

## **BILL ANALYSIS**

Senate Research Center  
83R10517 DRH-F

S.B. 1671  
By: Nichols  
Transportation  
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As Filed

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

The Department of Public Safety of the State of Texas (DPS) has primary responsibility for the enforcement of commercial vehicle laws and regulations, including restrictions on size and weight. Current commercial vehicle penalties are insufficient and do not prevent companies from side stepping oversize/overweight (OS/OW) motor vehicle permitting laws. This essentially leads haulers to calculate the risk of low weight and size fines as compared to a high permitting fee if they do not get caught.

In order to have an effective OS/OW permitting process in this state, a strong and effective enforcement of state truck size and weight laws is needed. This bill aims to discourage illegal OS/OW operations on Texas roads and bridges.

S.B. 1671 amends several sections of Chapter 623, Transportation Code, relating to permits for and operation of OS/OW vehicles.

As proposed, S.B. 1671 amends current law relating to the fines for and other enforcement of laws providing for the operation of oversize or overweight vehicles.

### **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. Reenacts Section 622.017, Transportation Code, as amended by Chapter 942 (S.B. 889), Acts of the 77th Legislature, Regular Session, 2001, and repealed by Chapter 941 (S.B. 886), Acts of the 77th Legislature, Regular Session, 2001, and amends it as follows:

Sec. 622.017. PENALTY. Redesignates existing Subsection (d) as Section 622.017. Provides that a person commits an offense if the person fails in violation of Section 622.013(c) to carry or present the copy of the bond filed with the Texas Department of Motor Vehicles (TxDMV). Provides that an offense under this section, rather than subsection, is a misdemeanor punishable by a fine not to exceed \$1,000, rather than \$200.

SECTION 2. Amends Subchapter C, Chapter 622, Transportation Code, by adding Section 622.033, as follows:

Sec. 622.033. PENALTIES. (a) Provides that a person commits an offense if the person violates Section 622.031. Provides that, except as provided by Subsections (b) and (c), an offense under this section is a misdemeanor punishable by a fine of not more than \$1,000.

(b) Provides that if it is shown at the trial of the offense that the defendant was previously convicted of an offense under Subsection (a) not earlier than one year before the trial date, the offense is a misdemeanor punishable by a fine of not more than \$2,500.

(c) Provides that if it is shown at the trial of the offense that the defendant was previously convicted of an offense punishable under this subsection or Subsection (b) not earlier than one year before the trial date, the offense is a misdemeanor punishable by a fine of not more than \$1,750.

SECTION 3. Amends Section 622.072(c), Transportation Code, to provide that an offense under this section is a misdemeanor punishable by a fine of not less than \$50, rather than \$10, or more than \$200, rather than \$100, for each unit.

SECTION 4. Amends Sections 622.073(b) and (c), Transportation Code, as follows:

(b) Provides that, except as provided by Subsection (c), an offense under this section is a misdemeanor punishable by a fine of not less than \$200, rather than \$25, or more than \$750, rather than \$200.

(c) Provides that an offense under this section is a misdemeanor punishable by a fine of not less than \$700, rather than \$200, or more than \$1,500, rather than \$500, confinement in the county jail for a term of not less than 60 days or more than 180 days, or both the fine and the confinement if certain conditions are met.

SECTION 5. Amends Section 622.136, Transportation Code, as follows:

Sec. 622.136. PENALTY. (a) Creates this subsection from existing text. Provides that a person commits an offense if the person fails in violation of Section 622.134(d) (relating to requiring that a copy of the bond be carried on the vehicle when the vehicle is on a public highway and presented to an officer authorized to enforce this chapter on request of the officer) to carry or present the copy of the bond filed with TxDMV. Provides that, except as provided by Subsections (b) and (c), an offense under this section is a misdemeanor punishable by a fine not to exceed \$1,000, rather than \$200.

(b) Provides that if it is shown at the trial of the offense that the defendant was previously convicted of an offense under Subsection (a) not earlier than one year before the trial date, the offense is a misdemeanor punishable by a fine of not more than \$2,500.

(c) Provides that if it is shown at the trial of the offense that the defendant was previously convicted of an offense punishable under this subsection or Subsection (b) not earlier than one year before the trial date, the offense is a misdemeanor punishable by a fine of not more than \$1,750.

SECTION 6. Amends Section 623.011(f), Transportation Code, as follows:

(f) Provides that a person commits an offense if the person fails to display the sticker in the manner required by Subsection (d). Provides that an offense under this subsection is a misdemeanor, rather than a Class C misdemeanor, punishable by a fine of not less than \$250 or more than \$400. Provides that Section 623.019(g) (relating to requiring a justice or judge who renders a conviction under this section to report the conviction to the Department of Public Safety of the State of Texas) applies to an offense under this subsection.

