

BILL ANALYSIS

C.S.H.B. 3947
By: Allen, Alma
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

CSHB 3947 modifies the requirements of commercial drivers to correspond to federal regulations, with respect to commercial drivers' licenses (CDL). It provides Texas with the authority to cancel a Commercial Driver's Hazardous Materials Endorsement upon notification by a federal agency that the driver did not pass a federal background check. This Bill also provides clarification for the enforcement action taken for violation of an out-of-service orders and violations of insufficient clearance for railroad grade crossings.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 521.049, Transportation Code, by adding Subsection (d) to require the department to respond within 30 days to any driver record request made by another state under 49 C.F.R. 384.206.

SECTION 2. Amends Section 521.297, Transportation Code, by modifying Subsection (a) to include "Disqualification" to the scope of applicable effective dates. This section is further amended by adding Subsection (b), which determines that the actual effective date of a license disqualification, as added under Section 521.297(a), will be on the 40th day after the date the person is considered to receive the disqualification notice, or, if a disqualification is already in effect, will run consecutively.

SECTION 3. Amends Sections 522.033(7) and (19), Transportation Code, to clarify the definitions of "conviction" and "hazardous materials".

SECTION 4. Amends Section 522.004(a), Transportation Code, by adding a commercial motor vehicle when operated for military purposes by military personnel to the list of vehicles **not** covered by this chapter.

SECTION 5. Amends Subchapter C, Chapter 522.023, Transportation Code, by adding Subsections (h) and (i) regarding the required examinations to qualify for a commercial driver license. An applicant must pay a required fee, which subsequently allows him/her three chances to pass each required element under the Code; if the applicant still has not qualified after the third attempt, a new application with the required fee must be submitted to re-take the exams. An applicant who does not pass each required element cannot be issued a commercial driver license by the department.

SECTION 6. Amends Subchapter D, Chapter 522, Transportation Code, by adding Section 522.0425. HAZARDOUS MATERIALS ENDORSEMENT; CANCELLATION. This section determines when a department shall cancel or deny the issuance of a hazardous materials endorsement when notified by a federal agency with the authority to make either an initial or a final determination of threat assessment. Moreover, any such cancellation or denial must be reported **before** the 16th day after the date of cancellation or denial to the commercial drivers license information system.

SECTION 7. Amends Subchapter E, Chapter 522, Transportation Code, by adding Sections 522.054 and 522.055. Section 522.054. DENIAL OF RENEWAL OF COMMERCIAL DRIVE LICENSE, lists the reasons a department may deny renewal of a Texas commercial drivers license after receiving necessary information in a matter involving a motor vehicle traffic control violation from another state. Additionally, the section delineates what the necessary information **must** include, and allows it to be transmitted through the commercial driver's license information system. Section 522.055. CLEARANCE NOTICE TO DEPARTMENT provides that the department will reinstate a person's driver license upon receipt of notice from the other state that the previous grounds for denial cease to exist.

SECTION 8. Amends Section 522.071(a), Transportation Code, to clarify that a person commits an offense when driving a commercial motor vehicle on a highway during a period in which the person, the person's employer, or the motor vehicle being operated is subject to an out-of-service order, in addition to the other offenses currently listed therein.

SECTION 9. Amends Section 522.072(a), Transportation Code, by clarifying the language of the section to confirm that an employer may not knowingly permit a person to drive a commercial motor vehicle when either the person, the vehicle, or the motor carrier is subject to an out-of-service order in a state, in addition to the other problems currently listed.

SECTION 10. Amends Section 522.081, Transportation Code, by adding subsection (h) to clarify that a disqualification from driving a commercial motor vehicle by constituting an imminent hazard, as listed under subsection (g), must run concurrent to any imminent hazard disqualification already in effect.

SECTION 11. Amends Section 522.087, Transportation Code, by adding subsection (c) to state that any disqualification under Section 522.081(a) must run consecutively to any other disqualification already in effect.

SECTION 12. Amends Subchapter I, Chapter 545, Transportation Code, by adding Section 545.426. OPERATION OF VEHICLE WITH INSUFFICIENT UNDERCARRIAGE CLEARANCE, which prohibits an operator from driving on or crossing a railroad grade crossing unless the vehicle has sufficient undercarriage clearance, determines such offense to be a misdemeanor, and mandates a fine for such offense to be between a minimum of \$50 dollars and a maximum of \$200.

SECTION 13. Determines the effective date of this Act to be January 1, 2008.

EFFECTIVE DATE

January 1, 2008.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTIONS 1 through **3** and **SECTION 9** of CSHB 3947 make changes for simple clarification and specificity of the provisions.

SECTION 4 of CSHB 3947 deletes "seed cotton modules, cotton burrs" from Section 522.004(a)(1)(A) of the original HB 3947. Additionally, this substitute further changes the original by re-inserting (a)(6) to Section 522.004, Transportation Code where it was deleted in the original HB 3947.

SECTION 5 of CSHB 3947 maintains the content and intent of the added Subsections (h) and (i) of Section 522.023 of the Transportation Code, but clarifies their language with only slight word rearrangement from the original.

SECTION 6 of CSHB 3947 adds Section 522.0425 to Subchapter D, Chapter 522 of the Transportation Code. The original HB 3947 states in this Subsection (a) that the department shall cancel or deny the issuance of the hazardous material endorsement of a commercial driver license *within fifteen days* of federal agency notification authorized to make an *initial* determination of threat assessment under the Code of Federal Regulations. In the Committee

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Substitute (CSHB 3947), this Subsection (a) changes the "initial determination" to read "final determination" to correspond with the provisions of the Code of Federal Regulations.

Additionally, Subsection (b) of the added Section 522.0425 originally mandated in HB 3947 that the department shall *immediately* cancel or deny the issuance of the hazardous material endorsement of a commercial driver license upon federal agency notification authorized to make a *final* determination of threat assessment under the Code of Federal Regulations. CSHB 3947, however, states that the immediate cancellation or denial of the endorsement shall be made upon federal agency notification of an "initial determination" rather than the "final determination".

Subsection (c) of the added Section 522.0425 simply offers clarification.

SECTION 7 of CSHB 3947 adds *both* Sections 522.054 and 522.055 to Subchapter E of Chapter 522 in the Transportation Code separately; this merge will affect the remaining sections. The additional changes from the original include some language modifications for clarity.

Subsection (a-1) of this Section in the original HB 3947 lists failure to appear "based on" a complaint or citation as a reason the department may deny renewal; in the Substitute, the failure to appear is "in connection with" a complaint or citation. This allows for much broader application.

SECTIONS 8 and 9 of CSHB 3947 address the amending of Sections 522.071(a) and 522.072(a), respectively, of the Transportation Code for language clarification, without any change in content from the original.

SECTIONS 10 and 11 of CSHB 3947 add Subsection (h) to Section 522.081 and Subsection (c) to Section 522.087, respectively, of the Transportation Code, and proffers language clarification from the original.

SECTION 12 of CSHB 3947 addresses the addition of Section 545.426. OPERATION OF VEHICLE WITH INSUFFICIENT UNDERCARRIAGE CLEARANCE to Subchapter I, Chapter 545 of the Transportation Code. Subsection (a) retains the original intent found in the addition of SECTION 13 of the original HB 3947, with slight modification to the terminology. The Substitute in Subsection (b) also determines a crime under this section to be a misdemeanor; the original HB 3947 has no such designation.

SECTION 13 of CSHB 3947 now states the effective date of the bill.

SECTION 14 of the original HB 3947, which originally listed the effective date of the Act, is deleted in the Committee Substitute.