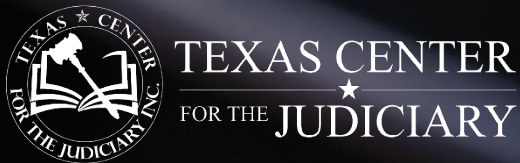


HB 291- Occupational Driver's Licenses After 9/1/23

Judge Laura A. Weiser
Judicial Resource Liaison
Texas Center for the
Judiciary





Eligibility

Eligibility

TTC 521.241 (1)(B)

Adds **pursuit** of an occupation or trade to category of acceptable reasons to need to drive

TTC 521.242 (a)(1)

Adds **revoked** or **canceled** as reasons why a person would be eligible to apply for an ODL

TTC 521.242 (1)(B)

Adds that a determination by DPS that a person is incapable of safely operating a motor vehicle (TTC 521.294) makes them **ineligible** to apply for an ODL

TTC 521.242(3) A person who holds a DL issued by another state or country that was suspended, revoked or canceled for a cause other than a physical or mental disability or impairment may apply for an ODL

TTC 524.242(2)

If a person doesn't currently hold a DL and is ineligible due to a suspension order, they may apply for an ODL

What About Failure to Pay Child Support?

Texas Administrative Code

Title 37, Part 1, Chapter 15, Subchapter A, Rule 15.7

(a) An occupational license is a restricted driver license that permits the operation of a non-commercial motor vehicle when a license has been suspended or revoked.

An occupational license **cannot be issued** if the applicant is revoked for medical reasons or suspended **for failure to pay child support.**

What About Suspension for an Unsatisfied Judgment?

TTC 601.332 (c)

A person whose license is suspended under Subsection (a) is eligible for an ODL

123.009 Govt. Code

What About Drug/DWI Court Participants ?

The Judge administering the drug court program may order an ODL be issued to the participant.

That order is subject to Sections:

521.248 (Order Requirements)

521.249 (Notice to DPS)

521.250 (Court Order in Operator's Possession)

521.252 (License revocation) and

521.253 (Criminal Penalty for violation of restriction)

What About Juveniles?

TTC Section 521.350(c)

If DL is suspended for racing under 545.420(a)

An ODL issued to a person younger than 18 yoa 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.



Commercial Vehicles

Sec. 521.2424 clarifies that although the Court may not grant an ODL for the operation of a commercial vehicle, a CDL holder may be given an ODL for the operation of a non-commercial vehicle.



Filing, Jurisdiction and Venue

Forms

Sec. 521.2423

A Court **SHALL** make the forms required for petitioning for an ODL and for the Statement of Inability to Afford Payment of Court Costs available at no cost.

Form for inability to pay costs is available at:

<https://www.txcourts.gov/media/1435953/statement-final-version.pdf>

Inability to Pay

Sec. 521.2422(b)

If Petitioner files a Statement of Inability to Pay Costs, the Court may hold a hearing to determine the person's ability to afford the payment of the filing fee.

The hearing may be held at the time the Statement is filed or at the hearing to determine essential need.

If the Court determines that Petitioner is able to afford the filing fee, the petition for ODL may not be granted until fees are paid

Venue

Sec. 521.2421 (a)

Removes “precinct”

Sec. 521.2421(a) venue is in the county where the petitioner resides or in which the incident leading to the suspension, revocation or cancellation occurred

521.2421 (b) requires that if a DL has been automatically suspended, revoked or canceled due to a conviction for an offense, the petition has to be filed with the convicting court

Sec. 521.2421(c) If the suspension is the result of a court order, venue is the county of residence, county where the incident occurred or the court which issued the order.

Jurisdiction

Sec. 521.2421(f) If the Court lacks jurisdiction, the Court shall dismiss the application

- The Court may hold a hearing to determine jurisdiction;
- Petitioner may file a motion to reinstate within 14 days stating the reason the Court has jurisdiction.

