subsection (b).

(f) A peace officer may issue a citation for a violation under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.22(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1034, Sec. 12, 13, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 281 (H.B. 2702), Sec. 6.05, eff. June

14, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1046 (H.B. 2094), Sec. 3.12, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 274 (H.B. 1523), Sec. 1, eff. September 1, 2011.

Sec. 643.254. INSPECTION OF DOCUMENTS. (a) To investigate an alleged violation of this chapter or a rule or order adopted under this chapter, an officer or employee of the department who has been certified for the purpose by the director may enter a motor carrier's premises to inspect, copy, or verify the correctness of a document, including an operation log or insurance certificate.

(b) The officer or employee may conduct the inspection:

- (1) at a reasonable time;
- (2) after stating the purpose of the inspection; and
- (3) by presenting to the motor carrier:
 - (A) appropriate credentials; and
 - (B) a written statement from the department to the

motor carrier indicating the officer's or employee's authority to inspect.

(c) A motor carrier domiciled outside this state must:

- (1) designate a location in the state for inspection of records concerning the alleged violation; or
- (2) request that an officer or employee of the department conduct the inspection at an office of the motor carrier located outside this state.

(d) A motor carrier requesting an out-of-state inspection will be responsible for payment of actual expenses incurred by the department in conducting the inspection.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.150(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 603, Sec. 6, eff. Aug. 30, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 22, eff. September 1, 2007.

Sec. 643.255. INJUNCTIVE RELIEF. (a) The attorney general, at

the request of the department, may petition a district court for appropriate injunctive relief to prevent or abate a violation of this chapter or a rule or order adopted under this chapter.

(b) Venue in a suit for injunctive relief under this section is in Travis County.

(c) On application for injunctive relief and a finding that a person is violating or has violated this chapter or a rule or order adopted under this chapter, the court shall grant the appropriate relief without bond.

(d) The attorney general and the department may recover reasonable expenses incurred in obtaining injunctive relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Added by Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 23, eff. September 1, 2007.

Sec. 643.256. CEASE AND DESIST ORDER. The department may issue a cease and desist order if the department determines that the action is necessary to:

- (1) prevent a violation of this chapter; and
- (2) protect the public health and safety.

Added by Acts 2009, 81st Leg., R.S., Ch. 919 (H.B. 2985), Sec. 6, eff. September 1, 2009.

CHAPTER 644. COMMERCIAL MOTOR VEHICLE SAFETY STANDARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 644.001. DEFINITIONS. In this chapter:

- (1) "Commercial motor vehicle" means:
 - (A) a commercial motor vehicle as defined by 49 C.F.R. Section 390.5, if operated interstate; or
 - (B) a commercial motor vehicle as defined by Section 548.001, if operated intrastate.
- (2) "Department" means the Department of Public Safety.
- (3) "Director" means the public safety director.
- (4) "Federal hazardous material regulation" means a federal regulation in 49 C.F.R. Parts 101-199.
- (5) "Federal motor carrier safety regulation" means a

federal regulation in Subtitle A, Title 49, or Subchapter B, Chapter III, Subtitle B, Title 49, Code of Federal Regulations.

(6) "Federal safety regulation" means a federal hazardous material regulation or a federal motor carrier safety regulation.

(7) "Port of entry" has the meaning assigned by Section 621.001.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.24(a), 17.25(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 359, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 16.02, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 313 (S.B. [619](#)), Sec. 4, eff. September 1, 2005.

Sec. 644.002. CONFLICTS OF LAW. (a) A federal motor carrier safety regulation prevails over a conflicting provision of this title applicable to a commercial vehicle operated in interstate commerce. A rule adopted by the director under this chapter prevails over a conflicting provision of a federal motor carrier safety regulation applicable to a commercial vehicle operated in intrastate commerce.

(b) A safety rule adopted under this chapter prevails over a conflicting rule adopted by a local government, authority, or state agency or officer, other than a conflicting rule adopted by the Railroad Commission of Texas under Chapter 113, Natural Resources Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 872 (S.B. [1074](#)), Sec. 1, eff. September 1, 2005.

Sec. 644.003. RULES. The department may adopt rules to administer this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Sec. 644.004. APPLICABILITY TO FOREIGN COMMERCIAL MOTOR VEHICLES. Except as otherwise provided by law, this chapter also applies to a foreign commercial motor vehicle, as defined by Section 648.001.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.26(a), eff. Sept. 1, 1999.

Sec. 644.005. DEPARTMENT DATABASE. The department shall develop and maintain a database on roadside vehicle inspection reports for defects on any intermodal equipment. The database shall include all citations involving intermodal equipment issued by officers certified under Section 644.101. The database shall be used to identify violations discovered on intermodal equipment during a roadside inspection.

Added by Acts 2001, 77th Leg., ch. 1227, Sec. 10, eff. Sept. 1, 2001.

SUBCHAPTER B. ADOPTION OF RULES

Sec. 644.051. AUTHORITY TO ADOPT RULES. (a) The director shall, after notice and a public hearing, adopt rules regulating:

- (1) the safe transportation of hazardous materials; and
- (2) the safe operation of commercial motor vehicles.

(b) A rule adopted under this chapter must be consistent with federal regulations, including federal safety regulations.

(c) The director may adopt all or part of the federal safety regulations by reference.

(d) Rules adopted under this chapter must ensure that:

- (1) a commercial motor vehicle is safely maintained, equipped, loaded, and operated;
- (2) the responsibilities imposed on a commercial motor vehicle's operator do not impair the operator's ability to operate the vehicle safely; and
- (3) the physical condition of a commercial motor vehicle's operator enables the operator to operate the vehicle safely.

(e) A motor carrier safety rule adopted by a local government, authority, or state agency or officer must be consistent with

corresponding federal regulations.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Sec. 644.052. APPLICABILITY OF RULES. (a) Notwithstanding an exemption provided in the federal safety regulations, other than an exemption relating to intracity or commercial zone operations provided in 49 C.F.R. Part 395, a rule adopted by the director under this chapter applies uniformly throughout this state.

(b) A rule adopted under this chapter applies to a vehicle that requires a hazardous material placard.

(c) A rule adopted under this chapter may not apply to a vehicle that is operated intrastate and that is:

(1) a machine generally consisting of a mast, engine, draw works, and chassis permanently constructed or assembled to be used and used in oil or water well servicing or drilling;

(2) a mobile crane that is an unladen, self-propelled vehicle constructed as a machine to raise, shift, or lower weight; or

(3) a vehicle transporting seed cotton.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 247 (H.B. 749), Sec. 5, eff. September 1, 2005.

Sec. 644.053. LIMITATIONS OF RULES. (a) A rule adopted under this chapter may not:

(1) prevent an intrastate operator from operating a vehicle up to 12 hours following eight consecutive hours off;

(2) require a person to meet the medical standards provided in the federal motor carrier safety regulations if the person:

(A) was regularly employed in this state as a commercial motor vehicle operator in intrastate commerce before August 28, 1989; and

(B) is not transporting property that requires a hazardous material placard;

(3) require a person who returns to the work-reporting

location, is released from work within 12 consecutive hours, has at least eight consecutive hours off between each 12-hour period the person is on duty, and operates within a 150-air-mile radius of the normal work-reporting location to maintain a driver's record of duty status as described by 49 C.F.R. Section 395.8, provided that the person maintains time records in compliance with 49 C.F.R. Section 395.1(e)(5) and documents that verify the truth and accuracy of the time records such as:

(A) business records maintained by the owner that provide the date, time, and location of the delivery of a product or service; or

(B) documents required to be maintained by law, including delivery tickets or sales invoices, that provide the date of delivery and the quantity of merchandise delivered; or

(4) impose during a planting or harvesting season maximum driving and on-duty times on an operator of a vehicle transporting an agricultural commodity in intrastate commerce for agricultural purposes from the source of the commodity to the first place of processing or storage or the distribution point for the commodity, if the place is located within 150 air miles of the source.

(b) For purposes of Subsection (a)(3)(A), an owner's time records must at a minimum include:

(1) the time an operator reports for duty each day;

(2) the number of hours an operator is on duty each day;

(3) the time an operator is released from duty each day;

and

(4) an operator's signed statement in compliance with 49 C.F.R. Section 395.8(j)(2).

(c) In this section, "agricultural commodity" means an agricultural, horticultural, viticultural, silvicultural, or vegetable product, bees or honey, planting seed, cottonseed, rice, livestock or a livestock product, or poultry or a poultry product that is produced in this state, either in its natural form or as processed by the producer, including woodchips.

(d) A rule adopted by the director under this chapter that relates to hours of service, an operator's record of duty status, or an operator's daily log, for operations outside a 150-mile radius of the normal work-reporting location, also applies to and must be complied with by a motor carrier of household goods not using a commercial motor vehicle. In this subsection:

(1) "commercial motor vehicle" has the meaning assigned by Section 548.001; and

(2) "motor carrier" has the meaning assigned by Section 643.001.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.27(a), 17.27(b), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 872 (S.B. 1074), Sec. 2, eff. September 1, 2005.

Sec. 644.054. REGULATION OF CONTRACT CARRIERS OF CERTAIN PASSENGERS. (a) This section applies only to a contract carrier that transports an operating employee of a railroad on a road or highway of this state in a vehicle designed to carry 15 or fewer passengers.

(b) The department shall adopt rules regulating the operation of a contract carrier to which this section applies. The rules must:

(1) prohibit a person from operating a vehicle for more than 12 hours in a day;

(2) require a person who operates a vehicle for the number of consecutive hours or days the department determines is excessive to rest for a period determined by the department;

(3) require a contract carrier to keep a record of all hours a vehicle subject to regulation under this section is operated;

(4) require a contract carrier to perform alcohol and drug testing of vehicle operators on employment, on suspicion of alcohol or drug abuse, and periodically as determined by the department;

(5) require a contract carrier, at a minimum, to maintain liability insurance in the amount of \$1.5 million for each vehicle; and

(6) be determined by the department to be necessary to protect the safety of a passenger being transported or the general public.

(c) The department shall inform contract carriers and railroad companies that employ contract carriers of the requirements of state statutes applicable to contract carriers.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.28(a), eff. Sept. 1,

1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 126 (S.B. 481), Sec. 1, eff. September 1, 2009.

SUBCHAPTER C. ADMINISTRATIVE ENFORCEMENT

Sec. 644.101. CERTIFICATION OF CERTAIN PEACE OFFICERS. (a) The department shall establish procedures, including training, for the certification of municipal police officers, sheriffs, and deputy sheriffs to enforce this chapter.

(b) A police officer of any of the following municipalities is eligible to apply for certification under this section:

- (1) a municipality with a population of 50,000 or more;
- (2) a municipality with a population of 25,000 or more any part of which is located in a county with a population of 500,000 or more;
- (3) a municipality with a population of less than 25,000:
 - (A) any part of which is located in a county with a population of 3.3 million; and
 - (B) that contains or is adjacent to an international port;
- (4) a municipality with a population of at least 34,000 that is located in a county that borders two or more states;
- (5) a municipality any part of which is located in a county bordering the United Mexican States;
- (6) a municipality with a population of less than 5,000 that is located:
 - (A) adjacent to a bay connected to the Gulf of Mexico; and
 - (B) in a county adjacent to a county with a population greater than 3.3 million;
- (7) a municipality that is located:
 - (A) within 25 miles of an international port; and
 - (B) in a county that does not contain a highway that is part of the national system of interstate and defense highways and is adjacent to a county with a population greater than 3.3 million;
- (8) a municipality with a population of less than 8,500 that:
 - (A) is the county seat; and

(B) contains a highway that is part of the national system of interstate and defense highways; or

Text of subdivision as added by Acts 2015, 84th Leg., R.S., Ch. 278, Sec. 1

(9) a municipality located in a county with a population between 60,000 and 66,000 adjacent to a bay connected to the Gulf of Mexico

Text of subdivision as added by Acts 2015, 84th Leg., R.S., Ch. 1130, Sec. 1

(9) a municipality with a population of more than 40,000 and less than 50,000 that is located in a county with a population of more than 285,000 and less than 300,000 that borders the Gulf of Mexico.

(c) A sheriff or a deputy sheriff of a county bordering the United Mexican States or of a county with a population of 700,000 or more is eligible to apply for certification under this section.

(d) A sheriff, a deputy sheriff, or any peace officer that does not attend continuing education courses on the enforcement of traffic and highway laws and on the use of radar equipment as prescribed by Subchapter F, Chapter 1701, Occupations Code, shall not enforce traffic and highway laws.

(e) The department by rule shall establish reasonable fees sufficient to recover from a municipality or a county the cost of certifying its peace officers under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.29(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1189, Sec. 39, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1227, Sec. 11, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 508 (S.B. 545), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 702 (H.B. 2077), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1030 (H.B. 1638), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 23.009, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 249 (H.B. 1010), Sec. 1, eff.

September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 176, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 683 (H.B. 2304), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 278 (H.B. 716), Sec. 1, eff. June 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1130 (S.B. 58), Sec. 1, eff. September 1, 2015.

Sec. 644.102. MUNICIPAL AND COUNTY ENFORCEMENT REQUIREMENTS.

(a) The department by rule shall establish uniform standards for municipal or county enforcement of this chapter.

(b) A municipality or county that engages in enforcement under this chapter:

(1) shall pay all costs relating to the municipality's or county's enforcement;

(2) may not be considered, in the context of a federal grant related to this chapter:

(A) a party to a federal grant agreement, except as provided by Subsection (b-1); or

(B) a grantee under a federal grant to the department;
and

(3) must comply with the standards established under Subsection (a).

(b-1) Subsection (b) does not prohibit a municipality or county from receiving High Priority Activity Funds provided under the federal Motor Carrier Safety Assistance Program.

(c) Municipal or county enforcement under Section 644.103(b) is not considered departmental enforcement for purposes of maintaining levels of effort required by a federal grant.

(d) In each fiscal year, a municipality may retain fines from the enforcement of this chapter in an amount not to exceed 110 percent of the municipality's actual expenses for enforcement of this chapter in the preceding fiscal year, as determined by the comptroller after reviewing the most recent municipal audit conducted under Section 103.001, Local Government Code. If there are no actual expenses for enforcement of this chapter in the most recent municipal audit, a municipality may retain fines in an amount not to exceed 110

percent of the amount the comptroller estimates would be the municipality's actual expenses for enforcement of this chapter during the year.

(e) In each fiscal year, a county may retain fines from the enforcement of this chapter in an amount not to exceed 110 percent of the county's actual expenses for enforcement of this chapter in the preceding fiscal year, as determined by the comptroller after reviewing the most recent county audit conducted under Chapter 115, Local Government Code. If there are no actual expenses for enforcement of this chapter in the most recent county audit, a county may retain fines in an amount not to exceed 110 percent of the amount the comptroller estimates would be the county's actual expenses for enforcement of this chapter during the year.

(f) A municipality or county shall send to the comptroller the proceeds of all fines that exceed the limit imposed by Subsection (d) or (e). The comptroller shall then deposit the remaining funds to the credit of the Texas Department of Transportation.

(g) The department shall revoke or rescind the certification of any peace officer who fails to comply with any standard established under Subsection (a).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 292, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1227, Sec. 12, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 13.01, eff. September 1, 2007.

Sec. 644.103. DETENTION OF VEHICLES. (a) An officer of the department may stop, enter, or detain on a highway or at a port of entry a motor vehicle that is subject to this chapter.

(b) A municipal police officer who is certified under Section 644.101 may stop, enter, or detain on a highway or at a port of entry within the territory of the municipality a motor vehicle that is subject to this chapter. A sheriff or deputy sheriff who is certified under Section 644.101 may stop, enter, or detain on a highway or at a port of entry within the territory of the county a motor vehicle that is subject to this chapter.

(c) A person who detains a vehicle under this section may prohibit the further operation of the vehicle on a highway if the vehicle or operator of the vehicle is in violation of a federal safety regulation or a rule adopted under this chapter.

(d) A noncommissioned employee of the department who is certified for the purpose by the director and who is supervised by an officer of the department may, at a commercial motor vehicle inspection site, stop, enter, or detain a motor vehicle that is subject to this chapter. If the employee's inspection shows that an enforcement action, such as the issuance of a citation, is warranted for a violation of this title or a rule adopted under this title, including a federal safety regulation adopted under this chapter, the noncommissioned employee may take enforcement action only if the employee is under the supervision of an officer of the department.

(e) The department's training and other requirements for certification of a noncommissioned employee of the department under this section must be the same as the training and requirements, other than the training and requirements for becoming and remaining a peace officer, for officers who enforce this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.31(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1189, Sec. 40, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1227, Sec. 13, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 359, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 16.03, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 313 (S.B. 619), Sec. 5, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 12 (S.B. 330), Sec. 2, eff. April 23, 2007.

Sec. 644.104. INSPECTION OF PREMISES. (a) An officer or employee of the department who has been certified for the purpose by the director may enter a motor carrier's premises to:

- (1) inspect real property, including a building, or equipment; or
- (2) copy or verify the correctness of documents, including records or reports, required to be kept or made by rules adopted

under this chapter.

(b) The officer or employee may conduct the inspection:

- (1) at a reasonable time;
- (2) after stating the purpose of the inspection; and
- (3) by presenting to the motor carrier:
 - (A) appropriate credentials; and
 - (B) a written statement from the department to the

motor carrier indicating the officer's or employee's authority to inspect.

(c) The department may use an officer to conduct an inspection under this section if the inspection involves a situation that the department determines to reasonably require the use or presence of an officer to accomplish the inspection.

(d) The department's training and other requirements for certification of a noncommissioned employee of the department under this section must be the same as the training and requirements, other than the training and requirements for becoming and remaining a peace officer, for officers who enforce this chapter.

(e) A municipal police officer who is certified under Section 644.101 may enter a motor carrier's premises to inspect equipment on a per unit basis or in a manner agreeable between the motor carrier and the enforcement entity:

- (1) at a reasonable time;
- (2) after stating the purpose of the inspection; and
- (3) by presenting to the motor carrier appropriate

credentials.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 41, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 642, Sec. 1, eff. June 13, 2001.

SUBCHAPTER D. OFFENSES, PENALTIES, AND JUDICIAL ENFORCEMENT

Sec. 644.151. CRIMINAL OFFENSE. (a) A person commits an offense if the person:

- (1) violates a rule adopted under this chapter; or
- (2) does not permit an inspection authorized under Section

644.104.

(b) An offense under this section is a Class C misdemeanor.

(c) Each day a violation continues under Subsection (a)(1) or

each day a person refuses to allow an inspection described under Subsection (a)(2) is a separate offense.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Sec. 644.152. CIVIL PENALTY. (a) A person who does not permit an inspection authorized by Section 644.104 is liable to the state for a civil penalty in an amount not to exceed \$1,000.

(b) The attorney general may sue to collect the penalty in:

(1) the county in which the violation is alleged to have occurred; or

(2) Travis County.

(c) The penalty provided by this section is in addition to the penalty provided by Section 644.151.

(d) Each day a person refuses to permit an inspection described by Subsection (a) is a separate violation for purposes of imposing a penalty.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Sec. 644.153. ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty against a person who violates:

(1) a rule adopted under this chapter; or

(2) a provision of Subchapter C that the department by rule subjects to administrative penalties.

(b) To be designated as subject to an administrative penalty under Subsection (a)(2), a provision must relate to the safe operation of a commercial motor vehicle.

(c) The department shall:

(1) designate one or more employees to investigate violations and conduct audits of persons subject to this chapter; and

(2) impose an administrative penalty if the department discovers a violation that is covered by Subsection (a) or (b).

(d) A penalty under this section may not exceed the maximum penalty provided for a violation of a similar federal safety regulation.

(e) If the department determines to impose a penalty, the department shall issue a notice of claim. The department shall send the notice of claim by certified mail, registered mail, personal delivery, or another manner of delivery that records the receipt of the notice by the person responsible. The notice of claim must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and inform the person that the person is entitled to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty. A person who is subject to an administrative penalty imposed by the department under this section is required to pay the penalty or respond to the department within 20 days of receipt of the department's notice of claim.

(f) Before the 21st day after the date the person receives the notice of claim, the person may:

(1) accept the determination and pay the recommended penalty; or

(2) make a written request for an informal hearing or an administrative hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) At the conclusion of an informal hearing requested under Subsection (f), the department may modify the recommendation for a penalty.

(h) If the person requests an administrative hearing, the department shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the director a proposal for a decision as to the occurrence of the violation and the amount of a proposed penalty.

(i) If a penalty is proposed under Subsection (h), the administrative law judge shall include in the proposal for a decision a finding setting out costs, fees, expenses, and reasonable and necessary attorney's fees incurred by the state in bringing the proceeding. The director may adopt the finding and make it a part of a final order entered in the proceeding.

(j) Based on the findings of fact, conclusions of law, and proposal for a decision, the director by order may find that a violation has occurred and impose a penalty or may find that no

violation occurred. The director may, pursuant to Section 2001.058(e), Government Code, increase or decrease the amount of the penalty recommended by the administrative law judge within the limits prescribed by this chapter.

(k) Notice of the director's order shall be given to the affected person in the manner required by Chapter 2001, Government Code, and must include a statement that the person is entitled to seek a judicial review of the order.

(l) Before the 31st day after the date the director's order becomes final as provided by Section 2001.144, Government Code, the person must:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting:

(A) the occurrence of the violation;

(B) the amount of the penalty; or

(C) both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting:

(A) the occurrence of the violation;

(B) the amount of the penalty; or

(C) both the occurrence of the violation and the amount of the penalty.

(m) Within the 30-day period under Subsection (l), a person who acts under Subsection (l) may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) filing with the court a supersedeas bond approved by the court for the amount of the penalty that is effective until all judicial review of the director's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court an affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the director by certified mail.

(n) Before the sixth day after the date the director receives a copy of an affidavit filed under Subsection (m)(2), the department may file with the court a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty if the court finds that the alleged facts are true. The person who files an affidavit under Subsection (m)(2) has the burden of proving that the person is financially unable to:

- (1) pay the amount of the penalty; and
- (2) file the supersedeas bond.

(o) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the director may:

- (1) refer the matter to the attorney general for collection of the amount of the penalty;
- (2) initiate an impoundment proceeding under Subsection (q); or
- (3) refer the matter to the attorney general and initiate the impoundment proceeding.

(p) A person who fails to pay, or becomes delinquent in the payment of an administrative penalty imposed by the department under this subchapter may not operate or direct the operation of a commercial motor vehicle on the highways of this state until the administrative penalty has been remitted to the department.

(q) The department shall impound any commercial motor vehicle owned or operated by a person in violation of Subsection (p) after the department has first served the person with a notice of claim. Service of the notice may be by certified mail, registered mail, personal delivery, or any other manner of delivery showing receipt of the notice.

(r) A commercial motor vehicle impounded by the department under Subsection (q) shall remain impounded until the administrative penalties imposed against the person are remitted to the department, except that an impounded commercial motor vehicle left at a vehicle storage facility controlled by the department or any other person shall be considered an abandoned motor vehicle on the 11th day after the date of impoundment if the delinquent administrative penalty is not remitted to the department before that day. Chapter 683 applies to the commercial motor vehicle, except that the department is entitled to receive from the proceeds of the sale the amount of the delinquent administrative penalty and costs.

(s) All costs associated with the towing and storage of the commercial motor vehicle and load shall be the responsibility of the person and not the department or the State of Texas.

(t) A proceeding under this section is subject to Chapter 2001, Government Code.

(u) Each penalty collected under this section shall be deposited to the credit of the Texas mobility fund.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 292, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 359, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 11.08, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 11.08, 16.04, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(85), eff. September 1, 2005.

Sec. 644.154. SUIT FOR INJUNCTION. (a) The attorney general shall sue to enjoin a violation or a threatened violation of a rule adopted under this chapter on request of the director.

(b) The suit must be brought in the county in which the violation or threat is alleged to have occurred.

(c) The court may grant the director, without bond or other undertaking:

(1) a prohibitory or mandatory injunction, including a temporary restraining order; or

(2) after notice and hearing, a temporary or permanent injunction.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Sec. 644.155. COMPLIANCE REVIEW AND SAFETY AUDIT PROGRAM. The department shall implement and enforce a compliance review and safety audit program similar to the federal program established under 49 C.F.R. Part 385 for any person who owns or operates a commercial motor vehicle that is domiciled in this state.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1,

1997. Amended by Acts 1999, 76th Leg., ch. 292, Sec. 3, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 359, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 16.05, eff. Sept. 1, 2003.

SUBCHAPTER E. ROUTING OF HAZARDOUS MATERIALS

Sec. 644.201. ADOPTION OF RULES. (a) The Texas Transportation Commission shall adopt rules under this subchapter consistent with 49 C.F.R. Part 397 for the routing of nonradioactive hazardous materials.

(b) Rules concerning signage, public participation, and procedural requirements may impose more stringent requirements than provided by 49 C.F.R. Part 397.

(c) The rules must provide for consultation with a political subdivision when a route is being proposed within the jurisdiction of the political subdivision.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.32(a), eff. Sept. 1, 1999.

Sec. 644.202. DESIGNATION OF ROUTE. (a) A political subdivision of this state or a state agency may designate a route for the transportation of nonradioactive hazardous materials over a public road or highway in this state only if the Texas Department of Transportation approves the route.

(b) A municipality with a population of more than 850,000 shall develop a route for commercial motor vehicles carrying hazardous materials on a road or highway in the municipality and submit the route to the Texas Department of Transportation for approval. If the Texas Department of Transportation determines that the route complies with all applicable federal and state regulations regarding the transportation of hazardous materials, the Texas Department of Transportation shall approve the route and notify the municipality of the approved route.

(c) The Texas Transportation Commission may designate a route for the transportation of nonradioactive hazardous materials over any public road or highway in this state. The designation may include a road or highway that is not a part of the state highway system only on the approval of the governing body of the political subdivision

that maintains the road or highway.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.32(a), eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 177, eff. September 1, 2011.

Sec. 644.203. SIGNS. (a) The Texas Department of Transportation shall provide signs for a designated route under Section 644.202(c) over a road or highway that is not part of the state highway system. Notwithstanding Section 222.001, the Texas Department of Transportation may use money in the state highway fund to pay for the signs.

(b) The political subdivision that maintains the road or highway shall bear the costs for installation and maintenance of the signs.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.32(a), eff. Sept. 1, 1999.

SUBCHAPTER F. REPORT ON ALCOHOL AND DRUG TESTING

Sec. 644.251. DEFINITIONS. In this subchapter:

(1) "Employee" has the meaning assigned by 49 C.F.R. Section 40.3.

(2) "Valid positive result" means:

(A) an alcohol concentration of 0.04 or greater on an alcohol confirmation test; or

(B) a result at or above the cutoff concentration levels listed in 49 C.F.R. Section 40.87 on a confirmation drug test.

Added by Acts 2005, 79th Leg., Ch. 9 (S.B. 217), Sec. 2, eff. September 1, 2005.

Sec. 644.252. REPORT OF REFUSAL AND CERTAIN RESULTS. (a) An employer required to conduct alcohol and drug testing of an employee who holds a commercial driver's license under Chapter 522 under federal safety regulations as part of the employer's drug testing

program or consortium, as defined by 49 C.F.R. Part 382, shall report to the department:

(1) a valid positive result on an alcohol or drug test performed and whether the specimen producing the result was a dilute specimen, as defined by 49 C.F.R. Section 40.3;

(2) a refusal to provide a specimen for an alcohol or drug test; or

(3) an adulterated specimen or substituted specimen, as those terms are defined by 49 C.F.R. Section 40.3, on an alcohol or drug test performed.

(b) The department shall maintain the information provided under this section.

(c) Information maintained under this section is confidential and only subject to release as provided by Section 521.053.

Added by Acts 2005, 79th Leg., Ch. 9 (S.B. 217), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 367 (S.B. 328), Sec. 1, eff. September 1, 2007.

CHAPTER 645. SINGLE STATE REGISTRATION

Sec. 645.001. FEDERAL MOTOR CARRIER REGISTRATION. The Texas Department of Motor Vehicles may, to the fullest extent practicable, participate in a federal motor carrier registration program under the unified carrier registration system as defined by Section 643.001 or a single state registration system established under federal law.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.152(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. 2093), Sec. 24, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2M.01, eff. September 1, 2009.

Sec. 645.002. FEES. (a) The department may charge a motor carrier holding a permit issued under Subtitle IV, Title 49, United States Code, a fee for filing proof of insurance consistent with 49

U.S.C. Section 14504 not to exceed the maximum fee established under federal law.

(b) The department may adopt rules regarding the method of payment of a fee under this chapter. The rules may:

(1) authorize the use of an escrow account described by Subsection (c), an electronic funds transfer, or a valid credit card issued by a financial institution chartered by a state or the United States or by a nationally recognized credit organization approved by the department; and

(2) require the payment of a discount or service charge for a credit card payment in addition to the fee.

(c) The department may establish one or more escrow accounts in the Texas Department of Motor Vehicles fund for the prepayment of a fee under this chapter. A prepaid fee or any fee established by the department for the administration of this section shall be:

(1) administered under an agreement approved by the department; and

(2) deposited to the credit of the Texas Department of Motor Vehicles fund to be appropriated only to the department for the purposes of administering this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.152(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.33(a), eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. [2202](#)), Sec. 63, eff. September 1, 2013.

Sec. 645.003. ENFORCEMENT RULES. The department shall adopt rules that are consistent with federal law providing for administrative penalties and sanctions for a failure to register as required by the unified carrier registration system or single state registration system or for a violation of this chapter or a rule adopted under this chapter in the same manner as Subchapter F, Chapter 643.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.152(a), eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1396 (H.B. [2093](#)), Sec. 25, eff.

September 1, 2007.

Sec. 645.004. CRIMINAL OFFENSE. (a) A person commits an offense if the person:

(1) violates a rule adopted under this chapter; or
 (2) fails to register a vehicle required to be registered under this chapter.

(b) An offense under this section is a Class C misdemeanor.

(c) Each day a violation of a rule occurs is a separate offense under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.152(a), eff. Sept. 1, 1997.

CHAPTER 646. MOTOR TRANSPORTATION BROKERS

Sec. 646.001. DEFINITIONS. In this chapter:

(1) "Department" means the Texas Department of Motor Vehicles.

(2) "Motor transportation broker" means a person who:

(A) sells, offers for sale, provides, or negotiates for the transportation of cargo by a motor carrier operated by another person; or

(B) aids or abets a person in performing an act described by Paragraph (A).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.153(a), eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. [2202](#)), Sec. 64, eff. September 1, 2013.

Sec. 646.002. EXCEPTION. This chapter does not apply to a motor transportation broker who:

(1) is registered as a motor carrier under Chapter 643; or
 (2) holds a permit issued under Subtitle IV, Title 49, United States Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.153(a), eff. Sept. 1,

1997.

Sec. 646.003. BOND REQUIRED. (a) A person may not act as a motor transportation broker unless the person provides a bond to the department.

(b) The bond must be in an amount of at least \$10,000 and must be:

(1) executed by a bonding company authorized to do business in this state;

(2) payable to this state or a person to whom the motor transportation broker provides services; and

(3) conditioned on the performance of the contract for transportation services between the broker and the person for whom services are provided.

(c) The department may charge the broker a bond review fee in an amount not to exceed the cost of reviewing the bond. The department shall deposit a fee collected under this subsection to the credit of the Texas Department of Motor Vehicles fund.

(d) The department may adopt rules regarding the method of payment of a fee under this chapter. The rules may:

(1) authorize the use of electronic funds transfer or a credit card issued by a financial institution chartered by a state or the United States or by a nationally recognized credit organization approved by the department; and

(2) require the payment of a discount or service charge for a credit card payment in addition to the fee.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.153(a), eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2N.01, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 65, eff. September 1, 2013.

Sec. 646.004. CRIMINAL OFFENSE. (a) A person commits an offense if the person fails to provide the bond required by Section 646.003.

(b) An offense under this section is a Class C misdemeanor.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.153(a), eff. Sept. 1, 1997.

CHAPTER 647. MOTOR TRANSPORTATION OF MIGRANT AGRICULTURAL WORKERS

Sec. 647.001. DEFINITIONS. In this chapter:

- (1) "Bus" means a motor vehicle that is designed, constructed, and used to transport passengers. The term does not include a passenger automobile or a station wagon other than a taxicab.
- (2) "Highway" has the meaning assigned by Section 541.302.
- (3) "Migrant agricultural worker" means a person who:
 - (A) performs or seeks to perform farm labor of a seasonal nature, including labor necessary to process an agricultural food product; and
 - (B) occupies living quarters other than the individual's permanent home during the period of employment.
- (4) "Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway to transport passengers or property or both. The term does not include:
 - (A) a vehicle, locomotive, or car that operates exclusively on one or more rails; or
 - (B) a trolley bus that operates on electricity generated from a fixed overhead wire and that provides local passenger transportation in street-railway service.
- (5) "Operator" means a person who operates a motor vehicle.
- (6) "Semitrailer" has the meaning assigned by Section 541.201.
- (7) "Truck" has the meaning assigned by Section 541.201.
- (8) "Truck tractor" has the meaning assigned by Section 541.201.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.002. APPLICATION OF CHAPTER. (a) This chapter applies to any carrier, including a carrier under contract, who at

any time uses a motor vehicle to transport to or from a place of employment in this state at least five migrant agricultural workers for a total distance of more than 50 miles.

(b) This chapter does not apply if:

- (1) the carrier is a common carrier;
- (2) the motor vehicle used is a station wagon or passenger automobile; or
- (3) the carrier is a migrant agricultural worker transporting the worker or a member of the worker's immediate family.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.003. TYPE OF VEHICLE ALLOWED. (a) A carrier may transport migrant agricultural workers only in a:

- (1) bus;
- (2) truck to which a trailer is not attached; or
- (3) semitrailer attached to a truck tractor.

(b) A carrier may not:

- (1) attach a trailer to a semitrailer described by Subsection (a)(3); or
- (2) use a closed van that does not have windows or a method to ensure ventilation.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.004. COMPLIANCE WITH REQUIREMENTS OF CHAPTER. (a) A carrier shall comply with the requirements and specifications of this chapter.

(b) An officer, agent, representative, or employee of a carrier who operates a motor vehicle used to transport migrant agricultural workers or who hires, supervises, trains, assigns, or dispatches operators of those motor vehicles shall comply with the requirements of Sections 647.006, 647.007, and 647.008.

(c) An officer, agent, representative, operator, or employee of a carrier who is directly involved in the management, maintenance, or operation of a motor vehicle used to transport migrant agricultural workers shall comply with the requirements of Sections 647.003,

647.005, 647.009, 647.010, 647.011, 647.012, 647.014, 647.016, and 647.017. The carrier shall instruct its officers, agents, representatives, and operators with the requirements of those sections and shall take necessary measures to ensure compliance with those requirements.

(d) An officer, agent, representative, operator, or employee of a carrier who is directly involved with the installation or maintenance of equipment and accessories of a motor vehicle used to transport migrant agricultural workers shall comply with the requirements and specifications of Sections 647.012, 647.013, 647.014, 647.015, and 647.016. A carrier may not operate a motor vehicle transporting migrant agricultural workers or cause or permit the vehicle to be operated unless the vehicle is equipped as required by those sections.

