

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1671
By: Nichols
Transportation
4/12/2013
Committee Report (Substituted)

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.

C.S.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. Amends Section 621.502, Transportation Code, by adding Subsection (e), as follows:

(e) Provides that intent to operate a vehicle at a weight that is heavier than the weight authorized by a permit issued under Chapter 623 (Permits for Oversize or Overweight Vehicles), except for a permit issued under Section 623.011 (Permit for Excess Axle or Gross Weight), is presumed if:

(1) the vehicle is operated at a weight that is heavier than the applicable weight allowed under Chapter 623; and

(2) a permit to operate at that weight has not been issued for the vehicle.

SECTION 2. Amends Section 621.503, Transportation Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Prohibits a person from loading, or causing to be loaded, a vehicle for operation on a public highway of this state that exceeds the weight limitations for operation of that vehicle provided by Section 621.101 (Maximum Weight of Vehicle or Combination) or Chapter 623.

(b) Provides that intent to violate a limitation is presumed if the weight of the loaded vehicle is heavier than the applicable axel or gross weight limit by three percent or more, rather than by 15 percent or more.

(d) Provides that a violation of this section is subject to administrative enforcement under Subchapter N (Administrative Sanctions), Chapter 623.

SECTION 3. Amends Section 621.506, Transportation Code, by amending Subsections (a) and (b) and adding Subsections (b-1), (b-2), and (i), as follows:

(a) Provides that a person commits an offense if the person:

(1) operates a vehicle or combination of vehicles in violation of Sections 621.101, 622.031 (Length and Axle Weight Restrictions), 622.041 (Length Limitation), 622.0435 (Vehicles Transporting Raw Wood Products), 622.061 (Length Limitation), 622.133 (Axle Weight Restrictions), 622.953 (Vehicle Transporting Seed Cotton or Chile Pepper Modules), or 623.162 (Axle Weight Restrictions), rather than in violation of Sections 621.101, 622.012 (Axle Weight Restrictions), 622.031, 622.133, 622.953, or 623.162; or

(2) Makes no change to this subdivision.

(b) Provides that an offense under this section is a misdemeanor punishable:

(1) by a fine of not less than \$500 and not more than \$1,250, rather than by a fine of not less than \$100 and not more than \$150;

(2) on conviction of an offense involving:

(A) a Class 1 weight violation, by a fine of not less than \$750 or more than \$1,500;

(B) a Class 2 weight violation, by a fine of not less than \$1,500 or more than \$3,000;

(C) a Class 3 weight violation, by a fine of not less than \$3,500 or more than \$7,000; or

(D) a Class 4 weight violation, by a fine of not less than \$7,500 or more than \$15,000;

(3) on conviction, before the first anniversary of the date of a previous conviction under this section, of a second offense under this section involving:

(A) a Class 1 weight violation, by a fine of not less than \$1,000 or more than \$2,000;

(B) a Class 2 weight violation, by a fine of not less than \$2,500 or more than \$4,500;

(C) a Class 3 weight violation, by a fine of not less than \$4,500 or more than \$8,000; or

(D) a Class 4 weight violation, by a fine of not less than \$9,250 or more than \$18,000;

(4) on conviction, before the first anniversary of the date of a previous conviction under this section, of a third offense under this section involving:

(A) a Class 1 weight violation, by a fine of not less than \$2,500 or more than \$3,750;

(B) a Class 2 weight violation, by a fine of not less than \$4,000 or more than \$5,500;

(C) a Class 3 weight violation, by a fine of not less than \$6,000 or more than \$9,000;

(D) a Class 4 weight violation, by a fine of not less than \$12,500 or more than \$22,000; and

(5) on conviction, after the first anniversary of a previous conviction under this section, of a subsequent offense under this section involving:

(A) a Class 1 weight violation, by a fine of not less than \$850 or more than \$1,750;

(B) a Class 2 weight violation, by a fine of not less than \$1,750 or more than \$3,250;

(C) a Class 3 weight violation, by a fine of not less than \$3,700 or more than \$7,500;

