



LEGAL ASSISTANCE TO
MICROENTERPRISES PROJECT



The Taxi Driver's Guide to

**DEFENDING YOURSELF IN
AUSTIN TRAFFIC COURT**

FOREWARD & ACKNOWLEDGMENTS

Texas C-BAR, Legal Assistance to Micro-Enterprises Project (LAMP), and Taxi Driver Association of Austin produced this guide. LAMP is a project of Texas RioGrande Legal Aid and Texas C-BAR. LAMP provides free legal assistance and representation, pro bono referrals, community education, and legal resources to income-eligible self-employed persons and microentrepreneurs in Texas. Texas C-BAR assists nonprofits with business law assistance through pro bono referrals, legal education manuals, and workshops. In 2009, Texas C-BAR helped a group of taxi drivers form an organization called the Taxi Driver Association of Austin (TDAA).

Taxi drivers spend more time in their cars on the roads of Austin than nearly any other city resident. Just like other Austinites, taxicab drivers receive tickets if they allegedly violate the traffic laws, including the special regulations included in the Austin City Ordinance that only pertain to taxicabs. This FAQ pamphlet should educate all drivers, but particularly taxi drivers, about their rights on the road and the legal process that begins the moment they get pulled over. Despite the need to enforce traffic laws, not all tickets are valid, and sometimes it is in the driver's best interest to fight the ticket.

Taxi drivers provide a service to local passengers, and Austin should ensure the safety of the passengers by enforcing its traffic laws and should consider increasing safety by raising driver income. As Schaller Consulting points out in a January 2004 Report *Higher Pay, Safer Cabbies*, there is a rational relationship between driver income and safety. As drivers earn more, they feel less pressure to work long hours, do not drive while fatigued, and feel less pressure to take risks like running red lights or speeding. Additionally, as *Higher Pay* states, higher incomes are "likely to make driving a cab a more attractive profession, producing more qualified and more experienced

driver corps that is more committed to the job.”

This publication would not be possible without the help of Eric Kolder, law student at the University of Texas School of Law. Thank you to David Gonzalez, Sumpter & Gonzalez, L.L.P. (www.sumptergonzalez.com), who carefully reviewed this guide and submitted valuable comments.



General Information

Getting a ticket

If a police officer or transportation officer pulls you over, you will be asked for your license and insurance. You may be asked to get out of the car. If so, you must comply – you do not have the right to remain in your car. However, you do not have to permit an officer to *search* your vehicle. Be polite. If you have a passenger, that person is a witness and it is good for you to take their contact information, you should take photographs and obtain any other information that will help you defend yourself.

I got a ticket, now what?

First, read the ticket! You must enter a plea by the date that is listed on the bottom of the citation. You can appear *before* that date, but not after that date unless you file a motion for continuance. This may be done in person at the courthouse or by mail. Do not be late to court on your appearance date (if you chose to appear on that date) as a warrant for your arrest will be issued for you if you are late! If you go to the courthouse, you will take a number and wait approximately 30 minutes to talk to someone at a window. You will have three options as to how to proceed from there.

Now, look at the ticket to gather more information about the incident. What

Note for Taxi Drivers:

If a transportation officer writes you a ticket, it must have the cab company name and the permit number written on the ticket. If the ticket does not have this info, you can file a motion to quash the citation. A form you can use for this motion is on the TDAA web. If the judge dismisses the case, the officer has the option to re-issue the ticket.

time of day was the offense? How is the condition of the road described? Was the officer working the STEP program? Did the officer use a radar or decide that you committed an offense by a visual watch alone?

What is the STEP program?

The state receives federal grants for the Special Traffic Enforcement Program (“STEP program”). This program encourages police officers to write tickets while working overtime. Officers are paid by the STEP program based upon how many tickets they write. There is no incentive in the program to ensure convictions for the tickets written; there is only an incentive for the officers to issue tickets.

Look on your ticket. There will be a check box in the center of the ticket that says “STEP.” If the box is checked, then the ticket was written by an officer participating in the STEP program. This is important because if the ticket was issued through the STEP program, then the officer is less likely to appear at trial. If the officer does not appear, you would receive a default judgment which means you would not have to pay fines or suffer a negative impact on your driving record.

