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TRAFFIC OFFENSES

The information contained in this packet is not offered as legal advice. The information is not exhaustive. There may be other remedies and procedures not contained in this packet. You should seek professional, licensed, legal counsel for advice.

The Court and it's staff **CANNOT** tell you what you should do about any legal issues. The Code Of Judicial Conduct **PROHIBITS** a Judge or Court employees from "practicing law" (giving legal advice) The Code further prohibits the Justice of the Peace from engaging in communications concerning the merits of a pending judicial proceeding, or the merits of an impending claim or dispute. The Court and staff can, however, communicate concering:

Uncontested Administrative matters
Uncontested procedural matters
Magistrate duties and functions

FREQUENTLY ASKED QUESTION AND INFORMATION CONCERNING TRAFFIC CITATIONS

WHERE CAN I LOOK UP THE LAWS OF TEXAS?

The Texas Statues are available on-line at http://www.statutes.legis.state.tx.us Most traffic offenses are contained in the Texas Transportation Code.

DO I HAVE TO COME TO COURT?

Defendants have a choice depending on how you want to resolve the citation. You can appear in person, by mail, or through a lawyer hired to represent them in court. It is required you submit an answer in writing to the court on or before the appearance date listed on the citation

Minors (anyone under the age of 17) **must** appear before the court in person with a parent or guardian. They cannot plead by mail, nor can they pay a fine at the court clerk's window.

HOW LONG DO I HAVE TO APPEAR?

Your ticket (also called a citation) has a date that was given by the officer that issued the ticket. This date is also referred to as an Appearance Date. When you were allowed to sign the ticket you made a promise to contact the court on or before this date.

It is extremely important that you contact the court, enter a written plea on or before the Appearance date. If you do not contact the court on or before the date given you will receive a Violation of Promise to Appear. This is a separate offense and will result in separate fines and fees.

Explanation of what a plea is will be addressed further in this packet.

NOTE

There are certain offenses that contain administrative dismissal provisions that require action or appearance within a specified period of time, which time may be sooner that the appearance date.

For example:

Expired Driver's License:
License must be renewed within 20 working days from date of offense or before appearance date whichever is later.

Fail to change Address on Driver's License Renew:
not later than 20 working days from the offense or before appearance date whichever is later.

No DL in Possession/Failure to Display DL (Licensed TX Driver)

Expired Registration:
Registration must be renewed not later than 20 working days from date of offense or before appearance date whichever is later, and the Tax Assessor's receipt showing the payment of the late fee.

Inspection Certificate:
Inspection must be less than 60 days out of date, and new inspection must be made within 20 working days from the date of offense or before appearance date whichever is later.

Operate Vehicle not Properly Equipped:
Remedy before appearance date.

Altered or Obscured License Plate:
Remedy before appearance date.

Fail to display Registration Insignia on Vehicle:
Provide proof the vehicle was registered during period offense was committed.
and the registration insignia was attached to the passenger car before appearance date.

Fail to Display License Plate on Front and Rear of Vehicle:
Remedy before appearance and provide proof or sign affidavit.

If you received a citation for one or more of the above offenses you may remedy the violation, provide proof the violation was remedied, and sign an affidavit to the effect you would only pay the administrative fee and not the fine.

WHAT IF THE COURT IS CLOSED ON MY APPEARNCE DATE?

Occasionally, the appearance day on the face of the ticket will be a weekend or holiday, or the court may be closed for some unforeseen reason, such as weather. The best course is to submit a written answer (plea) before the appearance date. This can be done my fax, email, mail, or personal delivery at the court window.

If you discover the date given is a day the court is not open your appearance date will be extended to the next business day. It is your responsibility to confirm the court has received your answer (plea).

WHAT HAPPENS IF I DON'T CONTACT THE COURT BEFORE THE APPEARANCE DATE?

If you do not submit a written answer (plea) before the appearance date you will receive a Violation of Promise to Appear. This is a separate violation with separate fines and fees. It is also possible your drivers license will be placed in the Omni Database and a hold placed on your license. This will prevent you from renewing your drivers license until the violation is resolved.

WILL I GET ARRESTED?

If you have failed to appear by your appearance date or at your scheduled trail, or if you have been previously found guilty, assessed a penalty, and have not paid your fine or appealed your conviction, a warrant can be issued for your arrest.

DO I NEED A LAWYER?

