

## **BILL ANALYSIS**

C.S.H.B. 777  
By: White  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Current law limits the permissible weight of a truck's tandem axle. There is concern that this limitation penalizes certain drivers hauling timber and related materials who are not able to haul the permissible gross weight of a truck because of unequal weight distribution over both axles. There are also concerns that many drivers choose to risk being assessed a fine for hauling a load that exceeds weight limits and pass off any such fines as the cost of doing business. It is reported that failure to address the limitation could adversely affect the Texas forest industry, which is vital not only to the economy of the East Texas region but to the economy of the entire state. C.S.H.B. 777 seeks to address the limitation by allowing an oversize or overweight vehicle transporting timber or timber products to use a county road or state highway under certain conditions.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Motor Vehicles in SECTION 5 of this bill.

### **ANALYSIS**

C.S.H.B. 777 amends the Transportation Code to authorize a person to operate over a Texas highway or road a vehicle or combination of vehicles that is being used to transport unrefined timber, wood chips, or woody biomass under the following conditions:

- the vehicle, or combination of vehicles, is not longer than 90 feet, including the load;
- the person holds for the vehicle or combination of vehicles a permit under provisions relating to excess axle or gross weight and provisions added by the bill relating to vehicles transporting timber;
- the notice requirements of provisions added by the bill are met;
- when the maximum allowable gross weight authorized by a permit issued under provisions relating to excess axle or gross weight for the vehicle or combination of vehicles is not exceeded, the gross load carried on any tandem axle of the vehicle or combination of vehicles does not exceed 44,000 pounds; and
- when the maximum allowable gross weight described above is exceeded, the vehicle or combination of vehicles complies with the requirements of provisions relating to the maximum weight of a vehicle or combination of vehicles.

C.S.H.B. 777 makes statutory provisions establishing an affirmative defense to prosecution for operating a vehicle over the maximum allowable axle weight inapplicable to a vehicle or combination of vehicles operating under these conditions. The bill removes provisions that apply to vehicles used exclusively for transporting poles, piling, or unrefined timber. The bill makes provisions establishing an additional fee for operation of a vehicle under a permit relating to excess axle or gross weight inapplicable to a person who holds a permit issued under the bill's

provisions.

C.S.H.B. 777 authorizes the Texas Department of Motor Vehicles (TxDMV) to issue a permit to a person for a vehicle or combination of vehicles that is being used to transport unrefined timber, wood chips, or woody biomass. The bill specifies that such a permit is in addition to other permits required by law. The bill requires a person, to qualify for such a permit, to pay a permit fee of \$800 and designate in the permit application each county in which the vehicle or combination of vehicles will be operated. The bill specifies that a permit issued under the bill's provisions is valid for one year and requires the permit to be carried in the vehicle for which it is issued.

C.S.H.B. 777 requires the financially responsible party, defined in the bill as the owner of the vehicle or combination of vehicles, the party operating the vehicle or combination of vehicles, or a person that hires, leases, rents, or subcontracts the vehicle or combination of vehicles for use on a road maintained by a county or on a state highway, before a vehicle or combination of vehicles for which a permit is issued may be operated on a road maintained by a county or a state highway, to execute a notification document and agree to reimburse the county or the state, as applicable, for damage to a road or highway sustained as a consequence of the transportation authorized by the permit. The bill specifies the minimum required contents of the notification document and the required time frame for a financially responsible party to electronically file the document with TxDMV under rules adopted by TxDMV. The bill requires TxDMV to immediately send an electronic copy of the notification document to each county identified in the document and to the Texas Department of Transportation, in addition to an electronic receipt to the financially responsible party, and authorizes those entities to conduct an inspection of the roads or highways identified in the document to establish a baseline or to determine any damage sustained, as applicable. The bill requires a copy of the inspection documentation to be provided to the financially responsible party if an inspection is conducted.

C.S.H.B. 777 requires 50 percent of the permit fee to be deposited to the credit of the state highway fund and the other 50 percent to be divided among all counties designated in the permit application, with a county receiving an amount determined according to the ratio of the total amount of timber harvested in that county to the total amount of timber harvested by all counties designated on the application, as determined by the most recent edition of the Texas A&M Forest Service's Harvest Trends Report. The bill requires the comptroller of public accounts, at least once each fiscal year, to send the amount due each county to the county treasurer or officer performing the function of that office for deposit to the credit of the county road and bridge fund.

C.S.H.B. 777 specifies that its provisions do not authorize the operation on the national system of interstate and defense highways in Texas of a vehicle of a size or weight greater than those permitted under a specified federal law. The bill specifies that, if the United States authorizes the operation on the national system of interstate and defense highways of a vehicle of a size or weight greater than those permitted under that specified federal law on September 1, 2013, the new limit automatically takes effect on the national system of interstate and defense highways in Texas.

