

BILL ANALYSIS

Senate Research Center

S.B. 1904
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Infrastructure Development and Security
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Enrolled

DIGEST AND PURPOSE

According to the National Conference of State Legislatures, Texas ranks first in the nation in the number of large trucks involved in crashes, the number of fatal accidents involving large trucks, and the number of fatalities in these accidents. Current law holds that if a person who has a commercial driver's license (CDL) commits a serious traffic violation or certain types of alcohol- or drug-related offenses while driving a non-commercial vehicle, the violations do not affect the person's CDL and the offenses do not get registered on the CDL driving record. S.B. 1904 allows certain traffic violations committed by a person who holds a CDL in a non-commercial vehicle to adversely affect the status of his or her CDL.

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 472.022(f), Transportation Code, to provide that Articles 45.051 and 45.0511, rather than Article 45.54, Code of Criminal Procedure, do not apply to an offense under this section committed in a construction or maintenance work zone when workers are present.

SECTION 2. Amends Subchapter C, Chapter 521, Transportation Code, by adding Section 521.0475, as follows:

Sec. 521.0475. DISCLOSURE OF ABSTRACT RECORD. (a) Requires the Department of Public Safety (DPS), except as provided by Subsection (b) or (c), to provide a certified abstract of a complete driving record of a license holder, for a fee of \$20, to the license holder or a person eligible to receive the information under Sections 730.007(a)(2)(A), (D), and (I).

(b) Requires DPS, if an abstract of a complete driving record does not exist for a license holder, to provide a person making a request under Subsection (a) a certified statement to that effect.

(c) Prohibits information from being marked as certified if DPS provides information under Subsection (a) or (b) through the system described by Section 521.055.

SECTION 3. Amends Section 521.052, Transportation Code, to amend statutory references to conform to changes made by this Act.

SECTION 4. Amends Section 521.053, Transportation Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Amends statutory references to conform to changes made by this Act.

(c) Authorizes DPS to provide information under Subsection (a) through the system described by Section 521.055.

(d) Authorizes DPS to provide information maintained under Section 643.064 that relates to a holder of a commercial driver's license under Chapter 522 to the holder, the holder's current employer, or a person acting on behalf of the employer if DPS receives the holder's specific written consent to the release of information.

SECTION 5. Amends Sections 521.055(b) and (c), Transportation Code, as follows:

(b) Authorizes the system to provide for the release of driving records described in certain sections of the statute. Deletes references to a status check and a three-year driving record.

(c) Sets the fee for a driving record, rather than status check, under Subsection (b)(1) at \$2.50. Sets the fee for a driving record under Subsection (b)(2), rather than a three-year driving record, at \$4.50. Sets the fee for a driving record under Subsection (b)(3) at \$5.50. Sets the fee for a driving record under Subsection (b)(4) at \$20.

SECTION 6. Amends Subdivision (25), Section 522.003, Transportation Code, to redefine "serious traffic violation."

SECTION 7. Amends Section 522.081, Transportation Code, as follows:

(a) Provides that this subsection applies to a violation committed while operating any motor vehicle, including a commercial motor vehicle, rather than to only a violation committed while operating a commercial motor vehicle. Deletes the disqualification of a person who holds a commercial driver's license from driving a commercial motor vehicle for one year if convicted of three violations of a law that regulates the operation of a motor vehicle at a railroad grade crossing that occur within a three-year period.

(b) Provides that this subsection applies to a violation committed while operating any motor vehicle, including a commercial motor vehicle, except as provided by this subsection. Disqualifies a person who holds a commercial driver's license from driving a commercial motor vehicle for one year if convicted of three violations of a law that regulates the operation of a motor vehicle at a railroad grade crossing that occur within a three-year period. Disqualifies a person who holds a commercial driver's license from driving a commercial motor vehicle for one year for refusing to submit to a test under Chapter 724 (Implied Consent) to determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug while operating a motor vehicle in a public place, or if an analysis of the person's blood, breath, or urine under Chapter 522, 524, or 724 determines that the person had a certain alcohol concentration while operating a motor vehicle in a public place. Makes conforming changes.

(c) Disqualifies a person who holds a commercial driver's license from operating a commercial motor vehicle for three years if the person is convicted of a certain offense and the vehicle was transporting a hazardous material required to be placarded; or refuses to submit to a test under Chapter 724 and the vehicle was transporting a hazardous material. Disqualifies a person who holds a commercial driver's license from operating a commercial motor vehicle for three years if an analysis of the person's blood, breath, or urine under Chapter 522, 524, or 724 determines that the person had a certain alcohol concentration while transporting a hazardous material. Makes conforming changes.

(d) Disqualifies a person from driving a commercial vehicle for life for any combination of two or more of the following, arising from two or more separate incidents: a conviction under Subsection (b)(2); a refusal described by Subsection (b)(3); and an analysis under Subsection

(b)(4).

(e) Prohibits a person from being issued a commercial driver's license if, in connection with the person's operation of a commercial motor vehicle, the person commits an offense or engages in conduct that would disqualify the holder of a commercial driver's license from operating a commercial motor vehicle, or is determined to have had an alcohol concentration of 0.04 or more or to have had a controlled substance or drug present in the person's body. Provides that the period of prohibition under this subsection is equal to the appropriate period of disqualification required by Subsections (a) - (d).

(f) Redesignated from existing Subsection (e).

SECTION 8. Amends Section 522.087, Transportation Code, to make conforming changes.

SECTION 9. Amends Section 643.052, Transportation Code, to require an application to register under this subchapter to include a certification that the motor carrier is in compliance with the drug testing requirements of 49 C.F.R. Part 382, and if the carrier belongs to a consortium, as defined by 49 C.F.R. Part 382, the names of the persons operating the consortium.

