



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 24, 1997

The Honorable Jeffrey D. Herrington
Anderson County Criminal District Attorney
Anderson County Courthouse
500 North Church Street
Palestine, Texas 75801

Letter Opinion No. 97-042

Re: Whether a driver charged with "failure to yield right-of-way" which resulted in damage to a vehicle is eligible to take a driving safety course in accordance with section 543.102 of the Transportation Code (ID# 39277)

Dear Mr. Herrington:

You have requested, on behalf of the City Attorney of Palestine, our opinion as to whether a driver may take a driving safety course after being charged with the offense of "failure to yield right-of-way" which resulted in an accident with damage to a vehicle only. The Palestine City Attorney related to you that the local Justice of the Peace believes that section 543.102 of the Transportation Code prohibits a driver from taking a driving safety course if the driver is at fault in an accident which causes damage to a vehicle.

Section 543.102 of the Transportation Code is entitled "Notice of Right to Complete Course," and provides as follows:

The court shall advise a person charged with a misdemeanor under this subtitle [Subtitle C. Rules Of The Road], committed while operating a motor vehicle, of the person's right to successfully complete a driving safety course. The right to complete a course does not apply to a person charged with a violation of Section 545.066, 545.401, 545.421, 550.022, or 550.023 or a serious traffic violation as defined by Section 522.003.

As stated, the right to complete a driving safety course is not available to persons charged with a violation of certain offenses.¹ A violation of section 550.022, which addresses accidents involving

¹Section 545.066 (passing a school bus when the bus is operating a visual signal); section 545.401 (reckless driving); section 545.421 (fleeing or attempting to elude a police officer); section 550.022 (accident involving damage to vehicle); section 550.023 (failure to stop and render aid); section 522.033 ("serious traffic violation").

damage to a vehicle, would be applicable to your question. Section 550.022 of the Transportation Code provides that:

(a) Except as provided by Subsection (b),² the operator of a vehicle involved in an accident resulting only in damage to a vehicle that is driven or attended by a person shall:

(1) immediately stop the vehicle at the scene of the accident or as close as possible to the scene of the accident without obstructing traffic more than is necessary;

(2) immediately return to the scene of the accident if the vehicle is not stopped at the scene of the accident; and

(3) remain at the scene of the accident until the operator complies with the requirements of Section 550.023.

....

(c) A person commits an offense if the person does not stop or does not comply with the requirements of this section. An offense under this section is:

(1) a Class C misdemeanor, if the damage to all vehicles is less than \$200; or

(2) a Class B misdemeanor, if the damage to all vehicles is \$200 or more.

Transp. Code § 550.022(a), (c) (footnote added).

To violate section 550.022 of the Transportation Code and thereby be prohibited from taking a driving safety course, a driver must have committed one or all of the following offenses: (1) failure to stop the vehicle at the scene of the accident, (2) failure to return to the scene of the accident if the vehicle is not stopped at the scene, and (3) failure to remain at the scene of the accident until the driver complies with section 550.023 (each operator required to give information to the other and render aid, if necessary). A driver's failure to yield the right-of-way which, in turn, results in damage to a vehicle, is not in itself a violation of section 550.022 of the Transportation Code. Therefore, the driver is entitled to take a driving safety course provided the driver complied with section 550.022 of the Transportation Code when the accident occurred.

²Subsection (b) addresses what a driver must do when an accident occurs on a main lane, ramp, shoulder, median, or adjacent area of a freeway in a metropolitan area.

S U M M A R Y

Section 550.022 of the Transportation Code mandates what action a driver must take when involved in an accident resulting in damage to a vehicle *only*. As long as the driver involved in such an accident follows these mandates, *i.e.*, immediately stops the vehicle at the scene of the accident, or returns to the scene of the accident if unable to stop, and remains at the scene of the accident to provide information and aid, if necessary, the driver is not in violation of section 550.022 of the Transportation Code.

A driver who fails to yield the right-of-way and has an accident resulting in damage to a vehicle *only* is eligible to take a driving safety course provided the driver complied with section 550.022 of the Transportation Code.

Yours very truly,



Rick Gilpin
Deputy Chief
Opinion Committee