

By: Carona

S.B. No. 547

A BILL TO BE ENTITLED

AN ACT

relating to commercial motor vehicle safety; providing a criminal penalty.

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

SECTION 1. Section 643.252(a), Transportation Code, is amended to read as follows:

(a) The department may suspend or revoke a registration issued under this chapter or place on probation a motor carrier whose registration is suspended if a motor carrier:

(1) fails to maintain insurance or evidence of financial responsibility as required by Section 643.101(a), (b), (c), or (d);

(2) fails to keep evidence of insurance in the cab of each vehicle as required by Section 643.103(b);

(3) fails to register a vehicle requiring registration;

(4) knowingly provides false information on any form filed with the department under this chapter; [~~or~~]

(5) violates a rule adopted under Section 643.063; or

(6) fails 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 motor carrier's drug testing program or consortium, as defined by 49 C.F.R. Part 382.

1 SECTION 2. Section 643.254(a), Transportation Code, is  
2 amended to read as follows:

3 (a) To investigate an alleged violation of Subchapter B, C,  
4 [~~or~~] D, or G, an officer or employee of the department who has been  
5 certified for the purpose by the director may enter a motor  
6 carrier's premises to copy or verify the correctness of a document,  
7 including an operation log or insurance certificate.

8 SECTION 3. Chapter 643, Transportation Code, is amended by  
9 adding Subchapter G to read as follows:

10 SUBCHAPTER G. CRIMINAL HISTORY CHECKS

11 Sec. 643.301. REQUIRED CRIMINAL HISTORY CHECKS. (a) A motor  
12 carrier required to register under Subchapter B shall obtain state  
13 and Federal Bureau of Investigation criminal history record  
14 information as provided by Sections 411.1407 and 411.087,  
15 Government Code, for a person who:

16 (1) is employed by the motor carrier as a driver of  
17 commercial motor vehicles;

18 (2) is an applicant to whom an offer of employment is  
19 made for a position as a driver of commercial motor vehicles; or

20 (3) leases a commercial motor vehicle from the motor  
21 carrier.

22 (b) Criminal history record information obtained by a motor  
23 carrier may not be released or disclosed to any person except on  
24 court order, upon proper discovery request during litigation, to a  
25 law enforcement agency, or with the consent of the person who is the  
26 subject of the criminal history record information.

27 (c) The motor carrier shall destroy criminal history record

1 information that relates to a person no sooner than one year after  
2 the person's employment with the company ends or the person's lease  
3 with the company ends, as applicable.

4 (d) The department by rule shall require a motor carrier to  
5 pay to the Department of Public Safety of the State of Texas a fee in  
6 an amount equal to the administrative costs the Department of  
7 Public Safety of the State of Texas incurs in conducting criminal  
8 history checks under this section.

9 Sec. 643.302. CRIMINAL PENALTY. (a) A person commits an  
10 offense if the person violates Section 643.301(a) or (c).

11 (b) A first offense under this section is a Class C  
12 misdemeanor. A subsequent offense under this section is a Class B  
13 misdemeanor.

14 SECTION 4. Section 644.155, Transportation Code, is amended  
15 to read as follows:

16 Sec. 644.155. COMPLIANCE REVIEW AND SAFETY AUDIT PROGRAM.

17 (a) The department shall implement and enforce a compliance review  
18 and safety audit program similar to the federal program established  
19 under 49 C.F.R. Part 385 for any person who owns or operates a  
20 commercial motor vehicle that is domiciled in this state.

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

1 SECTION 5. Subchapter F, Chapter 411, Government Code, is  
2 amended by adding Section 411.1407 to read as follows:

3 Sec. 411.1407. ACCESS TO CRIMINAL HISTORY RECORD  
4 INFORMATION: MOTOR CARRIERS. (a) In this section, "motor carrier"  
5 has the meaning assigned by Section 643.001, Transportation Code.

6 (b) A motor carrier required to register under Subchapter B,  
7 Chapter 643, Transportation Code, is entitled to obtain from the  
8 department criminal history record information maintained by the  
9 department that relates to a person who:

10 (1) is employed by the motor carrier as a driver of  
11 commercial motor vehicles;

12 (2) is an applicant to whom an offer of employment is  
13 made for a position as a driver of commercial motor vehicles; or

14 (3) leases a commercial motor vehicle from the motor  
15 carrier.

16 SECTION 6. A motor carrier is not required to comply with  
17 Subchapter G, Chapter 643, Transportation Code, as added by this  
18 Act, before October 1, 2007.

19 SECTION 7. The Department of Public Safety of the State of  
20 Texas is not required to comply with Section 644.155,  
21 Transportation Code, as amended by this Act, before October 1,  
22 2007.

23 SECTION 8. This Act takes effect September 1, 2007.