Section 521.2422 If the petition is dismissed for lack of jurisdiction, the Court shall refund the filing fees.

Print your name

 First Middle Last

Petition for Occupational Driver's License

Print your answers:

My name is: _____
 First Middle Last

I am the Petitioner, and I am asking the court for an Occupational Driver's License.

I ask the Court to consider the information I have provided below.

Upon approval of this Petition, I ask the Clerk to send a certified copy of the Petition and court Order setting out the judge's findings and restrictions to the Texas Department of Public Safety.

I. Petitioner's Personal Information

1. Home address: _____
 Street address Cl

 County Zip

2. Mailing address (if different from above): _____

3. Phone number: () _____

4. Email address: _____

5. Date of birth: _____
 Month Day Year

Petition and Hearing

Sec. 521.2421 (d) Petition Must Include:

- Description of essential need;
 - Including hours and location of essential travel
- The reason for suspension/cancellation or revocation
- Proof of financial responsibility
- Must include a certified abstract of the petitioner's complete driving record

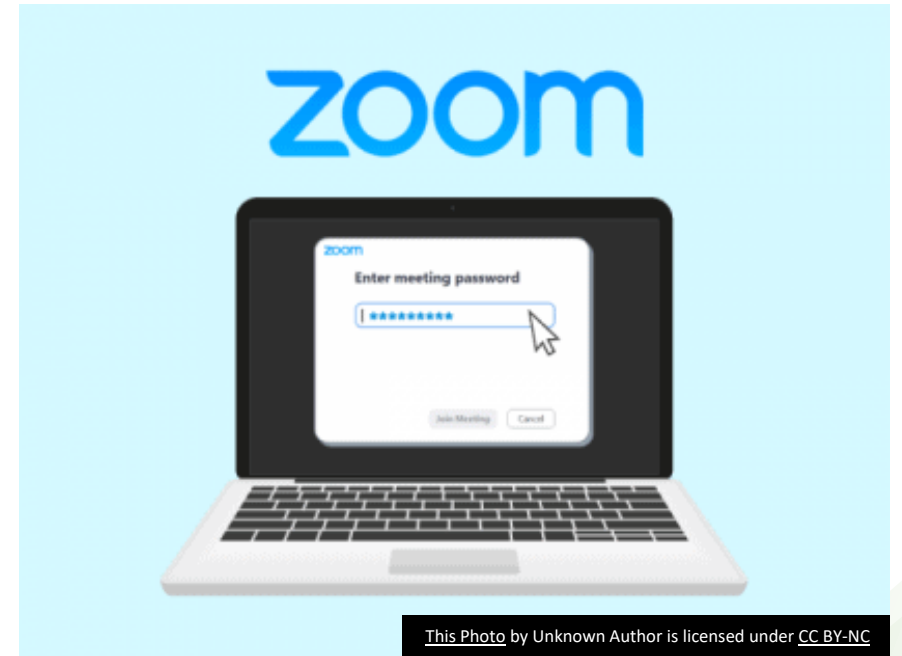
Sec. 521.244 Hearing

(a) **MUST** hold a hearing and notify prosecutor if the conviction is for Criminally Negligent Homicide or an intoxication offense under Chapter 49 of the Penal Code or an offense to which Sec. 521.342 TTC applies. (under 21 and intoxication offense under Chapter 49, TABC offenses, Chapter 483 or 485 THSC offenses)



(a-1) May hold a hearing if (a) does not apply or may make a determination of essential need based on the petition.

(d) Hearing may be held using electronic or telephonic means



(e) If the Judge determines the person is eligible for an ODL and has an essential need, the Judge **SHALL** grant the petition.

(f) The Judge may deny a petition based on evidence presented by the prosecutor or:

- 1) the petitioner is unable to present proof of financial responsibility
- 2) The person has been convicted more than once in the 10 years preceding the petition for an offense under 49.04-49.08 TPC
- 3) The person is subject to a revocation order under Section 521.252 (ODL revocation) or 521.253 (Criminal offense of violation of an ODL)

521.244 (g) Appeal

An order granting or denying an application for an occupational driver's license may NOT be appealed.



