

**SUBJECT:** Deferred disposition, driving safety courses for traffic violations

**COMMITTEE:** Criminal Jurisprudence — favorable, without amendment

**VOTE:** 8 ayes — Hinojosa, Dunnam, Keel, Talton, Garcia, Green, Kitchen, Shields  
0 nays  
1 absent — Martinez Fischer

**SENATE VOTE:** On final passage, March 27 — voice vote

**WITNESSES:** For — Steve Bresnen, USA Training; Patricia Ott, Justices of the Peace and Constables Association of Texas; *Registered but did not testify:* Ricardo Benavides, Elite Driving Systems; John H. Williams, Justices of the Peace and Constables Association of Texas; Clint Hackney, Driving Training Associates  
  
Against — None  
  
On — W. Clay Abbot, Texas Municipal Courts Education Center

**BACKGROUND:** Under Code of Criminal Procedure (CCP), art. 45.051, on a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by a fine only and payment of all court costs, a judge may defer proceedings without entering an adjudication of guilt and may place the defendant on probation for up to 180 days. During this deferral period, the judge may require the defendant to take several actions listed in the code, such as post a bond, attend counseling, or pay restitution. Judges also may require defendants to comply with “any reasonable condition.”  
  
CCP, art. 45.0511 lists specific procedures for deferred dispositions for traffic offenses. It applies to motor vehicle offenses other than those that involve commercial motor vehicles. During a deferral period, a judge must require a defendant who meets certain requirements to take state-approved driving safety courses if the defendant elects deferred disposition and has not completed a driving safety course or motorcycle operator training course

within the “preceding” 12 months. Judges may require defendants to take a driving safety course even if they have taken a course within the preceding 12 months.

Art. 45.0511(p) says that the right to complete a driving safety course does not apply to certain convictions that result from driving a commercial vehicle. These “serious traffic violations,” listed in Transportation Code, sec. 522.003, include speeding, reckless driving, a violation relating to traffic control, improper or erratic lane changes, and following too closely.

**DIGEST:**

SB 730 would add to the list in CCP, art. 45.051 of actions that a judge may require a defendant to take if a sentence has been suspended and the person is placed on probation. A judge could require a defendant to complete a state-approved driving safety course or another course chosen by the judge.

The authorization for judges to suspend a sentence and defer disposition would not apply to an offense involving the operation of a commercial vehicle or committed by a person holding a commercial driver’s license or to certain offenses committed in construction or maintenance work zones when workers are present.

SB 730 would change the language specifying what offenses are covered by the procedures for the deferred disposition of traffic offenses. The section would apply only to offenses within the jurisdiction of a justice or municipal court that involved the “rules of the road” traffic offenses in Transportation Code, Title 7, subtitle C, the offense of not observing warning signs, and some traffic offenses by minors.

The bill would add state-approved motorcycle operator training and safety programs to the types of courses that judges could require defendants to attend.

A driver could not have completed a driving or motorcycle safety course in the 12 months preceding the offense, rather than the “preceding” 12 months. SB 730 would eliminate judges’ current authority to require defendants to take a driving safety course if they already have completed a course in the preceding 12 months.

Defendants wishing to take driving safety courses could enter their pleas on or before the answer date on the notice to appear, rather than before the answer date. Defendants could have their lawyers submit their requests to take a course instead of having to do it in person.

SB 730 would require judges to impose deadlines for completing safety courses. A defendant would have to be given 90 days to complete driving safety or motorcycle training courses successfully and an additional 30 days to present a certificate of completion to the court, along with other proof that the defendant was eligible to take the course.

The bill would specify that the currently authorized fee of up to \$10 that courts can charge people taking driving safety or motorcycle training courses is in addition to other authorized court costs and fees. It would authorize judges to require defendants to pay a court-set fee that could not exceed the maximum fine allowed for the offense, instead of the current authorization to impose any fee authorized by statute or municipal ordinance.

