

- SUBJECT:** Offense for transporting people in truck trailers or semitrailers
- COMMITTEE:** Transportation — committee substitute recommended
- VOTE:** 9 ayes — Krusee, Phillips, Hamric, Edwards, Garza, Harper-Brown, Hill, Laney, Mercer  
0 nays
- WITNESSES:** None
- BACKGROUND:** Transportation Code, Subtitle C delineates the rules of the road. Chapter 545 governs vehicle movement and operations. It distinguishes between a trailer and a semitrailer in that a semitrailer rests part of its weight on the vehicle pulling it, whereas all of a trailer's weight rests on its wheels. The term "truck" includes pickups. Secs. 542.301 and 542.401 make code violations misdemeanors punishable by fines of up to \$200, unless otherwise specified.
- In Texas, only state license and weight officers and others designated by the Legislature may enforce truck safety laws.
- DIGEST:** CSHB 2096 would prohibit a person from operating a truck, road tractor, or truck tractor that is pulling a trailer or semitrailer occupied by another person.
- Drivers would have defenses to prosecution based on their ignorance of any occupants' presence in the trailer or semitrailer, or based on the occupant being in a part of the trailer or semitrailer designed for habitation. Other defenses would include operating or towing the vehicle in a parade or in an emergency, in a properly permitted hayride, or to transport farm workers between fields on farm, ranch, or county roads outside municipalities.
- The bill would take effect September 1, 2003.
- SUPPORTERS SAY:** CSHB 2096 would create a new offense for the unauthorized transporting of people in trailers pulled by trucks. Riding in a truck trailer is a dangerous practice. The law prohibits Texans from driving pickups or flatbed trucks or from pulling flatbed trailers with children younger than 18 in the beds or

trailers. Texans also may not ride in house trailers while being towed. However, the state cannot prosecute the act of smuggling a person in a trailer pulled by a commercial truck.

The bill would address a problem of particular concern in Texas because of the state's lengthy border with Mexico and that nation's ongoing economic troubles. The proliferation of truck traffic due to the North American Free Trade Agreement makes trucks a more tempting means of entry for undocumented immigrants and their drivers more susceptible to graft and more willing to exploit desperate people by putting them at serious risk.

In summer 2002 near Dallas and San Antonio, and more recently in El Paso, law enforcement authorities have stopped large commercial trucks pulling trailers that carried apparently undocumented workers from Mexico. Some of the people being transported died; others were dehydrated or suffered other ill effects. Many were women and children. Drivers and, in some cases, other passengers were charged with federal crimes ranging from smuggling to murder. No state charges were filed.

CSHB 2096 would hold truck drivers responsible for their trailers' occupants. State government has a responsibility to help save lives and deter federal crimes. The bill would not ask drivers to do anything they should not already be doing, nor would it prohibit citizens from doing anything they should be doing.

Few good reasons exist for riding in a trailer, which primarily is designed to haul goods. However, CSHB 2096 would make several exceptions for common scenarios that would provide defense against prosecution, including "stowaways" and race-car trailers. It would track many of the well-established defenses, such as emergencies, already found the prohibition against minors riding in truck beds. No bill, however, could list all possible contingencies; some discretion must be exercised.

Law enforcement still would have to have probable cause to stop a truck. The bill would not lead to more searches or roadway checkpoints, nor would it be burdensome to state or local authorities. It would, however, give them another means of fighting smuggling and counteracting conditions that put the lives of

immigrants and others in danger, while allowing all peace officers to contribute to the interdiction effort.

The nature of the crime makes a Class C misdemeanor appropriate. Because it would not be a moving violation, an offense would not appear on driving records or affect automobile insurance coverage. A conviction could become part of a driver's criminal record, however, which also should act as a deterrent.

**OPPONENTS  
SAY:**

CSHB 2096 would be an unnecessary government intrusion into commercial activities and private lives. The bill would go too far by prohibiting the transporting of all people, not only smuggled people, with only a few narrow exceptions.

The bill's language is overly broad for what it attempts to do. If the goal is empowering law enforcement, attacking corruption, or preventing unsafe situations, the bill should address those issues specifically. There may be other legitimate reasons not listed in the bill for a person to ride for a brief period in a trailer pulled by a truck, such as moving a person's belongings or merchandise across town. Ordinary citizens not in a position to become smugglers should not be penalized for such an activity. The bill also would not define precisely what constitutes an emergency, giving arresting officers too much discretion and leaving interpretation up to local magistrates. Also, claiming ignorance of occupants' presence or unintentional transporting might not shield innocent drivers from the time and expense of citations and court appearances.

Immigration primarily is a federal law enforcement matter. Most truck-borne human smuggling occurs on interstate highways. This problem is better left to the Federal Bureau of Investigation, the U.S. Department of Homeland Security, and the Border Patrol. State and local law enforcement agencies have other priorities on which to focus their limited resources.

**OTHER  
OPPONENTS  
SAY:**

A Class C misdemeanor would be a minimal deterrent, if any, given the large sums of cash that truck drivers are offered to smuggle undocumented workers or to transport travelers. Penalties stiffer than the equivalent of a parking violation are needed to make a serious effort to curb illegal immigration and

protect innocent lives. The bill should aggregate fines by making the transporting of each individual a separate offense.

The bill should exempt pickup trucks so as to avoid criminalizing everyday activities such as running errands or performing menial tasks that might require someone riding in a trailer to stabilize a load or because there was not room in the truck cab.

**NOTES:**

As filed, HB 2096 contained an exception in the offense for occupancy of towable recreational vehicles and only the defense to prosecution for emergencies.