

**TOP 20 GENERAL RULES
AND FREQUENTLY ASKED QUESTIONS**

1. **WHAT ARE THE TYPES OF SUSPENSIONS? (Driver's License Suspension Guide)**
 - a. **Automatic Suspensions on conviction:**
 - i. 21 years of age or older. TEX. TRANSP. CODE §521.341.
 - ii. Less than 21 years of age. TEX. TRANSP. CODE §521.342.
 - iii. Drug Offenses. TEX. TRANSP. CODE § 521.372.
 - iv. Sex Offenders. TEX. TRANSP. CODE § 521.348.
 - v. Fraudulent Activity Convictions. TEX. TRANSP. CODE § 521.346, *et seq.*
 - b. **Administrative Suspensions.**
 - i. Misc. Conduct. TEX. TRANSP. CODE § 521.292.
 - ii. Breath Test Failures. TEX. TRANSP. CODE § 524.012.
 - iii. Breath Test Refusals. TEX. TRANSP. CODE § 724.035.
 - iv. Safety Responsibilities. TEX. TRANSP. CODE Chapter 601.
 - v. Revocations. TEX. TRANSP. CODE §§ 521.294, 521.344 (Includes Sex Offenders).
2. **WHEN IS A CONVICTION FINAL?** A conviction is "final" for purposes of a driver's license suspension regardless of whether any portion of the sentence for the conviction was suspended or probated.
 - a. **When a conviction is not final.** If the defendant receives deferred adjudication or if the court defers final disposition, conviction is not final. However, if the court subsequently adjudicates guilt and imposes sentence, conviction is then final. TEX. TRANSP. CODE § 521.347(c).
 - b. **Final Judgment and Bail Forfeiture.** A final judgment of forfeiture of bail or collateral deposited to secure a defendant's appearance in court is considered a conviction if the court does not vacate the forfeiture. TEX. TRANSP. CODE § 521.347(c).
 - c. **Commercial Driver's License.** A final conviction includes a finding by a court, administrative agency, or tribunal that the licensee refused to give a breath or blood specimen, or conviction of driving a commercial vehicle with an alcohol level of .04 or more. TEX. TRANSP. CODE § 522.003(7)(b).
3. **WHEN DOES A SUSPENSION START?** Generally, suspension begins on date of or within thirty (30) days of conviction. TEX. TRANSP. CODE § 521.344(a)(1). There are exceptions, including individual offenses for which automatic driver's license suspensions apply. *See* TEX. TRANSP. CODE § 521.344(a).
4. **IS THERE A RIGHT TO APPEAL** an automatic suspension? **No.** *See Stoker v. State*, 886 S.W.2d 443 (Tex. App.— Eastland 1994, no pet.).
5. **WHEN MUST A LICENSE BE SURRENDERED? REGULAR DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE.** The court has the discretion to require a person to surrender his license. TEX. TRANSP. CODE § 521.347(a). Under current administrative processes, the Department only demands the surrender of commercial driver's licenses and those revoked for medical reasons, suspended under the ALR program (Chapters 524 and 724 of the Texas Transportation Code), or canceled for falsifying information on the application. 37 TEX. ADMIN. CODE § 15.88.

6. **COMMERCIAL DRIVER'S LICENSE.**

- a. **Automatic Suspensions, revocation, cancellation, or denial provisions** affecting a driver's license under Chapter 521 also affect the individual's commercial driving privileges. TEX. TRANSP. CODE § 522.089(a). However, the disqualification of the commercial driver's license does not suspend or revoke the individual's non-commercial driving privileges.
- b. **DWI Probations.** The provisions of TEX. CODE CRIM. P. art. 42.12 § 13 and TEX. TRANSP. CODE § 521.344 do not apply to commercial driver's licenses. TEX. TRANSP. CODE § 522.088.

