

SENATE AMENDMENTS

2nd Printing

By: Lewis

H.B. No. 3523

A BILL TO BE ENTITLED

AN ACT

relating to punishment for the offense of driving a commercial motor vehicle without a commercial driver's license.

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

SECTION 1. Section 522.011(c), Transportation Code, is amended to read as follows:

(c) An offense under this section is a ~~[Class C]~~ misdemeanor punishable by a fine not to exceed \$1,000, except that the offense is a Class B misdemeanor if it is shown on the trial of the offense that the defendant was convicted of an offense under this section in the year preceding the date of the offense that is the subject of the trial.

SECTION 2. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

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

FLOOR AMENDMENT NO. 1

BY: Ken Paxton

1 Amend H. B. 3523 (senate committee printing) in SECTION 1
2 of the bill as follows:

3 (1) In Section 522.011(c), Transportation Code (page 1,
4 line ²⁹~~29~~), strike "[Class-G]" and insert "Class C".

5 (2) In Section 522.011(c), Transportation Code (page 1,
6 line ³⁰~~29~~), strike "punishable by a fine not to exceed \$1,000".

ADOPTED

MAY 20 2013

Leta Sew
Secretary of the Senate

ADOPTED

FLOOR AMENDMENT NO. 2

MAY 20 2013

BY:

Nichols

Leta Spew
Secretary of the Senate

Amend H.B. No. 3523 (senate committee printing) as follows:

(1) Strike the recital to SECTION 1 of the bill, and substitute the following:

Section 522.011, Transportation Code, is amended by amending Subsections (a) and (c) and adding Subsections (e) and (f) to read as follows:

(2) In SECTION 1 of the bill, immediately preceding amended Section 522.011(c), Transportation Code (page 1, between lines 23 and 24), insert the following:

(a) A person may not drive a commercial motor vehicle unless:

(1) the person:

(A) has in the person's immediate possession a commercial driver's license issued by the department appropriate for the class of vehicle being driven; and

(B) is not disqualified or subject to an out-of-service order;

(2) the person:

(A) has in the person's immediate possession a commercial ~~[driver]~~ learner's permit and driver's license issued by the department; and

(B) is accompanied by the holder of a commercial driver's license issued by the department with any necessary endorsements appropriate for the class of vehicle being driven, and the license holder:

(i) for the purpose of giving instruction in driving the vehicle, at all times occupies a seat beside the permit holder or, in the case of a passenger vehicle, directly behind the driver in a location that allows for direct

1 observation and supervision of the permit holder [~~for the~~
2 ~~purpose of giving instruction in driving the vehicle~~]; and

3 (ii) is not disqualified or subject to an
4 out-of-service order; or

5 (3) the person is authorized to drive the vehicle
6 under Section 522.015.

7 (3) In SECTION 1 of the bill, immediately following amended
8 Section 522.011(c), Transportation Code (page 1, between lines
9 29 and 30), insert the following:

10 (e) It is a defense to prosecution for a violation of
11 Subsection (a)(2)(A) if the person charged produces in court a
12 commercial learner's permit or driver's license, as appropriate,
13 that:

14 (1) was issued to the person; and

15 (2) was valid when the offense was committed.

16 (f) The court may assess a defendant an administrative fee
17 not to exceed \$10 if a charge under this section is dismissed
18 because of the defense listed under Subsection (e).

19 (4) Strike SECTION 2 of the bill (page 1, lines 30 to 37).

20 (5) Add the following appropriately numbered SECTIONS to
21 the bill and renumber subsequent SECTIONS of the bill
22 accordingly:

23 SECTION __. Section 522.003, Transportation Code, is
24 amended by amending Subdivisions (4), (12), (22), (23), and (25)
25 and adding Subdivisions (22-a) and (23-a) to read as follows:

26 (4) "Commercial [~~driver~~] learner's permit" means a
27 permit [~~commercial driver's license~~] that restricts the holder
28 to driving a commercial motor vehicle as provided by Section
29 522.011(a)(2)(B).

30 (12) "Driver's license" has the meaning assigned by
31 Section 521.001, except the term does not include a commercial

1 learner's permit unless otherwise provided by this chapter.

2 (22) "Non-domiciled [~~Nonresident~~] commercial driver's
3 license" means a commercial driver's license issued by a state
4 to an individual who is domiciled [~~resides~~] in a foreign
5 jurisdiction.

6 (22-a) "Non-domiciled commercial learner's permit"
7 means a commercial learner's permit issued by a state to an
8 individual who is domiciled in a foreign jurisdiction.