(e) A carrier shall systematically inspect and maintain each motor vehicle used to transport migrant agricultural workers and their accessories subject to its control to ensure that the vehicle and its accessories are in safe and proper operating condition.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.005. OPERATION IN ACCORDANCE WITH LAW. If this chapter imposes a greater affirmative obligation or restraint on the operation of a motor vehicle transporting migrant agricultural workers than the laws, ordinances, and regulations of the jurisdiction in which the vehicle is operated, the operator shall comply with this chapter.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.006. OPERATOR AGE AND EXPERIENCE REQUIREMENTS. A person may not operate a motor vehicle transporting migrant agricultural workers and a carrier may not permit or require a person to operate the motor vehicle unless the person:

- (1) is at least 18 years of age;
- (2) has at least one year of experience in operating any type of motor vehicle, including a private automobile, during the

different seasons;

(3) is familiar with the law relating to operating a motor vehicle; and

(4) is authorized by law to operate that type of motor vehicle.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.007. OPERATOR PHYSICAL REQUIREMENTS. (a) A person may not operate a motor vehicle transporting migrant agricultural workers and a carrier may not permit or require a person to operate the motor vehicle if the person:

(1) is missing a foot, leg, hand, or arm;

(2) has a mental, nervous, organic, or functional disorder that is likely to interfere with the person's ability to safely operate the motor vehicle;

(3) is missing fingers, has impaired use of a foot, leg, finger, hand, or arm, or has another structural defect or limitation likely to interfere with the person's ability to safely operate the motor vehicle;

(4) has a visual acuity of less than 20/40 (Snellen) in each eye either without glasses or with corrective lenses;

(5) has a form field of vision in the horizontal median of less than a total of 140 degrees;

(6) cannot distinguish the colors red, green, and yellow;

(7) has hearing ability of less than 10/20 in the better ear for conversational tones without the use of a hearing aid; or

(8) is addicted to alcohol, narcotics, or habit-forming drugs.

(b) An operator who requires corrective lenses for vision shall use properly prescribed corrective lenses when operating the motor vehicle.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.008. PHYSICAL EXAMINATION REQUIREMENT. (a) A person may not operate a motor vehicle transporting migrant agricultural

workers and a carrier may not permit or require a person to operate the motor vehicle unless:

(1) the person has been physically examined by a licensed doctor of medicine or osteopathy during the preceding 36 months; and

(2) the doctor certifies that the person is physically qualified in accordance with Section 647.007.

(b) The doctor's certificate must state:

"Doctor's Certificate

(Operator of Migrant Agricultural Workers)

This is to certify that I have this day examined _____ in accordance with the Texas law governing physical qualifications of operators of migrant agricultural workers and that I find _____

Qualified under that law

Qualified only when wearing glasses or corrective lenses

I have kept on file in my office a completed examination.

(Date) (Place)

(Signature of Examining Doctor)

(Address of Doctor)

Signature of Operator: _____

Address of Operator: _____"

(c) A carrier shall keep in its files at the carrier's principal place of business a legible doctor's certificate or a legible photographically reproduced copy of the doctor's certificate for each operator it employs or uses.

(d) An operator shall carry the operator's legible doctor's certificate or a legible photographically reproduced copy of the doctor's certificate when operating the motor vehicle.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.009. LIMITATION ON OPERATION OF MOTOR VEHICLE. (a) Except in an emergency, a person assigned to operate a motor vehicle

transporting migrant workers may not allow another person to operate the motor vehicle without the carrier's authorization.

(b) A person may not operate a motor vehicle if the person's alertness or ability to operate the vehicle is impaired for any reason, including fatigue or illness, to the extent that it is not safe for the person to begin or to continue. This subsection does not apply if there is a grave emergency in which failure to operate a motor vehicle would result in a greater hazard to passengers. However, the person may operate the motor vehicle only to the nearest location at which the passengers' safety is ensured.

(c) A carrier may not permit or require a person to operate a motor vehicle from one location to another in a period that would necessitate the operation of the vehicle at a speed in excess of the applicable speed limit.

(d) An operator shall make a meal stop of not less than 30 minutes at least every six hours. The carrier shall provide for reasonable rest stops at least once between each meal stop.

(e) The operator of a truck transporting migrant agricultural workers for more than 500 miles shall stop for at least eight hours to provide rest for the operator and passengers either before or at the completion of each 500 miles.

(f) A person may not operate and a carrier may not permit or require the person to operate a motor vehicle for more than 10 hours in the aggregate, excluding meal and rest stops, during any 24-hour period unless the person rests for at least eight consecutive hours at the end of the 10-hour period. For purposes of this subsection, the 24-hour period begins at the time the operator reports for duty.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.010. REQUIRED STOP AT RAILROAD CROSSING. (a) An operator transporting migrant agricultural workers who approaches a railroad grade crossing:

(1) shall stop the motor vehicle not less than 15 feet or more than 50 feet from the nearest rail of the crossing; and

(2) may proceed only after the operator determines that the course is clear.

(b) An operator is not required to stop at:

(1) a streetcar crossing that is in a municipal business or residential district;

(2) a railroad grade crossing at which a police officer or traffic-control signal other than a railroad flashing signal directs traffic to proceed; or

(3) a grade crossing that the proper state authority has clearly marked as being abandoned or exempted if the marking can be read from the operator's position.

(c) The motor vehicle must display a sign on the rear of the vehicle that states: "This Vehicle Stops at Railroad Crossings."

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.011. FUEL RESTRICTIONS. (a) An operator or carrier employee fueling a motor vehicle used to transport migrant agricultural workers may not:

(1) fuel the motor vehicle while the engine is running unless running the engine is required to fuel the vehicle;

(2) smoke or expose any open flame in the vicinity of the motor vehicle;

(3) fuel the motor vehicle when the nozzle of the fuel hose is not in continuous contact with the intake pipe of the fuel tank; or

(4) permit any other person to engage in an activity that would likely result in a fire or explosion.

(b) A person may carry fuel on the motor vehicle for use in the motor vehicle or an accessory only in a properly mounted fuel tank.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.012. REQUIRED VEHICLE EQUIPMENT; USE OF REQUIRED EQUIPMENT. (a) A motor vehicle used to transport migrant agricultural workers must be equipped with:

(1) at least one properly mounted fire extinguisher;

(2) road warning devices, including at least one red-burning fusee and at least three red flares, red electric lanterns, or red emergency reflectors;

(3) coupling devices as prescribed by Subsection (c), if the vehicle is a truck tractor or dolly; and

(4) tires as prescribed by Subsection (d).

(b) A person may not operate a motor vehicle unless the person is satisfied that the equipment required under Subsection (a) and the following equipment is in good working order:

(1) the brakes, including service brakes, trailer brake connections, and hand parking brakes;

(2) lighting devices and reflectors;

(3) the steering mechanism;

(4) the horn;

(5) each windshield wiper; and

(6) each rearview mirror.

(c) Adequate means must be provided positively to prevent the shifting of the lower half of each fifth wheel attached to the frame of a truck tractor or dolly. The lower half of each fifth wheel must be securely fastened to the frame by U-bolts that are of adequate size and are securely tightened. Another method may be used if the method provides equivalent security. A U-bolt may not be of welded construction and must be installed so as not to crack, warp, or deform the frame. The upper half of each fifth wheel must be fastened with at least the security required for the lower half. A locking means must be provided in each fifth wheel mechanism, including adapters when used, so that the upper and lower half will not separate without the use of a positive manual release, such as a release mechanism that the operator uses from the cab. If the fifth wheel is designed and constructed to be readily separable, the requirement for a fifth wheel coupling device applies to a vehicle manufactured after December 31, 1952.

(d) Vehicle tires must be of adequate capacity to support the vehicle's gross weight. Each tire must have a tread configuration on the part of the tire that is in contact with the road and may not be so smooth as to expose any tread fabric. A tire may not have a defect likely to cause failure. A front tire may not be regrooved, recapped, or retreaded.

(e) An operator shall use required equipment as necessary.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.013. PASSENGER SAFETY PROVISIONS ON MOTOR VEHICLE OTHER THAN BUS. (a) A motor vehicle other than a bus transporting migrant agricultural workers must have a passenger compartment in accordance with this section.

(b) The floor of the passenger compartment must be substantially smooth and without cracks or holes. Except as necessary to secure the seats or other devices attached to the floor, the floor may not have any object that protrudes more than two inches in height.

(c) The side walls and ends of the passenger compartment must extend at least 60 inches from the floor. If necessary, sideboards may be attached to the body of the motor vehicle. Stake body construction meets the requirements of this subsection only if the space six inches or larger between any two stakes is suitably closed to prevent the passengers from falling off the vehicle.

(d) The floor and interior of the sides and ends of the passenger compartment must be free of protruding nails, screws, splinters, or any other protruding object that is likely to injure a passenger or the passenger's clothes.

(e) The motor vehicle must have an adequate means of exiting and entering the passenger compartment from the rear or from the right side of the vehicle. Each exit and entrance must have a gate or door that has at least one latch or fastening device that will keep the gate or door securely closed during transportation. The latch or fastening device must be readily operative without the use of tools. An exit or entrance must:

- (1) be at least 18 inches wide;
- (2) have a top and clear opening of at least 60 inches or as high as the passenger compartment side wall if the side wall is less than 60 inches high; and
- (3) have a bottom that is at the floor of the passenger compartment.

(f) If the motor vehicle has a permanently attached roof, the vehicle must have at least one emergency exit on a side or rear of the vehicle that does not have a regular exit or entrance. The exit must have a gate or door and a latch and hold as prescribed by Subsection (e).

(g) If necessary, a ladder or steps shall be used to enter and exit the passenger compartment. The maximum vertical spacing of footholds may not exceed 12 inches and the lowest step may not be

more than 18 inches above the ground when the vehicle is empty.

(h) The motor vehicle must include handholds or other devices that will enable passengers to enter and exit the vehicle without hazard.

(i) The motor vehicle must have a way for passengers to communicate with the operator, including a telephone, speaker tube, buzzer, pull cord, or other mechanical or electrical device.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.014. PASSENGER SEATING. One seat must be provided for each passenger. Passengers shall remain seated while the vehicle is in motion.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.015. PASSENGER SEATING REQUIREMENTS FOR CERTAIN TRIPS.

(a) A motor vehicle transporting migrant agricultural workers for a total distance of 100 miles or more must have a passenger compartment in accordance with this section.

(b) Each passenger seat must:

- (1) be securely attached to the vehicle during use;
- (2) be not less than 16 or more than 19 inches above the floor;
- (3) be at least 13 inches deep;
- (4) be equipped with backrests that extend at least 36 inches above the floor;
- (5) have at least 24 inches of space between the backrests or the edges of the opposite seats when positioned face to face;
- (6) provide at least 18 inches of seat area for each passenger;
- (7) not have any cracks that are more than one-fourth inch wide;
- (8) not have any cracks in the backrests, if slatted, that are more than two inches wide; and
- (9) have any exposed wood surfaces planed or sanded smooth and free of splinters.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.016. PASSENGER PROTECTION FROM WEATHER. (a) If necessary to protect passengers from inclement weather, including rain, snow, or sleet, the passenger compartment must be equipped with a top that is at least 80 inches above the floor and with a means of closing the sides and ends. A tarpaulin or other removable protective device may be used if secured in place.

(b) The motor vehicle must have a safe method of protecting the passengers from cold or undue exposure. A motor vehicle may not have a heater that:

- (1) conducts engine exhaust gases or engine compartment air into or through a space occupied by an individual;
- (2) uses a flame that is not completely enclosed;
- (3) might spill or leak fuel if the vehicle is tilted or overturned;
- (4) uses heated or unheated air that comes from or through the engine compartment or from direct contact with any part of the exhaust system unless the heater ducts prevent contamination of the air from the exhaust or engine compartment gases; or
- (5) is not securely fastened to the motor vehicle.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.017. OPERATIONAL REQUIREMENTS. (a) A person may not operate a motor vehicle transporting migrant agricultural workers that is loaded or that has a load that is distributed or secured in a manner that prevents the vehicle's safe operation.

(b) A person may not operate a motor vehicle if:

- (1) a tailgate, tailboard, tarpaulin, door, fastening device, or equipment or rigging is not securely in place;
- (2) an object:
 - (A) obscures the operator's view in any direction;
 - (B) interferes with the free movement of the operator's arms or legs;
 - (C) obstructs the operator's access to emergency

accessories; or

(D) obstructs a person's entrance or exit from the cab or operator's compartment; or

(3) property on the vehicle is stowed so that it:

(A) restricts the operator's freedom of motion in properly operating the vehicle;

(B) obstructs a person's exit from the vehicle; or

(C) does not provide adequate protection to passengers and others from injury resulting from a falling or displaced article.

(c) An operator who leaves a motor vehicle unattended shall securely set the parking brake, chock the wheels, and take all reasonable precautions to prevent the vehicle from moving.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.018. CERTIFICATE OF COMPLIANCE. A carrier is considered to be in compliance with this chapter if the carrier holds a certificate of compliance with the United States Department of Transportation regulations governing transportation of migrant agricultural workers in interstate commerce.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

Sec. 647.019. PENALTY. (a) A carrier who violates this chapter commits an offense.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$5 or more than \$50.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.34(a), eff. Sept. 1, 1999.

CHAPTER 648. FOREIGN COMMERCIAL MOTOR TRANSPORTATION
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 648.001. DEFINITIONS. In this chapter:

(1) "Border" means the border between this state and the United Mexican States.

(2) "Border commercial zone" means a commercial zone established under 49 C.F.R. Part 372, Subpart B, any portion of which is contiguous to the border in this state.

(3) "Commercial motor vehicle" includes a foreign commercial motor vehicle.

(4) "Foreign commercial motor vehicle" means a commercial motor vehicle, as defined by 49 C.F.R. Section 390.5, that is owned by a person or entity that is domiciled in or a citizen of a country other than the United States.

(5) "Motor carrier" includes a foreign motor carrier and a foreign motor private carrier, as defined in 49 U.S.C. Sections 13102(6) and (7).

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.35(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 39 (H.B. [782](#)), Sec. 1, eff. September 1, 2009.

Sec. 648.002. RULES. In addition to rules required by this chapter, the Texas Department of Motor Vehicles, the Department of Public Safety, and the Texas Department of Insurance may adopt other rules to carry out this chapter.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.35(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. [3097](#)), Sec. 20.01, eff. September 1, 2009.

Sec. 648.003. REFERENCE TO FEDERAL STATUTE OR REGULATION. A reference in this chapter to a federal statute or regulation includes any subsequent amendment or redesignation of the statute or regulation.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.35(a), eff. Sept. 1, 1999.

SUBCHAPTER B. BORDER COMMERCIAL ZONE

Sec. 648.051. BORDER COMMERCIAL ZONE EXCLUSIVE; BOUNDARIES.

(a) A law or agreement of less than statewide application that is adopted by an agency or political subdivision of this state and that regulates motor carriers or commercial motor vehicles or the operation of those carriers or vehicles in the transportation of cargo across the border or within an area adjacent to the border by foreign commercial motor vehicles has no effect unless the law or agreement applies uniformly to an entire border commercial zone and only in a border commercial zone.

(b) This subchapter supersedes that portion of any paired city, paired state, or similar understanding governing foreign commercial motor vehicles or motor carriers entered into under Section 502.091 or any other law.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.35(a), eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.031, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 126, eff. September 1, 2013.

Sec. 648.052. MODIFICATION OF ZONE BOUNDARIES. The boundaries of a border commercial zone may be modified or established only as provided by federal law.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.35(a), eff. Sept. 1, 1999.

SUBCHAPTER C. REGULATION OF OPERATION OF FOREIGN COMMERCIAL MOTOR VEHICLES

Sec. 648.101. REGISTRATION EXEMPTION IN BORDER COMMERCIAL ZONE.

(a) A foreign commercial motor vehicle is exempt from Chapter 502 and any other law of this state requiring the vehicle to be registered in this state, including a law providing for a temporary registration permit, if:

(1) the vehicle is engaged solely in transportation of cargo across the border into or from a border commercial zone;

(2) for each load of cargo transported the vehicle remains in this state:

(A) not more than 24 hours; or

(B) not more than 48 hours, if:

(i) the vehicle is unable to leave this state within 24 hours because of circumstances beyond the control of the motor carrier operating the vehicle; and

(ii) all financial responsibility requirements applying to the vehicle are satisfied;

(3) the vehicle is registered and licensed as required by the country in which the person that owns the vehicle is domiciled or is a citizen as evidenced by a valid metal license plate attached to the front or rear of the exterior of the vehicle; and

(4) the country in which the person that owns the vehicle is domiciled or is a citizen provides a reciprocal exemption for commercial motor vehicles owned by residents of this state.

(b) A foreign commercial motor vehicle operating under the exemption provided by this section and the vehicle's driver may be considered unregistered if the vehicle is operated in this state outside a border commercial zone or in violation of United States law.

(c) A valid reciprocity agreement between this state and another state of the United States or a Canadian province that exempts currently registered vehicles owned by nonresidents is effective in a border commercial zone.

(d) A foreign commercial motor vehicle that engages primarily in transportation of cargo across the border into or from a border commercial zone must be:

(1) registered in this state; or

(2) operated under the exemption provided by this section.

(e) A vehicle located in a border commercial zone must display a valid Texas registration if the vehicle is owned by a person who:

(1) owns a leasing facility or a leasing terminal located in this state; and

(2) leases the vehicle to a foreign motor carrier.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.35(a), eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 72 (H.B. 313), Sec. 1, eff.

September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 39 (H.B. 782), Sec. 2, eff. September 1, 2009.

Sec. 648.102. FINANCIAL RESPONSIBILITY. (a) The Texas Department of Motor Vehicles shall adopt rules that conform with 49 C.F.R. Part 387 requiring motor carriers operating foreign commercial motor vehicles in this state to maintain financial responsibility.

(b) This chapter prevails over any other requirement of state law relating to financial responsibility for operation of foreign commercial motor vehicles in this state.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.35(a), eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 127, eff. September 1, 2013.

Sec. 648.103. DOMESTIC TRANSPORTATION. A foreign motor carrier or foreign motor private carrier may not transport persons or cargo in intrastate commerce in this state unless the carrier is authorized to conduct operations in interstate and foreign commerce domestically between points in the United States under federal law or international agreement.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.35(a), eff. Sept. 1, 1999.

SUBTITLE G. MOTORCYCLES AND OFF-HIGHWAY VEHICLES
CHAPTER 661. PROTECTIVE HEADGEAR FOR MOTORCYCLE OPERATORS AND PASSENGERS

Sec. 661.001. DEFINITIONS. In this chapter:

(1) "Motorcycle" means a motor vehicle designed to propel itself with not more than three wheels in contact with the ground, and having a saddle for the use of the rider. The term does not include a tractor or a three-wheeled vehicle equipped with a cab or occupant compartment, seat, and seat belt and designed to contain the operator in the cab or occupant compartment.

(2) "Department" means the Department of Public Safety.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 722 (S.B. 129), Sec. 5, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 967 (H.B. 3599), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1391 (S.B. 1967), Sec. 7, eff. September 1, 2009.

Sec. 661.0015. PROTECTIVE HEADGEAR FOR AUTOCYCLE. (a) In this section, "autocycle" means a motor vehicle, other than a tractor, that is:

(1) designed to have when propelled not more than three wheels on the ground;

(2) equipped with a steering wheel;

(3) equipped with seating that does not require the operator to straddle or sit astride the seat; and

(4) manufactured and certified to comply with federal safety requirements for a motorcycle.

(b) For purposes of this chapter, an autocycle is considered to be a motorcycle.

Added by Acts 2015, 84th Leg., R.S., Ch. 67 (S.B. 449), Sec. 7, eff. May 22, 2015.

Sec. 661.002. DEPARTMENT TO PRESCRIBE MINIMUM SAFETY STANDARDS FOR PROTECTIVE HEADGEAR. (a) To provide for the safety and welfare of motorcycle operators and passengers, the department shall prescribe minimum safety standards for protective headgear used by motorcyclists in this state.

(b) The department may adopt any part or all of the American National Standards Institute's standards for protective headgear for vehicular users.

(c) On request of a manufacturer of protective headgear, the department shall make the safety standards prescribed by the department available to the manufacturer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 661.003. OFFENSES RELATING TO NOT WEARING PROTECTIVE HEADGEAR. (a) A person commits an offense if the person:

(1) operates or rides as a passenger on a motorcycle on a public street or highway; and

(2) is not wearing protective headgear that meets safety standards adopted by the department.

(b) A person commits an offense if the person carries on a motorcycle on a public street or highway a passenger who is not wearing protective headgear that meets safety standards adopted by the department.

(c) It is an exception to the application of Subsection (a) or (b) that at the time the offense was committed, the person required to wear protective headgear was at least 21 years old and had successfully completed a motorcycle operator training and safety course under Chapter 662 or was covered by a health insurance plan providing the person with medical benefits for injuries incurred as a result of an accident while operating or riding on a motorcycle. A peace officer may not arrest a person or issue a citation to a person for a violation of Subsection (a) or (b) if the person required to wear protective headgear is at least 21 years of age and presents evidence sufficient to show that the person required to wear protective headgear has successfully completed a motorcycle operator training and safety course or is covered by a health insurance plan as described by this subsection.

(c-1) A peace officer may not stop or detain a person who is the operator of or a passenger on a motorcycle for the sole purpose of determining whether the person has successfully completed the motorcycle operator training and safety course or is covered by a health insurance plan.

(c-2) The Texas Department of Insurance shall prescribe a standard proof of health insurance for issuance to persons who are at least 21 years of age and covered by a health insurance plan described by Subsection (c).

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1391, Sec. 12, eff. September 1, 2009.

(e) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1391, Sec. 12, eff. September 1, 2009.

(f) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1391, Sec. 12, eff. September 1, 2009.

(g) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1391, Sec. 12, eff. September 1, 2009.

(h) An offense under this section is a misdemeanor punishable by a fine of not less than \$10 or more than \$50.

(i) In this section, "health insurance plan" means an individual, group, blanket, or franchise insurance policy, insurance agreement, evidence of coverage, group hospital services contract, health maintenance organization membership, or employee benefit plan that provides benefits for health care services or for medical or surgical expenses incurred as a result of an accident.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.154(a), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1156, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 17.36, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 657, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1391 (S.B. 1967), Sec. 8, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1391 (S.B. 1967), Sec. 12, eff. September 1, 2009.

Sec. 661.004. AUTHORITY OF PEACE OFFICER TO INSPECT PROTECTIVE HEADGEAR. Any peace officer may stop and detain a person who is a motorcycle operator or passenger to inspect the person's protective headgear for compliance with the safety standards prescribed by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 662. MOTORCYCLE OPERATOR TRAINING AND SAFETY

Sec. 662.001. DESIGNATED STATE AGENCY. The governor shall designate a state agency to establish and administer a motorcycle operator training and safety program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 662.002. PURPOSE OF PROGRAM; CURRICULUM. (a) The purpose of the motorcycle operator training and safety program is:

- (1) to make available to motorcycle operators:
 - (A) information relating to the operation of motorcycles; and
 - (B) courses in knowledge, skills, and safety relating to the operation of motorcycles; and
- (2) to provide information to the public on sharing roadways with motorcycles.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 1111 (H.B. 3838), Sec. 5

- (b) The program:
 - (1) shall contain information regarding operating a motorcycle while carrying a passenger; and
 - (2) may include curricula developed by the Motorcycle Safety Foundation.

Text of subsection as amended by Acts 2013, 83rd Leg., R.S., Ch. 1336 (S.B. 763), Sec. 2

- (b) The program shall include curricula approved by the state agency administering the program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1111 (H.B. 3838), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1336 (S.B. 763), Sec. 2, eff. September 1, 2013.

Sec. 662.003. PROGRAM DIRECTOR. The designated state agency shall employ as program director a person who is certified as a chief instructor by the Motorcycle Safety Foundation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 662.004. MOTORCYCLE SAFETY COORDINATOR. (a) The designated state agency shall employ a motorcycle safety coordinator.

- (b) The coordinator shall supervise the motorcycle operator training and safety program and shall determine:

- (1) locations at which courses will be provided;
- (2) fees for the courses;
- (3) qualifications for instructors;
- (4) instructor certification requirements; and
- (5) eligibility requirements for program sponsors.

(c) The program must include instructor certification requirements developed by the Motorcycle Safety Foundation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 662.005. CONTRACTS. The designated state agency may license or contract with qualified persons to administer or operate the motorcycle operator training and safety program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 662.006. UNAUTHORIZED TRAINING PROHIBITED. (a) A person may not offer or conduct training in motorcycle operation for consideration unless the person is licensed by or contracts with the designated state agency.

(b) A person who violates Subsection (a) commits an offense. An offense under this subsection is a Class B misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1111 (H.B. 3838), Sec. 6, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1336 (S.B. 763), Sec. 3, eff. September 1, 2013.

Sec. 662.007. FEE FOR COURSE. A person may charge, for a course under the motorcycle operator training and safety program, a fee that is reasonably related to the costs of administering the course.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 662.008. DENIAL, SUSPENSION, OR CANCELLATION OF APPROVAL.

(a) The designated state agency may deny, suspend, or cancel its approval for a program sponsor to conduct or for an instructor to teach a course offered under this chapter if the applicant, instructor, or sponsor:

(1) does not satisfy the requirements established under this chapter to receive or retain approval;

(2) permits fraud or engages in a fraudulent practice with reference to an application to the agency;

(3) induces or countenances fraud or a fraudulent practice by a person applying for a driver's license or permit;

(4) permits fraud or engages in a fraudulent practice in an action between the applicant or license holder and the public; or

(5) fails to comply with rules of the state agency.

(b) Following denial, suspension, or cancellation of the approval of a program sponsor or an instructor, notice and opportunity for a hearing must be given as provided by:

(1) Chapter 2001, Government Code; and

(2) Chapter 53, Occupations Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.838, eff. Sept. 1, 2001. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1111 (H.B. 3838), Sec. 7, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1336 (S.B. 763), Sec. 4, eff. September 1, 2013.

Sec. 662.009. RULES. The designated state agency may adopt rules to administer this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 662.010. NONAPPLICABILITY OF CERTAIN OTHER LAW. Chapter 332, Acts of the 60th Legislature, Regular Session, 1967 (Article 4413(29c), Vernon's Texas Civil Statutes), does not apply to training

offered under this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 662.011. MOTORCYCLE EDUCATION FUND ACCOUNT. (a) Of each fee collected under Sections 521.421(b) and (f) and Sections 522.029(f) and (g), the Department of Public Safety shall send \$5 to the comptroller for deposit to the credit of the motorcycle education fund account.

(b) Money deposited to the credit of the motorcycle education fund account may be used only to defray the cost of:

(1) administering the motorcycle operator training and safety program; and

(2) conducting the motorcyclist safety and share the road campaign described by Section 201.621.

(c) The comptroller shall report to the governor and legislature not later than the first Monday in November of each even-numbered year on the condition of the account. The report must contain:

(1) a statement of the amount of money deposited to the credit of the account for the year;

(2) a statement of the amount of money disbursed by the comptroller from the account for the year;

(3) a statement of the balance of money in the account;

(4) a list of persons and entities that have received money from the account, including information for each person or entity that shows the amount of money received; and

(5) a statement of any significant problems encountered in administering the account, with recommendations for their solution.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.155, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1156, Sec. 4, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 657, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1391 (S.B. 1967), Sec. 9, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 610 (S.B. 754), Sec. 1, eff. September 1, 2015.

Sec. 662.012. REPORTS. (a) The designated state agency shall require each provider of a motorcycle operator training and safety program to compile and forward to the agency each month a report on the provider's programs. The report must include:

- (1) the number and types of courses provided in the reporting period;
- (2) the number of persons who took each course in the reporting period;
- (3) the number of instructors available to provide training under the provider's program in the reporting period;
- (4) information collected by surveying persons taking each course as to the length of any waiting period the person experienced before being able to enroll in the course;
- (5) the number of persons on a waiting list for a course at the end of the reporting period; and
- (6) any other information the agency reasonably requires.

(b) The designated state agency shall maintain a compilation of the reports submitted under Subsection (a) on a by-site basis. The agency shall update the compilation as soon as practicable after the beginning of each month.

(c) The designated state agency shall provide without charge a copy of the most recent compilation under Subsection (b) to any member of the legislature on request.

Added by Acts 2001, 77th Leg., ch. 657, Sec. 3, eff. Sept. 1, 2001.

CHAPTER 663. CERTAIN OFF-HIGHWAY VEHICLES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 663.001. DEFINITIONS. In this chapter:

Text of subdivision as amended by Acts 2013, 83rd Leg., R.S., Ch. 131
(S.B. 487), Sec. 2

- (1) "All-terrain vehicle" means a motor vehicle that is:
 - (A) equipped with a seat or seats for the use of:
 - (i) the rider; and
 - (ii) a passenger, if the motor vehicle is designed by the manufacturer to transport a passenger;
 - (B) designed to propel itself with three or four tires in contact with the ground;
 - (C) designed by the manufacturer for off-highway use by

the operator only;

(D) not designed by the manufacturer for farming or lawn care; and

(E) not more than 50 inches wide.

Text of subdivision as amended by Acts 2013, 83rd Leg., R.S., Ch. 895 (H.B. 1044), Sec. 4

(1) "All-terrain vehicle" has the meaning assigned by Section 502.001.

(1-a) "Beach" means a beach area, publicly or privately owned, that borders the seaward shore of the Gulf of Mexico.

(2) "Public property" means property owned or leased by the state or a political subdivision of the state.

(3) "Recreational off-highway vehicle" has the meaning assigned by Section 502.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 115, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 15, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 131 (S.B. 487), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 895 (H.B. 1044), Sec. 4, eff. September 1, 2013.

Sec. 663.002. NONAPPLICABILITY OF CERTAIN OTHER LAWS. (a) Except as provided by Sections 663.037 and 663.0371, Chapter 521 does not apply to the operation or ownership of an all-terrain vehicle registered for off-highway operation.

(b) Chapter 332, Acts of the 60th Legislature, Regular Session, 1967 (Article 4413(29c), Vernon's Texas Civil Statutes), does not apply to instruction in the operation of an all-terrain vehicle provided under the operator education and certification program established by this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 472, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 895 (H.B. 1044), Sec. 5, eff.

September 1, 2013.

Sec. 663.003. RECREATIONAL OFF-HIGHWAY VEHICLES. This chapter applies to the operator and operation of a recreational off-highway vehicle in the same manner as if the recreational off-highway vehicle were an all-terrain vehicle.

Added by Acts 2009, 81st Leg., R.S., Ch. 1136 (H.B. 2553), Sec. 16, eff. September 1, 2009.

**SUBCHAPTER B. ALL-TERRAIN VEHICLE OPERATOR EDUCATION AND
CERTIFICATION**

Sec. 663.011. DESIGNATED DIVISION OR STATE AGENCY. The governor shall designate a division of the governor's office or a state agency to establish and administer an all-terrain vehicle operator education and certification program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 663.012. PURPOSE OF PROGRAM. The purpose of the all-terrain vehicle operator education and certification program is to make available courses in basic training and safety skills relating to the operation of all-terrain vehicles and to issue safety certificates to operators who successfully complete the educational program requirements or pass a test established under the program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 663.013. ALL-TERRAIN VEHICLE SAFETY COORDINATOR. (a) The designated division or state agency shall employ an all-terrain vehicle safety coordinator.

(b) The coordinator shall supervise the all-terrain vehicle operator education and certification program and shall determine:

- (1) locations at which courses will be offered;
- (2) fees for the courses;
- (3) qualifications of instructors;
- (4) course curriculum; and

(5) standards for operator safety certification.

(c) In establishing standards for instructors, curriculum, and operator certification, the coordinator shall consult and be guided by standards established by recognized all-terrain vehicle safety organizations.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 663.014. CONTRACTS. To administer the education program and certify all-terrain vehicle operators, the designated division or state agency may contract with nonprofit safety organizations, nonprofit educational organizations, or agencies of local governments.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 663.015. TEACHING AND TESTING METHODS. (a) If the all-terrain vehicle safety coordinator determines that vehicle operation is not feasible in a program component or at a particular program location, the operator education and certification program for persons who are at least 14 years of age may use teaching or testing methods that do not involve the actual operation of an all-terrain vehicle.

(b) An operator safety certificate may not be issued to a person younger than 14 years of age unless the person has successfully completed a training course that involves the actual operation of an all-terrain vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 663.016. FEE FOR COURSE. A person may charge, for a course under the all-terrain vehicle operator education and certification program, a fee that is reasonably related to the costs of administering the course.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 663.017. DENIAL, SUSPENSION, OR CANCELLATION OF APPROVAL.

(a) The designated division or state agency may deny, suspend, or cancel its approval for a program sponsor to conduct or for an instructor to teach a course offered under this chapter if the applicant, sponsor, or instructor:

- (1) does not satisfy the requirements established under this chapter to receive or retain approval;
- (2) permits fraud or engages in fraudulent practices with reference to an application to the division or agency;
- (3) induces or countenances fraud or fraudulent practices by a person applying for a driver's license or permit;
- (4) permits or engages in a fraudulent practice in an action between the applicant or license holder and the public; or
- (5) fails to comply with rules of the division or agency.

(b) Before the designated division or agency may deny, suspend, or cancel the approval of a program sponsor or an instructor, notice and opportunity for a hearing must be given as provided by:

- (1) Chapter 2001, Government Code; and
- (2) Chapter 53, Occupations Code

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.839, eff. Sept. 1, 2001.

Sec. 663.018. RULES. The designated division or state agency may adopt rules to administer this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 663.019. EXEMPTIONS. The designated division or state agency by rule may temporarily exempt the residents of any county from Section 663.015 or from Section 663.031(a)(1) until the appropriate education and certification program is established at a location that is reasonably accessible to the residents of that county.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. OPERATION OF ALL-TERRAIN VEHICLES

Sec. 663.031. SAFETY CERTIFICATE REQUIRED. (a) A person may not operate an all-terrain vehicle on public property or a beach unless the person:

(1) holds a safety certificate issued under this chapter or under the authority of another state;

(2) is taking a safety training course under the direct supervision of a certified all-terrain vehicle safety instructor; or

(3) is under the direct supervision of an adult who holds a safety certificate issued under this chapter or under the authority of another state.

(b) A person to whom a safety certificate required by Subsection (a) has been issued shall:

(1) carry the certificate when the person operates an all-terrain vehicle on public property or a beach; and

(2) display the certificate at the request of any law enforcement officer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 895 (H.B. [1044](#)), Sec. 6, eff. September 1, 2013.

Sec. 663.032. OPERATION BY PERSON YOUNGER THAN 14. A person younger than 14 years of age who is operating an all-terrain vehicle must be accompanied by and be under the direct supervision of:

(1) the person's parent or guardian; or

(2) an adult who is authorized by the person's parent or guardian.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 663.033. REQUIRED EQUIPMENT; DISPLAY OF LIGHTS. (a) An all-terrain vehicle that is operated on public property or a beach must be equipped with:

(1) a brake system maintained in good operating condition;

(2) an adequate muffler system in good working condition;

and

(3) a United States Forest Service qualified spark arrester.