C.S.H.B. 777 requires a person convicted of an offense under the vehicle size and weight law for conduct that violates statutory provisions establishing a weight and length limitation to also be assessed a civil penalty of \$1,000 for failure to comply with the bill's notice requirements and \$5,000 for failure to obtain a permit required by the bill. The bill authorizes the civil penalty to be awarded by a court having jurisdiction over misdemeanors and requires the penalty to be deposited to the credit of the county road and bridge fund of the county in which the violation occurred.

#### **EFFECTIVE DATE**

September 1, 2013.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 777 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

### INTRODUCED

No equivalent provision.

SECTION 1. Section 622.041, Transportation Code, is amended to read as follows:

Sec. 622.041. WEIGHT AND LENGTH LIMITATION. (a) A person may operate over a highway or road of this state a vehicle or combination of vehicles that is being used to transport [~~exclusively for transporting poles, piling, or~~] unrefined timber, wood chips, or woody biomass [~~from the point of origin of the timber (the forest where the timber is felled) to a wood processing mill~~] if:

(1) the vehicle, or combination of vehicles, is not longer than 90 feet, including the load; ~~and~~

(2) the distance from the point of origin to the destination or delivery point does not exceed 125 miles; ~~and~~

(3) when the maximum allowable gross weight authorized by a permit issued under

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter G, Chapter 621, Transportation Code, is amended by adding Section 621.510 to read as follows:

Sec. 621.510. ADDITIONAL CIVIL PENALTIES. (a) A person convicted of an offense under this subtitle for conduct that violates Section 622.041 shall also be assessed a civil penalty of:

(1) \$1,000 for failure to comply with Section 623.323; and

(2) \$5,000 for failure to obtain a permit under Section 623.321.

(b) The civil penalty may be awarded by a court having jurisdiction over misdemeanors.

(c) A penalty collected under this section must be deposited to the credit of the county road and bridge fund of the county in which the violation occurred.

SECTION 2. Section 622.041, Transportation Code, is amended to read as follows:

Sec. 622.041. WEIGHT AND LENGTH LIMITATION. (a) A person may operate over a highway or road of this state a vehicle or combination of vehicles that is being used to transport [~~exclusively for transporting poles, piling, or~~] unrefined timber, wood chips, or woody biomass [~~from the point of origin of the timber (the forest where the timber is felled) to a wood processing mill~~] if:

(1) the vehicle, or combination of vehicles, is not longer than 90 feet, including the load; ~~and~~

(2) ~~[the distance from the point of origin to the destination or delivery point does not exceed 125 miles]~~

the person holds for the vehicle or combination of vehicles permits issued under Sections 623.011 and 623.321;

(3) the notice requirements of Section 623.323 are met; and

(4) when the maximum allowable gross weight authorized by a permit issued under

Section 623.011 for the vehicle or combination of vehicles is:

(A) not exceeded, the gross load carried on any tandem axle of the vehicle or combination of vehicles does not exceed 44,000 pounds; or

(B) exceeded, the vehicle or combination of vehicles complies with the requirements of Section 621.101(b).

(b) Section 621.508 does not apply to a vehicle or combination of vehicles operated under this section. [Subsection (a)(1) does not apply to a truck tractor or truck tractor combination transporting poles, piling, or unrefined timber.]

SECTION 2. Section 622.043, Transportation Code, is amended.

No equivalent provision.

No equivalent provision.

No equivalent provision.

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No equivalent provision.

Section 623.011 for the vehicle or combination of vehicles is:

(A) not exceeded, the gross load carried on any tandem axle of the vehicle or combination of vehicles does not exceed 44,000 pounds; or

(B) exceeded, the vehicle or combination of vehicles complies with the requirements of Section 621.101(b).

(b) Section 621.508 does not apply to a vehicle or combination of vehicles operated under this section. [Subsection (a)(1) does not apply to a truck tractor or truck tractor combination transporting poles, piling, or unrefined timber.]

SECTION 3. Same as introduced version.

SECTION 4. Section 623.0111, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) Subsection (a)(2) does not apply to a person who holds a permit issued under Section 623.321 for the vehicle or combination of vehicles.

SECTION 5. Chapter 623, Transportation Code, is amended by adding Subchapter Q to read as follows:

SUBCHAPTER Q. VEHICLES TRANSPORTING TIMBER

Sec. 623.321. PERMIT. The department may issue a permit under this subchapter to a person for a vehicle or combination of vehicles that is being used to transport unrefined timber, wood chips, or woody biomass. A permit issued under this subchapter is in addition to other permits required by law.