9 (23) "Out-of-service order" means:

10 (A) a temporary prohibition against driving a
11 commercial motor vehicle issued under Section 522.101, the law
12 of another state, [~~or~~] 49 C.F.R. Section 383.5, 386.72, 392.5,
13 392.9a, 395.13, or 396.9, a law compatible with those federal
14 regulations, or the North American Uniform Out-of-Service
15 Criteria; or

16 (B) a declaration by the Federal Motor Carrier
17 Safety Administration or an authorized enforcement officer of a
18 state or local jurisdiction that a driver, commercial motor
19 vehicle, or motor carrier operation is out of service under 49
20 C.F.R. Section 383.5, 386.72, 392.5, 392.9a, 395.13, or 396.9, a
21 law compatible with those federal regulations, or the North
22 American Uniform Out-of-Service Criteria.

23 (23-a) "Person" includes the United States, a state,
24 or a political subdivision of a state.

25 (25) "Serious traffic violation" means:

26 (A) a conviction arising from the driving of a
27 motor vehicle, other than a parking, vehicle weight, or vehicle
28 defect violation, for:

29 (i) excessive speeding, involving a single
30 charge of driving 15 miles per hour or more above the posted
31 speed limit;

(ii) reckless driving, as defined by state or local law;

(iii) a violation of a state or local law related to motor vehicle traffic control, including a law regulating the operation of vehicles on highways, arising in connection with a fatal accident;

(iv) improper or erratic traffic lane change;

(v) following the vehicle ahead too closely; ~~or~~

(vi) a violation of Sections 522.011 or 522.042; or

(vii) a violation of a state or local law or ordinance prohibiting texting while driving or restricting or prohibiting the use of a wireless communication device while operating a commercial motor vehicle; or

(B) a violation of Section 522.015.

SECTION __. Section 522.013, Transportation Code, is amended to read as follows:

Sec. 522.013. NON-DOMICILED ~~[NONRESIDENT]~~ LICENSE OR PERMIT. (a) The department may issue a non-domiciled ~~[nonresident]~~ commercial driver's license or commercial learner's permit to a person domiciled in ~~[resident of]~~ a foreign jurisdiction if the secretary has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established by 49 C.F.R. Part 383.

(b) An applicant for a non-domiciled commercial driver's license must surrender any non-domiciled ~~[nonresident]~~ commercial driver's license issued by another state.

(c) Before issuing a non-domiciled ~~[nonresident]~~

1 commercial driver's license, the department must establish the
2 practical capability of disqualifying the person under the
3 conditions applicable to a commercial driver's license issued to
4 a resident of this state. Before issuing a non-domiciled
5 commercial learner's permit, the department must establish the
6 practical capability of disqualifying the person under the
7 conditions applicable to a commercial learner's permit issued to
8 a resident of this state.

9 (d) "Non-domiciled" [~~"Nonresident"~~] must appear on the
10 face of a license or permit issued under this section.

11 (e) The department may issue a temporary non-domiciled
12 [~~nonresident~~] commercial driver's license to a person who does
13 not present a social security card as required by Section
14 522.021(a-1)(1) but who otherwise meets the requirements for a
15 non-domiciled [~~nonresident~~] commercial driver's license,
16 including the requirement that the commercial motor vehicle
17 testing and licensing standards of the country of which the
18 applicant is domiciled [~~a resident~~] not meet the testing and
19 licensing standards established by 49 C.F.R. Part 383. A
20 license issued under this subsection:

21 (1) expires on the earlier of:

22 (A) the 60th day after the date the license is
23 issued; or

24 (B) [~~the expiration date of the visa presented~~
25 ~~under Section 522.021(a-1)(2)(B); or~~

26 [~~(C)~~] the expiration date of the Form I-94
27 Arrival/Departure record, or a successor document, presented
28 under Section 522.021(a-1)(2)(A) [~~522.021(a-1)(2)(C)~~]; and

29 (2) may not be renewed.

30 (f) The department may not issue more than one temporary
31 non-domiciled [~~nonresident~~] commercial driver's license to a

1 person.

2 SECTION __. Section 522.014, Transportation Code, is
3 amended to read as follows:

4 Sec. 522.014. PERMIT. (a) The department may issue a
5 commercial [~~driver~~] learner's permit to an individual who:

6 (1) has been issued a driver's license by the
7 department; and

8 (2) has passed the vision and written tests required
9 for [a Texas driver's license appropriate for] the class of
10 vehicle to be driven.

11 (b) A commercial learner's permit must be a separate
12 document from a driver's license or a commercial driver's
13 license.

