

Mark A. Anderson's

LAW TALK



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ACCIDENT & INJURY LAW

Here's the Scoop on the New Texas Laws

Every two years, the politicians down in Austin get together and pass a bunch of new laws. This year was no exception. I am devoting this issue of LAW TALK to highlighting some of these new laws which I think may directly affect you or you may find of interest. All of these laws went into effect on September 1.

HEY BACKSEAT DRIVERS: BUCKLE UP, ALL PASSENGERS MUST WEAR SELT BELTS

***HB 537** dictates that every person in a vehicle must be restrained by a safety belt. Previously adults and teens in the backseat could choose not to wear one. Now it will be **mandatory for everyone to buckle up**. In my law practice, I have seen firsthand how important backseat seat belt use is. Seat belts often make the difference between life and death in a car or truck accident. The seat belt law will apply to all passenger vehicles, including vans seating fifteen or fewer people. The only vehicle exempt from this rule is buses. But is that really a good exemption?



GET OFF THE CELL PHONE IN SCHOOL ZONES

*Another important new driving safety law is **HB 55**, which makes it **illegal to use a cell phone in a school zone**. Hands free devices may be used, but hand-held cell phones, for calling or texting, are banned from use.

*City officials will have to place new signs at the beginning of school zones to warn drivers about the ban if they want police to give out citations. You may have seen many of these signs already. If your vehicle is stopped, however, it is alright to use a cell phone; also, emergency calls are exempt from the ban.

*Although there was a bill proposed to ban cell phones completely while driving, it did not become law this legislative session, and **using a cell phone while driving is still legal when not in a school zone**.

PENALTIES FOR UNINSURED DRIVERS INCREASED

As I have written about before, uninsured drivers are a major problem in Texas. I am a big proponent of loading up on uninsured motorist's coverage. After all, you must protect yourself!

***HB 2012** increases the penalty for driving with a suspended license and without insurance to a Class B Misdemeanor, which carries a fine of up to \$2,000 and a maximum of 180 days in jail. If someone drives with both a suspended license and without insurance and causes an accident in which someone else is seriously injured or dies, the penalty increases to a Class A Misdemeanor, which carries a fine of up to \$4000 and up to one year in jail.

* **HB 2730** set new standards for getting a driver's license in some cases. A new Texas resident now has 90 days instead of 30 days to secure a new license; however, if a person has not established a residence in Texas yet, they cannot get a driver's license or an ID card.

ANDERSON LAW FIRM'S SPONSORSHIP IS IN PLACE FOR FREE TOWING FOR MOTORCYCLE RIDERS WHO HAVE HAD TOO MUCH TO DRINK.....GO TO www.RideSafeRideSober.com FOR DETAILS.

Changes in Laws Affect Children And Teens

BOOSTER SEATS NOW REQUIRED FOR MORE CHILDREN



Many new laws went into effect specifically concerning children and teens.

*With the passage of **SB 61**, now **all children under the age of 8 and shorter than 4 feet 9 inches must be secured in a child safety seat while in a vehicle**. This law may send many parents out in search of a booster seat for their child; low-income parents can contact the child seat distribution and education program Safe Riders to receive a free booster seat after completion of a one hour educational course. They can be reached at 1-800-252-8255 and their website is www.dshs.state.tx.us/saferiders. Until June of 2010, police officers will not distribute citations for violations of the law, but will give out warnings so parents know they will have to find a safety seat for their child.

*While the kiddos may not like this new law, I think it is a good thing as these **booster seats sure do make a difference in an accident**. The booster seat allows the shoulder strap to go across the child's chest instead of across their neck or face.

PENALTY FOR DWI WITH A CHILD INCREASES

*Another law protecting children is **HB 2730**, which creates an **automatic license suspension** for anyone driving drunk with a child in the car. It also increases the driver's license suspension period for repeat offenders. It was already a felony to drive drunk with a child in the car, but hopefully the publicity about the increased strengthening of this law will deter people from the extremely dangerous practice of driving drunk with children in the car.