Sec. 623.322. QUALIFICATION; REQUIREMENTS. (a) To qualify for a permit under this subchapter for a vehicle or combination of vehicles, a person must:

(1) pay a permit fee of \$800; and  
(2) designate in the permit application each county in which the vehicle or combination of vehicles will be operated.

(b) A permit issued under this subchapter:  
(1) is valid for one year; and  
(2) must be carried in the vehicle for which it is issued.

Sec. 623.323. NOTIFICATION. (a) For

No equivalent provision.

purposes of this section, "financially responsible party" means the owner of the vehicle or combination of vehicles, the party operating the vehicle or combination of vehicles, or a person that hires, leases, rents, or subcontracts the vehicle or combination of vehicles for use on a road maintained by a county or a state highway.

(b) Before a vehicle or combination of vehicles for which a permit is issued under this subchapter may be operated on a road maintained by a county or a state highway, the financially responsible party shall execute a notification document and agree to reimburse the county or the state, as applicable, for damage to a road or highway sustained as a consequence of the transportation authorized by the permit. At a minimum, the notification document must include:

(1) the name and address of the financially responsible party;

(2) a description of each permit issued for the vehicle or combination of vehicles;

(3) a description of the method of compliance by the financially responsible party with Section 601.051;

(4) the address or location of the geographic area in which the financially responsible party wishes to operate a vehicle or combination of vehicles and a designation of the specific route of travel anticipated by the financially responsible party, including the name or number of each road maintained by a county or state highway;

(5) a calendar or schedule of duration that includes the days and hours of operation during which the financially responsible party reasonably anticipates using the county road or state highway identified in Subdivision (4); and

(6) a list of each vehicle or combination of vehicles by license plate number or other registration information, and a description of the means by which financial responsibility is established for each vehicle or combination of vehicles if each vehicle or combination of vehicles is not covered by a single insurance policy, surety bond, deposit, or other means of financial assurance.

No equivalent provision.

(c) A financially responsible party shall electronically file the notification document described by Subsection (b) with the department under rules adopted by the department not later than the second day

before the first day listed by the financially responsible party under Subsection (b)(5). The department shall immediately send an electronic copy of the notification document to each county identified in the notification document and the Texas Department of Transportation and an electronic receipt for the notification document to the financially responsible party. Not later than the first day listed by the financially responsible party under Subsection (b)(5), a county or the Texas Department of Transportation may inspect a road or highway identified in the notification document. If an inspection is conducted under this subsection, a county or the Texas Department of Transportation shall:

(1) document the condition of the roads or highways and take photographs of the roads or highways as necessary to establish a baseline for any subsequent assessment of damage sustained by the financially responsible party's use of the roads or highways; and

(2) provide a copy of the documentation to the financially responsible party.

(d) If an inspection has been conducted under Subsection (c), a county or the Texas Department of Transportation, as applicable, shall, not later than the second day after the expiration of the calendar or schedule of duration described by Subsection (b)(5):

(1) conduct an inspection described by Subsection (c)(1) to determine any damage sustained by the financially responsible party's use of the roads or highways; and

(2) provide a copy of the inspection documentation to the financially responsible party.

Sec. 623.324. DISPOSITION OF FEE. (a) Of the fee collected under Section 623.322 for a permit:

(1) 50 percent of the amount collected shall be deposited to the credit of the state highway fund; and

(2) the other 50 percent shall be divided among all counties designated in the permit application under Section 623.322(a)(2), with a county receiving an amount determined according to the ratio of the total amount of timber harvested in that county to the total amount of timber harvested by all counties designated on the application, as determined by the most recent edition of the Texas A&M Forest Service's Harvest Trends Report.

No equivalent provision.

No equivalent provision.

No equivalent provision.

(b) At least once each fiscal year, the comptroller shall send the amount due each county under Subsection (a) to the county treasurer or officer performing the function of that office for deposit to the credit of the county road and bridge fund.

No equivalent provision.

Sec. 623.325. INTERSTATE AND DEFENSE HIGHWAYS. (a) This subchapter does not authorize the operation on the national system of interstate and defense highways in this state of a vehicle of a size or weight greater than those permitted under 23 U.S.C. Section 127.

No equivalent provision.

(b) If the United States authorizes the operation on the national system of interstate and defense highways of a vehicle of a size or weight greater than those permitted under 23 U.S.C. Section 127 on September 1, 2013, the new limit automatically takes effect on the national system of interstate and defense highways in this state.

SECTION 3. This Act takes effect September 1, 2013.

SECTION 6. Same as introduced version.