14 (c) The issuance of a commercial learner's permit is
15 required for:

16 (1) the initial issuance of a commercial driver's
17 license; or

18 (2) the upgrade in classification of a commercial
19 driver's license that requires a skills test.

20 (d) A commercial learner's permit holder may not take a
21 commercial driver's license skills test before the 15th day
22 after the date of the issuance of the permit.

23 SECTION __. Section 522.015, Transportation Code, is
24 amended to read as follows:

25 Sec. 522.015. LICENSE OR PERMIT ISSUED BY OTHER
26 JURISDICTION. A person may drive a commercial motor vehicle in
27 this state if:

28 (1) the person has a commercial driver's license or a
29 commercial [~~driver~~] learner's permit issued by:

30 (A) another state in accordance with the minimum
31 federal standards for the issuance of a commercial motor vehicle

1 driver's license; or

2 (B) a foreign jurisdiction the testing and
3 licensing standards of which the United States Department of
4 Transportation has determined meet the requirements of the
5 federal act;

6 (2) the person's license or permit is appropriate for
7 the class of vehicle being driven;

8 (3) the person is not disqualified from driving a
9 commercial motor vehicle and is not subject to an out-of-service
10 order; ~~and~~

11 (4) the person has not had a domicile in this state
12 for more than 30 days; and

13 (5) if the person has a permit, the person also has a
14 driver's license issued by the same jurisdiction that issued the
15 permit.

16 SECTION __. Sections 522.021(a), (a-1), and (d),
17 Transportation Code, are amended to read as follows:

18 (a) An application for a commercial driver's license or
19 commercial ~~driver~~ learner's permit must include:

20 (1) the full name and current residence and mailing
21 address of the applicant;

22 (2) a physical description of the applicant,
23 including sex, height, and eye color;

24 (3) the applicant's date of birth;

25 (4) the applicant's social security number, unless
26 the application is for a non-domiciled ~~[nonresident]~~ commercial
27 driver's license and the applicant is domiciled in ~~[a-resident~~
28 ~~of]~~ a foreign jurisdiction;

29 (5) certifications, including those required by 49
30 C.F.R. Section 383.71(a); and

31 (6) any other information required by the department.

1 (a-1) If the application is for a non-domiciled
2 ~~[nonresident]~~ commercial driver's license and the applicant is
3 domiciled in ~~[a resident of]~~ a foreign jurisdiction that does
4 not meet the testing and licensing standards established by 49
5 C.F.R. Part 383, the applicant must present:

6 (1) a social security card issued to the applicant;
7 ~~[and]~~

8 (2) either ~~[each of the following]~~:

9 (A) an unexpired foreign ~~[a]~~ passport issued to
10 the applicant and a Form I-94 Arrival/Departure record or a
11 successor document ~~[by the country of which the applicant is a~~
12 ~~resident]~~; or

13 (B) an unexpired employment authorization
14 document ~~[a Temporary Worker visa]~~; and

15 (3) documentation demonstrating proof of Texas
16 residence as provided by Section 522.0225 ~~[(C) a Form I-94~~
17 ~~Arrival/Departure record or a successor document]~~.

18 (d) A person who knowingly falsifies information or a
19 certification required by Subsection (a) commits an offense and
20 is subject to a 60-day disqualification ~~[cancellation]~~ of the
21 person's commercial driver's license, commercial ~~[driver]~~
22 learner's permit, or application. An offense under this
23 subsection is a Class C misdemeanor.

24 SECTION __. Section 522.022, Transportation Code, is
25 amended to read as follows:

26 Sec. 522.022. LICENSE REQUIREMENTS. The department may
27 not issue a commercial driver's license other than a non-
28 domiciled ~~[nonresident]~~ license to a person unless the person:

29 (1) has a domicile in this state;
30 (2) has passed knowledge and skills tests for driving
31 a commercial motor vehicle that comply with minimal federal

standards established by 49 C.F.R. Part 383, Subparts G and H;
and

(3) has satisfied the requirements imposed by the
federal act, federal regulation, or state law.

SECTION __. Section 522.023, Transportation Code, is
amended by adding Subsection (j) to read as follows:

(j) The department may administer a skills test to a
person who holds a commercial learner's permit issued by another
state or jurisdiction.

SECTION __. Section 522.025, Transportation Code, is
amended to read as follows:

Sec. 522.025. LIMITATIONS ON ISSUANCE OF LICENSE OR
PERMIT. (a) The department may not issue a commercial driver's
license or commercial ~~[driver]~~ learner's permit to a person who
is disqualified from driving a commercial motor vehicle or while
the person's driver's license or driving privilege is suspended,
revoked, or canceled in any state.

