

# TEXAS DWI BOND CONDITION PROGRAM

Annual Newsletter

September 2019

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## A Message From General Counsel

**Randall L. Sarosdy**

Thank you for your participation in the Texas Justice Court Training Center's DWI Bond Condition Program. TJCTC sincerely appreciates your county's commitment to enhancing public safety and improving outcomes in DWI cases in the State of Texas, and we commend you for your dedication to the program.

We recently conducted the fifth Impaired Driving Symposium in Austin and are pleased to report that it was very well received. We believe there is great value in holding conferences that include justices of the peace, municipal court judges, county judges, county court at law judges and district judges and that afford the participants the opportunity to consider common approaches in dealing with DWI issues. The conference included many excellent speakers on developing legal issues and current practices. I was pleased to be able to moderate a wide-ranging discussion class of Impaired Driving Scenarios and Rebecca Glisan gave a presentation explaining the DWI Bond Condition Program. Rebecca and I are looking forward to the sixth annual Impaired Driving Symposium on August 3 -4, 2020, in Corpus Christi.

We also are very pleased to report that we and the Texas A&M Transportation Institute jointly conducted the second Ignition Interlock Summit in Longview on April 30 – May 1, attended by judges, law enforcement and CSCD personnel from East Texas. The speakers provided much practical and useful information, including an excellent presentation by Rebecca Glisan, on the legal issues relating to setting, monitoring and enforcing bond conditions in DWI cases. The evaluations for this program, as well as the Impaired Driving Symposium, were very positive.



We are continuing to make additional counties aware of and interested in participating in the DWI Bond Condition Program. Counties that are participating in the program include Rockwall, Matagorda, Bandera, Jim Wells, Brooks, Polk and Medina Counties. We conducted a one-day workshop concerning the program and impaired driving issues in Fort Davis in October 2018 attended by District Judge Roy Ferguson and justices of the peace and CSCD officials from Jeff Davis, Reeves, Presidio, Brewster and Pecos Counties. We also met in person with judges and county officials in Delta, Nolan and Upton Counties, and have been asked to meet with judges and county officials in Colorado and Dallam Counties.

Thanks to the excellent work of Rebecca Glisan we are also improving both the classes on impaired driving issues at our judges and court personnel judicial education seminars and the resources available on our website. References and links to these resources are included in this Newsletter.

If you would like to request changes to the forms used by your county to administer the program, or if you'd like to update the bond conditions you are using in DWI cases, please don't hesitate to contact us. We are ready to assist you with your county's administration of the program in any way that we can. Additionally, if you have any ideas about how we can better serve participating counties, please let us know. We want to continually improve and expand this program in order to reduce DWI offenses throughout the state. Thank you again for your participation. We look forward to working with all of you in the 2020 fiscal year.





## Keep Texas safe. Keep drunk drivers off the road.

This fact sheet provides a snapshot of alcohol-involved deaths and drunk driving and an overview of proven strategies to reduce or prevent drunk driving. The information can help local public health decisionmakers and community partners see gaps and identify relevant strategies to address the problem of drunk driving.

### Fast Facts

- Drivers with a blood alcohol concentration (BAC) of 0.08% or higher (i.e., drunk drivers) are considered alcohol-impaired by law.
- About one in three traffic deaths in the United States involve a drunk driver.
- Thanks to dedicated efforts, rates of drunk driving and alcohol-involved fatal crashes have gone down in recent years.
- Still, drunk drivers got behind the wheel millions of times in 2010.
- These data show what's happening in your state.