However, be aware that prosecutors and courts know that most self-help representation manuals have given this advice for years. In Austin, the dockets are often organized by police officer instead of by offense date. For example, all the trials for Officer Smith are set on one afternoon. While he may have written 80 tickets over the past several months, the officer only needs to appear for court one day, and almost 79 people will then plead guilty once they realize that the officer is present.

“Hoping that the officer does not appear” is not a defense strategy.

What are my options?

1. **Plead “Not Guilty.”** If you want to plead “not guilty” you must do so by the appearance date on the ticket. After your plea is received, a docket appearance will be set for a date within 30 days. You can waive your docket appearance and go straight to scheduling a trial, but you should attend, because it is an opportunity to meet with a prosecutor to discuss your case. When in doubt, plead not guilty – you can always change your plea to “no contest” at a later time. However, if you plead guilty or no contest it is much harder to change your plea.
2. **Meet with the prosecutor to see if you can enter into a deferred disposition agreement.** If you have a clean driving record, sometimes you will be able to have the ticket dismissed through a deferred disposition agreement. Essentially, you plead “no contest” and then agree to complete a safety course. If you provide proof of payment of a special expense fee and completion of the course, the court will dismiss the ticket. You will only be able to complete a safety course once per year in order to prevent the citation from counting against your driving record. If you do not take a driver safety course, the ticket will go on your record.
3. **Plead “No Contest.”** Without a deferred disposition agreement, this is a nicer way of saying “plead guilty.” This means that you are not contesting the charges against you, but you are not admitting guilt either. When you plead “no contest” you waive your right to a trial by jury. After entering this plea, you will pay a fine. You will have the ticket on your record. The only advantage of pleading “no contest” is if there is a civil suit. In civil litigation, a plea of “no contest” cannot be used against you.

4. **Plead “Guilty.”** This is an admission that you are guilty of the stated offense and that you waive your right to a trial. After pleading guilty, you will have to pay the fine and the violation will go on your driving record.

What if I can’t make it to the court on the appearance date?

If any of the dates that you are to appear will not work for you because you will be out of town or have a standing appointment to pick up a client, you can file a written motion of continuance or call the court to obtain a change in the court setting. A motion for continuance must be filed in writing with the court at least two business days before the scheduled court date. Included in the motion must be: your name, the case number, the date and time of the setting to be continued, and facts justifying the continuance.

How do I pay my fine?

You can pay by mail (using the address on the ticket), in person at the courthouse, by credit card on the phone (512) 974-4640, or online at <https://www.ci.austin.tx.us/court/>.

Where is the court?

- Austin Municipal Court operates at three different locations.
- Downtown Location on E 7th Street
- North Austin Location at 12425 Lamplight Village Avenue
- South Austin location at 5700 Manchaca Road.

Do I need to hire an attorney to defend myself in court?

No, you can defend your case without the aid of attorney.

What about the pretrial docket appearance?

While this meeting can be waived, you should attend the pretrial meeting with the prosecutor. You must be on time. If you are not on time, the court will issue a warrant for your arrest, and the fine and court costs will be increased. Sit in the courtroom until your name is called; this could be 30 minutes or more. The prosecutor will discuss the facts of your case, and you should ask the prosecutor for copies of the officer's notes and any other information they have about the ticket, which could prove very valuable in evaluating the chances of winning a trial. Everything is paperless and you will likely be shown a screen with that information.

DO NOT LIE OR EXAGGERATE about your criminal record if asked. The prosecutor can instantly pull up your record to see your past tickets. They catch people on a daily basis "forgetting" about prior tickets.

You will be given the opportunity to plead again. The prosecutor has the discretion to lower the fines to the court costs and offer community service. At this point, you cannot get the case dismissed, you can only try to get a lower fine, but to do this, you must either plead no contest or guilty. Either way, the ticket will still go on your record. You can also ask the judge, after you plead, to lower the fine more or exchange community service for the fine because the fine will be difficult for you to pay. However, the judge does not have to grant your request and if he does not, you will be stuck with the agreement you made with the prosecutor.

