

BILL ANALYSIS

Senate Research Center
86R34169 JRR-D

C.S.H.B. 2620
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Transportation
5/17/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 1001.025, Transportation Code, requires the board of the Texas Department of Motor Vehicles (board; TxDMV) to make periodic reports regarding statutory changes to improve the operations of TxDMV. In the lead up to the 86th Legislative Session, the board made various recommendations regarding the regulation of oversize/overweight vehicles.

C.S.H.B. 2620 contains the statutory recommendations by the board regarding the movement of oversize/overweight vehicles.

The substitute differs from the original in two ways.

First, by making technical drafting corrections. The changes apply to escort vehicles or flaggers and also clarify that the changes in C.S.H.B. 2620 apply to permits issued after the effective date of the bill.

Second, it includes language prohibiting a municipality or county from requiring an escort flag vehicle during the movement of a manufactured home.

C.S.H.B. 2620 received two amendments on the house floor, which we'd like to remove, and return C.S.H.B. 2620 to its committee substituted version.

As substituted, C.S.H.B. 2620:

- Allows administrative sanctions by TxDMV for vehicles loaded beyond legal size limits;
- Repeals the statutorily required process for issuing an oversize/overweight permit by phone;
- Requires that all oversize/overweight permits be carried in the vehicle;
- Clarifies that the comptroller of public accounts of the State of Texas perform distribution of funds to local governments;
- Authorizes TxDMV to deny an oversize/overweight permit to an out-of-service vehicle, determined by the federal government or the Department of Public Safety of the State of Texas;
- Allow TxDMV to require escort vehicles and to authorize the escort vehicles limited ability to control traffic;
- Set a default allocation of 10 percent to the TxDMV fund for any newly created oversize/overweight permit unless otherwise set in statute;
- Requires the entity that purchases the oversize/overweight permit to be the one that uses it; and
- Requires a certificate of weight to be provided when requested by a carrier and to require a vehicle over 200,000 pounds to require a certificate of weight to be sent to TxDMV prior to being on the road.

C.S.H.B. 2620 amends current law relating to the movement of oversize or overweight vehicles, including the enforcement of motor vehicle size and weight limitations, and creates a criminal offense.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 541.001, Transportation Code, by amending Subdivision (1) and adding Subdivision (1-a), as follows:

(1) Defines "escort flagger."

(1-a) Creates this subsection from existing text and makes no further changes to this subsection.

SECTION 2. Amends Section 542.501, Transportation Code, as follows:

Sec. 542.501. New heading: **OBEDIENCE REQUIRED TO POLICE OFFICERS, SCHOOL CROSSING GUARDS, AND ESCORT FLAGGERS.** Prohibits a person from willfully failing or refusing to comply with a lawful order or direction of:

(1) and (2) makes nonsubstantive changes to these subdivisions; or

(3) an escort flagger who is directing or controlling the flow of traffic in accordance with a permit issued by the Texas Department of Motor Vehicles (TxDMV) under Subtitle E (Vehicle Size and Weight) for the movement of an oversize or overweight vehicle.

SECTION 3. Amends Section 544.004(a), Transportation Code, as follows:

(a) Requires the operator of a vehicle or streetcar to comply with an applicable official traffic-control device placed as provided by this subtitle (Rules of the Road) unless the person is:

(1) otherwise directed by a traffic officer, police officer, or escort flagger, rather than otherwise directed by a traffic or police officer; or

(2) makes no changes to this subdivision.

SECTION 4. Amends the heading to Section 621.503, Transportation Code, to read as follows:

Sec. 621.503. **PROHIBITION OF LOADING MORE THAN SIZE OR WEIGHT LIMITATION.**

SECTION 5. Amends Sections 621.503(a) and (b), Transportation Code, as follows:

(a) Prohibits a person from loading, or causing to be loaded, a vehicle for operation on a public highway of this state that exceeds the height, width, length, or weight limitations for operation of that vehicle provided by this subtitle, rather than exceeds the weight limitations for operation of that vehicle provided by Section 621.101 (Maximum Weight of Vehicle or Combination).

(b) Provides that intent to violate a weight limitation, rather than a limitation, is presumed if the weight of the loaded vehicle is heavier than the applicable axle or gross weight limit by 15 percent or more.

