

BILL ANALYSIS

Senate Research Center
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S.B. 1373
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, fees for overweight truck permits go to the counties and to the general revenue fund depending upon the permit. Counties that have overweight truck traffic are in need of increased revenue and the overweight permit fees have not been updated since 1991. There is also a need to address enforcement efforts against violators of the motor vehicle size and weight laws of this state.

As proposed, S.B. 1373 increases certain fees for overweight truck permits. This bill also sends certain permit fee revenue to the state highway fund to be used for transportation-related issues. Finally, this bill authorizes the Texas Department of Transportation to investigate or revoke a permit issued to a person or the holder of the permit who violates overweight truck statutes.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Department of Transportation is modified in SECTION 7 (Section 623.096, Transportation Code) and SECTION 21 (Section 645.003, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 623.011, Transportation Code, by amending Subsection (b) and adding Subsection (h), as follows:

(b) Requires a base permit fee of \$225, rather than \$75, to be paid, among other requirements, in order to qualify for a permit under this section (Permit for Excess Axle or Gross Weight).

(h) Requires the Texas Department of Transportation (TxDOT) to send each fee collected under this section to the comptroller of public accounts (comptroller) for deposit to the credit of the state highway fund (fund).

SECTION 2. Amends Section 623.0111(a), Transportation Code, to increase the amount of the annual fee a person is required to pay when a person applies for a permit under Section 623.011 by certain amounts based upon the number of counties designated in the application for which the vehicle will operated.

SECTION 3. Amends Section 623.0112, Transportation Code, as follows:

Sec. 623.0112. ADDITIONAL ADMINISTRATIVE FEE. (a) Creates this subsection from existing text.

(b) Requires TxDOT to send each fee collected under this section to the comptroller for deposit to the credit of the fund.

SECTION 4. Amends Section 623.014, Transportation Code, by adding Subsection (f), to require TxDOT to send each fee collected under this section (Transfer of Permit) to the comptroller for deposit to the credit of the fund.

SECTION 5. Amends Sections 623.076(a) and (c), Transportation Code, as follows:

(a) Increases the amount of certain permit fees required to accompany an application for a permit under this subchapter (Heavy Equipment).

(c) Requires an application for a permit under Section 623.071(c)(3) or (d) (regarding permits to move certain heavy equipment) to be accompanied by the permit fee established by the Texas Transportation Commission for the permit, not to exceed \$10,500, rather than \$3,500. Requires TxDOT to send each fee collected under this subsection to the comptroller for deposit to the credit of the fund, rather than requiring the first \$1,000 to be sent to the comptroller for deposit to the credit of the general revenue fund and any amount in excess of \$1,000 to be sent to the comptroller for deposit to the credit of the fund.

SECTION 6. Amends Section 623.077(a), Transportation Code, to increase by certain amounts the maintenance fees that an applicant for a permit under this subchapter (Heavy Equipment), other than a permit under Section 623.071(c)(3), is required to pay based upon vehicle weight.

SECTION 7. Amends Section 623.096, Transportation Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Requires TxDOT to collect a fee of \$60, rather than \$20, for each permit issued under this subchapter (Manufactured and Industrialized Housing). Deletes existing text requiring 30 cents of each fee to be deposited to the credit of the fund.

(b) Requires TxDOT to adopt rules concerning fees for each annual permit issued under Section 623.095(c) (regarding a permit for certain trips for the transportation of new manufactured homes) at a cost not to exceed \$4,500, rather than \$1,500. Deletes existing text requiring two percent of any fee adopted to be deposited to the credit of the fund.

(d) Requires TxDOT to send each fee collected under this section to the comptroller for deposit to the credit of the fund.

SECTION 8. Amends Section 623.124, Transportation Code, as follows:

Sec. 623.124. FEE. (a) Creates this subsection from existing text. Requires an application for a permit to move a portable building unit to be accompanied by a fee of \$22.50, rather than \$7.50.

(b) Requires TxDOT to send each fee collected under this section to the comptroller for deposit to the credit of the fund.

SECTION 9. Amends Section 623.144, Transportation Code, as follows:

Sec. 623.144. REGISTRATION OF VEHICLE. Authorizes a permit under this subchapter (Oil Well Servicing and Drilling Machinery) to be issued only if the vehicle is registered under Chapter 502 (Registration for Vehicles) for the maximum gross weight applicable to the vehicle under Section 621.101 (Maximum Weight of Vehicle or Combination) or has the distinguishing license plates as provided by Section 504.504 (Certain Farm Vehicles and Drilling and Construction Equipment), rather than Section 502.276, if applicable to the vehicle.

