



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

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March 29, 1972

Honorable Wilson E. Speir  
Director, Texas Department  
of Public Safety  
5805 N. Lamar Blvd.  
Box 4087  
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Opinion No. M-1108

Re: Authority of Texas  
Department of Public  
Safety under Article  
6687b V.C.S. to  
administer certain  
tests in examining  
applicants for driver's  
licenses, and related  
questions?

Dear Sir:

You have requested our opinion on three questions:

(1) Whether the Texas Department of Public Safety may, pursuant to Article 6687b, Section 10, administer a Siebrecht Attitude Scale, the Sixteen Personality Factors Questionnaire, and the National Test in Driver Education as a pre and post course testing program, in correlation with violation and accident records, to determine if such profiles may be used as a diagnostic instrument in initial and relicensing of drivers?

(2) Is Article 6687b, Vernon's Civil Statutes, sufficiently comprehensive to permit your Department, "in cooperation with other persons and state agencies, such as the Texas Department of Health and the Brazos Valley Crises Intervention Program, to screen medically eligible and problem applicants to determine whether their disability will permit the safe operation of a vehicle on completion of a rehabilitation program?"

(3) Whether "a judge, under Section 22 (e) of Article 6687b, "may "require as a condition of

probation the attendance at and satisfactory completion of a rehabilitation program?"

We answer all three of these questions in the affirmative. In any construction to be given to the various sections of Article 6687b in answering your questions, it is well to note first that a statute should be construed as a whole in order to arrive at the purposes for which it was enacted, and words, phrases, or sentences should not be detached from the context in attempting to define the legislative intent. National Surety Corp. v. Ladd, 131 Tex. 295, 115 S.W.2d 600 (1938).

In Mundy v. Pirie - Slaughter Motor Co., 146 Tex. 314, 206 S.W.2d 587 (1948), the Supreme Court of Texas construed Article 6687b and held that its "principal purpose" is to insure some minimum of competence and skill on the part of drivers, for the protection of those who might be injured or have their property damaged by negligent or reckless operation of motor vehicles on the highway. In view of this principal purpose and legislative intent, we will examine the pertinent parts of the statute.

Section 4 of Article 6687b not only prohibits the issuance of drivers licenses to certain age groups but also to those "whose license has been suspended, during such suspension;" to those who are shown to be addicted to alcohol and narcotics that "render a person incapable of driving;" to those adjudged idiots, imbeciles, or feebleminded; "to any person when in the opinion of the Department such person is afflicted with or suffering from such physical or mental disability or disease as will serve to prevent such person from exercising reasonable and ordinary control over a motor vehicle . . . nor . . . to any person who is unable to understand highway warnings or direction signs in the English language . . .". In addition to these prohibitions, including blind persons, the Legislature prohibits licenses to "any person when the Department has good cause to believe that the operation of a motor vehicle on the highways by such person would be inimical to public safety or welfare."

Section 10 of Article 6687b directs the Department to "examine every applicant for an operator's, commercial

operator's, or chauffeur's license. . . ." It further provides that the examination

". . . shall include a test of the applicant's vision, his ability to understand highway signs in the English language. . . , his knowledge of the traffic laws of this State, and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type he will be licensed to operate and such further physical and written examination as the Department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways, and provided further that the Director shall have the authority to cause to be re-examined the licensee in any case which in his judgment the licensee is incapable of operating a motor vehicle. . . ." (Emphasis supplied.)

Section 24A of Article 6687b makes provisions for rehabilitation schools and provides:

"(a) The Department shall establish and develop a program of motor vehicle driver education and training for drivers whose licenses have been suspended or revoked or are subject to suspension or revocation.

"(b) The Department shall instruct, educate, and inform all persons attending the driver training program in the proper, lawful, and safe operation of a motor vehicle. . .

"(c) The Department may require a person to attend the education and training program as a condition to the reinstatement of a suspended license or the issuance of a new license to a person whose prior license has been revoked.

"(d) In the interest of promoting safe driving, the Department may seek the advice and cooperation

of the schools, courts, and other interested persons."

