

## **BILL ANALYSIS**

Senate Research Center

H.B. 19  
By: Leach et al. (Taylor)  
Transportation  
5/10/2021  
Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The commercial trucking industry is essential to the state's economy, representing one in every 15 Texans employed and transporting two million tons of goods daily. Approximately 88 percent of all commercial trucking companies in Texas are considered small mom and pop businesses. These companies, although heavily regulated by the state and federal government, are experiencing a sharp increase in the number of collision lawsuits filed against them. As a result, commercial vehicle insurance rates are skyrocketing, increasing from 10 percent to 30 percent in 2018 and 2019, respectively. Rising insurance costs combined with exorbitant settlements disrupt the state's ability to successfully meet the supply-demand needs of all Texans.

H.B. 19, engrossed version, seeks to strengthen the Civil Practice and Remedies Code by ensuring legitimate evidence directly relevant to causation and injuries arising from a commercial vehicle accident is presented to jurors without prejudice. Furthermore, H.B. 19 sets forth specific procedures by which the facts of a case are presented in court by both the plaintiff and defendant to determine negligence of a defendant and award fair compensation.

H.B. 19 amends current law relating to civil liability of a commercial motor vehicle owner or operator, including the effect that changes to that liability have on commercial automobile insurance.

### **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 the heading to Chapter 72, Civil Practice and Remedies Code, to read as follows:

#### **CHAPTER 72. LIABILITY OF MOTOR VEHICLE OWNER OR OPERATOR**

SECTION 2. Amends Chapter 72, Civil Practice and Remedies Code, by adding Subchapter A, and adding a heading to that subchapter to read as follows:

#### **SUBCHAPTER A. LIABILITY TO GUEST**

SECTION 3. Transfers Sections 72.001 (Limited Liability), 72.002 (Limitation Not Applicable), 72.003 (Effect on Other Liability), and 72.004 (Offset for Medical Expenses Paid), Civil Practice and Remedies Code, to Subchapter A, Chapter 72, Civil Practice and Remedies Code, as added by this Act.

SECTION 4. Amends Sections 72.002 and 72.003, Civil Practice and Remedies Code, to make conforming changes.

SECTION 5. Amends Chapter 72, Civil Practice and Remedies Code, by adding Subchapter B, as follows:

## SUBCHAPTER B. ACTIONS REGARDING COMMERCIAL MOTOR VEHICLES

Sec. 72.051. DEFINITIONS. Defines "accident," "civil action," "claimant," "commercial motor vehicle," "compensatory damages," "employee," "exemplary damages," "motor vehicle," "operated," "operating," "operation," and "video."

Sec. 72.052. BIFURCATED TRIAL IN CERTAIN COMMERCIAL MOTOR VEHICLE ACCIDENT ACTIONS. (a) Requires the court, in a civil action under this subchapter, on motion by a defendant, to provide for a bifurcated trial under this section.

(b) Requires that a motion under this section be made on or before the later of:

(1) the 120th day after the date the defendant bringing the motion files the defendant's original answer; or

(2) the 30th day after the date a claimant files a pleading adding a claim or cause of action against the defendant bringing the motion.

(c) Requires the trier of fact to determine liability for and the amount of compensatory damages in the first phase of a bifurcated trial under this section.

(d) Requires the trier of fact to determine liability for and the amount of exemplary damages in the second phase of a bifurcated trial under this section.

(e) Authorizes a finding by the trier of fact in the first phase of a bifurcated trial that an employee defendant was negligent in operating an employer defendant's commercial motor vehicle, for purposes of this section, to serve as a basis for the claimant to proceed in the second phase of the trial on a claim against the employer defendant, such as negligent entrustment, that requires a finding by the trier of fact that the employee was negligent in operating the vehicle as a prerequisite to the employer defendant being found negligent in relation to the employee defendant's operation of the vehicle.

Sec. 72.053. FAILURE TO COMPLY WITH REGULATIONS OR STANDARDS. (a) Defines "regulation or standard."

(b) Provides that, in a civil action under this subchapter, evidence of a defendant's failure to comply with a regulation or standard is admissible in the first phase of a trial bifurcated under Section 72.052 only if, in addition to complying with other requirements of law:

(1) the evidence tends to prove that failure to comply with the regulation or standard was a proximate cause of the bodily injury or death for which damages are sought in the action; and

(2) the regulation or standard is specific and governs, or is an element of a duty of care applicable to, the defendant, the defendant's employee, or the defendant's property or equipment when any of those is at issue in the action.