SECTION 10. Amends Section 623.149(a), Transportation Code, to make a conforming change.

SECTION 11. Amends Section 623.182, Transportation Code, as follows:

Sec. 623.182. PERMIT FEE. (a) Creates this subsection from existing text. Provides that the fee for a permit under this subchapter (Unladen Lift Equipment Motor Vehicles; Annual Permit) is \$150, rather than \$50.

(b) Requires TxDOT to send each fee collected under this section to the comptroller for deposit to the credit of the fund.

SECTION 12. Amends Section 623.194, Transportation Code, to make a conforming change.

SECTION 13. Amends Section 623.199(a) Transportation Code, to make a conforming change.

SECTION 14. Amends Chapter 623, Transportation Code, by adding Subchapter N, as follows:

SUBCHAPTER N. ADMINISTRATIVE SANCTIONS

Sec. 623.271. ADMINISTRATIVE ENFORCEMENT. (a) Authorizes TxDOT to investigate and impose an administrative penalty or revoke an oversize or overweight permit issued under this chapter (Permits for Oversize or Overweight Vehicles) if the person or holder of the permit, as applicable, commits certain acts or violations.

(b) Provides that the notice and hearing requirements of Section 643.2525 apply to the imposition of an administrative penalty or the revocation of a permit under this section as if the action were being taken under that section.

(c) Provides that the amount of an administrative penalty imposed under this section is calculated in the same manner as the amount of an administrative penalty imposed under Section 643.251 (Administrative Penalty).

(d) Prohibits a person who has been ordered to pay an administrative penalty under this section and the vehicle that is the subject of the enforcement order from being issued a permit under this chapter until the amount of the penalty has been paid to TxDOT.

Sec. 623.272. INJUNCTIVE RELIEF. (a) Authorizes the attorney general, at the request of TxDOT, to petition a district court for appropriate injunctive relief to prevent or abate a violation of this chapter or a rule or order adopted under this chapter.

(b) Establishes that the venue in a suit for injunctive relief under this section is in Travis County.

(c) Requires the court to grant the appropriate relief on application for injunctive relief and a finding that a person is violating, has violated, or threatens to violate this chapter or a rule or order adopted under this chapter.

SECTION 15. Amends Section 643.251(a), Transportation Code, as follows:

(a) Authorizes TxDOT to impose an administrative penalty against a motor carrier required to register under Subchapter B (Registration) that violates this chapter (Motor Carrier Registration), rather than certain other sections, or a rule or order adopted under this chapter, rather than certain provisions or Section 643.003. Deletes existing text requiring TxDOT to designate one or more employees to investigate violations and administer penalties under this section.

SECTION 16. Amends the heading to Section 643.252, Transportation Code, to read as follows:

Sec. 643.252. ADMINISTRATIVE SANCTIONS.

SECTION 17. Amends Section 643.252(a), Transportation Code, as follows:

(a) Authorizes TxDOT to deny a registration issued under this chapter or place on probation a motor carrier whose registration is suspended if a motor carrier commits certain actions or violations. Authorizes TxDOT to suspend, revoke, or deny a registration issued under this chapter or place on probation a motor carrier whose registration is suspended if a motor carrier violates any provision of this chapter or violates a rule or order adopted under this chapter. Makes nonsubstantive changes.

SECTION 18. Amends Subchapter F, Chapter 643, Transportation Code, by adding Section 643.2525, as follows:

Sec. 643.2525. ADMINISTRATIVE HEARING PROCESS. (a) Requires TxDOT, if TxDOT determines that a violation has occurred for which an enforcement action is being taken under Section 643.251 or 643.252 (Suspension and Revocation of License), to give written notice to the motor carrier by first class mail to the carrier's address as shown in the records of TxDOT. Provides that notice is presumed to be received on the fifth day after the date the notice is mailed.

(b) Requires a notice required by Subsection (a) to include certain information.

(c) Requires TxDOT, if not later than the 26th day after the date the notice is mailed TxDOT receives a written request for a hearing, to set a hearing and give notice of the hearing to the carrier. Requires the hearing to be conducted by an administrative law judge of the State Office of Administrative Hearings.

