

## **OCCUPATIONAL DRIVER'S LICENSE SUSPENDED OR REVOKED DRIVER'S LICENSE**

**1 Your driver's license may be suspended or your right to get a license can be denied for many reasons, such as:**

- Refusing to take a breath test
- Failing a breath test
- Having any detectible amount of alcohol while driving if you're under 21
- DWI conviction
- Causing an auto accident while driving without insurance
- Possession of Marijuana or other controlled substances.

**2. What is an occupational or restricted license?**

An occupational or restricted license is a special restricted license authorized by a Court and issued to persons whose license has been suspended or revoked for certain offenses. This restricted or occupational license authorizes the operation of a non-commercial motor vehicle in connection with a person's occupation, for educational purposes or in the performance of essential household duties.

**3. Is the Order from the Court the actual occupational or restricted license?**

No, this is the order granting the occupational license. The Court Order and all other required items need to be submitted to the Texas Department of Public Safety (DPS) so an occupational or restricted license can be issued. The Court Order may be used as a temporarily restricted license for 30 days from the date of the judge's signature while DPS processes the occupational license, and is to be kept in the glove box of the motor vehicle you operate.

**4. Can you drive a commercial motor vehicle with an occupational or restricted license?**

No, If a person's driver license or the privilege to drive is suspended, revoked, cancelled, or denied under any law in this state, the person may not be granted an occupational, restricted or "essential need" license to operate a commercial motor vehicle.

**5. What are the requirements for obtaining the occupational/restricted license in**

**a DWI or ALR suspension case?**

To be eligible to apply for the occupational/restricted license, the person (Petitioner) must have a legitimate essential and actual need to drive a motor vehicle for transportation to and from his/her work place, to attend class at an educational facility, or to perform essential household duties.

## **INSTRUCTIONS FOR ESSENTIAL NEED LICENSE**

**These instructions are provided strictly as a courtesy. You should contact an attorney or the Texas Department of Public Safety if further assistance is needed.**

Obtain proof of financial responsibility (**Form SR-22**) from your insurance carrier.

Ascertain the correct court for filing. If the County Court is the correct court:

1. Complete the Petition for Occupational License, **Exhibit "A"**, and Form **DIC-37** (last page attached to Petition). Obtain a completed Form SR-22 and obtain your driver's license record from the Texas Department of Public Safety. File the Petition with all of the above attached with the County Clerk. The filing fee is: **\$252.00**.
2. Ensure that a copy of the filed Petition, **with Exhibit "A" completely filled out**, and the following information is given to the County Attorney for review:
  - (a) Form SR-22
  - (b) Form DIC-37
  - (c) Driver's license record obtained from the Texas Department of Public Safety

**NOTE: If the Petition and Exhibit "A" are not completely filled out, it will not be considered.**

3. After the Petition has been filed with the County Clerk and reviewed by the County Attorney, a hearing will be set on your Petition.
4. At the hearing, you will be required to provide the Court proof of liability insurance coverage on the vehicles you will be driving (Form SR-22). At the hearing, the Presiding Judge will consider your Petition. **The Petitioner is required to attend the hearing.**
5. If the Presiding Judge grants your Petition, you will be given two (2) certified copies of the Order. You must carry one (1) certified copy with you at all times when driving a motor vehicle and present it to any peace officer upon request. **YOU WILL ALSO BE REQUIRED TO KEEP A TRAVEL LOG (EXHIBIT "C")**. You should continue to carry

the certified Order and maintain the travel log after you receive your occupational license from the Texas Department of Public Safety. **FAILURE TO DO SO WILL RESULT IN REVOCATION OF THE LICENSE.** The second certified copy should be sent to the Texas Department of Public Safety as set forth below.

6. You must **IMMEDIATELY** send to Texas Department of Public Safety the following items:

- (a) a certified copy of the Order Granting Occupational License;
- (b) Form SR-22 (from insurance agent);
- (c) Form DIC-37 (completed);
- (d) a reinstatement fee payable to Texas Department of Public Safety as required under the Safety Responsibility Act if suspension is for DWI or DWLS (you need to call DPS at **512-424-2600** for amount of reinstatement fee);
- (e) **\$10.00** payable to Texas Department of Public Safety as issuance fee for license;
- (f) if applicable, a copy of the Judgment that suspends your license.