If you decide to go to trial, you must decide whether you want to have a judge or a jury decide whether you are guilty. If you choose a jury, you may have to go to court several times before it is your turn. The court will hear the oldest case first. This option gives you more opportunities to have a trial date that the officer who wrote the ticket might miss and the case will be

dismissed. However, it is time consuming because you will have to appear for each trial date and wait approximately an hour before you are dismissed or the cases in front of you are resolved.

What happens at the trial?

You must be on time. If you are not on time, the court will issue a warrant for your arrest and the fine and court costs will be increased. Once the trial begins, you will be able to call witnesses and enter exhibits to make your case at trial. Some of the evidence that might be helpful to you is GPS data, photographs, video recordings, or witnesses. You should make copies of all documents to submit to the court and to give to the prosecutor. The prosecutor will generally rely on the witness of the officer who issued you the citation. The prosecutor can call you as a witness. You can plead the fifth to avoid this, but when it is your turn to present your side of the story, you will not be able to testify on your own behalf. If the officer does not show up to the trial, which happens sometimes, then your case will be dismissed. If the case is dismissed, you will not have to pay any fines and the ticket will not affect your driving record. If you lose at trial, you will be assessed a fine up to \$200 for traffic violations and up to \$500 for non-traffic violations. You can also be fined up to \$101 for court costs in a losing trial.

Taxi Drivers Are Subject To Additional Laws

What rules govern the ownership and operation of taxis?

Title 13 Chapter 2 of the Austin City Code governs the ownership and use of taxicabs in Austin. The ordinances can be found online at http://www.amlegal.com/austin_tx/.

Who enforces taxi-specific ordinances?

The City designates enforcement officers to enforce ordinances specifically concerning taxis.

Can these officers give me a ticket for other traffic violations?

No! These officers are only authorized to cite drivers for taxi-specific violations and are not able to issue general traffic tickets like police officers.

What are some of the tickets enforcement officers can write?

- Failure to take direct route
- Transporting more than four passengers
- Improper solicitation
- Operating outside of taxi zones
- Improper use of cab
- Late inspection
- Failure to take rest breaks
- Improper loading/unloading
- Improperly refusing passengers

What is the penalty for receiving these tickets?

Violations of these ordinances are Class C Misdemeanors and can result in a fine up to \$500. A taxi driver can have their hack permit suspended or revoked and a cab company could terminate a driver's contract.

Do I need a permit to operate a taxi in Austin?

Yes. Only taxicab's that have permits from the City of Austin can pick up passengers in Austin. Taxis licensed outside Austin are allowed to bring passengers to Austin, as long as the trip originated outside of Austin where the cab has operating authority. They are not allowed to pick up a passenger in Austin, *even if* they are in Austin after making the allowed drop offs.

Can I unload and load anywhere in the streets?

No. On a two-way street, drivers must load and unload their vehicles as near as possible to the right-hand sidewalk. On one-way streets, drivers may load/unload nearest to either the right or left side of the street.

Are rest periods required?

Yes. A driver who has been operating for 12 consecutive hours must take eight hours off before resuming operation.

What should I do about property left in the cab?

A driver must return a passenger's property if possible. If a driver is unable to locate the passenger within 24 hours, the driver must deliver the property to the cab company.

What are some things that can get my permit revoked?

A driver can have his or her permit revoked if the driver:

- Receives four or more moving violation convictions in 12 months; or
- Drives a cab with a suspended permit; or
- Has his or her Texas driver's license revoked.

What are some things that can get my permit suspended?

Failure to pay penalties or fines levied against you by the City will automatically result in suspension of your permit. Also, the department may suspend a driver's permit if the driver is convicted of two or more violations of Title 13 Chapter 2 of the Austin City Code. Suspension cannot exceed 60 days.

Can I appeal a permit revocation or suspension?

