

By: Barrientos

S.B. No. 1904

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~~

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

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

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

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

(1) 60 days if convicted of:

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

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

(2) 120 days if convicted of:

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

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

~~[(3) 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) This subsection applies to a violation committed while operating any motor vehicle, including a commercial motor vehicle, except as provided by this subsection. A person who holds a 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
15 or federal law that is punishable by death or imprisonment for a
16 term 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. Article 45.0511(a), Code of Criminal Procedure,
3 is amended to read as follows:

4 (a) This article applies only to an alleged offense
5 involving the operation of a motor vehicle [~~other than a commercial~~
6 ~~motor vehicle, as defined by Section 522.003, Transportation Code,~~]
7 and supplements Article 45.051.

8 SECTION 5. Subchapter B, Chapter 45, Code of Criminal
9 Procedure, is amended by adding Article 45.0512 to read as follows:

10 Art. 45.0512. NONAPPLICABILITY OF ARTICLES 45.051 AND
11 45.0511 TO CERTAIN OFFENSES. (a) In this article, "commercial
12 motor vehicle" and "commercial driver's license" have the meanings
13 assigned by Section 522.003, Transportation Code.

14 (b) Articles 45.051 and 45.0511 do not apply to:

15 (1) an offense involving the operation of a commercial
16 motor vehicle; or

17 (2) an offense involving the operation of a motor
18 vehicle other than a commercial motor vehicle committed by a person
19 who:

20 (A) held a commercial driver's license at the
21 time of the offense; or

22 (B) holds a commercial driver's license at the
23 time the person:

24 (i) enters a plea of guilty or nolo
25 contendere to the offense; or

26 (ii) is found guilty of the offense.

27 SECTION 6. (a) This Act takes effect September 1, 2003.

1 (b) The change in law made by this Act applies only to an
2 offense committed on or after September 1, 2003.

3 (c) 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.

11 (d) An offense committed before September 1, 2003, is
12 covered by the law in effect when the offense was committed, and the
13 former law is continued in effect for that purpose. For purposes of
14 this section, an offense was committed before September 1, 2003, if
15 any element of the offense was committed before that date.