7. The Texas Department of Public Safety's address is:

Driver Improvement and Control Bureau  
Texas Department of Public Safety  
Occupational License Section  
P.O. Box 15999  
Austin, TX 78761

8. Additional information concerning occupational licenses may be obtained from the Texas Department of Public Safety in Austin, Texas, at:

**"Driver Improvement" - (512) 424-2000**

## CHECKLIST FOR ESSENTIAL NEED LICENSES:

**§521.244, Texas Transportation Code - Insurance:** Petitioner must have proof of liability insurance.

**§521.242(b) and (d), Texas Transportation Code - Jurisdiction:** Jurisdiction is county of residence or county where offense occurred that caused the license to be suspended. If Petitioner's suspension is for DWI or Intoxication Assault:

- (1) jurisdiction is with the court entering the conviction;
- (2) Petitioner cannot have held more than one (1) prior occupational license issued because of a suspension for DWI or Intoxication Assault.

**§521.245, Texas Transportation Code - Required counseling:** If Petitioner's suspension is for refusing/failing the breath/blood test, then he is required to attend a program designed to provide counseling and rehabilitation services to persons for alcohol dependence. Cannot be the same programs covered by DWI School or Repeat Offender School.

**§521.246, Texas Transportation Code - Ignition Interlock Device:** If Petitioner's suspension is from a conviction for DWI, Intoxication Assault, or Intoxication Manslaughter, the judge should review his criminal history (or prior convictions for these offenses):

- (1) one (1) or more prior convictions for Intoxication Manslaughter;
- (2) two (2) or more prior convictions for any combination of these offenses;
- (3) the suspension is for a DWI-2nd conviction.

**§521.248, Texas Transportation Code - Restrictions:** Person may not operate a vehicle more than **four (4)** hours in any **twenty-four (24)** hour period unless waived for good cause, then not more than **twelve (12)** hours in any **twenty-four (24)** period.

**§521.251, Texas Transportation Code - Effective Dates:** The essential need license takes effect:

- (1) Immediately: If suspended for failing/refusing breath test and **no** suspensions for failing/refusing breath test or DWI within **five (5) years** prior;
- (2) 91<sup>st</sup> day: If suspended for failing/refusing breath test

- and there has been a suspension for failing/refusing breath test within **five (5) years** prior;
- (3) 181<sup>st</sup> day: If there is a suspension within **five (5) years** prior for conviction of DWI, Intoxication Assault or Intoxication Manslaughter.

From: JANNA LINDIG  
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(830) 796-8218 (fax)

NO. \_\_\_\_\_

THE STATE OF TEXAS

IN THE COUNTY COURT

VS.

NAME: \_\_\_\_\_  
Petitioner

OF

TDL: \_\_\_\_\_  
Petitioner's Texas Driver's  
License Number

BANDERA COUNTY, TEXAS

**ORIGINAL PETITION FOR OCCUPATIONAL LICENSE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, \_\_\_\_\_, Petitioner herein, applying for an Occupational License to meet essential need pursuant to §521.242 of the *Texas Transportation Code*, and would show the Court as follows:

I.

YES      NO      Is Petitioner's Texas Driver's License suspension due to physical or mental disability or impairment? **IF YES, THE COURT MAY NOT GRANT THIS PETITION.**

YES      NO      In the ten (10) years preceding the date of filing of the Petition, has Petitioner held more than one (1) occupational license? **If YES, list dates issued:**  
\_\_\_\_\_.

YES      NO      Is Petitioner's Texas Driver's License currently suspended for the reason of a conviction for failing to maintain financial responsibility?

YES      NO      Is Petitioner's Texas Driver's License currently suspended for the reason of failing/refusing a breath/blood test following a DWI arrest?

YES      NO      Is Petitioner's Texas Driver's License currently suspended for the reason of a conviction for DWI or Intoxication Assault? **If YES: Cause No. \_\_\_\_\_; Offense:**

\_\_\_\_\_ ; **Court:**  
\_\_\_\_\_ ; **County:** \_\_\_\_\_ ; **Date**  
**of Conviction:** \_\_\_\_\_.