(D) a Class 4 weight violation, by a fine of not less than \$7,750 or more than \$16,000;

Deletes existing text providing that an offense under this section is a misdemeanor punishable on conviction of an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 but not more than 10,000 pounds heavier than the vehicle's allowable weight, by a fine of not less than \$300 or more than \$500; and on conviction of an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 10,000 pounds heavier than the vehicle's allowable weight, by a fine of not less than \$500 or more than \$1,000. Deletes existing Subdivision (4) providing that a person commits an offense if the person on conviction before the first anniversary of the date of a previous conviction under this section, by a fine in an amount that is twice the amount specified by Subdivision (1), (2), or (3).

(b-1) Provides that a previous offense under this section includes any offense under this section, for purposes of Subsection (b)(3), (4), or (5), regardless of whether the offense involved a weight class violation or the same weight class violation.

(b-2) Provides that a vehicle having a single axle weight, tandem axle weight, or gross weight, that is more than the vehicle's allowable weight, in this section, is:

(1) a Class 1 weight violation, if the excess weight is more than 2,500 pounds but not more than 5,000 pounds;

(2) a Class 2 weight violation, if the excess weight is more than 5,000 pounds but not more than 10,000 pounds;

(3) a Class 3 weight violation, if the excess weight is more than 10,000 pounds or more than 20,000 pounds; and

(4) a Class 4 weight violation, if the excess weight is more than 20,000 pounds.

(i) Provides that a violation of this section is subject to administrative enforcement under Subchapter N, Chapter 623.

SECTION 4. Amends Subchapter G, Chapter 621, Transportation Code, by adding Section 621.5061, as follows:

Sec. 621.5061. OFFENSE OF OPERATING OVERWEIGHT READY-MIXED CONCRETE TRUCK; PENALTY; DEFENSE. (a) Defines "ready-mixed concrete truck" in this section.

(b) Provides that a person commits an offense if the person operates a ready-mixed concrete truck in violation of Section 622.012.

(c) Provides that an offense under this section is a misdemeanor punishable:

(1) by a fine of not less than \$100 and not more than \$150;

(2) on conviction of an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 pounds but not more than 10,000 pounds heavier than the vehicle's allowable weight, by a fine of not less than \$300 or more than \$500;

(3) on conviction of an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 10,000 pounds heavier than the vehicle's allowable weight, by a fine of not less than \$500 or more than \$1,000; or

(4) on conviction before the first anniversary of the date of a previous conviction under this section, by a fine in an amount that is twice the amount specified by Subdivision (1), (2), or (3).

(d) Authorizes the court, on conviction of a violation of an axle weight limitation, to assess a fine less than the applicable minimum amount prescribed by Subsection (c) if the court finds that when the violation occurred the vehicle was registered to carry the maximum gross weight authorized for that vehicle under Section 622.012, and the gross weight of the vehicle did not exceed that maximum gross weight.

(e) Requires a judge or justice to promptly report to the Department of Public Safety of the State of Texas (DPS) each conviction obtained in the judge's or the justice's court under this section. Requires DPS to keep a record of each conviction reported to it under this subsection.

(f) Authorizes the district or county attorney in the county in which the conviction occurs, if a corporation fails to pay the fine assessed on conviction of an offense under this section, to file suit against the corporation to collect the fine.

(g) Provides that a justice or municipal court has jurisdiction of an offense under this section.

(h) Requires a governmental entity that collects a fine under this section for an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 pounds heavier than the vehicle's allowable weight, except as provided by Subsection (i), to send an amount equal to 50 percent of the fine to the comptroller of public accounts of the State of Texas (comptroller) in the manner provided by Subchapter B (Reporting, Collection, and Remittance of Fees), Chapter 133 (Criminal and Civil Fees Payable to the Comptroller), Local Governmental Code.

(i) Requires that the entire amount of the fine, if the offense described by Subsection (h) occurred within 20 miles of an international border, be deposited for the purposes of road maintenance in the municipal treasury, if the fine was imposed by a municipal court, or the county treasury, if the fine was imposed by a justice court.