## ALCOHOL-INVOLVED DEATHS

Persons Killed in Crashes Involving a Drunk Driver<sup>1</sup>

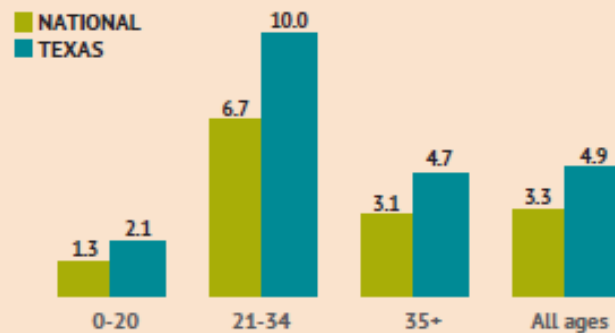


Number of Deaths, 2003–2012

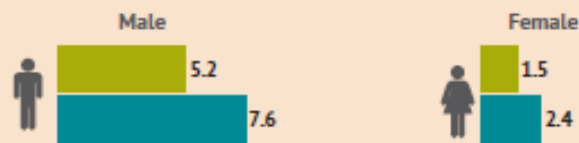
# 13,138

people were killed in crashes involving a drunk driver in Texas

Rate of Deaths by Age (per 100,000 population), 2012



Rate of Deaths by Gender (per 100,000 population), 2012



<sup>1</sup>Deaths in crashes involving a driver with BAC  $\geq$  0.08%. Source: Fatality Analysis Reporting System (FARS).

## DRUNK DRIVING

Percentage of Adults Who Report Driving After Drinking Too Much (in the past 30 days)

NATIONAL

# 1.9%

report driving after drinking too much

TEXAS

# 2.1%

report driving after drinking too much

Source: Behavioral Risk Factor Surveillance System (BRFSS), 2012.



Centers for Disease Control and Prevention  
National Center for Injury Prevention and Control

*Working together, we can help keep people safe on the road—every day.*

## TEXAS

### DRUNK DRIVING LAWS

- All 50 states and the District of Columbia have laws in place to protect the public from drunk drivers (e.g., driving is illegal with BAC at or above 0.08%).
- In Texas, sobriety checkpoints are not allowed.
- Ignition interlock laws and license suspensions vary by state. For up-to-date information on your state, check with the Insurance Institute for Highway Safety at [www.iihs.org](http://www.iihs.org).



### For More Information

Visit the Centers for Disease Control and Prevention Web site at [www.cdc.gov/motorvehiclesafety](http://www.cdc.gov/motorvehiclesafety) for:

- Injuries, costs, and other data related to drunk driving
- Detailed information on effective strategies to reduce or prevent drunk driving

### What Works

The strategies in this section are effective for reducing or preventing drunk driving. They are recommended by *The Guide to Community Preventive Services* and/or have been demonstrated to be effective in reviews by the National Highway Traffic Safety Administration.\* Different strategies may require different resources for implementation or have different levels of impact. Find strategies that are right for your state.

#### Strategies to reduce or prevent drunk driving

- 🔑 **Drunk driving laws** make it illegal nationwide to drive with a BAC at or above 0.08%. For people under 21, "**zero tolerance**" laws make it illegal to drive with any measurable amount of alcohol in their system. These laws, along with laws that maintain the **minimum legal drinking age** at 21, are in place in all 50 states and the District of Columbia, and have had a clear effect on highway safety, saving tens of thousands of lives since their implementation.
- 🔑 **Sobriety checkpoints** allow police to briefly stop vehicles at specific, highly visible locations to see if the driver is impaired. Police may stop all or a certain portion of drivers. Breath tests may be given if police have a reason to suspect the driver is intoxicated.
- 🔑 **Ignition interlocks** installed in cars measure alcohol on the driver's breath. Interlocks keep the car from starting if the driver has a BAC above a certain level, usually 0.02%. They're used for people convicted of drunk driving and are highly effective at preventing repeat offenses while installed. Mandating interlocks for all offenders, including first-time offenders, will have the greatest impact.
- 🔑 **Multi-component interventions** combine several programs or policies to prevent drunk driving. The key to these comprehensive efforts is **community mobilization** by involving coalitions or task forces in design and implementation.
- 🔑 **Mass media campaigns** spread messages about the physical dangers and legal consequences of drunk driving. They persuade people not to drink and drive and encourage them to keep other drivers from doing so. Campaigns are most effective when supporting other impaired driving prevention strategies.
- 🔑 **Administrative license revocation or suspension laws** allow police to take away the license of a driver who tests at or above the legal BAC limit or who refuses testing. States decide how long to suspend the license; a minimum of 90 days is effective.
- 🔑 **Alcohol screening and brief interventions** take advantage of "teachable moments" to identify people at risk for alcohol problems and get them treatment as needed. This combined strategy, which can be delivered in health care, university, and other settings, helps change behavior and reduces alcohol-impaired crashes and injuries.
- 🔑 **School-based instructional programs** are effective at teaching teens not to **ride with** drunk drivers. More evidence is needed to see if these programs can also reduce drunk driving and related crashes.

