



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

March 28, 1972

Honorable Wilson E. Speir
Director
Texas Department of Public Safety
5805 North Lamar Blvd.
Austin, Texas 78751

Opinion No. M-1103

Re: Does a criminal conviction of a violation of the traffic laws of this State create a reasonable possibility of a judgment being rendered against a licensee so that the provisions of the Texas Motor Vehicle Safety-Responsibility Act, Article 6701h, Vernon's Civil Statutes, would require the suspension of such person's license and/or registration receipts if he could not satisfy the requirements of the Act?

Dear Colonel Speir:

The Texas Motor Safety-Responsibility Act, Article 6701h, Vernon's Civil Statutes, hereinafter referred to as the Act, was enacted in 1951 by the 52nd Legislature and amended by subsequent legislation. None of the amendments affect the issue presented by your opinion request.

Section 4 of the Act provides that the operator of a motor vehicle involved in a collision within the State of Texas shall file a report with the Texas Department of Public Safety on a prescribed form. Sections 5(a) and 5(b) provide that a person involved in an automobile collision must comply with the provisions of the Act by (1) submitting proof of ability to respond to damages, or (2) submit to the Department a

release from the adverse party, or (3) submit to the Department an installment agreement executed in favor of the adverse party, or (4) show that he comes within one of the exceptions enumerated in Sections 5(c) or 6.

In Bell v. Burson, 402 U.S. 535 (1971), the Supreme Court of the United States declared a Georgia statute, substantially similar to the Texas Act, unconstitutional insofar as it failed to provide for a hearing on liability or fault prior to requiring that the licensee or owner make a security deposit or suffer a suspension of his license and/or registration receipts. The Court referred to "alternate methods of compliance" and stated that before a state may deprive a person of his driver's license and/or registration receipts due process requires a "forum for the determination of the question whether there is a reasonable possibility of a judgment being rendered against him as a result of the accident". 402 U.S. 542. The Court added that the hearing required by the Due Process Clause must be "meaningful" and "appropriate to the nature of the case".

We have concluded that a criminal proceeding against a person charged with a violation of a traffic law of this State is not such a "forum" so as to constitute an "alternate method of compliance" as set forth in Bell v. Burson. Issues such as proximate cause, contributory negligence, discovered peril, and other aspects of civil liability cannot be considered by the trial court in such a proceeding. Even a guilty plea other than a "legal plea of guilty" is inadmissible. Moneyhan v. Benedict, 284 S.W.2d 741 (Tex.Civ.App. 1955, error ref. n. r.e.). A "legal plea of guilty" may be explained and rebutted. Fisher v. Leach, 221 S.W.2d 384 (Tex.Civ.App. 1949, error ref. n.r.e.); Dunham v. Pannel, 263 F.2d 725 (5th Cir. 1959).

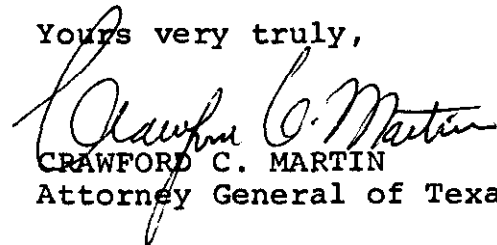
S U M M A R Y

A criminal conviction of a violation of the traffic laws of this State would not qualify as a hearing within the due process requirements enunciated in Bell v. Burson, 402 U.S. 535 (1971), subjecting a person to the requirements of the Texas Motor Vehicle

Honorable Wilson R. Speir, page 3 (M-1103)

Safety-Responsibility Act, Article 6701h, Vernon's Civil Statutes, in that certain aspects of civil liability cannot be considered in the criminal proceeding.

Yours very truly,


CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by Jay Floyd
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

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SAMUEL D. MCDANIEL
Staff Legal Assistant

ALFRED WALKER
Executive Assistant

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