(b) An all-terrain vehicle that is operated on public property or a beach must display a lighted headlight and taillight:

(1) during the period from one-half hour after sunset to one-half hour before sunrise; and

(2) at any time when visibility is reduced because of insufficient light or atmospheric conditions.

(c) A person may not operate an all-terrain vehicle on public property or a beach if:

(1) the vehicle has an exhaust system that has been modified with a cutout, bypass, or similar device; or

(2) the spark arrester has been removed or modified, unless the vehicle is being operated in a closed-course competition event.

(d) The coordinator may exempt all-terrain vehicles that are participating in certain competitive events from the requirements of this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 895 (H.B. [1044](#)), Sec. 7, eff. September 1, 2013.

Sec. 663.034. SAFETY APPAREL REQUIRED. A person may not operate, ride, or be carried on an all-terrain vehicle on public property or a beach unless the person wears:

(1) a safety helmet that complies with United States Department of Transportation standards; and

(2) eye protection.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 895 (H.B. [1044](#)), Sec. 8, eff. September 1, 2013.

Sec. 663.035. RECKLESS OR CARELESS OPERATION PROHIBITED. A person may not operate an all-terrain vehicle on public property or a beach in a careless or reckless manner that endangers, injures, or damages any person or property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 895 (H.B. 1044), Sec. 9, eff. September 1, 2013.

Sec. 663.036. CARRYING PASSENGERS. A person may not carry a passenger on an all-terrain vehicle operated on public property or a beach unless the all-terrain vehicle is designed by the manufacturer to transport a passenger.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 115, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 895 (H.B. 1044), Sec. 10, eff. September 1, 2013.

Sec. 663.037. OPERATION ON PUBLIC ROADWAY PROHIBITED. (a) A person may not operate an all-terrain vehicle on a public street, road, or highway except as provided by this section.

(b) The operator of an all-terrain vehicle may drive the vehicle across a public street, road, or highway that is not an interstate or limited-access highway, if the operator:

- (1) brings the vehicle to a complete stop before crossing the shoulder or main traveled way of the roadway;
- (2) yields the right-of-way to oncoming traffic that is an immediate hazard; and
- (3) makes the crossing:
 - (A) at an angle of approximately 90 degrees to the roadway;
 - (B) at a place where no obstruction prevents a quick and safe crossing; and
 - (C) with the vehicle's headlights and taillights lighted.

(c) The operator of an all-terrain vehicle may drive the vehicle across a divided highway other than an interstate or limited access highway only at an intersection of the highway with another public street, road, or highway.

(d) The operator of an all-terrain vehicle may drive the vehicle on a public street, road, or highway that is not an

interstate or limited-access highway if:

(1) the transportation is in connection with:

(A) the production, cultivation, care, harvesting, preserving, drying, processing, canning, storing, handling, shipping, marketing, selling, or use of agricultural products, as defined by Section 52.002, Agriculture Code; or

(B) utility work performed by a utility;

(2) the operator attaches to the back of the vehicle on top of an eight-foot-long pole a triangular orange flag;

(3) the vehicle's headlights and taillights are illuminated;

(4) the operator holds a driver's license, as defined by Section 521.001;

(5) the operation of the all-terrain vehicle occurs in the daytime; and

(6) the operation of the all-terrain vehicle does not exceed a distance of 25 miles from the point of origin to the destination.

(d-1) Provisions of this code regarding helmet and eye protection use, safety certification, and other vehicular restrictions do not apply to Subsection (d).

(e) The director of the Department of Public Safety shall adopt standards and specifications that apply to the color, size, and mounting position of the flag required under Subsections (d)(2) and (g)(2).

(f) Except as provided by Subsection (g), this section does not apply to the operation of an all-terrain vehicle that is owned by the state, a county, or a municipality by a person who is an authorized operator of the vehicle.

(g) A peace officer may operate an all-terrain vehicle on a public street, road, or highway that is not an interstate or limited-access highway only if:

(1) the transportation is in connection with the performance of the officer's official duty;

(2) the officer attaches to the back of the vehicle on top of an eight-foot-long pole a triangular orange flag;

(3) the vehicle's headlights and taillights are illuminated;

(4) the officer holds a driver's license, as defined by Section 521.001; and

(5) the operation of the all-terrain vehicle does not exceed a distance of 25 miles from the point of origin to the destination.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 472, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 483, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 242 (H.B. 2127), Sec. 1, eff. September 1, 2007.

Sec. 663.0371. OPERATION ON BEACH. (a) A person may not operate an all-terrain vehicle on a beach except as provided by this section.

(b) A person operating an all-terrain vehicle on a beach must hold and have in the person's possession a driver's license issued under Chapter 521 or a commercial driver's license issued under Chapter 522.

(c) Except as provided by Chapters 61 and 63, Natural Resources Code, an operator of an all-terrain vehicle may drive the vehicle on a beach that is open to motor vehicle traffic.

(d) Except as provided by Chapters 61 and 63, Natural Resources Code, a person who is authorized to operate an all-terrain vehicle that is owned by the state, a county, or a municipality may drive the all-terrain vehicle on any beach if the vehicle is registered under Section 502.140(b).

(e) The Texas Department of Transportation or a county or municipality may prohibit the operation of an all-terrain vehicle on a beach if the department or the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

Added by Acts 2013, 83rd Leg., R.S., Ch. 895 (H.B. 1044), Sec. 11, eff. September 1, 2013.

Sec. 663.038. VIOLATION OF CHAPTER; OFFENSE. (a) A person commits an offense if the person violates a provision of this chapter.

(b) Except as otherwise provided by Title 6 or this title, an

offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 680. MISCELLANEOUS PROVISIONS

SUBCHAPTER A. SALE OF MOTORCYCLE WITHOUT SERIAL NUMBERS

Sec. 680.001. DEFINITIONS. In this subchapter:

- (1) "Department" means the Department of Public Safety.
- (2) "Motorcycle" has the meaning assigned that term by Section 661.001.
- (3) "Person" means an individual, partnership, firm, corporation, association, or other private entity.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 680.002. SALE OF MOTORCYCLE WITHOUT SERIAL NUMBERS. A person may not sell a motorcycle manufactured after January 1, 1976, unless:

- (1) the serial number of the frame and the serial number of the engine are affixed so that they may not be removed without defacing the frame or engine; and
- (2) the manufacturer has filed with the department a statement that:
 - (A) identifies the part to which each number is affixed;
 - (B) gives the exact dimensions of the part; and
 - (C) gives the location on the part to which the number is affixed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 680.003. OFFENSE; PENALTY. (a) An individual who violates Section 680.002 commits an offense.

(b) An offense under this section is a misdemeanor punishable by:

- (1) a fine not to exceed \$200;
- (2) confinement in county jail for a term not to exceed 30 days; or

(3) both the fine and confinement.

(c) Each sale of a motorcycle in violation of this subchapter is a separate offense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 680.004. CIVIL PENALTY. A partnership, firm, corporation, or association that violates Section 680.002 is liable to the state for a civil penalty of not more than \$500 for each offense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 680.005. DIRECTOR TO ADOPT RULES AND DEVELOP FORMS. The director of the department shall adopt rules and develop forms to administer this subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

**SUBCHAPTER B. TOLLS FOR MOTORCYCLE; USE OF PREFERENTIAL LANE BY
MOTORCYCLE**

Sec. 680.011. DEFINITIONS. In this subchapter:

(1) "Motorcycle" has the meaning assigned by Section 502.001 and includes a motorcycle equipped with a sidecar.

(2) "Preferential lane" means a traffic lane on a street or highway where motor vehicle usage is limited to:

(A) buses;

(B) vehicles occupied by a minimum number of persons;

or

(C) car pool vehicles.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 680.012. TOLL FOR MOTORCYCLE. A person who operates a toll road, toll bridge, or turnpike may not impose a toll for the operation of a motorcycle on the road, bridge, or turnpike that is greater than the toll imposed for the operation of a passenger car on the road, bridge, or turnpike.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 680.013. USE OF PREFERENTIAL LANE BY MOTORCYCLE. A motorcycle, including a motorcycle described by Section 521.001(a)(6-a), may be operated in a preferential lane that is not closed to all vehicular traffic.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 722 (S.B. 129), Sec. 6, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 967 (H.B. 3599), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1391 (S.B. 1967), Sec. 10, eff. September 1, 2009.

SUBTITLE H. PARKING, TOWING, AND STORAGE OF VEHICLES

CHAPTER 681. PRIVILEGED PARKING

Sec. 681.001. DEFINITIONS. In this chapter:

- (1) "Department" means the Texas Department of Motor Vehicles.
- (2) "Disability" means a condition in which a person has:
 - (A) mobility problems that substantially impair the person's ability to ambulate;
 - (B) visual acuity of 20/200 or less in the better eye with correcting lenses; or
 - (C) visual acuity of more than 20/200 but with a limited field of vision in which the widest diameter of the visual field subtends an angle of 20 degrees or less.
- (3) "Disabled parking placard" means a placard issued under Section 681.002.
- (4) "International symbol of access" means the symbol adopted by Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled.
- (5) "Mobility problem that substantially impairs a person's ability to ambulate" means that the person:
 - (A) cannot walk 200 feet without stopping to rest;
 - (B) cannot walk without the use of or assistance from

an assistance device, including a brace, a cane, a crutch, another person, or a prosthetic device;

(C) cannot ambulate without a wheelchair or similar device;

(D) is restricted by lung disease to the extent that the person's forced respiratory expiratory volume for one second, measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 millimeters of mercury on room air at rest;

(E) uses portable oxygen;

(F) has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association;

(G) is severely limited in the ability to walk because of an arthritic, neurological, or orthopedic condition;

(H) has a disorder of the foot that, in the opinion of a person licensed to practice podiatry in this state or in a state adjacent to this state, limits or impairs the person's ability to walk; or

(I) has another debilitating condition that, in the opinion of a physician licensed to practice medicine in this state or a state adjacent to this state, or authorized by applicable law to practice medicine in a hospital or other health facility of the Veterans Administration, limits or impairs the person's ability to walk.

(6) "Podiatry" has the meaning assigned by Section 202.001, Occupations Code.

(7) "Stand" or "standing" means to halt an occupied or unoccupied vehicle, other than temporarily while receiving or discharging passengers.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.156(a), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1172, Sec. 2, eff. June 18, 1999; Acts 2001, 77th Leg., ch. 105, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1325, Sec. 19.08(a), eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2P.01, eff. September 1, 2009.

Sec. 681.002. DISABLED PARKING PLACARD. (a) The department shall provide for the issuance of a disabled parking placard to a person with a disability.

(b) A disabled parking placard must be two-sided and hooked and include on each side:

(1) the international symbol of access, which must be at least three inches in height, be centered on the placard, and be:

(A) white on a blue shield for a placard issued to a person with a permanent disability; or

(B) white on a red shield for a placard issued to a person with a temporary disability;

(2) an identification number;

(3) an expiration date at least three inches in height;

and

(4) the seal or other identification of the department.

(c) The department shall furnish the disabled parking placards to each county assessor-collector.

(d) A disabled parking placard must bear a hologram designed to prevent the reproduction of the placard or the production of a counterfeit placard.

(e) In addition to the expiration date included on a disabled parking placard under Subsection (b), the expiration date must be indicated on the placard by a month and year hole-punch system.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1353, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1362, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1160 (H.B. 3095), Sec. 1, eff. September 1, 2009.

Sec. 681.003. PARKING PLACARD APPLICATION. (a) An owner of a motor vehicle regularly operated by or for the transportation of a person with a disability may apply for a disabled parking placard.

(b) An application for a disabled parking placard must be:

(1) on a form furnished by the department;

(2) submitted to the county assessor-collector of the

county in which the person with the disability resides or in which the applicant is seeking medical treatment if the applicant is not a resident of this state; and

(3) accompanied by a fee of \$5 if the application is for a temporary placard.

(c) Subject to Subsections (e) and (f), the first application must be accompanied by a notarized written statement or written prescription of a physician licensed to practice medicine in this state or a state adjacent to this state, or authorized by applicable law to practice medicine in a hospital or other health facility of the United States Department of Veterans Affairs, certifying and providing evidence acceptable to the department that the person making the application or on whose behalf the application is made is legally blind or has a mobility problem that substantially impairs the person's ability to ambulate. The statement or prescription must include a certification of whether the disability is temporary or permanent and information acceptable to the department to determine the type of disabled parking placard for which the applicant is eligible. The department shall determine a person's eligibility based on evidence provided by the applicant establishing legal blindness or mobility impairment.

(d) Information concerning the name or address of a person to whom a disabled parking placard is issued or in whose behalf a disabled parking placard is issued is confidential and not subject to disclosure under Chapter 552, Government Code.

(e) If a first application for a disabled parking placard under this section is made by or on behalf of a person with:

(1) a mobility problem caused by a disorder of the foot, the notarized written statement or written prescription required by Subsection (c) may be issued by a person licensed to practice podiatry in this state or a state adjacent to this state; or

(2) a disability caused by an impairment of vision as provided by Section 681.001(2), the notarized written statement or written prescription required by Subsection (c) may be issued by a person licensed to engage in the practice of optometry or the practice of therapeutic optometry in this state or a state adjacent to this state.

(f) This subsection applies only to the first application for a disabled parking placard submitted by a person. The notarized written statement or prescription may be issued by:

(1) a person acting under the delegation and supervision of a licensed physician in conformance with Subchapter B, Chapter 157, Occupations Code; or

(2) a physician assistant licensed to practice in this state acting as the agent of a licensed physician under Section 204.202(e), Occupations Code.

(g) In this section, "practice of optometry" and "practice of therapeutic optometry" have the meanings assigned by Section 351.002, Occupations Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.156(b); Acts 1997, 75th Leg., ch. 1353, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1172, Sec. 3, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1362, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 105, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 531 (S.B. 1367), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 842 (S.B. 1984), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1160 (H.B. 3095), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(65), eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1291 (H.B. 2080), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 128, eff. September 1, 2013.

Sec. 681.0031. APPLICANT'S IDENTIFICATION. (a) The applicant shall include on the application the applicant's:

(1) driver's license number or the number of a personal identification card issued to the applicant under Chapter 521;

(2) military identification number; or

(3) driver's license number of a driver's license issued by another state or country if the applicant is not a resident of this state and is seeking medical treatment in this state.

(b) The county assessor-collector shall record on any disabled

parking placard issued to the applicant the following information in the following order:

- (1) the county number assigned by the comptroller to the county issuing the placard;
- (2) the first four digits of the applicant's driver's license number, personal identification card number, or military identification number; and
- (3) the applicant's initials.

Added by Acts 1997, 75th Leg., ch. 1353, Sec. 3, eff. Sept. 1, 1997.
Amended by Acts 2003, 78th Leg., ch. 473, Sec. 1, eff. June 20, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 231 (H.B. [1781](#)), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. [2741](#)), Sec. 129, eff. September 1, 2013.

Sec. 681.0032. ISSUANCE OF DISABLED PARKING PLACARDS TO CERTAIN INSTITUTIONS. (a) The department shall provide for the issuance of disabled parking placards described by Section 681.002 for a van or bus operated by an institution, facility, or residential retirement community for the elderly in which a person described by Section 504.201(a) resides, including an institution licensed under Chapter 242, Health and Safety Code, and a facility licensed under Chapter 246 or 247 of that code.

(b) The application for a disabled parking placard must be made in the manner provided by Section 681.003(b) and be accompanied by a written statement signed by the administrator or manager of the institution, facility, or retirement community certifying to the department that the institution, facility, or retirement community regularly transports, as a part of the services that the institution, facility, or retirement community provides, one or more persons described by Section 504.201(a) who reside in the institution, facility, or retirement community. The department shall determine the eligibility of the institution, facility, or retirement community on the evidence the applicant provides.

Added by Acts 1999, 76th Leg., ch. 513, Sec. 2, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 20.003(c), eff.

September 1, 2005.

Sec. 681.004. ISSUANCE OF PARKING PLACARD; EXPIRATION. (a) A person with a permanent disability may receive:

(1) two disabled parking placards, if the person does not receive a set of special license plates under Section 504.201;

(2) one disabled parking placard, if the person receives a set of special license plates under Section 504.201; or

(3) two disabled parking placards, if the person receives two sets of special license plates under Section 504.202.

(b) A person with a temporary disability may receive two disabled parking placards.

(c) A disabled parking placard issued to a person with a permanent disability:

(1) is valid for:

(A) four years for a resident of this state; and

(B) six months for a person who is not a resident of this state; and

(2) shall be replaced or renewed on request of the person to whom the initial card was issued without presentation of evidence of eligibility.

(d) A disabled parking placard issued to a person with a temporary disability expires after the period set by the department and may be renewed at the end of that period if the disability remains as evidenced by a physician's statement or prescription submitted as required for a first application under Section 681.003(c).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1353, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 20.003(d), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 98 (H.B. 2105), Sec. 2, eff. May 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 130, eff. September 1, 2013.

Sec. 681.005. DUTIES OF COUNTY ASSESSOR-COLLECTOR. Each county assessor-collector shall send to the department each fee collected under Section 681.003, to be deposited in the Texas Department of Motor Vehicles fund to defray the cost of providing the disabled parking placard.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 242, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 66, eff. September 1, 2013.

Sec. 681.006. PARKING PRIVILEGES: PERSONS WITH DISABILITIES.

(a) Subject to Section 681.009(e), a vehicle may be parked for an unlimited period in a parking space or area that is designated specifically for persons with physical disabilities if:

(1) the vehicle is being operated by or for the transportation of a person with a disability; and

(2) there are:

(A) displayed on the vehicle special license plates issued under Section 504.201; or

(B) placed on the rearview mirror of the vehicle's front windshield a disabled parking placard.

(b) The owner of a vehicle is exempt from the payment of a fee or penalty imposed by a governmental unit for parking at a meter if:

(1) the vehicle is being operated by or for the transportation of a person with a disability; and

(2) there are:

(A) displayed on the vehicle special license plates issued under Section 504.201; or

(B) placed on the rearview mirror of the vehicle's front windshield a disabled parking placard.

(c) The exemption provided by Subsection (b) or (e) does not apply to a fee or penalty:

(1) imposed by a branch of the United States government; or

(2) imposed by a governmental unit for parking at a meter, in a parking garage or lot, or in a space located within the

boundaries of a municipal airport.

(d) This section does not permit a vehicle to be parked at a time when or a place where parking is prohibited.

(e) A governmental unit may provide by ordinance or order that the exemption provided by Subsection (b) also applies to payment of a fee or penalty imposed by the governmental unit for parking in a parking garage or lot or in a space with a limitation on the length of time for parking.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.156(c), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 804, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1353, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1362, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 20.003(e), eff. September 1, 2005.

Sec. 681.007. PARKING PRIVILEGES: VEHICLES DISPLAYING INTERNATIONAL SYMBOL OF ACCESS. A vehicle may be parked and is exempt from the payment of a fee or penalty in the same manner as a vehicle that has displayed on the vehicle special license plates issued under Section 504.201 or a disabled parking placard as provided by Section 681.006 if there is displayed on the vehicle a license plate or placard that:

- (1) bears the international symbol of access; and
- (2) is issued by a state or by a state or province of a foreign country to the owner or operator of the vehicle for the transportation of a person with a disability.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 20.003(f), eff. September 1, 2005.

Sec. 681.008. PARKING PRIVILEGES: CERTAIN VETERANS AND MILITARY AWARD RECIPIENTS. (a) A vehicle may be parked for an unlimited period in a parking space or area that is designated specifically for persons with physical disabilities if the vehicle:

(1) is being operated by or for the transportation of:

(A) the person who registered the vehicle under Section 504.202(a) or

a person described by Section 504.202(b) if the vehicle is registered under that subsection; and

(B) displays special license plates issued under Section 504.202; or

(2) displays license plates issued by another state of the United States that indicate on the face of the license plates that the owner or operator of the vehicle is a disabled veteran of the United States armed forces.

(a-1) A vehicle described by Subsection (a) may be parked for an unlimited period in a parking space or area that is designated specifically for persons with physical disabilities on the property of an institution of higher education, as defined by Section 61.003, Education Code, regardless of whether a permit is generally required for the use of the space or area. An institution of higher education may require a vehicle described by Subsection (a) to display a parking permit issued by the institution specifically for the purpose of implementing this subsection, but may not charge a fee for the permit. This subsection does not entitle a person to park a vehicle described by Subsection (a) in a parking space or area that has not been designated specifically for persons with physical disabilities on the property of the institution if the vehicle has not been granted or assigned a parking permit required by the institution.

(a-2) Subsection (a-1) does not apply to a parking space or area located in:

(1) a controlled access parking facility if at least 50 percent of the number of parking spaces or areas designated specifically for persons with physical disabilities on the property of the institution of higher education are located outside a controlled access parking facility;

(2) an area temporarily designated for special event parking; or

(3) an area where parking is temporarily prohibited for health or safety concerns.

(b) A vehicle on which license plates described by Subsection (a)(2) or issued under Section 504.202, 504.308, 504.310, 504.315, 504.316, or 504.319 are displayed is exempt from the payment of a parking fee collected through a parking meter charged by a

governmental authority other than a branch of the federal government, when being operated by or for the transportation of:

(1) the person who registered the vehicle under Section 504.202(a), 504.308, 504.310, 504.315, 504.316, or 504.319;

(2) a person described in Section 504.202(b) if the vehicle is registered under that subsection; or

(3) the owner or operator of a vehicle displaying license plates described by Subsection (a)(2).

(c) This section does not permit a vehicle to be parked at a time when or a place where parking is prohibited.

(d) A governmental unit may provide by ordinance or order that the exemption provided by Subsection (b) also applies to payment of a fee or penalty imposed by the governmental unit for parking in a parking garage or lot or in a space with a limitation on the length of time for parking.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 738, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1195, Sec. 1, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1362, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 19.007, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 20.003(g), eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 115 (H.B. [2020](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 319 (H.B. [618](#)), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. 319 (H.B. [618](#)), Sec. 2, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 24.017, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 339 (H.B. [2928](#)), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 709 (H.B. [559](#)), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 223 (H.B. [120](#)), Sec. 8, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 309 (H.B. [1514](#)), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 766 (S.B. 1061), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1010 (H.B. 2485), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 675 (H.B. 168), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1236 (S.B. 1296), Sec. 17.008, eff. September 1, 2015.

Sec. 681.009. DESIGNATION OF PARKING SPACES BY POLITICAL SUBDIVISION OR PRIVATE PROPERTY OWNER. (a) A political subdivision or a person who owns or controls property used for parking may designate one or more parking spaces or a parking area for the exclusive use of vehicles transporting persons with disabilities.

(b) A political subdivision must designate a parking space or area by conforming to the standards and specifications adopted by the Texas Commission of Licensing and Regulation under Section 5(i), Article 9102, Revised Statutes, relating to the identification and dimensions of parking spaces for persons with disabilities. A person who owns or controls private property used for parking may designate a parking space or area without conforming to those standards and specifications, unless required to conform by law.

(c) A political subdivision may require a private property owner or a person who controls property used for parking:

(1) to designate one or more parking spaces or a parking area for the exclusive use of vehicles transporting persons with disabilities; or

(2) to conform to the standards and specifications referred to in Subsection (b) when designating a parking space or area for persons with disabilities.

(d) The department shall provide at cost a design and stencil for use by a political subdivision or person who owns or controls property used for parking to designate spaces as provided by this section.

(e) Parking spaces or areas designated for the exclusive use of vehicles transporting persons with disabilities may be used by vehicles displaying a white on blue shield disabled parking placard, license plates issued under Section 504.201 or 504.202, or a white on red shield disabled parking placard.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1246, Sec. 9, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 11362, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 20.003(h), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 357 (S.B. 251), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1160 (H.B. 3095), Sec. 3, eff. September 1, 2009.

Sec. 681.010. ENFORCEMENT. (a) A peace officer or a person designated by a political subdivision to enforce parking regulations may file a charge against a person who commits an offense under this chapter at a parking space or area designated as provided by Section 681.009.

(b) A security officer commissioned under Chapter 1702, Occupations Code, and employed by the owner of private property may file a charge against a person who commits an offense under this chapter at a parking space or area designated by the owner of the property as provided by Section 681.009.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.840, eff. Sept. 1, 2001.

Sec. 681.0101. ENFORCEMENT BY CERTAIN APPOINTED PERSONS. (a) A political subdivision may appoint a person to have authority to file a charge against a person who commits an offense under this chapter.

(b) A person appointed under this section must:

(1) be a United States citizen of good moral character who has not been convicted of a felony;

(2) take and subscribe to an oath of office that the political subdivision prescribes; and

(3) successfully complete a training program of at least four hours in length developed by the political subdivision.

(c) A person appointed under this section:

(1) is not a peace officer;

(2) has no authority other than the authority applicable to a citizen to enforce a law other than this chapter; and

(3) may not carry a weapon while performing duties under this section.

(d) A person appointed under this section is not entitled to compensation for performing duties under this section or to indemnification from the political subdivision or the state for injury or property damage the person sustains or liability the person incurs in performing duties under this section.

(e) The political subdivision and the state are not liable for any damage arising from an act or omission of a person appointed under Subsection (a) in performing duties under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.156(d), eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1353, Sec. 6, eff. Sept. 1, 1997.

Sec. 681.011. OFFENSES; PRESUMPTION. (a) A person commits an offense if:

(1) the person stands a vehicle on which are displayed license plates issued under Section 504.201 or 504.202 or a disabled parking placard in a parking space or area designated specifically for persons with disabilities by:

(A) a political subdivision; or

(B) a person who owns or controls private property used for parking as to which a political subdivision has provided for the application of this section under Subsection (f); and

(2) the standing of the vehicle in that parking space or area is not authorized by Section 681.006, 681.007, or 681.008.

(b) A person commits an offense if the person stands a vehicle on which license plates issued under Section 504.201 or 504.202 are not displayed and a disabled parking placard is not displayed in a parking space or area designated specifically for individuals with disabilities by:

(1) a political subdivision; or

(2) a person who owns or controls private property used for parking as to which a political subdivision has provided for the application of this section under Subsection (f).

(c) A person commits an offense if the person stands a vehicle so that the vehicle blocks an architectural improvement designed to

aid persons with disabilities, including an access aisle or curb ramp.

(d) A person commits an offense if the person lends a disabled parking placard issued to the person to a person who uses the placard in violation of this section.

(e) In a prosecution under this section, it is presumed that the registered owner of the motor vehicle is the person who left the vehicle standing at the time and place the offense occurred.

(f) A political subdivision may provide that this section applies to a parking space or area for persons with disabilities on private property that is designated in compliance with the identification requirements referred to in Section 681.009(b).

(g) Except as provided by Subsections (h)-(k), an offense under this section is a misdemeanor punishable by a fine of not less than \$500 or more than \$750.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. 1160
(H.B. 3095), Sec. 4

(h) If it is shown on the trial of an offense under this section that the person has been previously convicted one time of an offense under this section, the offense is punishable by:

- (1) a fine of not less than \$550 or more than \$800; and
- (2) 10 hours of community service.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. 1336
(S.B. 52), Sec. 1

(h) If it is shown on the trial of an offense under this section that the person has been previously convicted one time of an offense under this section, the offense is punishable by:

- (1) a fine of not less than \$500 or more than \$800; and
- (2) 10 hours of community service.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. 1160
(H.B. 3095), Sec. 4

(i) If it is shown on the trial of an offense under this section that the person has been previously convicted two times of an offense under this section, the offense is punishable by:

- (1) a fine of not less than \$550 or more than \$800; and
- (2) not less than 20 or more than 30 hours of community service.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. 1336
(S.B. 52), Sec. 1

(i) If it is shown on the trial of an offense under this section that the person has been previously convicted two times of an offense under this section, the offense is punishable by:

- (1) a fine of not less than \$550 or more than \$800; and
- (2) 20 hours of community service.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. 1160
(H.B. 3095), Sec. 4

(j) If it is shown on the trial of an offense under this section that the person has been previously convicted three times of an offense under this section, the offense is punishable by:

- (1) a fine of not less than \$800 or more than \$1,100; and
- (2) 50 hours of community service.

Text of subsection as amended by Acts 2009, 81st Leg., R.S., Ch. 1336
(S.B. 52), Sec. 1

(j) If it is shown on the trial of an offense under this section that the person has been previously convicted three times of an offense under this section, the offense is punishable by:

- (1) a fine of not less than \$800 or more than \$1,100; and
- (2) 30 hours of community service.

(k) If it is shown on the trial of an offense under this section that the person has been previously convicted four times of an offense under this section, the offense is punishable by a fine of \$1,250 and 50 hours of community service.

(1) A person commits an offense if the person:

- (1) stands a vehicle on which are displayed license plates issued under Section 504.201 or a disabled parking placard in a parking space or area for which this chapter creates an exemption from payment of a fee or penalty imposed by a governmental unit;
- (2) does not have a disability;
- (3) is not transporting a person with disability; and
- (4) does not pay any applicable fee related to standing in the space or area imposed by a governmental unit or exceeds a limitation on the length of time for standing in the space or area.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.156(e), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 738, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1362, Sec. 6, 7, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 595, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 19.08(b), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 20.003(i), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 357 (S.B. 251), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1160 (H.B. 3095), Sec. 4, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1336 (S.B. 52), Sec. 1, eff. September 1, 2009.

Sec. 681.0111. MANUFACTURE, SALE, POSSESSION, OR USE OF COUNTERFEIT OR ALTERED PLACARD. (a) A person commits an offense if, without the department's authorization, the person:

(1) manufactures, sells, or possesses a placard that is deceptively similar to a disabled parking placard; or

(2) alters a genuine disabled parking placard.

(b) A person commits an offense if the person knowingly parks a vehicle displaying a counterfeit or altered placard in a parking space or area designated specifically for persons with disabilities.

(c) An offense under Subsection (a) is a Class A misdemeanor. An offense under Subsection (b) is a Class C misdemeanor.

(d) For purposes of this section, a placard is deceptively similar to a disabled parking placard if the placard is not a genuine disabled parking placard but a reasonable person would presume that it is a genuine disabled parking placard.

Added by Acts 2003, 78th Leg., ch. 400, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 756 (H.B. 1473), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 756 (H.B. 1473), Sec. 2, eff. September 1, 2011.

Sec. 681.012. SEIZURE AND REVOCATION OF PLACARD. (a) A law enforcement officer who believes that an offense under Section 681.011(a) or (d) has occurred in the officer's presence shall seize any disabled parking placard involved in the offense. Not later than 48 hours after the seizure, the officer shall determine whether

probable cause existed to believe that the offense was committed. If the officer does not find that probable cause existed, the officer shall promptly return each placard to the person from whom it was seized. If the officer finds that probable cause existed, the officer, not later than the fifth day after the date of the seizure, shall destroy the placard and notify the department.

(a-1) A peace officer may seize a disabled parking placard from a person who operates a vehicle on which a disabled parking placard is displayed if the peace officer determines by inspecting the person's driver's license, personal identification certificate, or military identification that the disabled parking placard does not contain the first four digits of the driver's license number, personal identification certificate number, or military identification number and the initials of:

- (1) the person operating the vehicle;
- (2) the applicant on behalf of a person being transported by the vehicle; or
- (3) a person being transported by the vehicle.

(a-2) A peace officer shall destroy a seized placard and notify the department.

(b) On seizure of a placard under Subsection (a) or (a-1), a placard is revoked. On request of the person from whom the placard was seized, the department shall conduct a hearing and determine whether the revocation should continue or the placard should be returned to the person and the revocation rescinded.

Added by Acts 1997, 75th Leg., ch. 1353, Sec. 7, eff. Sept. 1, 1997.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1336 (S.B. 52), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. 2357), Sec. 243, eff. January 1, 2012.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 131, eff. September 1, 2013.

Sec. 681.013. DISMISSAL OF CHARGE; ADMINISTRATIVE FEE. (a) In this section, "working day" means any day other than a Saturday, a Sunday, or a holiday on which county offices are closed.

(b) The court shall:

(1) dismiss a charge for an offense under Section 681.011(b)(1) if:

(A) the vehicle displayed a disabled parking placard that was not valid as expired;

(B) the defendant remedies the defect by renewing the expired disabled parking placard within 20 working days from the date of the offense or before the defendant's first court appearance date, whichever is later; and

(C) the disabled parking placard has not been expired for more than 60 days; and

(2) assess an administrative fee not to exceed \$20 when the charge has been remedied.

(c) Notwithstanding Subsection (b)(1)(C), the court may dismiss a charge of unlawfully parking a vehicle in a space designated specifically for persons with disabilities, if at the time of the offense the defendant's vehicle displays a disabled parking placard that has been expired for more than 60 days.

Added by Acts 2009, 81st Leg., R.S., Ch. 298 (H.B. 400), Sec. 1, eff. September 1, 2009.

CHAPTER 682. ADMINISTRATIVE ADJUDICATION OF VEHICLE PARKING AND STOPPING OFFENSES

Text of section as amended by Acts 1999, 76th Leg., ch. 156, Sec. 2 Sec. 682.001. APPLICABILITY. This chapter applies only to:

(1) a municipality that:

(A) has a population greater than 30,000 and operates under a council-manager form of government; or

(B) has a population of 500,000 or more; and

(2) an airport operated by a joint board to which Section 22.074(d) applies.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 156, Sec. 2, eff. May 21, 1999.

Text of section as amended by Acts 1999, 76th Leg., ch. 310, Sec. 1 Sec. 682.001. APPLICABILITY. This chapter applies only to a municipality that has a population greater than 30,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 310, Sec. 1, eff. May 29, 1999.

Sec. 682.002. CIVIL OFFENSE. (a) A municipality may declare the violation of a municipal ordinance relating to parking or stopping a vehicle to be a civil offense.

(b) A joint board to which Section 22.074(d) applies may declare the violation of a resolution, rule, or order of the joint board relating to parking or stopping a vehicle to be a civil offense.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 156, Sec. 2, eff. May 21, 1999.

Sec. 682.003. ADOPTION OF HEARING PROCEDURE. A municipality may by ordinance or a joint board may by resolution, rule, or order establish an administrative adjudication hearing procedure under which a civil fine may be imposed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 156, Sec. 2, eff. May 21, 1999.

Sec. 682.004. CONTENT OF ORDINANCE. An ordinance, resolution, rule, or order adopted under this chapter must provide that a person charged with violating a parking or stopping ordinance, resolution, rule, or order is entitled to a hearing and provide for:

- (1) the period during which a hearing must be held;
- (2) the appointment of a hearing officer with authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents; and
- (3) the amount and disposition of civil fines, costs, and fees.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 156, Sec. 2, eff. May 21, 1999.

Sec. 682.005. ENFORCEMENT OF ORDER CONCERNING WITNESSES AND

DOCUMENTS. A municipal court may enforce an order of the hearing officer compelling the attendance of a witness or the production of a document.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 682.006. CITATION OR SUMMONS. (a) A citation or summons issued for a vehicle parking or stopping civil offense under this chapter must:

- (1) provide information as to the time and place of an administrative adjudication hearing; and
- (2) contain a notification that the person charged with the civil offense has the right to an instanter hearing.