\*Sources: *The Guide to Community Preventive Services* (The Community Guide), Motor Vehicle-Related Injury Prevention, at [www.thecommunityguide.org](http://www.thecommunityguide.org), and National Highway Traffic Safety Administration. (2013). Countermeasures that work: a highway safety countermeasures guide for State Highway Safety Offices, 7th edition, at [www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf](http://www.nhtsa.gov/staticfiles/nti/pdf/811727.pdf).

Find this and other state-specific information at [www.cdc.gov/motorvehiclesafety/states](http://www.cdc.gov/motorvehiclesafety/states).

Updated: December 2014

# Texas Drunk Driving Statistics

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During April 2018, Houston police arrested 36 drivers on felony alcohol charges. Although most of these felony cases were the result of a third driving while intoxicated (DWI) charge, 14 people were arrested on a charge of DWI with a child passenger and two were arrested on a charge of intoxicated manslaughter.<sup>1</sup> The Austin Police Department held a No Refusal Initiative from May 24 to June 11, in which detectives assisted officers in applying for blood search warrants when suspects under arrest for DWI refused to take a breath or blood test. Police collected 81 breath and 41 blood samples with consent, a total of 93 blood search warrants were issued and of 215 DWI arrests, 78 resulted in the following enhanced charges:<sup>2</sup>

- Breath samples taken with consent with .15+ blood alcohol content (BAC): 35
- Class A misdemeanor DWIs with a prior conviction: 19
- Felony DWIs with two or more prior convictions: 17
- Felony DWIs with a child passenger: 6
- Intoxication assault: 1

## Drunk Driving in Texas

In Texas, a person is hurt or killed in a vehicular crash involving alcohol about every 20 minutes.<sup>3</sup>

- In 2016, 1,438 people were killed in motor vehicle traffic crashes where a driver was under the influence of alcohol, which comprised 38.1% of all vehicular fatalities.<sup>4</sup>
- An estimated 33.1% of alcohol-related driving fatalities impacted people aged 21 and younger.<sup>4</sup>
- An estimated 69.2% of alcohol-related driving fatalities involved a BAC of .15 or higher.<sup>4</sup>
- An estimated 31.6% and 69.2% of drivers involved in fatal crashes had BACs of .08-14 and 15+, respectively.<sup>4</sup>
- Houston led the state in 2016 with 89 fatal DUI crashes.<sup>5</sup>
- During the 2016 Holiday Season (Dec. 1, 2016 to Jan. 1, 2017), 2,321 DUI-alcohol related traffic crashes in Texas resulted in 82 fatalities and 199 serious injuries.<sup>6</sup>
- During the 2016 New Year's Holiday (6:00 p.m., Friday, Dec. 30, 2016, to 11:59 p.m., Monday, Jan. 2, 2017.), 4,054 traffic crashes in Texas resulted in 44 fatalities and 171 serious injuries.<sup>6</sup>



- Preliminary 2017 numbers indicate 13,177 alcohol-related crashes occurred in Texas, resulting in 521 fatalities and 1,271 injuries.<sup>8</sup>
- An estimated 56% of young adult vehicular crashes in 2017 involved alcohol and 33% of DWI fatalities impacted individuals aged 21 and younger.<sup>8</sup>

Given their size, it's not surprising Texas's four largest cities (e.g. Houston, San Antonio, Dallas and Austin) incur the highest number of DWI crashes and deaths. According to a study done by the Sutliff & Stout Injury and Accident Law Firm, several smaller cities made the top 10 list for drunk driving deaths in 2017 when calculated based on capita (100,000 residents).<sup>9</sup>

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1. Odessa: 6.26
2. Midland: 6.19
3. Dallas: 5.88
4. San Marcos: 5.21
5. San Antonio: 5.15
6. Baytown: 5.12
7. Longview: 5.09
8. Waco: 4.63
9. Houston: 4.36
10. Lubbock: 4.10