(d) Provides that TxDOT's decision becomes final on the expiration of the period described by Subsection (c) if the motor carrier does not timely request a hearing under Subsection (c).

(e) Requires the administrative law judge to make findings of fact and conclusions of law and promptly issue to the director of TxDOT (director) a proposal for a decision as to the occurrence of the violation and the administrative penalties or sanctions.

(f) Requires the administrative law judge, in addition to a penalty or sanction proposed under Subsection (e), to include in the proposal for a decision a finding setting out costs, fees, expenses, and reasonable attorney's fees incurred by the state in bringing the proceeding. Authorizes the director to adopt the finding and make it a part of a final order entered in the proceeding.

(g) Authorizes the director by order, based on the findings of fact, conclusions of law, and proposal for a decision, to find that a violation has occurred and impose the sanctions or find that a violation has not occurred.

(h) Requires the director to provide written notice to the motor carrier of a finding made under Subsection (g) and include in the notice a statement of the right of the carrier to judicial review of the order.

(i) Authorizes the motor carrier, before the 31st day after the date the director's order under Subsection (g) becomes final as provided by Section 2001.144 (Decisions; When Final), Government Code, to appeal the order by filing a petition for judicial review contesting the order. Provides that judicial review is under the substantial evidence rule.

(j) Provides that a petition filed under Subsection (i) stays the enforcement of the administrative action until the earlier of the 550th day after the date the petition was filed or the date a final judgment is rendered by the court.

(k) Provides that if the motor carrier is required to pay a penalty or cost, failure to pay the penalty or cost before the 61st day after the date the requirement becomes final is a violation of this chapter and authorizes such to result in an additional penalty, revocation or suspension of a motor carrier registration, or denial of renewal of a motor carrier registration.

(l) Provides that a motor carrier that is required to pay a penalty, cost, fee, or expense under this section or Section 643.251 is not eligible for a reinstatement or a renewal of registration under this chapter until all required amounts have been paid to TxDOT.

(m) Authorizes TxDOT, if the suspension of a motor carrier's registration is probated, to require the carrier to report regularly to TxDOT on any matter that is

the basis of the probation. Authorizes any violation of the probation to result in the imposition of an administrative penalty or the revocation of the registration.

(n) Provides that all proceedings under this section are subject to Chapter 2001 (Administrative Procedure), Government Code.

SECTION 19. Amends Section 643.254(a), Transportation Code, to authorize, to investigate an alleged violation of this chapter or a rule or order adopted under this chapter, an officer or employee of TxDOT who has been certified for the purpose by the director to enter a motor carrier's premises to inspect, copy, or verify the correctness of a document, including an operation log or insurance certificate.

SECTION 20. Amends Subchapter F, Chapter 643, Transportation Code, by adding Section 643.255, as follows:

Sec. 643.255. INJUNCTIVE RELIEF. (a) Authorizes the attorney general, at the request of TxDOT, to petition a district court for appropriate injunctive relief to prevent or abate a violation of this chapter or a rule or order adopted under this chapter.

(b) Establishes that venue in a suit for injunctive relief under this section is in Travis County.

(c) Requires the court to grant appropriate relief on application for injunctive relief and a finding that a person is violating, has violated, or threatens to violate this chapter or a rule or order adopted under this chapter.

SECTION 21. Amends Section 645.003, Transportation Code, as follows:

Sec. 645.003. ENFORCEMENT RULES. Requires TxDOT to adopt rules that are consistent with federal law providing for administrative penalties and sanctions for a failure to register as required by the unified carrier registration system or a violation of this chapter or a rule adopted under this chapter in the same manner as Subchapter F (Enforcement), Chapter 643. Deletes existing text requiring TxDOT to adopt rules that are consistent with federal law providing for suspension and revocation of registration in the same manner as Section 643.252.

SECTION 22. Provides that the following laws are repealed:

- (1) Sections 643.251(d)-(r) (regarding administrative penalty), Transportation Code; and
- (2) Sections 643.252(c)-(e) (regarding suspension and revocation of license), Transportation Code.

SECTION 23. (a) Makes application of the changes in law made by this Act relating to the amount or disposition of a fee collected by TxDOT in connection with a permit for an overweight or oversize vehicle prospective.

(b) Makes application of Subchapter N, Chapter 623, Transportation Code, as added by this Act, prospective.

(c) Makes application of Section 643.2525, Transportation Code, as added by this Act, prospective.

SECTION 24. Effective date: September 1, 2007.