(b) The original or any copy of the summons or citation shall be kept as a record in the ordinary course of business of the municipality and is rebuttable proof of the facts it contains.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 682.007. APPEARANCE AT HEARING. (a) A person charged with a civil offense who fails to appear at an administrative adjudication hearing authorized under this chapter is considered to admit liability for the offense charged.

(b) The person who issued the citation or summons is not required to attend an instanter hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 682.008. PRESUMPTIONS. In an administrative adjudication hearing under this chapter:

- (1) it is presumed that the registered owner of the motor vehicle is the person who parked or stopped the vehicle at the time and place of the offense charged; and
- (2) the Texas Department of Motor Vehicles' computer-generated record of the registered vehicle owner is prima facie evidence of the contents of the record.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2Q.01, eff. September 1, 2009.

Sec. 682.009. ORDER. (a) The hearing officer at an administrative adjudication hearing under this chapter shall issue an order stating:

(1) whether the person charged with the violation is liable for the violation; and

(2) the amount of any fine, cost, or fee assessed against the person.

(b) The order issued under Subsection (a) may be filed with the clerk or secretary of the municipality or a person designated by the joint board. The clerk, secretary, or designated person shall keep the order in a separate index and file. The order may be recorded using microfilm, microfiche, or data processing techniques.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 156, Sec. 3, eff. May 21, 1999.

Sec. 682.010. ENFORCEMENT. (a) An order filed under Section 682.009, or a fine, cost, or fee imposed under this chapter following a failure by the person charged to appear within the time specified by a municipality's ordinance, resolution, rule, or order, may be enforced by:

(1) impounding the vehicle if the offender has committed three or more vehicle parking or stopping offenses in a calendar year;

(2) placing a device on the vehicle that prohibits movement of the motor vehicle;

(3) imposing an additional fine if the original fine is not paid within a specified time;

(4) denying issuance of or revoking a parking or operating permit, as applicable; or

(5) filing an action to collect the fine, cost, or fee in a court of competent jurisdiction.

(b) An action to collect a fine, cost, or fee under Subsection (a)(5) must be brought:

(1) in the name of the municipality served by the hearing officer; and

(2) in a county in which all or part of that municipality is located.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 156, Sec. 4, eff. May 21, 1999; Acts 2003, 78th Leg., ch. 346, Sec. 2, eff. June 18, 2003.

Sec. 682.011. APPEAL. (a) A person whom the hearing officer determines to be in violation of a vehicle parking or stopping ordinance may appeal the determination by filing a petition with the clerk of a municipal court and paying the costs required by law for municipal court not later than the 30th day after the date on which the order is filed.

(b) The municipal court clerk shall schedule a hearing and notify each party of the date, time, and place of the hearing.

(c) An appeal does not stay enforcement and collection of the judgment unless the person, before appealing, posts bond with, as applicable:

(1) the agency of the municipality designated by ordinance to accept payment for a violation of a parking or stopping ordinance; or

(2) the agency of the joint board designated by the resolution, rule, or order to accept payment for a violation of a parking or stopping resolution, rule, or order.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 156, Sec. 5, eff. May 21, 1999.

CHAPTER 683. ABANDONED MOTOR VEHICLES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 683.001. DEFINITIONS. In this chapter:

(1) "Department" means the Texas Department of Motor Vehicles.

(2) "Garagekeeper" means an owner or operator of a storage facility.

(3) "Law enforcement agency" means:

(A) the Department of Public Safety;

(B) the police department of a municipality;
 (C) the police department of an institution of higher education; or

(D) a sheriff or a constable.

(4) "Motor vehicle" means a vehicle that is subject to registration under Chapter 501.

(5) "Motor vehicle demolisher" means a person in the business of:

(A) converting motor vehicles into processed scrap or scrap metal; or

(B) wrecking or dismantling motor vehicles.

(6) "Outboard motor" means an outboard motor subject to registration under Chapter 31, Parks and Wildlife Code.

(7) "Storage facility" includes a garage, parking lot, or establishment for the servicing, repairing, or parking of motor vehicles.

(8) "Watercraft" means a vessel subject to registration under Chapter 31, Parks and Wildlife Code.

(9) "Abandoned nuisance vehicle" means a motor vehicle that is at least 10 years old and is of a condition only to be junked, crushed, or dismantled.

(10) "Vehicle storage facility" means a vehicle storage facility, as defined by Section 2303.002, Occupations Code, that is operated by a person who holds a license issued under Chapter 2303 of that code to operate that vehicle storage facility.

(11) "Aircraft" has the meaning assigned by Section 24.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1034, Sec. 14, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2R.01, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 720 (H.B. 787), Sec. 3, eff. September 1, 2011.

Sec. 683.002. ABANDONED MOTOR VEHICLE. (a) For the purposes of this chapter, a motor vehicle is abandoned if the motor vehicle:

(1) is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours;

(2) has remained illegally on public property for more than 48 hours;

(3) has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;

(4) has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours;

(5) has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority division of the Texas Department of Transportation or a controlled access highway; or

(6) is considered an abandoned motor vehicle under Section 644.153(r).

(b) In this section, "controlled access highway" has the meaning assigned by Section 541.302.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.157(a), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 359, Sec. 7, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 16.06, eff. Sept. 1, 2003.

Sec. 683.003. CONFLICT OF LAWS; EFFECT ON OTHER LAWS. (a) Sections 683.051-683.055 may not be read as conflicting with Sections 683.074-683.078.

(b) This chapter does not affect a law authorizing the immediate removal of a vehicle left on public property that is an obstruction to traffic.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. ABANDONED MOTOR VEHICLES: SEIZURE AND AUCTION

Sec. 683.011. AUTHORITY TO TAKE ABANDONED MOTOR VEHICLE INTO CUSTODY. (a) A law enforcement agency may take into custody an abandoned motor vehicle, aircraft, watercraft, or outboard motor found on public or private property.

(b) A law enforcement agency may use agency personnel, equipment, and facilities or contract for other personnel, equipment, and facilities to remove, preserve, store, send notice regarding, and dispose of an abandoned motor vehicle, aircraft, watercraft, or outboard motor taken into custody by the agency under this

subchapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 737 (H.B. 2630), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 720 (H.B. 787), Sec. 4, eff. September 1, 2011.

Sec. 683.012. TAKING ABANDONED MOTOR VEHICLE INTO CUSTODY: NOTICE. (a) A law enforcement agency shall send notice of abandonment to:

(1) the last known registered owner of each motor vehicle, aircraft, watercraft, or outboard motor taken into custody by the agency or for which a report is received under Section 683.031; and

(2) each lienholder recorded:

(A) under Chapter 501 for the motor vehicle;

(B) with the Federal Aviation Administration or the secretary of state for the aircraft; or

(C) under Chapter 31, Parks and Wildlife Code, for the watercraft or outboard motor.

(a-1) A law enforcement agency that takes into custody an aircraft shall contact the Federal Aviation Administration in the manner described by Section 22.901 to attempt to identify the owner of the aircraft before sending the notice required by Subsection (a).

(b) The notice under Subsection (a) must:

(1) be sent by certified mail not later than the 10th day after the date the agency:

(A) takes the abandoned motor vehicle, aircraft, watercraft, or outboard motor into custody; or

(B) receives the report under Section 683.031;

(2) specify the year, make, model, and identification number of the item;

(3) give the location of the facility where the item is being held;

(4) inform the owner and lienholder of the right to claim the item not later than the 20th day after the date of the notice on payment of:

(A) towing, preservation, and storage charges; or

(B) garagekeeper's charges and fees under Section 683.032 and, if the vehicle is a commercial motor vehicle impounded under Section 644.153(q), the delinquent administrative penalty and costs; and

(5) state that failure of the owner or lienholder to claim the item during the period specified by Subdivision (4) is:

(A) a waiver by that person of all right, title, and interest in the item; and

(B) consent to the sale of the item at a public auction.

(c) Notice by publication in one newspaper of general circulation in the area where the motor vehicle, aircraft, watercraft, or outboard motor was abandoned is sufficient notice under this section if:

(1) the identity of the last registered owner cannot be determined;

(2) the registration has no address for the owner; or

(3) the determination with reasonable certainty of the identity and address of all lienholders is impossible.

(d) Notice by publication:

(1) must be published in the same period that is required by Subsection (b) for notice by certified mail and contain all of the information required by that subsection; and

(2) may contain a list of more than one abandoned motor vehicle, aircraft, watercraft, or outboard motor.

(e) A law enforcement agency is not required to send a notice, as otherwise required by Subsection (a), if the agency has received notice from a vehicle storage facility that an application has or will be submitted to the department for the disposal of the vehicle.

(f) In addition to the notice required under Subsection (a), if a law enforcement agency takes an abandoned motor vehicle into custody, the agency shall notify a person that files a theft report or similar report prepared by any law enforcement agency for the vehicle of that fact. The notice must be sent by regular mail on the next business day after the agency takes the vehicle into custody. The law enforcement agency shall also provide the name and address of the person that filed the theft report or similar report to the vehicle storage facility or governmental vehicle storage facility that is storing the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 359, Sec. 8, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1034, Sec. 15, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 16.07, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1046 (H.B. 2094), Sec. 4.01, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 720 (H.B. 787), Sec. 5, eff. September 1, 2011.

Sec. 683.013. STORAGE FEES. A law enforcement agency or the agent of a law enforcement agency that takes into custody an abandoned motor vehicle, aircraft, watercraft, or outboard motor is entitled to reasonable storage fees:

(1) for not more than 10 days, beginning on the day the item is taken into custody and ending on the day the required notice is mailed; and

(2) beginning on the day after the day the agency mails notice and ending on the day accrued charges are paid and the vehicle, aircraft, watercraft, or outboard motor is removed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 720 (H.B. 787), Sec. 6, eff. September 1, 2011.

Sec. 683.014. AUCTION OR USE OF ABANDONED ITEMS; WAIVER OF RIGHTS. (a) If an abandoned motor vehicle, aircraft, watercraft, or outboard motor is not claimed under Section 683.012:

(1) the owner or lienholder:

(A) waives all rights and interests in the item; and

(B) consents to the sale of the item by public auction or the transfer of the item, if a watercraft, as provided by Subsection (d); and

(2) the law enforcement agency may sell the item at a public auction, transfer the item, if a watercraft, as provided by Subsection (d), or use the item as provided by Section 683.016.

(b) Proper notice of the auction shall be given. A

garagekeeper who has a garagekeeper's lien shall be notified of the time and place of the auction.

(c) The purchaser of a motor vehicle, aircraft, watercraft, or outboard motor:

(1) takes title free and clear of all liens and claims of ownership;

(2) shall receive a sales receipt from the law enforcement agency; and

(3) is entitled to register the motor vehicle, aircraft, watercraft, or outboard motor with and receive a certificate of title from the appropriate authority.

(d) On consent of the Parks and Wildlife Department, the law enforcement agency may transfer a watercraft that is not claimed under Section 683.012 to the Parks and Wildlife Department for use as part of an artificial reef under Chapter 89, Parks and Wildlife Code, or for other use by the Parks and Wildlife Department permitted under the Parks and Wildlife Code. On transfer of the watercraft, the Parks and Wildlife Department:

(1) takes title free and clear of all liens and claims of ownership; and

(2) is entitled to register the watercraft and receive a certificate of title.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 190 (H.B. 883), Sec. 2, eff. May 27, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 720 (H.B. 787), Sec. 7, eff. September 1, 2011.

Sec. 683.015. AUCTION PROCEEDS. (a) A law enforcement agency is entitled to reimbursement from the proceeds of the sale of an abandoned motor vehicle, aircraft, watercraft, or outboard motor for:

(1) the cost of the auction;

(2) towing, preservation, and storage fees resulting from the taking into custody; and

(3) the cost of notice or publication as required by Section 683.012.

(b) After deducting the reimbursement allowed under Subsection

(a), the proceeds of the sale shall be held for 90 days for the owner or lienholder of the vehicle.

(c) After the period provided by Subsection (b), proceeds unclaimed by the owner or lienholder shall be deposited in an account that may be used for the payment of auction, towing, preservation, storage, and notice and publication fees resulting from taking other vehicles, aircraft, watercraft, or outboard motors into custody if the proceeds from the sale of the other items are insufficient to meet those fees.

(d) A municipality or county may transfer funds in excess of \$1,000 from the account to the municipality's or county's general revenue account to be used by the law enforcement agency or, if the vehicle, aircraft, watercraft, or outboard motor was located in a county with a population of less than 150,000, by the attorney representing the state.

(e) If the vehicle is a commercial motor vehicle impounded under Section 644.153(q), the Department of Public Safety is entitled from the proceeds of the sale to an amount equal to the amount of the delinquent administrative penalty and costs.

(f) A law enforcement agency or an attorney representing the state may use funds transferred under Subsection (d) to compensate property owners whose property was damaged as a result of a pursuit involving a law enforcement agency or a federal law enforcement agency, regardless of whether the agency would be liable under Chapter 101, Civil Practice and Remedies Code.

(g) Before a law enforcement agency or an attorney representing the state may compensate a property owner under Subsection (f) using funds transferred to a county under Subsection (d), the sheriff, constable, or attorney representing the state must submit the proposed payment for compensation for consideration, and the commissioners court shall consider the proposed payment for compensation, at the next regularly scheduled meeting of the commissioners court.

(h) In this section, "attorney representing the state" means a district attorney, criminal district attorney, or county attorney performing the duties of a district attorney.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 359, Sec. 9, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 16.08, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 304 (H.B. 453), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 720 (H.B. 787), Sec. 8, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1181 (H.B. 3422), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 675 (H.B. 1931), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1022 (H.B. 1190), Sec. 1, eff. June 19, 2015.

Sec. 683.016. LAW ENFORCEMENT AGENCY USE OF CERTAIN ABANDONED MOTOR VEHICLES. (a) The law enforcement agency that takes an abandoned motor vehicle into custody that is not claimed under Section 683.012 may:

(1) use the vehicle for agency purposes; or

(2) transfer the vehicle to any other municipal or county agency, a groundwater conservation district governed by Chapter 36, Water Code, or a school district for the use of that agency or district.

(b) The law enforcement agency shall auction the vehicle as provided by this subchapter if the law enforcement agency or the municipal or county agency, groundwater conservation district, or school district to which the vehicle was transferred under Subsection (a) discontinues use of the vehicle.

(c) This section does not apply to an abandoned vehicle on which there is a garagekeeper's lien.

(d) This section does not apply to a vehicle that is:

(1) taken into custody by a law enforcement agency located in a county with a population of 3.3 million or more; and

(2) removed to a privately owned storage facility.

(e) A law enforcement agency must comply with the notice requirements of Section 683.012 before the law enforcement agency may transfer a vehicle under Subsection (a)(2).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 446 (H.B. 195), Sec. 2, eff.

September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 941 (H.B. 3140), Sec. 2, eff.

September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 178, eff.

September 1, 2011.

SUBCHAPTER C. VEHICLE ABANDONED IN STORAGE FACILITY

Sec. 683.031. GARAGEKEEPER'S DUTY: ABANDONED MOTOR VEHICLES.

(a) A motor vehicle is abandoned if the vehicle is left in a storage facility operated for commercial purposes after the 10th day after the date on which:

(1) the garagekeeper gives notice by registered or certified mail, return receipt requested, to the last known registered owner of the vehicle and to each lienholder of record of the vehicle under Chapter 501 to remove the vehicle;

(2) a contract for the vehicle to remain on the premises of the facility expires; or

(3) the vehicle was left in the facility, if the vehicle was left by a person other than the registered owner or a person authorized to have possession of the vehicle under a contract of use, service, storage, or repair.

(b) If notice sent under Subsection (a)(1) is returned unclaimed by the post office, substituted notice is sufficient if published in one newspaper of general circulation in the area where the vehicle was left.

(c) The garagekeeper shall report the abandonment of the motor vehicle to a law enforcement agency with jurisdiction where the vehicle is located and shall pay a \$10 fee to be used by the law enforcement agency for the cost of the notice required by this subchapter or other cost incurred in disposing of the vehicle.

(d) The garagekeeper shall retain custody of an abandoned motor vehicle until the law enforcement agency takes the vehicle into custody under Section 683.034.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 737 (H.B. 2630), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 216 (H.B. 864), Sec. 1, eff.

September 1, 2007.

Sec. 683.032. GARAGEKEEPER'S FEES AND CHARGES. (a) A garagekeeper who acquires custody of a motor vehicle for a purpose other than repair is entitled to towing, preservation, and notification charges and reasonable storage fees, in addition to storage fees earned under a contract, for each day:

(1) not to exceed five days, until the notice described by Section 683.031(a) is mailed; and

(2) after notice is mailed, until the vehicle is removed and all accrued charges are paid.

(b) A garagekeeper who fails to report an abandoned motor vehicle to a law enforcement agency within seven days after the date it is abandoned may not claim reimbursement for storage of the vehicle.

(c) This subchapter does not impair any lien that a garagekeeper has on a vehicle except for the termination or limitation of claim for storage for the failure to report the vehicle to the law enforcement agency.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.158(a), eff. Sept. 1, 1997.

Sec. 683.033. UNAUTHORIZED STORAGE FEE; OFFENSE. (a) A person commits an offense if the person charges a storage fee for a period for which the fee is not authorized by Section 683.032.

(b) An offense under this subsection is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 683.034. DISPOSAL OF VEHICLE ABANDONED IN STORAGE FACILITY. (a) A law enforcement agency shall take into custody an abandoned vehicle left in a storage facility that has not been claimed in the period provided by the notice under Section 683.012. In this section, a law enforcement agency has custody if the agency:

(1) has physical custody of the vehicle;

(2) has given notice to the storage facility that the law

enforcement agency intends to dispose of the vehicle under this section; or

(3) has received a report under Section 683.031(c) and the garagekeeper has met all of the requirements of that subsection.

(b) The law enforcement agency may use the vehicle as authorized by Section 683.016 or sell the vehicle at auction as provided by Section 683.014. If a vehicle is sold, the proceeds of the sale shall first be applied to a garagekeeper's charges for providing notice regarding the vehicle and for service, towing, impoundment, storage, and repair of the vehicle.

(c) As compensation for expenses incurred in taking the vehicle into custody and selling it, the law enforcement agency shall retain:

(1) two percent of the gross proceeds of the sale of the vehicle; or

(2) all the proceeds if the gross proceeds of the sale are less than \$10.

(d) Surplus proceeds shall be distributed as provided by Section 683.015.

(e) If the law enforcement agency does not take the vehicle into custody before the 31st day after the date the vehicle was reported abandoned under Section 683.031:

(1) the law enforcement agency may not take the vehicle into custody; and

(2) the storage facility may dispose of the vehicle under:
 (A) Chapter 70, Property Code, except that notice under Section 683.012 satisfies the notice requirements of that chapter; or
 (B) Chapter 2303, Occupations Code, if the storage facility is a vehicle storage facility.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.158(b), eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1034, Sec. 16, eff. Sept. 1, 2003. Amended by:

Acts 2005, 79th Leg., Ch. 737 (H.B. 2630), Sec. 3, eff. September 1, 2005.

SUBCHAPTER D. DEMOLITION OF ABANDONED MOTOR VEHICLES

Sec. 683.051. APPLICATION FOR AUTHORIZATION TO DISPOSE OF CERTAIN MOTOR VEHICLES. A person may apply to the department for

authority:

(1) to sell, give away, or dispose of a motor vehicle to a motor vehicle demolisher if:

(A) the person owns the motor vehicle and the certificate of title to the vehicle is lost, destroyed, or faulty; or

(B) the vehicle is an abandoned motor vehicle and is:

(i) in the possession of the person; or

(ii) located on property owned by the person; or

(2) to dispose of a motor vehicle to a motor vehicle demolisher for demolition, wrecking, or dismantling if:

(A) the abandoned motor vehicle:

(i) is in the possession of the person;

(ii) is more than eight years old;

(iii) either has no motor or is otherwise totally inoperable or does not comply with all applicable air pollution emissions control related requirements included in the vehicle emissions inspection and maintenance requirements contained in the Public Safety Commission's motor vehicle emissions inspection and maintenance program under Subchapter F, Chapter 548, or the state's air quality state implementation plan; and

(iv) was authorized to be towed by a law enforcement agency; and

(B) the law enforcement agency approves the application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 612, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 48, eff. March 1, 2015.

Sec. 683.052. CONTENTS OF APPLICATION; APPLICATION FEE. (a)

An application under Section 683.051 must:

(1) contain the name and address of the applicant;

(2) state the year, make, model, and vehicle identification number of the vehicle, if ascertainable, and any other identifying feature of the vehicle; and

(3) include:

(A) a concise statement of facts about the abandonment;

(B) a statement that the certificate of title is lost or destroyed; or

(C) a statement of the reasons for the defect in the owner's certificate of title for the vehicle.

(b) An application under Section 683.051(2) must also include an affidavit containing a statement of the facts that make that subdivision applicable.

(c) The applicant shall make an affidavit stating that:

- (1) the facts stated in the application are true; and
- (2) no material fact has been withheld.

(d) The application must be accompanied by a fee of \$2, unless the application is made by a unit of government. Fees collected under this subsection shall be deposited to the credit of the Texas Department of Motor Vehicles fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. [2202](#)), Sec. 67, eff. September 1, 2013.

Sec. 683.053. DEPARTMENT TO PROVIDE NOTICE. Except as provided by Section 683.054(b), the department shall give notice as provided by Section 683.012 if it determines that an application under Section 683.051 is:

- (1) executed in proper form; and
- (2) shows that:

(A) the abandoned motor vehicle is in the possession of the applicant or has been abandoned on the applicant's property; or

(B) the vehicle is not an abandoned motor vehicle and the applicant appears to be the owner of the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 683.054. CERTIFICATE OF AUTHORITY TO DISPOSE OF VEHICLE.

(a) The department shall issue the applicant a certificate of authority to dispose of the vehicle to a motor vehicle demolisher for demolition, wrecking, or dismantling if notice under Section 683.053 was given and the vehicle was not claimed as provided by the notice.

(b) Without giving the notice required by Section 683.053, the

department may issue to an applicant under Section 683.051(2) a certificate of authority to dispose of the motor vehicle to a demolisher if the vehicle meets the requirements of Sections 683.051(2)(A)(ii) and (iii).

(c) A motor vehicle demolisher shall accept the certificate of authority in lieu of a certificate of title for the vehicle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 612, Sec. 2, eff. Sept. 1, 1999.

Sec. 683.055. RULES AND FORMS. The department may adopt rules and prescribe forms to implement Sections 683.051-683.054.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 683.056. DEMOLISHER'S DUTY. (a) A motor vehicle demolisher who acquires a motor vehicle for dismantling or demolishing shall obtain from the person delivering the vehicle:

- (1) the motor vehicle's certificate of title;
- (2) a sales receipt for the motor vehicle;
- (3) a transfer document for the vehicle as provided by Subchapter B or Subchapter E; or
- (4) a certificate of authority for the disposal of the motor vehicle.

(b) A demolisher is not required to obtain a certificate of title for the vehicle in the demolisher's name.

(c) On the department's demand, the demolisher shall surrender for cancellation the certificate of title or certificate of authority.

(d) The department shall adopt rules and forms necessary to regulate the surrender of auction sales receipts and certificates of title.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 683.057. DEMOLISHER'S RECORDS; OFFENSE. (a) A motor vehicle demolisher shall keep a record of a motor vehicle that is acquired in the course of business.

(b) The record must contain:

(1) the name and address of the person from whom the vehicle was acquired; and

(2) the date of acquisition of the vehicle.

(c) The demolisher shall keep the record until the first anniversary of the date of acquisition of the vehicle.

(d) The record shall be open to inspection by the department or any law enforcement agency at any time during normal business hours.

(e) A motor vehicle demolisher commits an offense if the demolisher fails to keep a record as provided by this section.

(f) An offense under Subsection (e) is a misdemeanor punishable by:

(1) a fine of not less than \$100 or more than \$1,000;

(2) confinement in the county jail for a term of not less than 10 days or more than six months; or

(3) both the fine and confinement.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER E. JUNKED VEHICLES: PUBLIC NUISANCE; ABATEMENT

Sec. 683.071. DEFINITION AND APPLICABILITY. (a) In this subchapter, "junked vehicle" means a vehicle that:

(1) is self-propelled; and

(2) is:

(A) wrecked, dismantled or partially dismantled, or discarded; or

(B) inoperable and has remained inoperable for more than:

(i) 72 consecutive hours, if the vehicle is on public property; or

(ii) 30 consecutive days, if the vehicle is on private property.

(b) For purposes of this subchapter, "junked vehicle" includes a motor vehicle, aircraft, or watercraft. This subchapter applies only to:

(1) a motor vehicle that displays an expired license plate or does not display a license plate;

(2) an aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number

registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; or

(3) a watercraft that:

(A) does not have lawfully on board an unexpired certificate of number; and

(B) is not a watercraft described by Section 31.055, Parks and Wildlife Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 746, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 798, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 500 (S.B. 350), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 720 (H.B. 787), Sec. 9, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 753 (H.B. 1376), Sec. 1, eff. September 1, 2011.

Reenacted and amended by Acts 2013, 83rd Leg., R.S., Ch. 1291 (H.B. 2305), Sec. 49, eff. March 1, 2015.

Sec. 683.0711. MUNICIPAL REQUIREMENTS. An ordinance adopted by a governing body of a municipality may provide for a more inclusive definition of a junked vehicle subject to regulation under this subchapter.

Added by Acts 2003, 78th Leg., ch. 1073, Sec. 1, eff. Sept. 1, 2003.

Sec. 683.072. JUNKED VEHICLE DECLARED TO BE PUBLIC NUISANCE. A junked vehicle, including a part of a junked vehicle, that is visible at any time of the year from a public place or public right-of-way:

(1) is detrimental to the safety and welfare of the public;

(2) tends to reduce the value of private property;

(3) invites vandalism;

(4) creates a fire hazard;

(5) is an attractive nuisance creating a hazard to the health and safety of minors;

(6) produces urban blight adverse to the maintenance and continuing development of municipalities; and

(7) is a public nuisance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2003, 78th Leg., ch. 1073, Sec. 2.

Sec. 683.073. OFFENSE. (a) A person commits an offense if the person maintains a public nuisance described by Section 683.072.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

(c) The court shall order abatement and removal of the nuisance on conviction.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 683.074. AUTHORITY TO ABATE NUISANCE; PROCEDURES. (a) A municipality or county may adopt procedures that conform to this subchapter for the abatement and removal from private or public property or a public right-of-way of a junked vehicle or part of a junked vehicle as a public nuisance.

(b) The procedures must:

(1) prohibit a vehicle from being reconstructed or made operable after removal;

(2) require a public hearing on request of a person who receives notice as provided by Section 683.075 if the request is made not later than the date by which the nuisance must be abated and removed; and

(3) require that notice identifying the vehicle or part of the vehicle be given to the department not later than the fifth day after the date of removal.

(c) An appropriate court of the municipality or county may issue necessary orders to enforce the procedures.

(d) Procedures for abatement and removal of a public nuisance must be administered by regularly salaried, full-time employees of the municipality or county, except that any authorized person may remove the nuisance.

(e) A person authorized to administer the procedures may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.

(f) On receipt of notice of removal of a motor vehicle under Subsection (b)(3), the department shall immediately cancel the certificate of title issued for the vehicle.

(g) The procedures may provide that the relocation of a junked vehicle that is a public nuisance to another location in the same municipality or county after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

(h) On receipt of notice of removal of a watercraft under Subsection (b)(3), the department shall notify the Parks and Wildlife Department of the removal. On receipt of the notice from the department, the Parks and Wildlife Department shall immediately cancel the certificate of title issued for the watercraft.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1226, Sec. 1, eff. June 18, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 500 (S.B. 350), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 720 (H.B. 787), Sec. 10, eff. September 1, 2011.

Sec. 683.075. NOTICE. (a) The procedures for the abatement and removal of a public nuisance under this subchapter must provide not less than 10 days' notice of the nature of the nuisance. The notice must be personally delivered, sent by certified mail with a five-day return requested, or delivered by the United States Postal Service with signature confirmation service to:

- (1) the last known registered owner of the nuisance;
- (2) each lienholder of record of the nuisance; and
- (3) the owner or occupant of:
 - (A) the property on which the nuisance is located; or
 - (B) if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

(b) The notice must state that:

(1) the nuisance must be abated and removed not later than the 10th day after the date on which the notice was personally delivered or mailed; and

(2) any request for a hearing must be made before that 10-day period expires.

(c) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.

(d) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 413, Sec. 13, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 369 (S.B. 351), Sec. 1, eff. June 15, 2007.

Sec. 683.076. HEARING. (a) The governing body of the municipality or county or a board, commission, or official designated by the governing body shall conduct hearings under the procedures adopted under this subchapter.

(b) If a hearing is requested by a person for whom notice is required under Section 683.075(a)(3), the hearing shall be held not earlier than the 11th day after the date of the service of notice.

(c) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(d) If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include:

(1) for a motor vehicle, the vehicle's:

(A) description;

(B) vehicle identification number; and

(C) license plate number;

(2) for an aircraft, the aircraft's:

(A) description; and

(B) federal aircraft identification number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and

(3) for a watercraft, the watercraft's:

(A) description; and

(B) identification number as set forth in the

watercraft's certificate of number.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 720 (H.B. 787), Sec. 11, eff. September 1, 2011.

Sec. 683.0765. ALTERNATIVE PROCEDURE FOR ADMINISTRATIVE HEARING. A municipality by ordinance may provide for an administrative adjudication process under which an administrative penalty may be imposed for the enforcement of an ordinance adopted under this subchapter. If a municipality provides for an administrative adjudication process under this section, the municipality shall use the procedure described by Section 54.044, Local Government Code.

Added by Acts 2001, 77th Leg., ch. 413, Sec. 14, eff. Sept. 1, 2001.

Sec. 683.077. INAPPLICABILITY OF SUBCHAPTER. (a) Procedures adopted under Section 683.074 or 683.0765 may not apply to a vehicle or vehicle part:

(1) that is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or

(2) that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:

(A) maintained in an orderly manner;

(B) not a health hazard; and

(C) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

(b) In this section:

(1) "Antique vehicle" means a passenger car or truck that is at least 25 years old.

(2) "Motor vehicle collector" means a person who:

(A) owns one or more antique or special interest vehicles; and

(B) acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

(3) "Special interest vehicle" means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 413, Sec. 15, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1431, Sec. 1, eff. Sept. 1, 2001.

Sec. 683.078. JUNKED VEHICLE DISPOSAL. (a) A junked vehicle, including a part of a junked vehicle, may be removed to a scrapyard, a motor vehicle demolisher, or a suitable site operated by a municipality or county.

(b) A municipality or county may operate a disposal site if its governing body determines that commercial disposition of junked vehicles is not available or is inadequate. A municipality or county may:

(1) finally dispose of a junked vehicle or vehicle part;

or

(2) transfer it to another disposal site if the disposal is scrap or salvage only.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 686. VALET PARKING SERVICES

Sec. 686.001. DEFINITIONS. In this chapter:

(1) "Financial responsibility" means the ability to respond in damages for liability for an accident that:

(A) occurs after the effective date of the document evidencing the establishment of the financial responsibility; and

(B) arises out of the operation of a motor vehicle by an employee of a valet parking service.

(2) "Public accommodation" means any:

(A) inn, hotel, or motel;

(B) restaurant, cafeteria, or other facility

principally engaged in selling food for consumption on the premises;

(C) bar, nightclub, or other facility engaged in selling alcoholic beverages for consumption on the premises;

(D) motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment; or

(E) other facility used by or open to members of the public.

(3) "Valet parking service" means a parking service through which the motor vehicles of patrons of a public accommodation are parked for a fee by a third party who is not an employee of the public accommodation.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 23.002, eff. March 1, 2004.

Sec. 686.002. REQUIREMENT OF FINANCIAL RESPONSIBILITY FOR VALET PARKING SERVICES. A person may not operate a valet parking service unless financial responsibility for each employee who operates a motor vehicle for the service is established through:

(1) a motor vehicle liability or comprehensive general liability and garage insurance policy in an amount established by Section 686.004;

(2) a surety bond filed under Section 601.121; or

(3) a deposit in the amount of \$450,000 under Section 601.122, notwithstanding any other amount prescribed by that section.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 23.002, eff. March 1, 2004.

Sec. 686.003. EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) The owner or operator of a valet parking service shall provide evidence of financial responsibility in the same manner as required under Section 601.053.

(b) In addition to complying with Subsection (a), an owner or operator of a valet parking service shall exhibit, for public inspection, evidence of financial responsibility at a public accommodation whose patrons use the service.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 23.002, March 1, 2004.

Sec. 686.004. MINIMUM COVERAGE AMOUNTS. (a) The minimum amounts of motor vehicle liability insurance coverage required to establish financial responsibility under this chapter are:

(1) \$100,000 for bodily injury to or death of one person in one accident;

(2) \$300,000 for bodily injury to or death of two or more persons in one accident, subject to the amount provided by Subdivision (1) for bodily injury to or death of one of the persons; and

(3) \$50,000 for damage to or destruction of property of others in one accident.

(b) The comprehensive general liability insurance must be on a broad form and provide limits of liability for bodily injury and property damage of not less than \$300,000 combined single limit or the equivalent.

(c) The garage insurance must provide limits of liability for bodily injury and property damage of not less than \$300,000 combined single limit, or the equivalent, and must provide the following coverages:

(1) comprehensive and collision coverage for physical damage;

(2) coverage for vehicle storage; and

(3) coverage for a vehicle driven by or at the direction of the valet parking service.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 23.002, eff. March 1, 2004.

Sec. 686.005. COMMON LAW DEFENSES. In an action against an owner or operator of a valet parking service that has not established financial responsibility as required by this chapter to recover damages for personal injuries, death, or property damage sustained in a motor vehicle accident arising out of the operation of a valet parking service, it is not a defense that the party who brings the action:

(1) was guilty of contributory negligence; or

(2) assumed the risk of injury, death, or property damage.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 23.002, eff. March 1, 2004.

Sec. 686.006. OPERATION OF MOTOR VEHICLE IN VIOLATION OF FINANCIAL RESPONSIBILITY REQUIREMENT; OFFENSE. (a) A person commits an offense if the person, while in the course and scope of the person's employment with a valet parking service, operates a motor vehicle of a patron of the service without the financial responsibility required by this chapter.

(b) Except as provided by Subsections (c) and (d), an offense under this section is a misdemeanor punishable by a fine of not less than \$175 or more than \$350.

(c) If a person has been previously convicted of an offense under this section, an offense under this section is a misdemeanor punishable by a fine of not less than \$350 or more than \$1,000.

(d) If the court determines that a person who has not been previously convicted of an offense under this section is economically unable to pay the fine, the court may reduce the fine to not less than \$175.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 23.002, eff. March 1, 2004.

Sec. 686.007. DEFENSE: FINANCIAL RESPONSIBILITY IN EFFECT AT TIME OF ALLEGED OFFENSE. It is a defense to prosecution under Section 686.002 that the person charged produces one of the documents listed in Section 601.053 that was valid at the time the offense is alleged to have occurred.

Added by Acts 2003, 78th Leg., ch. 816, Sec. 23.002, eff. March 1, 2004.