The Department is granted substantial discretion in the issuance and renewal of licenses, and may prescribe the procedures and standards for arranging and conducting the examinations. See Sections 10 and 18 of Article 6687b. To assist in administering the Act, the Department is authorized a "Medical Advisory Board," which "shall be comprised of licensed physicians (including physicians specialty - board - qualified in internal medicine, psychiatry, neurology, physical medicine, and ophthalmology) appointed by the State Health Commissioner. . . ." Any three (3) members can act on any case or question submitted by the Texas Department of Public Safety." Section 21A, Article 6687b.

It is our conclusion that the Texas Department of Public Safety has the authority to administer the attitude and driver knowledge tests referred to in your first question to determine the driver applicant's fitness to operate a motor vehicle safely upon the highways, provided, however, the Department finds such tests in its judgment to be reasonable, suitable, and necessary to test driver applicants under the statutory responsibilities conferred upon the Department. We also have concluded that the Department has ample authority, in cooperation with other state agencies and interested persons, such as the Texas Department of Health and the Brazos Valley Crises Intervention program, to screen medically eligible and problem applicants to determine whether their disability or incapacity will permit the safe operation of a vehicle on completion of a rehabilitation program.

This office has previously interpreted Article 6687b and concluded that whenever in the judgment of the Director of the Department of Public Safety a licensee or one whose license was suspended for driving while intoxicated is incapable of operating a vehicle, either because of physical or nervous defects or advanced years, the Director has the authority to require him to submit to an examination to determine his ability safely to operate a vehicle. Attorney General Opinion Nos. 0-4975(1942); 0-7281(1946).

Your final question inquires whether a judge, under Section

22(e) of Article 6687b may require as a condition of probation the attendance at and satisfactory completion of a rehabilitation program. We hold that in his discretion he may clearly do so. Section 22 concerns the authority of the Department to suspend or revoke a license. Section 22e provides:

"The judge or officer holding a hearing. . . or the court trying an appeal under Sub-section(c) of this section, on determining that the license shall be suspended or revoked, may, when it appears to the satisfaction of the court that the ends of justice and the best interests of the public as well as the defendant will be subserved thereby, recommend that the revocation or suspension be probated on terms and conditions of such probation. When probation is recommended by the judge or officer presiding at a hearing, the department shall probate the suspension or revocation."

We have earlier observed that Section 24A makes provision for a rehabilitation school and program, and Sub-section(c) provides the Department with express authority to "require a person to attend the education and training program as a condition to the reinstatement of a suspended license or the issuance of a new license to a person whose prior license has been suspended." Thus, our conclusion under Section 22(e) as to the authority of the court is in harmony and consistent with the spirit and legislative purpose and intent under Section 24A as to the authority of the Department.

It is our opinion that if there is a probation of the revocation and suspension of the license, and the judge finds that the applicant's fitness to operate his motor vehicle safely is such that the interests of justice, the public, and the driver will be subserved by his required attendance and completion of the rehabilitation program, the court is empowered to require such attendance and completion of the rehabilitation program as a condition of probation.

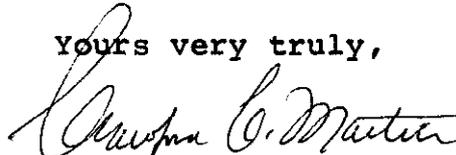
S U M M A R Y

The Texas Department of Public Safety may, pursuant to Article 6687b, V.C.S., administer a Siebrecht Attitude Scale, the Sixteen Personality Factors Questionnaire and the National Test in Driver Education as a pre and post course testing program, in correlation with violation and accident records, to determine if such profiles may be used as a diagnostic instrument in initial and relicensing of drivers, provided the Department finds that such driver attitude and knowledge tests are reasonable, suitable, and necessary in testing drivers under the statutory responsibilities of the Department.

Article 6687b, V.C.S., is sufficiently comprehensive to permit the Department, in cooperation with other persons and state agencies, to screen medically eligible and problem applicants to determine whether their disability or incapacity will permit the safe operation of a vehicle on completion of a rehabilitation program.

Under Article Section 22(e) of Article 6687b, V.C.S., the Court may require as a condition of probation the attendance at and satisfactory completion of a rehabilitation program.

Yours very truly,



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APPROVED:  
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