

INFORMATION REGARDING 2023 AMENDMENT TO TEXAS ODL STATUTE

CCL5 has been seeing ODL petitions and orders which do not comply with the ODL statute, as amended in 2023. Some of these appear to be drafted using outdated forms and refer to provisions which have been repealed, replaced or changed substantially. There were a number of new mandatory order requirements (e.g., order should specify that the person may not operate a commercial vehicle), as well as mandatory requirements for petitions (e.g., petition “must...set forth in detail the petitioner’s essential need...”). Additionally, petitions are required to be verified. Notice to state and a hearing are required in some but not all cases (e.g., notice to state is required if license was suspended, revoked or canceled following a conviction for offense under Texas Penal Code Section 19.05 or Sections 49.04 – 49.08, or for an offense under Transportation Code 521.342 which applies to persons under 21 years of age).

Review of the attached summary of the ODL statute, as amended in 2023, may help avoid future misunderstandings and procedural/pleading deficiencies. Also attached is a copy of the “enrolled” version of the 2023 amendment which shows the changes made to the statute by that amendment.

CCL5 does not require the use of these forms or any other specific forms but does expect compliance with the ODL law and statutory requirements.

At a minimum, ODL petitions and orders should include all information required by law given the specific facts and circumstances presented by the applicant’s particular situation -- this includes compliance with the petition and order mandatory requirements set out in the amended ODL statute.

While the Court may in some instances be able to modify proposed orders to comply with the current ODL statute, the Court is not able to modify or grant petitions that are not in compliance with the current ODL statute’s mandatory “petition” requirements. This means that non-conforming petitions may result in delay due to having to amend the petition to comply with the current statute.

[Posted March 2025]

AN ACT

relating to occupational driver's licenses and to the renewal of driver's licenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 521.001(a)(3), Transportation Code, is amended to read as follows:

(3) "Driver's license" means an authorization issued by the department for the operation of a motor vehicle. The term includes:

(A) a temporary license or learner license; and

(B) an occupational driver's license.

SECTION 2. Subchapter L, Chapter 521, Transportation Code, is amended to read as follows:

SUBCHAPTER L. OCCUPATIONAL DRIVER'S LICENSE

Sec. 521.241. DEFINITIONS. In this subchapter:

(1) "Essential need" means a need of a person to operate ~~[for the operation of]~~ a motor vehicle:

(A) in the performance of an occupation or trade or for transportation to and from the place at which the person practices the person's occupation or trade;

(B) in the pursuit of an occupation or trade;

(C) for transportation to and from an educational facility in which the person is enrolled; or

(D) [(C)] in the performance of essential

1 household duties.

2 (2) "Ignition interlock device" means a device that
3 uses a deep-lung breath analysis mechanism to make impractical the
4 operation of a motor vehicle if ethyl alcohol is detected in the
5 breath of the operator of the vehicle.

6 (3) "Offense relating to the operating of a motor
7 vehicle while intoxicated" has the meaning assigned by Section
8 49.09, Penal Code.

9 Sec. 521.242. ELIGIBILITY [~~PETITION~~]. (a) A person is
10 eligible to apply for an occupational driver's license if:

11 (1) the person's [~~whose~~] license has been suspended,
12 revoked, or canceled for a cause other than:

13 (A) a physical or mental disability or
14 impairment; or

15 (B) a determination by the department under
16 Section 521.294 that the person is incapable of safely operating a
17 motor vehicle;

18 (2) the person does not hold a driver's license and is
19 ineligible to obtain a driver's license because of a suspension
20 order, including an order due to a conviction or an order under
21 Chapter 524 or 724; or

22 (3) the person is ineligible to obtain a driver's
23 license because the person holds a driver's license issued by
24 another state or country that was suspended, revoked, or canceled
25 for a cause other than a physical or mental disability or
26 impairment. [~~conviction of an offense under Sections 49.04-49.08,~~
27 ~~Penal Code]~~

1 (b) An occupational driver's license does not authorize a
2 person to operate a commercial motor vehicle to which Chapter 522
3 applies.

4 Sec. 521.2421. PETITION. (a) Except as provided by
5 Subsections (b) and (c), a person may apply for an occupational
6 driver's license by filing a verified petition with the clerk of a
7 justice, county, or district court with jurisdiction that includes
8 the [precinct or] county in which:

9 (1) the person resides; or

10 (2) the incident ~~[offense]~~ occurred for which the
11 license was suspended, revoked, or canceled.

12 (b) If a person's license has been automatically suspended,
13 revoked, or canceled due to a conviction of an offense as provided
14 by Subchapter O or P, the [A] person may apply for an occupational
15 driver's license by filing a verified petition only with the clerk
16 of the court in which the person was convicted [if:

17 ~~[(1) the person's license has been automatically~~
18 ~~suspended or canceled under this chapter for a conviction of an~~
19 ~~offense under the laws of this state, and~~

20 ~~[(2) the person has not been issued, in the 10 years~~
21 ~~preceding the date of the filing of the petition, more than one~~
22 ~~occupational license after a conviction under the laws of this~~
23 ~~state].~~

24 (c) If a person's license is suspended, revoked, or canceled
25 due to a court order submitted to the department by a district,
26 county, or justice court, the person may apply for an occupational
27 driver's license by filing a verified petition with a court

1 described by Subsection (a) or the court that issued the order.

