

By: Nichols

S.B. No. 1671

A BILL TO BE ENTITLED

AN ACT

relating to the fines for and other enforcement of laws providing for the operation of oversize or overweight vehicles.

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

SECTION 1. Section 621.502, Transportation Code, is amended by adding Subsection (e) 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 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.

SECTION 2. 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 three [~~15~~] percent or more.

(d) A violation of this section is subject to administrative

1 enforcement under Subchapter N, Chapter 623.

2 SECTION 3. Section 621.506, Transportation Code, is amended
3 by amending Subsections (a) and (b) and adding Subsections (b-1),
4 (b-2), and (i) to read as follows:

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

6 (1) operates a vehicle or combination of vehicles in
7 violation of Section 621.101, [~~622.012,~~] 622.031, 622.041,
8 622.0435, 622.051, 622.061, 622.133, 622.953, or 623.162; or

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

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

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

15 (2) on conviction of an offense involving:

16 (A) a Class 1 weight violation, by a fine of not
17 less than \$750 or more than \$1,500;

18 (B) a Class 2 weight violation, by a fine of not
19 less than \$1,500 or more than \$3,000;

20 (C) a Class 3 weight violation, by a fine of not
21 less than \$3,500 or more than \$7,000; or

22 (D) a Class 4 weight violation, by a fine of not
23 less than \$7,500 or more than \$15,000 [~~a vehicle having a single~~
24 ~~axle weight, tandem axle weight, or gross weight that is more than~~
25 ~~5,000 but not more than 10,000 pounds heavier than the vehicle's~~
26 ~~allowable weight, by a fine of not less than \$300 or more than~~
27 ~~\$500];~~

1 (3) ~~[on conviction of an offense involving a vehicle~~
2 ~~having a single axle weight, tandem axle weight, or gross weight~~
3 ~~that is more than 10,000 pounds heavier than the vehicle's~~
4 ~~allowable weight, by a fine of not less than \$500 or more than~~
5 ~~\$1,000; or~~

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

9 (A) a Class 1 weight violation, by a fine of not
10 less than \$1,000 or more than \$2,000;

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

13 (C) a Class 3 weight violation, by a fine of not
14 less than \$4,500 or more than \$8,000; or

15 (D) a Class 4 weight violation, by a fine of not
16 less than \$9,250 or more than \$18,000;

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

20 (A) a Class 1 weight violation, by a fine of not
21 less than \$2,500 or more than \$3,750;

22 (B) a Class 2 weight violation, by a fine of not
23 less than \$4,000 or more than \$5,500;

24 (C) a Class 3 weight violation, by a fine of not
25 less than \$6,000 or more than \$9,000; or

26 (D) a Class 4 weight violation, by a fine of not
27 less than \$12,500 or more than \$22,000; and

1 (5) on conviction, after the first anniversary of a
2 previous conviction under this section, of a subsequent offense
3 under this section involving:

4 (A) a Class 1 weight violation, by a fine of not
5 less than \$850 or more than \$1,750;

6 (B) a Class 2 weight violation, by a fine of not
7 less than \$1,750 or more than \$3,250;

8 (C) a Class 3 weight violation, by a fine of not
9 less than \$3,700 or more than \$7,500; or

10 (D) a Class 4 weight violation, by a fine of not
11 less than \$7,750 or more than \$16,000 ~~[by a fine in an amount that is~~
12 ~~twice the amount specified by Subdivision (1), (2), or (3)].~~

13 (b-1) For purposes of Subsection (b)(3), (4), or (5), a
14 previous offense under this section includes any offense under this
15 section, regardless of whether the offense involved a weight class
16 violation or the same weight class violation.

17 (b-2) In this section, a vehicle having a single axle
18 weight, tandem axle weight, or gross weight that is more than the
19 vehicle's allowable weight is:

20 (1) a Class 1 weight violation, if the excess weight is
21 more than 2,500 pounds but not more than 5,000 pounds;

22 (2) a Class 2 weight violation, if the excess weight is
23 more than 5,000 pounds but not more than 10,000 pounds;

24 (3) a Class 3 weight violation, if the excess weight is
25 more than 10,000 pounds but not more than 20,000 pounds; and

26 (4) a Class 4 weight violation, if the excess weight is
27 more than 20,000 pounds.

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

3 SECTION 4. Subchapter G, Chapter 621, Transportation Code,
4 is amended by adding Section 621.5061 to read as follows:

5 Sec. 621.5061. OFFENSE OF OPERATING OVERWEIGHT READY-MIXED
6 CONCRETE TRUCK; PENALTY; DEFENSE. (a) In this section,
7 "ready-mixed concrete truck" has the meaning assigned by Section
8 622.011.

9 (b) A person commits an offense if the person operates a
10 ready-mixed concrete truck in violation of Section 622.012.

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

13 (1) by a fine of not less than \$100 and not more than
14 \$150;

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

20 (3) on conviction of an offense involving a vehicle
21 having a single axle weight, tandem axle weight, or gross weight
22 that is more than 10,000 pounds heavier than the vehicle's
23 allowable weight, by a fine of not less than \$500 or more than
24 \$1,000; or

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

1 or (3).