(b) The department may not issue a commercial driver's
license to a person who has a driver's license, commercial
driver's license, or commercial ~~[driver]~~ learner's permit issued
by another state unless the person surrenders the license or
permit. The department shall notify ~~[return a surrendered
license or permit to]~~ the issuing state of the surrendered
license or permit ~~[for cancellation]~~.

SECTION __. Section 522.027, Transportation Code, is
amended to read as follows:

Sec. 522.027. MINIMUM AGE. The department may not issue a
commercial driver's license or a commercial ~~[driver]~~ learner's
permit to a person who is younger than 18 years of age.

SECTION __. Section 522.028, Transportation Code, is
amended to read as follows:

1 Sec. 522.028. CHECK OF DRIVING RECORD. Before issuing a
2 commercial driver's license or commercial learner's permit, the
3 department shall check the applicant's driving record as
4 required by 49 C.F.R. Section 383.73.

5 SECTION __. Section 522.029, Transportation Code, is
6 amended by amending Subsections (a), (b), (c), (h), (j), and (k)
7 and adding Subsections (h-1) and (l) to read as follows:

8 (a) The fee for a commercial driver's license [~~or~~
9 ~~commercial driver learner's permit~~] issued by the department is
10 \$60, except as provided by Subsections (f), (h), (j), and (k).

11 (b) The fee for a commercial driver's license [~~or~~
12 ~~commercial driver learner's permit~~] shall be reduced by \$4 for
13 each remaining year of validity of a driver's license, other
14 than a commercial driver's license [~~or commercial driver~~
15 ~~learner's permit~~] issued by the department to the applicant.

16 (c) The fee for a duplicate commercial driver's license or
17 commercial [~~driver~~] learner's permit is \$10.

18 (h) The fee for a commercial driver's license [~~or~~
19 ~~commercial driver learner's permit~~] issued under Section 522.033
20 is \$20.

21 (h-1) The fee for the issuance or renewal of a commercial
22 learner's permit is \$24.

23 (j) The fee for issuance or renewal of a commercial
24 driver's license [~~or commercial driver learner's permit~~] is \$25
25 for a license with an expiration date established under Section
26 522.054.

27 (k) The fee for a non-domiciled [~~nonresident~~] commercial
28 driver's license or a non-domiciled commercial learner's permit
29 is \$120. The fee for a temporary non-domiciled [~~nonresident~~]
30 commercial driver's license is \$20.

31 (l) The fee for the administration of a skills test to a

1 person who is not domiciled in this state is \$60.

2 SECTION __. Section 522.029(f), Transportation Code, as
3 added by Chapter 1372 (H.B. 1200), Acts of the 75th Legislature,
4 Regular Session, 1997, is amended to read as follows:

5 (f) If a commercial driver's license [~~or commercial driver~~
6 ~~learner's permit~~] includes an authorization to operate a
7 motorcycle or moped, the fee for the driver's license [~~or~~
8 ~~permit~~] is increased by \$8.

9 SECTION __. Section 522.030(a), Transportation Code, is
10 amended to read as follows:

11 (a) A commercial driver's license or commercial learner's
12 permit must:

13 (1) be marked:

14 (A) "Commercial Driver License" or "CDL" for a
15 commercial driver's license; or

16 (B) "Commercial Learner's Permit" or "CLP" for a
17 commercial learner's permit;

18 (2) be, to the extent practicable, tamper-proof; and

19 (3) include:

20 (A) the name and domicile [~~mailing~~] address of
21 the person to whom it is issued;

22 (B) the person's [~~eele~~] photograph;

23 (C) a physical description of the person,
24 including sex, height, and eye color;

25 (D) the person's date of birth;

26 (E) a number or identifier the department
27 considers appropriate;

28 (F) the person's signature;

29 (G) each class of commercial motor vehicle that
30 the person is authorized to drive, with any endorsements or
31 restrictions;

1 (H) the name of this state; and
2 (I) the dates between which the license is
3 valid.

4 SECTION __. Sections 522.032(a) and (b), Transportation
5 Code, are amended to read as follows:

6 (a) The holder of a commercial driver's license or
7 commercial [~~driver~~] learner's permit who changes the holder's
8 name or mailing address must apply for a duplicate license or
9 permit not later than the 30th day after the date of the change
10 in the manner provided by Section 521.054.

11 (b) The holder of a commercial driver's license or
12 commercial [~~driver~~] learner's permit who changes the holder's
13 residence address shall notify the department not later than the
14 30th day after the date of the change.