SECTION 7. Amends Sections 623.019(b), (c), (d), and (f), Transportation Code, as follows:

(b) Provides that, except as provided by Subsections (c) and (d), an offense under Subsection (a) is a misdemeanor punishable by a fine of not less than \$2,500, rather than \$100, or more than \$5,000, rather than \$150.

(c) Provides that an offense under Subsection (a) is a misdemeanor and, except as provided by Subsection (d), is punishable by a fine of:

(1) not less than \$500, rather than \$300, or more than \$750, rather than \$500, if the offense involves a vehicle having a gross weight that is heavier than 1,000, rather than 5,000, but not heavier than 5,000 pounds, rather than 10,000 pounds, over the vehicle's allowable gross weight;

(2) not less than \$1,000 or more than \$2,500 if the offense involves a vehicle having a gross weight that is heavier than 5,000 pounds but not heavier than 10,000 pounds over the vehicle's allowable gross weight;

(3) not less than \$3,000 or more than \$5,000 if the offense involves a vehicle having a gross weight that is heavier than 10,000 pounds but not heavier than 20,000 pounds over the vehicle's allowable gross weight; or

(4) not less than \$10,000, rather than \$500, or more than \$25,000, rather than \$1,000, if the offense involves a vehicle having a gross weight that is heavier than 20,000 pounds, rather than at least 10,000 pounds, over the vehicle's allowable gross weight. Makes a nonsubstantive change.

(d) Provides that an offense, except as otherwise provided by this section, on conviction before the first anniversary of the date of a previous conviction under Subsection (a), is punishable by a fine in the amount that is twice the amount specified in Subsection (c). Provides that on a second or subsequent conviction before the first anniversary of the date of a previous conviction under Subsection (a), an offense is punishable by a fine in an amount that is three times the amount specified by Subsection (c) and forfeiture of the permit.

(f) Provides that a county or district court has jurisdiction of an offense under this section in which the fine exceeds \$10,000.

SECTION 8. Amends Section 623.082(b), Transportation Code, as follows:

(b) Provides that, except as provided by Subsection (c), an offense under this section is a misdemeanor punishable:

(1) by a fine of not more than \$2,500, rather than \$200;

(2) on conviction within one year after the date of a prior conviction under this section that was punishable under Subdivision (1), by a fine of not more than \$5,000, rather than \$500, by confinement in the county jail for not more than 60 days, or by both the fine and the confinement; or

(3) on conviction within one year after the date of a prior conviction under this section that was punishable under Subdivision (2) or this subdivision, by a fine of not more than \$4,000, rather than \$1,000, by confinement in the county jail for not more than six months, or by both the fine and the confinement.

SECTION 9. Amends Section 623.104(b), Transportation Code, to authorize a person convicted of an offense under Subsection (a) to also be assessed a civil penalty of not less than \$3,000, rather than \$200, or more than \$5,000, rather than \$500, for failure to obtain a permit, have a required rotating amber beacon on the manufactured house or towing vehicle, provide a required escort flag vehicle, or have the required insurance.

SECTION 10. Amends Section 623.105(b), Transportation Code, to provide that an offense under this section is a misdemeanor punishable by a fine of \$5,000, rather than \$1,000.

SECTION 11. Amends Subchapter G, Chapter 623, Transportation Code, by adding Section 623.151, as follows:

Sec. 623.151. CRIMINAL AND CIVIL PENALTIES. (a) Provides that a person commits an offense if the person violates a provision of this subchapter. Provides that an offense under this subsection is a Class C misdemeanor.

(b) Authorizes a person convicted of an offense under Subsection (a) to also be assessed a civil penalty of not less than \$3,000 or more than \$5,000 for failure to comply with a rule of the board of TxDMV (board) or with a condition placed on a permit issued under this subchapter. Authorizes the civil penalty to be awarded by a court having jurisdiction over a Class C misdemeanor and requires that the penalty be paid to the county in which the person was convicted.

SECTION 12. Amends Section 623.165, Transportation Code, as follows:

Sec. 623.165. PENALTY. (a) Creates this subsection from existing text. Provides that a person commits an offense if the person fails in violation of Section 623.163(d) (relating to requiring that a copy of the bond be carried on the vehicle when the vehicle is on a public highway and presented to an officer authorized to enforce this chapter on request of the officer) to carry or present the copy of the bond filed with TxDMV. Provides that an offense under this section is a misdemeanor punishable by a fine not to exceed \$2,000, rather than \$200.