SB 730 would require a court to enter an adjudication of guilt and impose a sentence if a person failed to comply with a notice to appear before the court to show why the defendant did not complete a course during the required period, or if the defendant appeared before the court as required but did not show good cause for not completing the course. The bill would repeal the current provision making it a misdemeanor under the Transportation Code to fail to appear before the court.

CCP, art. 45.0511, which details the procedures for deferred dispositions in for traffic offenses, would not apply to offenses involving the operation of a commercial motor vehicle or committed by a person who held a commercial driver's license. The right to take a driving safety course would not apply to specified serious traffic violations involving commercial vehicles.

SB 730 would repeal a provision that allows charges for violations relating to offenses in construction or maintenance zones to be dismissed only upon a prosecutor's motion. It would repeal CCP, art. 45.541, which contains language identical to that in art. 45.0511 and was the result of the 76th Legislature's enacting two similar bills dealing with deferred disposition procedures for traffic offenses.

This bill would take effect September 1, 2001, and would apply only to offenses committed on or after that date.

SUPPORTERS  
SAY:

SB 730 would clean up language in the CCP that outlines the procedures for persons to have traffic offenses dismissed if they take driving safety courses. The 76th Legislature merged language in the Transportation Code and the CCP to create a single statute for this procedure. SB 730 would clear up ambiguities that remained after that merger.

Many provisions of SB 730 simply would clarify current law. For example, judges already have broad authority to impose conditions on defendants who receive probation, including requiring them to take driving safety courses, but SB 730 explicitly would authorize this. It also would include motorcycle courses throughout the statute instead of only under some provisions. These changes would ensure that all judges were aware of their authority.

SB 730 would clarify which offenses allow persons to take driving safety courses. Except for the changes affecting commercial drivers, the bill would not change who can take the course but would clarify cross-references to certain offenses listed in the Transportation Code.

The bill would clarify that a driving safety course could not have been taken in the 12 months preceding an offense. This would clear up confusing language that has led some to interpret current law to mean that the course could be taken within 12 months of another course.

The deadlines that the bill would impose for people to take driving safety courses would ensure that courts would have enough time to process the paperwork within a person's probation period. SB 730 would impose no new fees but would clarify current language that allows courts to charge special expense fees in some situations.

The provisions in SB 730 prohibiting the use of driving schools to defer tickets for offenses involving the operation of commercial vehicles and for offenses committed by people holding commercial driver's licenses are necessary to comply with federal law. Under the Motor Carrier Act of 1999, Texas could lose its authority to issue commercial driver's licenses and could lose some road-repair funds if the state allows information about

violations of commercial drivers to be withheld or masked in any way. Although the federal government has issued no regulations on how this requirement is to be interpreted, there is general agreement that the state must track violations of commercial license holders whether the violations occur in a commercial vehicle or in a personal vehicle. SB 730 would facilitate this by prohibiting holders of commercial driver's licenses from taking driving safety courses. Although the Department of Public Safety (DPS) receives notice when a person has taken a driving safety course, there is no notation about the underlying violation. Not recording this information could be considered masking the offense. The federal law says that violations — not convictions alone — must be tracked.

OPPONENTS  
SAY:

The language in SB 730 prohibiting driving safety courses due to offenses committed by people who hold commercial driver's licenses is too broad. It could be interpreted as relating to non-driving offenses.

It would be unnecessary and unfair to prohibit people who hold commercial driver's licenses from taking driving safety courses for offenses committed while in personal vehicles. The federal law requires only that certain serious traffic offenses be reported and tracked. These offenses are the same serious offenses listed in state law and in SB 730 that would prohibit a person with a commercial driver's license from taking a driving safety course, so under the bill there would be no masking of offenses for commercial drivers.

Also, if a person takes a driving safety course, there is no conviction for the traffic offense, so it would not necessarily have to be reported under federal law. DPS is informed whenever someone takes a driving safety course and keeps that information in a driver's record.