## Cracking Down on Bars

On May 16, 2018, a Houston bartender was arrested two years after serving 26-year-old Edin Palacios 11 beers. Natalia Ortiz, a 25-year-old bartender at El Muelle Seafood Bar was charged with serving a drunk patron (a misdemeanor) – and forging a government document (a felony).<sup>5</sup> A short distance from the bar while fleeing from a police officer, Palacios slammed into a car carrying 18-year-old Jocelynn Valero and her date, who were returning home from prom. Palacios had a BAC nearly double the legal limit. Valero was killed and her boyfriend incurred injuries. In April 2018, Palacios was sentenced to 32 years in prison for murder.<sup>7</sup> “We’re not going after servers or bars that are conducting business legally, we’re going after people whose actions are criminal and negligent,” said Sean Teare, a prosecutor in charge of the Harris County District Attorney’s Vehicular Crimes Division. “When those actions result in the tragedies every day that we deal with on these roads, we’re going to come after them.” The charges against Ortiz were the latest effort by Teare’s task force, which charged three people in April with providing alcohol to a woman accused of driving drunk and killing a 36-year-old woman and her infant son. Prosecutors charged the trio with knowingly purchasing and providing alcohol to a minor, aggravated perjury and criminal negligence.<sup>5</sup>

## Texas DWI Laws

According to Texas law, being intoxicated while driving means having a BAC of 0.08 or higher. Regardless of the BAC, a person is considered intoxicated and driving under the influence if he or she is impaired in any way. A typical drinker can achieve that level of drunkenness from having two or three drinks in an hour. For women and adolescents, drinking just one or two drinks in an hour may lead to a BAC of 0.08. DWI in Texas is typically a misdemeanor for the first two offenses. Drivers charged with a third DWI offense can face up to \$10,000 in fines, have their license suspended and can face between two to 10 years in prison.<sup>3</sup>

## Updated Ignition Lock Laws

Since September 2005, judges in Texas have been required to order ignition interlocks for all repeat offenders or first-time offenders with a BAC of 0.15 or greater as a condition of probation. On June 19, 2015, Texas became the 25th state to pass an all-offender ignition interlock law. It requires all people charged with DWI to have an ignition interlock installed on their vehicles in order to have their driving privileges restored following an arrest. In June 2017, Texas Governor Greg Abbott signed drunk driving legislation into law in an effort to save lives by providing a new incentive for first-time drunk driving offenders. HB 3016 enables first time drunk drivers with a .08-14% BAC to install an ignition interlock device. If they do so for six months without any violations and complete other terms of their Texas DWI sentence, a nondisclosure will be issued. Nondisclosure essentially wipes the conviction from the offender’s record, as if the crime never occurred.<sup>9</sup> “This new law provides one of the biggest incentives in the nation for drunk drivers to install an ignition interlock. This is a smart justice, pro-victim approach to stopping drunk driving,” said Jaime Gutierrez, executive director of MADD Texas. “MADD strongly supports this incentive to increase the use of interlocks to save lives and reduce repeat DWI offenses.”<sup>10</sup> “When you drink and drive, you’re 100 times more at risk to be killed or to kill someone else on the road. It’s your future, don’t become a statistic,” said Bob Colwell, public information officer for the Texas Department of Transportation.<sup>8</sup> If you are struggling with alcohol abuse, it is important to seek professional help before you and or your loved ones become a DWI statistic.

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# Texas Drunk Driving Statistics