2 (d) [(c)] A petition filed under this section must:

3 (1) set forth in detail the petitioner's [person's]
4 essential need, including a description of the hours and location
5 of essential travel;

6 (2) describe the reason for the petitioner's license
7 suspension, revocation, or cancellation;

8 (3) provide evidence of the petitioner's financial
9 responsibility in accordance with Chapter 601; and

10 (4) include a certified abstract of the petitioner's
11 complete driving record.

12 ~~[(d) A petition filed under Subsection (b) must state that~~
13 ~~the petitioner was convicted in that court for an offense under the~~
14 ~~laws of this state.~~

15 ~~[(e) The clerk of the court shall file the petition as in any~~
16 ~~other matter.]~~

17 (f) If a court lacks jurisdiction over a petition filed
18 under this section, the court shall dismiss the application. The
19 court may hold a hearing to determine if the court has jurisdiction
20 over the petition. If the petition is dismissed, the petitioner may
21 submit a written request for the petition to be reinstated within 14
22 days of the dismissal, stating the reason the court has
23 jurisdiction over the petition.

24 Sec. 521.2422. COURT COSTS. (a) A petitioner must pay the
25 filing fee the court charges for filing a civil action or file a
26 statement of inability to afford payment of court costs under the
27 Texas Rules of Civil Procedure. If a petition is dismissed under

1 Section 521.2421(f), the court shall refund any filing fee paid by
2 the petitioner under this subsection.

3 (b) If a petitioner files a statement of inability to afford
4 payment of court costs, the court may hold a hearing to determine
5 the person's ability to afford the payment of the filing fee. The
6 hearing may be held at the time the statement of inability to afford
7 payment of court costs is filed or at the time of the hearing to
8 determine the petitioner's essential need. If the court determines
9 the petitioner is able to afford the payment of the filing fee, the
10 court may not grant an occupational driver's license to the
11 petitioner until the petitioner pays the fee.

12 Sec. 521.2423. FORMS. A court shall make the forms required
13 for petitioning for an occupational driver's license and for the
14 statement of inability to afford payment of court costs available
15 at no cost.

16 Sec. 521.2424. COMMERCIAL MOTOR VEHICLES. A court may not
17 grant an occupational driver's license for the operation of a
18 commercial motor vehicle to which Chapter 522 applies. This
19 section does not prevent a person who has been issued a commercial
20 driver's license from obtaining an occupational driver's license
21 for the operation of a noncommercial motor vehicle.

22 Sec. 521.243. NOTICE TO STATE; PRESENTATION OF EVIDENCE.
23 (a) Unless the petition is dismissed under Section 521.2421(f),
24 the [The] clerk of the court shall send by certified mail to the
25 attorney representing the state a copy of the petition and notice of
26 the hearing if the petitioner's license was suspended, revoked, or
27 canceled following a conviction for:

1 (1) an offense under Section 19.05 or Sections
2 49.04-49.08, Penal Code; or

3 (2) an offense to which Section 521.342 applies.

4 (b) The court may notify the attorney representing the state
5 of any other hearing on a petition for an occupational driver's
6 license.

7 (c) A person who receives notice [~~a copy of a petition~~]
8 under Subsection (a) or (b) may attend the hearing and may present
9 evidence at the hearing for or against granting the petition.

10 Sec. 521.244. [~~HEARING; ORDER;~~] DETERMINATION OF ESSENTIAL
11 NEED; HEARING AND ORDER. (a) The judge shall hold a hearing on the
12 petition if the petitioner's license was suspended, revoked, or
13 canceled following a conviction for:

14 (1) an offense under Section 19.05 or Sections
15 49.04-49.08, Penal Code; or

16 (2) an offense to which Section 521.342 applies.

17 (a-1) If the petitioner's license was suspended, revoked,
18 or canceled for a reason other than a reason described by Subsection
19 (a), the judge may hold a hearing on the petition or may make a
20 determination of essential need based on the petition [~~The judge~~
21 ~~who hears the petition shall sign an order finding whether an~~
22 ~~essential need exists].~~

23 [~~(b) In determining whether an essential need exists, the~~
24 ~~judge shall consider:~~

25 [~~(1) the petitioner's driving record; and~~

26 [~~(2) any evidence presented by a person under Section~~
27 ~~521.243(b).~~

1 ~~[(c) If the judge finds that there is an essential need, the~~
2 ~~judge also, as part of the order, shall:~~

3 ~~[(1) determine the actual need of the petitioner to~~
4 ~~operate a motor vehicle, and~~

5 ~~[(2) require the petitioner to provide evidence of~~
6 ~~financial responsibility in accordance with Chapter 601.]~~

7 (d) Except as provided by Section [521.243\(c\)](#) ~~[[521.243\(b\)](#)]~~,
8 the hearing on the petition may be ex parte. The hearing may be held
9 using electronic or telephonic means.

10 (e) Subject to Subsection (f), if the judge determines the
11 person is eligible for an occupational driver's license and has an
12 essential need, the judge shall enter an order granting the
13 petition. If the judge determines the person is ineligible for an
14 occupational driver's license or does not have an essential need,
15 the judge shall enter an order denying the petition.

