

SUBJECT: Permits to operate overweight vehicles on highways

COMMITTEE: Transportation — committee substitute recommended

VOTE: 5 ayes — Alexander, Bosse, Alonzo, Moreno, Price
3 nays — Clemons, Siebert, Uher
1 absent — Edwards

SENATE VOTE: On final passage, March 16 — voice vote

WITNESSES: For — Donald Lee, Conference of Urban Counties; Jim Allison, County Judges and Commissioners Association of Texas; Maxine Darst, Kaufman County Judge; John Cordray, Panola County Judge; Gary Norton, Brazos County Commissioner

Against — James Grimm, Texas Poultry Federation; Ray Barnhart; Patty Sullivan, assistant to Rusk County commissioner; Gaddis Lindsey, Upshur County Commissioner

On — James Terrel, Texas Association of Dairymen; Bill Haley, Texas Motor Transportation Association; Bill Burnett, Texas Department of Transportation; Mike Stewart, Texas Aggregates and Concrete Association; Woody Gearheart, Scurlock Permian Corporation

BACKGROUND: The 71st Legislature enacted HB 2060, which authorized the Texas Department of Transportation (TxDOT) to issue annual permits for commercial overweight vehicles. The permits allow commercial overweight vehicles to operate at a weight that exceeds the allowable axle weight by 10 percent and the allowable gross weight by 5 percent. The permit costs \$75, \$25 of which is retained by TxDOT and the remaining \$50 is distributed to the state's counties based on each county's percentage of county roads statewide.

DIGEST: CSSB 438 would require the Texas Department of Highways and Public Transportation (TxDOT) to notify the county clerk of each county listed in a permit application to operate an overweight vehicle that the applicant

intends to operate an overweight vehicle within 14 days after the TxDOT issues the permit. The notification would include the name and address of the person for whom the permit was issued.

A vehicle operating under the overweight vehicle permit would be authorized to exceed the allowable gross weight (total truck weight) by the entire five percent tolerance allowance regardless of the weight on any one axle, tandem axle or the distance between axles if no axle or tandem axle exceeded the permitted weight tolerance level.

The permit — which would be valid for one year and have to be carried in the vehicle — would have a base fee of \$75, \$50 of which would be remitted to the state's counties based on the ratio of the total number of miles of county roads maintained by a county to the total number of miles of county roads maintained by all of the counties. The remaining \$25 of the base fee would be deposited to the credit of the state highway fund and may be appropriated only to TxDOT to administer the permit program.

The permit applicant would be required to list the counties in which the vehicle would operate. In addition to the base fee, the applicant would pay an annual fee based on the number of counties listed; this fee would be distributed among the listed counties. The more counties the permit applicant listed, the higher the annual fee would be. An applicant's permit would not be valid for use in a county that was not listed on the permit.

The permit applicant would pay an administrative fee for a sticker that would be placed above the state inspection sticker on the front windshield of the vehicle. The sticker would have to be in a form designed to aid in the enforcement of weight limits for motor vehicles and indicate the expiration date of the permit. The sticker would have to be removed from the vehicle at the time it expired, when a lease of the vehicle expired or when the vehicle was sold. Failing to display the sticker would be a Class C misdemeanor offense (maximum fine \$500).

The administrative fee would be used to pay for the distribution to the state's counties of the funds collected from the fee based on the number of counties the permit applicant listed. The administrative fee would be deposited in the state treasury to the credit the state highway fund and

could be appropriated only to TxDOT for distributing the funds. The administrative fee would also be used to pay for the notification of counties that a permit applicant intends to drive an overweight vehicle through them.

All funds collected by TxDOT that were due each county would be remitted to each county's treasurer at least twice each fiscal year. The county treasurer would deposit and credit the funds to the County Road and Bridge Fund to be used only in accordance with the County Road and Bridge Act.

Permits issued under this section could not be transferred. However, if the vehicle for which the permit was issued was destroyed or otherwise becomes permanently inoperable, the permit holder could apply to TxDOT for a credit for the remaining time the permit was valid. TxDOT would issue a prorated credit for the remaining time on the permit upon payment of a fee set by the department in an amount not to exceed the cost of issuing the credit. The permit holder would have to provide to TxDOT the original permit or, if the original permit no longer exists, written evidence of the destruction or permanent incapacity of the vehicle in the form approved by TxDOT. The prorated credit issued by TxDOT could be used only toward the payment of permit fees.

TxDOT could not issue permits for an overweight vehicle to operate on a bridge or culvert if the vehicle was determined to exceed the maximum weight for the bridge according to an engineering and traffic study conducted by TxDOT. A TxDOT study of the bridge could be required by the county's commissioners court in which the bridge or culvert was located or by TxDOT. In such cases, only the county could issue a permit to operate on such a bridge.

If TxDOT determined after an inspection that a bridge under the jurisdiction of a county or municipality qualified for a lower load rating than is currently permitted, TxDOT would notify the commissioners court of the county or governing body of the municipality, which would post a notice on the road or highway approaching the bridge indicating that traffic was restricted consistent with the new lower road rating. The notice would be placed in a location that enabled restricted traffic to avoid crossing the bridge.