SUBTITLE I. ENFORCEMENT OF TRAFFIC LAWS

CHAPTER 701. COUNTY TRAFFIC OFFICERS

Sec. 701.001. AUTHORIZATION. (a) Except as provided by Subsection (c), acting in conjunction with the sheriff of the county, the commissioners court of a county may employ not more than five regular deputies as county traffic officers.

(b) Except as provided by Subsection (c), the commissioners court may employ not more than two additional deputies as county traffic officers to aid the regular officers in special emergencies.

(c) The limitation on the number of deputies that may be employed under Subsections (a) and (b) does not apply to a county with a population of more than two million.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 548 (H.B. 1165), Sec. 1, eff. June 17, 2005.

Sec. 701.002. POWER TO ACT; GUIDANCE. (a) A county traffic officer:

(1) must be deputized by the sheriff or a constable of the county in which the officer is employed;

(2) must give a bond and take an oath of office as other deputy sheriffs;

(3) must work under the direction of the sheriff; and

(4) has the same right and duty as a deputy sheriff to arrest a person who violates a law.

(b) Repealed by Acts 2009, 81st Leg., R.S., Ch. 471, Sec. 2, eff. June 19, 2009.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 471 (S.B. 376), Sec. 2, eff. June 19, 2009.

Sec. 701.003. DUTIES. (a) A county traffic officer shall:

(1) be a motorcycle rider when practicable;

(2) cooperate with the police department of each municipality in the county to enforce state traffic laws in that municipality and in the county;

(3) enforce state laws that regulate the operation of a motor vehicle on a highway, street, or alley; and

(4) remain on and patrol the highway at all times when performing the officer's duties.

(b) An officer may leave a highway only in pursuit of an

offender the officer is unable to apprehend on the highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 701.004. COMPENSATION. (a) The compensation to be paid a county traffic officer shall be set before the officer is employed.

(b) Salary paid to the officer is independent of a salary paid to the sheriff and sheriff's deputies who do not act as highway officers. Compensation for an officer may not be included in the sheriff's settlement in accounting for a fee of office or as salary paid to the sheriff or a sheriff's deputy.

(c) The commissioners court may provide necessary equipment for the officer at the county's expense. An officer's equipment may include a motorcycle and maintenance of that motorcycle.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 701.005. FEES. A fee may not be charged for a service of a county traffic officer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 701.006. DISMISSAL. The commissioners court on its own initiative, or on recommendation of the sheriff, may dismiss a county traffic officer if the officer is no longer needed or if the officer's service is unsatisfactory.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 471 (S.B. 376), Sec. 1, eff. June 19, 2009.

CHAPTER 702. CONTRACTS FOR ENFORCEMENT OF CERTAIN ARREST WARRANTS

Sec. 702.001. DEFINITIONS. In this chapter:

- (1) "Department" means the Texas Department of Motor Vehicles.
- (2) "Registration" of a motor vehicle includes a renewal of

the registration of that vehicle.

(3) "Traffic law" means a statute or ordinance, a violation of which is a misdemeanor punishable by a fine not to exceed \$200, that regulates, on a street, road, or highway of this state:

(A) the conduct or condition of a person while operating a motor vehicle; or

(B) the condition of a motor vehicle being operated.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.160(a), eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2S.01, eff. September 1, 2009.

Sec. 702.003. REFUSAL TO REGISTER VEHICLE. (a) A county assessor-collector or the department may refuse to register a motor vehicle if the assessor-collector or the department receives under a contract information from a municipality that the owner of the vehicle has an outstanding warrant from that municipality for failure to appear or failure to pay a fine on a complaint that involves the violation of a traffic law.

(b) A municipality may contract with a county in which the municipality is located or the department to provide information to the county assessor-collector or department necessary to make a determination under Subsection (a).

(c) A municipality that has a contract under Subsection (b) shall notify the county assessor-collector or the department regarding a person for whom the county assessor-collector or the department has refused to register a motor vehicle on:

(1) entry of a judgment against the person and the person's payment to the court of the fine for the violation and of all court costs;

(2) perfection of an appeal of the case for which the arrest warrant was issued; or

(3) dismissal of the charge for which the arrest warrant was issued.

(d) After notice is received under Subsection (c), the county assessor-collector or the department may not refuse to register the motor vehicle under Subsection (a).

(e) A contract under Subsection (b) must be entered into in accordance with Chapter 791, Government Code, and is subject to the ability of the parties to provide or pay for the services required under the contract.

(e-1) A municipality that has a contract under Subsection (b) may impose an additional \$20 fee to a person who has an outstanding warrant from the municipality for failure to appear or failure to pay a fine on a complaint that involves the violation of a traffic law. The additional fee may be used only to reimburse the department or the county assessor-collector for its expenses for providing services under the contract, or another county department for expenses related to services under the contract.

(f) This section does not apply to the registration of a motor vehicle under Section 501.0234.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.160(b), eff. Sept. 1, 1997. Amended by:

Acts 2009, 81st Leg., R.S., Ch. 542 (S.B. 1617), Sec. 3, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1094 (S.B. 1386), Sec. 2, eff. September 1, 2011.

Sec. 702.004. WARNING; CITATION. (a) A peace officer authorized to issue citations in a municipality that has a contract under Section 702.003 shall issue a written warning to each person to whom the officer issues a citation for a violation of a traffic law in the municipality.

(b) The warning must state that if the person fails to appear in court as provided by law for the prosecution of the offense or fails to pay a fine for the violation, the person might not be permitted to register a motor vehicle in this state.

(c) The warning required by this section may be printed on the citation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Renumbered from Transportation Code Sec. 702.005 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.160, eff. Sept. 1, 1997.

CHAPTER 703. NONRESIDENT VIOLATOR COMPACT OF 1977

Sec. 703.001. DEFINITIONS. In this chapter:

(1) "Citation" and "motorist" have the meanings assigned by Article II, Section (b), Nonresident Violator Compact of 1977.

(2) "Department" and "licensing authority" mean the Department of Public Safety.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 703.002. ENACTMENT; TERMS OF COMPACT. The Nonresident Violator Compact of 1977 is enacted and entered into as follows:

NONRESIDENT VIOLATOR COMPACT OF 1977**Art. I. FINDINGS, DECLARATION OF POLICY, AND PURPOSE**

(a) The party jurisdictions find that:

(1) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than his home jurisdiction:

(i) Must post collateral or bond to secure appearance for trial at a later date; or

(ii) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for his trial to be held.

(2) In some instances, the motorist's driver's license may be deposited as collateral to be returned after he has complied with the terms of the citation.

(3) The purpose of the practices described in paragraphs (1) and (2) above is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue on his way after receiving the traffic citation, could return to his home jurisdiction and disregard his duty under the terms of the traffic citation.

(4) A motorist receiving a traffic citation in his home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue on his way after promising or being instructed to comply with the terms of the citation.

(5) The practice described in paragraph (1) above causes unnecessary inconvenience and, at times, a hardship for the motorist who is unable at the time to post collateral, furnish a bond, stand

trial, or pay the fine, and thus is compelled to remain in custody until some arrangement can be made.

(6) The deposit of a driver's license as a bail bond, as described in paragraph (2) above, is viewed with disfavor.

(7) The practices described herein consume an undue amount of law enforcement time.

(b) It is the policy of the party jurisdictions to:

(1) Seek compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles in each of the jurisdictions.

(2) Allow motorists to accept a traffic citation for certain violations and proceed on their way without delay whether or not the motorist is a resident of the jurisdiction in which the citation was issued.

(3) Extend cooperation to its fullest extent among the jurisdictions for obtaining compliance with the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

(4) Maximize effective utilization of law enforcement personnel and assist court systems in the efficient disposition of traffic violations.

(c) The purpose of this compact is to:

(1) Provide a means through which the party jurisdictions may participate in a reciprocal program to effectuate the policies enumerated in paragraph (b) above in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of traffic violators operating within party jurisdictions in recognition of the motorist's right of due process and the sovereign status of a party jurisdiction.

Art. II. DEFINITIONS

(a) In the Nonresident Violator Compact, the following words have the meaning indicated, unless the context requires otherwise.

(b)(1) "Citation" means any summons, ticket, or other official document issued by a police officer for a traffic violation containing an order which requires the motorist to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial, following the issuance by a police officer of a citation for a traffic violation.

(3) "Court" means a court of law or traffic tribunal.

(4) "Driver's license" means any license or privilege to

operate a motor vehicle issued under the laws of the home jurisdiction.

(5) "Home jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(6) "Issuing jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(7) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(8) "Motorist" means a driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(9) "Personal recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation.

(10) "Police officer" means any individual authorized by the party jurisdiction to issue a citation for a traffic violation.

(11) "Terms of the citation" means those options expressly stated upon the citation.

Art. III. PROCEDURE FOR ISSUING JURISDICTION

(a) When issuing a citation for a traffic violation, a police officer shall issue the citation to a motorist who possesses a driver's license issued by a party jurisdiction and shall not, subject to the exceptions noted in paragraph (b) of this article, require the motorist to post collateral to secure appearance, if the officer receives the motorist's personal recognizance that he or she will comply with the terms of the citation.

(b) Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is required, it must take place immediately following issuance of the citation.

(c) Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report the failure to comply to the licensing authority of the jurisdiction in which the traffic citation was issued. The report shall be made in accordance with procedures specified by the issuing jurisdiction and shall contain information as specified in the Compact Manual as minimum requirements for effective processing by the home jurisdiction.

(d) Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to the licensing authority in the home jurisdiction of the motorist the information in a form and content as contained in the Compact Manual.

(e) The licensing authority of the issuing jurisdiction may not suspend the privilege of a motorist for whom a report has been transmitted.

(f) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if the date of transmission is more than six months after the date on which the traffic citation was issued.

(g) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation where the date of issuance of the citation predates the most recent of the effective dates of entry for the two jurisdictions affected.

Art. IV. PROCEDURE FOR HOME JURISDICTION

(a) Upon receipt of a report of a failure to comply from the licensing authority of the issuing jurisdiction, the licensing authority of the home jurisdiction shall notify the motorist and initiate a suspension action, in accordance with the home jurisdiction's procedures, to suspend the motorist's driver's license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the home jurisdiction licensing authority. Due process safeguards will be accorded.

(b) The licensing authority of the home jurisdiction shall maintain a record of actions taken and make reports to issuing jurisdictions as provided in the Compact Manual.

Art. V. APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party jurisdiction to apply any of its other laws relating to licenses to drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other cooperative arrangement between a party jurisdiction and a nonparty jurisdiction.

Art. VI. COMPACT ADMINISTRATOR PROCEDURES

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a Board of Compact Administrators is established. The board shall be composed of one representative from each party jurisdiction to be known as the compact administrator. The compact administrator shall be appointed by the jurisdiction executive and will serve and be subject to removal in accordance with the laws of the jurisdiction he represents. A compact administrator may provide for the discharge of

his duties and the performance of his functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of his identity has been given to the board.

(b) Each member of the Board of Compact Administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor. Action by the board shall be only at a meeting at which a majority of the party jurisdictions are represented.

(c) The board shall elect annually, from its membership, a chairman and a vice chairman.

(d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party jurisdiction, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any jurisdiction, the United States, or any other governmental agency, and may receive, utilize, and dispose of the same.

(f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, person, firm, or corporation, or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the Compact Manual.

Art. VII. ENTRY INTO COMPACT AND WITHDRAWAL

(a) This compact shall become effective when it has been adopted by at least two jurisdictions.

(b)(1) Entry into the compact shall be made by a Resolution of Ratification executed by the authorized officials of the applying jurisdiction and submitted to the chairman of the board.

(2) The resolution shall be in a form and content as provided in the Compact Manual and shall include statements that in substance are as follows:

(i) A citation of the authority by which the jurisdiction is empowered to become a party to this compact.

(ii) Agreement to comply with the terms and provisions of the compact.

(iii) That compact entry is with all jurisdictions then party to the compact and with any jurisdiction that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying jurisdiction, but it shall not be less than 60 days after notice has been given by the chairman of the Board of Compact Administrators or by the secretariat of the board to each party jurisdiction that the resolution from the applying jurisdiction has been received.

(c) A party jurisdiction may withdraw from this compact by official written notice to the other party jurisdictions, but a withdrawal shall not take effect until 90 days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member jurisdiction. No withdrawal shall affect the validity of this compact as to the remaining party jurisdictions.

Art. VIII. EXCEPTIONS

The provisions of this compact shall not apply to offenses which mandate personal appearance, moving traffic violations which alone carry a suspension, equipment violations, inspection violations, parking or standing violations, size and weight limit violations, violations of law governing the transportation of hazardous materials, motor carrier violations, lease law violations, and registration law violations.

Art. IX. AMENDMENTS TO THE COMPACT

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the Board of Compact Administrators and may be initiated by one or more party jurisdictions.

(b) Adoption of an amendment shall require endorsement of all party jurisdictions and shall become effective 30 days after the date of the last endorsement.

(c) Failure of a party jurisdiction to respond to the compact chairman within 120 days after receipt of the proposed amendment shall constitute endorsement.

Art. X. CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be

severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party jurisdiction or of the United States or the applicability thereof to any government, agency, person, or circumstance, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any jurisdiction party thereto, the compact shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdiction affected as to all severable matters.

Art. XI. TITLE

This compact shall be known as the Nonresident Violator Compact of 1977.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 703.003. NONRESIDENT VIOLATOR COMPACT ADMINISTRATOR. (a) The office of nonresident violator compact administrator is created.

(b) The governor shall appoint the compact administrator with the advice and consent of the senate to a two-year term that expires on February 1 of each odd-numbered year.

(c) The compact administrator is entitled to compensation and reimbursement for expenses as provided by legislative appropriation.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 703.004. REPORTS OF FAILURE TO COMPLY WITH CITATION. (a) The department shall report the failure of a motorist to comply with the terms of a citation.

(b) The department shall establish procedures for making the reports required by Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 705. ALLOWING DANGEROUS DRIVER TO BORROW MOTOR VEHICLE

Sec. 705.001. ALLOWING DANGEROUS DRIVER TO BORROW MOTOR VEHICLE; OFFENSE. (a) A person commits an offense if the person:

(1) knowingly permits another to operate a motor vehicle owned by the person; and

(2) knows that at the time permission is given the other person's license has been suspended as a result of a:

(A) conviction of an offense under:

(i) Section 49.04, Penal Code;

(ii) Section 49.07, Penal Code, if the offense involved operation of a motor vehicle; or

(iii) Article 67011-1, Revised Statutes, as that law existed before September 1, 1994; or

(B) failure to give a specimen under:

(i) Chapter 724; or

(ii) Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes), as that law existed before September 1, 1995.

(b) An offense under this section is a Class C misdemeanor.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 706. DENIAL OF RENEWAL OF LICENSE FOR FAILURE TO APPEAR

Sec. 706.001. DEFINITIONS. In this chapter:

(1) "Complaint" means a notice of an offense as described by Article 27.14(d) or 45.019, Code of Criminal Procedure.

(2) "Department" means the Department of Public Safety.

(3) "Driver's license" has the meaning assigned by Section 521.001.

(4) "Highway or street" has the meaning assigned by Section 541.302.

(5) "Motor vehicle" has the meaning assigned by Section 541.201.

(6) "Operator" has the meaning assigned by Section 541.001.

(7) "Political subdivision" means a municipality or county.

(8) "Public place" has the meaning assigned by Section 1.07, Penal Code.

(9) "Traffic law" means a statute or ordinance, a violation of which is a misdemeanor punishable by a fine in an amount not to exceed \$1,000, that:

(A) regulates an operator's conduct or condition while operating a motor vehicle on a highway or street or in a public place;

(B) regulates the condition of a motor vehicle while it

is being operated on a highway or street;

(C) relates to the driver's license status of an operator while operating a motor vehicle on a highway or street; or

(D) relates to the registration status of a motor vehicle while it is being operated on a highway or street.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.161(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.37(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1545, Sec. 74, eff. Sept. 1, 1999.

Sec. 706.002. CONTRACT WITH DEPARTMENT. (a) A political subdivision may contract with the department to provide information necessary for the department to deny renewal of the driver's license of a person who fails to appear for a complaint or citation or fails to pay or satisfy a judgment ordering payment of a fine and cost in the manner ordered by the court in a matter involving any offense that a court has jurisdiction of under Chapter 4, Code of Criminal Procedure.

(b) A contract under this section:

(1) must be made in accordance with Chapter 791, Government Code; and

(2) is subject to the ability of the parties to provide or pay for the services required under the contract.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.161(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.37(b), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 999, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1498, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 346, Sec. 3, eff. June 18, 2003.

Sec. 706.003. WARNING; CITATION. (a) If a political subdivision has contracted with the department, a peace officer authorized to issue a citation in the jurisdiction of the political subdivision shall issue a written warning to each person to whom the officer issues a citation for a violation of a traffic law in the jurisdiction of the political subdivision.

(b) The warning under Subsection (a):

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

(2) must state in substance that if the person fails to appear in court as provided by law for the prosecution of the offense or if the person fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court, the person may be denied renewal of the person's driver's license; and

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

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.161(a), eff. Sept. 1, 1997. Amended by Acts 2001, 77th Leg., ch. 1498, Sec. 2, eff. Sept. 1, 2001.

Sec. 706.004. DENIAL OF RENEWAL OF DRIVER'S LICENSE. (a) If a political subdivision has contracted with the department, on receiving the necessary information from the political subdivision the department may deny renewal of the person's driver's license for failure to appear based on a complaint or citation or failure to pay or satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court in a matter involving an offense described by Section 706.002(a).

(b) The information must include:

(1) the name, date of birth, and driver's license number of the person;

(2) the nature and date of the alleged violation;

(3) a statement that the person failed to appear as required by law or failed to satisfy a judgment ordering the payment of a fine and cost in the manner ordered by the court in a matter involving an offense described by Section 706.002(a); and

(4) any other information required by the department.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.161(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.37(c), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 999, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1498, Sec. 3, eff. Sept. 1, 2001.

Sec. 706.005. CLEARANCE NOTICE TO DEPARTMENT. (a) A political subdivision shall immediately notify the department that there is no cause to continue to deny renewal of a person's driver's license based on the person's previous failure to appear or failure to pay or satisfy a judgment ordering the payment of a fine and cost in the

manner ordered by the court in a matter involving an offense described by Section 706.002(a), on payment of a fee as provided by Section 706.006 and:

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

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

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

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

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

(b) The department may not continue to deny the renewal of the person's driver's license under this chapter after the department receives notice:

(1) under Subsection (a);

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

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

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

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

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.161(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.37(c), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 999, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1498, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1171 (H.B. 2949), Sec. 4, eff. September 1, 2011.

Sec. 706.006. PAYMENT OF ADMINISTRATIVE FEE. (a) A person who fails to appear for a complaint or citation for an offense described by Section 706.002(a) shall be required to pay an administrative fee of \$30 for each complaint or citation reported to the department under this chapter, unless the person is acquitted of the charges for

which the person failed to appear. The person shall pay the fee when:

- (1) the court enters judgment on the underlying offense reported to the department;
- (2) the underlying offense is dismissed; or
- (3) bond or other security is posted to reinstate the charge for which the warrant was issued.

(b) A person who fails to pay or satisfy a judgment ordering the payment of a fine and cost in the manner the court orders shall be required to pay an administrative fee of \$30.

(c) The department may deny renewal of the driver's license of a person who does not pay a fee due under this section until the fee is paid. The fee required by this section is in addition to any other fee required by law.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.161(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.37(d), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 999, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1498, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 209, Sec. 79(a), eff. Jan. 1, 2004.

Sec. 706.007. RECORDS RELATING TO FEES; DISPOSITION OF FEES.

(a) An officer collecting a fee under Section 706.006 shall keep records and deposit the money as provided by Subchapter B, Chapter 133, Local Government Code.

(b) The custodian of the municipal or county treasury may deposit each fee collected under Section 706.006 as provided by Subchapter B, Chapter 133, Local Government Code.

(c) The custodian shall keep records of money received and disbursed under this section as provided by Subchapter B, Chapter 133, Local Government Code, and shall provide an annual report, in the form approved by the comptroller, of all money received and disbursed under this section to:

- (1) the comptroller;
- (2) the department; and
- (3) another entity as provided by interlocal contract.

(d) Of each fee collected under Section 706.006, the custodian of a municipal or county treasury shall:

- (1) send \$20 to the comptroller on or before the last day

of each calendar quarter; and

(2) deposit the remainder to the credit of the general fund of the municipality or county.

(e) Of each \$20 received by the comptroller, the comptroller shall deposit \$10 to the credit of the department to implement this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.161(a), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 209, Sec. 80(a), eff. Jan. 1, 2004.

Sec. 706.008. CONTRACT WITH PRIVATE VENDOR; COMPENSATION. (a) The department may contract with a private vendor to implement this chapter.

(b) The vendor performing the contract may be compensated by each political subdivision that has contracted with the department.

(c) Except for an action based on a citation issued by a peace officer employed by the department, the vendor may not be compensated with state money.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.161(a), eff. Sept. 1, 1997.

Sec. 706.009. VENDOR TO PROVIDE CUSTOMER SUPPORT SERVICES. (a) A vendor must establish and maintain customer support services as directed by the department, including a toll-free telephone service line to answer and resolve questions from persons who are denied renewal of a driver's license under this chapter.

(b) The vendor shall comply with terms, policies, and rules adopted by the department to administer this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.161(a), eff. Sept. 1, 1997.

Sec. 706.010. USE OF INFORMATION COLLECTED BY VENDOR. Information collected under this chapter by a vendor may not be used by a person other than the department, the political subdivision, or a vendor as provided by this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.161(a), eff. Sept. 1, 1997.

Sec. 706.011. LIABILITY OF STATE OR POLITICAL SUBDIVISION. (a) An action for damages may not be brought against the state or a political subdivision based on an act or omission under this chapter, including the denial of renewal of a driver's license.

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

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.161(a), eff. Sept. 1, 1997.

Sec. 706.012. RULES. The department may adopt rules to implement this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.161(a), eff. Sept. 1, 1997.

CHAPTER 707. PHOTOGRAPHIC TRAFFIC SIGNAL ENFORCEMENT SYSTEM

Sec. 707.001. DEFINITIONS. In this chapter:

(1) "Local authority" has the meaning assigned by Section 541.002.

(2) "Owner of a motor vehicle" means the owner of a motor vehicle as shown on the motor vehicle registration records of the Texas Department of Motor Vehicles or the analogous department or agency of another state or country.

(3) "Photographic traffic signal enforcement system" means a system that:

(A) consists of a camera system and vehicle sensor installed to exclusively work in conjunction with an electrically operated traffic-control signal; and

(B) is capable of producing at least two recorded images that depict the license plate attached to the front or the rear of a motor vehicle that is not operated in compliance with the instructions of the traffic-control signal.

(4) "Recorded image" means a photographic or digital image that depicts the front or the rear of a motor vehicle.

(5) "Traffic-control signal" has the meaning assigned by Section 541.304.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2T.01, eff. September 1, 2009.

Sec. 707.002. AUTHORITY TO PROVIDE FOR CIVIL PENALTY. The governing body of a local authority by ordinance may implement a photographic traffic signal enforcement system and provide that the owner of a motor vehicle is liable to the local authority for a civil penalty if, while facing only a steady red signal displayed by an electrically operated traffic-control signal located in the local authority, the vehicle is operated in violation of the instructions of that traffic-control signal, as specified by Section 544.007(d).

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

Sec. 707.0021. IMPOSITION OF CIVIL PENALTY ON OWNER OF AUTHORIZED EMERGENCY VEHICLE. (a) In this section, "authorized emergency vehicle" has the meaning assigned by Section 541.201.

(b) A local authority may not impose or attempt to impose a civil penalty under this chapter on the owner of an authorized emergency vehicle.

(c) This section does not prohibit an employer from taking disciplinary action against an employee who as the operator of an authorized emergency vehicle operated the vehicle in violation of a rule or policy of the employer.

Added by Acts 2009, 81st Leg., R.S., Ch. 502 (S.B. 926), Sec. 1, eff. September 1, 2009.

Sec. 707.003. INSTALLATION AND OPERATION OF PHOTOGRAPHIC

TRAFFIC SIGNAL ENFORCEMENT SYSTEM. (a) A local authority that implements a photographic traffic signal enforcement system under this chapter may:

(1) contract for the administration and enforcement of the system; and

(2) install and operate the system or contract for the installation or operation of the system.

(b) A local authority that contracts for the administration and enforcement of a photographic traffic signal enforcement system may not agree to pay the contractor a specified percentage of, or dollar amount from, each civil penalty collected.

(c) Before installing a photographic traffic signal enforcement system at an intersection approach, the local authority shall conduct a traffic engineering study of the approach to determine whether, in addition to or as an alternative to the system, a design change to the approach or a change in the signalization of the intersection is likely to reduce the number of red light violations at the intersection.

(d) An intersection approach must be selected for the installation of a photographic traffic signal enforcement system based on traffic volume, the history of accidents at the approach, the number or frequency of red light violations at the intersection, and similar traffic engineering and safety criteria, without regard to the ethnic or socioeconomic characteristics of the area in which the approach is located.

(e) A local authority shall report results of the traffic engineering study required by Subsection (c) to a citizen advisory committee consisting of one person appointed by each member of the governing body of the local authority. The committee shall advise the local authority on the installation and operation of a photographic traffic signal enforcement system established under this chapter.

(f) A local authority may not impose a civil penalty under this chapter on the owner of a motor vehicle if the local authority violates Subsection (b) or (c).

(g) The local authority shall install signs along each roadway that leads to an intersection at which a photographic traffic signal enforcement system is in active use. The signs must be at least 100 feet from the intersection or located according to standards established in the manual adopted by the Texas Transportation

Commission under Section 544.001, be easily readable to any operator approaching the intersection, and clearly indicate the presence of a photographic monitoring system that records violations that may result in the issuance of a notice of violation and the imposition of a monetary penalty.

(h) A local authority or the person with which the local authority contracts for the administration and enforcement of a photographic traffic signal enforcement system may not provide information about a civil penalty imposed under this chapter to a credit bureau, as defined by Section 392.001, Finance Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

Sec. 707.004. REPORT OF ACCIDENTS. (a) In this section, "department" means the Texas Department of Transportation.

(b) Before installing a photographic traffic signal enforcement system at an intersection approach, the local authority shall compile a written report of the number and type of traffic accidents that have occurred at the intersection for a period of at least 18 months before the date of the report.

(c) Not later than six months after the date of the installation of the photographic traffic signal enforcement system at the intersection, the local authority shall provide the department a copy of the report required by Subsection (b).

(d) After installing a photographic traffic signal enforcement system at an intersection approach, the local authority shall monitor and annually report to the department the number and type of traffic accidents at the intersection to determine whether the system results in a reduction in accidents or a reduction in the severity of accidents.

(e) The report must be in writing in the form prescribed by the department.

(f) Not later than December 1 of each year, the department shall publish the information submitted by a local authority under Subsection (d).

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

Sec. 707.005. MINIMUM CHANGE INTERVAL. At an intersection at which a photographic traffic monitoring system is in use, the minimum change interval for a steady yellow signal must be established in accordance with the Texas Manual on Uniform Traffic Control Devices.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

Sec. 707.006. GENERAL SURVEILLANCE PROHIBITED; OFFENSE. (a) A local authority shall operate a photographic traffic control signal enforcement system only for the purpose of detecting a violation or suspected violation of a traffic-control signal.

(b) A person commits an offense if the person uses a photographic traffic signal enforcement system to produce a recorded image other than in the manner and for the purpose specified by this chapter.

(c) An offense under this section is a Class A misdemeanor.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

Sec. 707.007. AMOUNT OF CIVIL PENALTY; LATE PAYMENT PENALTY. If a local authority enacts an ordinance to enforce compliance with the instructions of a traffic-control signal by the imposition of a civil or administrative penalty, the amount of:

(1) the civil or administrative penalty may not exceed \$75; and

(2) a late payment penalty may not exceed \$25.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

Sec. 707.008. DEPOSIT OF REVENUE FROM CERTAIN TRAFFIC PENALTIES. (a) Not later than the 60th day after the end of a local authority's fiscal year, after deducting amounts the local authority is authorized by Subsection (b) to retain, the local authority shall:

(1) send 50 percent of the revenue derived from civil or administrative penalties collected by the local authority under this

section to the comptroller for deposit to the credit of the designated trauma facility and emergency medical services account established under Section 780.003, Health and Safety Code; and

(2) deposit the remainder of the revenue in a special account in the local authority's treasury that may be used only to fund traffic safety programs, including pedestrian safety programs, public safety programs, intersection improvements, and traffic enforcement.

(b) A local authority may retain an amount necessary to cover the costs of:

(1) purchasing or leasing equipment that is part of or used in connection with the photographic traffic signal enforcement system in the local authority;

(2) installing the photographic traffic signal enforcement system at sites in the local authority, including the costs of installing cameras, flashes, computer equipment, loop sensors, detectors, utility lines, data lines, poles and mounts, networking equipment, and associated labor costs;

(3) operating the photographic traffic signal enforcement system in the local authority, including the costs of creating, distributing, and delivering violation notices, review of violations conducted by employees of the local authority, the processing of fine payments and collections, and the costs associated with administrative adjudications and appeals; and

(4) maintaining the general upkeep and functioning of the photographic traffic signal enforcement system.

(c) Chapter 133, Local Government Code, applies to fee revenue described by Subsection (a)(1).

(d) If under Section 133.059, Local Government Code, the comptroller conducts an audit of a local authority and determines that the local authority retained more than the amounts authorized by this section or failed to deposit amounts as required by this section, the comptroller may impose a penalty on the local authority equal to twice the amount the local authority:

(1) retained in excess of the amount authorized by this section; or

(2) failed to deposit as required by this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. [1119](#)), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 39, eff. September 1, 2015.

Sec. 707.009. REQUIRED ORDINANCE PROVISIONS. An ordinance adopted under Section 707.002 must provide that a person against whom the local authority seeks to impose a civil penalty is entitled to a hearing and shall:

(1) provide for the period in which the hearing must be held;

(2) provide for the appointment of a hearing officer with authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents; and

(3) designate the department, agency, or office of the local authority responsible for the enforcement and administration of the ordinance or provide that the entity with which the local authority contracts under Section 707.003(a)(1) is responsible for the enforcement and administration of the ordinance.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

Sec. 707.010. EFFECT ON OTHER ENFORCEMENT. (a) The implementation of a photographic traffic signal enforcement system by a local authority under this chapter does not:

(1) preclude the application or enforcement in the local authority of Section 544.007(d) in the manner prescribed by Chapter 543; or

(2) prohibit a peace officer from arresting a violator of Section 544.007(d) as provided by Chapter 543, if the peace officer personally witnesses the violation, or from issuing the violator a citation and notice to appear as provided by that chapter.

(b) A local authority may not impose a civil penalty under this chapter on the owner of a motor vehicle if the operator of the vehicle was arrested or issued a citation and notice to appear by a peace officer for the same violation of Section 544.007(d) recorded by the photographic traffic signal enforcement system.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1,

eff. September 1, 2007.

Sec. 707.011. NOTICE OF VIOLATION; CONTENTS. (a) The imposition of a civil penalty under this chapter is initiated by the mailing of a notice of violation to the owner of the motor vehicle against whom the local authority seeks to impose the civil penalty.

(b) Not later than the 30th day after the date the violation is alleged to have occurred, the designated department, agency, or office of the local authority or the entity with which the local authority contracts under Section 707.003(a)(1) shall mail the notice of violation to the owner at:

(1) the owner's address as shown on the registration records of the Texas Department of Motor Vehicles; or

(2) if the vehicle is registered in another state or country, the owner's address as shown on the motor vehicle registration records of the department or agency of the other state or country analogous to the Texas Department of Motor Vehicles.

(c) The notice of violation must contain:

(1) a description of the violation alleged;

(2) the location of the intersection where the violation occurred;

(3) the date and time of the violation;

(4) the name and address of the owner of the vehicle involved in the violation;

(5) the registration number displayed on the license plate of the vehicle involved in the violation;

(6) a copy of a recorded image of the violation limited solely to a depiction of the area of the registration number displayed on the license plate of the vehicle involved in the violation;

(7) the amount of the civil penalty for which the owner is liable;

(8) the number of days the person has in which to pay or contest the imposition of the civil penalty and a statement that the person incurs a late payment penalty if the civil penalty is not paid or imposition of the penalty is not contested within that period;

(9) a statement that the owner of the vehicle in the notice of violation may elect to pay the civil penalty by mail sent to a specified address instead of appearing at the time and place of the

administrative adjudication hearing; and

(10) information that informs the owner of the vehicle named in the notice of violation:

(A) of the owner's right to contest the imposition of the civil penalty against the person in an administrative adjudication hearing;

(B) that imposition of the civil penalty may be contested by submitting a written request for an administrative adjudication hearing before the expiration of the period specified under Subdivision (8); and

(C) that failure to pay the civil penalty or to contest liability for the penalty in a timely manner is an admission of liability and a waiver of the owner's right to appeal the imposition of the civil penalty.

(d) A notice of violation is presumed to have been received on the fifth day after the date the notice is mailed.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2T.02, eff. September 1, 2009.

Sec. 707.012. ADMISSION OF LIABILITY. A person who fails to pay the civil penalty or to contest liability for the penalty in a timely manner or who requests an administrative adjudication hearing to contest the imposition of the civil penalty against the person and fails to appear at that hearing is considered to:

(1) admit liability for the full amount of the civil penalty stated in the notice of violation mailed to the person; and

(2) waive the person's right to appeal the imposition of the civil penalty.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

Sec. 707.013. PRESUMPTION. (a) It is presumed that the owner of the motor vehicle committed the violation alleged in the notice of violation mailed to the person if the motor vehicle depicted in a

photograph or digital image taken by a photographic traffic signal enforcement system belongs to the owner of the motor vehicle.

(b) If, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in a photograph or digital image taken by a photographic traffic signal enforcement system was owned by a person in the business of selling, renting, or leasing motor vehicles or by a person who was not the person named in the notice of violation, the presumption under Subsection (a) is rebutted on the presentation of evidence establishing that the vehicle was at that time:

(1) being test driven by another person;

(2) being rented or leased by the vehicle's owner to another person; or

(3) owned by a person who was not the person named in the notice of violation.

(c) Notwithstanding Section 707.014, the presentation of evidence under Subsection (b) by a person who is in the business of selling, renting, or leasing motor vehicles or did not own the vehicle at the time of the violation must be made by affidavit, through testimony at the administrative adjudication hearing under Section 707.014, or by a written declaration under penalty of perjury. The affidavit or written declaration may be submitted by mail to the local authority or the entity with which the local authority contracts under Section 707.003(a)(1).

(d) If the presumption established by Subsection (a) is rebutted under Subsection (b), a civil penalty may not be imposed on the owner of the vehicle or the person named in the notice of violation, as applicable.

