

SUBJECT: Establishing penalties for damaging highway bridges; creating an offense

COMMITTEE: Transportation — committee substitute recommended

VOTE: 9 ayes — Canales, Landgraf, Goldman, Krause, Leman, Martinez, Ortega, Raney, E. Thompson

0 nays

4 absent — Bernal, Y. Davis, Hefner, Thierry

WITNESSES: For — John Esparza and Dana Moore, Texas Trucking Association; (*Registered, but did not testify:* Lindsay Mullins, BNSF Railway; Adam Haynes, Conference of Urban Counties; Dennis Kearns, Texas Railroad Association; Ivan Jaime, Union Pacific; Dustin Fawcett)

Against — None

On — (*Registered, but did not testify:* Jimmy Archer, Texas Department of Motor Vehicles; Michael Lee, Texas Department of Transportation)

BACKGROUND: Transportation Code sec. 621.207 limits the height of a vehicle and its load to 14 feet or less. If a vehicle is taller than 13 feet 6 inches, the vehicle operator must ensure that the vehicle will pass through each vertical clearance of a structure in its path without touching the structure. Any damage to a bridge, underpass, or similar structure caused by the height of a vehicle is the responsibility of the vehicle's owner.

It has been suggested that some damaging vehicle strikes to bridges are the result of vehicles that exceed posted height limitations. Unless the owner of a vehicle or the owner's insurance is able to cover the cost of needed repairs resulting from such a strike, taxpayers bear these expenses.

DIGEST: CSHB 799 would make the owner of a vehicle strictly liable for any damage to a bridge, underpass, or similar structure caused by the height of the vehicle and would create an offense for the driver of a vehicle that

caused the damage.

The owner of a vehicle that caused damage to a bridge or similar structure would be liable unless:

- the vehicle was stolen;
- the vertical clearance of the structure was less than that posted on the structure;
- the vehicle was being operated under the immediate direction of a law enforcement agency; or
- the vehicle was being operated in compliance with a permit authorizing the movement of the vehicle issued by the Texas Department of Motor Vehicles (TxDMV) or a political subdivision of the state.

A person would commit a class C misdemeanor (maximum fine of \$500) if the person operated or attempted to operate a vehicle over or on a bridge or through an underpass or similar structure unless the height of the vehicle, including its load, was less than the vertical clearance of the structure as shown by the records of the Department of Transportation.

If it was shown at trial that the person was not in compliance with all applicable license and permit requirements for the operation of the vehicle, the offense would be a class B misdemeanor punishable by a maximum fine of \$500 and/or up to 30 days in jail.

It would be an affirmative defense to prosecution that:

- the vertical clearance of the structure was less than that posted on the structure;
- the vehicle was being operated under the immediate direction of a law enforcement agency; or
- the vehicle was being operated in compliance with a permit authorizing the movement of the vehicle issued by TxDMV or a political subdivision of the state.

The bill would take effect September 1, 2019, and would apply only to damage that occurred or offenses that were committed on or after the effective date.