

Amend **CSHB 2741** (senate committee printing) as follows:

(1) In SECTION 132 of the bill, in Subdivision (2) (page 27, lines 45-46), between "520.0092," and "623.0711(k)", insert "623.019(d),".

(2) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 621.502, Transportation Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) Intent to operate a vehicle at a weight that is heavier than the weight authorized by a permit issued under Chapter 623, except for a permit issued under Section 623.011, is presumed if:

(1) the vehicle is operated at a weight that is seven percent heavier than the applicable weight allowed under Chapter 623; and

(2) a permit to operate at that weight has not been issued for the vehicle.

(f) A person commits an offense if:

(1) the person operates a vehicle at a weight for which a permit is required by Chapter 623, other than a permit issued under Section 623.011, plus a tolerance allowance equal to seven percent of that weight; and

(2) the person has failed to obtain the permit.

(g) An offense under Subsection (f) is punishable by a fine of \$5,000. Half of the amount of each fine collected under this subsection shall be deposited to the credit of the state highway fund. The remaining portion of the fine may be retained by the county in which the violation occurred to be used solely for the purposes of road maintenance on county roads and enforcement of traffic laws in the county.

SECTION _____. Section 621.503, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) A person may not load, or cause to be loaded, a vehicle for operation on a public highway of this state that exceeds the weight limitations for operation of that vehicle provided by Section 621.101 or Chapter 623.

(b) Intent to violate a limitation is presumed if the weight

of the loaded vehicle is heavier than the applicable axle or gross weight limit by seven ~~[15]~~ percent or more.

(d) A violation of this section is subject to administrative enforcement under Subchapter N, Chapter 623, except that administrative enforcement may not be imposed on a shipper of crude oil, natural gas liquids, gasoline, diesel fuel, or aviation fuel, as those terms are defined by Section 162.001, Tax Code, for a violation of this section.

SECTION _____. Section 621.506, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1), (b-2), and (i) to read as follows:

(a) A person commits an offense if the person:

(1) operates a vehicle or combination of vehicles in violation of Section 621.101, ~~[622.012,]~~ 622.031, 622.041, 622.0435, 622.051, 622.061, 622.133, 622.953, or 623.162; or

(2) loads a vehicle or causes a vehicle to be loaded in violation of Section 621.503.

(b) An offense under this section is a misdemeanor punishable:

(1) by a fine of not less than \$500 ~~[\$100]~~ and not more than \$1,250 ~~[\$150]~~;

(2) on conviction of an offense involving:

(A) a Class 1 weight violation, by a fine of not less than \$2,500 or more than \$4,500;

(B) a Class 2 weight violation, by a fine of not less than \$4,500 or more than \$8,000; or

(C) a Class 3 weight violation, by a fine of not less than \$9,250 or more than \$18,000 ~~[a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 but not more than 10,000 pounds heavier than the vehicle's allowable weight, by a fine of not less than \$300 or more than \$500]; and~~

~~(3) [on conviction of an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 10,000 pounds heavier than the vehicle's allowable weight, by a fine of not less than \$500 or more than \$1,000; or~~

[~~(4)~~] on conviction, before the first anniversary of the date of a previous conviction under this section, of a third offense under this section involving:

(A) a Class 1 weight violation, by a fine of not less than \$4,000 or more than \$5,500;

(B) a Class 2 weight violation, by a fine of not less than \$6,000 or more than \$9,000; or

(C) a Class 3 weight violation, by a fine of not less than \$12,500 or more than \$22,000 [~~by a fine in an amount that is twice the amount specified by Subdivision (1), (2), or (3)].~~

(b-1) For purposes of Subsection (b)(2), (3), or (4), a previous offense under this section includes any offense under this section, regardless of whether the offense involved a weight class violation or the same weight class violation.

(b-2) In this section:

(1) a vehicle having a single axle weight or tandem axle weight that is more than the vehicle's allowable weight is a Class 1 weight violation, if the excess weight is more than 5,000 pounds; and

(2) a vehicle having a gross weight that is more than the vehicle's allowable weight is:

(A) a Class 1 weight violation, if the excess weight is more than 5,000 pounds but not more than 10,000 pounds;

(B) a Class 2 weight violation, if the excess weight is more than 10,000 pounds but not more than 20,000 pounds; and

(C) a Class 3 weight violation, if the excess weight is more than 20,000 pounds.

(i) A violation of this section is subject to administrative enforcement under Subchapter N, Chapter 623.