(e) If, at the time of the violation alleged in the notice of violation, the motor vehicle depicted in the photograph or digital image taken by the photographic traffic signal enforcement system was owned by a person in the business of renting or leasing motor vehicles and the vehicle was being rented or leased to an individual, the owner of the motor vehicle shall provide to the local authority or the entity with which the local authority contracts under Section 707.003(a)(1) the name and address of the individual who was renting or leasing the motor vehicle depicted in the photograph or digital image and a statement of the period during which that individual was renting or leasing the vehicle. The owner shall provide the information required by this subsection not later than the 30th day

after the date the notice of violation is received. If the owner provides the required information, it is presumed that the individual renting or leasing the motor vehicle committed the violation alleged in the notice of violation and the local authority or contractor may send a notice of violation to that individual at the address provided by the owner of the motor vehicle.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

Sec. 707.014. ADMINISTRATIVE ADJUDICATION HEARING. (a) A person who receives a notice of violation under this chapter may contest the imposition of the civil penalty specified in the notice of violation by filing a written request for an administrative adjudication hearing. The request for a hearing must be filed on or before the date specified in the notice of violation, which may not be earlier than the 30th day after the date the notice of violation was mailed.

(b) On receipt of a timely request for an administrative adjudication hearing, the local authority shall notify the person of the date and time of the hearing.

(c) A hearing officer designated by the governing body of the local authority shall conduct the administrative adjudication hearing.

(d) In an administrative adjudication hearing, the issues must be proven by a preponderance of the evidence.

(e) The reliability of the photographic traffic signal enforcement system used to produce the recorded image of the motor vehicle involved in the violation may be attested to by affidavit of an officer or employee of the local authority or of the entity with which the local authority contracts under Section 707.003(a)(1) who is responsible for inspecting and maintaining the system.

(f) An affidavit of an officer or employee of the local authority or entity that alleges a violation based on an inspection of the applicable recorded image is:

(1) admissible in the administrative adjudication hearing and in an appeal under Section 707.016; and

(2) evidence of the facts contained in the affidavit.

(g) At the conclusion of the administrative adjudication

hearing, the hearing officer shall enter a finding of liability for the civil penalty or a finding of no liability for the civil penalty. A finding under this subsection must be in writing and be signed and dated by the hearing officer.

(h) A finding of liability for a civil penalty must specify the amount of the civil penalty for which the person is liable. If the hearing officer enters a finding of no liability, a civil penalty for the violation may not be imposed against the person.

(i) A finding of liability or a finding of no liability entered under this section may:

(1) be filed with the clerk or secretary of the local authority or with a person designated by the governing body of the local authority; and

(2) be recorded on microfilm or microfiche or using data processing techniques.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. [1119](#)), Sec. 1, eff. September 1, 2007.

Sec. 707.015. UNTIMELY REQUEST FOR ADMINISTRATIVE ADJUDICATION HEARING. Notwithstanding any other provision of this chapter, a person who receives a notice of violation under this chapter and who fails to timely pay the amount of the civil penalty or fails to timely request an administrative adjudication hearing is entitled to an administrative adjudication hearing if:

(1) the person submits a written request for the hearing to the designated hearing officer, accompanied by an affidavit that attests to the date on which the person received the notice of violation; and

(2) the written request and affidavit are submitted to the hearing officer within the same number of days after the date the person received the notice of violation as specified under Section 707.011(c)(8).

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. [1119](#)), Sec. 1, eff. September 1, 2007.

Sec. 707.016. APPEAL. (a) The owner of a motor vehicle determined by a hearing officer to be liable for a civil penalty may

appeal that determination to a judge by filing an appeal petition with the clerk of the court. The petition must be filed with:

- (1) a justice court of the county in which the local authority is located; or
- (2) if the local authority is a municipality, the municipal court of the municipality.

(b) The petition must be:

- (1) filed before the 31st day after the date on which the administrative adjudication hearing officer entered the finding of liability for the civil penalty; and
- (2) accompanied by payment of the costs required by law for the court.

(c) The court clerk shall schedule a hearing and notify the owner of the motor vehicle and the appropriate department, agency, or office of the local authority of the date, time, and place of the hearing.

(d) An appeal stays enforcement and collection of the civil penalty imposed against the owner of the motor vehicle. The owner shall file a notarized statement of personal financial obligation to perfect the owner's appeal.

(e) An appeal under this section shall be determined by the court by trial de novo.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. [1119](#)), Sec. 1, eff. September 1, 2007.

Sec. 707.017. ENFORCEMENT. (a) If the owner of a motor vehicle is delinquent in the payment of a civil penalty imposed under this chapter, the county assessor-collector or the Texas Department of Motor Vehicles may refuse to register a motor vehicle alleged to have been involved in the violation.

(b) This section does not apply to the registration of a motor vehicle under Section 501.0234.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. [1119](#)), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 266 (H.B. [2530](#)), Sec. 1, eff. May 30, 2009.

Acts 2009, 81st Leg., R.S., Ch. 542 (S.B. [1617](#)), Sec. 4, eff.

September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 2T.03, eff. September 1, 2009.

Reenacted by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 24.018, eff. September 1, 2011.

Sec. 707.018. IMPOSITION OF CIVIL PENALTY NOT A CONVICTION. The imposition of a civil penalty under this chapter is not a conviction and may not be considered a conviction for any purpose.

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

Sec. 707.019. FAILURE TO PAY CIVIL PENALTY. (a) If the owner of the motor vehicle fails to timely pay the amount of the civil penalty imposed against the owner:

- (1) an arrest warrant may not be issued for the owner; and
- (2) the imposition of the civil penalty may not be recorded on the owner's driving record.

(b) Notice of Subsection (a) must be included in the notice of violation required by Section 707.011(c).

Added by Acts 2007, 80th Leg., R.S., Ch. 1149 (S.B. 1119), Sec. 1, eff. September 1, 2007.

CHAPTER 708. DRIVER RESPONSIBILITY PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 708.001. DEFINITIONS. In this chapter, "department" and "license" have the meanings assigned by Section 521.001.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Sec. 708.002. RULES. The department shall adopt and enforce rules to implement and enforce this chapter.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1,

2003.

Sec. 708.003. FINAL CONVICTIONS. For purposes of this chapter, a conviction for an offense to which this chapter applies is a final conviction, regardless of whether the sentence is probated.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

SUBCHAPTER B. DRIVER'S LICENSE POINTS SURCHARGE

Sec. 708.051. NONAPPLICABILITY. This subchapter does not apply to:

- (1) an offense committed before September 1, 2003; or
- (2) an offense covered by Subchapter C.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 2.03, eff. Jan. 11, 2004.

Sec. 708.052. ASSIGNMENT OF POINTS FOR CERTAIN CONVICTIONS.

(a) The driver's license of a person accumulates a point under this subchapter as of the date the department records a conviction of the person under Section 521.042 or other applicable law.

(b) For each conviction arising out of a separate transaction, the department shall assign points to a person's license as follows:

(1) two points for a moving violation of the traffic law of this state or another state that is not described by Subdivision (2); and

(2) three points for a moving violation of the traffic law of this state, another state, or a political subdivision of this or another state that resulted in an accident.

(c) The department by rule shall designate the offenses that constitute a moving violation of the traffic law under this section.

(d) Notwithstanding Subsection (b), the department may not assign points to a person's driver's license if the offense of which the person was convicted is the offense of speeding and the person was at the time of the offense driving less than 10 percent faster than the posted speed limit. This subsection does not apply to an

offense committed in a school crossing zone as defined by Section 541.302.

(e) Notwithstanding Subsection (b), the department may not assign points to a person's license if the offense committed by the person was adjudicated under Article 45.051 or 45.0511, Code of Criminal Procedure.

(f) For the purposes of this section, an offense under Section 545.412 is a moving violation of a traffic law.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 913 (H.B. 183), Sec. 5, eff. September 1, 2005.

Sec. 708.053. ANNUAL SURCHARGE FOR POINTS. Each year, the department shall assess a surcharge on the license of a person who has accumulated six or more points under this subchapter during the preceding 36-month period.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Sec. 708.054. AMOUNT OF POINTS SURCHARGE. The amount of a surcharge under this chapter is \$100 for the first six points and \$25 for each additional point.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Sec. 708.055. NOTICE OF ASSIGNMENT OF FIFTH POINT. The department shall notify the holder of a driver's license of the assignment of a fifth point on that license by first class mail sent to the person's most recent address as shown on the records of the department.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Sec. 708.056. DEDUCTION OF POINTS. The department by rule shall establish a procedure to provide for the deduction of one point accumulated by a person under this subchapter to account for each year that the person has not accumulated points under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 15.06, eff. September 1, 2011.

**SUBCHAPTER C. SURCHARGES FOR CERTAIN CONVICTIONS AND LICENSE
SUSPENSIONS**

Sec. 708.101. NONAPPLICABILITY. This subchapter does not apply to an offense committed before September 1, 2003.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 2.03, eff. Jan. 11, 2004.

Sec. 708.102. SURCHARGE FOR CONVICTION OF CERTAIN INTOXICATED DRIVER OFFENSES. (a) In this section, "offense relating to the operating of a motor vehicle while intoxicated" has the meaning assigned by Section 49.09, Penal Code.

(b) Each year the department shall assess a surcharge on the license of each person who during the preceding 36-month period has been finally convicted of an offense relating to the operating of a motor vehicle while intoxicated.

(c) The amount of a surcharge under this section is \$1,000 per year, except that the amount of the surcharge is:

(1) \$1,500 per year for a second or subsequent conviction within a 36-month period; and

(2) \$2,000 for a first or subsequent conviction if it is shown on the trial of the offense that an analysis of a specimen of the person's blood, breath, or urine showed an alcohol concentration level of 0.16 or more at the time the analysis was performed.

(d) A surcharge under this section for the same conviction may not be assessed in more than three years.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Sec. 708.103. SURCHARGE FOR CONVICTION OF DRIVING WHILE LICENSE INVALID OR WITHOUT FINANCIAL RESPONSIBILITY. (a) Each year the department shall assess a surcharge on the license of each person who during the preceding 36-month period has been convicted of an offense under Section 521.457, 601.191, or 601.371.

(b) Except as provided by Subsection (c), the amount of a surcharge under this section is \$250 per year.

(c) The amount of a surcharge under this section is \$125 per year if the person:

(1) has been convicted of an offense under Section 601.191, and no other offense described by Subsection (a); and

(2) establishes financial responsibility under Section 601.051 not later than the 60th day after the date of the offense through a motor vehicle liability insurance policy that:

(A) complies with Subchapter D, Chapter 601; and

(B) is prepaid and valid for at least a six-month period.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 40, eff. September 1, 2015.

Sec. 708.104. SURCHARGE FOR CONVICTION OF DRIVING WITHOUT VALID LICENSE. (a) Each year the department shall assess a surcharge on the license of a person who during the preceding 36-month period has been convicted of an offense under Section 521.021.

(b) Except as provided by Subsection (b-1), the amount of a surcharge under this section is \$100 per year.

(b-1) The amount of a surcharge under this section is \$50 per year if the person obtains a driver's license not later than the 60th day after the date of the offense.

(c) A surcharge under this section for the same conviction may not be assessed in more than three years.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 448 (H.B. 7), Sec. 41, eff. September 1, 2015.

Sec. 708.105. NOTICE OF POTENTIAL SURCHARGE. (a) A citation issued for an offense under a traffic law of this state or a political subdivision of this state must include, in type larger than any other type on the citation, the following statement:

"A conviction of an offense under a traffic law of this state or a political subdivision of this state may result in the assessment on your driver's license of a surcharge under the Driver Responsibility Program."

(b) The warning required by Subsection (a) is in addition to any other warning required by law.

Added by Acts 2005, 79th Leg., Ch. 1123 (H.B. 2470), Sec. 4, eff. September 1, 2005.

Sec. 708.106. DEFERRAL OF SURCHARGES FOR DEPLOYED MILITARY PERSONNEL. The department by rule shall establish a deferral program for surcharges assessed under Section 708.103 or 708.104 against a person who is a member of the United States armed forces on active duty deployed outside of the continental United States. The program must:

- (1) toll the 36-month period while the person is deployed;
- and
- (2) defer assessment of surcharges against the person until the date the person is no longer deployed for an offense committed:
 - (A) before the person was deployed; or
 - (B) while the person is deployed.

Added by Acts 2011, 82nd Leg., R.S., Ch. 551 (H.B. 2851), Sec. 1, eff. September 1, 2011.

SUBCHAPTER D. COLLECTION OF SURCHARGES

Sec. 708.151. NOTICE OF SURCHARGE. (a) The department shall

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

(1) be sent by first class mail to the person's most recent address as shown on the records of the department or to the person's most recent forwarding address on record with the United States Postal Service if it is different;

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

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

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

(b) The department shall send a first notice not later than the fifth day after the date the surcharge is assessed.

(c) If on or before the 45th day after the date the first notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with the department, the department shall send a second notice. If on or before the 60th day after the date the second notice was sent the person fails to pay the amount of the surcharge or fails to enter into an installment payment agreement with the department, the department shall send a third notice that advises the person that the person's driving privileges are suspended.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. [2730](#)), Sec. 15.01, eff. September 1, 2011.

Sec. 708.152. FAILURE TO PAY SURCHARGE. (a) If on the 60th day after the date the department sends a second notice under Section 708.151 the person fails to pay the amount of a surcharge on the person's license or fails to enter into an installment payment agreement with the department, the license of the person is automatically suspended. A person's license may not be suspended

under this section before the 105th day after the date the surcharge was assessed by the department.

(b) A license suspended under this section remains suspended until the person pays the amount of the surcharge and any related costs.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 15.02, eff. September 1, 2011.

Sec. 708.153. INSTALLMENT PAYMENT OF SURCHARGE. (a) The department by rule shall provide for the payment of a surcharge in installments.

(b) A rule under this section:

(1) may not require a person to:

(A) pay surcharges that total \$500 or more over a period of less than 36 consecutive months;

(B) pay surcharges that total more than \$250 but not more than \$499 over a period of less than 24 consecutive months; or

(C) pay surcharges that total \$249 or less over a period of less than 12 consecutive months; and

(2) may provide that if the person fails to make any required monthly installment payment, the department may reestablish the installment plan on receipt of a payment in the amount equal to at least a required monthly installment payment.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1123 (H.B. 2470), Sec. 5, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 573 (S.B. 1723), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 15.03, eff. September 1, 2011.

Sec. 708.154. CREDIT CARD PAYMENT OF SURCHARGE. (a) The

department by rule may authorize the payment of a surcharge by use of a credit card. The rules shall require the person to pay all costs incurred by the department in connection with the acceptance of the credit card.

(b) If a surcharge or a related cost is paid by credit card and the amount is subsequently reversed by the issuer of the credit card, the license of the person is automatically suspended.

(c) A license suspended under this section remains suspended until the person pays the amount of the surcharge and any related costs.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Sec. 708.155. CONTRACTS FOR COLLECTION OF SURCHARGES. (a) The department may enter into a contract with a private attorney or a public or private vendor for the provision of services for the collection of surcharges receivable and related costs under this chapter.

(b) To provide for alternative or additional collection methods for surcharges receivable, the department may amend a contract entered into under Subsection (a) and enter into additional contracts under Subsection (a).

(c) The total amount of compensation under a contract entered into under this section may not exceed 30 percent of the amount of the surcharges and related costs collected.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 8, Sec. 2.04, eff. Jan. 11, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 573 (S.B. [1723](#)), Sec. 2, eff. September 1, 2007.

Sec. 708.156. REMITTANCE OF SURCHARGES COLLECTED TO COMPTROLLER. Each surcharge collected by the department under this chapter shall be remitted to the comptroller as required by Section 780.002, Health and Safety Code.

Added by Acts 2003, 78th Leg., ch. 1325, Sec. 10.01, eff. Sept. 1, 2003.

Sec. 708.157. AMNESTY AND INCENTIVES. (a) The department by rule may establish a periodic amnesty program for holders of a driver's license on which a surcharge has been assessed for certain offenses, as determined by the department.

(b) The department by rule shall offer a holder of a driver's license on which a surcharge has been assessed an incentive for compliance with the law and efforts at rehabilitation, including a reduction of a surcharge or a decrease in the length of an installment plan.

(c) The department by rule shall establish an indigency program for holders of a driver's license on which a surcharge has been assessed for certain offenses, as determined by the department.

Added by Acts 2007, 80th Leg., R.S., Ch. 573 (S.B. 1723), Sec. 3, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.10, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 15.05, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 711 (H.B. 588), Sec. 1, eff. September 1, 2011.

Sec. 708.158. INDIGENT STATUS AND REDUCTION OF SURCHARGES. (a) The department shall waive all surcharges assessed under this chapter for a person who is indigent. For the purposes of this section, a person is considered to be indigent if the person provides the evidence described by Subsection (b) to the court.

(b) A person must provide information to the court in which the person is convicted of the offense that is the basis for the surcharge to establish that the person is indigent. The following documentation may be used as proof:

(1) a copy of the person's most recent federal income tax return that shows that the person's income or the person's household income does not exceed 125 percent of the applicable income level

established by the federal poverty guidelines;

(2) a copy of the person's most recent statement of wages that shows that the person's income or the person's household income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines; or

(3) documentation from a federal agency, state agency, or school district that indicates that the person or, if the person is a dependent as defined by Section 152, Internal Revenue Code of 1986, the taxpayer claiming the person as a dependent, receives assistance from:

(A) the food stamp program or the financial assistance program established under Chapter 31, Human Resources Code;

(B) the federal special supplemental nutrition program for women, infants, and children authorized by 42 U.S.C. Section 1786;

(C) the medical assistance program under Chapter 32, Human Resources Code;

(D) the child health plan program under Chapter 62, Health and Safety Code; or

(E) the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 15.04, eff. September 1, 2011.

Sec. 708.159. ADVANCE PAYMENT OF SURCHARGES. (a) The department shall offer an option for a single up-front payment to a person who is assessed an annual surcharge under this chapter to allow the person to pay in advance the total amount that will be owed for the 36-month period for which the surcharge will be assessed.

(b) Notice under Section 708.151 of an initial surcharge imposed under this chapter must notify the driver's license holder of:

(1) the total amount the person will owe for the 36-month period for which the surcharge will be assessed; and

(2) the availability of the advance payment option under this section.

(c) If a person makes a single up-front payment under this section in the amount specified in the notice under Subsection (b)(1)

and the person is not, in the 36-month period for which the person made the up-front payment, subsequently convicted of an offense requiring a surcharge or an increase in the amount due to the department, the department is not required to:

- (1) take any further action under Section 708.053, 708.102, 708.103, or 708.104, as applicable; or
- (2) annually notify the person of the assessment of the surcharge under Section 708.151.

Added by Acts 2011, 82nd Leg., R.S., Ch. 711 (H.B. 588), Sec. 2, eff. September 1, 2011.

CHAPTER 720. MISCELLANEOUS PROVISIONS

Sec. 720.001. BADGE OF SHERIFF, CONSTABLE, OR DEPUTY. (a) A sheriff, constable, or deputy sheriff or deputy constable may not arrest or accost a person for driving a motor vehicle on a highway in violation of a law relating to motor vehicles unless the sheriff, constable, or deputy displays a badge showing the sheriff's, constable's, or deputy's title.

(b) A person commits an offense if the person violates this section. An offense under this section is a misdemeanor punishable in the same manner as an offense under Section 86.011, Local Government Code.

(c) An officer charged by law to take or prosecute a complaint under this section shall be removed from office if the officer refuses to do so.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 720.002. PROHIBITION ON TRAFFIC-OFFENSE QUOTAS. (a) A political subdivision or an agency of this state may not establish or maintain, formally or informally, a plan to evaluate, promote, compensate, or discipline:

- (1) a peace officer according to the officer's issuance of a predetermined or specified number of any type or combination of types of traffic citations; or
- (2) a justice of the peace or a judge of a county court, statutory county court, municipal court, or municipal court of record according to the amount of money the justice or judge collects from

persons convicted of a traffic offense.

(b) A political subdivision or an agency of this state may not require or suggest to a peace officer, a justice of the peace, or a judge of a county court, statutory county court, municipal court, or municipal court of record:

(1) that the peace officer is required or expected to issue a predetermined or specified number of any type or combination of types of traffic citations within a specified period; or

(2) that the justice or judge is required or expected to collect a predetermined amount of money from persons convicted of a traffic offense within a specified period.

(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 737, Sec. 1, eff. June 19, 2009.

(d) This section does not prohibit a municipality from obtaining budgetary information from a municipal court or a municipal court of record, including an estimate of the amount of money the court anticipates will be collected in a budget year.

(e) A violation of this section by an elected official is misconduct and a ground for removal from office. A violation of this section by a person who is not an elected official is a ground for removal from the person's position.

(f) In this section:

(1) "Conviction" means the rendition of an order by a court imposing a punishment of incarceration or a fine.

(2) "Traffic offense" means an offense under:

(A) Chapter 521; or

(B) Subtitle C.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 737 (S.B. 420), Sec. 1, eff. June 19, 2009.

SUBTITLE J. MISCELLANEOUS PROVISIONS

CHAPTER 721. INSCRIPTION REQUIRED ON STATE, MUNICIPAL, AND COUNTY MOTOR VEHICLES

Sec. 721.001. DEFINITION. In this chapter, "state agency" means a department, bureau, board, commission, or office of state government.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 721.002. INSCRIPTION REQUIRED ON STATE-OWNED MOTOR VEHICLES. (a) The official having control of a state-owned motor vehicle shall have printed on each side of the vehicle the word "Texas," followed by the title of the state agency having custody of the vehicle.

(b) The inscription must be in a color sufficiently different from the body of the motor vehicle so that the lettering is plainly legible at a distance of not less than 100 feet.

(c) The title of the state agency must be in letters not less than two inches high.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 721.003. EXEMPTION FROM INSCRIPTION REQUIREMENT FOR CERTAIN STATE-OWNED MOTOR VEHICLES. (a) The governing bodies of the following state agencies or divisions by rule may exempt from the requirements of Section 721.002 a motor vehicle that is under the control and custody of the agency or division:

- (1) Texas Commission on Fire Protection;
- (2) Texas State Board of Pharmacy;
- (3) Department of State Health Services and Department of Aging and Disability Services;
- (4) Department of Public Safety of the State of Texas;
- (5) Texas Department of Criminal Justice;
- (6) Board of Pardons and Paroles;
- (7) Parks and Wildlife Department;
- (8) Railroad Commission of Texas;
- (9) Texas Alcoholic Beverage Commission;
- (10) Texas Department of Banking;
- (11) Department of Savings and Mortgage Lending;
- (12) Texas Juvenile Justice Department;
- (13) Texas Commission on Environmental Quality;
- (14) Texas Lottery Commission;
- (15) the office of the attorney general;
- (16) Texas Department of Insurance; and
- (17) an agency that receives an appropriation under an

article of the General Appropriations Act that appropriates money to the legislature.

(b) Repealed by Acts 2001, 77th Leg., ch. 81, Sec. 2, eff. Sept. 1, 2001.

(c) A rule adopted under this section must specify:

(1) the purpose served by not printing on the motor vehicle the inscription required by Section 721.002; and

(2) the primary use of the motor vehicle.

(d) A rule adopted under this section is not effective until the rule is filed with the secretary of state.

(e) A rule adopted by the Texas Lottery Commission under Subsection (a) may exempt from the requirements of Section 721.002 only a motor vehicle used exclusively for surveillance purposes.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 81, Sec. 1, 2, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 6.066, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 48, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 147, eff. September 1, 2015.

Sec. 721.004. INSCRIPTION REQUIRED ON MUNICIPAL AND COUNTY-OWNED MOTOR VEHICLES AND HEAVY EQUIPMENT. (a) The office having control of a motor vehicle or piece of heavy equipment owned by a municipality or county shall have printed on each side of the vehicle or equipment the name of the municipality or county, followed by the title of the department or office having custody of the vehicle or equipment.

(b) The inscription must be in a color sufficiently different from the body of the vehicle or equipment so that the lettering is plainly legible.

(c) The title of the department or office must be in letters plainly legible at a distance of not less than 100 feet.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 721.005. EXEMPTION FROM INSCRIPTION REQUIREMENT FOR CERTAIN MUNICIPAL AND COUNTY-OWNED MOTOR VEHICLES. (a) The governing body of a municipality may exempt from the requirements of Section 721.004:

(1) an automobile when used to perform an official duty by a:

- (A) police department;
- (B) magistrate as defined by Article 2.09, Code of Criminal Procedure;
- (C) medical examiner;
- (D) municipal code enforcement officer designated to enforce environmental criminal laws; or

(E) municipal fire marshal or arson investigator; or
 (2) an automobile used by a municipal employee only when conducting an investigation involving suspected fraud or other mismanagement within the municipality.

(b) The commissioners court of a county may exempt from the requirements of Section 721.004:

(1) an automobile when used to perform an official duty by a:

- (A) police department;
- (B) sheriff's office;
- (C) constable's office;
- (D) criminal district attorney's office;
- (E) district attorney's office;
- (F) county attorney's office;
- (G) magistrate as defined by Article 2.09, Code of Criminal Procedure;
- (H) county fire marshal's office; or
- (I) medical examiner; or

(2) a juvenile probation department vehicle used to transport children, when used to perform an official duty.

(c) An exemption provided under this section does not apply to a contract deputy.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 355, Sec. 1, eff. May 27, 1997; Acts 1997, 75th Leg., ch. 46, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 17.38, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 66, Sec. 1, eff. May 14, 2001; Acts 2001, 77th Leg., ch. 140,

Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 45 (S.B. 526), Sec. 1, eff. May 8, 2007.

Sec. 721.006. OPERATION OF VEHICLE IN VIOLATION OF CHAPTER; OFFENSE. (a) A person commits an offense if the person:

(1) operates on a municipal street or on a highway a motor vehicle or piece of equipment that does not have the inscription required by this chapter; or

(2) uses a motor vehicle that is exempt by rule under Section 721.003, and that use is not expressly specified by the rule.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$100.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 722. AUTOMOBILE CLUB SERVICES

Sec. 722.001. SHORT TITLE. This chapter may be cited as the Automobile Club Services Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 722.002. DEFINITIONS. In this chapter:

(1) "Agent" means a salesman or other individual appointed by an automobile club to sell memberships in the club to the public.

(2) "Automobile club" means a person who, for consideration, promises the membership assistance in matters relating to travel, and to the operation, use, or maintenance of a motor vehicle, by supplying services such as services related to:

- (A) community traffic safety;
- (B) travel and touring;
- (C) theft prevention or rewards;
- (D) maps;
- (E) towing;
- (F) emergency road assistance;
- (G) bail bonds and legal fee reimbursement in the

defense of traffic offenses; and

(H) purchase of accidental injury and death benefits insurance coverage from an authorized insurance company.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 722.003. CERTIFICATE OF AUTHORITY REQUIRED. (a) A person may not engage in business as an automobile club unless the person meets the requirements of this chapter and obtains an automobile club certificate of authority from the secretary of state.

(b) A person may not solicit or aid in the solicitation of another person to purchase a service contract or membership issued by an automobile club that does not hold an automobile club certificate of authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 722.004. APPLICATION. (a) Each applicant for an automobile club certificate of authority must file an application with the secretary of state in the form and manner prescribed by the secretary. The secretary shall adopt the forms necessary for an applicant to comply with this chapter and shall furnish those forms on request to an applicant for a certificate of authority.

(b) An application must be executed under oath by the club president or other principal club officer and must be accompanied by:

(1) the first year's annual fee for the certificate of authority;

(2) a certificate by the secretary of state stating that the applicant has complied with the corporation laws of this state, if the applicant is a corporation;

(3) a list of each person who holds an ownership interest in the applicant and each officer of the applicant, if the applicant is not incorporated;

(4) a copy of any operating agreement or management agreement affecting the club and a list of each party to the agreement if the applicant is not incorporated; and

(5) proof of security in a manner that complies with Section 722.005.

(c) The secretary of state shall issue the automobile club certificate of authority or deny the application not later than the

15th day after the day the secretary receives the application, certificate, or security. Failure to issue the certificate of authority within the prescribed time entitles the applicant to a refund of all money and security deposited with the application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 722.005. SECURITY REQUIREMENTS. (a) An applicant for an automobile club certificate of authority may provide the security required for that certificate by depositing with the state or pledging in the form prescribed by the secretary of state:

- (1) \$25,000 in securities approved by the secretary;
- (2) \$25,000 in cash; or
- (3) a \$25,000 bond in the form prescribed by the secretary

that is:

(A) payable to the state;

(B) executed by a corporate surety licensed to do business in this state; and

(C) conditioned on the faithful performance of the automobile club in selling or providing club services and the payment of any fines or penalties levied against the club for failure to comply with this chapter.

(b) The aggregate liability of the surety for all breaches of the bond conditions and for payment of all fines and penalties may not exceed the amount of the bond.

(c) The required security shall be maintained as long as the automobile club has any liability or obligation in this state. On showing to the satisfaction of the secretary of state that the club has ceased to do business and that all liabilities and obligations of the club have been satisfied, the secretary may return the security to the club or deliver the security in accordance with a court order.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 722.006. RENEWAL. (a) An automobile club certificate of authority expires annually on August 31. The certificate may be renewed by filing a renewal application in the manner prescribed by the secretary of state and paying the annual fee.

(b) The secretary of state may adopt forms for the renewal

application.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 722.007. ANNUAL FEE. The annual fee for an automobile club certificate of authority is \$150.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 722.008. CERTIFICATE REVOCATION OR SUSPENSION. (a) After a public hearing, the secretary of state shall revoke or suspend an automobile club's certificate of authority if the secretary determines, for good cause shown, that:

- (1) the club:
 - (A) has violated this chapter;
 - (B) is not acting as an automobile club;
 - (C) is insolvent or has assets valued at less than its liabilities;
 - (D) has refused to submit to an examination by the secretary; or
 - (E) is transacting business in a fraudulent manner; or
- (2) an owner, officer, or manager of the club is not of good moral character.

(b) The secretary of state shall give public notice of the suspension or revocation in the manner the secretary considers appropriate.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 722.009. SERVICE CONTRACT; MEMBERSHIP INFORMATION. (a) Each automobile club operating under this chapter shall furnish to the membership a service contract or membership card that includes the following information:

- (1) the club's name;
- (2) the street address of the club's home office and of its usual place of business in this state; and
- (3) a description of the services or benefits to which the members are entitled.

(b) For purposes of this chapter, the completed application for an automobile club certificate of authority and the description of services listed under Subsection (a) constitute the service contract.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 722.010. FILING OF INFORMATION. (a) Each automobile club shall file a certified copy of its service contract with the secretary of state.

(b) If an automobile club provides participation in a group accidental injury or death policy, the club shall file with the service contract a copy of the certificate of participation.

(c) An automobile club shall file with the secretary of state any change to the service contract.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 722.011. AGENT REGISTRATION. (a) An automobile club that operates in this state under an automobile club certificate of authority shall file with the secretary of state a notice of appointment of each agent not later than the 30th day after the date on which that agent is employed by the club.

(b) The notice of appointment must be in the form prescribed by the secretary of state and must contain:

(1) the name, address, age, sex, and social security number of the agent; and

(2) proof satisfactory to the secretary that the agent is of good moral character.

(c) Registration under this section is valid for one year from the date of the initial registration and may be renewed on each anniversary of that date. The annual registration fee is \$10.

(d) Each automobile club shall notify the secretary of state of the termination of an agent's employment by the club not later than the 30th day after the date of the termination.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 722.012. ADVERTISING RESTRICTIONS. An automobile club

operating under this chapter may not:

(1) refer to its certificate of authority or to approval by the secretary of state in any advertising, contract, or membership card; or

(2) advertise or describe its services in a manner that would lead the public to believe that the services include automobile insurance.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 722.014. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine not to exceed \$500; and

(2) confinement in the county jail for a term not to exceed six months.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 723. TEXAS TRAFFIC SAFETY ACT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 723.001. SHORT TITLE. This chapter may be cited as the Texas Traffic Safety Act.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 723.002. GOVERNMENTAL PURPOSE. The establishment, development, and maintenance of a traffic safety program is a vital governmental purpose and function of the state and its legal and political subdivisions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 723.003. TRAFFIC SAFETY FUND ACCOUNT. (a) The traffic safety fund account is an account in the general revenue fund. Money received from any source to implement this chapter shall be:

(1) deposited to the credit of the traffic safety fund account; and

(2) spent with other state money spent to implement this chapter in the manner in which the other state money is spent.

(b) A payment from the traffic safety fund account shall be made in compliance with this chapter and rules adopted by the governor.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.162, eff. Sept. 1, 1997.

SUBCHAPTER B. PREPARATION AND ADMINISTRATION OF TRAFFIC SAFETY PROGRAM

Sec. 723.011. GOVERNOR'S RESPONSIBILITY FOR PROGRAM. (a) The governor shall:

(1) prepare and administer a statewide traffic safety program designed to reduce traffic accidents and the death, injury, and property damage that result from traffic accidents;

(2) adopt rules for the administration of this chapter, including rules, procedures, and policy statements governing grants-in-aid and contractual relations;

(3) receive on the state's behalf for the implementation of this chapter money made available by the United States under federal law; and

(4) allocate money appropriated by the legislature in the General Appropriations Act to implement this chapter.

(b) In preparing and administering the traffic safety program, the governor may:

(1) cooperate with the United States or a legal or political subdivision of the state in research designed to aid in traffic safety;

(2) accept federal money available for research relating to traffic safety; and

(3) employ personnel necessary to administer this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 723.012. TRAFFIC SAFETY PROGRAM. The statewide traffic safety program must include:

(1) a driver education and training program administered by the governor through appropriate agencies that complies with Section 723.013;

- (2) plans for improving:
- (A) driver licensing;
 - (B) accident records;
 - (C) vehicle inspection, registration, and titling;
 - (D) traffic engineering;
 - (E) personnel;
 - (F) police traffic supervision;
 - (G) traffic courts;
 - (H) highway design; and
 - (I) uniform traffic laws; and

(3) plans for local traffic safety programs by legal and political subdivisions of this state that may be implemented if the programs:

- (A) are approved by the governor; and
- (B) conform with uniform standards adopted under the Highway Safety Act of 1966 (23 U.S.C. Sec. 401 et seq.).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 723.013. DRIVER EDUCATION AND TRAINING PROGRAM. (a) The statewide driver education and training program required by Section 723.012 shall provide for:

- (1) rules that permit controlled innovation and experimentation and that set minimum standards for:
- (A) classroom instruction;
 - (B) driving skills training;
 - (C) instructor qualifications;
 - (D) program content; and
 - (E) supplementary materials and equipment;
- (2) a method for continuing evaluation of approved driver education and training programs to identify the practices most effective in preventing traffic accidents; and
- (3) contracts between the governing bodies of centrally located independent school districts or other appropriate public or private agencies and the state to provide approved driver education and training programs.

(b) Instruction offered under a contract authorized by this section must be offered to any applicant who is over 15 years of age.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 723.014. COOPERATION OF STATE AGENCIES, OFFICERS, AND EMPLOYEES. On the governor's request, a state agency or institution, state officer, or state employee shall cooperate in an activity of the state that is consistent with:

(1) this chapter; and

(2) the agency's, institution's, officer's, or employee's official functions.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 723.015. PARTICIPATION IN PROGRAM BY LEGAL OR POLITICAL SUBDIVISION. A legal or political subdivision of this state may:

(1) cooperate and contract with the state, another legal or political subdivision of this state, or a private person in establishing, developing, and maintaining a statewide traffic safety program;

(2) spend money from any source for an activity related to performing a part of the traffic safety program; and

(3) contract and pay for a personal service or property to be used in the traffic safety program or for an activity related to the program.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. GIFTS, GRANTS, DONATIONS, GRANTS-IN-AID, AND PAYMENTS

Sec. 723.031. GIFTS, GRANTS, AND DONATIONS. To implement this chapter, the state may accept and spend a gift, grant, or donation of money or other property from a private source.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 723.032. GRANTS-IN-AID AND CONTRACTUAL PAYMENTS. (a) A

grant-in-aid for a governmental purpose or a contractual payment may be made to a legal or political subdivision of this state to carry out a duty or activity that is part of the statewide traffic safety program.