SECTION 6. Amends Subchapter G, Chapter 621, Transportation Code, by adding Section 621.511, as follows:

Sec. 621.511. NAME ON PERMIT; OFFENSE. (a) Provides that a person commits an offense if the person operates or moves on a public highway a vehicle that is issued a permit under this subtitle and the person operating or moving the vehicle is not the person named on the permit for the vehicle or an employee of that person.

(b) Provides that an offense under this section is a Class C misdemeanor.

(c) Provides that it is an exception to the application of this section that:

(1) the vehicle being operated or moved is a combination of a tow truck and a disabled, abandoned, or accident-damaged vehicle or vehicle combination; and

(2) the tow truck is towing the other vehicle or vehicle combination directly to the nearest terminal, vehicle storage facility, or authorized place of repair.

SECTION 7. Amends Subchapter A, Chapter 623, Transportation Code, by adding Sections 623.004, 623.005, 623.006, 623.007, and 623.008, as follows:

Sec. 623.004. DENIAL OF PERMIT. (a) Authorizes TxDMV to deny an application for a permit under this subtitle submitted by an applicant who:

(1) is the subject of an out-of-service order issued by the Federal Motor Carrier Safety Administration; or

(2) the Department of Public Safety of the State of Texas has determined has:

(A) an unsatisfactory safety rating under 49 C.F.R. Part 385; or

(B) multiple violations of Chapter 644 (Commercial Motor Vehicle Safety Standards), a rule adopted under that chapter, or Subtitle C.

(b) Provides that a denial of an application for a permit under this section is not required to be preceded by notice and an opportunity for hearing.

(c) Authorizes an applicant to appeal a denial under this section by filing an appeal with TxDMV not later than the 26th day after the date TxDMV issues notice of the denial to the applicant.

Sec. 623.005. DISPOSITION OF PERMIT FEE IN TEXAS DEPARTMENT OF MOTOR VEHICLES FUND. (a) Provides that this section applies only to a permit authorized by the legislature on or after September 1, 2019.

(b) Requires ten percent of the fee collected for a permit issued by TxDMV under this subtitle to be deposited to the credit of the TxDMV fund with the remaining fee distribution to be adjusted proportionately, if needed.

(c) Provides that Subsection (b) does not apply if a provision of this subtitle expressly requires a different amount of a fee collected to be deposited to the credit of the TxDMV fund.

Sec. 623.006. DISPOSITION AND USE OF PERMIT FEES DUE TO COUNTY OR MUNICIPALITY. Provides that, except as otherwise specified by this subtitle:

(1) the comptroller of public accounts of the State of Texas (comptroller) is required, at least once each fiscal year, to send from fees collected for a permit issued by TxDMV under this chapter any amounts due to a county or municipality;

(2) amounts due to a county are required to be sent to the county treasurer or office performing the function of that office for deposit to the credit of the county road and bridge fund; and

(3) amounts due to a municipality are required to be sent to the office performing the function of treasurer for the municipality and are authorized to be used by the municipality only to fund commercial motor vehicle enforcement programs or road and bridge maintenance or infrastructure projects.

Sec. 623.007. PERMIT TO BE CARRIED IN VEHICLE. Requires a permit issued by TxDMV under this subtitle to be carried, in a manner prescribed by TxDMV, in the vehicle that is being operated under the permit.

Sec. 623.008. AUTHORITY TO REQUIRE ESCORT FLAG VEHICLES AND ESCORT FLAGGERS. (a) Defines "escort flag vehicle" and "escort flagger" for purposes of this section.

(b) Authorizes TxDMV, in addition to any other specific requirement under this subtitle, to require a person operating under a permit issued by TxDMV under this subtitle to use one or more escort flag vehicles and escort flaggers if required by the Texas Department of Transportation or if required for the safe movement over roads of an oversize or overweight vehicle and its load.

SECTION 8. Amends Section 623.099, Transportation Code, by adding Subsection (g), as follows:

(g) Prohibits a county or municipality from requiring the use of an escort flag vehicle or any other kind of escort for the movement of a manufactured house under a permit issued under this subchapter (Manufactured and Industrialized Housing) that is in addition to the escort flag vehicle requirements of this section (Escort Flag Vehicle).

