

By: Nichols
(Fletcher)

S.B. No. 1671

Substitute the following for S.B. No. 1671:

By: Fletcher

C.S.S.B. No. 1671

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the fines for and other enforcement of laws providing
3 for the operation of oversize or overweight vehicles; creating an
4 offense.

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

6 SECTION 1. Section 621.502, Transportation Code, is amended
7 by adding Subsections (e) through (i) to read as follows:

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

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

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

15 (f) A person commits an offense if:

16 (1) the person operates a vehicle at a weight for which
17 a permit is required by Chapter 623, other than a permit issued
18 under Section 623.011; and

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

20 (g) An offense under Subsection (f) is punishable by a fine
21 of \$5,000. Half of the amount of each fine collected under this
22 subsection shall be deposited to the credit of the state highway
23 fund. The remaining portion of the fine may be retained by the
24 county in which the violation occurred to be used solely for the

1 purposes of road maintenance on county roads and enforcement of
2 traffic laws in the county.

3 (h) A person may not operate or move a vehicle equipped with
4 a tag or lift axle on a highway if:

5 (1) the tag or lift axle is lowered to the surface of
6 the highway; and

7 (2) the minimum ascending and descending transverse
8 travel of the tag or lift axle is less than 1.2 inches per foot of
9 length, as measured from the rear of the vehicle to the tag or lift
10 axle.

11 (i) In this section:

12 (1) "Tag or lift axle" means an additional axle
13 mounted to the rear of a vehicle that:

14 (A) may be raised or lowered;

15 (B) extends behind the rearmost axle of the
16 vehicle; and

17 (C) extends the overall wheelbase of the vehicle
18 when lowered to the surface of a highway.

19 (2) "Transverse travel" means the distance that a tag
20 or lift axle moves vertically, either up or down, because the
21 vehicle enters an incline or exits a decline of a highway.

22 SECTION 2. Section 621.503, Transportation Code, is amended
23 by amending Subsections (a) and (b) and adding Subsection (d) to
24 read as follows:

25 (a) A person may not load, or cause to be loaded, a vehicle
26 for operation on a public highway of this state that exceeds the
27 weight limitations for operation of that vehicle provided by

1 Section 621.101 or Chapter 623.

2 (b) Intent to violate a limitation is presumed if the weight
3 of the loaded vehicle is heavier than the applicable axle or gross
4 weight limit by three [~~15~~] percent or more.

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

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

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

14 (1) operates a vehicle or combination of vehicles in
15 violation of Section 621.101, [~~622.012,~~] 622.031, 622.041,
16 622.0435, 622.051, 622.061, 622.133, 622.953, or 623.162; or

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

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

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

23 (2) on conviction of an offense involving:

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

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

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

3 (D) a Class 4 weight violation, by a fine of not
4 less than \$7,500 or more than \$15,000 [~~a vehicle having a single~~
5 ~~axle weight, tandem axle weight, or gross weight that is more than~~
6 ~~5,000 but not more than 10,000 pounds heavier than the vehicle's~~
7 ~~allowable weight, by a fine of not less than \$300 or more than~~
8 ~~\$500];~~

9 (3) [~~on conviction of an offense involving a vehicle~~
10 ~~having a single axle weight, tandem axle weight, or gross weight~~
11 ~~that is more than 10,000 pounds heavier than the vehicle's~~
12 ~~allowable weight, by a fine of not less than \$500 or more than~~
13 ~~\$1,000; or~~

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

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

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

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

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

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

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

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

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

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

9 (5) on conviction, after the first anniversary of a
10 previous conviction under this section, of a subsequent offense
11 under this section involving:

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

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

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

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

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

25 (b-2) In this section:

26 (1) a vehicle having a single axle weight or tandem
27 axle weight that is more than the vehicle's allowable weight is:

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

3 (B) a Class 2 weight violation, if the excess
4 weight is more than 5,000 pounds; and

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

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

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

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

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

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

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

20 Sec. 621.5061. OFFENSE OF OPERATING OVERWEIGHT READY-MIXED
21 CONCRETE TRUCK; PENALTY; DEFENSE. (a) In this section,
22 "ready-mixed concrete truck" has the meaning assigned by Section
23 622.011.

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

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

1 (1) by a fine of not less than \$100 and not more than
2 \$150;

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

8 (3) on conviction of an offense involving a vehicle
9 having a single axle weight, tandem axle weight, or gross weight
10 that is more than 10,000 pounds heavier than the vehicle's
11 allowable weight, by a fine of not less than \$500 or more than
12 \$1,000; or

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

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

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

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

26 (e) A judge or justice shall promptly report to the
27 Department of Public Safety each conviction obtained in the judge's

1 or the justice's court under this section. The Department of Public
2 Safety shall keep a record of each conviction reported to it under
3 this subsection.

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

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

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

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

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

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

24 SECTION 5. Section 621.507(b), Transportation Code, is
25 amended to read as follows:

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

1 (1) by a fine of:

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

3 or

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

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

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

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

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

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

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

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

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

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

3 (2) on conviction of an offense involving:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (5) on conviction, after the first anniversary of a
8 previous conviction under this section, of a subsequent offense
9 under this section involving:

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

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

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

16 (D) a Class 4 weight violation, by a fine of not
17 less than \$7,750 or more than \$16,000 [~~\$150~~].

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

22 (b-2) In this section:

23 (1) a vehicle having a single axle weight or tandem
24 axle weight that is more than the vehicle's allowable weight is:

25 (A) a Class 1 weight violation, if the excess
26 weight is more than 2,500 pounds but not more than 5,000 pounds; and

27 (B) a Class 2 weight violation, if the excess

1 weight is more than 5,000 pounds; and

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

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

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

8 (C) a Class 3 weight violation, if the excess
9 weight is more than 10,000 pounds but not more than 20,000 pounds;

10 and

11 (D) a Class 4 weight violation, if the excess
12 weight is more than 20,000 pounds.

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

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

21 ~~[(2) not less than \$500 or more than \$1,000 if the~~
22 ~~offense involves a vehicle having a gross weight that is at least~~
23 ~~10,000 pounds heavier than the vehicle's allowable gross weight.]~~

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

27 (f) A justice of the peace has jurisdiction of any offense

1 under this section. A municipal court has jurisdiction of an
2 offense under this section in which the fine does not exceed \$10,000
3 [~~\$500~~]. A county or district court has jurisdiction of an offense
4 under this section in which the fine exceeds \$10,000.

5 SECTION 7. Section 623.082(b), Transportation Code, is
6 amended to read as follows:

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

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

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

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

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

26 SECTION 8. Section 623.271, Transportation Code, is amended
27 by amending Subsection (a) and adding Subsection (a-1) to read as

1 follows:

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

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

10 (2) violates this chapter, Chapter 621, or Chapter
11 622;

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

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

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

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

23 (d) If the department imposes an administrative penalty on a
24 shipper under this section, the department shall assess, in
25 addition to the penalty, a law enforcement fee in the amount of
26 \$5,000 against the shipper. A fee collected under this subsection
27 shall be remitted to the comptroller for deposit in a special

1 account in the general revenue fund and may be appropriated only to
2 the Department of Public Safety for commercial vehicle enforcement.
3 This subsection does not apply to an administrative penalty imposed
4 on a shipper of gasoline, diesel fuel, or aviation fuel, as those
5 terms are defined by Section 162.001, Tax Code.

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

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

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