16 (f) The judge may enter an order denying the petition based
17 on evidence presented at a hearing by the attorney representing the
18 state. The judge may also enter an order denying the petition if
19 the petitioner:

20 (1) is unable to present evidence of financial
21 responsibility under Chapter [601](#);

22 (2) has been convicted more than once in the 10 years
23 preceding the date of the petition of an offense to which Sections
24 49.04-49.08, Penal Code, apply; or

25 (3) is subject to a revocation order under Section
26 [521.252](#) or [521.253](#) [A person convicted of an offense under Sections
27 49.04-49.08, Penal Code, who is restricted to the operation of a

~~motor vehicle equipped with an ignition interlock device is entitled to receive an occupational license without a finding that an essential need exists for that person, provided that the person shows:~~

~~[(1) evidence of financial responsibility under Chapter 601, and~~

~~[(2) proof the person has had an ignition interlock device installed on each motor vehicle owned or operated by the person].~~

(g) An order granting or denying an application for an occupational driver's license may not be appealed.

Sec. 521.245. REQUIRED ALCOHOL DEPENDENCE COUNSELING. (a) If the petitioner's license has been suspended under Chapter 524 or 724, or as the result of a conviction for an offense relating to the operating of a motor vehicle while intoxicated, the court shall require the petitioner to attend a program approved by the court that is designed to provide counseling and rehabilitation services to persons for alcohol dependence. The court may waive the requirement on a showing of good cause ~~[This requirement shall be stated in the order granting the occupational license].~~

(b) The program required under Subsection (a) may not be the program provided by Section 521.344 or by Article 42A.403 or 42A.404, Code of Criminal Procedure.

(c) The court may require the person to report periodically to the court to verify that the person is attending the required program.

(d) On finding that the person is not attending the program

as required, the court may:

(1) revoke the order granting the occupational driver's license, as provided by Section 521.252; or

(2) if the person is not currently restricted to the operation of a motor vehicle with an ignition interlock device installed, modify the order to include that restriction, as provided by Section 521.246. ~~[The court shall send a certified copy of the order revoking the license to the department.~~

~~[(e) On receipt of the copy under Subsection (d), the department shall suspend the person's occupational license for:~~

~~[(1) 60 days, if the original driver's license suspension was under Chapter 524; or~~

~~[(2) 120 days, if the original driver's license suspension was under Chapter 724.~~

~~[(f) A suspension under Subsection (e):~~

~~[(1) takes effect on the date on which the court signs the order revoking the occupational license; and~~

~~[(2) is cumulative of the original suspension.~~

~~[(g) A person is not eligible for an occupational license during a period of suspension under Subsection (e).]~~

Sec. 521.246. IGNITION INTERLOCK DEVICE REQUIREMENT. (a) Subject to Subsection (b-1), the ~~[If the person's license has been suspended after a conviction of an offense under Sections 49.04-49.08, Penal Code, the]~~ judge shall restrict the person to the operation of a motor vehicle equipped with an ignition interlock device if:

(1) the person is currently under an order restricting

1 the person to the operation of a motor vehicle equipped with an
2 ignition interlock device, including an order imposed as a
3 condition of bond; or

4 (2) the person's license has been suspended, revoked,
5 or canceled after a conviction for an offense under Sections
6 49.04-49.08, Penal Code.

7 (b) On a finding of good cause, the judge may restrict the
8 person to the operation of a motor vehicle equipped with an ignition
9 interlock device in a case not described by Subsection (a).

10 (b-1) The court may waive the ignition interlock device
11 requirement under Subsection (a) if the court finds the requirement
12 is not necessary for the safety of the community and the waiver is
13 in the best interest of justice.

14 (c) The person shall obtain the ignition interlock device at
15 the person's own expense unless the court finds that to do so is not
16 in the best interest of justice and enters that finding in the
17 record. If the court determines that the person is unable to pay
18 for the device, the court may impose a reasonable payment schedule
19 for a term not to exceed twice the period of the court's order.

20 (d) The court shall order the ignition interlock device to
21 remain installed for the duration of the period of suspension,
22 unless the court finds:

23 (1) good cause for the removal of the device; and

24 (2) the device is not necessary for the safety of the
25 community.

26 (e) A person to whom this section applies may operate a
27 motor vehicle without the installation of an approved ignition

1 interlock device if:

2 (1) the person is required to operate a motor vehicle
3 in the course and scope of the person's employment;

4 (2) the vehicle is owned by the person's employer;

5 (3) the employer is not owned or controlled by the
6 person whose driving privilege is restricted;

7 (4) the employer is notified of the driving privilege
8 restriction; and

9 (5) proof of that notification is with the vehicle.

10 ~~[(f) A previous conviction may not be used for purposes of~~
11 ~~restricting a person to the operation of a motor vehicle equipped~~
12 ~~with an interlock ignition device under this section if:~~

13 ~~[(1) the previous conviction was a final conviction~~
14 ~~for an offense under Sections 49.04-49.08, Penal Code, and was for~~
15 ~~an offense committed more than 10 years before the instant offense~~
16 ~~for which the person was convicted; and~~

17 ~~[(2) the person has not been convicted of an offense~~
18 ~~under Sections 49.04-49.08 of that code committed within 10 years~~
19 ~~before the date on which the instant offense for which the person~~
20 ~~was convicted.]~~

21 Sec. 521.2461. TESTING FOR ALCOHOL OR CONTROLLED
22 SUBSTANCES. The court granting an occupational driver's license
23 under this subchapter may require as a condition of the license that
24 the person submit to periodic testing for alcohol or controlled
25 substances, to be conducted by an entity specified by the court, if
26 the person's license has been suspended, revoked, or canceled under
27 Chapter 524 or 724 or as a result of the person's conviction for

1 ~~[of]~~ an offense relating to the operating ~~[involving the operation]~~
2 of a motor vehicle while intoxicated.

