

By: Smith of Tarrant

H.B. No. 527

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of a person to operate a commercial motor vehicle in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 522.003(25), Transportation Code, is amended to read as follows:

(25) "Serious traffic violation" means:

(A) a conviction arising from the driving of a ~~commercial~~ motor vehicle, other than a parking, vehicle weight, or vehicle defect violation, for:

(i) ~~(A)~~ excessive speeding, involving a single charge of driving 15 miles per hour or more above the posted speed limit;

(ii) ~~(B)~~ reckless driving, as defined by state or local law;

(iii) ~~(C)~~ a violation of a state or local law related to motor vehicle traffic control, including a law regulating the operation of vehicles on highways, arising in connection with a fatal accident;

(iv) ~~(D)~~ improper or erratic traffic lane change;

(v) ~~(E)~~ following the vehicle ahead too closely; or

(vi) ~~(F)~~ operating a ~~commercial motor~~

1 ~~vehicle in~~] violation of Section 522.011; or

2 (B) a violation of Section ~~[or]~~ 522.015.

3 SECTION 2. Section 522.081, Transportation Code, is amended  
4 to read as follows:

5 Sec. 522.081. DISQUALIFICATION. (a) This subsection  
6 applies ~~[only]~~ to a violation committed while operating any motor  
7 vehicle, including a commercial motor vehicle. A person who holds a  
8 commercial driver's license is disqualified from driving a  
9 commercial motor vehicle for:

10 (1) 60 days if convicted of:

11 (A) two serious traffic violations that occur  
12 within a three-year period; or

13 (B) one violation of a law that regulates the  
14 operation of a motor vehicle at a railroad grade crossing; or

15 (2) 120 days if convicted of:

16 (A) three serious traffic violations arising  
17 from separate incidents occurring within a three-year period; or

18 (B) two violations of a law that regulates the  
19 operation of a motor vehicle at a railroad grade crossing that occur  
20 within a three-year period~~[, or~~

21 ~~[(3) one year if convicted of three violations of a law~~  
22 ~~that regulates the operation of a motor vehicle at a railroad grade~~  
23 ~~crossing that occur within a three-year period]~~.

24 (b) This subsection applies to a violation committed while  
25 operating any motor vehicle, including a commercial motor vehicle,  
26 except as provided by this subsection. A person who holds a  
27 commercial driver's license is disqualified from driving a

commercial motor vehicle for one year:

(1) 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;

(2) on first conviction of:

(A) ~~[(1)]~~ driving a ~~[commercial]~~ motor vehicle under the influence of alcohol or a controlled substance, including a violation of Section 49.04 or 49.07, Penal Code;

~~(B) [(2)] driving a commercial motor vehicle while the person's alcohol concentration was 0.04 or more;~~

~~[(3)] intentionally~~ leaving the scene of an accident involving a ~~[commercial]~~ motor vehicle driven by the person;

(C) ~~[(4)]~~ using a ~~[commercial]~~ motor vehicle in the commission of a felony, other than a felony described by Subsection (d)(2);

~~(D) [(5)] refusing to submit to a test to determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug while driving a commercial motor vehicle;~~

~~[(6)]~~ causing the death of another person through the negligent or criminal operation of a ~~[commercial]~~ motor vehicle; or

(E) ~~[(7)]~~ driving a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled, or while the person is disqualified from driving a commercial motor vehicle, for an action or conduct that occurred while operating a commercial motor vehicle;

(3) for refusing to submit to a test under Chapter 724

1 to determine the person's alcohol concentration or the presence in  
2 the person's body of a controlled substance or drug while operating  
3 a motor vehicle in a public place; or

4 (4) if an analysis of the person's blood, breath, or  
5 urine under Chapter 724 determines that the person:

6 (A) had an alcohol concentration of 0.04 or more,  
7 or that a controlled substance or drug was present in the person's  
8 body, while operating a commercial motor vehicle in a public place;  
9 or

10 (B) had an alcohol concentration of 0.08 or more  
11 while operating a motor vehicle, other than a commercial motor  
12 vehicle, in a public place.