*A bill requiring drivers to stop at mandatory drunk driving checkpoints was not made into law, even though Texas is one of the top states for alcohol-related driving deaths (and 39 other states have implemented these mandatory checkpoints). However, all drunk-driving suspects stopped by a police officer who have a drunk driving record will be required to give a mandatory blood test.

SEVERAL CHANGES AFFECT TEEN DRIVERS—THEY NOW MUST GET OFF THE PHONE

Several restrictions were placed on teen drivers this legislative session—and I think they all sound very reasonable.

*With the passage of **HB 339**, **teens are banned from using cell phones for any reason while driving**. I think this might be the best law of the session as it relates to safety on our roads. Also, they will have to take 34 hours of behind the wheel driving instruction to get their license instead of the previous 12 hour requirement.

***HB 2730** dictates several new changes in driver's licenses for teens as well. Now the restrictions for a graduated driver's license (such as no night driving between midnight and 5 am and no passengers under the age of 21 in the car), will be increased from six months to one year after the license is obtained. All drivers under the age of 18 must take a driving skills exam to get their license, and all driver's license applicants under the age of 25 will have to take an approved driver's education course.

*Teens will also get their license suspended, according to **SB 328**, for failing a breathalyzer while operating a watercraft.

MOTORCYCLE RIDERS SEE HELMET REQUIREMENT DECREASE, BUT NOW HAVE OTHER RESTRICTIONS

Several laws regulations for motorcycle riders have changed through **HB 1967**.

*Now, anyone applying for a class M motorcycle license, or a class A, B, or C license with authorization to operate a motorcycle, **must complete a motorcycle operator training course**.

*Although requirements for motorcycle licenses have increased, **restrictions on mandatory helmets for motorcycle riders have decreased**. Now, a rider must simply submit proof of health insurance to be exempt from the helmet law, instead of proof of a \$10,000 or greater health insurance policy.

*Penalties towards a motorcycle driver have increased in the event of failing to yield the right of way resulting in a crash that injures a person other than the motorcycle operator.

*Also, **HB 537** mandates that **no children under the age of 5 are allowed on motorcycles unless they are secured in a sidecar**.

WHAT WE DO AT THE ANDERSON LAW FIRM

- The Anderson Law Firm is dedicated to helping those injured as a result of the negligence of others. We work off of a contingency fee, which means we only get paid if we are able to win the case for our client.
- The types of cases we handle vary, but some of the more common kinds of accidents we see are car crashes, motorcycle wrecks and 18-wheeler accidents. We are not limited to vehicle-related injuries. So if you think you have a claim, give us a call.
- Of course, we offer free consultations, so if you think you might need an attorney for an injury matter, call us. We'll give you an IMMEDIATE case evaluation.

New Laws Cover More Than Just Car Safety

BICYCLISTS

Drivers have a responsibility to watch out for pedestrians and bicyclists, especially in the case of those who are disabled.

***HB 1343** mandates an increased penalty for drivers who cause serious injury or death to blind pedestrians.

***HB 2041** creates more questions on the driver's license test about rights and responsibilities towards cyclists.

***Unfortunately, Governor Perry vetoed some good legislation** that would have required motorists to give cyclists and other vulnerable road users at least three feet of clearance when passing. The proposed law would have fined drivers \$500 if they did not provide runners, motorcyclists, bicyclists and tow truck drivers at least three feet of clearance.



CHANGES IN GUN LAWS

*Many Texans sure appreciate their gun rights, and several new laws went into effect protecting or enhancing these rights.

HB 2730 prevents defaulting on student loans from disqualifying a person from getting a concealed handgun license. It also states that a **CHL cannot be suspended for refusing to display the license to a peace officer on demand**, and removes all penalties for failure to display. The law does, however, require a judge to immediately suspend a CHL if an emergency protective order is issued against the licensee.

