

1-1 By: Nichols S.B. No. 1671
 1-2 (In the Senate - Filed March 8, 2013; March 25, 2013, read
 1-3 first time and referred to Committee on Transportation;
 1-4 April 16, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; April 16, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1671 By: Nichols

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the fines for and other enforcement of laws providing
 1-22 for the operation of oversize or overweight vehicles.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 621.502, Transportation Code, is amended
 1-25 by adding Subsection (e) to read as follows:

1-26 (e) Intent to operate a vehicle at a weight that is heavier
 1-27 than the weight authorized by a permit issued under Chapter 623,
 1-28 except for a permit issued under Section 623.011, is presumed if:

1-29 (1) the vehicle is operated at a weight that is heavier
 1-30 than the applicable weight allowed under Chapter 623; and

1-31 (2) a permit to operate at that weight has not been
 1-32 issued for the vehicle.

1-33 SECTION 2. Section 621.503, Transportation Code, is amended
 1-34 by amending Subsections (a) and (b) and adding Subsection (d) to
 1-35 read as follows:

1-36 (a) A person may not load, or cause to be loaded, a vehicle
 1-37 for operation on a public highway of this state that exceeds the
 1-38 weight limitations for operation of that vehicle provided by
 1-39 Section 621.101 or Chapter 623.

1-40 (b) Intent to violate a limitation is presumed if the weight
 1-41 of the loaded vehicle is heavier than the applicable axle or gross
 1-42 weight limit by three [~~15~~] percent or more.

1-43 (d) A violation of this section is subject to administrative
 1-44 enforcement under Subchapter N, Chapter 623.

1-45 SECTION 3. Section 621.506, Transportation Code, is amended
 1-46 by amending Subsections (a) and (b) and adding Subsections (b-1),
 1-47 (b-2), and (i) to read as follows:

1-48 (a) A person commits an offense if the person:

1-49 (1) operates a vehicle or combination of vehicles in
 1-50 violation of Section 621.101, [~~622.012,~~] 622.031, 622.041,
 1-51 622.0435, 622.051, 622.061, 622.133, 622.953, or 623.162; or

1-52 (2) loads a vehicle or causes a vehicle to be loaded in
 1-53 violation of Section 621.503.

1-54 (b) An offense under this section is a misdemeanor
 1-55 punishable:

1-56 (1) by a fine of not less than \$500 [~~\$100~~] and not more
 1-57 than \$1,250 [~~\$150~~];

1-58 (2) on conviction of an offense involving:

1-59 (A) a Class 1 weight violation, by a fine of not
 1-60 less than \$750 or more than \$1,500;

