

TRAFFIC OFFENSES

The information contained in this packet is not offered as legal advice. You should seek professional, licensed, legal counsel for advice.

The Court and its 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 concerning:

Uncontested Administrative matters

Uncontested procedural matters

Magistrate duties and functions

FREQUENTLY ASKED QUESTIONS AND INFORMATION CONCERNING TRAFFIC CITATIONS

WHERE CAN I LOOK UP THE LAWS OF TEXAS?

The Texas Statutes are available online at <http://www.statutes.legis.state.tx.us>

Most traffic offenses are contained in the Texas Transport 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 who 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, and 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. An 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 than the appearance date.

For example:

Expired Driver's License:

The license must be renewed within 20 working days from the date of offense or before the appearance date whichever is later.

Fail to Change Address on Driver's License or Renew:

Not later than 20 working days from the offense or before the appearance date whichever is later.

Expired Registration:

Registration must be renewed not later than 20 working days from the date of offense or before the 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 the appearance date whichever is later.

Operate Vehicle not Properly Equipped:

Remedy before the appearance date.

Altered or Obscured License Plate:

Remedy before the appearance date.

Fail to display Registration Insignia on Vehicle:

Provide proof the vehicle was registered during the period the offense was committed and the registration insignia was attached to the passenger car before the appearance date.

Fail to Display License Plate on Front and Rear of Vehicle:

Remedy before appearance and provide proof or sign an 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 APPEARANCE 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 by 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 driver's license will be placed in the Omni Database and a hold placed on your license. This will prevent you from renewing your driver's license until the violation is resolved.

WILL I GET ARRESTED?

If you have failed to appear by your appearance date or at your scheduled trial, 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 advise 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 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 allowed to appear and be tried. This is known as "DUE PROCESS". Once the defendant is notified of the charges filed (i.e.: 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

HOW ARE THE FINES SET?

Fines are set by the court.

The courts set 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-\$425 for 1st offense.

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, resulting in a total penalty of \$202.

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 though the defendant had appeared in person and entered a plea of No Contest.

A MINOR UNDER THE AGE OF 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.

Examples of convictions not reported include:

Vehicle Inspection violations
Vehicle registration violations
Most equipment violations

COLLECTION OF FINE DUE

Fines and court costs 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 a Payment Plan, and a one-time \$15.00 fee will be assessed.

Community service at the rate of \$100 for every 8 hours done.

Credit for time spent in jail at \$100/day.

Defendants with delinquent fines may be arrested and jailed 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.