

SUBJECT: Permitting overweight vehicles carrying timber, timber products

COMMITTEE: Transportation — committee substitute recommended

VOTE: 10 ayes — Phillips, Martinez, Burkett, Fletcher, Guerra, Harper-Brown,  
Lavender, McClendon, Pickett, Riddle

0 nays

1 absent — Y. Davis

WITNESSES: For —Duane Gordy, Community Development Education Foundation;  
Lonnie Grissom, North American Procurement Co.; Bill Kuhn, Georgia  
Pacific; Brent Mosley, Setx Environmental; Martin Nash, Tyler County;  
Charles Overstreet, Polk County; Linda Price, Ward Timber and Texas  
Logging Council; Betty Zimmerman, Texas Forest Landowners Council;  
(*Registered, but did not testify*: Richard A. Bennett, Texas Association of  
Manufacturers; George Christian, American Forest and Paper Association,  
MeadWestvaco Corp.; Norman Garza, Jr., Texas Farm Bureau; Charles  
Gee, Texas Logging Council; Wayne Griffin, Griffin Logging; Jill  
Grissom; Brad Hodges, Hodges Trucking; Forrest Hodges, Forrest Hodges  
Inc.; Ronald Hufford, Texas Forestry Association; Robert Hughes,  
Campbell Timberland Management; Joe Morris, Texas Sheep and Goat  
Raisers Association; Jim Reaves, Texas Nursery and Landscape  
Association; John Roby, Port of Beaumont; Marlin Rodrigues, Rodrigues  
and Sons Logging; Ed Small, Texas Forestry Association; Jim Sylvester,  
Travis County Sherrieff's Office; Bob Turner, Texas Poultry Federation)

Against — Joe English, Nacogdoches County; (*Registered, but did not  
testify*: Chuck Copeland and Elton Milstead, Nacogdoches County; Jim  
Elder, Nacogdoches County Commissioners Court; Doyle Williams,  
Nacogdoches County Road and Bridge)

On — Jimmy Archer, Carol Davis, and William Harbeson, Texas  
Department of Motor Vehicles; John Barton, Texas Department of  
Transportation; Robert Bass, County Judges and Commissioners  
Association of Texas

**BACKGROUND:** Transportation Code, sec. 621.101 states a vehicle or combination of vehicles cannot be operated over or on a public highway or at a port of entry between Texas and the United Mexican States if the vehicle or combination has a tandem axle weight heavier than 34,000 pounds, including all enforcement tolerances. The overall gross weight on a group of two or more consecutive axles cannot be heavier than 80,000 pounds.

**DIGEST:** CSHB 777 would create a new excess tandem axle weight permit and notification requirements for a person who was operating a vehicle or combination of vehicles to transport unrefined timber, wood chips or woody biomass over a highway or road. The bill would remove provisions that applied to vehicles used exclusively for transporting poles, piling, or unrefined timber.

**Civil penalties.** The bill would create a \$5,000 civil penalty for operating an overweight vehicle without an excess tandem axle weight permit and a \$1,000 civil penalty for not complying with notification requirements, to be awarded by a court having jurisdiction over misdemeanors. These penalties would be deposited in the county road and bridge fund of the county in which the violation occurred.

**Overweight permit.** The overweight tandem axle permit would increase the maximum allowable weight carried on any tandem axle to 44,000 pounds. The permit could be issued in addition to other permits required by law. To use the permit, an applicant would have to:

- pay \$800 per year;
- designate each county where they would operate the overweight vehicle or combination of vehicles; and
- carry the permit in the vehicle for which it was issued.

The \$800 permit fee would be divided as follows:

- 50 percent to the state highway fund;
- 50 percent divided among all counties designated in the permit application according to the ratio of the total amount of timber harvested in that county to the total amount of timber harvested by all counties designated on the application, as determined by the Texas A&M Forest Service's Harvest Trends Report.

The bill would require the comptroller to send the amount of the \$800

permit due to each county to the treasurer or officer performing the function of that office for deposit to the county road and bridge fund.

**Notification requirements.** The bill would require a person operating a vehicle to transport timber to electronically file a notification document with TxDMV at least two days before they planned to use a county road or state highway. TxDMV would have to send an electronic receipt of the notification document to each county identified in the notification document, the Texas Department of Transportation, and the financially responsible party. The notification document would include:

- the name and address of the financially responsible party, meaning the vehicle owner, vehicle operator, or the person who hired, leased, rented, or subcontracted the vehicle for use on a road maintained by a county or a state highway;
- a description of each permit issued for the vehicle or combination of vehicles;
- a description of how they established financial responsibility, whether through liability insurance, a surety bond, a deposit, or self-insurance;
- the address or location of the area where the financially responsible party wished to operate, including the specific route and the name or number of each county road or state highway;
- a calendar or schedule of duration including the days and hours when the financially responsible party anticipated using the county road or highway; and
- the license plate numbers or other registration information for all vehicles and the means of financial responsibility for each vehicle if they were not covered by a single insurance policy, surety bond, deposit, or other means of financial assurance.

**Inspection.** The bill would allow TxDOT to inspect and document the condition of a road or highway identified in the notification document before and after the financially responsible party planned to use them. TxDOT would have to provide a copy of the inspection to the financially responsible party.

**National standards.** The bill would not supersede national weight and size requirements for the national system of interstate and defense highways in Texas.

The bill would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

CSHB 777 would make it easier for vehicles that transport timber, wood chips or wood biomass to operate efficiently, legally, and safely without increasing the gross weight limit allowed under current law. Current law makes it difficult for loggers to meet current axle weight requirements and creates an incentive for loggers to operate illegally. Many loggers have made the economically rational decision to not purchase a permit, operate over the regulatory limits, and to consider any assessment of fines as "the cost of doing business." The bill would simply allow loggers to operate legally by creating an \$800 yearly permit to provide financial relief for counties and the state to maintain roads used by the logging industry.

CSHB 777 would give loggers the discretion to carry more weight on one of the tandem axles to address the difficulty of distributing wood biomass. Vans transporting wood chips tend to concentrate wood biomass on their front axles because the biomass gets stuck there as woodchips are blown into the van.

The bill would protect county and local taxpayers' investment in their roads by adding protections against rogue haulers who failed to obtain a permit and haulers who failed to file financial responsibility information with TxDMV by issuing a \$5,000 and \$1,000 civil penalty respectively, that would be deposited to the credit of the county road and bridge fund of the county in which the violation occurred.

The bill would decrease damage to local roads because loggers who currently run overweight on their tandem axles do not sufficiently reimburse local government for road damage. By creating a more prohibitive fine for not carrying an overweight permit, the bill would discourage loggers from going above the gross weight limit and causing more damage.

**OPPONENTS  
SAY:**

The bill would erode local control over overweight permits and would not reimburse counties sufficiently for increased administrative costs for collecting the state's portion of the permitting fee and the resulting damage to local roads. Counties would receive only 50 percent of the fee collected from the \$800 permit, to be divided among all affected counties. County roads are built and paid for by local taxpayers, who would not receive enough relief under this bill to maintain the roads they paid for.