SECTION 9. Amends the heading to Section 623.272, Transportation Code, to read as follows:

Sec. 623.272. ADMINISTRATIVE PENALTY FOR FAILURE TO PROVIDE CERTIFICATE OR FOR FALSE INFORMATION ON CERTIFICATE.

SECTION 10. Amends Section 623.272(a), Transportation Code, to authorize TxDMV to investigate and impose an administrative penalty on a shipper who meets certain criteria, including not providing a shipper's certificate of weight required under Section 623.274(b) and to make nonsubstantive changes to this subsection.

SECTION 11. Amends Section 623.274, Transportation Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires a shipper, on the written request of the person transporting the shipment, rather than requiring a shipper, for a shipper's certificate of weight to be valid, to:

(1) certify that the information contained on the certificate of weight, rather than on the form, is accurate; and

(2) deliver the certificate of weight to the person transporting the shipment, rather than deliver the certificate to the motor carrier or other person transporting the shipment before the motor carrier or other person applies for an overweight permit under this chapter.

(c) Requires a person transporting a shipment to provide TxDMV with a copy of the certificate of weight before the issuance of an overweight permit under this chapter if the combined weight of the vehicle or vehicles and load is more than 200,000 pounds.

SECTION 12. Amends Section 623.321(a), Transportation Code, to authorize TxDMV to issue a permit under this subchapter (Vehicles Transporting Timber), as an alternative to a permit issued under Section 623.011 (Permit For Excess Axle or Gross Weight), authorizing a person to operate a vehicle or combination of vehicles that is being used to transport certain materials, including equipment used to load timber on a vehicle, in a county identified as a timber producing county in the most recent edition of the Texas A&M Forest Service's Harvest Trends Report as of May 15, 2013, at a certain weight limit.

SECTION 13. Amends Section 623.323(f), Transportation Code, to provide that this section (Notification) does not apply to a vehicle or combination of vehicles that are being used to transport certain materials, including equipment used to load timber on a vehicle, from certain locations.

SECTION 14. Repealer: Section 623.0171(m) (relating to requiring the comptroller, at least once each fiscal year, to send certain monies due to each county to the county treasurer or officer performing the function of that office for deposit to the credit of the county road and bridge fund), Transportation Code.

Repealer: Section 623.081 (Permit Issued by Telephone), Transportation Code.

Repealer: Section 623.324(b) (relating to requiring the comptroller, at least once each fiscal year, to send certain monies due to each county to the county treasurer or officer performing the function of that office for deposit to the credit of the county road and bridge fund), Transportation Code.

Repealer: Section 623.403(c) (relating to requiring the comptroller, at least once each fiscal year, to send certain monies due to each county to the county treasurer or officer performing the function of that office for deposit to the credit of the county road and bridge fund), Transportation Code, as added by Chapter 750 (S.B. 1383), Acts of the 85th Legislature, Regular Session, 2017.

Repealer: Sections 623.404(b) (relating to requiring the comptroller, at least once each fiscal year, to send certain monies due to each county to the county treasurer or officer performing the function of that office for deposit to the credit of the county road and bridge fund), Transportation Code, as added by Chapter 108 (S.B. 1524), Acts of the 85th Legislature, Regular Session, 2017.

Repealer: Sections 623.404(c) (relating to requiring the comptroller, at least once each fiscal year, to send certain monies due to each county to the office performing the function of treasurer for the municipality and authorizes those monies to be used only for certain programs and projects), Transportation Code, as added by Chapter 108 (S.B. 1524), Acts of the 85th Legislature, Regular Session, 2017.

SECTION 15. Provides that Section 621.511, Transportation Code, as added by this Act, applies only to a vehicle that is issued a permit under Subtitle E, Title 7, Transportation Code, on or after the effective date of this Act.

SECTION 16. (a) Makes application of this Act prospective. Provides that, for purposes of this subsection, an offense or violation was committed before the effective date of this Act if any element of the offense or violation occurred before that date.

(b) Makes application of the change in law made by this Act relating to an application filed under Chapter 623, Transportation Code, prospective.

SECTION 17. Provides that, to the extent of any conflict, this Act prevails over another Act of the 86th Legislature, Regular Session, 2019, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 18. Effective date: September 1, 2019.