SECTION 5. Amends Section 621.507(b), Transportation Code, as follows:

(b) Provides that an offense under this section is a misdemeanor punishable:

(1) by a fine of not less than \$500 and not more than \$1,250, or \$5,000, if the convicted person is a corporation;

(2) on conviction before the first anniversary of the date of a previous conviction under this section by a fine of not less than \$1,500 and not more than \$3,000, by confinement in a county jail for not more than 60 days, or by both the fine and confinement, or if the convicted person is a corporation, by a fine of \$8,000; or

(3) on a conviction after the first anniversary of the date of a previous conviction under this section that was punishable under Subdivision (1) by a fine of not less than \$750 and not more than \$1,500, by confinement in the county jail for not more than 30 days, or by both the fine and confinement, or if the convicted person is a corporation, by a fine not to exceed \$6,500.

Deletes existing text providing an offense under this section is a misdemeanor punishable by a fine not to exceed \$200; on conviction before the first anniversary of the date of a previous conviction under this section by a fine not to exceed \$500, by confinement in a county jail for not more than 60 days, or by both the fine and confinement; or if the convicted person is a corporation, by a fine not to exceed \$1,000; or on a conviction before the first anniversary of the date of a previous conviction under this section that was punishable under Subdivision (2) or this subdivision by a fine not to exceed \$1,000, by confinement in the county jail for not more than six months, or by both the fine and confinement; or if the convicted person is a corporation, by a fine not to exceed \$2,000.

SECTION 6. Amends Sections 623.019, Transportation Code, by amending Subsections (b), (c), (e), and (f) and adding Subsections (b-1) and (b-2), as follows:

(b) Provides that an offense under Subsection (a) is a misdemeanor punishable:

(1) by a fine of not less than \$1,000 or more than \$2,250;

(2) on conviction of an offense involving:

(A) a Class 1 weight violation, by a fine of not less than \$750 or more than \$1,500;

(B) a Class 2 weight violation, by a fine of not less than \$1,500 or more than \$3,000;

(C) a Class 3 weight violation, by a fine of not less than \$3,500 or more than \$7,000; or

(D) a Class 4 weight violation, by a fine of not less than \$7,500 or more than \$15,000;

(3) on conviction, before the first anniversary of the date of a previous conviction under this section, of a second offense under this section involving:

(A) a Class 1 weight violation, by a fine of not less than \$1,000 or more than \$2,000;

(B) a Class 2 weight violation, by a fine of not less than \$2,500 or more than \$4,500;

(C) a Class 3 weight violation, by a fine of not less than \$4,500 or more than \$8,000; or

(D) a Class 4 weight violation, by a fine of not less than \$9,250 or more than \$18,000;

(4) on conviction, before the first anniversary of a previous conviction under this section, of a third offense under this section involving:

(A) a Class 1 weight violation, by a fine of not less than \$2,500 or more than \$3,750;

(B) a Class 2 weight violation, by a fine of not less than \$4,000 or more than \$5,500;

(C) a Class 3 weight violation, by a fine of not less than \$6,000 or more than \$9,000; or

(D) a Class 4 weight violation, by a fine of not less than \$12,500 or more than \$22,000; and

(5) on conviction, after the first anniversary of a previous conviction under this section, of a subsequent offense under this section involving:

(A) a Class 1 weight violation, by a fine of not less than \$850 or more than \$1,750;

(B) a Class 2 weight violation, by a fine of not less than \$1,750 or more than \$3,250;

(C) a Class 3 weight violation, by a fine of not less than \$3,700 or more than \$7,500; or

(D) a Class 4 weight violation, by a fine of not less than \$7,750 or more than \$16,000.

Deletes existing text providing that an offense, except as provided by Subsections (c) and (d), under Subsection (a) is a misdemeanor punishable by a fine of not less than \$100 or more than \$150.

(b-1) Provides that a previous offense, for purposes of Subsection (b)(3), (4), or (5), under this section includes any offense under this section, regardless of whether the offense involved a weight class violation or the same weight class violation.

