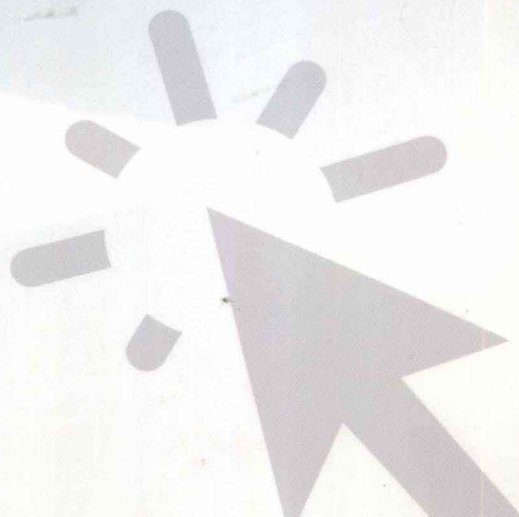


LEXISNEXIS TEXAS DESKTOP CODE SERIES

TEXAS ANNOTATED BUSINESS AND COMMERCE CODE



**TEXAS ANNOTATED
AND COMMERCE CODE** **SS**

**With Texas Business and
Commerce Code and
Related Texas Codes**

2004 EDITION

**With statutory amendments through
the 78th Legislative 3rd Special
Session, 2003.**



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Preface

The Texas Annotated Business and Commerce Code is a streamlined research resource containing the Texas Business and Commerce Code, including the Uniform Commercial Code, along with specially selected annotations. Following the Business and Commerce Code, this volume includes provisions of the Finance Code, pertaining to financial agencies and services, and the Transportation Code, pertaining to carriers. The statutory test is further augmented with limited historical citations to assist the user in tracking recent developments in the law.

The annotations in this volume have been specially selected. They are from recent cases that have been evaluated by Shepard's Citation Service and assigned a letter to indicate that case's treatment of the statute addressed by the court. The list of Shepard's letters used to gather the case notes in this volume appears below.

ff	..... statute cited as controlling
ii	..... statute interpreted in a significant way
na	..... statute is inapplicable
rt	..... current version of statute applied retroactively
C	..... statute is constitutional
U	..... statute is unconstitutional
Up	..... statute is unconstitutional in part
V	..... statute is void or invalid
Va	..... statute is valid
Vp	..... statute is void or invalid in part

It is important to note that because this volume contains only selected case annotations, it should be used only as part of a total research regimen. Additional research should include the study of other related statutes, which are fully annotated on lexis.com. A user's guide, designed to help you find the pertinent statutes, cases and additional annotations online, can be found on page ix.

To provide further ease of use, a detailed substantive index appears at the end of the book.

Texas Online Annotated Statutes at Lexis.com

USER'S GUIDE

Lexis.com features complete online coverage of Texas statutes, with all the codes plus the Texas Revised Civil Statutes. The Texas Online Annotated Statutes also feature complete case annotations, which have been reviewed by the editorial staff. Shepard's tabs are available throughout to enable you to track the subsequent history of both cases and statutes.

All these resources can be searched using natural language queries or queries in the terms and connectors format. In addition, it's possible to pull up a single statute or opinion using its citation. Code sections would appear with all their case annotations. This guide describes quick and useful online search methods in more detail.

- First, log in at *www.lexis.com*.

To locate a code section using its citation

- Select **Get a Document** from the navigation bar at the top of the screen.
- To find a case, enter its citation. For code sections, refer to the list of search arguments on page ix and enter the appropriate code section number. For example, "tex civ prac 16.003" for Tex. Civ. Prac. & Rem. Code Ann. § 16.003.
- Press **Get**.

To search Texas statutes and rules by subject matter

- Click the **Find a Source** tab.
- Type "texas rules" and press **Find**.
- Select **TX Texas Code, Constitution, Court Rules and ALS, Combined** for access to the current Texas codes and rules, along with new legislation.
- Enter your search query using either **natural language** or **terms and connectors**.

Natural Language

Lexis.com's natural language feature lets you enter a search in plain English, without having to use any special terms and connectors. To develop a natural language search, use words that you might use when describing your research topic to another person. Then use the natural language options to enhance the search.

For example, to find material about efforts in the fast food industry to use recyclable packaging, you may use this search:

What efforts has the fast food industry made to use recyclable packages?

Or you may use just the most important words and phrases, in any order:

recycle package fast food

Terms and Connectors

The *lexis.com* research system searches for documents containing the specific words and combinations of words in your search request. Every word (or form of the word) in your search request must appear in the document for that document to be included in your search results.

To develop a search request, follow these four steps:

1. Identify the topic:

Information about efforts in the fast food industry to use recyclable packaging.

- 2. Choose your search words.** The words should reflect ideas essential to your research topic. Include alternative words and avoid words that are too general. For example, to find articles about efforts in the fast food industry to use recyclable packaging, you might use these words:

recycle package container fast food

3. Truncate and Wildcard search words.

- **Truncate “!”** Finds a root word and all the words based on it. *E.g., recycl! finds recycling, recycle, recyclable.*
- **Wildcard “*”** Holds a space for any character within a word. *E.g., bernst**n finds both the ei and ie spellings of the name.*

- 4. Link the search words** in a search request using connectors. Connectors such as OR, AND, W/# (where # is the number of words between terms linked by this connector), and so on define relationships between your search words.