SECTION _____. Subchapter G, Chapter 621, Transportation Code, is amended by adding Section 621.5061 to read as follows:

Sec. 621.5061. OFFENSE OF OPERATING OVERWEIGHT READY-MIXED CONCRETE TRUCK; PENALTY; DEFENSE. (a) In this section, "ready-mixed concrete truck" has the meaning assigned by Section 622.011.

(b) A person commits an offense if the person operates a

ready-mixed concrete truck in violation of Section 622.012.

(c) An offense under this section is a misdemeanor punishable:

(1) by a fine of not less than \$100 and not more than \$150;

(2) on conviction of an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 pounds but not more than 10,000 pounds heavier than the vehicle's allowable weight, by a fine of not less than \$300 or more than \$500;

(3) on conviction of an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 10,000 pounds heavier than the vehicle's allowable weight, by a fine of not less than \$500 or more than \$1,000; or

(4) on conviction before the first anniversary of the date of a previous conviction under this section, by a fine in an amount that is twice the amount specified by Subdivision (1), (2), or (3).

(d) On conviction of a violation of an axle weight limitation, the court may assess a fine less than the applicable minimum amount prescribed by Subsection (c) if the court finds that when the violation occurred:

(1) the vehicle was registered to carry the maximum gross weight authorized for that vehicle under Section 622.012; and

(2) the gross weight of the vehicle did not exceed that maximum gross weight.

(e) A judge or justice shall promptly report to the Department of Public Safety each conviction obtained in the judge's or the justice's court under this section. The Department of Public Safety shall keep a record of each conviction reported to it under this subsection.

(f) If a corporation fails to pay the fine assessed on conviction of an offense under this section, the district or county attorney in the county in which the conviction occurs may file suit against the corporation to collect the fine.

(g) A justice or municipal court has jurisdiction of an offense under this section.

(h) Except as provided by Subsection (i), a governmental entity that collects a fine under this section for an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 pounds heavier than the vehicle's allowable weight shall send an amount equal to 50 percent of the fine to the comptroller in the manner provided by Subchapter B, Chapter 133, Local Government Code.

(i) If the offense described by Subsection (h) occurred within 20 miles of an international border, the entire amount of the fine shall be deposited for the purposes of road maintenance in:

(1) the municipal treasury, if the fine was imposed by a municipal court; or

(2) the county treasury, if the fine was imposed by a justice court.

SECTION _____. Section 621.507(b), Transportation Code, is amended to read as follows:

(b) An offense under this section is a misdemeanor punishable:

(1) by a fine of:

(A) not less than \$500 and not more than \$1,250;

or

(B) \$5,000, if the convicted person is a corporation [not to exceed \$200];

(2) on conviction before the first anniversary of the date of a previous conviction under this section:

(A) by a fine of not less than \$1,500 and not more than \$3,000 [~~to exceed \$500~~], by confinement in a county jail for not more than 60 days, or by both the fine and confinement; or

(B) if the convicted person is a corporation, by a fine of \$8,000 [~~not to exceed \$1,000~~]; or

(3) on a conviction after [~~before~~] the first anniversary of the date of a previous conviction under this section that was punishable under Subdivision (1) [~~(2) or this subdivision~~]:

(A) by a fine of not less than \$750 and not more

than \$1,500 [~~to exceed \$1,000~~], by confinement in the county jail for not more than 30 days [~~six months~~], or by both the fine and confinement; or

(B) if the convicted person is a corporation, by a fine not to exceed \$6,500 [~~\$2,000~~].

SECTION _____. Section 623.019, Transportation Code, is amended by amending Subsections (b), (c), (e), and (f) and adding Subsections (b-1) and (b-2) to read as follows:

(b) An [~~Except as provided by Subsections (c) and (d), an~~] offense under Subsection (a) is a misdemeanor punishable:

(1) by a fine of not less than \$500 [~~\$100~~] or more than \$1,250;

(2) on conviction of an offense involving:

(A) a Class 1 weight violation, by a fine of not less than \$2,500 or more than \$4,500;

(B) a Class 2 weight violation, by a fine of not less than \$4,500 or more than \$8,000; or

(C) a Class 3 weight violation, by a fine of not less than \$9,250 or more than \$18,000; and

(3) on conviction, before the first anniversary of the date of a previous conviction under this section, of a third offense under this section involving:

(A) a Class 1 weight violation, by a fine of not less than \$4,000 or more than \$5,500;

(B) a Class 2 weight violation, by a fine of not less than \$6,000 or more than \$9,000; or

(C) a Class 3 weight violation, by a fine of not less than \$12,500 or more than \$22,000 [~~\$150~~].