Yes. A driver may appeal a revocation or suspension instituted by the City within 30 days of receiving notice of the revocation or suspension. This must be done in writing to the director of the Department of Transportation. However, you cannot operate as a driver as long as your appeal is pending. A decision will be issued no later than 30 days after the receipt of the written appeal. A driver currently does not have the right to appeal a suspension or cancellation of a contract by the franchises.

What are some general conduct requirements for drivers?

Drivers must act professionally and courteously as well as maintain a well-groomed appearance. On duty, drivers may not consume alcohol or other substances that will inhibit their ability to operate the vehicles safely. Drivers cannot sell alcohol or other controlled substances during operation. Also, the monitoring of other communication frequencies besides your own is forbidden. Drivers are not allowed to solicit business for any hotel, motel, or restaurant.

What are some inspection requirements of which I should be aware?

Taxi cab inspection checks for the following:

- Heating/AC equipment
- Clean exterior
- Reasonably clean interior
- Matching wheel covers/hubcaps
- Two-way communication
- Spare tire with accompanying equipment

When can I lawfully refuse passengers?

- When you are already answering a request for service
- When the person is disorderly
- When you believe that the person is engaging in unlawful conduct
- When you reasonably believe that the safety of you or the cab is at risk
- When the person cannot present proof of ability to pay

If traffic is backed up, can I take a different route?

Ask the passenger what they want to do before you detour off the shortest route to the passenger's destination. The driver is required to take the most direct route to the destination unless otherwise instructed by the passenger.

Can I solicit business?

A driver cannot solicit business from any position except from the driver's seat of the vehicle. Additionally, you cannot use a loud or annoying tone of voice or obstruct someone's movement to solicit business.

Can I use my cab for other purposes?

No. The taxicab can not be used for any other purpose than to transport passengers, run errands, deliver packages, or perform other services in the taxicab business.

What is the maximum number of passengers I can transport?

Four. However, any child under twelve years of age is excluded from the calculation of the maximum number of passengers.

Airport Regulation of Taxis

Do I need a separate permit to operate at the airport?

Yes. A person may obtain a vehicle permit by:

- Completing and submitting a written application to the Director of Aviation. This application includes documentation that the person has obtained each governmentally required license, permit, insurance, safety inspection, or other authorization;
- Presenting proof of automobile liability insurance; and
- Completing the airport driver safety training course approved by the director.

Can I operate anywhere at the airport?

No. You can only operate in areas designated in the current terminal curb map which is available at the office of the Security and Ground Transportation Manager. Additionally, you can only load and unload passengers at areas designated in your permit.

Can I go straight to the loading area to pick up passengers?

No. You must go through the Ground Transportation Staging Area (GTSA) before proceeding to the passenger pick-up areas.

What are some things I cannot do at the airport?

These things are forbidden and can result in a suspended or revoked permit:

- Fighting
- Gambling
- Carrying a weapon
- Intoxication

- Solicitation of passengers
- Bypassing GTSA
- Using profane language

What about special pick-ups?

When making a pre-arranged pick-up, the driver must remain in the GTSA until 15 minutes prior to the customer's scheduled arrival time. Also, the driver must provide the Transportation Controller with the name of the passenger, pay the per-trip fee, receive a GTSA receipt, and then proceed to the loading area in front of the terminal.

Can I refuse passengers?

Passengers can only be refused under the same circumstances listed earlier for general taxi use.

What do I need to carry in my cab?

You should at all times be able to produce identification containing your name, your picture, and the name of the company with whom you are associated.

Additionally, you must have:

- A sign informing the passenger of the city-approved rates and the airport surcharge posted inside the cab
- A working taximeter
- A current permit
- A GTSA debit card
- A sign indicating if the cab is smoking or non-smoking
- A sticker stating that credit cards are accepted
- The blue sticker issued by the Department of Aviation

Can I appeal a suspended or revoked permit?

Yes. You must appeal in writing to the Director of Aviation within 15 business days of receiving the notice of suspension or revocation. You will not be able to operate at the airport during the time your appeal is pending.



LEGAL ASSISTANCE TO
MICROENTERPRISES PROJECT

4920 N. IH-35, Austin, Texas 78751

<http://lamp.texasbar.org>