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

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

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

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

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

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

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

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

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

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

8 SECTION 5. Subsection (b), Section 621.507, Transportation
9 Code, is amended to read as follows:

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

12 (1) by a fine of:

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

14 or

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

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

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

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

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

1 (A) by a fine of not less than \$750 and not more
2 than \$1,500 [~~to exceed \$1,000~~], by confinement in the county jail
3 for not more than 30 days [~~six months~~], or by both the fine and
4 confinement; or

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

7 SECTION 6. Section 623.019, Transportation Code, is amended
8 by amending Subsections (b), (c), (e), and (f) and adding
9 Subsections (b-1) and (b-2) to read as follows:

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

12 (1) by a fine of not less than \$1,000 [~~\$100~~] or more
13 than \$2,250;

14 (2) on conviction of an offense involving:

15 (A) a Class 1 weight violation, by a fine of not
16 less than \$750 or more than \$1,500;

17 (B) a Class 2 weight violation, by a fine of not
18 less than \$1,500 or more than \$3,000;

19 (C) a Class 3 weight violation, by a fine of not
20 less than \$3,500 or more than \$7,000; or

21 (D) a Class 4 weight violation, by a fine of not
22 less than \$7,500 or more than \$15,000;

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

26 (A) a Class 1 weight violation, by a fine of not
27 less than \$1,000 or more than \$2,000;

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

3 (C) a Class 3 weight violation, by a fine of not
4 less than \$4,500 or more than \$8,000; or

5 (D) a Class 4 weight violation, by a fine of not
6 less than \$9,250 or more than \$18,000;

7 (4) on conviction, before the first anniversary of a
8 previous conviction under this section, of a third offense under
9 this section involving:

10 (A) a Class 1 weight violation, by a fine of not
11 less than \$2,500 or more than \$3,750;

12 (B) a Class 2 weight violation, by a fine of not
13 less than \$4,000 or more than \$5,500;

14 (C) a Class 3 weight violation, by a fine of not
15 less than \$6,000 or more than \$9,000; or

16 (D) a Class 4 weight violation, by a fine of not
17 less than \$12,500 or more than \$22,000; and

18 (5) on conviction, after the first anniversary of a
19 previous conviction under this section, of a subsequent offense
20 under this section involving:

21 (A) a Class 1 weight violation, by a fine of not
22 less than \$850 or more than \$1,750;

23 (B) a Class 2 weight violation, by a fine of not
24 less than \$1,750 or more than \$3,250;

25 (C) a Class 3 weight violation, by a fine of not
26 less than \$3,700 or more than \$7,500; or

27 (D) a Class 4 weight violation, by a fine of not

1 less than \$7,750 or more than \$16,000 [~~\$150~~].

2 (b-1) For purposes of Subsection (b)(3), (4), or (5), a
3 previous offense under this section includes any offense under this
4 section, regardless of whether the offense involved a weight class
5 violation or the same weight class violation.

6 (b-2) In this section, a vehicle having a single axle
7 weight, tandem axle weight, or gross weight that is more than the
8 vehicle's allowable weight is:

9 (1) a Class 1 weight violation, if the excess weight is
10 more than 2,500 pounds but not more than 5,000 pounds;

11 (2) a Class 2 weight violation, if the excess weight is
12 more than 5,000 pounds but not more than 10,000 pounds;

13 (3) a Class 3 weight violation, if the excess weight is
14 more than 10,000 pounds but not more than 20,000 pounds; and

15 (4) a Class 4 weight violation, if the excess weight is
16 more than 20,000 pounds.

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

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

25 [(2) not less than \$500 or more than \$1,000 if the
26 offense involves a vehicle having a gross weight that is at least
27 10,000 pounds heavier than the vehicle's allowable gross weight.]

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

4 (f) A justice of the peace has jurisdiction of any offense
5 under this section. A municipal court has jurisdiction of an
6 offense under this section in which the fine does not exceed \$10,000
7 [~~\$500~~]. A county or district court has jurisdiction of an offense
8 under this section in which the fine exceeds \$10,000.

9 SECTION 7. Subsection (b), Section 623.082, Transportation
10 Code, is amended to read as follows:

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

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

14 (2) on conviction before the first anniversary of
15 [~~within one year after~~] the date of a previous [~~prior~~] conviction
16 under this section [~~that was punishable under Subdivision (1)~~], by
17 a fine of not more than \$2,500 [~~\$500~~], by confinement in the county
18 jail for not more than 60 days, or by both the fine and the
19 confinement; [~~or~~]

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

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

1 not more than 30 days [~~six months~~], or by both the fine and the
2 confinement.

3 SECTION 8. Section 623.271, Transportation Code, is amended
4 by amending Subsection (a) and adding Subsection (a-1) to read as
5 follows:

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

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

14 (2) violates this chapter, Chapter 621, or Chapter
15 622;

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

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

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

25 SECTION 9. Section 623.272, Transportation Code, is amended
26 by adding Subsection (d) to read as follows:

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

1 shipper under this section, the department shall assess, in
2 addition to the penalty, a law enforcement fee in the amount of
3 \$5,000 against the shipper. A fee collected under this subsection
4 shall be remitted to the comptroller for deposit in the general
5 revenue fund and may be appropriated only for law enforcement
6 purposes.

7 SECTION 10. Subsection (d), Section 623.019,
8 Transportation Code, is repealed.

9 SECTION 11. The changes in law made by this Act apply only
10 to an offense committed on or after the effective date of this Act.
11 An offense committed before the effective date of this Act is
12 governed by the law in effect on the date the offense was committed,
13 and the former law is continued in effect for that purpose. For
14 purposes of this section, an offense was committed before the
15 effective date of this Act if any element of the offense occurred
16 before that date.

17 SECTION 12. This Act takes effect September 1, 2013.