3 Sec. 521.2462. SUPERVISION OF PERSON ISSUED OCCUPATIONAL
4 DRIVER'S LICENSE. (a) The court granting an occupational driver's
5 license under this subchapter may order the person receiving the
6 license to submit to supervision for the purpose of verifying the
7 person's compliance with the conditions specified by the order
8 granting the license, including ~~[the]~~ conditions specified in
9 accordance with Section [521.248](#).

10 (a-1) The court may order the supervision of the person to
11 be conducted by:

12 (1) the local community supervision and corrections
13 department; or

14 (2) a personal bond office established under Article
15 [17.42](#), Code of Criminal Procedure.

16 (a-2) If the court orders the person's supervision to be
17 conducted by the local community supervision and corrections
18 department, the court shall order the person to pay a monthly
19 administrative fee under Section [76.015](#), Government Code.

20 (a-3) If the court orders the person's supervision to be
21 conducted by a personal bond office, the office may collect from the
22 person a reasonable administrative fee of not less than \$25 and not
23 more than \$60 per month.

24 (b) The court may order the supervision to continue until
25 the end of the period of suspension, revocation, or cancellation of
26 the person's driver's license, including any extensions of that
27 period.

1 (c) The court for good cause may modify or terminate
2 supervision before the end of the period of license suspension,
3 revocation, or cancellation.

4 Sec. 521.2465. RESTRICTED LICENSE. (a) On receipt of
5 notice that a person has been restricted to the use of a motor
6 vehicle equipped with an ignition interlock device, the department
7 shall notify that person that the person's driver's license expires
8 on the 30th day after the date of the notice. On application by the
9 person and payment of a fee of \$10, the department shall issue a
10 special restricted license that conspicuously indicates that the
11 person is authorized to operate only a motor vehicle equipped with
12 an ignition interlock device.

13 (a-1) The notice provided to the person by the department
14 under Subsection (a) may be provided by:

- 15 (1) first class mail; or
16 (2) e-mail if the person has provided an e-mail
17 address to the department and has elected to receive notice
18 electronically.

19 (b) On receipt of a copy of a court order removing the
20 restriction or at the end of the period of suspension, as
21 applicable, the department shall issue the person a driver's
22 license without the restriction.

23 Sec. 521.247. APPROVAL OF IGNITION INTERLOCK DEVICES BY
24 DEPARTMENT. (a) The department shall adopt rules for the approval
25 of ignition interlock devices used under this subchapter.

26 (b) The department by rule shall establish general
27 standards for the calibration and maintenance of the devices. The

1 manufacturer or an authorized representative of the manufacturer is
2 responsible for calibrating and maintaining the device.

3 (c) If the department approves a device, the department
4 shall notify the manufacturer of that approval in writing. Written
5 notice from the department to a manufacturer is admissible in a
6 civil or criminal proceeding in this state. The manufacturer shall
7 reimburse the department for any cost incurred by the department in
8 approving the device.

9 (d) The department is not liable in a civil or criminal
10 proceeding that arises from the use of an approved device.

11 Sec. 521.2475. IGNITION INTERLOCK DEVICE EVALUATION. (a)
12 On January 1 of each year, the department shall issue an evaluation
13 of each ignition interlock device approved under Section 521.247
14 using guidelines established by the National Highway Traffic Safety
15 Administration, including:

16 (1) whether the device provides accurate detection of
17 alveolar air;

18 (2) the moving retest abilities of the device;

19 (3) the use of tamper-proof blood alcohol content
20 level software by the device;

21 (4) the anticircumvention design of the device;

22 (5) the recalibration requirements of the device; and

23 (6) the breath action required by the operator.

24 (b) The department shall assess the cost of preparing the
25 evaluation equally against each manufacturer of an approved device.

26 Sec. 521.2476. MINIMUM STANDARDS FOR VENDORS OF IGNITION
27 INTERLOCK DEVICES. (a) The department by rule shall establish:

1 (1) minimum standards for vendors of ignition
2 interlock devices who conduct business in this state; and

3 (2) procedures to ensure compliance with those
4 standards, including procedures for the inspection of a vendor's
5 facilities.

6 (b) The minimum standards shall require each vendor to:

7 (1) be authorized by the department to do business in
8 this state;

9 (2) install a device only if the device is approved
10 under Section [521.247](#);

11 (3) obtain liability insurance providing coverage for
12 damages arising out of the operation or use of devices in amounts
13 and under the terms specified by the department;

14 (4) install the device and activate any
15 anticircumvention feature of the device within a reasonable time
16 after the vendor receives notice that installation is ordered by a
17 court;

18 (5) install and inspect the device in accordance with
19 any applicable court order;

20 (6) repair or replace a device not later than 48 hours
21 after receiving notice of a complaint regarding the operation of
22 the device;

23 (7) submit a written report of any violation of a court
24 order to that court and to the person's supervising officer, if any,
25 not later than 48 hours after the vendor discovers the violation;

26 (8) maintain a record of each action taken by the
27 vendor with respect to each device installed by the vendor,

1 including each action taken as a result of an attempt to circumvent
2 the device, until at least the fifth anniversary after the date of
3 installation;

4 (9) make a copy of the record available for inspection
5 by or send a copy of the record to any court, supervising officer,
6 or the department on request; and

7 (10) annually provide to the department a written
8 report of each service and ignition interlock device feature made
9 available by the vendor.

10 (c) The department may revoke the department's
11 authorization for a vendor to do business in this state if the
12 vendor or an officer or employee of the vendor violates:

13 (1) any law of this state that applies to the vendor;
14 or

15 (2) any rule adopted by the department under this
16 section or another law that applies to the vendor.

