



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**WAGGONER CARR
ATTORNEY GENERAL**

March 31, 1966

Honorable Sam Cleveland
District Attorney
Stephenville, Texas, 76401

Opinion No. C-645

Re: Construction of Sections
148 and 149 of Article
670ld, Vernon's Civil
Statutes, in reference to
whether the new Code of
Criminal Procedure would
prevent the prosecution
for failure to appear in
a traffic violation.

Dear Sir:

In your recent opinion request you state:

"Article 670ld, Section 148, Revised Civil Statutes of Texas, provides that a person arrested for a violation of some traffic regulation, under the Act may obtain his release by signing a duplicate copy of notice to appear before the court at some appointed time after ten days.

"Article 670ld, Section 149, provides that failure to appear in court as agreed under the terms of the preceding section constitutes another violation if willfully done.

"As I understand these two sections, after proper complaints have been filed both for the traffic violation and the failure to appear, warrants of arrest may be issued for the person charged.

"Is there anything in the New Code of Criminal Procedure or otherwise which would prevent the additional charge of failure to appear from being filed and a warrant of arrest issued for that offense."

In addition to Article 670ld, Sections 148 and 149, cited above, Article 792 of the Penal Code of the State of Texas also deals with the violation of a person who fails to appear as promised.

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The 1966 Code of Criminal Procedure does not amend or repeal Article 792 or any of these sections of Article 670ld. Further, Articles 882, 883, 884 and 885 of the old Code of Criminal Procedure, which dealt with warrants of arrest in Justice Courts, have been brought forward in the 1966 Code of Criminal Procedure and codified as Articles 45.16, 45.17, 45.18 and 45.19 with only insignificant grammar and punctuation changes.

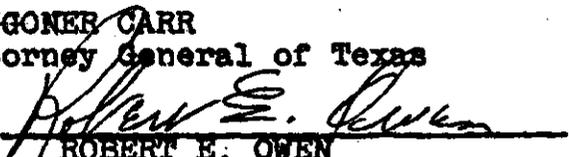
It is the opinion of this office that the law is still the same as it was in respect to the issuance of warrants for arrest for the failure to appear for a traffic violation.

SUMMARY

There is nothing in the 1966 Code of Criminal Procedure which would prevent the prosecution for failure to appear in a traffic violation under Article 670ld, Sections 148 and 149, Vernon's Civil Statutes, and Article 792, Texas Penal Code.

Yours very truly,

WAGGONER CARR
Attorney General of Texas

By: 
ROBERT E. OWEN
Assistant Attorney General

REO/er

APPROVED:

OPINION COMMITTEE

W. V. Geppert, Chairman
Charles B. Swanner
Lonny F. Zwiener
Ronald Luna
Pat Bailey

APPROVED FOR THE ATTORNEY GENERAL
By: T. B. Wright