15 SECTION __. Section 522.033, Transportation Code, is
16 amended to read as follows:

17 Sec. 522.033. COMMERCIAL DRIVER'S LICENSE ISSUED TO
18 CERTAIN SEX OFFENDERS. (a) The department may issue an
19 original or renewal commercial driver's license or commercial
20 [~~driver~~] learner's permit to a person whose driver's license or
21 personal identification certificate record indicates that the
22 person is subject to the registration requirements of Chapter
23 62, Code of Criminal Procedure, only if the person is otherwise
24 eligible for the commercial driver's license or commercial
25 [~~driver~~] learner's permit and:

26 (1) applies in person for the issuance of a license
27 or permit under this section; and

28 (2) pays a fee of:

29 (A) \$20 for a commercial driver's license; or

30 (B) \$24 for a commercial learner's permit.

31 (b) Notwithstanding Sections 522.013 and [Section]

1 522.051, a commercial driver's license [~~or commercial driver~~
2 ~~learner's permit~~] issued under this section, including a
3 renewal, duplicate, or corrected license, expires[+

4 [~~(1) if the license or permit holder is a citizen,~~
5 ~~national, or legal permanent resident of the United States or a~~
6 ~~refugee or asylee lawfully admitted into the United States,~~] on
7 the first birthday of the license holder occurring after the
8 date of application, except that the initial license issued
9 under this section expires on the second birthday of the license
10 holder occurring after the date of application[~~+ or~~

11 [~~(2) if the applicant is not described by Subdivision~~
12 ~~(1), on the earlier of:~~

13 [~~(A) the expiration date of the applicant's~~
14 ~~authorized stay in the United States, or~~

15 [~~(B) the first birthday of the license holder~~
16 ~~occurring after the date of application, except that the initial~~
17 ~~license issued under this section expires on the second birthday~~
18 ~~of the license holder occurring after the date of application].~~

19 SECTION __. Sections 522.034(a) and (b), Transportation
20 Code, are amended to read as follows:

21 (a) An applicant for an original commercial driver's
22 license [~~or commercial driver learner's permit~~] that includes an
23 authorization to operate a motorcycle must furnish to the
24 department evidence satisfactory to the department that the
25 applicant has successfully completed a basic motorcycle operator
26 training course approved by the department under Chapter 662.

27 (b) The department may not issue an original commercial
28 driver's license [~~or commercial driver learner's permit~~] that
29 includes an authorization to operate a motorcycle to an
30 applicant who fails to comply with Subsection (a).

31 SECTION __. Sections 522.041(a) and (e), Transportation

Code, are amended to read as follows:

(a) The department may issue a Class A, Class B, or Class C commercial driver's license or commercial learner's permit.

(e) The holder of a commercial driver's license or commercial learner's permit may drive any vehicle in the class for which the license or permit is issued and lesser classes of vehicles except a motorcycle or moped. The holder may drive a motorcycle only if authorization to drive a motorcycle is shown on the commercial driver's license and the requirements for issuance of a motorcycle license have been met.

SECTION __. Section 522.042, Transportation Code, is amended by amending Subsections (b) and (c) and adding Subsections (d), (e), and (f) to read as follows:

(b) The department may issue a commercial learner's permit with endorsements authorizing the driving of a passenger vehicle, a school bus, or a tank vehicle.

(c) An endorsement under Subsection (b) for a passenger vehicle or a school bus allows a permit holder to operate a vehicle with only the following passengers:

(1) federal or state auditors and inspectors, test examiners, or other permit holders; and

(2) the commercial driver's license holder required under Section 522.011(a)(2)(B).

(d) An endorsement under Subsection (b) for a tank vehicle allows a permit holder to operate only an empty tank vehicle that has been purged of any hazardous materials.

(e) The holder of a commercial driver's license or commercial learner's permit may not drive a vehicle that requires an endorsement unless the proper endorsement appears on the license or permit.

(f) [(+)] A person commits an offense if the person

1 violates Subsection (c), (d), or (e) ~~[(b)]~~. An offense under
2 this section is a Class C misdemeanor.

3 SECTION __. Section 522.051, Transportation Code, is
4 amended by amending Subsections (a), (b), (c), (d), and (f) and
5 adding Subsection (h) to read as follows:

6 (a) Except as provided by Subsection (f) and Sections
7 522.013(e), 522.033, and 522.054, an original commercial
8 driver's license ~~[or commercial driver learner's permit]~~ expires
9 five years after the applicant's next birthday.