(b-2) Provides that in this section, a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than the vehicle's allowable weight is:

(1) a Class 1 weight violation, if the excess weight is more than 2,500 pounds but not more than 5,000 pounds;

(2) a Class 2 weight violation, if the excess weight is more than 5,000 pounds but not more than 10,000 pounds;

(3) a Class 3 weight violation, if the excess weight is more than 10,000 pounds but not more than 20,000 pounds; or

(4) a Class 4 weight violation, if the excess weight is more than 20,000 pounds.

(c) Provides that a violation of this section is subject to administrative enforcement under Subchapter N, Chapter 623. Deletes existing text providing an offense under Subsection (a) is a misdemeanor and, except as provided by Subsection (d) (relating to providing that on conviction before the first anniversary of the date of a certain previous conviction, an

offense is punishable by a fine in an amount that is twice a certain amount), is punishable by a fine of not less than \$300 or more than \$500 if the offense involves a vehicle having a gross weight that is heavier than 5,000 but not heavier than 10,000 pounds over the vehicle's allowable gross weight, or not less than \$500 or more than \$1,000 if the offense involves a vehicle having a gross weight that is at least 10,000 pounds heavier than the vehicle's allowable gross weight.

(e) Requires a governmental entity collecting a fine under this section, rather than a fine under Subsection (c), to send an amount equal to 50 percent of the fine to the comptroller.

(f) Provides that a municipal court has jurisdiction of an offense under this section in which the fine does not exceed \$10,000, rather than does not exceed \$500. Provides that a county or district court has jurisdiction of an offense under this section in which the fine exceeds \$10,000.

SECTION 7. 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 \$1,500, rather than \$200;

(2) on conviction before the first anniversary of the date of a previous conviction under this section, by a fine of not more than \$2,500, by confinement in the county jail for not more than 60 days, or by both the fine and the confinement, rather than 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 \$500, by confinement in the county jail for not more than 60 days, or by both the fine and the confinement;

(3) on conviction of a third offense before the first anniversary of the date of a previous conviction under Subdivision (1), by a fine of not more than \$3,500; or

(4) on conviction of an offense after the first anniversary of the date of a previous conviction under this section that was punishable under Subdivision (1), by a fine of not less than \$2,000, by confinement in the county jail for not more than 30 days, or by both the fine and the confinement, rather than 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 less more than \$1,000, by confinement in the county jail for not more than six months, or by both the fine and the confinement.

SECTION 8. Amends Section 623.271, Transportation Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Authorizes TxDMV, except as provided by Subsection (a-1), to investigate and, except as provided by Subsection (f) (relating to providing that this subsection applies only to a vehicle or combination that is used to transport agricultural products or timber products from between certain places, and provides that TxDMV is prohibited from imposing an administrative penalty on persons or overweight permit holders as per certain guidelines), to impose an administrative penalty or revoke an oversize or overweight permit issued under this chapter if the person or the holder of the permit takes certain actions.

(a-1) Prohibits TxDMV from revoking an oversize or overweight permit issued under Subchapter D for a violation of Section 623.082 (Penalties) unless the holder of the permit is convicted before the first anniversary of the date of a previous conviction under Section 623.082(b)(1) of three or more offenses under that section.

SECTION 9. Amends Section 623.272, Transportation, by adding Subsection (d), as follows:

(d) Requires TxDMV, if TxDMV imposes an administrative penalty on a shipper under this section to assess, in addition to the penalty, a law enforcement fee in the amount of \$5,000 against the shipper. Requires that a fee collected under this subsection be remitted to the comptroller for deposit in the general revenue fund and is authorized to be appropriated only for law enforcement purposes.

SECTION 10. Repealer: Section 623.019(d) (relating to providing that on conviction before the first anniversary of the date of a certain previous conviction, an offense is punishable by a fine in an amount that is twice a certain amount), Transportation Code.

SECTION 11. 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. Provides that 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 12. Effective date: September 1, 2013.