A person who holds an permit to operate an overweight vehicle would commit a misdemeanor offense punishable by a fine of not more than \$1,000 if the person:

- operated or directed the operation of an overweight vehicle on a public highway or road and was criminally negligent with regard to the operation of the vehicle in excess of the weight limits authorized by the permit.
- operated an overweight vehicle in a county not listed on the person's permit application and the vehicle was in excess of normal weight limits covered by the permit or the County Road and Bridge Act.

Any person, corporation, receiver or association who violated the provisions fixing the gross weight of commercial motor vehicles would, upon conviction, be punished by a fine of not less than \$100 or more than \$150. However, if the offense involves a vehicle having a gross weight more than 5,000 pounds and not more than 10,000 pounds over the vehicle's allowable gross weight, the fine could not be less than \$400 or more than \$500. The fines provided for an offense would be doubled if the offense occurred before the first anniversary of a conviction of a previous offense.

The governmental entity collecting the fine for offense involving a vehicle having a gross weight that is more than 5,000 pounds over the vehicle's allowable gross weight would have to send half the fine to the Department of Public Safety (DPS). The amount forwarded to DPS could be used only to enforce laws relating to allowable size or weight of vehicles.

The bill would take effect September 1, 1995.

**SUPPORTERS
SAY:**

SB 438 would increase the safety of Texas roads by changing the way the state and counties pay for road maintenance. While SB 438 would continue the initial overweight permit fee of \$75, it would authorize an additional fee based on the number of counties through which a permit holder expects to travel. The initial fee would continue to be distributed as current law. The county-specific fee would be distributed to those specific counties designated based on each county's percentage share of county

roads. The additional fee is intended to aid those counties that have the most traffic and therefore the most damage to their roads.

The bill would require TxDOT to notify counties of which trucks will be traveling on their roads. This would enable TxDOT to maintain a central list of the counties to which overweight trucks will be traveling. TxDOT would also remit additional money to those specific counties the applicant designates.

TxDOT would be required to issue a sticker along with each permit to operate an overweight vehicle in order keep overweight vehicles off the roads. SB 438 would prohibit the transfer of a permit from one vehicle to another unless the permittee's truck was in a wreck and beyond repair. Preventing the transfer of permits would prevent current abuses in which the original permit and the transfer permit are used simultaneously by two different trucks.

The penalty for running a permitted vehicle in excess of the allowed weight limits authorized by HB 2060 or in a county where the vehicle is not permitted to travel could not exceed \$1,000. This could result in additional revenue for the counties. Current law only provides for a fine not to exceed \$200. An increased fine would be a greater deterrent for truck drivers traveling without the proper permit.

SB 438 would prohibit a permitted truck from traveling over a bridge or culvert with a weight that exceeds the maximum posted weight of that bridge or culvert. This would protect the bridge and those traveling on it.

**OPPONENTS
SAY:**

SB 438 would allow too many overweight trucks, which amount to about one or two percent of the total number of highway vehicles, to prematurely destroy the state's essential road infrastructure. At the same time it would transfer to the owners of the other 12-plus million registered vehicles in Texas and to taxpayers in general the exorbitant costs of repairing and maintaining roads.

The \$75 annual permit fees and the additional fees added by SB 438 would cover only about 5 percent of the costs of maintaining county roads. Overweight trucks would still be allowed to destroy the roads with

impunity, still grossing out at weights of 84,000 pounds on many roads that were built to carry only a third of that weight.

Under the bill counties would not be authorized to negotiate agreements with trucking companies that would enable the counties to work with the trucking companies to repair roads damaged by overweight trucks. Such agreements have succeeded in protecting county roads in the past.

OTHER
OPPONENTS
SAY:

While SB 438 would take important steps towards creating statewide support for maintaining the county road system, the bill's provision that would take away TxDOT's authority to permit trucks to travel over bridges or culverts with a weight that exceeds the maximum posted weight would mean that only counties could grant such permits, thus forcing the trucking industry to have to negotiate with every county government for permission to cross each county's bridges. Requiring truck companies to negotiate with each county government would lead to inefficiency as well as the possibility that some county governments might charge the trucking industry unfairly high fees to use the county's bridges.

The bill's provision with regard to bridges is also unfair because it would only apply to certain types of overweight trucks. Trucks that carry agricultural goods are not covered by the bill's provision on bridges.

NOTES:

The committee substitute would provide that a vehicle operating under the permit is authorized to exceed the allowable gross weight by a five percent tolerance allowance regardless of the weight of any axle, axles or distance between axles if not exceeds the tolerance permitted. An overweight vehicle permit would not authorize the operation of overweight trucks on bridges that are inspected and weight rated by TxDOT. The substitute provides new fines for persons who violate the gross weight limits for commercial vehicles. The substitute provides for procedures for TxDOT to follow after it determined that a bridge under the jurisdiction of a county or municipality qualifies for a lower weight rating.