(c) Provides that nothing in this section prevents a claimant from pursuing a claim for exemplary damages under Chapter 41 (Damages) relating to the defendant's failure to comply with other applicable regulations or standards, or from presenting evidence on that claim in the second phase of a bifurcated trial.

Sec. 72.054. LIABILITY FOR EMPLOYEE NEGLIGENCE IN OPERATING COMMERCIAL MOTOR VEHICLE. (a) Requires that, except as provided by Subsection (d), in a civil action under this subchapter, an employer defendant's liability for damages caused by the ordinary negligence of a person operating the defendant's

commercial motor vehicle be based only on respondeat superior if the defendant stipulates that, at the time of the accident, the person operating the vehicle was:

- (1) the defendant's employee; and
- (2) acting within the scope of employment.

(b) Prohibits a claimant, except as provided by Subsection (c), if an employer defendant stipulates in accordance with Subsection (a) and the trial is bifurcated under Section 72.052, from, in the first phase of the trial, presenting evidence on an ordinary negligence claim against the employer defendant, such as negligent entrustment, that requires a finding by the trier of fact that the employer defendant's employee was negligent in operating a vehicle as a prerequisite to the employer defendant being found negligent in relation to the employee defendant's operation of the vehicle. Provides that this subsection does not prevent a claimant from presenting evidence allowed by Section 72.053.

(c) Authorizes a party, in regard to an employer defendant who is regulated by the Motor Carrier Safety Improvement Act of 1999 (Pub. L. No. 106-159) or Chapter 644 (Commercial Motor Vehicle Safety Standards), Transportation Code, and the defendant's employee, to present certain evidence in the first phase of a trial that is bifurcated under Section 72.052 if the evidence is applicable to the defendant.

(d) Provides that, if a civil action is bifurcated under Section 72.052, evidence admissible under Subsection (c) is:

- (1) admissible in the first phase of the trial only to prove ordinary negligent entrustment by the employer defendant to the employee who was driving the employer defendant's commercial motor vehicle at the time of the accident that is the subject of the civil action; and
- (2) the only evidence that may be presented by the claimant in the first phase of the trial on the negligent entrustment claim.

(e) Provides that nothing in this section may be construed to create a new rule or regulation or subject a person to a rule or regulation not applicable to the person without regard to this section.

(f) Provides that nothing in this section prevents a claimant from pursuing:

- (1) an ordinary negligence claim against an employer defendant for a claim, such as negligent maintenance, that does not require a finding of negligence by an employee as a prerequisite to an employer defendant being found negligent for its conduct or omission, or from presenting evidence on that claim in the first phase of a bifurcated trial; or
- (2) a claim for exemplary damages under Chapter 41 for an employer defendant's conduct or omissions in relation to the accident that is the subject of the action, or from presenting evidence on that claim in the second phase of a bifurcated trial.

Sec. 72.055. **ADMISSIBILITY OF VISUAL DEPICTIONS OF ACCIDENT.** (a) Prohibits a court, in a civil action under this subchapter, from requiring expert testimony for admission into evidence of a photograph or video of a vehicle or object involved in an accident that is the subject of the action.

(b) Provides that, if properly authenticated under the Texas Rules of Evidence, a photograph or video of a vehicle or object involved in an accident that is the subject of a civil action under this subchapter is presumed admissible, even if the

photograph or video tends to support or refute an assertion regarding the severity of damages or injury to an object or person involved in the accident.

SECTION 6. Amends Subchapter A, Chapter 38, Insurance Code, by adding Section 38.005, as follows:

Sec. 38.005. COMMERCIAL AUTOMOBILE INSURANCE REPORT. (a) Requires the Texas Department of Insurance (TDI) to conduct a study each biennium on the effect, for each year of the biennium, on premiums, deductibles, coverage, and availability of coverage for commercial automobile insurance of H.B. 19, 87th Legislature, Regular Session, 2021.

(b) Requires TDI, not later than December 1 of each even-numbered year, to submit a written report of the results of the study conducted under Subsection (a) for the preceding biennium to the legislature.

(c) Provides that this section expires December 31, 2026.

SECTION 7. Makes application of this Act prospective as regards commencement of an action.

SECTION 8. Effective date: September 1, 2021.