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## RESOURCES

1. Ramirez F. Houston Chronicle. HPD arrested 36 on felony DWI charges in April. May 22, 2018. <https://www.chron.com/news/houston-texas/houston/article/HPD-arrested-36-on-felony-DWI-charges-in-April-12935525.php> Accessed June 18, 2018.
2. 19 Days of No Refusal: 215 DWI arrests made from Memorial Day to ROT Rally. Statesman website. <https://www.statesman.com/news/local/days-refusal-215-dwi-arrests-made-from-memorial-day-rot-rally/1EMx4sRh0cLBvUvFYAJ2rK/> Published June 11, 2018. Accessed June 18, 2018.
3. Driving While Intoxicated (DWI). Texas Department of Transportation website. <http://www.txdot.gov/driver/sober-safe/intoxication.html> Accessed June 18, 2018.
4. State Map. Foundation for Advancing Alcohol responsibility website. <https://www.responsibility.org/get-the-facts/state-map/state/texas/> Accessed June 18, 2018.
5. Bartender charged for over serving drunk driver who killed teen heading home from prom. My San Antonio website. <https://www.mysanantonio.com/news/houston-texas/houston/article/Bartender-charged-for-overserving-drunk-driver-12920793.php> Published May 26, 2018. Accessed June 18, 2018.
6. Holiday: Plan While You Can. Texas Department of Transportation website. <https://www.txdot.gov/inside-txdot/media-center/psas/drunk-driving/holiday-pass.html> Accessed June 18, 2018.
7. Driver sentenced to 32 years in prison for killing girl on her way home from prom. ABC13 website. <http://abc13.com/driver-gets-32-years-in-prison-for-killing-prom-goer/3309244/> Published April 6, 2018. Accessed June 18, 2018.
8. Drive safe and sober. The Battalion website. [http://www.thebatt.com/news/drive-safe-and-sober/article\\_fe46abb4-5fcf-11e8-8347-cf318e121a8c.html](http://www.thebatt.com/news/drive-safe-and-sober/article_fe46abb4-5fcf-11e8-8347-cf318e121a8c.html) Published May 24, 2018. Accessed June 18, 2018.
9. The 10 Texas Cities with the Highest Drunk Driving Fatality Rates. Sutliff & Stout Injury and Accident Law Firm website. <https://mytexasinjurylawyers.com/research/deadliest-cities-drunk-driving-texas/> Published April 2018. Accessed June 18, 2018.
10. MADD supports new drunk driving law in Texas. KBTX website. <http://www.kbtx.com/content/news/MADD-supports-new-drunk-driving-law-in-Texas-428924913.html> Published June 16, 2017. Accessed June 18, 2018.

# 2019-2020 TJCTC Educational Schedule

## 20-HOUR JUSTICE OF THE PEACE EDUCATIONAL SEMINARS

Galveston - Dec. 1-4, 2019  
San Antonio - Jan. 12-15, 2020  
Austin - Feb. 16-19, 2020  
Rockwall - April 14-17, 2020  
Lubbock - May 26-29, 2020

## 80-HOUR NEW JUSTICE OF THE PEACE EDUCATIONAL SEMINARS

Stage I  
Austin - Dec. 8-12, 2019  
Stage II  
Austin - Jan. 5-9, 2020  
Stage III  
Austin - April 5-9, 2020

## 20-HOUR CIVIL PROCESS EDUCATIONAL SEMINARS

Austin - Feb. 11-14, 2020  
San Antonio-March 29 - April 1, 2020  
Galveston- May 3 - 6, 2020  
Rockwall- July 19 - 22, 2020

## 16-HOUR EXPERIENCED COURT PERSONNEL EDUCATIONAL SEMINARS

San Marcos - Nov. 6-8, 2019  
Galveston-Feb. 24 - 26, 2020  
San Antonio-March 23 - 25, 2020  
San Marcos- May 18 - 20, 2020  
Austin-June 29 - July 1, 2020  
Rockwall-July 23 - 24, 2020

## 12-HOUR NEW COURT PERSONNEL EDUCATIONAL SEMINARS

Waco-February 2 - 4, 2020  
Austin-August 26 - 28, 2020

## REGIONAL JPCA WORKSHOPS

South Texas JPCA  
San Antonio, TX  
October 13 - 16, 2019

North Texas JPCA  
Granbury, TX  
October 15 - 16, 2019

East Texas JPCA  
To Be Determined

West Texas JPCA  
To Be Determined

JPCA Annual Conference  
San Antonio, TX  
June 22 - 26, 2020

## INTERACTIVE WORKSHOPS

Civil Law Workshop with Baylor  
Waco, TX  
February 12 - 14, 2020

Rural Leadership  
Boerne, TX  
July 6-8, 2020

Impaired Driving Symposium  
Corpus Christi, TX  
August 2 - 4, 2020

Office Management for High Volume Courts  
Denton, TX  
August 5 - 7, 2020

Courtroom Security  
To Be Determined

## OTHER EVENTS

Mental Health Summit  
San Marcos, TX  
November 18 - 19, 2019

TAPS Conference  
San Antonio, TX  
April 23 - 24, 2020

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CONTACT US: TJCTC \* 1701 Directors Blvd., Suite 530 \* Austin \* Texas \* 78744 \* 512.347.9927