17 (d) A vendor shall reimburse the department for the
18 reasonable cost of conducting each inspection of the vendor's
19 facilities under this section.

20 ~~[(c) In this section, "offense relating to the operating of~~
21 ~~a motor vehicle while intoxicated" has the meaning assigned by~~
22 ~~Section 49.09, Penal Code.]~~

23 Sec. 521.248. ORDER GRANTING LICENSE ~~[REQUIREMENTS]~~. (a)
24 An order granting an occupational driver's license must specify:

25 (1) the hours of the day and days of the week during
26 which the person may operate a motor vehicle;

27 (2) the reasons for which the person may operate a

1 motor vehicle;

2 (3) areas or routes of travel permitted;

3 (4) that the person may not operate a commercial motor
4 vehicle;

5 (5) that the person is restricted to the operation of a
6 motor vehicle equipped with an ignition interlock device, if
7 applicable; ~~and~~

8 (6) ~~[(5)]~~ that the person must submit to periodic
9 testing for alcohol or controlled substances, if applicable;

10 (7) that the person is required to attend alcohol
11 dependence counseling, if applicable; and

12 (8) that the person is required to submit to
13 supervision to ensure compliance with conditions of the order, if
14 applicable.

15 (b) The person may not operate a motor vehicle for more than
16 four hours in any 24-hour period, except that on a showing of
17 necessity the court may allow the person to drive for any period
18 determined by the court that does not exceed 12 hours in any 24-hour
19 period.

20 (c) An order granting an occupational driver's license
21 remains valid until the end of the period of suspension,
22 revocation, or cancellation of the person's regular driver's
23 license.

24 (d) A person who is restricted to the operation of a motor
25 vehicle equipped with an ignition interlock device may not be
26 subject to any time of travel, reason for travel, or location of
27 travel restrictions described by Subsection (a)(1), (2), or (3) or

1 (b).

2 (e) An order granting an occupational driver's license may
3 require the person to keep a travel log showing the date, time, and
4 location of travel. The court may require the person to show the
5 travel log to demonstrate compliance with the conditions of the
6 order.

7 (f) The court shall give a copy of the order to the person
8 and inform the person that they must comply with any requirements
9 of the department for the issuance of an occupational driver's
10 license.

11 (g) An order issued under this section may be modified at
12 any time by the court without a hearing or payment of a filing fee.
13 The issuance date of the order is not changed by a modification. If
14 the order is modified, the court shall deliver a certified copy to
15 the person and to the department.

16 Sec. 521.249. NOTICE TO DEPARTMENT; ISSUANCE OF
17 OCCUPATIONAL DRIVER'S LICENSE. (a) The court shall send a
18 certified copy of the petition and the court order setting out the
19 judge's findings and restrictions to the department. The person
20 may use a copy of the order as a restricted license until the 45th
21 day after the date on which the order takes effect.

22 (a-1) It is an affirmative defense to prosecution under
23 Sections 521.025 and 521.457 that the person has applied for and
24 complied with the department's requirements for the issuance of an
25 occupational driver's license on or before the 10th day after the
26 issuance of the court order but has not been issued the license.

27 (b) On receipt of the copy under this section and after

1 compliance with Chapter 601, the department shall issue an
2 occupational driver's license to the person. The license must
3 refer on its face to the court order.

4 Sec. 521.250. COURT ORDER IN OPERATOR'S POSSESSION. A
5 person who is issued an occupational driver's license shall have in
6 the person's possession a certified copy of the court order
7 granting the license while operating a motor vehicle. The person
8 shall allow a peace officer to examine the order on request.

9 ~~[Sec. 521.251. EFFECTIVE DATE OF OCCUPATIONAL LICENSE. (a)~~
10 ~~If a person's license is suspended under Chapter 524 or 724 and the~~
11 ~~person has not had a prior suspension arising from an~~
12 ~~alcohol-related or drug-related enforcement contact in the five~~
13 ~~years preceding the date of the person's arrest, an order under this~~
14 ~~subchapter granting the person an occupational license takes effect~~
15 ~~immediately. However, the court shall order the person to comply~~
16 ~~with the counseling and rehabilitation program required under~~
17 ~~Section 521.245.~~

18 ~~[(b) If the person's driver's license has been suspended as~~
19 ~~a result of an alcohol-related or drug-related enforcement contact~~
20 ~~during the five years preceding the date of the person's arrest, the~~
21 ~~order may not take effect before the 91st day after the effective~~
22 ~~date of the suspension.~~

23 ~~[(c) If the person's driver's license has been suspended as~~
24 ~~a result of a conviction of an offense under Sections 49.04-49.08,~~
25 ~~Penal Code, during the five years preceding the date of the person's~~
26 ~~arrest, the order may not take effect before the 181st day after the~~
27 ~~effective date of the suspension.~~

~~[(d) Notwithstanding any other provision in this section, if the person's driver's license has been suspended as a result of a second or subsequent conviction under Sections 49.04-49.08, Penal Code, committed within five years of the date on which the most recent preceding offense was committed, an order granting the person an occupational license may not take effect before the first anniversary of the effective date of the suspension.]~~

~~[(d-1) Notwithstanding Subsections (b), (c), and (d), the court may issue an occupational license to a person if the person submits proof the person has an ignition interlock device installed on each motor vehicle owned or operated by the person. If a person issued an occupational license under this subsection fails to maintain an installed ignition interlock device on each motor vehicle owned or operated by the person, the court shall revoke the occupational license under Section 521.252 and reinstate the suspension of the person's driver's license. A person granted an occupational license under this subsection may not be ordered, under Section 521.2462, to submit to the supervision of the local community supervision and corrections department or a personal bond office established under Article 17.42, Code of Criminal Procedure, unless the order is entered by a court of record.]~~

~~[(e) For the purposes of this section, "alcohol-related or drug-related enforcement contact" has the meaning assigned by Section 524.001.]~~

Sec. 521.252. LICENSE REVOCATION. (a) The court that signs an order granting an occupational driver's license may, at any time, issue ~~[at any time]~~ an order revoking the license for good

1 cause.

