

CHAPTER 1059

S.B. No. 515

AN ACT

relating to dismissal of certain misdemeanor charges on completion of a driving safety course.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 143A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 143A. **DISMISSAL OF CERTAIN MISDEMEANOR CHARGES UPON COMPLETING DRIVING SAFETY COURSE.** (a) When a person is charged with a misdemeanor offense under this Act, other than a violation of Section 51, committed while operating a motor vehicle, *the defendant shall be advised of his right to successfully complete a driving safety course and the court:*

(1) in its discretion may defer proceedings and allow the person 90 days to present evidence that, subsequent to the alleged act, the person has successfully completed a *driving safety* [~~defensive driver's~~] course approved by the Texas Department of Public Safety or other driving safety course approved by the court; or

(2) shall defer proceedings and allow the person 90 days to present a *department-approved certificate of course completion* as written evidence that, subsequent to the alleged act, the person has successfully completed a *driving safety* [~~defensive driver's~~] course approved by the Texas Department of Public Safety or another driving safety course approved by the court, if:

(A) *on or before the answer date on the citation the person enters a plea in person or in writing of No Contest or Guilty and presents to the court an oral request or a written request, in person or by mail, [motion] to take a course;*

(B) the person has a valid Texas driver's license or permit; [~~and~~]

(C) the person's driving record as maintained by the Texas Department of Public Safety does not indicate successful completion of a driving safety course under this subdivision within the two years immediately preceding the date of the alleged offense;

(D) *the person files an affidavit with the court stating that the person is not in the process of taking a course under this subdivision and has not completed a course under this subdivision that is not yet reflected on the person's driving record; and*

(E) *the offense charged is for an offense covered by this section other than speeding 25 miles per hour or more over the posted speed limit at the place where the alleged offense occurred.*

(b) When the person complies with the provisions of Subsection (a) of this section and a *certificate of course completion approved by the department* [~~the evidence presented~~] is accepted by the court, the court shall dismiss the charge, *but the court may only dismiss one charge for completion of each course.*

When a charge is dismissed under this section, the charge may not be part of the person's driving record or used for any purpose, but the court shall report the fact that a person has successfully completed a driving safety course and the date of completion to the Texas Department of Public Safety for inclusion in the person's driving record. The court shall note in its report whether the course was taken under the procedure provided by Subdivision (2) of Subsection (a) of this section for the purpose of providing information necessary to determine eligibility to take a subsequent course under that subdivision. *An insurer delivering or issuing for delivery a motor vehicle insurance policy in this state may not cancel or increase the premium charged the insured under the policy merely because of an offense dismissed under this section or because the insured completed a driving safety course under this section.*

(c) *The court may require the person requesting a driving safety course to pay a fee set by the court at an amount that does not exceed \$10 including any special fees authorized by statute or municipal ordinance to cover the cost of administering this section. Fees collected under this subsection by a municipal court shall be deposited*

in the municipal treasury. Fees collected by other courts shall be deposited in the county treasury of the county in which the court is located. If the person requesting a driving safety course does not take the course, the person is not entitled to a refund of the fee required by this subsection.

(d) The department shall administer comprehensive rules and regulations governing driving safety courses and shall place on file such rules with the secretary of state.

(e) No person shall distribute any written information for the purpose of advertising a provider of a driving safety course within 500 feet of any court having jurisdiction over an offense subject to this section. This subsection does not apply to distribution of such information to a court for the purpose of obtaining approval of the course, or to advise the court of the availability of the course, or to distribution by the court. A violation of this subsection by a provider, or the provider's agent, servant, employee, or a person acting in a representative capacity for the provider, shall result in loss of the provider's status as a provider of a course approved or licensed by the Texas Department of Public Safety or other driving safety course approved by the court.

SECTION 2. Each traffic citation or promise to appear issued for any offense to which this Act may apply shall contain a clear statement as follows: "You may be able to require that this charge be dismissed by taking a driving safety course. However, you will lose that right if you do not provide written notice to the court on or before your appearance date of your desire to do so." If such language is not so supplied, the cited party may continue to exercise such right until so informed or until the case is otherwise disposed of.

SECTION 3. This Act takes effect September 1, 1987, and applies only to an offense under the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes) that is committed on or after that date. An offense committed before the effective date of this Act is punishable by the law in existence at the time the offense was committed and the former law is continued in effect for that purpose. For purposes of this section an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 15, 1987, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendments on June 1, 1987, by a viva-voce vote.

Passed the House, with amendments, on May 30, 1987, by a non-record vote.

Approved June 18, 1987.

Effective Sept. 1, 1987.