



# The Attorney General of Texas

August 11, 1978

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Honorable Neal Pfeiffer  
Criminal District Attorney  
P. O. Box 753  
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Opinion No. H- 1228

Re: Whether it is a violation of article 15.71 of the Election Code to offer to hire a vehicle or person to operate a vehicle for the purpose of conveying voters to a polling place.

Dear Mr. Pfeiffer:

You have requested an opinion regarding article 15.71 of the Election Code which provides:

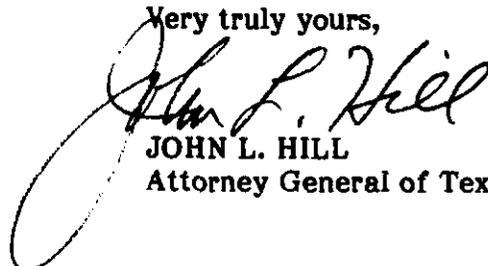
Whoever hires any vehicle or hires any person to operate a vehicle for the purpose of conveying voters to the polling place, or rewards any person in money or other thing of value for procuring a vehicle or a driver for such purpose, shall be fined not exceeding five hundred dollars. This article shall not be construed to prohibit a voter from paying for the services of a vehicle or a driver for the purpose of conveying him to the polling place or to prevent him from allowing other voters to ride in the vehicle with him while he is going to the polling place in order to vote or returning therefrom after having voted.

You ask whether an attempt or offer to pay someone to drive voters to the polls is unlawful. An attempt to commit an offense must be specifically made unlawful. Blanchette v. State, 125 S.W. 26 (Tex. Crim. App. 1910). There is no provision in Texas statutes which provides that an attempt to violate article 15.71 of the Election Code is unlawful. Section 15.01 of the Penal Code, which defines and makes punishable criminal attempts, does not apply to offenses outside of the Penal Code by reason of section 1.03(b). The criminal attempt provision appears in Title 4 of the Penal Code and therefore does not extend to article 15.71 of the Election Code.

S U M M A R Y

The Legislature has not established an offense of attempt to violate article 15.71 of the Election Code, concerning transporting voters to polls.

Very truly yours,



JOHN L. HILL  
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman  
Opinion Committee

jsn