10 (b) Except as provided by Section 522.054, a commercial
11 driver's license ~~[or commercial driver learner's permit]~~ issued
12 to a person holding a Texas Class A, B, C, or M license that
13 would expire one year or more after the date of issuance of the
14 commercial driver's license ~~[or commercial driver learner's~~
15 ~~permit]~~ expires five years after the applicant's next birthday.

16 (c) Except as provided by Section 522.054, a commercial
17 driver's license ~~[or commercial driver learner's permit]~~ issued
18 to a person holding a Texas Class A, B, C, or M license that
19 would expire less than one year after the date of issuance of
20 the commercial driver's license ~~[or commercial driver learner's~~
21 ~~permit]~~ or that has been expired for less than one year expires
22 five years after the expiration date shown on the Class A, B, C,
23 or M license.

24 (d) Except as provided by Section 522.054, a commercial
25 driver's license ~~[or commercial driver learner's permit]~~ issued
26 to a person holding a Texas Class A, B, C, or M license that has
27 been expired for at least one year but not more than two years
28 expires five years after the applicant's last birthday.

29 (f) Except as provided by Section 522.013, a non-domiciled
30 ~~[nonresident]~~ commercial driver's license other than a temporary
31 non-domiciled ~~[nonresident]~~ commercial driver's license under

Section 522.013(e) expires on ~~[the earlier of]~~:

(1) the earlier of:

(A) the first birthday of the license holder occurring after the fifth anniversary of the date of the application; or

(B) the expiration date of the license holder's lawful presence in the United States as determined by the appropriate United States agency in compliance with federal law ~~[the expiration date of the visa presented under Section 522.021(a-1)(2)(B)]~~; or

(2) the first anniversary of the date of issuance, if there is no definitive expiration date for the applicant's authorized stay in the United States ~~[expiration date of the Form I-94 Arrival/Departure record, or a successor document, presented under Section 522.021(a-1)(2)(C)]~~.

(h) A commercial learner's permit expires on the earlier of:

(1) the expiration date of the driver's license or commercial driver's license; or

(2) the 181st day after the date of issuance.

SECTION __. Section 522.052(e), Transportation Code, is amended to read as follows:

(e) A commercial driver learner's permit may ~~[not]~~ be renewed once for an additional 180 days without requiring the applicant to retake the general and endorsement knowledge tests.

SECTION __. Section 522.054(a), Transportation Code, is amended to read as follows:

(a) Each original commercial driver's license ~~[and commercial driver learner's permit]~~ of a person 85 years of age or older expires on the license holder's second birthday after the date of the license application.

SECTION __. Section 522.0541, Transportation Code, is amended to read as follows:

Sec. 522.0541. DENIAL OF RENEWAL OF COMMERCIAL DRIVER LICENSE OR LEARNER PERMIT. (a) In the manner ordered by a court in another state in connection with a matter involving the violation of a state law or local ordinance relating to motor vehicle traffic control and on receipt of the necessary information from the other state, the department may deny renewal of the commercial driver's license or commercial learner's permit issued to a person by the department for the person's:

(1) failure to appear in connection with a complaint or citation; ~~[or]~~

(2) failure to pay or satisfy a judgment ordering the payment of a fine and costs; or

(3) failure to answer a citation or to pay fines, penalties, or costs related to the original violation.

(b) The information necessary under Subsection (a) may be transmitted through the commercial driver's license information system and must include:

(1) the name, date of birth, and the commercial driver's license number of the license held by the person;

(2) notice that the person failed to appear as required by law or failed to satisfy a judgment that ordered the payment of a fine and costs in the manner ordered by the court;

(3) the nature of the violation; and

(4) any other information required by the department.

(c) The department shall apply any notification received under Subsection (a) as a conviction to the person's driving record.

SECTION __. Section 522.055, Transportation Code, is

1 amended to read as follows:

2 Sec. 522.055. CLEARANCE NOTICE TO DEPARTMENT. On receipt
3 of notice from the other state that the grounds for denial of
4 the renewal of the commercial driver's license or commercial
5 learner's permit based on the [~~license~~] holder's previous
6 failure to appear or failure to pay a fine and costs previously
7 reported by that state under Section 522.0541 have ceased to
8 exist, the department shall renew the person's commercial
9 driver's license or commercial learner's permit.

10 SECTION __. Sections 522.061(a), (b), and (c),
11 Transportation Code, are amended to read as follows:

12 (a) A person who holds or is required to hold a commercial
13 driver's license or a commercial learner's permit under this
14 chapter and who is convicted in another state of violating a
15 state law or local ordinance relating to motor vehicle traffic
16 control shall notify the department in the manner specified by
17 the department not later than the seventh day after the date of
18 conviction.