7. **WHEN MAY A DEFENDANT FILE FOR AN OCCUPATIONAL LICENSE?** On or after the date the court or the Department suspends the driver's license. TEX. TRANSP. CODE § 521.242(a).

8. **MAY A COURT GRANT AN OCCUPATIONAL LICENSE FOR THE OPERATION OF A COMMERCIAL VEHICLE COVERED UNDER CHAPTER 522 OF THE TRANSPORTATION CODE?** No. TEX. TRANSP. CODE § 521.242(f).

9. **WHERE MAY A DEFENDANT FILE FOR AN OCCUPATIONAL LICENSE?**

- a. **DWI.** The defendant must return to the court that convicted him and suspended his license. Only the court that ordered the suspension has jurisdiction to grant an occupational license. TEX. TRANSP. CODE § 521.242(b).
- b. **Other Offenses or Administrative Suspensions.** The defendant may apply to any county or district court with jurisdiction of the offense in the county in which the defendant resides or the offense occurred for which the license was suspended. TEX. TRANSP. CODE § 521.242(a).

10. **WHEN IS A DEFENDANT INELIGIBLE FOR AN OCCUPATIONAL LICENSE?**

- a. When his license was revoked because of physical or mental impairments. TEX. TRANSP. CODE § 521.201(2)-(6); or
- b. When the current suspension or revocation was based on a conviction; and when the court granted the defendant more than one occupational license within the previous ten (10) years for a suspension or revocation that was also based on a Texas conviction. TEX. TRANSP. CODE § 521.242 (b)(2); or
- c. When a defendant has been convicted of failure to appear or defaulted on a misdemeanor fine under state law or municipal ordinance, and the convicting court reported this conviction to DPS. The defendant must have been under the age of 17 when he committed the offense. A subsequent court may grant an occupational license in this situation if the convicting court filed an additional report on final disposition of the case. TEX. TRANSP. CODE § 521.201(8).

11. **EFFECTIVE DATES OF THE OCCUPATIONAL LICENSE**

a. If the person is currently serving an ALR (TEX TRANSP. CODE chs. 524, 724) suspension, they must wait to obtain an occupational license:

- 90 days if the record reflects an ALR suspension within the previous five years; or
 - 180 days if the record reflects a DWI conviction suspension within the previous five years.
- TEX. TRANSP. CODE § 521.251.

b. If the person is currently under suspension for a DWI conviction, the individual must wait:

- one year from the date of the suspension if there is another DWI on record that occurred within the previous five years.

TEX. TRANSP. CODE § 521.251.

c. **Minor** – if current suspension is for ALR Failure – TEX. TRANSP. CODE § 524.022:

- 30 days if first alcohol contact
- 90 days if previously convicted for DUI or DWI
- Prohibited from obtaining occupational license if have two convictions for DUI or DWI

12. **OCCUPATIONAL LICENSE - REVOCATION.** For good cause, a court that grants an occupational license may revoke the license. The court must send a certified copy of the revocation order to DPS. TEX. TRANSP. CODE § 521.252.

13. **OCCUPATIONAL LICENSE - VIOLATIONS.** It is a class B misdemeanor for a holder of an occupational license to operate a motor vehicle 1) in violation of a restriction imposed on the license; or 2) if holder does not have a certified copy of the order granting the occupational license in his possession when driving. TEX. TRANSP. CODE § 521.253.

14. **OCCUPATIONAL LICENSE – DURATION.** An order granting an occupational license remains valid until the end of the period of suspension of the defendant’s regular driver’s license. TEX. TRANSP. CODE § 521.248 (c). The occupational license issued by DPS is valid for one year. TEX. TRANSP CODE §521.271(a)(4).

15. **ADDITIONAL SUSPENSION ON REVOCATION OF COMMUNITY SUPERVISION - DWI.** If the court revokes defendant’s community supervision, it must also suspend the defendant’s driver’s license as if community supervision had not been granted. This suspension is mandatory regardless of whether the court ordered or waived defendant’s attendance at an alcohol education program. TEX. CODE CRIM. P. art. 42.12 §13(m).

