



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN, TEXAS 78711**

**JOHN G. BELL,  
ATTORNEY GENERAL**

January 15, 1976

The Honorable Ronald L. Wilson  
Criminal District Attorney  
Galveston County  
405 County Courthouse  
Galveston, Texas 77550

Opinion No. H-765

Re: Whether presenta-  
tion of a valid driver's  
license in court is an  
absolute defense to a  
charge of operating a  
motor vehicle without  
having a driver's license  
in immediate possession.

Dear Mr. Wilson:

You have requested our opinion regarding whether presen-  
tation of a valid driver's license in court is an absolute  
defense to a charge of operating a motor vehicle without  
having a driver's license in one's immediate possession.

Section 13 of article 6687b, V.T.C.S., provides, in  
pertinent part:

Every person shall have an operator's,  
commercial operator's, or chauffeur's  
license in his immediate possession at  
all times when operating a motor vehicle  
and shall display the same upon demand  
of a magistrate or any officer of a  
court of competent jurisdiction or any  
peace officer. Any person who violates  
this Section shall be guilty of a mis-  
demeanor . . . . It shall be a defense  
to any charge under this Section that  
the person so charged produce in court  
an operator's, commercial operator's, or  
chauffeur's license theretofore issued  
to such person and valid at the time of  
his arrest. . . . (Emphasis added).

Section 13 makes clear that, whichever of its terms a person might be charged with violating, he may establish a defense to that charge by producing a valid driver's license in court. The effect of such a defense is set forth in section 2.03(e) of the Texas Penal Code:

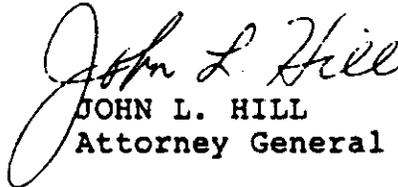
A ground of defense in a penal law that is not plainly labeled in accordance with this chapter has the procedural and evidentiary consequences of a defense.

Thus, it is our opinion that the presentation of a valid driver's license in court is an absolute defense to a charge of operating a motor vehicle without having a driver's license in one's immediate possession. Cf. Attorney General Opinion O-3907 (1941).

S U M M A R Y

It is our opinion that the presentation of a valid driver's license in court is an absolute defense to a charge of operating a motor vehicle without having a driver's license in one's immediate possession.

Very truly yours,



JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant  
C. ROBERT HEATH, Chairman  
Opinion Committee

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