19 (b) A person who holds or is required to hold a commercial
20 driver's license or commercial learner's permit under this
21 chapter and who is convicted in this state or another state of
22 violating a state law or local ordinance relating to motor
23 vehicle traffic control, including a law regulating the
24 operation of vehicles on highways, shall notify the person's
25 employer in writing of the conviction not later than the seventh
26 day after the date of conviction.

27 (c) A notification to the department or an employer must
28 be in writing and must contain:

- 29 (1) the driver's full name;
30 (2) the driver's license or permit number;
31 (3) the date of conviction;

- 1 (4) the nature of the violation;
- 2 (5) a notation of whether the violation was committed
- 3 in a commercial motor vehicle;
- 4 (6) the location where the offense was committed; and
- 5 (7) the driver's signature.

6 SECTION __. Section 522.062(a), Transportation Code, is

7 amended to read as follows:

8 (a) If a person holds a driver's license, commercial

9 driver's license, or commercial learner's permit issued by

10 another state and is finally convicted of a violation of a state

11 traffic law or local traffic ordinance that was committed in a

12 commercial motor vehicle, the department shall notify the

13 driver's licensing authority in the issuing state of that

14 conviction, in the time and manner required by 49 U.S.C. Section

15 31311.

16 SECTION __. Section 522.071(a), Transportation Code, as

17 amended by Chapters 424 (S.B. 1372) and 499 (S.B. 333), Acts of

18 the 80th Legislature, Regular Session, 2007, is reenacted and

19 amended to read as follows:

20 (a) A person commits an offense if the person drives a

21 commercial motor vehicle on a highway:

22 (1) after the person has been denied the issuance of

23 a license or permit, unless the person has a driver's license

24 appropriate for the class of vehicle being driven that was

25 subsequently issued;

26 (2) during a period that a disqualification of the

27 person's driver's license, permit, or privilege is in effect;

28 (3) while the person's driver's license or permit is

29 expired, if the license or permit expired during a period of

30 disqualification;

31 (4) during a period that the person was subject to an

1 order prohibiting the person from obtaining a driver's license
2 or permit; or

3 (5) during a period in which the person, the person's
4 employer, or the vehicle being operated is subject to an out-of-
5 service order.

6 SECTION __. Section 522.071(b), Transportation Code, is
7 amended to read as follows:

8 (b) It is not a defense to prosecution that the person had
9 not received notice of a disqualification imposed as a result of
10 a conviction that results in an automatic disqualification of
11 the person's driver's license, permit, or privilege.

12 SECTION __. Sections 522.081(a), (b), (e), and (g),
13 Transportation Code, are amended to read as follows:

14 (a) This subsection applies to a violation committed while
15 operating any motor vehicle, including a commercial motor
16 vehicle. A person who holds a commercial driver's license or
17 commercial learner's permit is disqualified from driving a
18 commercial motor vehicle for:

19 (1) 60 days if convicted of:

20 (A) two serious traffic violations that occur
21 within a three-year period; or

22 (B) one violation of a law that regulates the
23 operation of a motor vehicle at a railroad grade crossing; or

24 (2) 120 days if convicted of:

25 (A) three serious traffic violations arising
26 from separate incidents occurring within a three-year period; or

27 (B) two violations of a law that regulates the
28 operation of a motor vehicle at a railroad grade crossing that
29 occur within a three-year period.

30 (b) Except as provided by this subsection, this [~~This~~]
31 subsection applies to a violation committed while operating any

1 type of motor vehicle, including a commercial motor vehicle[
2 ~~except as provided by this subsection~~]. A person who holds a
3 commercial driver's license or commercial learner's permit is
4 disqualified from driving a commercial motor vehicle for one
5 year:

6 (1) if convicted of three violations of a law that
7 regulates the operation of a motor vehicle at a railroad grade
8 crossing that occur within a three-year period;

9 (2) on first conviction of:

10 (A) driving a motor vehicle under the influence
11 of alcohol or a controlled substance, including a violation of
12 Section 49.04, 49.045, or 49.07, Penal Code;

13 (B) leaving the scene of an accident involving a
14 motor vehicle driven by the person;

15 (C) using a motor vehicle in the commission of a
16 felony, other than a felony described by Subsection (d)(2);

17 (D) causing the death of another person through
18 the negligent or criminal operation of a motor vehicle; or