*As the law stands, it is illegal for a CHL holder to bring a gun into a restaurant or other establishment that makes at least 51% of its income from the sale of alcoholic beverages. Until now, there was no recourse against the Class A Misdemeanor charge this carried. However, **HB 2664** provides a defense to prosecution if the business owner does not have a sign indicating 51% or more of its income is from alcohol.

SOME INTERESTING AND UNUSUAL LAWS...

*Some new laws came into effect regarding internet safety and online activities. **SB 689** requires **sex offenders** to provide their email address when they register, and restricts internet usage for registered sex offenders.

*In an effort to protect internet users, **HB 2003** makes **online harassment a third degree felony**. This is defined by using the name of another person to create a webpage or post on a commercial social networking site like **Facebook** or **Myspace** with the intent to harm, defraud, intimidate or threaten.

*For those who like to **purchase wine online** or anywhere from a winery, **HB 1084** now makes it legal to have up to nine gallons delivered to a residence per month instead of the previous three gallons. 36 gallons a year is the maximum amount one can receive.

***Neighborhood Electric Vehicles**, or NEVs, such as golf carts or other small, electric vehicles, are now allowed on roads with a speed limit of 45 mph, thanks to **SB 129**. Previously they were only allowed on 35 mph roads. These vehicles can also drive in preferential lanes, and drivers and passengers are not required to wear helmets.



*Thanks to the monstrous actions of people like Michael Vick, Texas has taken note of the dangerous and cruel practice of dog fighting. **Dog fighting equipment is now illegal and considered contraband** that is subject to forfeiture under **SB 554**. Dog fighting itself is now also subjected to elevated penalties. Dog fighting equipment can include things such as breeding stands, syringes for medicating injured dogs, and dog fighting rings.

*The legislature has obviously taken note of the current debate about illegal aliens, and has put a law in place to dissuade drivers from the practice of bringing aliens concealed in their truck across the border. Now **transporting, concealing, or harboring an alien** requires a lifetime disqualification of a commercial driver's license under **HB 2730**, rather than the previous suspension.

***No tanning for the younger folks:** new driver's license laws aren't the only way teens will be affected. Thanks to **HB 1310**, teens under the age of 16 ½ will have to use natural sunlight outside to get a tan, as they are no longer allowed to use tanning facilities. Teens between 16 ½ and 18 must get their parents to come to the tanning salon in person and give permission for their child to tan there.



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IN THIS ISSUE: NEW TEXAS LAWS THAT MIGHT AFFECT YOU!

MY DINNER WITH TED KENNEDY

Ted Kennedy's recent passing brought back memories of a special evening back in May of 2007. That night I attended a small private dinner with Sen. Kennedy at a residence in Washington, D.C. I really didn't know what to expect and certainly didn't know what I would say to a man who has known every President and world leader over the last 50 years. Well, the fact is I didn't have to say much—as when you sat next to Ted Kennedy, you did a whole bunch of listening. The many stories he told were fascinating. They covered his days of playing football at Harvard (which he pronounced totally different than me), his trips long ago with his brother “Jack” and stories about his children and even-younger step-children.

He was just as comfortable talking about trivial current events as he was about the upcoming presidential race. On that topic, he clearly wanted his good friend Sen. Chris Dodd to win the Democratic nomination and just as clearly did not want Sen. Clinton to win. So when Sen. Kennedy later announced his support for Sen. Obama while the race for the Democratic nomination was still up in the air, it did not surprise me in the least.

Later that evening, in a one-on-one conversation, Sen. Kennedy was very interested to hear all about my daughter, Turner. He was also curious as to whether she had a dog, and then went on and on about his dog, Splash, that he took to work with him every day. Since I also take my dog, Andie (and now take my new dog, Ellie, as well), to work with me, we were able to have a dog-bonding moment. I realize that it sounds kind of corny, but believe me it was very cool to just sit back and talk about kids and dogs with a guy who has really “seen it all.” It was a special night, indeed.



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