

## **BILL ANALYSIS**

C.S.H.B. 2612  
By: Flynn  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Concerned parties assert that county roads are being damaged by overweight trucks and that road supervisors and county commissioners need additional authority to limit the damage to these roads. C.S.H.B. 2612 seeks to address this issue.

### **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**

C.S.H.B. 2612 amends the Transportation Code to authorize a road supervisor, in addition to prohibiting the use of a road or a section of a road under the supervisor's control by any vehicle that will unduly damage the road under certain circumstances, to restrict the use of such a road. The bill makes that authority to prohibit or restrict the use of a road contingent on an alternative, more suitable road being available within the county at the time. The bill requires the road supervisor, before prohibiting or restricting road use, to post notices that, rather than stating the maximum load permitted and the time the use of the road is prohibited, instead state the road and the expected duration of the prohibition or restriction and that identify the alternate route. The bill prohibits the road supervisor from restricting, in addition to prohibiting, the use of a road until a detour has been provided. The bill authorizes an owner or operator of a vehicle that is restricted from using a road who is aggrieved by the restriction to file a written complaint with the county judge of the applicable county in the same manner as such a person aggrieved by a prohibition against using such a road. The bill requires the county judge to give written notice of the date and purpose of each hearing on such a complaint to the county engineer and the commissioners court, in addition to the road supervisor.

C.S.H.B. 2612 authorizes a commissioners court to identify an alternate route to a road and to require heavy vehicles to travel the alternate route in order to prevent excessive damage to the road due to the volume of traffic by heavy vehicles. The bill requires an alternate route to be of sufficient strength and design to withstand the weight of the vehicles traveling the alternate route, including any bridges or culverts along the road, and to be located within the same county as the original road. The bill requires the applicable road supervisor to post notices of the prohibition that state the road and the expected duration of the prohibition or restriction and that identify the alternate route. The bill grants a person who is required to operate or move a vehicle or other object on an alternate route identified by a commissioners court immunity from liability for damage sustained by the road, including a bridge, as a result of the operation or movement of the vehicle or other object, unless the act, error, or omission resulting in the damage constitutes wanton, wilful, and intentional misconduct, or gross negligence.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2612 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

SECTION 1. Subchapter 3, Chapter 622, Transportation Code is amended by adding a new Section 622.956 to read as follows:

#### §622.956 Liability for Damage to a County Road

(a) The liability of an operator, owner, or other person who causes damage to a county road by a vehicle is not limited by the weight exceptions under this chapter.

(b) The operator, owner, or other person who causes damage to a county road is liable to the county only for the actual damage to a county road, bridge, or culvert with a load limitation established under Subchapter B of Chapter 621 or Section 621.301 caused by the operation of the vehicle in excess of the limitation. If a county judge, county commissioner, county road supervisor, or county traffic officer requires the vehicle to travel over a designated route, it is presumed that the designated route, including a bridge or culvert on the route, is of sufficient strength and design to carry and withstand the weight of the vehicle travelling over the designated route.

No equivalent provision.

No equivalent provision.

### HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 1. The heading to Section 251.157, Transportation Code, is amended to read as follows:

Sec. 251.157. PROHIBITING OR RESTRICTING USE OF ROAD.

SECTION 2. Sections 251.157(b), (c), (d), (e), and (f), Transportation Code, are amended to read as follows:

(b) A road supervisor may prohibit or restrict, if an alternative, more suitable road is available within the county at the time, the use of a road or a section of a road under the supervisor's control by any vehicle that will unduly damage the road when:

(1) because of wet weather or recent construction or repairs, the road cannot be

safely used without probable serious damage to it; or

(2) a bridge or culvert on the road is unsafe.

(c) Before prohibiting or restricting the use of a road under this section, the road supervisor shall post notices that state the road and the expected duration of the prohibition or restriction and that identify the alternate route [~~maximum load permitted and the time the use of the road is prohibited~~]. The notices must be posted at locations that enable drivers to detour to avoid the restricted road.

(d) The road supervisor may not prohibit or restrict the use of a road under this section until a detour has been provided.

(e) If the owner or operator of a vehicle that is prohibited or restricted from using a road under this section is aggrieved by the prohibition or restriction, the person may file with the county judge of the county in which the restricted road is located a written complaint that sets forth the nature of the grievance. On the filing of the complaint the county judge promptly shall set the issue for a hearing to be held not later than the third day after the date on which the complaint is filed. The county judge shall give [~~to~~] the road supervisor, the county engineer, and the commissioners court written notice of the date and purpose of each hearing.

(f) The county judge shall hear testimony offered by the parties. On conclusion of the hearing, the county judge shall sustain, revoke, or modify the road supervisor's decision on the prohibition or restriction. The county judge's judgment is final as to the issues raised.

No equivalent provision.

SECTION 3. Subchapter E, Chapter 251, Transportation Code, is amended by adding Section 251.1575 to read as follows:

Sec. 251.1575. PROHIBITING USE OF ROAD FOR CERTAIN VEHICLES. (a) A commissioners court may identify an alternate route to a road and require heavy vehicles to travel the alternate route in order to prevent excessive damage to the road due to the volume of traffic by heavy vehicles. An alternate route identified under this subsection must be:

(1) of sufficient strength and design to withstand the weight of the vehicles traveling the alternate route, including any

bridges or culverts along the road; and  
(2) located within the same county as the  
road described by this subsection.

(b) Notice of the prohibition must be  
provided in the same manner as for a  
prohibition or restriction under Section  
251.157.

(c) A person who is required to operate or  
move a vehicle or other object on an  
alternate route identified under this section is  
not liable for damage sustained by the road,  
including a bridge, as a result of the  
operation or movement of the vehicle or  
other object, unless the act, error, or  
omission resulting in the damage constitutes:

(1) wanton, wilful, and intentional  
misconduct; or

(2) gross negligence.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013

SECTION 4. Same as introduced version.