2-1 (B) a Class 2 weight violation, by a fine of not
 2-2 less than \$1,500 or more than \$3,000;
 2-3 (C) a Class 3 weight violation, by a fine of not
 2-4 less than \$3,500 or more than \$7,000; or
 2-5 (D) a Class 4 weight violation, by a fine of not
 2-6 less than \$7,500 or more than \$15,000 [a vehicle having a single
 2-7 axle weight, tandem axle weight, or gross weight that is more than
 2-8 5,000 but not more than 10,000 pounds heavier than the vehicle's
 2-9 allowable weight, by a fine of not less than \$300 or more than
 2-10 \$500];
 2-11 (3) [on conviction of an offense involving a vehicle
 2-12 having a single axle weight, tandem axle weight, or gross weight
 2-13 that is more than 10,000 pounds heavier than the vehicle's
 2-14 allowable weight, by a fine of not less than \$500 or more than
 2-15 \$1,000; or
 2-16 [~~(4)~~] on conviction, before the first anniversary of
 2-17 the date of a previous conviction under this section, of a second
 2-18 offense under this section involving:
 2-19 (A) a Class 1 weight violation, by a fine of not
 2-20 less than \$1,000 or more than \$2,000;
 2-21 (B) a Class 2 weight violation, by a fine of not
 2-22 less than \$2,500 or more than \$4,500;
 2-23 (C) a Class 3 weight violation, by a fine of not
 2-24 less than \$4,500 or more than \$8,000; or
 2-25 (D) a Class 4 weight violation, by a fine of not
 2-26 less than \$9,250 or more than \$18,000;
 2-27 (4) on conviction, before the first anniversary of the
 2-28 date of a previous conviction under this section, of a third offense
 2-29 under this section involving:
 2-30 (A) a Class 1 weight violation, by a fine of not
 2-31 less than \$2,500 or more than \$3,750;
 2-32 (B) a Class 2 weight violation, by a fine of not
 2-33 less than \$4,000 or more than \$5,500;
 2-34 (C) a Class 3 weight violation, by a fine of not
 2-35 less than \$6,000 or more than \$9,000; or
 2-36 (D) a Class 4 weight violation, by a fine of not
 2-37 less than \$12,500 or more than \$22,000; and
 2-38 (5) on conviction, after the first anniversary of a
 2-39 previous conviction under this section, of a subsequent offense
 2-40 under this section involving:
 2-41 (A) a Class 1 weight violation, by a fine of not
 2-42 less than \$850 or more than \$1,750;
 2-43 (B) a Class 2 weight violation, by a fine of not
 2-44 less than \$1,750 or more than \$3,250;
 2-45 (C) a Class 3 weight violation, by a fine of not
 2-46 less than \$3,700 or more than \$7,500; or
 2-47 (D) a Class 4 weight violation, by a fine of not
 2-48 less than \$7,750 or more than \$16,000 [by a fine in an amount that is
 2-49 twice the amount specified by Subdivision (1), (2), or (3)].
 2-50 (b-1) For purposes of Subsection (b)(3), (4), or (5), a
 2-51 previous offense under this section includes any offense under this
 2-52 section, regardless of whether the offense involved a weight class
 2-53 violation or the same weight class violation.
 2-54 (b-2) In this section, a vehicle having a single axle
 2-55 weight, tandem axle weight, or gross weight that is more than the
 2-56 vehicle's allowable weight is:
 2-57 (1) a Class 1 weight violation, if the excess weight is
 2-58 more than 2,500 pounds but not more than 5,000 pounds;
 2-59 (2) a Class 2 weight violation, if the excess weight is
 2-60 more than 5,000 pounds but not more than 10,000 pounds;
 2-61 (3) a Class 3 weight violation, if the excess weight is
 2-62 more than 10,000 pounds but not more than 20,000 pounds; and
 2-63 (4) a Class 4 weight violation, if the excess weight is
 2-64 more than 20,000 pounds.
 2-65 (i) A violation of this section is subject to administrative
 2-66 enforcement under Subchapter N, Chapter 623.
 2-67 SECTION 4. Subchapter G, Chapter 621, Transportation Code,
 2-68 is amended by adding Section 621.5061 to read as follows:
 2-69 Sec. 621.5061. OFFENSE OF OPERATING OVERWEIGHT READY-MIXED

3-1 CONCRETE TRUCK; PENALTY; DEFENSE. (a) In this section,
3-2 "ready-mixed concrete truck" has the meaning assigned by Section
3-3 622.011.

3-4 (b) A person commits an offense if the person operates a
3-5 ready-mixed concrete truck in violation of Section 622.012.

3-6 (c) An offense under this section is a misdemeanor
3-7 punishable:

3-8 (1) by a fine of not less than \$100 and not more than
3-9 \$150;

3-10 (2) on conviction of an offense involving a vehicle
3-11 having a single axle weight, tandem axle weight, or gross weight
3-12 that is more than 5,000 pounds but not more than 10,000 pounds
3-13 heavier than the vehicle's allowable weight, by a fine of not less
3-14 than \$300 or more than \$500;

3-15 (3) on conviction of an offense involving a vehicle
3-16 having a single axle weight, tandem axle weight, or gross weight
3-17 that is more than 10,000 pounds heavier than the vehicle's
3-18 allowable weight, by a fine of not less than \$500 or more than
3-19 \$1,000; or

3-20 (4) on conviction before the first anniversary of the
3-21 date of a previous conviction under this section, by a fine in an
3-22 amount that is twice the amount specified by Subdivision (1), (2),
3-23 or (3).

