

BILL ANALYSIS

Senate Research Center
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S.B. 547
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, there is no law that authorizes revocation of registration for motor carriers who do not conduct alcohol and drug tests of their employees. Furthermore, there is no law that requires criminal background checks of such employees or that allows for an employer to obtain criminal history record information. The Department of Public Safety (DPS) checks for drug and alcohol requirements during compliance reviews, but such checks are not required by statute.

As proposed, S.B. 547 authorizes the Texas Department of Transportation (TxDOT) to revoke or suspend a motor carrier's registration if the carrier fails to conduct any required drug or alcohol testing on an employee who holds a commercial driver's license. This bill also requires a motor carrier to conduct criminal history checks on commercial drivers employed, offered employment, or those who lease a commercial motor vehicle from the motor carrier and authorizes TxDOT to investigate to ensure compliance. Finally, this bill requires DPS to review the alcohol and drug testing of commercial driver's license holders as part of compliance reviews.

RULEMAKING AUTHORITY

This bill expressly grants rulemaking authority to the Texas Department of Transportation in SECTION 3 (Section 643.301, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 643.252(a), Transportation Code, to authorize the Texas Department of Transportation (TxDOT) to suspend or revoke a registration issued under this chapter or place on probation a motor carrier whose registration is suspended if a motor carrier fails to conduct alcohol and drug testing of an employee who holds a commercial driver's license under Chapter 522 (Commercial Driver's Licenses) under federal safety regulations as part of the motor carrier's drug testing program or consortium, as defined by 49 C.F.R. Part 382. Makes a nonsubstantive change.

SECTION 2. Amends Section 643.254(a), Transportation Code, to include alleged violations under Subchapter G as types of violations for which an officer or employee of TxDOT, who has been certified for the purpose of investigating such violations by the executive director of TxDOT or an employee of TxDOT who is a division or special officer director or holds a higher rank and is designated by the director, is authorized to enter a motor carrier's premises to copy or verify the correctness of a document, including an operation log or insurance certificate. Makes a nonsubstantive change.

SECTION 3. Amends Chapter 643, Transportation Code, by adding Subchapter G, as follows:

SUBCHAPTER G. CRIMINAL HISTORY CHECKS

Sec. 643.301. **REQUIRED CRIMINAL HISTORY CHECKS.** (a) Requires a motor carrier required to register under Subchapter B (Registration) to obtain state and Federal Bureau of Investigation criminal history record information for certain persons as provided by Sections 411.1407 and 411.087, Government Code.

(b) Prohibits criminal history record information obtained by a motor carrier from being released or disclosed to any person and provides exceptions.

(c) Prohibits the motor carrier from destroying criminal history record information that relates to a person prior to one year after the person's employment or lease with the company ends, as applicable.

(d) Requires TxDOT by rule to require a motor carrier to pay to the Department of Public Safety of the State of Texas (DPS) a fee in an amount equal to the administrative costs DPS incurs in conducting criminal history checks under this section.

Sec. 643.302. **CRIMINAL PENALTY.** Establishes that a person commits a Class C misdemeanor if the person violates Section 643.301(a) or (c) for the first offense and commits a Class B misdemeanor for any subsequent offense.

SECTION 4. Amends Section 644.155, Transportation Code, as follows:

Sec. 644.155. **COMPLIANCE REVIEW AND SAFETY AUDIT PROGRAM.** (a) Creates this subsection from existing text.

(b) Requires DPS, as part of the compliance review and safety audit program established under Subsection (a), to determine whether an employer required to conduct alcohol and drug testing of an employee who holds a commercial driver's license under Chapter 522 under federal safety regulations as part of the employer's drug testing program or consortium, as defined by 49 C.F.R. Part 382, is conducting the required testing.

SECTION 5. Amends Subchapter F, Chapter 411, Government Code, by adding Section 411.1407, as follows:

Sec. 411.1407. **ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: MOTOR CARRIERS.** (a) Defines "motor carrier."

(b) Entitles a motor carrier required to register under Subchapter B, Chapter 643, Transportation Code, to obtain from DPS criminal history record information maintained by DPS relating to certain persons.

SECTION 6. Provides that a motor carrier is not required to comply with Subchapter G, Chapter 643, Transportation Code, as added by this Act, until October 1, 2007.

SECTION 7. Provides that DPS is not required to comply with Section 644.155, Transportation Code, as amended by this Act, before October 1, 2007.

SECTION 8. Effective date: September 1, 2007.