SOCIAL MEDIA: Twitter: @ TJCTC \* Facebook: Texas Justice Court



**LIVE WEBINAR SCHEDULE**

**Mental Health Warrants:  
Common Issues  
Amber Myers  
September 18, 2019**

**Open Q&A  
Bronson Tucker  
September 26, 2019**

**Q&A: Criminal  
Randy Sarosdy  
October 15, 2019**

**Agreed Civil Judgments  
Thea Whalen  
November 19, 2019**

**Q&A: Civil and Evictions  
Randy Sarosdy  
February 11, 2020**

**Appearance of Fairness:  
Day to Day Ethics  
Rebecca Glisan  
July 16, 2020**

**Q&A: Magistration and Inquests  
Amber Myers  
August 5, 2020**

**PRE-RECORDED WEBINAR SCHEDULE**

**Bond Forfeiture  
Amber Myers  
September**

**Best Practices: Responding to Judicial  
Conduction Commission Complaints  
Randy Sarosdy  
September**

**Tricky Issues: Fines, Fees, & Costs  
Bronson Tucker  
January**

**Environmental Hearings  
Randy Sarosdy  
January**

**Juvenile Law: Magistration, Admonitions,  
and Detention  
Amber Myers  
January**

**Slip & Fall Cases and Other Premises  
Liability Issues  
Bronson Tucker  
April**

**How Much Should the Judgment Be?  
Calculating Damages in Civil Cases  
Bronson Tucker  
May**

**Hot Checks  
Rebecca Glisan  
June**

**Writs of Garnishment  
Rebecca Glisan  
July**

# TRAFFIC SAFETY RESOURCES

## TJCTC Traffic Safety Initiative

<http://www.tjctc.org/tjctc-resources/traffic-safety-initiative.html>

### Flow Charts and Forms

[Blood Search Flowchart](#)

[Toxicology Reporting Form](#)

[ODL Eligibility Chart](#)

(see page 13 )

[ODL Flowchart](#)

### Electronic Publications

The following publications are updated every year at the end of September and can be found here:

<http://www.tjctc.org/tjctc-resources/publications.html#publications>

- 2017 DWI Magstration Inquest Field Guide
- 2017 Reporting Requirements Guide for Justice Courts

## Newsletters

### The Docket—TJCTC'S BLOG

<http://docket.wp.txstate.edu/>

#### [2018 Traffic Safety Newsletter](#)

*Featured Articles:*

- Utah Enacts Toughest DWI Law
- Impaired Interlock Laws Summit
- Drugged Driving is a Problem in our Country
- New Research from NHTSA Traffic Safety Websites

#### [2017 Traffic Safety Newsletter](#)

*Featured Articles:*

- Rehabilitation for Minors who Have Committed Alcohol Offenses
- Improving Bond Conditions in DWI Cases Through the Texas DWI Bond Schematic Program
- Latest Report on Drugged Driving
- News on Legislative Session
- The Basics on Ignition Interlock

#### [2016 Traffic Safety Newsletter](#)

*Featured Articles:*

- Courts to Law Enforcement: Get a Blood Search Warrant Before Drawing Blood
- Occupational Licenses and Ignition Interlock Devices
- Uber Claims Credit for Drop in Drunk Driving Accidents. But Where's the Evidence?

## Traffic Safety Websites

<http://www.nhtsa.gov/v/impaired>  
National Highway Traffic Safety Administration Impaired Driving Website

<http://tti.tamu.edu/group/cts/>  
Texas Transportation Institute Center for Traffic Safety

<http://www.txdot.gov/safety/tips/default.htm>  
TxDOT Traffic Safety Tips

<http://www.nsc.org/Pages/Home.aspx>  
National Safety Council

<http://www.texastrafficsafetycoalition.com/>  
Texas Traffic Safety Coalition

<http://www.cjcenter.org/idi/>  
Impaired Driving Initiatives (SHSU)

<https://www.texasimpaireddrivingtaskforce.org/>  
A website that offers resources and countermeasures against impaired driving.

<https://www.texasimpaireddrivingtaskforce.org/wp-content/uploads/2019/08/FY-2019-Texas-Impaired-Driving-Plan-6.7.19-ALL.pdf>

Link to view the 2019 Impaired Driving Plan.



