



Harold V. Dutton, Jr.  
District 142

STATE of TEXAS  
HOUSE of REPRESENTATIVES

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RQ-1148-CA

Committees:  
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August 27, 2013

The Honorable Gregg Abbott  
Attorney General  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

FILE # AL-47377-13  
I.D. # 47377

Re: Whether Justice Courts are authorized to charge a fee for the application for an occupational driver' license.

Dear General Abbott:

Pursuant to the authority to issue advisory opinions granted to the Attorney General in § 22 of Article IV of the Texas Constitution and § 402.041, *et seq.* of the Texas Government Code, this letter is submitted to you to request an opinion regarding whether a Justice Court is authorized to charge a fee for the application for an occupational driver' license and if so, what is that fee.

**BACKGROUND**

In the 83rd Session of the Texas Legislature, HB-438, authored by me, was passed, signed by the Governor and becomes effective September 1, 2013. Prior to passage of HB-438, a person whose driver' license had been suspended for a cause other than a physical or mental impairment or a conviction under § 49.04 of the Penal Code could apply for an occupational driver' license with the clerk of the county or district court.

HB-438 added Justice Courts to the list of courts in which a person may file an application for an occupational license.

**DISCUSSION**

However, in subsection (e) of HB-438, as passed, the clerk of the court was authorized to file the application "as in any other matter". This particular language eliminated the word "civil" between the words "other" and "matter" in the current law. According to several inquiries received by my office, the elimination of the word "civil" has apparently raised a question as to whether the authorization to charge a civil fee was also removed by HB-438 and whether HB-438 authorizes the clerk of the court in the Justice Court (and perhaps the county and district courts, too) to collect a fee for the filing of the application



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for an occupational driver' license. HB-438 makes no mention of filing fees for the filing of an application for occupational driver's license.

I should point out that, as the author of HB-438, there was never any discussion about filing fees or changing the structure of filing fees in the Justice Courts or the county or district courts. Moreover, the elimination of the word "civil" was solely an attempt to permit each court to adhere to whatever current fee structure existed, Justice Courts included.

**QUESTION PRESENTED**

- (1) Does HB-438 remove the authorization for a court to charge a fee for filing an application for occupational driver's license; and
- (2) Does the Justice Court have authorization to charge a filing fee for filing an application for occupational driver' license? And, if so, what is the basis for such fee?

Thank you for your prompt attention to this matter. If you have questions, please do not hesitate to contact me.

Best personal regards,

A handwritten signature in black ink, appearing to read "Harold V. Dutton, Jr.", written over a horizontal line.

HAROLD V. DUTTON, JR.

Chairman, Urban Affairs

/me