(b) To implement this chapter, a contractual payment may be made from money in the traffic safety fund account for a service rendered or property furnished by a private person or an agency that is not a legal or political subdivision of this state.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.162, eff. Sept. 1, 1997.

CHAPTER 724. IMPLIED CONSENT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 724.001. DEFINITIONS. In this chapter:

(1) "Alcohol concentration" has the meaning assigned by Section 49.01, Penal Code.

(2) "Arrest" includes the taking into custody of a child, as defined by Section 51.02, Family Code.

(3) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(4) "Criminal charge" includes a charge that may result in a proceeding under Title 3, Family Code.

(5) "Criminal proceeding" includes a proceeding under Title 3, Family Code.

(6) "Dangerous drug" has the meaning assigned by Section 483.001, Health and Safety Code.

(7) "Department" means the Department of Public Safety.

(8) "Drug" has the meaning assigned by Section 481.002, Health and Safety Code.

(9) "Intoxicated" has the meaning assigned by Section 49.01, Penal Code.

(10) "License" has the meaning assigned by Section 521.001.

(11) "Operate" means to drive or be in actual control of a motor vehicle or watercraft.

(12) "Public place" has the meaning assigned by Section 1.07, Penal Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 31, eff. Sept. 1, 1997.

Sec. 724.002. APPLICABILITY. The provisions of this chapter that apply to suspension of a license for refusal to submit to the taking of a specimen (Sections 724.013, 724.015, and 724.048 and Subchapters C and D) apply only to a person arrested for an offense involving the operation of a motor vehicle or watercraft powered with an engine having a manufacturer's rating of 50 horsepower or above.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 444, Sec. 7, eff. Sept. 1, 2001.

Sec. 724.003. RULEMAKING. The department and the State Office of Administrative Hearings shall adopt rules to administer this chapter.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. TAKING AND ANALYSIS OF SPECIMEN

Sec. 724.011. CONSENT TO TAKING OF SPECIMEN. (a) If a person is arrested for an offense arising out of acts alleged to have been committed while the person was operating a motor vehicle in a public place, or a watercraft, while intoxicated, or an offense under Section 106.041, Alcoholic Beverage Code, the person is deemed to have consented, subject to this chapter, to submit to the taking of one or more specimens of the person's breath or blood for analysis to determine the alcohol concentration or the presence in the person's body of a controlled substance, drug, dangerous drug, or other substance.

(b) A person arrested for an offense described by Subsection (a) may consent to submit to the taking of any other type of specimen to determine the person's alcohol concentration.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 32, eff. Sept. 1, 1997.

Sec. 724.012. TAKING OF SPECIMEN. (a) One or more specimens of a person's breath or blood may be taken if the person is arrested

and at the request of a peace officer having reasonable grounds to believe the person:

(1) while intoxicated was operating a motor vehicle in a public place, or a watercraft; or

(2) was in violation of Section 106.041, Alcoholic Beverage Code.

(b) A peace officer shall require the taking of a specimen of the person's breath or blood under any of the following circumstances if the officer arrests the person for an offense under Chapter 49, Penal Code, involving the operation of a motor vehicle or a watercraft and the person refuses the officer's request to submit to the taking of a specimen voluntarily:

(1) the person was the operator of a motor vehicle or a watercraft involved in an accident that the officer reasonably believes occurred as a result of the offense and, at the time of the arrest, the officer reasonably believes that as a direct result of the accident:

(A) any individual has died or will die;

(B) an individual other than the person has suffered serious bodily injury; or

(C) an individual other than the person has suffered bodily injury and been transported to a hospital or other medical facility for medical treatment;

(2) the offense for which the officer arrests the person is an offense under Section 49.045, Penal Code; or

(3) at the time of the arrest, the officer possesses or receives reliable information from a credible source that the person:

(A) has been previously convicted of or placed on community supervision for an offense under Section 49.045, 49.07, or 49.08, Penal Code, or an offense under the laws of another state containing elements substantially similar to the elements of an offense under those sections; or

(B) on two or more occasions, has been previously convicted of or placed on community supervision for an offense under Section 49.04, 49.05, 49.06, or 49.065, Penal Code, or an offense under the laws of another state containing elements substantially similar to the elements of an offense under those sections.

(c) The peace officer shall designate the type of specimen to be taken.

(d) In this section, "bodily injury" and "serious bodily

injury" have the meanings assigned by Section 1.07, Penal Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 33, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 422, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 18, eff. September 1, 2009.

Sec. 724.013. PROHIBITION ON TAKING SPECIMEN IF PERSON REFUSES; EXCEPTION. Except as provided by Section 724.012(b), a specimen may not be taken if a person refuses to submit to the taking of a specimen designated by a peace officer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 724.014. PERSON INCAPABLE OF REFUSAL. (a) A person who is dead, unconscious, or otherwise incapable of refusal is considered not to have withdrawn the consent provided by Section 724.011.

(b) If the person is dead, a specimen may be taken by:

(1) the county medical examiner or the examiner's designated agent; or

(2) a licensed mortician or a person authorized under Section 724.016 or 724.017 if there is not a county medical examiner for the county.

(c) If the person is alive but is incapable of refusal, a specimen may be taken by a person authorized under Section 724.016 or 724.017.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 724.015. INFORMATION PROVIDED BY OFFICER BEFORE REQUESTING SPECIMEN. Before requesting a person to submit to the taking of a specimen, the officer shall inform the person orally and in writing that:

(1) if the person refuses to submit to the taking of the specimen, that refusal may be admissible in a subsequent prosecution;

(2) if the person refuses to submit to the taking of the

specimen, the person's license to operate a motor vehicle will be automatically suspended, whether or not the person is subsequently prosecuted as a result of the arrest, for not less than 180 days;

(3) if the person refuses to submit to the taking of a specimen, the officer may apply for a warrant authorizing a specimen to be taken from the person;

(4) if the person is 21 years of age or older and submits to the taking of a specimen designated by the officer and an analysis of the specimen shows the person had an alcohol concentration of a level specified by Chapter 49, Penal Code, the person's license to operate a motor vehicle will be automatically suspended for not less than 90 days, whether or not the person is subsequently prosecuted as a result of the arrest;

(5) if the person is younger than 21 years of age and has any detectable amount of alcohol in the person's system, the person's license to operate a motor vehicle will be automatically suspended for not less than 60 days even if the person submits to the taking of the specimen, but that if the person submits to the taking of the specimen and an analysis of the specimen shows that the person had an alcohol concentration less than the level specified by Chapter 49, Penal Code, the person may be subject to criminal penalties less severe than those provided under that chapter;

(6) if the officer determines that the person is a resident without a license to operate a motor vehicle in this state, the department will deny to the person the issuance of a license, whether or not the person is subsequently prosecuted as a result of the arrest, under the same conditions and for the same periods that would have applied to a revocation of the person's driver's license if the person had held a driver's license issued by this state; and

(7) the person has a right to a hearing on the suspension or denial if, not later than the 15th day after the date on which the person receives the notice of suspension or denial or on which the person is considered to have received the notice by mail as provided by law, the department receives, at its headquarters in Austin, a written demand, including a facsimile transmission, or a request in another form prescribed by the department for the hearing.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 34, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 444, Sec. 8, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 674 (S.B. 1787), Sec. 1, eff. September 1, 2011.

Sec. 724.016. BREATH SPECIMEN. (a) A breath specimen taken at the request or order of a peace officer must be taken and analyzed under rules of the department by an individual possessing a certificate issued by the department certifying that the individual is qualified to perform the analysis.

(b) The department may:

(1) adopt rules approving satisfactory analytical methods;
and

(2) ascertain the qualifications of an individual to perform the analysis.

(c) The department may revoke a certificate for cause.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 724.017. TAKING OF BLOOD SPECIMEN. (a) Only the following may take a blood specimen at the request or order of a peace officer under this chapter:

(1) a physician;

(2) a qualified technician;

(3) a registered professional nurse;

(4) a licensed vocational nurse; or

(5) a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic authorized to take a blood specimen under Subsection (c).

(a-1) The blood specimen must be taken in a sanitary place.

(b) If the blood specimen was taken according to recognized medical procedures, the person who takes the blood specimen under this chapter, the facility that employs the person who takes the blood specimen, or the hospital where the blood specimen is taken is immune from civil liability for damages arising from the taking of the blood specimen at the request or order of the peace officer or pursuant to a search warrant as provided by this chapter and is not subject to discipline by any licensing or accrediting agency or body. This subsection does not relieve a person from liability for

negligence in the taking of a blood specimen. The taking of a specimen from a person who objects to the taking of the specimen or who is resisting the taking of the specimen does not in itself constitute negligence and may not be considered evidence of negligence.

(c) A licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic may take a blood specimen only if authorized by the medical director for the entity that employs the technician-intermediate or technician-paramedic. The specimen must be taken according to a protocol developed by the medical director that provides direction to the technician-intermediate or technician-paramedic for the taking of a blood specimen at the request or order of a peace officer. In this subsection, "medical director" means a licensed physician who supervises the provision of emergency medical services by a public or private entity that:

- (1) provides those services; and
- (2) employs one or more licensed or certified emergency medical technician-intermediates or emergency medical technician-paramedics.

(c-1) A protocol developed under Subsection (c) may address whether an emergency medical technician-intermediate or emergency medical technician-paramedic engaged in the performance of official duties is entitled to refuse to:

- (1) go to the location of a person from whom a peace officer requests or orders the taking of a blood specimen solely for the purpose of taking that blood specimen;
- (2) take a blood specimen if the technician-intermediate or technician-paramedic reasonably believes that complying with the peace officer's request or order to take the specimen would impair or interfere with the provision of patient care or the performance of other official duties; or

(3) provide the equipment or supplies necessary to take a blood specimen.

(c-2) If a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic takes a blood specimen at the request or order of a peace officer, a peace officer must:

- (1) observe the taking of the specimen; and
- (2) immediately take possession of the specimen for

purposes of establishing a chain of custody.

(d) A person whose blood specimen is taken under this chapter in a hospital is not considered to be present in the hospital for medical screening or treatment unless the appropriate hospital personnel determine that medical screening or treatment is required for proper medical care of the person.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1348 (S.B. 328), Sec. 19, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 247 (H.B. 434), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 247 (H.B. 434), Sec. 2, eff. September 1, 2013.

Sec. 724.018. FURNISHING INFORMATION CONCERNING TEST RESULTS.

On the request of a person who has given a specimen at the request of a peace officer, full information concerning the analysis of the specimen shall be made available to the person or the person's attorney.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 724.019. ADDITIONAL ANALYSIS BY REQUEST. (a) A person who submits to the taking of a specimen of breath, blood, urine, or another bodily substance at the request or order of a peace officer may, on request and within a reasonable time not to exceed two hours after the arrest, have a physician, qualified technician, chemist, or registered professional nurse selected by the person take for analysis an additional specimen of the person's blood.

(b) The person shall be allowed a reasonable opportunity to contact a person specified by Subsection (a).

(c) A peace officer or law enforcement agency is not required to transport for testing a person who requests that a blood specimen be taken under this section.

(d) The failure or inability to obtain an additional specimen or analysis under this section does not preclude the admission of evidence relating to the analysis of the specimen taken at the

request or order of the peace officer.

(e) A peace officer, another person acting for or on behalf of the state, or a law enforcement agency is not liable for damages arising from a person's request to have a blood specimen taken.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. SUSPENSION OR DENIAL OF LICENSE ON REFUSAL OF SPECIMEN

Sec. 724.031. STATEMENT REQUESTED ON REFUSAL. If a person refuses the request of a peace officer to submit to the taking of a specimen, the peace officer shall request the person to sign a statement that:

- (1) the officer requested that the person submit to the taking of a specimen;
- (2) the person was informed of the consequences of not submitting to the taking of a specimen; and
- (3) the person refused to submit to the taking of a specimen.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 724.032. OFFICER'S DUTIES FOR LICENSE SUSPENSION; WRITTEN REFUSAL REPORT. (a) If a person refuses to submit to the taking of a specimen, whether expressly or because of an intentional failure of the person to give the specimen, the peace officer shall:

- (1) serve notice of license suspension or denial on the person;
- (2) take possession of any license issued by this state and held by the person arrested;
- (3) issue a temporary driving permit to the person unless department records show or the officer otherwise determines that the person does not hold a license to operate a motor vehicle in this state; and
- (4) make a written report of the refusal to the director of the department.

(b) The director must approve the form of the refusal report. The report must:

- (1) show the grounds for the officer's belief that the person had been operating a motor vehicle or watercraft powered with

an engine having a manufacturer's rating of 50 horsepower or above while intoxicated; and

(2) contain a copy of:

(A) the refusal statement requested under Section 724.031; or

(B) a statement signed by the officer that the person refused to:

(i) submit to the taking of the requested specimen; and

(ii) sign the requested statement under Section 724.031.

(c) The officer shall forward to the department not later than the fifth business day after the date of the arrest:

(1) a copy of the notice of suspension or denial;

(2) any license taken by the officer under Subsection (a);

(3) a copy of any temporary driving permit issued under Subsection (a); and

(4) a copy of the refusal report.

(d) The department shall develop forms for notices of suspension or denial and temporary driving permits to be used by all state and local law enforcement agencies.

(e) A temporary driving permit issued under this section expires on the 41st day after the date of issuance. If the person was driving a commercial motor vehicle, as defined by Section 522.003, a temporary driving permit that authorizes the person to drive a commercial motor vehicle is not effective until 24 hours after the time of arrest.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 444, Sec. 9, eff. Sept. 1, 2001.

Sec. 724.033. ISSUANCE BY DEPARTMENT OF NOTICE OF SUSPENSION OR DENIAL OF LICENSE. (a) On receipt of a report of a peace officer under Section 724.032, if the officer did not serve notice of suspension or denial of a license at the time of refusal to submit to the taking of a specimen, the department shall mail notice of suspension or denial, by first class mail, to the address of the person shown by the records of the department or to the address given in the peace officer's report, if different.

(b) Notice is considered received on the fifth day after the date it is mailed.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1409, Sec. 5, eff. Sept. 1, 1999.

Sec. 724.034. CONTENTS OF NOTICE OF SUSPENSION OR DENIAL OF LICENSE. A notice of suspension or denial of a license must state:

- (1) the reason and statutory grounds for the action;
- (2) the effective date of the suspension or denial;
- (3) the right of the person to a hearing;
- (4) how to request a hearing; and
- (5) the period in which a request for a hearing must be received by the department.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 724.035. SUSPENSION OR DENIAL OF LICENSE. (a) If a person refuses the request of a peace officer to submit to the taking of a specimen, the department shall:

- (1) suspend the person's license to operate a motor vehicle on a public highway for 180 days; or
- (2) if the person is a resident without a license, issue an order denying the issuance of a license to the person for 180 days.

(b) The period of suspension or denial is two years if the person's driving record shows one or more alcohol-related or drug-related enforcement contacts, as defined by Section 524.001(3), during the 10 years preceding the date of the person's arrest.

(c) A suspension or denial takes effect on the 40th day after the date on which the person:

- (1) receives notice of suspension or denial under Section 724.032(a); or
- (2) is considered to have received notice of suspension or denial under Section 724.033.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.163, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1013, Sec. 35, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 444, Sec. 10, eff. Sept. 1, 2001.

SUBCHAPTER D. HEARING

Sec. 724.041. HEARING ON SUSPENSION OR DENIAL. (a) If, not later than the 15th day after the date on which the person receives notice of suspension or denial under Section 724.032(a) or is considered to have received notice under Section 724.033, the department receives at its headquarters in Austin, in writing, including a facsimile transmission, or by another manner prescribed by the department, a request that a hearing be held, the State Office of Administrative Hearings shall hold a hearing.

(b) A hearing shall be held not earlier than the 11th day after the date the person is notified, unless the parties agree to waive this requirement, but before the effective date of the notice of suspension or denial.

(c) A request for a hearing stays the suspension or denial until the date of the final decision of the administrative law judge. If the person's license was taken by a peace officer under Section 724.032(a), the department shall notify the person of the effect of the request on the suspension of the person's license before the expiration of any temporary driving permit issued to the person, if the person is otherwise eligible, in a manner that will permit the person to establish to a peace officer that the person's license is not suspended.

(d) A hearing shall be held by an administrative law judge employed by the State Office of Administrative Hearings.

(e) A hearing shall be held:

(1) at a location designated by the State Office of Administrative Hearings:

(A) in the county of arrest if the county has a population of 300,000 or more; or

(B) in the county in which the person was alleged to have committed the offense for which the person was arrested or not more than 75 miles from the county seat of the county of arrest if the population of the county of arrest is less than 300,000; or

(2) with the consent of the person requesting the hearing and the department, by telephone conference call.

(f) The State Office of Administrative Hearings shall provide for the stenographic or electronic recording of a hearing under this subchapter.

(g) An administrative hearing under this section is governed by Sections 524.032(b) and (c), 524.035(e), 524.037(a), and 524.040.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.164, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 444, Sec. 11, eff. Sept. 1, 2001.

Sec. 724.042. ISSUES AT HEARING. The issues at a hearing under this subchapter are whether:

- (1) reasonable suspicion or probable cause existed to stop or arrest the person;
- (2) probable cause existed to believe that the person was:
 - (A) operating a motor vehicle in a public place while intoxicated; or
 - (B) operating a watercraft powered with an engine having a manufacturer's rating of 50 horsepower or above while intoxicated;
- (3) the person was placed under arrest by the officer and was requested to submit to the taking of a specimen; and
- (4) the person refused to submit to the taking of a specimen on request of the officer.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 444, Sec. 12, eff. Sept. 1, 2001.

Sec. 724.043. FINDINGS OF ADMINISTRATIVE LAW JUDGE. (a) If the administrative law judge finds in the affirmative on each issue under Section 724.042, the suspension order is sustained. If the person is a resident without a license, the department shall continue to deny to the person the issuance of a license for the applicable period provided by Section 724.035.

(b) If the administrative law judge does not find in the affirmative on each issue under Section 724.042, the department shall return the person's license to the person, if the license was taken by a peace officer under Section 724.032(a), and reinstate the person's license or rescind any order denying the issuance of a license because of the person's refusal to submit to the taking of a specimen under Section 724.032(a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 444, Sec. 13, eff. Sept. 1, 2001.

Sec. 724.044. WAIVER OF RIGHT TO HEARING. A person waives the right to a hearing under this subchapter and the department's suspension or denial is final and may not be appealed if the person:

- (1) fails to request a hearing under Section 724.041; or
- (2) requests a hearing and fails to appear, without good cause.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 724.045. PROHIBITION ON PROBATION OF SUSPENSION. A suspension under this chapter may not be probated.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 724.046. REINSTATEMENT OF LICENSE OR ISSUANCE OF NEW LICENSE. (a) A license suspended under this chapter may not be reinstated or a new license issued until the person whose license has been suspended pays to the department a fee of \$125 in addition to any other fee required by law. A person subject to a denial order issued under this chapter may not obtain a license after the period of denial has ended until the person pays to the department a fee of \$125 in addition to any other fee required by law.

(b) If a suspension or denial under this chapter is rescinded by the department, an administrative law judge, or a court, payment of the fee under this section is not required for reinstatement or issuance of a license.

(c) Each fee collected under this section shall be deposited to the credit of the Texas mobility fund.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 444, Sec. 14(b), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1325, Sec. 11.09, eff. Sept. 1, 2003.

Sec. 724.047. APPEAL. Chapter 524 governs an appeal from an

action of the department, following an administrative hearing under this chapter, in suspending or denying the issuance of a license.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 724.048. RELATIONSHIP OF ADMINISTRATIVE PROCEEDING TO CRIMINAL PROCEEDING. (a) The determination of the department or administrative law judge:

(1) is a civil matter;

(2) is independent of and is not an estoppel as to any matter in issue in an adjudication of a criminal charge arising from the occurrence that is the basis for the suspension or denial; and

(3) does not preclude litigation of the same or similar facts in a criminal prosecution.

(b) Except as provided by Subsection (c), the disposition of a criminal charge does not affect a license suspension or denial under this chapter and is not an estoppel as to any matter in issue in a suspension or denial proceeding under this chapter.

(c) If a criminal charge arising from the same arrest as a suspension under this chapter results in an acquittal, the suspension under this chapter may not be imposed. If a suspension under this chapter has already been imposed, the department shall rescind the suspension and remove references to the suspension from the computerized driving record of the individual.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 36, eff. Sept. 1, 1997.

SUBCHAPTER E. ADMISSIBILITY OF EVIDENCE

Sec. 724.061. ADMISSIBILITY OF REFUSAL OF PERSON TO SUBMIT TO TAKING OF SPECIMEN. A person's refusal of a request by an officer to submit to the taking of a specimen of breath or blood, whether the refusal was express or the result of an intentional failure to give the specimen, may be introduced into evidence at the person's trial.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 724.062. ADMISSIBILITY OF REFUSAL OF REQUEST FOR

ADDITIONAL TEST. The fact that a person's request to have an additional analysis under Section 724.019 is refused by the officer or another person acting for or on behalf of the state, that the person was not provided a reasonable opportunity to contact a person specified by Section 724.019(a) to take the specimen, or that reasonable access was not allowed to the arrested person may be introduced into evidence at the person's trial.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 724.063. ADMISSIBILITY OF ALCOHOL CONCENTRATION OR PRESENCE OF SUBSTANCE. Evidence of alcohol concentration or the presence of a controlled substance, drug, dangerous drug, or other substance obtained by an analysis authorized by Section 724.014 is admissible in a civil or criminal action.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.165, eff. Sept. 1, 1997.

Sec. 724.064. ADMISSIBILITY IN CRIMINAL PROCEEDING OF SPECIMEN ANALYSIS. On the trial of a criminal proceeding arising out of an offense under Chapter 49, Penal Code, involving the operation of a motor vehicle or a watercraft, or an offense under Section 106.041, Alcoholic Beverage Code, evidence of the alcohol concentration or presence of a controlled substance, drug, dangerous drug, or other substance as shown by analysis of a specimen of the person's blood, breath, or urine or any other bodily substance taken at the request or order of a peace officer is admissible.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1013, Sec. 37, eff. Sept. 1, 1997.

CHAPTER 725. TRANSPORTATION OF LOOSE MATERIALS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 725.001. DEFINITIONS. In this chapter:

- (1) "Load" means a load of loose material.
- (2) "Loose material" means material that can be blown or spilled from a vehicle because of movement or exposure to air, wind

currents, or other weather. The term includes dirt, sand, gravel, refuse, and wood chips but excludes an agricultural product in its natural state.

(3) "Motor vehicle" has the meaning assigned by Section 621.001.

(4) "Public highway" includes a public road or street.

(4-a) "Refuse" means trash, rubbish, garbage, or any other discarded material.

(5) "Semitrailer" has the meaning assigned by Section 621.001.

(6) "Trailer" has the meaning assigned by Section 621.001.

(7) "Vehicle" has the meaning assigned by Section 621.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 800 (S.B. 387), Sec. 1, eff. September 1, 2007.

Sec. 725.002. APPLICABILITY. This chapter applies to any motor vehicle, trailer, or semitrailer operated on a public highway except a vehicle or construction or mining equipment that is:

(1) moving between construction barricades on a public works project; or

(2) crossing a public highway.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 800 (S.B. 387), Sec. 2, eff. September 1, 2007.

Sec. 725.003. OFFENSE; PENALTY. (a) A person or the person's agent or employee may not transport loose material in violation of this chapter.

(b) A person, excluding this state or a political subdivision of this state but including an agent or employee of this state or a political subdivision of this state, commits an offense if the person violates Subsection (a).

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$500.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 938 (H.B. 754), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 800 (S.B. 387), Sec. 3, eff. September 1, 2007.

SUBCHAPTER B. REQUIREMENTS FOR TRANSPORTING LOOSE MATERIALS

Sec. 725.021. CONTAINING LOOSE MATERIALS. (a) A vehicle subject to this chapter shall be equipped and maintained as required by this section to prevent loose material from escaping by blowing or spilling.

(b) A vehicle bed carrying a load:

(1) may not have a hole, crack, or other opening through which loose material can escape; and

(2) shall be enclosed:

(A) on both sides by side panels;

(B) on the front by a panel or the vehicle cab; and

(C) on the rear by a tailgate or panel.

(c) Except as provided by Subsection (e), the load shall be covered and the covering firmly secured at the front and back, unless the load:

(1) is completely enclosed by the load-carrying compartment; or

(2) does not blow from or spill over the top of the load-carrying compartment.

(d) The tailgate of the vehicle shall be securely closed to prevent spillage during transportation.

(e) If the vehicle is a commercial motor vehicle transporting loose material, the load shall be covered and the covering firmly secured at the front and back or shall be completely enclosed by the load-carrying compartment. For purposes of this section, "commercial motor vehicle" means a motor vehicle, trailer, or semitrailer used primarily in the business of transporting property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 938 (H.B. 754), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 800 (S.B. 387), Sec. 4, eff. September 1, 2007.

Sec. 725.022. MAINTAINING NON-LOAD-CARRYING VEHICLE PARTS. (a) Loose material that is spilled because of loading on a vehicle part that does not carry the load shall be removed before the vehicle is operated on a public highway.

(b) After the vehicle is unloaded and before the vehicle is operated on a public highway, residue of transported loose material on a vehicle part that does not carry the load shall be removed from the vehicle part.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 726. TESTING AND INSPECTION OF MOTOR VEHICLES BY CERTAIN MUNICIPALITIES

Sec. 726.001. APPLICABILITY. (a) This chapter applies only to a municipality with a population of more than 290,000.

(b) This section or an ordinance adopted under this section does not apply to a motor vehicle, trailer, or semitrailer operated under a registration certificate issued under Chapter 643.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.166, eff. Sept. 1, 1997.

Sec. 726.002. TESTING AND INSPECTION OF MOTOR VEHICLES. A municipality may adopt an ordinance:

(1) requiring each resident of the municipality, including a corporation having its principal office or place of business in the municipality, who owns a motor vehicle used for the transportation of persons or property and each person operating a motor vehicle on the public thoroughfares of the municipality to have each motor vehicle owned or operated, as appropriate, tested and inspected not more than four times in each calendar year;

(2) requiring each motor vehicle involved in an accident to be tested and inspected before it may be operated on the public thoroughfares of the municipality; or

(3) requiring that a motor vehicle operated on the public

thoroughfares of the municipality be tested, inspected, and approved by the testing and inspecting authority.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 726.003. MOTOR VEHICLE TESTING STATIONS; TESTING AND INSPECTION FEE. (a) A municipality may acquire, establish, improve, operate, and maintain motor vehicle testing stations and pay for the stations from fees charged for testing and inspecting motor vehicles.

(b) A municipality may impose a fee for the testing and inspecting of a motor vehicle. The fee may not exceed \$1 a year. Fees collected under this subsection shall be placed in a separate fund from which may be paid the costs in connection with automotive and safety education programs and the acquisition, establishment, improvement, operation, and maintenance of the testing stations.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 726.004. FINANCING OF MOTOR VEHICLE TESTING STATIONS. (a) A municipality may borrow money to finance all or part of the cost of the acquisition, establishment, improvement, or repair of motor vehicle testing stations and may pledge all or part of the fees or other receipts derived from the operation of the stations for payment of principal and interest on the loan.

(b) A municipality may encumber a testing station, including things acquired pertaining to the station, to secure the payment of funds to construct all or part of the station or to improve, operate, or maintain the station. An encumbrance is not a debt of the municipality but is solely a charge on the property encumbered and may not be considered in determining the power of the municipality to issue bonds.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 727. MODIFICATION OF, TAMPERING WITH, AND EQUIPMENT OF MOTOR VEHICLES

Sec. 727.001. MINIMUM ROAD CLEARANCE OF CERTAIN VEHICLES; OFFENSE. (a) A person commits an offense if the person operates on

a public roadway a passenger or commercial vehicle that has been modified from its original design or weighted so that the clearance between any part of the vehicle other than the wheels and the surface of the level roadway is less than the clearance between the roadway and the lowest part of the rim of any wheel in contact with the roadway.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$50.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 727.002. TAMPERING WITH ODOMETER; OFFENSE. (a) A person commits an offense if the person, with intent to defraud, disconnects or resets an odometer to reduce the number of miles indicated on the odometer.

(b) Except as provided by Subsection (c), an offense under this section is punishable by:

(1) confinement in the county jail for not more than two years;

(2) a fine not to exceed \$1,000; or

(3) both the confinement and fine.

(c) If it is shown on the trial of an offense under this section that the person has previously been convicted of an offense under this section, the offense is punishable by:

(1) confinement in the county jail for not less than 30 days or more than two years; and

(2) a fine not to exceed \$2,000.

(d) In this section, "odometer" means an instrument for measuring and recording the distance a motor vehicle travels while in operation but does not include an auxiliary odometer designed to be reset by the operator to record mileage on trips.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 727.003. TIRE EQUIPMENT OF MOTOR VEHICLE, TRAILER, OR TRACTOR; OFFENSE. (a) A person commits an offense if the person operates or permits to be operated on a public highway a motor vehicle, trailer, semitrailer, or tractor equipped with:

(1) solid rubber tires less than one inch in thickness at

any point from the surface to the rim; or

(2) pneumatic tires, one or more of which has been removed.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 727.004. RIM OR TIRE WIDTH; OFFENSE. (a) A person commits an offense if the person sells or offers for sale a road vehicle, including a wagon, that has a rim or tire width less than:

(1) three inches, if the vehicle has an intended carrying capacity of more than 2,000 pounds and not more than 4,500 pounds; or

(2) four inches, if the vehicle has an intended carrying capacity of more than 4,500 pounds.

(b) This section does not apply to an individual who sells or offers for sale a road vehicle purchased for the individual's use.

(c) An offense under this section is punishable by a fine of not less than \$100 or more than \$1,000.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 728. SALE OR TRANSFER OF MOTOR VEHICLES AND MASTER KEYS
SUBCHAPTER A. SALE OF MOTOR VEHICLES ON CONSECUTIVE SATURDAY AND
SUNDAY

Sec. 728.001. DEFINITIONS. In this subchapter:

(1) "Employer" means a person who:

(A) owns a facility that sells or offers for sale motor vehicles; or

(B) has the authority to determine the hours of operation of the facility.

(2) "Motor vehicle" means a self-propelled vehicle of two or more wheels designed to transport a person or property.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 728.002. SALE OF MOTOR VEHICLES ON CONSECUTIVE SATURDAY AND SUNDAY PROHIBITED. (a) A person may not, on consecutive days of

Saturday and Sunday:

- (1) sell or offer for sale a motor vehicle; or
- (2) compel an employee to sell or offer for sale a motor vehicle.

(b) Each day a motor vehicle is offered for sale is a separate violation. Each sale of a motor vehicle is a separate violation.

(c) This section does not prohibit the occasional sale of a motor vehicle by a person not in a business that includes the sale of motor vehicles.

(d) This section does not prohibit the quoting of a price for a motor home or tow truck at a show or exhibition described by Section 2301.358, Occupations Code.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 553 (H.B. 2872), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 132, eff. September 1, 2013.

Sec. 728.003. CIVIL PENALTY. (a) A person who violates Section 728.002 is subject to a civil penalty of:

- (1) not more than \$500 for a first violation;
- (2) not less than \$500 or more than \$1,000 for a second violation; or
- (3) not less than \$1,000 or more than \$5,000 for a third or subsequent violation.

(b) On a finding by the trier of fact that a person wilfully or with conscious indifference violated Section 728.002, the court may triple the penalty due under Subsection (a).

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 728.004. ENFORCEMENT; INJUNCTION. (a) The attorney general or a district, county, or municipal attorney may enforce this subchapter and may bring an action in the county in which a violation is alleged.

(b) The operation of a business in violation of this subchapter is a public nuisance. Any person, including a district, county, or

municipal attorney, may obtain an injunction restraining a violation of this subchapter. A person who obtains an injunction under this subsection may recover the person's costs, including court costs and reasonable attorney's fees.

(c) An employer is a necessary party to an action brought against its employee under this section. An employer is strictly liable for all amounts, including civil penalties, damages, costs, and attorney's fees, resulting from a violation of Section 728.002 by its employee.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER B. SALE OF MASTER KEY FOR MOTOR VEHICLE IGNITIONS

Sec. 728.011. SALE OF MASTER KEY FOR MOTOR VEHICLE IGNITIONS.

(a) A person commits an offense if the person sells or offers to sell a master key knowingly designed to fit the ignition switch on more than one motor vehicle.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$25 or more than \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

SUBCHAPTER C. TRANSFER OF OWNERSHIP OF CERTAIN EMERGENCY VEHICLES

Sec. 728.021. TRANSFER OF OWNERSHIP OF CERTAIN EMERGENCY VEHICLES; OFFENSE. (a) The owner of an authorized emergency vehicle that is used to transport sick or injured persons commits an offense if the owner transfers ownership of the vehicle without:

(1) removing from the vehicle any vehicle equipment, including a light, siren, or device, that under Subtitle C only an authorized emergency vehicle may be equipped with; and

(2) removing or obliterating any emblem or marking on the vehicle that identifies the vehicle as an authorized emergency vehicle.

(b) Subsection (a) does not apply if the owner of the vehicle transfers ownership of the vehicle to a person:

(1) who holds a license as an emergency medical services provider under Chapter 773, Health and Safety Code;

(2) who is in the business of buying and selling used vehicles in this state and who specializes in authorized emergency

vehicles; or

(3) described by Section 541.201 or a similar person operating in a foreign country.

(c) An offense under this section is a Class C misdemeanor.

(d) In this section:

(1) "Authorized emergency vehicle" has the meaning assigned by Section 541.201.

(2) "Vehicle equipment" has the meaning assigned by Section 547.001.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

CHAPTER 729. OPERATION OF MOTOR VEHICLE BY MINOR

Sec. 729.001. OPERATION OF MOTOR VEHICLE BY MINOR IN VIOLATION OF TRAFFIC LAWS; OFFENSE. (a) A person who is younger than 17 years of age commits an offense if the person operates a motor vehicle on a public road or highway, a street or alley in a municipality, or a public beach in violation of any traffic law of this state, including:

(1) Chapter 502, other than Section 502.282 or 502.412;

(2) Chapter 521, other than an offense under Section 521.457;

(3) Subtitle C, other than an offense punishable by imprisonment or by confinement in jail under Section 550.021, 550.022, 550.024, or 550.025;

(4) Chapter 601;

(5) Chapter 621;

(6) Chapter 661; and

(7) Chapter 681.