SECTION 10. Amends Section 643.056(a), to make conforming changes.

SECTION 11. Amends Subchapter B, Chapter 643, Transportation Code, by adding Section 643.064, as follows:

Sec. 643.064. REPORT OF POSITIVE RESULT. (a) Requires a motor carrier required to register under this chapter to report to DPS a valid positive result on a controlled substance test performed as part of the carrier's drug testing program or consortium, as defined by 49 C.F.R. Part 382, on an employee of the carrier who holds a commercial driver's license under Chapter 522.

(b) Requires DPS to maintain the information provided under this section.

(c) Provides that information maintained under this section is confidential and only subject to release as provided by Section 521.053.

SECTION 12. Amends Article 45.051, Code of Criminal Procedure, as follows:

(a) Authorizes a judge, rather than justice, at the judge's discretion, to defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days on a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment of all court costs.

(b) Authorizes the judge, during the deferral period, to require the defendant to complete a driving safety course approved under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), V.T.C.S.) or another course as directed by the judge, or present to the court satisfactory evidence that the defendant has complied with each requirement imposed by the judge under this article. Makes conforming and nonsubstantive changes.

(c) Deletes text authorizing the justice to proceed with an adjudication of guilt and reduce the fine. Provides that other than an offense under Section 545.413, Transportation Code, this subsection does not apply to an offense involving the operation of a motor vehicle. Makes conforming and nonsubstantive changes.

(c-1) Provides that this subsection applies only to an offense involving the operation of a motor vehicle, other than an offense under Section 545.413, Transportation Code. Requires the

justice, at the conclusion of the deferral period, if the defendant presents satisfactory evidence that the defendant has complied with the requirements imposed, to proceed with an adjudication of guilt, but prohibits the justice from imposing the fine assessed or a reduced fine.

- (d) Makes conforming changes.
- (e) Makes a nonsubstantive change.
- (f) Sets forth offenses to which this article does not apply.

SECTION 13. Amends Article 45.0511, Code of Criminal Procedure, as follows:

Art. 45.0511. New heading: DRIVING SAFETY COURSE OR MOTORCYCLE OPERATOR COURSE DISMISSAL PROCEDURES. (a) Provides that this article applies only to an alleged offense that meets certain criteria.

- (b) Requires the judge to require the defendant to successfully complete a driving safety course approved by the Texas Education Agency or a course under the motorcycle operator training and safety program approved by the designated state agency under Chapter 662, Transportation Code, if certain circumstances apply.
- (c) Requires the court to enter judgment on the defendant's plea of no contest or guilty at the time the plea is made, defer imposition of the judgment, and allow the defendant 90 days to successfully complete the approved driving safety course or motorcycle operator training course and present to the court certain information.
- (d) Amends statutory references to conform to changes made by this Act.
- (e) Makes conforming changes.
- (f) Authorizes the court, in addition to court costs and fees authorized or imposed by a law of this state and applicable to the offense, to require a defendant to pay certain costs.
- (g) Makes a conforming change.
- (h) No changes made to this subsection.
- (i) Makes conforming and nonsubstantive changes.
- (j) Requires the court, if the defendant fails to appear at the time and place stated in the notice under Subsection (i), or appears at the time and place stated in the notice but does not show good cause for the defendant's failure to comply with Subsection (c), to enter an adjudication of guilt and impose sentence. Deletes a provision stating that a failure to appear is a misdemeanor.
- (k) Authorizes the court to allow a time extension for the defendant to present a verification of course completion as evidence that the defendant successfully completed the motorcycle training course.
- (l) Makes conforming changes.
- (m) Authorizes a defendant charged with more than one offense to complete a driving safety course in connection with only one of the charges.

(n) Deletes the existing text of Subsection (n) and redesignates Subsection (o) as (n). Makes conforming changes.

(o) Redesignated from existing Subsection (p). Modifies statutory references to conform to changes made by this Act. Makes other conforming changes.

(p) Requires a notice to appear issued for an offense to which this article applies to inform a defendant charged with an offense under Section 472.022, Transportation Code, an offense under Subtitle C, Title 7, Transportation Code, or an offense under Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle, of the defendant's right to complete a driving safety course or, if the offense was committed while operating a motorcycle, of the defendant's right to complete a motorcycle operator training course. Sets forth the text that must be substantially included in the notice required by this subsection.

(q) Authorizes the defendant, if the notice required by Subsection (p) is not provided to the defendant charged with the offense, to continue to exercise the defendant's right to take a driving safety course or a motorcycle operator training course until the notice required by Subsection (p) is provided to the defendant or there is a final disposition of the case.

(r) Provides that this article does not apply to an offense committed by a person who holds a commercial driver's license.

(s) Provides that an order of deferral under Subsection (c) terminates any liability under a bail bond or appearance bond given for the charge. Deletes the existing text of Subsection (q).

SECTION 14. Repealers:

- (1) Section 543.101 (Statement of Right Provided on Notice to Appear), Transportation Code;
- (2) Section 543.117 (Offense in Construction or Maintenance Work Zone), Transportation Code; and
- (3) Section 601.022 (Department to Provide Operating Record), Transportation Code.

SECTION 15. (a) Effective date: September 1, 2003, except as provided by Subsection (c) of this section.

(b) Makes application of Articles 45.051 and 45.0511, Code of Criminal Procedure, as amended by this Act, prospective.

(c) Makes Sections 6, 7, and 9 of this Act effective June 1, 2005. Makes application of Sections 522.081 and 522.087, Transportation Code, as amended by those sections, prospective to June 1, 2005.