



TEXAS CRIMINAL  
JUSTICE COALITION

September 11, 2017

Director Steve McCraw  
Texas Department of Public Safety  
5805 North Lamar Blvd  
Austin, TX 78752-4431

RE: Petition for emergency rulemaking, DRP amnesty in Hurricane Harvey disaster area counties

CC: Members of the Texas Public Safety Commission

Dear Director McCraw,

The Texas Criminal Justice Coalition (TCJC) is a Texas nonprofit policy organization dedicated to criminal justice reform. In accordance with Administrative Code Title 37, Part 1, Chapter 1, Rule 1.12, and the Administrative Procedure and Practices Act, Government Code §2001.034 and Government Code §2001.029, TCJC and the undersigned 25 people request emergency rulemaking followed by publication in the Texas Register and a public hearing before the Texas Public Safety Commission.

TCJC, Restore Justice USA, Texas Public Policy Foundation, Texas Fair Defense, Just Liberty, and Texas Appleseed petition you to launch emergency rulemaking to authorize and facilitate emergency amnesty for people who owe Driver Responsibility Program (DRP) surcharges in Texas' disaster area counties by revising Administrative Code Title 37, Part 1, Subchapter 15, Subchapter J, Rule §15.164.

### **I. Purpose of the proposal**

You have already demonstrated recognition of the importance of getting drivers' licenses back into the hands of drivers in the counties hardest hit by Hurricane Harvey [counties categorized by FEMA as Category A-G and declared disaster areas by Governor Abbott]. On Aug. 28, 2017, DPS announced that it would suspend collection of DRP surcharges for residents of these counties for 60 days in the wake of Harvey, as well as waive license replacement fees: [http://www.dps.texas.gov/director\\_staff/media\\_and\\_communications/pr/2017/0828a](http://www.dps.texas.gov/director_staff/media_and_communications/pr/2017/0828a)

This was a good first step in providing some relief to storm victims. But it will be months and even years before many victims will be able to put Harvey behind them. The existence of an unpaid DPR fine will still prevent many victims – and those assisting them – from getting a license or ID. This adds unnecessary bureaucracy to every aspect of Gulf Coast recovery. For that reason, we ask that you grant, by emergency rule, a one-time amnesty program for all who owe DRP fees in these counties and expedite the return of their driver's licenses.

Most Texans in the disaster counties did not have flood insurance. They must apply to FEMA and wait for aid, while attempting to salvage what they can from sodden homes. Approximately half a million Texans have already applied for FEMA assistance, while another 63,000 have filed flood insurance claims. Many of the areas with the most prolonged flooding – still under water as we petition you today – are also among the poorest parts of the affected counties. These families were barely able, or unable, to make their DRP payments before the flood. Every able-bodied person who is helping a victim, and every family with a home or vehicle underwater, needs immediate access to identification to move forward.

### **II. Statutory authority for this proposal**

The Texas Department of Public Safety may authorize a one-time amnesty program by rule, pursuant to Texas

Transportation Code §708.157(a).

(a) The department by rule may establish a periodic amnesty program for holders of a driver's license on which a surcharge has been assessed for certain offenses, as determined by the department.

Pursuant to Texas Government Code §2001.034 the Commission may:

“adopt an emergency rule without prior notice or hearing, or with an abbreviated notice and a hearing that it finds practicable, if the agency:

(1) finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice...”

We the undersigned believe that, without a driver's license, Texans will face a range of obstacles to their recovery from Hurricane Harvey, and even those whose homes are not underwater will face unnecessary barriers when attempting to provide assistance to friends, neighbors, and family members.

Texas has already shown how communities can come together in a time of serious emergency to help one another. We should be doing everything we can to facilitate the recovery of the victims and facilitate the help that friends and neighbors are providing every minute of the day. In many cases, that means that someone with a dry and still functional car is helping dozens of others access water, food, cleaning supplies, and more.

In addition to driving in the aid of their own recovery or that of others in their communities, some Texans will need their Texas driver's license because it is the only form of photo ID they have to access benefits. Providing amnesty for all those with current DRP surcharges – along with your existing emergency waiver of the license replacement fee -- will ensure that people can legally drive as needed for Texas' recovery.

We ask you to publish this emergency amnesty rule in the Texas Register immediately, with a term of 120 days as allowed by statute, and during that pendency we ask that you publish the rule and take public comment in order to extend the amnesty period beyond the 120 days allowed for an emergency rule and make the authorization for this type of amnesty permanent.

### III. Substance of the proposal

Today, we offer the following emergency rule change to facilitate a one-time amnesty for Texans residing in the counties declared part of the Hurricane Harvey emergency area:

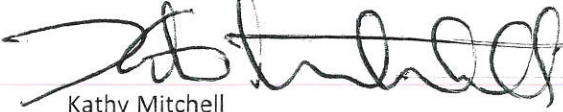
#### RULE §15.165(1) Amnesty Program

(1) Amnesty will apply to individuals in disaster relief areas on a one-time basis at the direction of the Director, individuals who have been in default for a specified amount of time, and individuals who have balances below a specified amount prior to the amnesty period. The department will determine the length of an emergency amnesty period after a major disaster and the procedure for individuals to quickly apply for and receive a license or identification card, the amount of time in default, and how often the amnesty period will be conducted during a calendar year.

The current amnesty rule was drafted to address individuals in default who simply couldn't pay the DRP fee due to indigency or other reasons. Our proposal allows the Director to determine that the emergency response and reconstruction needs of a particular area in the wake of a major disaster will be facilitated by an easy, one-time amnesty for anyone with a DRP fee outstanding in that disaster area. By eliminating this barrier to getting a proper ID, this adjustment to the current amnesty rule will get people back to work, allow them to repair their homes, clear debris, help their neighbors, and get the Gulf Coast economy back on track. This change is well within the discretion of the Commission under the broad amnesty program authorization in statute.

Given the need for fast action, we suggest that the Director *not* put the agency in the business of determining the specific emergency needs or economic condition of individual applicants but instead create a process that is fast, easy, and designed to apply to all applicants with a residential address in the disaster area prior to the hurricane. The Commission should use all public information channels at its disposal to announce to residents in these counties that they may simply get their licenses and IDs back at the emergency locations already in place or online. Every person from one of these counties who applies for an ID or license, and who comes up in the database as having a DRP fee preventing renewal or issuance of that ID or license, should have that DRP fee waived automatically.

If you have questions or comments, the primary contact for this proposal will be:



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Charles Blain  
Executive Director, Restore Justice USA



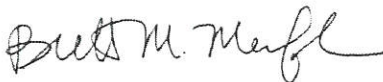
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