2 (b) The court that signed an order granting an occupational
3 driver's license shall issue an order revoking the license if the
4 person is restricted to the operation of a motor vehicle equipped
5 with an ignition interlock device and operates a vehicle that is not
6 equipped with an ignition interlock device, unless authorized to
7 operate the vehicle under Section 521.246(e).

8 (c) The court shall send a certified copy of the order to the
9 person and to the department.

10 Sec. 521.253. CRIMINAL OFFENSE; PENALTY. (a) A person who
11 holds an occupational driver's license commits an offense if the
12 person:

13 (1) operates a motor vehicle in violation of a
14 restriction imposed on the license; or

15 (2) fails to have in the person's possession a
16 certified copy of the court order as required under Section
17 521.250.

18 (b) An offense under this section is a Class B misdemeanor.

19 (c) On conviction of an offense under this section, the
20 convicting court shall:

21 (1) issue an order revoking the occupational driver's
22 license; and

23 (2) deliver the revocation order to the person, the
24 court that issued the order granting the occupational driver's
25 license, and the department [~~and the order granting that license~~
26 ~~are revoked~~].

27 SECTION 3. Section 521.320(e), Transportation Code, is

1 amended to read as follows:

2 (e) A person whose license is suspended under Subsection (a)
3 remains eligible to receive an occupational driver's license under
4 Subchapter L.

5 SECTION 4. Section 521.342(c), Transportation Code, is
6 amended to read as follows:

7 (c) A person whose license is suspended under Subsection (a)
8 remains eligible to receive an occupational driver's license under
9 Subchapter L. Suspension under Subsection (a) is not a suspension
10 for physical or mental disability or impairment for purposes of
11 eligibility to apply for an occupational driver's license under
12 Subchapter L.

13 SECTION 5. Section 521.350(c), Transportation Code, is
14 amended to read as follows:

15 (c) A person whose license is suspended under Subsection (a)
16 remains eligible to receive an occupational driver's license under
17 Subchapter L, except that an occupational driver's license issued
18 to a person younger than 18 years of age whose license is suspended
19 under this section may permit the operation of a motor vehicle only
20 for transportation to and from an educational facility in which the
21 person is enrolled and the place where the person resides.

22 SECTION 6. Section 521.377(b), Transportation Code, is
23 amended to read as follows:

24 (b) A person whose license is suspended under Section
25 521.372 remains eligible to receive an occupational driver's
26 license under Subchapter L. Suspension under Section 521.372 is
27 not a suspension for physical or mental disability or impairment

1 for purposes of eligibility to apply for an occupational driver's
2 license under Subchapter L.

3 SECTION 7. Section 521.421(d), Transportation Code, is
4 amended to read as follows:

5 (d) The fee for issuance or renewal of an occupational
6 driver's license is \$10.

7 SECTION 8. Section 601.332, Transportation Code, is amended
8 by adding Subsection (c) to read as follows:

9 (c) A person whose license is suspended under Subsection (a)
10 is eligible for an occupational driver's license under Subchapter
11 L, Chapter 521.

12 SECTION 9. Section 706.005(a), Transportation Code, is
13 amended to read as follows:

14 (a) A political subdivision shall immediately notify the
15 department that there is no cause to continue to deny renewal of a
16 person's driver's license based on the person's previous failure to
17 appear or failure to pay or satisfy a judgment ordering the payment
18 of a fine and cost in the manner ordered by the court in a matter
19 involving an offense described by Section 706.002(a), on payment of
20 a reimbursement fee, or on a finding by the court that the person is
21 indigent and not required to pay a reimbursement fee, as provided by
22 Section 706.006 and:

23 (1) the perfection of an appeal of the case for which
24 the warrant of arrest was issued or judgment arose;

25 (2) the dismissal of the charge for which the warrant
26 of arrest was issued or judgment arose, other than a dismissal with
27 prejudice by motion of the appropriate prosecuting attorney for

1 lack of evidence;

2 (3) the posting of bond or the giving of other security
3 to reinstate the charge for which the warrant was issued;

4 (4) the payment or discharge of the fine and cost owed
5 on an outstanding judgment of the court; or

6 (5) other suitable arrangement to satisfy ~~pay~~ the
7 fine and cost within the court's discretion.

8 SECTION 10. Section 54.042(e), Family Code, is amended to
9 read as follows:

10 (e) A child whose driver's license or permit has been
11 suspended or denied pursuant to this section may, if the child is
12 otherwise eligible for, and fulfills the requirements for issuance
13 of, a provisional driver's license or permit under Chapter 521,
14 Transportation Code, apply for and receive an occupational driver's
15 license in accordance with the provisions of Subchapter L of that
16 chapter.

