

COVER STORY

Untangling how to charge a DWLI (cont'd)

Sample of Driver's History Header Section

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NAME: JACKSON, ██████████ ██████████
DESCRIPTION: BLACK\MALE\0202██████████\6-02\204\BLACK\BROWN
SEX OFF: N COMM IMPED: N ORGAN DONOR: VISA EXP:
PHYSICAL ADD: ██████████ ██████████
CI/CO/ST/ZIP: DALLAS, DALLAS, TEXAS, 75215-0000, UNITED STATES
MAILING ADD: ██████████ ██████████
CI/ST/ZIP: DALLAS, TEXAS, 75215-0000, UNITED STATES
REC STATUS: NOT ELIGIBLE
ADMIN STATUS:
CARD STATUS:
HME THR ASMT: EXP:
CARD TYPE: DL #: ██████████ CLASS: A TYPE: DL EXPIR DATE: 02022015
RESTRICTIONS: R LOFS 21 OR OVER VEHICLE ABOVE CLASS C
ENDORSEMENTS:
    
```

This driver's DL expired February 2, 2015.

This driver is ineligible to drive in Texas.

Driver's History Header Section

The image above is a sample of a defendant's driver's history. Always note, if the defendant has a driver's license, whether it was expired on the date of the offense. If so, *and* the driver's license expired under a period of suspension, the first DWLI paragraph may be charged using the "expired" language under §521.457(a)(3).

The "REC STATUS" field shows the defendant's eligibility to drive in Texas. For DWLI, this status should be "NOT ELIGIBLE," meaning that there is at least one active DPS enforcement action against the defendant's driver's license. An

enforcement action is any action taken by the Texas DPS (suspension, revocation, denial of renewal, order of prohibition, etc.) against the driver's Texas DL or ID. (Remember, the defendant's *privilege* to drive in the State of Texas may be suspended or revoked under §521.457(a)(2); such a suspension or revocation can and will take place even if defendant has only an ID or no ID at all.)

Driver's History Enforcement Action Section

The status of each enforcement action is provided in the Driver's History Enforcement Action section (there's a sample of one below). Here

are the options for a driver's status:

- ACTIVE:** The enforcement action is in effect.
- EXPIRED:** An action with a definite end date has expired and is no longer in effect.
- LIFTED:** The department has removed the action, and it is no longer in effect.
- PENDING:** The EA is pending; it is not in effect.
- NEGATED:** ALR hearing decision in the defendant's favor.

Begin, End, and Lift Dates

On the same line as the EA status are the fields denoting "BEGIN," "END," and "LIFT" dates. The

Sample of Driver's History Enforcement Action Section

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ENFORC ACTN: SUSPENDED - SURCHARGE DUE NO DRIVER LICENSE
STATUS: ACTIVE BEGIN DT: 07182013 END DT: 12319999 LIFT DT:
ENFORC ACTN: SUSPENDED - SURCHARGE DUE NO INS
STATUS: ACTIVE BEGIN DT: 07182013 END DT: 12319999 LIFT DT:
ENFORC ACTN: SUSPENDED - SURCHARGE DUE NO DRIVER LICENSE
STATUS: ACTIVE BEGIN DT: 05022012 END DT: 12319999 LIFT DT:
ENFORC ACTN: SUSPENDED - SURCHARGE DUE NO INS
STATUS: ACTIVE BEGIN DT: 05022012 END DT: 12319999 LIFT DT:
    
```

The EA is in effect (active).

This EA's begin date was July 18, 2013, and the end date of 12319999 means that there is no definite end date. The EA is in effect until DPS lifts it.

“BEGIN” date is when the EA goes into effect. The “END” date is when the EA is no longer in effect for those EAs that have a defined duration. The “LIFT” date is when the EA is no longer in effect for those EAs that do not have a defined period.

EA types

The most common enforcement actions are shown in the tables at right and on page 22; they cross-reference the EA to its originating Transportation Code section. Note that when the defendant has multiple “ACTIVE” enforcement actions, there may be more than one that can be used in the charging paragraph.

In the sample on the opposite page, the driver’s DL has four EAs in effect: two each of “Suspended—Surcharge Due No Driver License” and “Suspended—Surcharge Due No Ins.” Any of them may form the basis for the first paragraph of the charge.

Also note that the Driver’s History provided in the NCIC/TCIC report is a summary only. In some cases, the agency may submit the complete record obtained from DPS, but this is rare.