- 5. Specify date restriction, if necessary.**

Once you’ve decided on your search request, you can run the search.

Recyc! W/25 fast food W/10 container OR package

finds documents where either “container” or “package” is in the same sentence as “fast food”, and “fast food” is in the same paragraph as “recycle” (or its variants).

For more help with legal research on *lexis.com*, consult the help buttons throughout the site or call **800-543-6862** or select **Take a Tour** at the login page at Lexis.com.

TEXAS STATUTES AND CODES ONLINE

Texas Statutes and Codes

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CODE OF CRIMINAL PROCEDURE	tex crim proc xx
EDUCATION CODE	tex educ xx
ELECTION CODE	tex elex xx
FAMILY CODE	tex fam xx
FINANCE CODE	tex fin xx
GOVERNMENT CODE	tex govt xx
HEALTH AND SAFETY CODE.....	tex health xx
HUMAN RESOURCES CODE.....	tex hum res xx
INSURANCE CODE	tex ins xx OR
	tex ins code art xx
LABOR CODE	tex lab xx
LOCAL GOVERNMENT CODE	tex loc govt xx
NATURAL RESOURCES CODE.....	tex nat res xx
OCCUPATIONS CODE	tex occ xx
PARKS AND WILDLIFE CODE.....	tex parks xx
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.....tex bus corp act art xx
*(where xx is the section number)

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Business and Commerce Code

TITLE 1

UNIFORM COMMERCIAL CODE

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CHAPTER 1

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Subchapter A
General Provisions

Sec. 1.101. Short Titles.

- (a) This title may be cited as the Uniform Commercial Code.
- (b) This chapter may be cited as Uniform Commercial Code—General Provisions. **Leg.H.** Stats. 2003 78th Leg. Sess. Ch. 542, effective September 1, 2003.

Sec. 1.102. Scope of Chapter.

This chapter applies to a transaction to the extent that it is governed by another chapter of this title. **Leg.H.** Stats. 2003 78th Leg. Sess. Ch. 542, effective September 1, 2003.

Sec. 1.103. Construction of Title to Promote Its Purposes and Policies; Applicability of Supplemental Principles of Law.

- (a) This title must be liberally construed and applied to promote its underlying purposes and policies, which are:
 - (1) to simplify, clarify and modernize the law governing commercial transactions;
 - (2) to permit the continued expansion of commercial practices through custom, usage and agreement of the parties; and
 - (3) to make uniform the law among the various jurisdictions.
- (b) Unless displaced by the particular provisions of this title, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause shall supplement its provisions. **Leg.H.** Stats. 2003 78th Leg. Sess. Ch. 542, effective September 1, 2003.

Sec. 1.104. Construction Against Implied Repeal.

This title being a general act intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided. **Leg.H.** Stats. 2003 78th Leg. Sess. Ch. 542, effective September 1, 2003.

Sec. 1.105. Severability.

If any provision or clause of this title or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this title which can be given effect without the invalid provision or application, and to this end the provisions of this title are severable. **Leg.H.** Stats. 2003 78th Leg. Sess. Ch. 542, effective September 1, 2003.

Sec. 1.106. Use of Singular and Plural; Gender.

In this title, unless the statutory context otherwise requires:

(1) words in the singular number include the plural, and those in the plural include the singular; and

(2) words of any gender also refer to any other gender. **Leg.H.** Stats. 2003 78th Leg. Sess. Ch. 542, effective September 1, 2003.

Sec. 1.107. Section Captions.

Section captions are parts of this title. **Leg.H.** Stats. 2003 78th Leg. Sess. Ch. 542, effective September 1, 2003.

Sec. 1.108. Relation to Electronic Signatures In Global and National Commerce Act.

This title modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify, limit, or supersede Section 101(c) of that Act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of the notices described in Section 103(b) of that Act (15 U.S.C. Section 7003(b)). **Leg.H.** Stats. 2003 78th Leg. Sess. Ch. 542, effective September 1, 2003.

Subchapter B

General Definitions and Principles of Interpretation

Sec. 1.201. General Definitions.

(a) Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other chapters of this title that apply to particular chapters or parts thereof, have the meanings stated.

(b) Subject to definitions contained in other chapters of this title that apply to particular chapters or parts thereof:

(1) “Action,” in the sense of a judicial proceeding, includes recoupment, counterclaim, set-off, suit in equity, and any other proceeding in which rights are determined.

(2) “Aggrieved party” means a party entitled to pursue a remedy.

(3) “Agreement,” as distinguished from “contract,” means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in Section 1.303.

(4) “Bank” means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union, and trust company.

(5) “Bearer” means a person in possession of a negotiable instrument, document of title, or certificated security that is payable to bearer or indorsed in blank.

(6) “Bill of lading” means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods.

For more annotations, see www.lexis.com