

# TEXAS JUSTICE COURT TRAINING CENTER

TRAFFIC SAFETY INITIATIVE NEWSLETTER  
JULY 2013

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## A MESSAGE FROM PROGRAM ATTORNEY ROB DANIEL

Greetings, and welcome to the most recent edition of the Texas Justice Court Training Center Traffic Safety Initiative’s annual newsletter, made possible by a grant from the Texas Department of Transportation. The Texas Justice Court Training Center is very pleased to have this opportunity to bring all justices of the peace, constables, and court personnel up to date on the program’s progress and success over the past year, as well as to provide information regarding recent trends and developments in traffic safety.

In the past education year, the Training Center provided training in traffic safety issues at all 20 hour justice of the peace seminars and 16 hour court personnel seminars. This year, our education focused on the offense of Driving While Intoxicated (DWI) and the duties of a justice of the peace as a magistrate.

Specifically, we discussed issuing blood search warrants when appropriate. We also discussed setting and monitoring conditions of bond, as well as taking appropriate action when a defendant violates the conditions of bond. I hope that many of you have

implemented the procedures that we discussed at this year's seminars. It is TJCTC's belief that your implementation of such procedures will reduce the incidence of DWI in your communities and across the state of Texas.

TJCTC continues to expand its DWI Bond Schematic Program. This program assists individual Texas counties in adopting a comprehensive plan for setting DWI bond conditions, and is a component of a statewide plan to reduce the incidence of DWI offenses across Texas.

For each county that elects to participate in the program, TJCTC will work with all criminal magistrates, local prosecutors, and potential monitoring agencies to create forms specific to that county. These forms will be based on TJCTC's Universal DWI Bond Schematic (which may be found on the TJCTC website), but will be modified to reflect the bond condition options agreed upon by county officials. The bond conditions selected by each individual county

will be included in a spreadsheet containing data from all participating counties and maintained by TJCTC. Additionally, each participating county will submit a brief form (also available on the TJCTC website) once a year to update TJCTC on the success of the program. If your county wishes to participate in the program, simply fill out the enrollment form located on the TJCTC website. If you received this newsletter via our E-Letter system, a copy of the enrollment form is attached to the email. We hope many of you will choose to participate. Please do not hesitate to contact me if you have any questions regarding the program.

In 2014, we expect to provide further education pertaining to the offense of Driving While Intoxicated and Driving Under the Influence of Alcohol By Minor. Additionally, we hope to provide education regarding distracted driving and the proper issuance of occupational driver's licenses. (For additional information on the latter, please see our Legislative

Recap below.) As always, we welcome your input as we put together the material for 2013-14. We think it will be an exciting year of education that will improve your ability to perform your duties as a justice of the peace or a justice court clerk, and we look forward to seeing all of you as we travel throughout Texas.

## 2013-2014 TJCTC TRAINING SCHEDULE

### 20 HOUR JUSTICE OF THE PEACE SEMINARS

November 18-20: Galveston  
January 13-15: Austin  
March 10-12: Rockwall  
March 24-26: San Antonio  
May 7-9: Lubbock

### 16 HOUR COURT PERSONNEL SEMINARS

November 6-8: San Marcos  
December 2-4: Austin  
February 10-12: Galveston  
April 22-24: San Antonio  
May 28-30: San Antonio  
July 8-10: Rockwall

**THE TRAFFIC SAFETY INITIATIVE IS FUNDED BY A GRANT FROM THE TEXAS DEPARTMENT OF TRANSPORTATION, IN ASSOCIATION WITH TEXAS STATE UNIVERSITY—SAN MARCOS AND THE JUSTICES OF THE PEACE AND CONSTABLES ASSOCIATION OF TEXAS.**

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# 2013 Legislative Recap: Significant Changes to the Texas Transportation Code

By Rob Daniel, Program Attorney, TJCTC

As you are all aware, the Texas Legislature convened in Austin in 2013. Below is a brief summary of the significant changes affecting transportation law. TJCTC will be providing additional details on these changes at our Legislative Update seminars during the summer, as well as our 16 and 20 hour seminars during the 2013-14 academic year.

**HB 438 (Occupational Driver's Licenses):** Previously, an individual seeking an occupational driver's license could file a petition with a county or district court. Effective September 1, such petitions may be filed with a justice court in the county where the petitioner resides. We recommend reviewing Chapter 521, Subchapter L, of the Transportation Code prior to that date. Please keep in mind that an individual who has been

convicted of Driving While Intoxicated is ineligible for an occupational license.



**HB 347 (Using a Cell Phone While Driving on School Property):** Previously, Texas law banned use of a cell phone while driving in school crossing zones if the school district erected appropriate signage. This bill extends that ban to all school property during the time period that the school crossing zone is in effect. For example, if there is an active school crossing zone on Lamar Street and the appropriate warnings have been posted, the carpool lane leading from Lamar Street to the school property is now

off-limits for cell phone use as well.

