

By: Moreno of Harris

H.B. No. 3502

A BILL TO BE ENTITLED

AN ACT

relating to the driving record of the holder of a commercial driver's license and the operation of commercial motor vehicles; creating an offense.

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

SECTION 1. Subchapter F, Chapter 522, Transportation Code, is amended by adding Section 522.0615 to read as follows:

Sec. 522.0615. DUTY OF EMPLOYER. Every six months during the person's employment, an employer of a person who holds or is required to hold a commercial driver's license under this chapter shall obtain information relating to the person under Section 730.005(b), including information on:

(1) convictions relating to motor vehicle traffic control;

(2) disqualifications from driving a commercial motor vehicle; and

(3) reports made under Section 522.104.

SECTION 2. Section 522.064, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) A person commits an offense if the person fails to provide the information required under Subsection (a) or (b) or provides false information under Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

SECTION 3. Section 522.081(b), Transportation Code, is

1 amended to read as follows:

2 (b) A person is disqualified from driving a commercial motor
3 vehicle for three years [~~one year~~] on first conviction of:

4 (1) driving a commercial motor vehicle under the
5 influence of alcohol or a controlled substance, including a
6 violation of Section 49.04 or 49.07, Penal Code;

7 (2) driving a commercial motor vehicle while the
8 person's alcohol concentration was 0.04 or more;

9 (3) intentionally leaving the scene of an accident
10 involving a commercial motor vehicle driven by the person;

11 (4) using a commercial motor vehicle in the commission
12 of a felony, other than a felony described by Subsection (d)(2);

13 (5) refusing to submit to a test to determine the
14 person's alcohol concentration or the presence in the person's body
15 of a controlled substance or drug while driving a commercial motor
16 vehicle;

17 (6) causing the death of another person through the
18 negligent or criminal operation of a commercial motor vehicle; or

19 (7) driving a commercial motor vehicle while the
20 person's commercial driver's license is revoked, suspended, or
21 canceled, or while the person is disqualified from driving a
22 commercial motor vehicle, for an action or conduct that occurred
23 while operating a commercial motor vehicle.

24 SECTION 4. Section 730.005, Transportation Code, is amended
25 to read as follows:

26 Sec. 730.005. REQUIRED DISCLOSURE. (a) Personal
27 information obtained by an agency in connection with a motor

1 vehicle record shall be disclosed for use in connection with any
2 matter of:

3 (1) motor vehicle or motor vehicle operator safety;
4 (2) motor vehicle theft;
5 (3) motor vehicle emissions;
6 (4) motor vehicle product alterations, recalls, or
7 advisories;

8 (5) performance monitoring of motor vehicles or motor
9 vehicle dealers by a motor vehicle manufacturer;

10 (6) removal of nonowner records from the original
11 owner records of a motor vehicle manufacturer to carry out the
12 purposes of:

13 (A) the Automobile Information Disclosure Act,
14 15 U.S.C. Section 1231 et seq.;

15 (B) 49 U.S.C. Chapters 301, 305, 323, 325, 327,
16 329, and 331;

17 (C) the Anti Car Theft Act of 1992, 18 U.S.C.
18 Sections 553, 981, 982, 2119, 2312, 2313, and 2322, 19 U.S.C.
19 Sections 1646b and 1646c, and 42 U.S.C. Section 3750a et seq., all
20 as amended;

21 (D) the Clean Air Act, 42 U.S.C. Section 7401 et
22 seq., as amended; and

23 (E) any other statute or regulation enacted or
24 adopted under or in relation to a law included in Paragraphs
25 (A)-(D); or

26 (7) child support enforcement under Chapter 231,
27 Family Code.

1 (b) Personal information obtained by an agency in
2 connection with a motor vehicle record shall be disclosed to any
3 requestor by an agency if the requestor:

4 (1) provides the requestor's name and address and any
5 proof of that information required by the agency; and

6 (2) represents that the use of the personal
7 information will be strictly limited to use by an employer or an
8 agent or insurer of the employer to obtain or verify information
9 relating to a holder of a commercial driver's license that is
10 required under federal law.