It is not required that a defendant be represented by legal counsel, although a licensed attorney can give advice about options and procedures you may not be aware of. Defendants are certainly free to hire lawyers to represent them in court, but if a defendant cannot afford an attorney no lawyer will be appointed at the State's expense. This is because offenses within the Justice Court's jurisdiction are punishable by fine only, and not imprisonment. Attorneys are only appointed at the State's expense when a defendant's liberty is at risk.

CAN I GET AN EXTENSION ON MY TIME TO APPEAR?

No. You must contact the court and submit in writing your answer (plea) to the charge on the citation on or before the appearance date. Remember **ALL** pleas and requests must be made to the court in writing. **NO EXCEPTIONS**.
You can Fax, email, mail, or hand deliver pleas and requests.

WHAT DOES A "PLEA" OR "ANSWER" MEAN?

The constitution requires that the accused be given notice of the charges filed, and given an opportunity to appear and be tried. This is known as "DUE PROCESS".
Once the defendant is notified of the charges filed (ie: ticket) the defendant enters a plea or answer to the charge. There are three possible pleas.

GUILTY

admitting to the offense

NO CONTEST

not formally admitting guilt but not contesting the charges filed.

NOT GUILTY

Disputing the charges filed. When this plea is used you have an option and must state your desire for a trial by Judge or Jury.
In a trial by Judge or Bench trial it is the Judge that will decide if you are guilty of the offense and if convicted, assess the penalty.
In a Jury trial, it is the Jury that will decide if you are guilty of the offense and if convicted , in some instances assess the penalty.

A plea of Guilty or No Contest will result in a finding of guilt by the court, along with a penalty

NOTE:

A plea of guilty may be used against a defendant for other purposes, such as to prove civil liability in a civil suit for property damage arising from the same incident. A plea of No Contest cannot be used for that purpose.

Further, if a defendant refuses to plead, the court is required to enter a plea of Not Guilty on the defendant's behalf.

Finally, a minor under the age of 17 **MUST** appear before the court with a parent or guardian to enter a plea - it **CANNOT** be done by mail, and fines cannot simply be paid to the court clerk without seeing the Judge.
NO EXCEPTIONS CAN BE MADE.

HOW ARE FINES SET?

Fines are set by the court.
The courts sets the fines within a range set by the state legislature for each offense. Most moving violations without a specific fine set by the legislature have a range of $1 - $200.
Fines for speeding offenses are calculated according to the number of miles per hour over the speed limit. Class C misdemeanor penalties, without a specific fine, range from $1 - $500.
Examples of offenses having specific fines set by the legislature include:

Seat belt violations
fines range from $50-$200

Failure to Maintain Financial Responsibility (no insurance)
fines range from $175-$350 for 1st offense
and $350-$1,000 for subsequent offenses

Fines in construction or maintenance work zones (with workers present) are **REQUIRED** to be doubled.

In addition to the fine set by the court, court costs are set by the legislature which vary according to the offense. For example an offense having a $100 fine, may have court costs of $102.10, resulting in a total penalty of $202.10.

WHAT IF I JUST PAY THE FINE?

If the defendant pays the fine without explanation, the court is authorized to accept the fine and enter a conviction as through the defendant had appeared in person and entered a plea of No Contest.
A MINOR UNDER THE AGE 17 CANNOT PAY THE FINE WITHOUT APPEARING IN COURT WITH A PARENT OR GUARDIAN. NO EXCEPTIONS.

WILL A CONVICTION SHOW ON MY DRIVING RECORD?

Convictions for certain offenses are reported to the Department of Public Safety in Austin and remain on your driving record for a period of time. Examples of reported convictions include:

All moving violations
Driver's License violations
Insurance violations
Some seat belt violations

All questions about your driving record should be directed to DPS.

Example of convictions not reported include:

Vehicle Inspection violations
Vehicle registration violations
Most equipment violations

CAN I TAKE A DRIVING SAFETY COURSE ("DSC") TO HAVE THE TICKET DISMISSED?

Both the driver and offense must qualify for a driving safety course and certain requirements must be met according to the Code of Criminal Procedure, Sec. 45.0511:

The offense must be an offense committed while operating a motor vehicle (moving violation)

The driver must hold a valid Class C non-commercial Texas Drivers License

The driver must have valid Personal liability insurance

The defendant must not have taken a driver safety course to dispose of a traffic offense within the last 12 months

The defendant must not be currently taking a driver safety course to dispose of another offense

The request to take the driver safety course must be made on or before the appearance date

The defendant must plead Guilty or No Contest

The defendant must pay the court costs $112.10 (cashiers check or money order only)

The defendant must provide satisfactory completion of a certified driving safety course and a copy of the defendant's driving record form 3A obtained from the Department of Public Safety.