3-24 (d) On conviction of a violation of an axle weight
3-25 limitation, the court may assess a fine less than the applicable
3-26 minimum amount prescribed by Subsection (c) if the court finds that
3-27 when the violation occurred:

3-28 (1) the vehicle was registered to carry the maximum
3-29 gross weight authorized for that vehicle under Section 622.012; and

3-30 (2) the gross weight of the vehicle did not exceed that
3-31 maximum gross weight.

3-32 (e) A judge or justice shall promptly report to the
3-33 Department of Public Safety each conviction obtained in the judge's
3-34 or the justice's court under this section. The Department of Public
3-35 Safety shall keep a record of each conviction reported to it under
3-36 this subsection.

3-37 (f) If a corporation fails to pay the fine assessed on
3-38 conviction of an offense under this section, the district or county
3-39 attorney in the county in which the conviction occurs may file suit
3-40 against the corporation to collect the fine.

3-41 (g) A justice or municipal court has jurisdiction of an
3-42 offense under this section.

3-43 (h) Except as provided by Subsection (i), a governmental
3-44 entity that collects a fine under this section for an offense
3-45 involving a vehicle having a single axle weight, tandem axle
3-46 weight, or gross weight that is more than 5,000 pounds heavier than
3-47 the vehicle's allowable weight shall send an amount equal to 50
3-48 percent of the fine to the comptroller in the manner provided by
3-49 Subchapter B, Chapter 133, Local Government Code.

3-50 (i) If the offense described by Subsection (h) occurred
3-51 within 20 miles of an international border, the entire amount of the
3-52 fine shall be deposited for the purposes of road maintenance in:

3-53 (1) the municipal treasury, if the fine was imposed by
3-54 a municipal court; or

3-55 (2) the county treasury, if the fine was imposed by a
3-56 justice court.

3-57 SECTION 5. Subsection (B), Section 621.507, Transportation
3-58 Code, is amended to read as follows:

3-59 (b) An offense under this section is a misdemeanor
3-60 punishable:

3-61 (1) by a fine of:
3-62 (A) not less than \$500 and not more than \$1,250;

3-63 or
3-64 (B) \$5,000, if the convicted person is a
3-65 corporation [~~not to exceed \$200~~];

3-66 (2) on conviction before the first anniversary of the
3-67 date of a previous conviction under this section:

3-68 (A) by a fine of not less than \$1,500 and not more
3-69 than \$3,000 [~~to exceed \$500~~], by confinement in a county jail for

4-1 not more than 60 days, or by both the fine and confinement; or
 4-2 (B) if the convicted person is a corporation, by
 4-3 a fine of \$8,000 [~~not to exceed \$1,000~~]; or

4-4 (3) on a conviction after [~~before~~] the first
 4-5 anniversary of the date of a previous conviction under this section
 4-6 that was punishable under Subdivision (1) [~~(2) or this~~
 4-7 ~~subdivision~~]:

4-8 (A) by a fine of not less than \$750 and not more
 4-9 than \$1,500 [~~to exceed \$1,000~~], by confinement in the county jail
 4-10 for not more than 30 days [~~six months~~], or by both the fine and
 4-11 confinement; or

4-12 (B) if the convicted person is a corporation, by
 4-13 a fine not to exceed \$6,500 [~~\$2,000~~].