OTHER: Petitioner's Texas Driver's License is currently suspended  
for the reason of: \_\_\_\_\_  
\_\_\_\_\_.

II.

Other persons in Petitioner's household who possess a driver's license  
but are not able to provide transportation necessary for Petitioner's  
employment, education, and/or household duties:

Name: \_\_\_\_\_ Age: \_\_\_\_ Relationship: \_\_\_\_\_  
Name: \_\_\_\_\_ Age: \_\_\_\_ Relationship: \_\_\_\_\_  
Name: \_\_\_\_\_ Age: \_\_\_\_ Relationship: \_\_\_\_\_  
Name: \_\_\_\_\_ Age: \_\_\_\_ Relationship: \_\_\_\_\_

III.

Petitioner has an essential need for him/her to drive and operate a  
motor vehicle on the highways and streets of the State of Texas for the  
specific purposes and under the specific terms, restrictions, and conditions  
requested in **Exhibit "A"**, which is attached hereto and made a part hereof  
for all purposes.

\_\_\_\_\_  
(Name of Petitioner)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone Number)

STATE OF TEXAS       §  
                                  §  
COUNTY OF BANDERA §

BEFORE ME, THE UNDERSIGNED AUTHORITY, on this day personally appeared \_\_\_\_\_, who being by me duly sworn, on his/her oath and said that he/she is the Petitioner in the above-styled and numbered cause, that he/she read the foregoing Original Petition for Occupational License, and that every statement is within his/her knowledge and is true and correct.

\_\_\_\_\_  
\_\_\_\_\_, Petitioner  
(Printed Name)

SUBSCRIBED AND SWORN to before me, to certify which witness my hand and seal of office on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public in and for the  
State of Texas

**EXHIBIT "A"**  
**RESTRICTIONS REQUESTED BY PETITIONER**

Petitioner has essential need to operate a motor vehicle in the following manner and conditions:

Days of the week for operation of a motor vehicle (circle days for each applicable purpose):

\_\_\_\_\_ Employment purposes: Sun; Mon; Tues; Wed; Thurs; Fri; Sat (Saturday and Sunday as may be scheduled).

\_\_\_\_\_ Educational purposes: Sun; Mon; Tues; Wed; Thurs; Fri; Sat (Saturday and Sunday as may be scheduled).

\_\_\_\_\_ Household duty purposes: Sun; Mon; Tues; Wed; Thurs; Fri; Sat

\_\_\_\_\_ Probationary and community service purposes: Sun; Mon; Tues; Wed; Thurs; Fri; Sat

Travel shall not exceed: \_\_\_\_\_ four (4) hours; \_\_\_\_\_ twelve (12) hours of actual operation during any twenty-four (24) hour period.

The actual hours of travel may vary and, therefore, a **Travel Log** will be kept.

Travel is permitted during the following hours: \_\_\_\_\_ .m. to \_\_\_\_\_ .m.

List counties of travel: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

Travel is permitted between residence and employment:

Residence: \_\_\_\_\_

Employer: \_\_\_\_\_

Employer's address: \_\_\_\_\_  
\_\_\_\_\_

Employer's phone no.: \_\_\_\_\_

If travel is required during the course of employment, the Petitioner shall carry **Work Orders** specifying the reason for travel, destination and expected travel hours. Under these circumstances, the maximum radius of travel is \_\_\_\_\_ miles from \_\_\_\_\_, and to include only the hereinabove listed.

Travel is permitted to educational facilities:

School name: \_\_\_\_\_

School address: \_\_\_\_\_

School's phone no.: \_\_\_\_\_

Travel is permitted in the performance of household duties (that no one else in the household is able to perform on behalf of Petitioner):

YES            NO    within limits of \_\_\_\_\_ County, Texas.

Travel is permitted to comply with probationary reporting requirements, program requirements, and in the performance of community service assignments:

Probation Officer: \_\_\_\_\_ County: \_\_\_\_\_

Location: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Probationary and other "special" circumstances where travel is permitted:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
(Name of Petitioner)

**REVIEWED:**

\_\_\_\_\_  
BANDERA COUNTY ATTORNEY