17 SECTION 11. Section 75.014(e), Government Code, is amended
18 to read as follows:

19 (e) The County Courts at Law No. 6 and No. 7 of El Paso
20 County, Texas, are designated as criminal misdemeanor courts.
21 Courts designated as criminal misdemeanor courts shall give
22 preference to and have primary responsibility for:

23 (1) criminal misdemeanor cases;

24 (2) appeals or petitions under Section 501.052,
25 521.2421 ~~[521.242]~~, 521.302, or 524.041, Transportation Code;

26 (3) misdemeanor bail bond and personal bond forfeiture
27 cases; and

(4) appeals de novo from the municipal and justice courts.

SECTION 12. Section 123.009, Government Code, is amended to read as follows:

Sec. 123.009. OCCUPATIONAL DRIVER'S LICENSE. Notwithstanding Section 521.2421 [~~521.242~~], Transportation Code, if a participant's driver's license has been suspended as a result of an alcohol-related or drug-related enforcement contact, as defined by Section 524.001, Transportation Code, or as a result of a conviction under Section 49.04, 49.07, or 49.08, Penal Code, the judge or magistrate administering a drug court program under this chapter may order that an occupational driver's license be issued to the participant. An order issued under this section is subject to Sections 521.248, 521.249, 521.250, 521.252, and 521.253 [~~521.248-521.252~~], Transportation Code, except that any reference to a petition under Section 521.2421 [~~521.242~~] of that code does not apply.

SECTION 13. Section 524.022(d), Transportation Code, is repealed.

SECTION 14. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 291 was passed by the House on April 20, 2023, by the following vote: Yeas 142, Nays 4, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 291 was passed by the Senate on May 19, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

**SUMMARY OF KEY PROVISIONS OF
SUBCHAPTER L. OCCUPATIONAL DRIVER'S LICENSE
[as amended effective September 1, 2023]**

The following summary of the ODL statute, as amended in 2023, includes the key provisions as they apply to eligibility, hearings and what is required to be included in and with the petition and order. Verification of statutory provisions is recommended in the event of a question or concern regarding application of same to a specific fact situation, as is review for subsequent amendments or caselaw regarding changes made by 2023 amendment. This summary is not intended to be complete or definitive review of the ODL statute or other related matters but is for general informational purposes only and is not intended to provide legal advice or opinion regarding any specific case or fact situation.

ESSENTIAL NEED [521.241(1)]

"Essential need" means a need of a person to operate a motor vehicle:

- in performance of occupation or trade
- for transportation to/from person's workplace;
- in the pursuit of an occupation or trade;
- for transportation to/from educational facility in which person is enrolled; -OR-
- in the performance of essential household duties.

ELIGIBILITY [521.242]

A person is eligible to apply for an occupational driver's license if:

- the person's license has been suspended, revoked, or canceled for a cause other than 1) physical or mental disability or impairment or 2) DPS determination person is incapable of safely operating a motor vehicle; -OR-
- the person does not hold a driver's license and is ineligible to obtain a driver's license because of a suspension order, including an order due to a conviction or an order under Chapter 524 or 724; -OR-
- the person is ineligible to obtain a driver's license because the person's out-of-state driver's license was suspended, revoked, or canceled for a cause other than a physical/mental disability or impairment.

An occupational driver's license cannot be issued if the applicant is revoked for medical reasons or suspended for failure to pay child support. [Tex. Admin. Code Title 37, Chapt. 15, Subchapt. A, Rule 15.7]

CANNOT USE ODL TO OPERATE COMMERCIAL VEHICLE [512.242(b)]

An occupational driver's license does not authorize a person to operate a commercial motor vehicle to which Chapter 522 applies. Chapter 522 is the "Texas Commercial Driver's License Act" and defines "commercial motor vehicle" by incorporating the Federal Motor Safety Administration

definitions.¹ While there are some fact specific qualifications and exceptions,² a commercial motor vehicle is essentially one that is used in commerce to transport passengers or property.

PETITION [521.2421]

– Petition must be “verified” and must:

- (1) set forth in detail the petitioner's essential need, including a description of the hours and location of essential travel;
- (2) describe the reason for the petitioner's license suspension, revocation, or cancellation;
- (3) provide evidence of the petitioner's financial responsibility in accordance with Chapter 601; and
- (4) include a certified abstract of the petitioner's complete driving record.

[Each of these requirements is mandatory. While an order that requires a DLD may not be required to describe hours and location of travel, the exceptions regarding same appear to apply only to the order, not the petition, i.e., the 521.2421(a) requires that the petition set forth essential need details regardless of whether a DLD is required.]

JURISDICTION [521.2421]

(a) Except as provided by Subsections (b) and (c), verified petition must be filed with clerk of a justice, county, or district court with jurisdiction that includes the **county** in which:

- (1) the **person resides**; or
- (2) the **incident occurred** for which the license was suspended, revoked, or canceled.

(b) If a person's license has been automatically suspended, revoked, or canceled due to a conviction of an offense as provided by Subchapter O³ or P,⁴ the person may apply for an occupational driver's license by filing a verified petition only with the clerk of the **court in which the person was convicted**.

(c) If a person's license is suspended, revoked, or canceled due to a **court order** submitted to the department by a district, county, or justice court, the person may apply for an occupational driver's license by filing a verified petition with a **court described by Subsection (a) or the court that issued the order**.

DISMISSAL REQUIRED IF NO JURISDICTION [521.2421(f)]

The court “shall” dismiss the application if it lacks jurisdiction under one of these provisions.

[NOTE: It appears a hearing is not required to dismiss the application for want of jurisdiction but is discretionary with the court ⁵ (the hearing is discretionary, not dismissal).]