**HB 1294 (Child Passenger Safety Seat Systems):** This bill increased the fine range for offenses committed under Section 545.412 of the Transportation Code, commonly referred to as Failure to Secure a Child in a Child Passenger Safety Seat System. The new fine range is from \$25.00 to \$250.00. Additionally, the bill changes the language addressing the defense to prosecution for this offense. Previously, the defense was available to persons who were able to demonstrate that they possessed a child passenger safety seat system. The new language refers to persons who obtain a child passenger safety seat system. It is TJCTC's opinion that this change to the statutory language does not have much, if any, effect.

**HB 1097 (Construction Work Zones):** This bill requires the posting of a sign indicating the maximum possible speed limit within a construction zone before the provision allowing the doubling of the fine for offenses committed in a work zone with workers present may take effect. Please keep in mind that failure to post a sign indicating the maximum speed does not create a defense to prosecution. If no sign was posted, yet the defendant is found guilty of the charged traffic offense, this bill simply limits the fine range.

**HB 1174 (Passing a School Bus):** This bill increases the fine range for the offense of Passing a School Bus, found at Section 545.066 of the Transportation Code. The new fine range is from \$500.00 to \$1,250.00. The bill also adds an enhancement provision. Any person who has been previously convicted of an offense under Section 545.006 within the past five years is subject to an increased fine range of \$1,000.00 to \$2,000.00.

**HB 625 (Operating a Vehicle Without a Front License Plate):** As many of you are aware, the Legislature inadvertently eliminated the fine for this offense during the 2011 legislative session. This bill once again makes operating a vehicle without a front license plate an offense punishable by a fine not to exceed \$200.00.



One bill that was filed this session but did not pass would have required all individuals convicted of Driving While Intoxicated to install ignition interlock devices following conviction. Do you think this law would have reduced the incidence of Driving While Intoxicated offenses in Texas? Do you think that the bill would overly limit personal freedoms? Be part of the conversation and let us know what you think. You can contact us via Twitter (@TJCTC), Facebook, or in

person at the next seminar you attend.

## TRAFFIC SAFETY WEBSITES

<http://www.distraction.gov>  
US Department of Transportation distracted driving website

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

<http://www.nhtsa.gov/>  
National Highway Traffic Safety Administration

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

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

<http://www.texas trafficsafety coalition.com/>  
Texas Traffic Safety Coalition

<http://www.tjctc.org/Educational-Programs/Traffic-Safety.html>  
TJCTC Traffic Safety Initiative



# In Some States, Views on “Hard License Revocation” for DWI Defendants are Changing

By Rob Daniel, Program Attorney, TJCTC

It has been 20 years since Texas’ Administrative License Revocation Program (ALRP) was created by the Texas Legislature. This program seeks to reduce recidivism and punish certain persons arrested for DWI through driver’s license revocation. Two decades later, license revocation is still the primary means used by the State of Texas to keep DWI defendants from re-offending.

Texas is not unique in this regard. In the past, federal guidelines strongly encouraged states to implement “hard revocation” statutes for persons convicted of intoxication-related offenses. (Hard revocation means that the individual’s license is suspended or revoked, without question, for an established, and often lengthy, period of time.) Today, the federal guidelines have been scaled back, and some states are currently

experimenting with lifting driver’s license suspensions if the person accused of DWI meets certain conditions such as installing an ignition interlock device (IID) in his or her vehicle. In this article, we’ll examine the practical differences between hard license revocation, which is still the standard in Texas, and a newer system being used in New Mexico.

Imagine a person named Claude, who just happens to live in Claude, Texas. Claude has been arrested for DWI, and his license has been revoked under the ALRP because he provided a breath sample following his arrest which indicated his BAC was greater than 0.08.

Public transportation and pedestrian infrastructure are lacking in Claude’s eponymous hometown. Claude’s job, the grocery store he shops at, and his doctor’s office are located thirty miles away in nearby

Amarillo.

Claude could decide that the most responsible thing to do is to find a cheap apartment in Amarillo and buy a bicycle and a bus pass. However, statistics indicate that Claude is much more likely to keep driving a car. In fact, research indicates that around seventy-five percent of the drivers whose licenses have been suspended or revoked will continue to drive a vehicle. Having taken this risk, Claude may end up with additional criminal charges (such as Driving While License Invalid), and additional surcharges owed to the State of Texas. (We note that while Claude may be eligible to obtain an occupational license while his DWI case is pending, he is ineligible if convicted of DWI.)