Ignition Interlock and Alcohol Counseling

521.246 Ignition Interlock

- (a) The Judge SHALL order an IID if:
- 1) The person is currently under an order requiring an IID
 - 2) The license is suspended, revoked or canceled after a conviction for an offense under Sec 49.04-49.08
 - 3) On a finding of good cause
 - 4) IID order can be waived if the Court finds the requirement is not necessary for the safety of the community and waiver is in the best interest of justice

521.246(d)

IID to be ordered for duration of the period of suspension unless:

- 1) good cause for the removal of the device; AND
- 2) The device is not necessary for the safety of the community

What About Employer Owned Vehicles?

TTC 521.246(e) sets out the requirements to excuse an ignition interlock on a company owned vehicle. They are:

1. The person is required to operate a motor vehicle in the course and scope of employment;
2. The vehicle is owned by the person's employer
3. The employer is not owned or controlled by the person who is required to install the IID
4. The employer is notified of the restriction; and
5. Proof of that notification is with the vehicle.

521.245 Alcohol Dependence Counseling

Program must be approved by the Court.

Required if license is suspended for a BT failure or refusal or as a result of a conviction for an offense relating to DWI

Court may waive the requirement on a showing of good cause

If applicant fails to comply with counseling order, the Court may revoke the ODL or add an IID order

Required Program

Cannot be:

The program provided by Section 521.344(d)-DWI Education Program

The program provided by Art. 42A.403 or 42A.404 CCP-DWI Education Program

Possible Programs to Consider

Check with your local MHMR

National Institute on Alcohol Abuse and Alcoholism has a treatment navigator tool:

alcoholtreatment.niaa.nih.gov

Smart Recovery www.smartrecovery.org

Alcoholics Anonymous: www.aa-intergroup.org

Alcohol or Controlled Substance Testing

521.2461 remains intact

Court may require that the person submit to periodic testing for alcohol or controlled substances if the person's license has been suspended, revoked or canceled under Chapter 524 or 724 (BT refusal or failure) or as a result of a conviction for an offense relating to the operating of a motor vehicle while intoxicated.

Supervision

521.2462 Remains intact

The Court may order the person to submit to supervision

Supervision may be conducted by:

local CSCD

a personal bond office

A administrative fee of \$25-\$60 may be collected



Order

Sec. 521.248

(a) Order must specify:

- 1) Hours and days of the week when driving is allowed
- 2) Reasons for which the person may operate a vehicle
- 3) Areas or routes of travel permitted
- 4) That the person may not operate a commercial vehicle

- 5) That the person is restricted to an IID, if applicable
- 6) That the person must submit to periodic testing for alcohol or controlled substances, if applicable
- 7) That the person is required to attend alcohol dependence counseling, if applicable; and
- 8) That the person is required to submit to supervision to ensure compliance, if applicable.

4 hour Restriction

Left intact

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

521.248(d) IID Restriction

Left (d) intact

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 or travel, reason for travel, or location of travel restrictions described by Subsection (a)(1), (2), or (3) or (b)

521.248 (e) Travel Log

An order granting an ODL may require a person to keep a travel log showing the date, time and location of travel. The Court may require the person to show the travel log to demonstrate compliance with the order

Modification of an ODL Order

521.248(g) Added

An order may be modified at any time by the Court without a hearing or payment of a filing fee.

The issuance date is not changed by a modification

Certified copy of the modified order shall be delivered to the person and the Department.

Affirmative Defense

521.249(a-1) It is an affirmative defense to prosecution under 521.025 (Failure to Display DL) and 521.457 (DWLI) that the person has applied for and complied with the Department's requirements for the issuance of an ODL on or before the 10th day after the issuance of the Court order but has not been issued the license.

Sec. 521.251 Waiting Periods

Repealed



Sec. 524.022 Period of Suspension

Repealed