(b-1) For purposes of Subsection (b)(2), (3), or (4), a previous offense under this section includes any offense under this section, regardless of whether the offense involved a weight class violation or the same weight class violation.

(b-2) In this section:

(1) a vehicle having a single axle weight or tandem axle weight that is more than the vehicle's allowable weight is a Class 1 weight violation, if the excess weight is more than 5,000 pounds; and

(2) a vehicle having a gross weight that is more than the vehicle's allowable weight is:

(A) a Class 1 weight violation, if the excess weight is more than 5,000 pounds but not more than 10,000 pounds;

(B) a Class 2 weight violation, if the excess weight is more than 10,000 pounds but not more than 20,000 pounds;
and

(C) a Class 3 weight violation, if the excess weight is more than 20,000 pounds.

(c) A violation of this section is subject to administrative enforcement under Subchapter N, Chapter 623. ~~[An offense under Subsection (a) is a misdemeanor and, except as provided by Subsection (d), is punishable by a fine of:~~

~~[(1) not less than \$300 or more than \$500 if the offense involves a vehicle having a gross weight that is heavier than 5,000 but not heavier than 10,000 pounds over the vehicle's allowable gross weight; or~~

~~[(2) not less than \$500 or more than \$1,000 if the offense involves a vehicle having a gross weight that is at least 10,000 pounds heavier than the vehicle's allowable gross weight.]~~

(e) A governmental entity collecting a fine under this section ~~[Subsection (c)]~~ shall send an amount equal to 50 percent of the fine to the comptroller.

(f) A justice of the peace has jurisdiction of any offense under this section. A municipal court has jurisdiction of an offense under this section in which the fine does not exceed \$10,000 ~~[\$500]~~. A county or district court has jurisdiction of an offense under this section in which the fine exceeds \$10,000.

SECTION _____. Section 623.082(b), Transportation Code, is amended to read as follows:

(b) Except as provided by Subsection (c), an offense under this section is a misdemeanor punishable:

(1) by a fine of not more than \$1,500 ~~[\$200]~~;

(2) on conviction before the first anniversary of ~~[within one year after]~~ the date of a previous ~~[prior]~~ conviction under this section ~~[that was punishable under Subdivision (1)]~~, by a fine of not more than \$2,500 ~~[\$500]~~, by confinement in the county

jail for not more than 60 days, or by both the fine and the confinement; ~~[or]~~

(3) on conviction of a third offense before the first anniversary of the date of a previous conviction under Subdivision (1), by a fine of not more than \$3,500; or

(4) on conviction of an offense after the first anniversary of ~~[within one year after]~~ the date of a previous ~~[prior]~~ conviction under this section that was punishable under Subdivision (1) ~~[(2) or this subdivision]~~, by a fine of not less ~~[more]~~ than \$2,000 ~~[\$1,000]~~, by confinement in the county jail for not more than 30 days ~~[six months]~~, or by both the fine and the confinement.

SECTION _____. Section 623.271, Transportation Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsection (a-1), the ~~[The]~~ department may investigate and, except as provided by Subsection (f), may impose an administrative penalty or revoke an oversize or overweight permit issued under this chapter if the person or the holder of the permit, as applicable:

(1) provides false information on the permit application or another form required by the department for the issuance of an oversize or overweight permit;

(2) violates this chapter, Chapter 621, or Chapter 622;

(3) violates a rule or order adopted under this chapter, Chapter 621, or Chapter 622; or

(4) fails to obtain an oversize or overweight permit if a permit is required.

(a-1) The department may not revoke an oversize or overweight permit issued under Subchapter D for a violation of Section 623.082 unless the holder of the permit is convicted before the first anniversary of the date of a previous conviction under Section 623.082(b)(1) of three or more offenses under that section.

SECTION _____. Section 623.272, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) If the department imposes an administrative penalty on a

shipper under this section, the department shall assess, in addition to the penalty, a law enforcement fee in the amount of \$5,000 against the shipper. A fee collected under this subsection shall be remitted to the comptroller for deposit in a special account in the general revenue fund and may be appropriated only to the Department of Public Safety for commercial vehicle enforcement. This subsection does not apply to an administrative penalty imposed on a shipper of crude oil, natural gas liquids, gasoline, diesel fuel, or aviation fuel, as those terms are defined by Section 162.001, Tax Code.