11 SECTION 5. Section 730.007(a), Transportation Code, is
12 amended to read as follows:

13 (a) Personal information obtained by an agency in
14 connection with a motor vehicle record may be disclosed to any
15 requestor by an agency if the requestor:

16 (1) provides the requestor's name and address and any
17 proof of that information required by the agency; and

18 (2) represents that the use of the personal
19 information will be strictly limited to:

20 (A) use by:

21 (i) a government agency, including any
22 court or law enforcement agency, in carrying out its functions; or

23 (ii) a private person or entity acting on
24 behalf of a government agency in carrying out the functions of the
25 agency;

26 (B) use in connection with a matter of:

27 (i) motor vehicle or motor vehicle operator

1 safety;

2 (ii) motor vehicle theft;

3 (iii) motor vehicle product alterations,
4 recalls, or advisories;

5 (iv) performance monitoring of motor
6 vehicles, motor vehicle parts, or motor vehicle dealers;

7 (v) motor vehicle market research
8 activities, including survey research; or

9 (vi) removal of nonowner records from the
10 original owner records of motor vehicle manufacturers;

11 (C) use in the normal course of business by a
12 legitimate business or an authorized agent of the business, but
13 only:

14 (i) to verify the accuracy of personal
15 information submitted by the individual to the business or the
16 agent of the business; and

17 (ii) if the information is not correct, to
18 obtain the correct information, for the sole purpose of preventing
19 fraud by, pursuing a legal remedy against, or recovering on a debt
20 or security interest against the individual;

21 (D) use in conjunction with a civil, criminal,
22 administrative, or arbitral proceeding in any court or government
23 agency or before any self-regulatory body, including service of
24 process, investigation in anticipation of litigation, execution or
25 enforcement of a judgment or order, or under an order of any court;

26 (E) use in research or in producing statistical
27 reports, but only if the personal information is not published,

1 rediscovered, or used to contact any individual;

2 (F) use by an insurer or insurance support
3 organization, or by a self-insured entity, or an authorized agent
4 of the entity, in connection with claims investigation activities,
5 antifraud activities, rating, or underwriting;

6 (G) use in providing notice to an owner of a towed
7 or impounded vehicle;

8 (H) use by a licensed private investigator agency
9 or licensed security service for a purpose permitted under this
10 section;

11 (I) ~~[use by an employer or an agent or insurer of~~
12 ~~the employer to obtain or verify information relating to a holder of~~
13 ~~a commercial driver's license that is required under 49 U.S.C.~~
14 ~~Chapter 313,~~

15 ~~[(J)]~~ use in connection with the operation of a
16 private toll transportation facility;

17 (J) ~~[(K)]~~ use by a consumer reporting agency, as
18 defined by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et
19 seq.), for a purpose permitted under that Act; or

20 (K) ~~[(L)]~~ use for any other purpose specifically
21 authorized by law that relates to the operation of a motor vehicle
22 or to public safety.

23 SECTION 6. Section 12.51, Penal Code, is amended by
24 amending Subsections (b) and (c) and adding Subsection (f) to read
25 as follows:

26 (b) If a corporation or association is adjudged guilty of an
27 offense that provides a penalty including imprisonment, or that

1 provides no specific penalty, a court may sentence the corporation
2 or association to pay a fine in an amount fixed by the court, not to
3 exceed:

4 (1) \$20,000 if the offense is a felony of any category;

5 (2) \$10,000 if the offense is a Class A or Class B
6 misdemeanor;

7 (3) \$2,000 if the offense is a Class C misdemeanor;
8 ~~[or]~~

9 (4) \$50,000 if, as a result of an offense classified as
10 a felony or Class A misdemeanor, an individual suffers serious
11 bodily injury or death; or

12 (5) \$100,000 if, as a result of criminally negligent
13 conduct involving the inspection, maintenance, or operation of a
14 commercial motor vehicle, an individual suffers death.

15 (c) In lieu of the fines authorized by Subsections (a),
16 (b)(1), (b)(2), ~~[and]~~ (b)(4), and (b)(5), if a court finds that the
17 corporation or association gained money or property or caused
18 personal injury or death, property damage, or other loss through
19 the commission of a felony or Class A or Class B misdemeanor, the
20 court may sentence the corporation or association to pay a fine in
21 an amount fixed by the court, not to exceed double the amount gained
22 or caused by the corporation or association to be lost or damaged,
23 whichever is greater.

24 (f) In this section, "commercial motor vehicle" means a
25 self-propelled or towed vehicle that is used on a public highway to
26 transport cargo if the vehicle or combination of vehicles has a
27 gross weight, registered weight, or gross weight rating of more

1 than 26,000 pounds.

2 SECTION 7. (a) This Act takes effect September 1, 2003.

3 (b) The change in law made by this Act applies only to an
4 offense committed on or after September 1, 2003. An offense
5 committed before September 1, 2003, is covered by the law in effect
6 when the offense was committed, and the former law is continued in
7 effect for that purpose. For purposes of this subsection, an
8 offense was committed before September 1, 2003, if any element of
9 the offense was committed before that date.