The Docket is the name of the blog we started this year and it can be found here:

<http://docket.wp.txstate.edu/>.

On this blog, we post note-worthy items, articles, and announcements. From now on, this is how we will be sharing articles and other items related to impaired driving. When a post is related to an impaired driving topic, it will contain the TxDOT save a life logo, pictured below. You can also click on the "Impaired Driving" category on the left and it will show you all posts in the category. Please go take a look and see what we have posted recently.



## The Docket

TJCTC's Blog

Search ...

### RECENT POSTS

Legal Board Question of the Month

Fees and Costs Clarification

Common-Law Marriage in Tex-

**TxDOT Uses Interactive Game to Discourage Drinking, Driving**

The "Save a Life" logo features a black square with a white star on the left and three white dashes on the right. Below the square, the text "Save a Life" is written in a bold, sans-serif font, with a trademark symbol. Underneath that, "Texas Department of Transportation" is written in a smaller font.

Click the link below to read an article about an interactive game that TxDOT is using to discourage impaired driving:

<https://www.cbs19.tv/article/news/local/txdot-uses-interactive-game-to-discourage-drinking-driving/501-8b8f3a1c-c1e9-4b9b-9aa1-3439cda997af>

September 3, 2019   Rebecca Glisan   Impaired Driving - TxDOT



# Eligibility for an ODL

(Transportation Code § 521.242; 521.001(a)(6))

For a person to be eligible for an ODL, their license (including a permit, a privilege to operate a motor vehicle, and a non-resident's operating privilege) has to first be suspended.

[Note: All citations below are from the Transportation Code.]



Reason Doesn't Have License	Eligible for an ODL?
License expired or was never issued and they <i>just haven't gone to the DMV</i> to get it.	<b>No!</b> There has been no "suspension." They could just go to the DMV, so that's what they need to do.
License or privilege suspended due to a <i>physical or mental disability or impairment</i> .	<b>No!</b> This is an exception in the law – suspensions for this reason are not eligible.
License or privilege <i>automatically suspended or canceled for a conviction</i> of an offense. <ul style="list-style-type: none"> <li>Offenses where conviction results in automatic suspension are listed in Subchapters O &amp; P of Ch. 521.</li> </ul>	<b>Yes! BUT</b> must file application in the court where they were convicted, which will <u>almost never be a justice court</u> . (And applicant must not have been issued more than one ODL after an automatic suspension upon conviction in the past 10 years.)
License or privilege suspended for a reason <i>other than</i> an automatic suspension upon a conviction (so <i>administratively suspended by DPS on its own or as a result of a court order</i> ). Includes: <ul style="list-style-type: none"> <li>Suspension for failure to pay surcharges (708.152).</li> <li>Refusal to submit to a breath or blood test following a DWI stop (Ch. 724).</li> <li>Providing a breath/blood sample with over .08 BAC following a DWI stop (Ch. 524).</li> <li>Any cause for suspension listed under 521.292.</li> </ul>	<b>Yes!</b> Must file application in a justice, county, or district court in the precinct or county in which: <ul style="list-style-type: none"> <li>The person resides; or</li> <li>The offense occurred for which the license was suspended.</li> </ul>
License cannot be renewed because of <i>placement in OMNI</i> .	<b>No!</b> This is not a suspension. This is a non-renewal. The remedy is for them to do what is necessary to remove themselves from OMNI.

But What If....?	Eligible for an ODL?
The applicant's <i>license has EXPIRED</i> , and they now can't renew for an eligible reason listed above.	<b>Yes!</b> The applicant's privilege has been suspended, so they are eligible.
The applicant <i>NEVER had a license</i> , and they now can't get one for an eligible reason listed above.	<b>Maybe!</b> <ul style="list-style-type: none"> <li>Literal reading of statute: no license or privilege to be suspended, so NOT eligible.</li> <li>DPS position: will honor an ODL in this situation if all other requirements are met.</li> </ul>
The applicant is a <i>minor</i> and is otherwise eligible.	<b>Yes!</b> (Subject to the limitations described in 524.022(d)).
The applicant wants an ODL <i>to operate a CMV</i> and is otherwise eligible.	<b>No!</b> (But a CDL holder may get an ODL to operate a non-CMV vehicle).