16. **ARE THE AUTOMATIC SUSPENSION PROVISIONS APPLICABLE TO REGULAR DRIVER'S LICENSES ALSO APPLICABLE TO COMMERCIAL DRIVER'S LICENSES? YES.** TEX. TRANSP. CODE § 522.089.

17. **COLLATERAL FEES:** District Clerk Filing Fee for Occupational License (**currently \$161.00, but see clerk for filing fee**).

a. **D.P.S. Restricted Interlock License - \$10.00.** Defendant must pay this fee to receive the restricted license when an ignition interlock device ordered for any reason. Unless defendant provides evidence that the device has been installed and pays the fee, the D.P.S. cancels the current license 30 days after notifying the defendant of these requirements.

TEX. TRANSP. CODE §521.2465.

- b. **Occupational License - \$10.00 per year.** Defendant is required to pay this fee and show proof of insurance (DPS Form SR-22) prior to the Department issuing an occupational license and updating the driver's record. TEX. TRANSP CODE §521.421(d). The license is valid for one year from the date of the order, but can be renewed if the suspension is still in effect after the date of expiration.
 - c. **D.P.S. C/S Reinstatement - \$50.00.** Defendant must pay this fee to reinstate a driver's license that was suspended as condition of community supervision for failing to complete the alcohol awareness class. TEX. CODE CRIM. P. art. 42.12 §13(h).
 - d. **D.P.S. Driver's License Safety Responsibility Reinstatement Fee - \$100.00.** Defendant must pay this fee to reinstate a driver's license that was suspended pursuant to a court conviction under safety responsibility provisions. TEX. TRANSP. CODE § 601.376(a)(1).
18. **AUTOMATIC 365-DAY SUSPENSION FOR A SUBSEQUENT OFFENSE** if the court grants community supervision ordering the repeat offender course or the alcohol education course for a subsequent time but fails to enter a license suspension. TEX. CODE CRIM. P. art. 42.12 § 13(i). The DPS system reviews the driver record and automatically sets the suspension if the record reflects a prior alcohol awareness class, regardless of the date of the previous conviction. This suspension does not go into effect until DPS receives notification of the conviction with the course requirement and notifies the licensee in writing.
 19. **PROOF OF LIABILITY INSURANCE [DPS Form SR-22].** A defendant must present proof of liability insurance before he may obtain an occupational license. TEX. TRANSP. CODE §521.244(c)(2). He must also present this proof for a two-year period after the conviction date if the conviction resulted in a suspension to lift the suspension from the record. TEX. TRANSP. CODE §§ 601.231, 601.341.
 20. **ALCOHOL. A DEFENDANT'S FAILURE TO COMPLETE A COURT ORDERED ALCOHOL EDUCATION PROGRAM** within 180 days results in revocation until he completes the program. TEX. TRANSP. CODE § 521.344(e) –(g); TEX. CODE CRIM. P. art. 42.12 §13(h).
 21. **DRUGS.** A defendant's driver's license is automatically suspended upon notification of the conviction for a minimum of 180 days but continues past this time period if he fails to successfully complete the drug education program as ordered. TEX. TRANSP. CODE § 521.374.
 22. **REPEAT OFFENDER.** Individuals who are convicted of a second or subsequent DWI offense within five years of the previous arrest date are subject to additional penalties and restrictions. If convicted under Penal Code § 49.09, they are subject to at least a one-year license suspension, are not eligible for an occupational license, and also must use an ignition interlock for the first year following the lifting of the license suspension. The provision regarding the occupational license effective date does not require the individual to be charged under PC §49.09. TEX. TRANSP. CODE §§521.251(d), 521.344(a)(2)(C); TEX. CODE CRIM. P. art. 42.12 § 13(k)(3); TEX. PENAL CODE § 49.09(g).