(b) Authorizes a person convicted of an offense under Subsection (a) to also be assessed a civil penalty of not less than \$3,000 or more than \$5,000 for failure to obtain a bond required by this subchapter. Authorizes the civil penalty to be awarded by a court having jurisdiction over misdemeanors and requires that the penalty be paid to the county in which the person was convicted.

SECTION 13. Amends Subchapter J, Chapter 623, Transportation Code, by adding Section 623.201, as follows:

Sec. 623.201. CRIMINAL AND CIVIL PENALTIES. (a) Provides that a person commits an offense if the person violates a provision of this subchapter. Provides that an offense under this subsection is a Class C misdemeanor.

(b) Authorizes a person convicted of an offense under Subsection (a) to also be assessed a civil penalty of not less than \$3,000 or more than \$5,000 for failure to comply with a rule of the board or with a condition placed on a permit issued under this subchapter. Authorizes the civil penalty to be awarded by a court having jurisdiction over a Class C misdemeanor and requires that the penalty be paid to the county in which the person was convicted.

SECTION 14. Amends Subchapter K, Chapter 623, Transportation Code, by adding Section 623.220, as follows:

Sec. 623.220. CRIMINAL AND CIVIL PENALTIES. (a) Provides that a person commits an offense if the person violates a provision of this subchapter. Provides that an offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$750.

(b) Authorizes a person convicted of an offense under Subsection (a) to also be assessed a civil penalty of not less than \$3,000 or more than \$5,000 for violation of this subchapter. Authorizes the civil penalty to be awarded by a court having jurisdiction over misdemeanors and requires that the penalty to be paid to the county in which the person was convicted.

SECTION 15. Amends Subchapter L, Chapter 623, Transportation Code, by adding Section 623.240, as follows:

Sec. 623.240. CRIMINAL AND CIVIL PENALTIES. (a) Provides that a person commits an offense if the person violates a provision of this subchapter. Provides that an

offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$750.

(b) Authorizes a person convicted of an offense under Subsection (a) to also be assessed a civil penalty of not less than \$3,000 or more than \$5,000 for failure to comply with a rule of the Texas Transportation Commission (TTC) related to a permit issued under this subchapter. Authorizes the civil penalty to be awarded by a court having jurisdiction over misdemeanors and requires that the penalty be paid to the county in which the person was convicted.

SECTION 16. Amends Subchapter M, Chapter 623, Transportation Code, by adding Section 623.260, as follows:

Sec. 623.260. **CRIMINAL AND CIVIL PENALTIES.** (a) Provides that a person commits an offense if the person violates a provision of this subchapter. Provides that an offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$750.

(b) Authorizes a person convicted of an offense under Subsection (a) to also be assessed a civil penalty of not less than \$3,000 or more than \$5,000 for failure to comply with a rule of TTC related to a permit issued under this subchapter. Authorizes the civil penalty to be awarded by a court having jurisdiction over misdemeanors and requires that the penalty be paid to the county in which the person was convicted.

SECTION 17. Amends Subchapter O, Chapter 623, Transportation Code, by adding Section 623.289, as follows:

Sec. 623.289. **CRIMINAL AND CIVIL PENALTIES.** (a) Provides that a person commits an offense if the person violates a provision of this subchapter. Provides that an offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$750.

(b) Authorizes a person convicted of an offense under Subsection (a) to also be assessed a civil penalty of not less than \$3,000 or more than \$5,000 for failure to comply with a rule of TTC related to a permit issued under this subchapter. Authorizes the civil penalty to be awarded by a court having jurisdiction over misdemeanors and requires that the penalty be paid to the county in which the person was convicted.

SECTION 18. Amends Subchapter P, Chapter 623, Transportation Code, by adding Section 623.311, as follows:

Sec. 623.311. **CRIMINAL AND CIVIL PENALTIES.** (a) Provides that a person commits an offense if the person violates a provision of this subchapter. Provides that an offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$750.

(b) Authorizes a person convicted of an offense under Subsection (a) to also be assessed a civil penalty of not less than \$3,000 or more than \$5,000 for failure to comply with a rule of TTC related to a permit issued under this subchapter. Authorizes the civil penalty to be awarded by a court having jurisdiction over misdemeanors and requires that the penalty be paid to the county in which the person was convicted.

SECTION 19. Provides that the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that, for purposes of this section, an

offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 20. Effective date: September 1, 2013.