Now imagine a New Mexico resident named Morty. Morty works in Albuquerque but lives 31 miles away in

Moriarty, New Mexico. Morty, like Claude, was arrested for DWI. Morty refused to provide a breath sample upon arrest, and his driver's license has been revoked for a violation of his home state's implied consent law. Under New Mexico law, Morty has an option Claude does not: he may apply for an "interlock license." To be eligible to receive such a license, Morty has to provide identification, demonstrate financial responsibility (such as auto insurance), have an interlock already installed on his vehicle, and sign an affidavit acknowledging his understanding of the rules governing interlock licenses.

Let's say Morty decides to install the interlock device and successfully obtains an interlock license. As long as Morty drives the interlock-equipped vehicle, he is physically prevented from committing another DWI, which is good for the communities of Moriarty and Albuquerque. (Statistics indicate that IIDs reduce recidivism rates by seventy percent. Given that the rate of recidivism for first time offenders is around seven

percent, the chances that Morty will not commit another DWI while the interlock device is installed are around ninety-eight percent.) Morty will also be able to keep driving to back and forth to his job, which is good for Morty (and everyone else involved in the local economy, too).

Other states, such as Colorado, Washington, and Arizona, are experimenting with programs that offer DWI defendants the opportunity to "get their license back" if they install an IID in their vehicle.

Think about your experience as a justice of the peace, court clerk, or constable. Based on those experiences and the training you receive through TJCTC, do you have an opinion as to which method of preventing recidivism (hard license revocation or interlock licensing) would be more effective?

Also think about the role technology can play in assisting both justice courts and individuals, as illustrated by this article. Are there technologies, other than

IIDs, that could be utilized to make Texas roadways safer? Below, an article from the New York Daily News discusses the possibility of using passive alcohol detection technology to prevent DWI offenses.

Do you think Texas will follow New Mexico and other states in moving away from hard revocation and toward interlock licensing for DWI defendants? Let us know what you think on social media or in person.

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# Scientists: Alcohol Detecting Technology Could Save 10,000 a Year from Drunk-Driving Death

By Michael Walsh  
New York Daily News

Scientists outside Boston are developing a technology that could bring drunk driving to a halt.

The federal government and the 16 major automobile makers are funding QinetiQ North America's \$10 million Driver Alcohol Detection System for Safety (DADSS) project.

"We have about 10,000 fatalities every year from drinking and driving," project leader Bud Zaouk told the Daily News. "This technology could reduce 7,000 of those fatalities every year."

The breath-based approach, called distant spectrometry, would detect the alcohol on a driver's breath before allowing that person to operate the car.

Similarly, he said on CBS This Morning, that the project could create "the equivalent of the seat belt of our generation."

The researchers have narrowed down the solution to two technologies – one breath-based, the other touch-based – that evaluate a person's blood alcohol content.

Both approaches will require the driver to pass a sobriety test before starting a vehicle. One is a sensor mounted close to the steering wheel that assesses whether the driver's breath is above the U.S. legal limit of 0.08.

The other is a start and stop button that will gauge each driver's alcohol level with infrared light sent into the fingertip. The sensor will

also detect whether someone from the passenger seat is leaning over to press the button, Zaouk said.

"We identified what technologies are out there that could potentially be applied," Zaouk said. "It's meant not to inconvenience the driver, so it has to be extremely accurate and very very fast. It will be able to tell you, in less than half a second, whether the driver is above the legal limit or below the legal limit."

The touch-based approach, called tissue spectrometry, would estimate a driver's alcohol level when he or she presses the vehicle's start-stop button.

The American Beverage Institute (ABI), however, strongly opposes placing



alcohol detectors in all cars.. The institute, which represents more than 8,000 U.S. restaurants, claims to be worried that even if the technology is accurate over 99.9 percent of the time, it could still result in preventing thousands of sober drivers from operating their vehicles.

“DADSS supporters claim the alcohol detectors would be voluntary and set at 0.08,” said Sarah Longwell, managing director of ABI, “but there is a growing mountain of evidence showing that their true goal is to put alcohol-sensing technology in all cars as original equipment, set well below the 0.08 level.”

Zaouk told the Daily News that this is not the case.

"The technology is designed for the legal limit in the United States," he said. "Not for any less, not for any more."

The DADSS project started in 2008 but the organization says that the technology will not be implemented for about eight to 10 years.

This article originally appeared in the New York Daily News on January 2, 2013. To view the article online, as well as videos and news clips regarding the DADSS technology, please visit the link below.

<http://www.nydailynews.com/news/national/alcohol-detecting-technology-save-10-000-year-drunk-driving-death-article-1.1231763#ixzz2aAN6fjIS>

**THANK YOU!**  
**For your service to the  
State of Texas and your  
commitment to traffic  
safety. We look forward  
to seeing you in 2013-14!**