FAILURE TO PAY FEES, TAKE THE COURSE, PROVIDE PROOF OF COMPLETION, AND A CERITFIED DRIVNING RECORD IN A TIMELY MANNER WILL RESULT IN A CONVICTION

OFFENSES NOT ELIGIBLE FOR DISCHARGE THROUGH A DRIVING SAFETY COURSE:

Speeding 25 or more miles per hour over the posted speed limit

Construction or maintenance work zone violations (when workers are present)

Failure to stop at the scene of an accident involving damage to a vehicle

Failure to give information or render aid

Reckless Driving

Overtaking a school bus

Passing a school bus while children are loading or unloading

Fleeing Law Enforcement

Offenses committed by a driver holding a CDL

WHAT IS DEFERRED DISPOSITION?

Deferred disposition under the Code of Criminal Procedure 45.051 is available for any misdemeanor case punishable by fine only.

To qualify, the defendant **MUST**:

Submit a request in writing for Deferred on or before the appearance day on the citation.

Plead Guilty or No Contest or be found guilty by the court

Agree to the terms and conditions set by the court

Pay the court costs, plus a "Special Expense Fee" to be paid at the beginning of the term of deferment

Comply with the Court's requirements, which may include a driving safety course or any "reasonable condition".

Comply with the court's conditions and commit no moving violations for a period of 30 to 180 days as set by the court.

Provide the court with a certified driving record form 3A obtained through the Texas Department of Public Safety at the end of you deferment.

Provide the court with satisfactory proof of completion of the court's requirements

FAILURE TO PAY FEES AND COST OR TO COMPLY WITH THE COURT'S CONDITIONS WILL RESULT IN A CONVICTION AND PAYMENT OF A FINE.

APPROVAL FOR DEFERRED DISPOSTION IS AT THE DISCRETION OF THE JUDGE.

I HAVE A COMMERICIAL DRIVER'S LICENSE (CDL) - CAN I STILL TAKE A DRIVERS SAFETY COURSE OR DEFERRED DISPOSITION?

Persons holding a class A, B, or C commercial Driver's License (CDL) are ineligible to discharge a moving violation through a defensive driving course or deferred disposition, even if the offense occurred while operating a non-commercial vehicle, such as a personal automobile.

MY TICKET SAYS IT WAS ISSUED IN A CONSTRUCTION ZONE WITH WORKERS PRESENT DOES THAT MATTER?

Moving violations that occur in a location designated a "construction or maintenance work zone" where workers are actually present, are not eligible for discharge through a defensive driving course or deferred disposition, **AND** the fine range is doubled. For example , an offense with a fine range of $1-$200 would be doubled to $2-$400.

COLLECTION OF FINES DUE

Fines and court cost are due at the point of conviction, unless an appeal is timely filed, or before the start of a deferred disposition, Some courts allow alternative means of payment for large amounts, such as

Payment extension - a one time $25.00 fee will be assessed for a 30 day extension. You are allowed two 30 day extensions if requested in writing.

Community service at the rate of $12.00/hour

Credit for time spent in jail at $100/day

Defendants with delinquent fines may be arrested and jailed, their case may be referred to a collection agency, and their driver's license may be suspended.

APPEAL

Convictions may be appealed to the County Court by posting the appropriate bond (usually double the amount of fine and court costs), with the clerk and completing an appeal bond within ten days of the date of conviction.
Defendants requesting deferred disposition may be required to waive their right to appeal a conviction.
Ordinarily, convictions for traffic offenses are not subject to appeal after the fine is paid.

PROPER DRESS IS REQUIRED IN COURT

All requirements pertain to both adult and juvenile males and females. Failure to comply may result in resetting of the case to a later date, or in the extreme, contempt of court.

SHOES ARE REQUIRED

NO SLEEVELESS SHIRTS

NO BAGGY PANTS

NO CAPS/HATS ALLOWED IN COURT ROOM

NO EXPOSED MIDRIFFS

NO CLOTHING DISPLAYING OFFENSIVE WORDS OR PICTURES
The Court retains the exclusive right to define "offensive" on an individual basis

GENERAL CLEANLINESS

CHILDREN
Loud or crying children should be taken out of the courtroom

Infants and small children should be left with a sitter or at home in the care of a competent adult. There are no childcare facilities in the courthouse.