¹522.003(5) "Commercial motor vehicle" has the meaning assigned by 49 C.F.R. Section 383.5.

²See e.g. 522.004 which identifies vehicles to which Chapter 522 does not apply (e.g., vehicles used by the military, farmers and first responders). See also 49 C.F.R. Section 383.5.

³Subchapter O pertains to automatic suspensions for convictions of certain alcohol related and other offenses involving adults [521.341] and persons under 21 years of age [521.342].

⁴Subchapter P pertains to suspension for certain drug offense convictions.

⁵521.2421(f) “...The court may hold a hearing to determine if the court has jurisdiction over the petition. If the petition is dismissed, the petitioner may submit a written request for the petition to be reinstated within 14 days of the dismissal, stating the reason the court has jurisdiction over the petition.”

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

NOTICE TO STATE [521.243]

Notice to state is not required if petition is dismissed for want of jurisdiction.

Notice to state is required if license suspended, revoked, or canceled following conviction for:

- (1) an offense under Section 19.05 or Sections 49.04-49.08, Penal Code; or
- (2) an offense to which Section 521.342 applies [persons under 21 years of age].

The court “may” notify the state of any other hearing on a petition for an occupational driver's license.

If notified of the hearing, the state is not required to but “may” attend the hearing and may present evidence at the hearing for or against granting the petition.

DETERMINATION OF ESSENTIAL NEED HEARING [521.244]

The court “shall” hold a hearing to determine essential need if license was suspended, revoked, or canceled following a conviction for: (1) an offense under Section 19.05 or Sections 49.04-49.08, Penal Code; or (2) an offense to which Section 521.342 applies [persons under age of 21].

If license was suspended, revoked, or canceled for a reason other than those described above, the judge “may” make the determination of essential need by either holding a hearing or based on the petition.

RULING ON PETITION [521.244(e)(f)]

The judge shall enter an order DENYING the petition if the judge determines the person is ineligible or does not have an essential need.

The judge shall enter an order GRANTING the petition if the judge determines the person is eligible for an occupational driver's license and has an essential need except the judge may DENY the petition:

- based on evidence presented at a hearing by the attorney representing the state -OR-
- if the petitioner:
 - (1) is unable to present evidence of financial responsibility under Chapter 601;
 - (2) has been convicted more than once in the 10 years preceding the date of the petition of an offense to which Sections 49.04-49.08, Penal Code, apply; or
 - (3) is subject to a revocation order under Section 521.252 or 521.253.

An order granting or denying an application for an occupational driver's license may not be appealed.

REQUIRED ALCOHOL DEPENDENCE COUNSELING [521.245]

Is required if license suspended under Chapter 524 or 724 or as result of conviction for offense relating to operating motor vehicle while intoxicated.⁶

Failure to attend program may result in (1) revocation of ODL order or (2) modification of order to require ignition interlock device if not already required.

IGNITION INTERLOCK DEVICE (IID a/k/a DLD) REQUIREMENT [521.246]

The judge SHALL order an IID if:

1. the person is currently under an order requiring an IID;
2. license was suspended, revoked or canceled after conviction under 49.04-49.08; or
3. on finding of good cause in a case not described in 1 or 2 above.

The court may waive the ignition interlock device requirement under 1 or 2 above if the court finds the requirement is not necessary for the safety of the community and the waiver is in the best interest of justice.

IID (DLD) DURATION [521.246(d)]

The court shall order the IID to remain installed for duration of suspension, unless the court finds:

- (1) good cause for the removal of the device; and
- (2) the device is not necessary for the safety of the community.

ODL ORDER [521.248]

Order granting occupational driver's license MUST specify:

⁶“the court shall require the petitioner to attend a program approved by the court that is designed to provide counseling and rehabilitation services to persons for alcohol dependence.” The ODL statute does not give any guidance regarding such programs other than to provide it “may not be the program provided by Section 521.344 or by Article 42A.403 or 42A.404, Code of Criminal Procedure.” [521.245(b)] Possible programs to consider include Smart Recovery, Celebrate Recovery, or similar programs that employ licensed alcohol/chemical dependence counselors.

- (1) hours of the day and days of the week during which the person may operate a motor vehicle;
- (2) reasons for which the person may operate a motor vehicle;
- (3) areas or routes of travel permitted;
- (4) person may not operate a commercial motor vehicle;
- (5) person is restricted to the operation of motor vehicle equipped with IID, if applicable;
- (6) person must submit to periodic testing for alcohol or controlled substances, if applicable;
- (7) person is required to attend alcohol dependence counseling, if applicable; and
- (8) person is required to submit to supervision to ensure compliance with conditions of the order, if applicable.

However, if ODL requires IID, order is not subject to and does not have to include any time of travel, reason for travel, or location of travel restrictions described by Subsection (a)(1), (2), or (3) or (b). [This exception appears to apply only to the order, not the petition (*see* 521.2421(1), which requires that the petition “set forth in detail the petitioner's essential need, including a description of the hours and location of essential travel...”]

An order granting an occupational driver's license may require the person to keep a travel log showing the date, time, and location of travel. The court may require the person to show the travel log to demonstrate compliance with the conditions of the order. [There does not appear to be a statutory exception to the travel log provision for orders requiring an DLD.]

COURT ORDER IN OPERATOR'S POSSESSION [Sec. 521.250]

If issued an occupational license, the petitioner is required to be in possession of certified copy of the court order granting the license while operating a motor vehicle and must allow a peace officer to examine the order on request.