



DON'T DO THE CRIME, IF
YOU CAN'T DO THE TIME

The Law Office of Tory Vonder Haar

A wooden boardwalk made of light-colored planks winds through a vast, grassy dune landscape. The path curves from the foreground towards the middle ground, disappearing into the distance. The dunes are covered in tall, green grass with patches of brown, suggesting some dryness. In the background, there are more dunes and a line of dark evergreen trees under a heavy, overcast sky with grey clouds.

THE PATH

1. Gifts
2. Abuse of Office
3. Misuse of Property
4. Misuse of Information
5. Safe Harbors
6. Final Thoughts

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The Crime

§ 36.08(d) Penal Code - Gift to Public Servant



(d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government *commits an offense if he solicits, accepts, or agrees to accept any benefit* from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

The Time

A conviction for a Class A misdemeanor carries **up to a year in jail**. It also carries the potential for a **fine of up to \$4,000.00**.

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The Crime
§39.02(a)(2)
Penal Code
- Abuse of
Official
Capacity

(a) A public servant commits an offense if, with intent to benefit or with intent to harm or defraud another, he intentionally or knowingly:

(2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.

The Time

Depending on the value of the property misused, the penalty can range from a Class C Misdemeanor to a First-Degree Felony with a minimum of **5 years** in jail and a maximum penalty of a **life sentence**.

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The Crime § 39.06(b)(c) Penal Code - Misuse of Official Information*

A public servant commits an offense if, in reliance on information to which the public servant has access by virtue his employment and that has not been made public, the person:

- ◇ acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;
- ◇ speculates or aids another to speculate on the basis of the information; or
- ◇ as a public servant, including as a school administrator, coerces another into suppressing or failing to report that information to a law enforcement agency.

It is an offense for a public servant to use or disclose official information for a nongovernmental purpose to obtain a benefit or to harm or defraud another that:

- ◇ he has access to by means of his office or employment; and
- ◇ has not been made public.

The Time

A Public Servant adjudged guilty of a third- degree felony shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 10 years or less than 2 years.

“Information that has not been made public” means any information to which the public does not generally have access, and that is prohibited from disclosure under Chapter 552, Government Code. Tex. Penal Code § 39.06(d).



Safe Harbors

§39.02(d)

A discount or award given for travel e.g. frequent flyer miles, rental car or hotel discounts, or food coupons, are not things of value belonging to the government for purposes of this section.

§ 36.08(i)

An unsolicited benefit may be donated to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized to certain tax-exempt charitable organization.

§ 36.10(b)

(Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

§ 36.10 (a)(2)

(Gift to Public Servant) does not apply to a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient.

§ 36.10 (a)(6)

(Gift to Public Servant) does not apply to an item with a value of less than \$50, excluding cash or a negotiable instrument.

Summary

1. On The Front Page For The Wrong Reason
2. Local Policy or Ordinance
3. Texas Ethics Commission - General Information and Legal Helpline:
reception@ethics.state.tx.us -
Telephone 512-463-5800
4. Consult Your Attorney With
Potential Issues



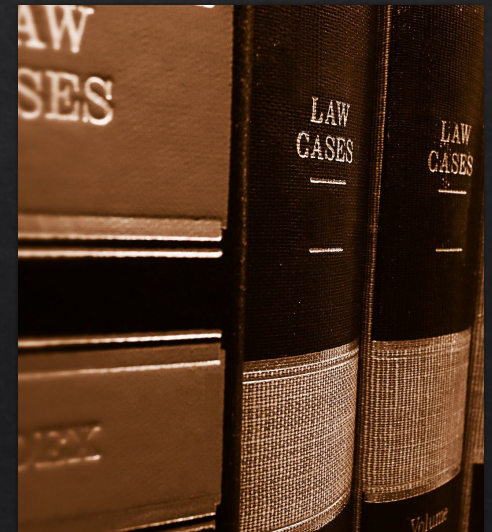
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Tory Vonder Haar

Thank you

Contact Information:
Tory@tvhlaw.com
www.tvhlaw.com
281-761-5335