



**THE ATTORNEY GENERAL
OF TEXAS**

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ATTORNEY GENERAL

AUSTIN 11, TEXAS
May 20, 1955

Honorable Allan Shivers
Governor of Texas
Capitol Station
Austin, Texas

Opinion MS-215
Re: Constitutionality of
Senate Bill 164, 54th
Legislature, concerning
operation of Motor vehicle
by other than owner.

Dear Governor Shivers:

You have requested an opinion on the constitutionality of Senate Bill 164 of the 54th Legislature, amending Article 6701c-1 of Vernon's Civil Statutes, concerning the operation of motor vehicle by others than the owner. Senate Bill 164 amends and publishes at length subdivisions (a) and (c) of Section 2, Section 4 and Section 5 of Article 6701c-1, Vernon's Civil Statutes.

Section 36 of Article III of the Constitution of Texas provides:

"No law shall be revived or amended by reference to its title; but in such case the act revived, or the section or sections amended, shall be re-enacted and published at length."

In construing the provisions of Section 36 of Article III of the Constitution of Texas, the court, in Ellison v. Texas Liquor Control Board, 154 S.W.2d 322 (Tex.Civ.App.1941, error ref.) announced certain principles of law applicable to Senate Bill 164, as follows:

"It is not meant by this provision that every act which amends the statutory law shall set out at length the entire law as amended. Under such a rule, legislation would in many instances be impracticable. "The practice which it was the purpose of the provision in question to prohibit was that of amending a statute by referring to its title, and by providing that it should be amended by adding to or striking out cer-

tain words, or by omitting certain language and inserting in lieu thereof certain other words. * * *"ⁿ Snyder v. Compton, 87 Tex. 374, 28 S.W.1061, as approved and quoted in Clark v. Finley, 93 Tex. 171, 54 S.W. 343,345. See also 59 C.J., p. 879, § 462. And subsection (18) and subsection (11), as amended and re-enacted and published at length as a part of H.B. 373, comply with the requirements of Article III, Section 36, of the Constitution; and subsections (18) and (11) are sections within the meaning of said constitutional provisions. It is for convenience, and to avoid confusion, that said 'sections' are termed by the Legislature 'subsections'.

"It was not required by said constitutional provision, Section 36, Article III, that the Legislature re-enact and republish that portion of the Texas Liquor Control Act which is designated by the Act as Section 15 thereof, simply because 'subsections' (11) and (18), which were amended and re-enacted and published at length, are identified and designated as 'subsections (11) and (18) of Section 15, Article I, Chapter 467, Acts of the Second Called Session of the Forty-Fourth Legislature, as amended by House Bill No. 5, Acts of the Regular Session of the Forty-fifth Legislature.' As already stated, these 'subsections' are sections, and if the Texas Liquor Control Act were codified, said 'subsections' should be treated and designated as 'articles'. Henderson v. City of Galveston, 102 Tex. 163, 114 S.W.108, 111, is not conflicting with the conclusions just expressed. In that case the court said: 'It adds a provision to the existing section, and this, according to all authority, judicial or parliamentary, of which we know anything, is an amendment.' But, again we repeat, subsections (11) and (18), and the added subsection (19), are themselves sections. No confusion can possibly result from the fact that the Legislature did not re-enact and publish at length all of the Act which is designated as 'Section 15'. Had the Legislature divided the Act into a 'Title', 'Chapters', and 'Articles', no contention would be urged,

we believe, with reference to amending subdivisions, which are equivalent to 'Articles', if the entire chapter were not re-enacted. There is no magic in words or designations. The Legislature did not violate the Constitution merely because it designated sections as 'subsections'. See also Nobles v. State, 38 Tex. Cr.R.330, 42 S.W. 978, cited in the Henderson case. Appellants' contention that section 36, Article III, of the Constitution was violated by the enactment of H.B.No.373 is overruled."

In view of the foregoing, it is our opinion that Senate Bill 164 of the 54th Legislature complies with the provisions of Section 36 of Article III of the Constitution of Texas and is constitutional.

Yours very truly,

APPROVED:

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