13 (c) A person who holds a commercial driver's license is  
14 disqualified from operating a commercial motor vehicle for three  
15 years if:

16 (1) the person:

17 (A) is convicted of an offense [~~If a violation~~]  
18 listed in Subsection (b)(2) and the vehicle being operated by the  
19 person was transporting a hazardous material required to be  
20 placarded; or

21 (B) refuses to submit to a test under Chapter 724  
22 to determine the person's alcohol concentration or the presence in  
23 the person's body of a controlled substance or drug while operating  
24 a motor vehicle in a public place and the vehicle being operated by  
25 the person was transporting a hazardous material required to be  
26 placarded; or

27 (2) an analysis of the person's blood, breath, or urine

1 under Chapter 724 determines that while transporting a hazardous  
2 material required to be placarded the person:

3 (A) while operating a commercial motor vehicle in  
4 a public place had an alcohol concentration of 0.04 or more, or a  
5 controlled substance or drug present in the person's body; or

6 (B) while operating a motor vehicle, other than a  
7 commercial motor vehicle, in a public place had an alcohol  
8 concentration of 0.08 or more [~~(b) occurred while the person was~~  
9 ~~transporting a hazardous material required to be placarded, the~~  
10 ~~person is disqualified for three years~~].

11 (d) A person is disqualified from driving a commercial motor  
12 vehicle for life:

13 (1) if the person [~~+~~  
14 [~~(1)~~] is convicted [~~of~~] two or more times [~~violations~~]  
15 of an offense specified by Subsection (b)(2) [~~(b)~~], or a  
16 combination of those offenses, arising from two or more separate  
17 incidents; [~~or~~]

18 (2) if the person uses a [~~commercial~~] motor vehicle in  
19 the commission of a felony involving:

20 (A) the manufacture, distribution, or dispensing  
21 of a controlled substance; or

22 (B) possession with intent to manufacture,  
23 distribute, or dispense a controlled substance; or

24 (3) for any combination of two or more of the  
25 following, arising from two or more separate incidents:

26 (A) a conviction of the person for an offense  
27 described by Subsection (b)(2);

1                   (B) a refusal by the person described by  
2 Subsection (b)(3); and

3                   (C) an analysis of the person's blood, breath, or  
4 urine described by Subsection (b)(4).

5           (e) A person may not be issued a commercial driver's license  
6 if, in connection with the person's operation of a commercial motor  
7 vehicle, the person commits an offense or engages in conduct that  
8 would disqualify the holder of a commercial driver's license from  
9 operating a commercial motor vehicle, or is determined to have had  
10 an alcohol concentration of 0.04 or more or to have had a controlled  
11 substance or drug present in the person's body. The period of  
12 prohibition under this subsection is equal to the appropriate  
13 period of disqualification required by Subsections (a)-(d).

14           (f) In this section, "felony" means an offense under state or  
15 federal law that is punishable by death or imprisonment for a term  
16 of more than one year.

17           SECTION 3. Section 522.087, Transportation Code, is amended  
18 to read as follows:

19           Sec. 522.087. PROCEDURES APPLICABLE TO DISQUALIFICATION.

20           (a) A person is automatically disqualified under Section  
21 522.081(a)(1)(B), Section 522.081(b)(2) [~~522.081(b)(1), (3), (4),~~  
22 ~~(6), or (7)]~~, or Section 522.081(d)(2). An appeal may not be taken  
23 from the disqualification.

24           (b) Disqualifying a person under Section 522.081(a), other  
25 than under Subdivision (1)(B) of that subsection, Section  
26 522.081(b)(1), or Section 522.081(d)(1) or (3) is subject to the  
27 notice and hearing procedures of Sections 521.295-521.303. An

1 appeal of the disqualification is subject to Section 521.308.

2 SECTION 4. (a) This Act takes effect September 1, 2003.

3 (b) Sections 522.081 and 522.087, Transportation Code, as  
4 amended by this Act, apply only to conduct that is engaged in or to  
5 an offense that is committed on or after the effective date of this  
6 Act. Conduct that is engaged in or an offense committed before the  
7 effective date of this Act is governed by Sections 522.081 and  
8 522.087, Transportation Code, as those sections existed  
9 immediately before the effective date of this Act, and the former  
10 law is continued in effect for that purpose.