The Honorable Ronald L. Wilson  
Criminal District Attorney  
Galveston County  
405 County Courthouse  
Galveston, Texas 77550

Dear Mr. Wilson:

You have requested our opinion regarding whether presentation of a valid driver's license in court is an absolute defense to a charge of operating a motor vehicle without having a driver's license in one's immediate possession.

Section 13 of article 6687b, V.T.C.S., provides, in pertinent part:

Every person shall have an operator's, commercial operator's, or chauffeur's license in his immediate possession at all times when operating a motor vehicle and shall display the same upon demand of a magistrate or any officer of a court of competent jurisdiction or any peace officer. Any person who violates this Section shall be guilty of a misdemeanor . . . . It shall be a defense to any charge under this Section that the person so charged produce in court an operator's, commercial operator's, or chauffeur's license theretofore issued to such person and valid at the time of his arrest. . . . (Emphasis added).
Section 13 makes clear that, whichever of its terms a person might be charged with violating, he may establish a defense to that charge by producing a valid driver's license in court. The effect of such a defense is set forth in section 2.03(e) of the Texas Penal Code:

A ground of defense in a penal law that is not plainly labeled in accordance with this chapter has the procedural and evidentiary consequences of a defense.

Thus, it is our opinion that the presentation of a valid driver's license in court is an absolute defense to a charge of operating a motor vehicle without having a driver's license in one's immediate possession. Cf. Attorney General Opinion O-3907 (1941).

SUMMARY

It is our opinion that the presentation of a valid driver's license in court is an absolute defense to a charge of operating a motor vehicle without having a driver's license in one's immediate possession.

Very truly yours,

JOHN L. HILL
Attorney General of Texas

APPROVED:

DAVID M. KENDALL, First Assistant

C. ROBERT HEATH, Chairman
Opinion Committee

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