(b) In this section, "beach" means a beach bordering on the Gulf of Mexico that extends inland from the line of mean low tide to the natural line of vegetation bordering on the seaward shore of the Gulf of Mexico, or the larger contiguous area to which the public has acquired a right of use or easement to or over by prescription, dedication, or estoppel, or has retained a right by virtue of continuous right in the public since time immemorial as recognized by law or custom.

(c) An offense under this section is punishable by the fine or other sanction, other than confinement or imprisonment, authorized by

statute for violation of the traffic law listed under Subsection (a) that is the basis of the prosecution under this section.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.167, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 167, Sec. 30.167, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 822, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1086, Sec. 40, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1477, Sec. 36, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 283, Sec. 58, eff. Sept. 1, 2003.

Sec. 729.002. OPERATION OF MOTOR VEHICLE BY MINOR WITHOUT LICENSE. (a) A person who is younger than 17 years of age commits an offense if the person operates a motor vehicle without a driver's license authorizing the operation of a motor vehicle on a:

- (1) public road or highway;
- (2) street or alley in a municipality; or
- (3) public beach as defined by Section 729.001.

(b) An offense under this section is punishable in the same manner as if the person was 17 years of age or older and operated a motor vehicle without a license as described by Subsection (a), except that an offense under this section is not punishable by confinement or imprisonment.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1086, Sec. 43, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1477, Sec. 37, eff. Sept. 1, 1999.

CHAPTER 730. MOTOR VEHICLE RECORDS DISCLOSURE ACT

Sec. 730.001. SHORT TITLE. This chapter may be cited as the Motor Vehicle Records Disclosure Act.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.

Sec. 730.002. PURPOSE. The purpose of this chapter is to implement 18 U.S.C. Chapter 123 and to protect the interest of an individual in the individual's personal privacy by prohibiting the disclosure and use of personal information contained in motor vehicle

records, except as authorized by the individual or by law.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.

Sec. 730.003. DEFINITIONS. In this chapter:

(1) "Agency" includes any agency or political subdivision of this state, or an authorized agent or contractor of an agency or political subdivision of this state, that compiles or maintains motor vehicle records.

(2) "Disclose" means to make available or make known personal information contained in a motor vehicle record about a person to another person, by any means of communication.

(3) "Individual record" means a motor vehicle record obtained by an agency containing personal information about an individual who is the subject of the record as identified in a request.

(4) "Motor vehicle record" means a record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by an agency of this state or a local agency authorized to issue an identification document. The term does not include:

(A) a record that pertains to a motor carrier; or

(B) an accident report prepared under Chapter 550 or 601.

(5) "Person" means an individual, organization, or entity but does not include this state or an agency of this state.

(6) "Personal information" means information that identifies a person, including an individual's photograph or computerized image, social security number, driver identification number, name, address, but not the zip code, telephone number, and medical or disability information. The term does not include:

(A) information on vehicle accidents, driving or equipment-related violations, or driver's license or registration status; or

(B) information contained in an accident report prepared under Chapter 550 or 601.

(7) "Record" includes any book, paper, photograph, photostat, card, film, tape, recording, electronic data, printout, or other documentary material regardless of physical form or

characteristics.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1032, Sec. 6, eff. Sept. 1, 2001.

Sec. 730.004. PROHIBITION ON DISCLOSURE AND USE OF PERSONAL INFORMATION FROM MOTOR VEHICLE RECORDS. Notwithstanding any other provision of law to the contrary, including Chapter 552, Government Code, except as provided by Sections 730.005-730.007, an agency may not disclose personal information about any person obtained by the agency in connection with a motor vehicle record.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1032, Sec. 7, eff. Sept. 1, 2001.

Sec. 730.005. REQUIRED DISCLOSURE. Personal information obtained by an agency in connection with a motor vehicle record shall be disclosed for use in connection with any matter of:

- (1) motor vehicle or motor vehicle operator safety;
- (2) motor vehicle theft;
- (3) motor vehicle emissions;
- (4) motor vehicle product alterations, recalls, or advisories;
- (5) performance monitoring of motor vehicles or motor vehicle dealers by a motor vehicle manufacturer;
- (6) removal of nonowner records from the original owner records of a motor vehicle manufacturer to carry out the purposes of:
 - (A) the Automobile Information Disclosure Act, 15 U.S.C. Section 1231 et seq.;
 - (B) 49 U.S.C. Chapters 301, 305, 323, 325, 327, 329, and 331;
 - (C) the Anti Car Theft Act of 1992, 18 U.S.C. Sections 553, 981, 982, 2119, 2312, 2313, and 2322, 19 U.S.C. Sections 1646b and 1646c, and 42 U.S.C. Section 3750a et seq., all as amended;
 - (D) the Clean Air Act, 42 U.S.C. Section 7401 et seq., as amended; and
 - (E) any other statute or regulation enacted or adopted

under or in relation to a law included in Paragraphs (A)-(D);

(7) child support enforcement under Chapter 231, Family Code;

(8) enforcement by the Texas Workforce Commission under Title 4, Labor Code; or

(9) voter registration or the administration of elections by the secretary of state.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 1023, Sec. 72, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 869 (S.B. 76), Sec. 6, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1012 (H.B. 2512), Sec. 2, eff. June 14, 2013.

Sec. 730.006. REQUIRED DISCLOSURE WITH CONSENT. Personal information obtained by an agency in connection with a motor vehicle record shall be disclosed to a requestor who demonstrates, in such form and manner as the agency requires, that the requestor has obtained the written consent of the person who is the subject of the information.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.

Sec. 730.007. PERMITTED DISCLOSURES. (a) Personal information obtained by an agency in connection with a motor vehicle record may be disclosed to any requestor by an agency if the requestor:

(1) provides the requestor's name and address and any proof of that information required by the agency; and

(2) represents that the use of the personal information will be strictly limited to:

(A) use by:

(i) a government agency, including any court or law enforcement agency, in carrying out its functions; or

(ii) a private person or entity acting on behalf of a government agency in carrying out the functions of the agency;

(B) use in connection with a matter of:

- (i) motor vehicle or motor vehicle operator safety;
 - (ii) motor vehicle theft;
 - (iii) motor vehicle product alterations, recalls, or advisories;
 - (iv) performance monitoring of motor vehicles, motor vehicle parts, or motor vehicle dealers;
 - (v) motor vehicle market research activities, including survey research; or
 - (vi) removal of nonowner records from the original owner records of motor vehicle manufacturers;
- (C) use in the normal course of business by a legitimate business or an authorized agent of the business, but only:
- (i) to verify the accuracy of personal information submitted by the individual to the business or the agent of the business; and
 - (ii) if the information is not correct, to obtain the correct information, for the sole purpose of preventing fraud by, pursuing a legal remedy against, or recovering on a debt or security interest against the individual;
- (D) use in conjunction with a civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, execution or enforcement of a judgment or order, or under an order of any court;
- (E) use in research or in producing statistical reports, but only if the personal information is not published, redisclosed, or used to contact any individual;
- (F) use by an insurer or insurance support organization, or by a self-insured entity, or an authorized agent of the entity, in connection with claims investigation activities, antifraud activities, rating, or underwriting;
- (G) use in providing notice to an owner of a towed or impounded vehicle;
- (H) use by a licensed private investigator agency or licensed security service for a purpose permitted under this section;
- (I) use by an employer or an agent or insurer of the employer to obtain or verify information relating to a holder of a commercial driver's license that is required under 49 U.S.C. Chapter 313;
- (J) use in connection with the operation of a private

toll transportation facility;

(K) use by a consumer reporting agency, as defined by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), for a purpose permitted under that Act; or

(L) use for any other purpose specifically authorized by law that relates to the operation of a motor vehicle or to public safety.

(b) The only personal information an agency may release under this section is the individual's:

- (1) name and address;
- (2) date of birth; and
- (3) driver's license number.

(c) This section does not:

(1) prohibit the disclosure of a person's photographic image to:

(A) a law enforcement agency, the Texas Department of Motor Vehicles, a county tax assessor-collector, or a criminal justice agency for an official purpose;

(B) an agency of this state investigating an alleged violation of a state or federal law relating to the obtaining, selling, or purchasing of a benefit authorized by Chapter 31 or 33, Human Resources Code; or

(C) an agency of this state investigating an alleged violation of a state or federal law under authority provided by Title 4, Labor Code; or

(2) prevent a court from compelling by subpoena the production of a person's photographic image.

(d) Personal information obtained by an agency in connection with a motor vehicle record shall be disclosed to a requestor by an agency if the requestor:

(1) provides the requestor's name and address and any proof of that information required by the agency; and

(2) represents that the intent of the requestor is to use personal information in the motor vehicle record only for the purpose of preventing, detecting, or protecting against personal identity theft or other acts of fraud and provides any proof of the requestor's intent required by the agency.

(e) If the agency determines that the requestor intends to use personal information requested under Subsection (d) only for the represented purpose, the agency shall release to the requestor any

requested personal information in the motor vehicle record.

(f) Personal information obtained by an agency under Section 411.0845, Government Code, in connection with a motor vehicle record may be disclosed as provided by that section.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 1032, Sec. 7, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 26, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 869 (S.B. 76), Sec. 7, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 133, eff. September 1, 2013.

Sec. 730.010. DISCLOSURE OF THUMB OR FINGER IMAGES PROHIBITED. Notwithstanding any other provision of this chapter, if an agency obtains an image of an individual's thumb or finger in connection with the issuance of a license, permit, or certificate to the individual, the agency may:

(1) use the image only:

(A) in connection with the issuance of the license, permit, or certificate; or

(B) to verify the identity of an individual as provided by Section 521.059; and

(2) disclose the image only if disclosure is expressly authorized by law.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1108 (H.B. 2337), Sec. 6, eff. September 1, 2005.

Sec. 730.011. FEES. Unless a fee is imposed by law, an agency that has obtained information in connection with a motor vehicle may adopt reasonable fees for disclosure of that personal information under this chapter.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.

Sec. 730.012. ADDITIONAL CONDITIONS. (a) In addition to the payment of a fee adopted under Section 730.011, an agency may require a requestor to provide reasonable assurance:

- (1) as to the identity of the requestor; and
- (2) that use of the personal information will be only as authorized or that the consent of the person who is the subject of the information has been obtained.

(b) An agency may require the requestor to make or file a written application in the form and containing any certification requirement the agency may prescribe.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.

Sec. 730.013. RESALE OR REDISCLOSURE. (a) An authorized recipient of personal information may not resell or redisclose the personal information in the identical or a substantially identical format the personal information was disclosed to the recipient by the applicable agency.

(b) An authorized recipient of personal information may resell or redisclose the information only for a use permitted under Section 730.007.

(c) Any authorized recipient who resells or rediscloses personal information obtained from an agency shall be required by that agency to:

- (1) maintain for a period of not less than five years records as to any person or entity receiving that information and the permitted use for which it was obtained; and
- (2) provide copies of those records to the agency on request.

(d) A person commits an offense if the person violates this section. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$25,000.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.

Amended by Acts 2001, 77th Leg., ch. 1032, Sec. 7, eff. Sept. 1, 2001.

Sec. 730.014. AGENCY RULES; ORGANIZATION OF RECORDS. (a) Each agency may adopt rules to implement and administer this chapter.

(b) An agency that maintains motor vehicle records in relation to motor vehicles is not required to also maintain those records in relation to the individuals named in those records.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.

Sec. 730.015. PENALTY FOR FALSE REPRESENTATION. (a) A person who requests the disclosure of personal information from an agency's records under this chapter and misrepresents the person's identity or who makes a false statement to the agency on an application required by the agency under this chapter commits an offense.

(b) An offense under Subsection (a) is a Class A misdemeanor.

Added by Acts 1997, 75th Leg., ch. 1187, Sec. 1, eff. Sept. 1, 1997.

Sec. 730.016. INELIGIBILITY OF CERTAIN PERSONS TO RECEIVE PERSONAL INFORMATION. (a) A person who is convicted of an offense under this chapter, or who violates a rule adopted by an agency relating to the terms or conditions for a release of personal information to the person, is ineligible to receive personal information under Section 730.007.

(b) For purposes of Subsection (a), a person is considered to have been convicted in a case if:

- (1) a sentence is imposed;
- (2) the defendant receives probation or deferred adjudication; or
- (3) the court defers final disposition of the case.

Added by Acts 2001, 77th Leg., ch. 1032, Sec. 8, eff. Sept. 1, 2001.

CHAPTER 750. MISCELLANEOUS PROVISIONS

Sec. 750.002. SPEED OF VEHICLE IN PARK IN COUNTY BORDERING GULF OF MEXICO. (a) A person commits an offense if the person drives a vehicle at a speed greater than 30 miles per hour within the boundaries of a county park located in a county that borders on the Gulf of Mexico, other than on a beach as that term is defined by

Section 61.012, Natural Resources Code, in the park.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$1 or more than \$200.

Acts 1995, 74th Leg., ch. 165, Sec. 1, eff. Sept. 1, 1995.

Sec. 750.003. OPERATION OF VEHICLE ON DUNE SEAWARD OF DUNE PROTECTION LINE PROHIBITED. (a) In this section, "vehicle" means a device that is designed to transport persons or property and is self-propelled or propelled by external means.

(b) A person commits an offense if the person operates a vehicle on a sand dune seaward of the dune protection line as defined in Section 63.012, Natural Resources Code, except on a roadway designated by a subdivision of the state.

(c) An offense under this section is a Class C misdemeanor.

Added by Acts 2001, 77th Leg., ch. 176, Sec. 1, eff. Sept. 1, 2001.

**SUBTITLE M. DEPARTMENT OF MOTOR VEHICLES
CHAPTER 1001. ORGANIZATION OF DEPARTMENT
SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 1001.001. DEFINITIONS. In this subtitle:

(1) "Board" means the board of the department.

(2) "Department" means the Texas Department of Motor Vehicles.

(3) "Executive director" means the executive director of the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. [3097](#)), Sec. 1.01, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. [2017](#)), Sec. 33, eff. September 1, 2011.

Sec. 1001.002. CREATION OF DEPARTMENT; DUTIES. (a) The department is created as an agency of this state.

(b) In addition to the other duties required of the Texas Department of Motor Vehicles, the department shall administer and

enforce:

- (1) Subtitle A;
- (2) Chapters 621, 622, 623, 642, 643, 645, 646, and 648;

and

- (3) Chapters 2301 and 2302, Occupations Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1345 (S.B. 1420), Sec. 97, eff. September 1, 2011.

Sec. 1001.003. COMPOSITION OF DEPARTMENT. The department is composed of an executive director appointed by the board and other employees required to efficiently implement:

- (1) this subtitle;
- (2) other applicable vehicle laws of this state; and
- (3) other laws that grant jurisdiction to or are applicable

to the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.004. DIVISIONS. The executive director shall organize the department into divisions to accomplish the department's functions and the duties assigned to the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 34, eff. September 1, 2011.

Sec. 1001.005. SUNSET PROVISION. The department is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 2019.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1232 (S.B. 652), Sec. 4.10, eff. June 17, 2011.

Sec. 1001.006. DEFENSE BY ATTORNEY GENERAL. The attorney general shall defend an action brought against the board or the department or an action brought against an employee of the department as a result of the employee's official act or omission, regardless of whether at the time of the institution of the action that person has terminated service with the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.007. PROTECTION AND USE OF INTELLECTUAL PROPERTY AND PUBLICATIONS. (a) The department may:

(1) apply for, register, secure, hold, and protect under the laws of the United States, any state, or any nation a patent, copyright, mark, or other evidence of protection or exclusivity issued in or for an idea, publication, or other original innovation fixed in a tangible medium, including:

- (A) a literary work;
- (B) a logo;
- (C) a service mark;
- (D) a study;
- (E) a map or planning document;
- (F) a graphic design;
- (G) a manual;
- (H) automated systems software;
- (I) an audiovisual work; or
- (J) a sound recording;

(2) enter into an exclusive or nonexclusive license agreement with a third party for the receipt of a fee, royalty, or other thing of monetary or nonmonetary value for the benefit of the department;

(3) waive or reduce the amount of a fee, royalty, or other

thing of monetary or nonmonetary value to be assessed if the department determines that the waiver will:

(A) further the goals and missions of the department;
and

(B) result in a net benefit to the state; and

(4) adopt and enforce rules necessary to implement this section.

(b) Money collected by the department under this section shall be deposited to the credit of the Texas Department of Motor Vehicles fund for use by the department in supporting the department's operations and the administration of the department's functions.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 35, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 68, eff. September 1, 2013.

Sec. 1001.008. DONATIONS AND CONTRIBUTIONS. (a) Except as provided by Subsection (b), for the purpose of carrying out its functions and duties, the board may accept a donation or contribution in any form, including real or personal property, money, materials, or services.

(b) The board may not accept a donation or contribution from an entity or association of entities that it regulates.

(c) The board by rule may delegate acceptance of donations or contributions under \$500, or not otherwise required to be acknowledged in an open meeting, to the executive director.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 35, eff. September 1, 2011.

Sec. 1001.009. COLLECTION OF FEES FOR DEPARTMENT GOODS AND SERVICES. (a) The board may adopt rules regarding the method of collection of a fee for any goods sold or services provided by the department or for the administration of any department program.

(b) Goods sold and services provided under Subsection (a) include department publications and the issuance of licenses, permits, and registrations.

(c) The rules adopted under Subsection (a) may:

(1) authorize the use of electronic funds transfer or a valid debit or credit card issued by a financial institution chartered by a state, the United States, or a nationally recognized credit organization approved by the department;

(2) require the payment of a discount or service charge for a credit card payment in addition to the fee; and

(3) require an overpayment of a motor vehicle or salvage dealer license fee of:

(A) less than \$10 to be credited toward a future fee requirement; and

(B) more than \$10 to be refunded.

(d) Revenue generated from the collection of discount or service charges under Subsection (c) shall be deposited to the credit of the Texas Department of Motor Vehicles fund for use by the department in supporting the department's operations and the administration of the department's functions.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 35, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 134, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 69, eff. September 1, 2013.

Sec. 1001.010. AUTHORITY TO CONTRACT. (a) The department may enter into an interlocal contract with one or more local governments in accordance with Chapter 791, Government Code.

(b) The board by rule shall adopt policies and procedures consistent with applicable state procurement practices for soliciting and awarding a contract under this section.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 35, eff. September 1, 2011.

Sec. 1001.011. EDUCATIONAL CAMPAIGNS AND TRAINING. The department may conduct public service educational campaigns related to its functions.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 35, eff. September 1, 2011.

Sec. 1001.012. IMMUNITY FROM LIABILITY. (a) Notwithstanding any other law, the executive director, a board member, or an employee is not personally liable for damages resulting from an official act or omission unless the act or omission constitutes intentional or malicious malfeasance.

(b) To the extent a person described by Subsection (a) is personally liable for damages for which the state provides indemnity under Chapter 104, Civil Practice and Remedies Code, this section does not affect the state's liability for the indemnity.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 135, eff. September 1, 2013.

Sec. 1001.013. PERFORMANCE OF CERTAIN DEPARTMENT FUNCTIONS BY AUTHORIZED BUSINESS. (a) The executive director of the department may authorize a business entity to perform a department function in accordance with rules adopted under Subsection (b).

(b) The board by rule shall prescribe:

- (1) the classification types of businesses that are authorized to perform certain department functions;
- (2) the duties and obligations of an authorized business;
- (3) the type and amount of any bonds that may be required for a business to perform certain functions; and
- (4) the fees that may be charged or retained by a business authorized under this section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 136, eff. September 1, 2013.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 70, eff. September 1, 2013.

Sec. 1001.014. ADVERTISING INSIDE CERTAIN DEPARTMENT FACILITIES. The department may enter into an agreement with a public or private entity for a digital message display system to promote department information or news items of general interest in a

publicly accessible area of a facility operated by the department. For the purpose of funding the system, a portion of the information displayed on the system may consist of digital advertisements. The department may review and has the right to reject any proposed advertising to be displayed on a system.

Added by Acts 2015, 84th Leg., R.S., Ch. 485 (H.B. 1542), Sec. 2, eff. June 16, 2015.

SUBCHAPTER B. BOARD OF DEPARTMENT OF MOTOR VEHICLES

Sec. 1001.021. BOARD. (a) The board consists of nine members appointed by the governor with the advice and consent of the senate.

(b) Three members must be persons who hold a dealer's license issued under Chapter 2301, Occupations Code, of whom two must be franchised dealers of different classes and one must be an independent dealer; one member must be a representative of a manufacturer or distributor that holds a license issued under Chapter 2301, Occupations Code; one member must be a tax assessor-collector; one member must be a representative of a law enforcement agency of a county or municipality; and one member must be a representative of the motor carrier industry. The remaining members must be public members.

(c) Except as necessary to comply with Subsection (b), a person is not eligible for appointment as a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization that is regulated by or receives funds from the department;

(2) directly or indirectly owns or controls more than 10 percent interest in a business entity or other organization that is regulated by or receives funds from the department;

(3) uses or receives a substantial amount of tangible goods, services, or funds from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses; or

(4) is registered, certified, or licensed by the department.

(d) A person required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for

compensation on behalf of a profession related to the operation of the department may not serve as a member of the board.

(e) Appointments to the board shall be made without regard to race, color, disability, sex, religion, age, or national origin of the appointees and shall reflect the diversity of the population of the state as a whole.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.022. TERMS. Members of the board serve staggered six-year terms, with the terms of either one or two members expiring February 1 of each odd-numbered year.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.0221. BOARD; DUTIES. (a) The board shall oversee and coordinate the development of the department and shall ensure that all components of the motor vehicle industry function as a system.

(b) The board shall carry out its policy-making functions in a manner that protects the interests of the public and industry, maintains a safe and sound motor vehicle industry, and increases the economic prosperity of the state.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 36, eff. September 1, 2011.

Sec. 1001.023. CHAIR AND VICE CHAIR; DUTIES. (a) The governor shall appoint one of the board's members chair of the board. The chair serves at the pleasure of the governor. The board shall elect one of its members vice chair of the board. The vice chair serves at the pleasure of the board.

(b) The chair shall:

- (1) preside over board meetings, make rulings on motions and points of order, and determine the order of business;
- (2) represent the department in dealing with the governor;

(3) report to the governor on the state of affairs of the department at least quarterly;

(4) report to the board the governor's suggestions for department operations;

(5) report to the governor on efforts, including legislative requirements, to maximize the efficiency of department operations through the use of private enterprise;

(6) periodically review the department's organizational structure and submit recommendations for structural changes to the governor, the board, and the Legislative Budget Board;

(7) designate at least one employee of the department as a civil rights officer of the department and receive regular reports from the officer or officers on the department's efforts to comply with civil rights legislation and administrative rules;

(8) create subcommittees, appoint board members to subcommittees, and receive the reports of subcommittees to the board as a whole;

(9) appoint a member of the board to act in the absence of the chair and vice chair; and

(10) serve as the departmental liaison with the governor and the Office of State-Federal Relations to maximize federal funding for transportation.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 37, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 137, eff. September 1, 2013.

Sec. 1001.024. BOARD MEETINGS. The board shall hold regular meetings at least quarterly and special meetings at the call of the chair. Board members shall attend the meetings of the board. The chair shall oversee the preparation of an agenda for each meeting and ensure that a copy is provided to each board member at least seven days before the meeting.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.025. RECOMMENDATIONS TO LEGISLATURE. (a) The board shall consider ways in which the department's operations may be improved and may periodically report to the legislature concerning potential statutory changes that would improve the operation of the department.

(b) On behalf of the board, the chair shall report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of relevant legislative committees on legislative recommendations adopted by the board and relating to the operation of the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.026. COMPENSATION. A member of the board is entitled to compensation as provided by the General Appropriations Act. If compensation for board members is not provided by that Act, each member is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member of the board.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.027. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board if a board member:

(1) does not have at the time of appointment or maintain during service on the board the qualifications required by Section 1001.021;

(2) violates a prohibition provided by Section 1001.021;

(3) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(4) is absent from more than half of the regularly scheduled board meetings that the board member is eligible to attend during a calendar year, unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by

the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director of the department knows that a potential ground for removal exists, the director shall notify the chair of the board of the ground, and the chair shall notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal relates to the chair, the director shall notify another board member, who shall notify the governor and the attorney general that a potential ground for removal exists.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.028. CONFLICT OF INTEREST. (a) A member of the board shall disclose in writing to the executive director if the member has an interest in a matter before the board or has a substantial financial interest in an entity that has a direct interest in the matter.

(b) The member shall recuse himself or herself from the board's deliberations and actions on the matter in Subsection (a) and may not participate in the board's decision on the matter.

(c) A person has a substantial financial interest in an entity if the person:

(1) is an employee, member, director, or officer of the entity; or

(2) owns or controls, directly or indirectly, more than a five percent interest in the entity.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.029. INFORMATION ON QUALIFICATIONS AND CONDUCT. The department shall provide to the members of the board, as often as necessary, information concerning the members' qualifications for office and their responsibilities under applicable laws relating to standards of conduct for state officers.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01,

eff. September 1, 2009.

Sec. 1001.030. TRAINING ON DEPARTMENT AND CERTAIN LAWS RELATING TO DEPARTMENT. (a) To be eligible to take office as a member of the board, a person appointed to the board must complete at least one course of a training program that complies with this section.

(b) The training program must provide information to the person regarding:

- (1) this subchapter;
- (2) the programs operated by the department;
- (3) the role and functions of the department;
- (4) the rules of the department with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the department;
- (6) the results of the most recent formal audit of the department;
- (7) the requirements of the:
 - (A) open meetings law, Chapter 551, Government Code;
 - (B) open records law, Chapter 552, Government Code; and
 - (C) administrative procedure law, Chapter 2001, Government Code;
- (8) the requirements of the conflict of interest laws and other laws relating to public officials; and
- (9) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act and as if the person were a member of the board.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.031. ADVISORY COMMITTEES. (a) The board shall retain or establish one or more advisory committees to make recommendations to the board or the executive director. A committee has the purposes, powers, and duties, including the manner of reporting its work, prescribed by the board. A committee and each

committee member serves at the will of the board.

(a-1) Section 2110.002, Government Code, does not apply to an advisory committee established under this section.

(b) The board shall appoint persons to each advisory committee who:

(1) are selected from a list provided by the executive director; and

(2) have knowledge about and interests in, and represent a broad range of viewpoints about, the work of the committee or applicable division.

(c) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1290, Sec. 44(a)(3), eff. September 1, 2011.

(d) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 1290, Sec. 44(a)(3), eff. September 1, 2011.

(e) A member of an advisory committee may not be compensated by the board or the department for committee service.

(f) The meetings of an advisory committee shall be made accessible to the public in person or through electronic means.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 38, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 44(a)(3), eff. September 1, 2011.

SUBCHAPTER C. PERSONNEL

Sec. 1001.041. DEPARTMENT PERSONNEL. (a) Subject to the General Appropriations Act or other law, the executive director shall appoint deputies, assistants, and other personnel as necessary to carry out the powers and duties of the department under this code, other applicable vehicle laws of this state, and other laws granting jurisdiction or applicable to the department.

(b) A person appointed under this section must have the professional and administrative experience necessary to qualify the person for the position to which the person is appointed.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.0411. EXECUTIVE DIRECTOR; DUTIES. (a) The board shall appoint an executive director to serve at the pleasure of the board. The executive director shall perform all duties assigned by the board.

(b) The executive director may delegate duties or responsibilities as the executive director considers appropriate, provided the delegation does not conflict with applicable law or a resolution of the board.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 39, eff. September 1, 2011.

Sec. 1001.042. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly define the respective responsibilities of the executive director and the staff of the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 138, eff. September 1, 2013.

Sec. 1001.043. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT.

(a) The executive director or the director's designee shall prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with Chapter 21, Labor Code;

(2) a comprehensive analysis of the department workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made of

significant underuse in the department workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(b) A policy statement prepared under this section must:

(1) cover an annual period;

(2) be updated annually;

(3) be reviewed by the civil rights division of the Texas Workforce Commission for compliance with Subsection (a); and

(4) be filed with the governor.

(c) The governor shall deliver a biennial report to the legislature based on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.044. QUALIFICATIONS AND STANDARDS OF CONDUCT. The executive director shall provide to department employees, as often as necessary, information regarding their:

(1) qualification for office or employment under this subtitle; and

(2) responsibilities under applicable laws relating to standards of conduct for state employees.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1001.045. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS.

(a) The executive director or the director's designee shall develop an intra-agency career ladder program. The program must require intra-agency posting of all nonentry level positions concurrently with any public posting.

(b) The executive director or the director's designee shall develop a system of annual performance evaluations. All merit pay for department employees must be based on the system established under this subsection.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

SUBCHAPTER D. ELECTRONIC ISSUANCE OF LICENSES

Sec. 1001.101. DEFINITIONS. In this subchapter:

(1) "Digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

(2) "License" includes:

(A) a motor carrier registration issued under Chapter 643;

(B) a motor vehicle dealer, salvage dealer, manufacturer, distributor, representative, converter, or agent license issued by the department;

(C) specially designated or specialized license plates issued under Chapter 504; and

(D) an apportioned registration issued according to the International Registration Plan under Section 502.091.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 40, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 20.032, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1135 (H.B. 2741), Sec. 139, eff. September 1, 2013.

Sec. 1001.102. APPLICATION FOR AND ISSUANCE OF LICENSE. The board by rule may provide for the filing of a license application and the issuance of a license by electronic means.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 40, eff. September 1, 2011.

Sec. 1001.103. DIGITAL SIGNATURE. (a) A license application received by the department is considered signed if a digital signature is transmitted with the application and intended by the applicant to authenticate the license in accordance with Subsection

(b).

(b) The department may only accept a digital signature used to authenticate a license application under procedures that:

(1) comply with any applicable rules of another state agency having jurisdiction over department use or acceptance of a digital signature; and

(2) provide for consideration of factors that may affect a digital signature's reliability, including whether a digital signature is:

(A) unique to the person using it;

(B) capable of independent verification;

(C) under the sole control of the person using it; and

(D) transmitted in a manner that makes it infeasible to change the data in the communication or digital signature without invalidating the digital signature.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 40, eff. September 1, 2011.

SUBCHAPTER E. TEXAS DEPARTMENT OF MOTOR VEHICLES FUND

Sec. 1001.151. TEXAS DEPARTMENT OF MOTOR VEHICLES FUND. (a) The Texas Department of Motor Vehicles fund is a special fund in the treasury outside the general revenue fund and the state highway fund.

(b) Except as provided by Subsection (c), and unless otherwise dedicated by the Texas Constitution, the fund consists of:

(1) money appropriated by the legislature to the department;

(2) money allocated to pay fund accounting costs and related liabilities of the fund;

(3) gifts, grants, and donations received by the department;

(4) money required by law to be deposited to the fund;

(5) interest earned on money in the fund; and

(6) other revenue received by the department.

(c) Money appropriated to the department for Automobile Burglary and Theft Prevention Authority purposes and other revenue collected or received by the Automobile Burglary and Theft Prevention Authority may not be deposited into the fund.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 71,

eff. September 1, 2013.

Sec. 1001.152. USE OF MONEY IN FUND. Money that is required to be deposited in the state treasury to the credit of the Texas Department of Motor Vehicles fund may be used by the department only:

- (1) to support the department's operations and the administration and enforcement of the department's functions; or
- (2) to pay the accounting costs and related liabilities for the fund, including fringe benefits, workers' compensation, and unemployment compensation.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 71, eff. September 1, 2013.

Sec. 1001.153. APPLICABILITY OF OTHER LAW. Subchapter D, Chapter 316, Government Code, and Section 403.095, Government Code, do not apply to the fund created under Section 1001.151.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1287 (H.B. 2202), Sec. 71, eff. September 1, 2013.

CHAPTER 1002. RULES

Sec. 1002.001. GENERAL RULEMAKING AUTHORITY. The board may adopt any rules necessary and appropriate to implement the powers and duties of the department under this code and other laws of this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1002.002. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. The board may not adopt rules restricting advertising or competitive bidding by a person regulated by the department except to prohibit false, misleading, or deceptive practices by the person.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

CHAPTER 1003. DEPARTMENT PROCEDURES

Sec. 1003.001. APPLICABILITY OF CERTAIN LAWS. Except as specifically provided by law, the department is subject to Chapters 2001 and 2002, Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1003.002. SUMMARY PROCEDURES FOR ROUTINE MATTERS. (a) The board or the department by rule may:

- (1) create a summary procedure for routine matters; and
- (2) designate department activities that otherwise would be subject to Chapter 2001, Government Code, as routine matters to be handled under the summary procedure.

(b) An activity may be designated as a routine matter only if the activity is:

- (1) voluminous;
- (2) repetitive;
- (3) believed to be noncontroversial; and
- (4) of limited interest to anyone other than persons immediately involved in or affected by the proposed department action.

(c) The rules may establish procedures different from those contained in Chapter 2001, Government Code. The procedures must require, for each party directly involved, notice of a proposed negative action not later than the fifth day before the date the action is proposed to be taken.

(d) A rule adopted by the board under this section may provide for the delegation of authority to take action on a routine matter to a salaried employee of the department designated by the board.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1003.003. REVIEW OF ACTION ON ROUTINE MATTER. (a) A person directly or indirectly affected by an action of the board or the department on a routine matter taken under the summary procedure

adopted under Section 1003.002 is entitled to a review of the action under Chapter 2001, Government Code.

(b) The person must apply to the board not later than the 60th day after the date of the action to be entitled to the review.

(c) The timely filing of the application for review immediately stays the action pending a hearing on the merits.

(d) The board may adopt rules relating to an application for review under this section and consideration of the application.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1003.004. INFORMAL DISPOSITION OF CERTAIN CONTESTED CASES. The board or the department, as applicable, may, on written agreement or stipulation of each party and any intervenor, informally dispose of a contested case in accordance with Section 2001.056, Government Code, notwithstanding any provision of this code or other law that requires a hearing before the board or the department, as applicable.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1003.005. DELEGATION OF POWER. (a) The board by rule may delegate any power relating to a contested case hearing, other than the power to issue a final order, to:

- (1) one or more of the board's members;
- (2) the executive director;
- (3) the director of a division of the department; or
- (4) one or more of the department's employees.

(b) The board by rule may delegate the authority to issue a final order in a contested case hearing to:

- (1) one or more of the board's members;
- (2) the executive director; or
- (3) the director of a division within the department designated by the board or the executive director to carry out the requirements of this chapter.

(c) The board by rule may delegate any power relating to a complaint investigation to any person employed by the department.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1290 (H.B. 2017), Sec. 41, eff. September 1, 2011.

CHAPTER 1004. PUBLIC ACCESS

Sec. 1004.001. ACCESS TO PROGRAMS AND FACILITIES. (a) The department shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the department's programs.

(b) The department shall comply with federal and state laws for program and facility accessibility.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

Sec. 1004.002. PUBLIC COMMENT. The board and the department shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board or the department and to speak on any issue under the jurisdiction of the board or the department.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.

CHAPTER 1005. STANDARDS OF CONDUCT

Sec. 1005.001. APPLICATION OF LAW RELATING TO ETHICAL CONDUCT. The board, the executive director, and each employee or agent of the department is subject to the code of ethics and the standard of conduct imposed by Chapter 572, Government Code, and any other law regulating the ethical conduct of state officers and employees.

Added by Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 1.01, eff. September 1, 2009.