



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

September 16, 1988

Honorable Tom Maness
Jefferson County
Criminal District Attorney
P. O. Box 2553
Beaumont, Texas 77704

LO-88-108

Dear Mr. Maness:

Article 6701~~1~~-4, V.T.C.S., was first enacted in 1957 and provides that any minor between the ages of 14 and 17 who operates a motor vehicle on any public road in this state in such a way as to violate certain listed traffic laws shall be guilty of a misdemeanor and shall be fined not more than \$100.¹ Section 4 of the act specifically provides

1. The traffic laws listed in article 6701~~1~~-4, V.T.C.S., now are the following statutes: (1) article 6675a-1 et seq., V.T.C.S. (governing the registration of motor vehicles); (2) article 6675a-5e.1, V.T.C.S. (governing motor vehicle permits for disabled persons); (3) article 6675b-1, V.T.C.S. (governing the operation of an unregistered motor vehicle); (4) article 6675b-2, V.T.C.S. (governing the operation of a motor vehicle under an improper license); (5) article 6675b-3, V.T.C.S. (governing the operation of a motorcycle without a registration seal); (6) 6675b-4, V.T.C.S. (prohibiting the operation of motor vehicle with an unauthorized distinguishing seal); (7) article 6675b-5, V.T.C.S. (governing the sale of a imitation seal or identification number); (8) article 6675b-6, V.T.C.S. (prohibiting the operation of a motor vehicle with a license plate or seal that had been issued for another motor vehicle); (9) article 6675b-7, V.T.C.S. (governing the display of a wrong or unclean license plate); (10) article 6687b, V.T.C.S. (governing the granting of operating licenses); (11) article 6701c-3, V.T.C.S. (governing the wearing of a motorcycle helmet); (12) article 6701d,
(Footnote Continued)

that any offense under the act shall be under the jurisdiction of the courts regularly empowered to try misdemeanor cases, rather than under the juvenile court system. See Penal Code §8.07. Section 54.042 of the Family Code was enacted in 1983 and authorizes a juvenile court, in a section 54.04 disposition hearing, to suspend a child's driver's license or permit if the court finds that the child has violated certain specified laws. The laws now listed in section 54.042, Family Code, are articles 6701¹-1, V.T.C.S., which makes it an offense for anyone to operate a motor vehicle while intoxicated, and 4476-15, which prohibits the use, possession, manufacture, or delivery of a controlled substance. You are concerned about the apparent conflict between the two provisions. You ask whether the later enactment in the Family Code acts to "amend" or "impliedly repeal" article 6701¹-4. We answer your question in the negative; we conclude that the conflict between the two provisions is merely apparent and not real.

Article 6701¹-4, V.T.C.S., now contains the following relevant provisions:

Sec. 1. (a) Any minor who has passed his or her 14th birthday but has not reached his or her 17th birthday, and who drives or operates an automobile or any other motor vehicle on any public road or highway in this state or upon any street or alley within the limits of any city, town, or village, or upon any public beach as defined by Section 17A, Uniform Act Regulating Traffic on Highways (Article 6701^d, Vernon's Texas Civil Statutes), in such way as to violate any traffic law of this state, shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Hundred Dollars (\$100.00).

(b) As used in this section, the term 'any traffic law of this state' shall include the following statutes:

(Footnote Continued)
V.T.C.S. (the Uniform Act Regulating Traffic on Highways); (13) article 6701^d-11, V.T.C.S. (governing the operation of certain commercial vehicles); (14) article 6701^h, V.T.C.S. (the Texas Motor Vehicle Safety-Responsibility Law). Acts 1987, 70th Leg., ch. 242, at 3052.

(b) As used in this section, the term 'any traffic law of this state' shall include the following statutes:

(1) Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-1 et seq., Vernon's Texas Civil Statutes);

(2) Chapter 338, Acts of the 64th Legislature, Regular Session, 1975 (Article 6675a-5e.1, Vernon's Texas Civil Statutes);

(3) Article 6675b-1, Revised Statutes;

(4) Article 6675b-2, Revised Statutes;

(5) Article 6675b-3, Revised Statutes;

(6) Article 6675b-4, Revised Statutes;

(7) Article 6675b-5, Revised Statutes;

(8) Article 6675b-6, Revised Statutes;

(9) Article 6675b-7, Revised Statutes;

(10) Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes);

(11) Chapter 329, Acts of the 60th Legislature, Regular Session, 1967 (Article 6701c-3, Vernon's Texas Civil Statutes);

(12) Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes);

(13) Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon's Texas Civil Statutes); and

(14) Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes).

. . . .

Sec. 4. The offenses created under this Act shall be under the jurisdiction of the courts regularly empowered to try misdemeanors carrying the penalty herein affixed, and shall not be under the jurisdiction of the Juvenile Courts; but nothing contained in this Act shall be construed to otherwise repeal or affect the statutes regulating the powers and duties of Juvenile Courts. The provisions of this Act shall be cumulative of all other laws on this subject. (Emphasis added.)

Prior to its amendment in 1979, article 67011-4, V.T.C.S., did specifically include driving while intoxicated as an offense. See Acts 1957, 55th Leg., ch. 302, at 736. But after the 1979 amendment, such is no longer the case, in spite of the title that West Publishing Company conferred upon the statute. See Acts 1979, 66th Leg., ch. 454, at 1022. Article 67011-4, V.T.C.S., no longer makes it a specific offense under that statute for minors between the ages of 14 and 17 to drive while intoxicated.

Section 54.042 of the Family Code sets forth the following:

(a) A juvenile court, in a disposition hearing under Section 54.04 of this code, shall order the Department of Public Safety to suspend a child's driver's license or permit, or if the child does not have a license or permit, to deny the issuance of a license or permit to the child if the court finds that the child has engaged in conduct that violates the laws of this state prohibiting:

(1) driving while intoxicated under Article 67011-1, Revised Statutes; or

(2) the use, possession, manufacture, or delivery of a controlled substance or marihuana under the Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes).

(b) The order shall specify a period of suspension or denial that is:

(1) until the child reaches the age of 17 or for a period of 365 days, whichever is longer; or

(2) if the court finds that the child has engaged in conduct violating the laws of this state prohibiting driving while intoxicated under Article 67011-1, Revised Statutes, and also determines that the child has previously been found to have engaged in conduct violating the same laws, until the child reaches the age of 19 or for a period of 365 days, whichever is longer.

(c) A child whose driver's license or permit has been suspended or denied pursuant to this section may, if the child is otherwise eligible for, and fulfills the requirements for issuance of, a provisional driver's license or permit under Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes), apply for and receive an occupational license in accordance with the provisions of Section 23A, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes).

The 1983 enactment in the Family Code provided for suspension or denial of a child's driver's license if the child were found to have violated the state's driving-while-intoxicated laws. However, the statute did not cover alcohol and drug related offenses other than DWI. Acts 1983, 68th Leg., ch. 303, §25, at 1605. The 1985 amendment added offenses under article 4476-15, V.T.C.S., which proscribes the use, possession, manufacture, or delivery of specified "controlled" substances, to the list of offenses set forth under the section. Acts 1985, 69th Leg., ch. 629, at 2326.

The statutes you inquire about, then, create offenses for violation of different statutes. Hence, there is no conflict between them. Accordingly, we conclude that section 54.042 of the Family Code does not amend or impliedly repeal article 67011-4, V.T.C.S.

Honorable Tom Maness
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Very truly yours,



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APPROVED: OPINION COMMITTEE

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