4-14 SECTION 6. Section 623.019, Transportation Code, is amended
 4-15 by amending Subsections (b), (c), (e), and (f) and adding
 4-16 Subsections (b-1) and (b-2) to read as follows:

4-17 (b) An [~~Except as provided by Subsections (c) and (d), an~~]
 4-18 offense under Subsection (a) is a misdemeanor punishable:

4-19 (1) by a fine of not less than \$1,000 [~~\$100~~] or more
 4-20 than \$2,250;

4-21 (2) on conviction of an offense involving:

4-22 (A) a Class 1 weight violation, by a fine of not
 4-23 less than \$750 or more than \$1,500;

4-24 (B) a Class 2 weight violation, by a fine of not
 4-25 less than \$1,500 or more than \$3,000;

4-26 (C) a Class 3 weight violation, by a fine of not
 4-27 less than \$3,500 or more than \$7,000; or

4-28 (D) a Class 4 weight violation, by a fine of not
 4-29 less than \$7,500 or more than \$15,000;

4-30 (3) on conviction, before the first anniversary of the
 4-31 date of a previous conviction under this section, of a second
 4-32 offense under this section involving:

4-33 (A) a Class 1 weight violation, by a fine of not
 4-34 less than \$1,000 or more than \$2,000;

4-35 (B) a Class 2 weight violation, by a fine of not
 4-36 less than \$2,500 or more than \$4,500;

4-37 (C) a Class 3 weight violation, by a fine of not
 4-38 less than \$4,500 or more than \$8,000; or

4-39 (D) a Class 4 weight violation, by a fine of not
 4-40 less than \$9,250 or more than \$18,000;

4-41 (4) on conviction, before the first anniversary of a
 4-42 previous conviction under this section, of a third offense under
 4-43 this section involving:

4-44 (A) a Class 1 weight violation, by a fine of not
 4-45 less than \$2,500 or more than \$3,750;

4-46 (B) a Class 2 weight violation, by a fine of not
 4-47 less than \$4,000 or more than \$5,500;

4-48 (C) a Class 3 weight violation, by a fine of not
 4-49 less than \$6,000 or more than \$9,000; or

4-50 (D) a Class 4 weight violation, by a fine of not
 4-51 less than \$12,500 or more than \$22,000; and

4-52 (5) on conviction, after the first anniversary of a
 4-53 previous conviction under this section, of a subsequent offense
 4-54 under this section involving:

4-55 (A) a Class 1 weight violation, by a fine of not
 4-56 less than \$850 or more than \$1,750;

4-57 (B) a Class 2 weight violation, by a fine of not
 4-58 less than \$1,750 or more than \$3,250;

4-59 (C) a Class 3 weight violation, by a fine of not
 4-60 less than \$3,700 or more than \$7,500; or

4-61 (D) a Class 4 weight violation, by a fine of not
 4-62 less than \$7,750 or more than \$16,000 [~~\$150~~].

4-63 (b-1) For purposes of Subsection (b)(3), (4), or (5), a
 4-64 previous offense under this section includes any offense under this
 4-65 section, regardless of whether the offense involved a weight class
 4-66 violation or the same weight class violation.

4-67 (b-2) In this section, a vehicle having a single axle
 4-68 weight, tandem axle weight, or gross weight that is more than the
 4-69 vehicle's allowable weight is:

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

5-3 (2) a Class 2 weight violation, if the excess weight is
 5-4 more than 5,000 pounds but not more than 10,000 pounds;

5-5 (3) a Class 3 weight violation, if the excess weight is
 5-6 more than 10,000 pounds but not more than 20,000 pounds; and

5-7 (4) a Class 4 weight violation, if the excess weight is
 5-8 more than 20,000 pounds.

5-9 (c) A violation of this section is subject to administrative
 5-10 enforcement under Subchapter N. [An offense under Subsection (a) is
 5-11 a misdemeanor and, except as provided by Subsection (d), is
 5-12 punishable by a fine of:

5-13 [(1) not less than \$300 or more than \$500 if the
 5-14 offense involves a vehicle having a gross weight that is heavier
 5-15 than 5,000 but not heavier than 10,000 pounds over the vehicle's
 5-16 allowable gross weight; or

5-17 [(2) not less than \$500 or more than \$1,000 if the
 5-18 offense involves a vehicle having a gross weight that is at least
 5-19 10,000 pounds heavier than the vehicle's allowable gross weight.]

5-20 (e) A governmental entity collecting a fine under this
 5-21 section [Subsection (c)] shall send an amount equal to 50 percent of
 5-22 the fine to the comptroller.

5-23 (f) A justice of the peace has jurisdiction of any offense
 5-24 under this section. A municipal court has jurisdiction of an
 5-25 offense under this section in which the fine does not exceed \$10,000
 5-26 [\$500]. A county or district court has jurisdiction of an offense
 5-27 under this section in which the fine exceeds \$10,000.

5-28 SECTION 7. Subsection (b), Section 623.082, Transportation
 5-29 Code, is amended to read as follows:

5-30 (b) Except as provided by Subsection (c), an offense under
 5-31 this section is a misdemeanor punishable:

5-32 (1) by a fine of not more than \$1,500 [\$200];

5-33 (2) on conviction before the first anniversary of
 5-34 [within one year after] the date of a previous [prior] conviction
 5-35 under this section [that was punishable under Subdivision (1)], by
 5-36 a fine of not more than \$2,500 [\$500], by confinement in the county
 5-37 jail for not more than 60 days, or by both the fine and the
 5-38 confinement; [or]

5-39 (3) on conviction of a third offense before the first
 5-40 anniversary of the date of a previous conviction under Subdivision
 5-41 (1), by a fine of not more than \$3,500; or

5-42 (4) on conviction of an offense after the first
 5-43 anniversary of [within one year after] the date of a previous
 5-44 [prior] conviction under this section that was punishable under
 5-45 Subdivision (1) [(2) or this subdivision], by a fine of not less
 5-46 [more] than \$2,000 [\$1,000], by confinement in the county jail for
 5-47 not more than 30 days [six months], or by both the fine and the
 5-48 confinement.

5-49 SECTION 8. Section 623.271, Transportation Code, is amended
 5-50 by amending Subsection (a) and adding Subsection (a-1) to read as
 5-51 follows:

5-52 (a) Except as provided by Subsection (a-1), the [The]
 5-53 department may investigate and, except as provided by Subsection
 5-54 (f), may impose an administrative penalty or revoke an oversize or
 5-55 overweight permit issued under this chapter if the person or the
 5-56 holder of the permit, as applicable:

5-57 (1) provides false information on the permit
 5-58 application or another form required by the department for the
 5-59 issuance of an oversize or overweight permit;

5-60 (2) violates this chapter, Chapter 621, or Chapter
 5-61 622;

5-62 (3) violates a rule or order adopted under this
 5-63 chapter, Chapter 621, or Chapter 622; or

5-64 (4) fails to obtain an oversize or overweight permit
 5-65 if a permit is required.

5-66 (a-1) The department may not revoke an oversize or
 5-67 overweight permit issued under Subchapter D for a violation of
 5-68 Section 623.082 unless the holder of the permit is convicted before
 5-69 the first anniversary of the date of a previous conviction under

6-1 Section 623.082(b)(1) of three or more offenses under that section.
6-2 SECTION 9. Section 623.272, Transportation Code, is amended
6-3 by adding Subsection (d) to read as follows:

6-4 (d) If the department imposes an administrative penalty on a
6-5 shipper under this section, the department shall assess, in
6-6 addition to the penalty, a law enforcement fee in the amount of
6-7 \$5,000 against the shipper. A fee collected under this subsection
6-8 shall be remitted to the comptroller for deposit in the general
6-9 revenue fund and may be appropriated only for law enforcement
6-10 purposes.

6-11 SECTION 10. Subsection (d), Section 623.019,
6-12 Transportation Code, is repealed.

6-13 SECTION 11. The changes in law made by this Act apply only
6-14 to an offense committed on or after the effective date of this Act.
6-15 An offense committed before the effective date of this Act is
6-16 governed by the law in effect on the date the offense was committed,
6-17 and the former law is continued in effect for that purpose. For
6-18 purposes of this section, an offense was committed before the
6-19 effective date of this Act if any element of the offense occurred
6-20 before that date.

6-21 SECTION 12. This Act takes effect September 1, 2013.

6-22 * * * * *