19 (E) driving a commercial motor vehicle while the
20 person's commercial driver's license or commercial learner's
21 permit is revoked, suspended, or canceled, or while the person
22 is disqualified from driving a commercial motor vehicle, for an
23 action or conduct that occurred while operating a commercial
24 motor vehicle;

25 (3) for refusing to submit to a test under Chapter
26 724 to determine the person's alcohol concentration or the
27 presence in the person's body of a controlled substance or drug
28 while operating a motor vehicle in a public place; or

29 (4) if an analysis of the person's blood, breath, or
30 urine under Chapter 522, 524, or 724 determines that the person:

31 (A) had an alcohol concentration of 0.04 or

1 more, or that a controlled substance or drug was present in the
2 person's body, while operating a commercial motor vehicle in a
3 public place; or

4 (B) had an alcohol concentration of 0.08 or more
5 while operating a motor vehicle, other than a commercial motor
6 vehicle, in a public place.

7 (e) A person may not be issued a commercial driver's
8 license or a commercial learner's permit and is disqualified
9 from operating a commercial motor vehicle if, in connection with
10 the person's operation of a commercial motor vehicle, the person
11 commits an offense or engages in conduct that would disqualify
12 the holder of a commercial driver's license from operating a
13 commercial motor vehicle, or is determined to have had an
14 alcohol concentration of 0.04 or more or to have had a
15 controlled substance or drug present in the person's body. The
16 period of prohibition under this subsection is equal to the
17 appropriate period of disqualification required by Subsections
18 (a)-(d).

19 (g) A person who holds a commercial driver's license or
20 commercial learner's permit is disqualified from operating a
21 commercial motor vehicle if the person's driving is determined
22 to constitute an imminent hazard under 49 C.F.R. Section
23 383.52. The disqualification is for the disqualification period
24 imposed under that section and shall be noted on the person's
25 driving record.

26 SECTION __. Section 522.084, Transportation Code, is
27 amended to read as follows:

28 Sec. 522.084. NOTIFICATION TO OTHER JURISDICTION. After
29 disqualifying a person who has a domicile in another state or in
30 a foreign jurisdiction, the department shall give notice of that
31 fact to the licensing authority of the state that issued the

1 person's driver's license, commercial driver's license, or
2 commercial [~~driver~~] learner's permit.

3 SECTION __. Section 522.087, Transportation Code, is
4 amended by adding Subsection (d) to read as follows:

5 (d) A disqualification imposed under Section
6 522.081(a)(1)(B) or 522.081(b)(2) or (d)(2) takes effect on the
7 10th day after the date the department issues the order of
8 disqualification.

9 SECTION __. Section 522.089, Transportation Code, is
10 amended to read as follows:

11 Sec. 522.089. EFFECT OF SUSPENSION, REVOCATION,
12 CANCELLATION, OR DENIAL OF LICENSE OR PERMIT UNDER OTHER LAW.

13 (a) A suspension, revocation, cancellation, or denial of a
14 driver's license, permit, or privilege under Chapter 521 or
15 another law of this state disqualifies the person under this
16 chapter.

17 (b) If the department disqualifies a person under this
18 chapter [~~disqualifies a person~~] for a longer period than the
19 other law, the person is disqualified for the longer period.

20 SECTION __. Effective January 30, 2014, Subchapter H,
21 Chapter 522, Transportation Code, is amended by adding Section
22 522.093 to read as follows:

23 Sec. 522.093. SELF-CERTIFICATION OF MEDICAL STATUS. The
24 department shall remove the commercial driver's license
25 privilege from the holder of a commercial driver's license or a
26 commercial learner's permit if the holder:

27 (1) fails to provide the department a self-
28 certification of operating status; or

29 (2) fails to provide and maintain with the department
30 a current medical examiner's certificate that is required based
31 on the self-certification.

1 SECTION __. Section 522.105(a), Transportation Code, is
2 amended to read as follows:

3 (a) On receipt of a report under Section 522.104, the
4 department shall disqualify the person from driving a commercial
5 motor vehicle under Section 522.081 beginning on the 45th day
6 after the date the report is received unless a hearing is
7 granted.

8 SECTION __. Section 524.001(10), Transportation Code, is
9 amended to read as follows:

10 (10) "Driver's license" has the meaning assigned by
11 Section 521.001. The term includes a commercial driver's
12 license or a commercial [~~driver~~] learner's permit issued under
13 Chapter 522.

14 SECTION __. Section 543.007, Transportation Code, is
15 amended to read as follows:

16 Sec. 543.007. NOTICE TO APPEAR: COMMERCIAL VEHICLE OR
17 LICENSE. A notice to appear issued to the operator of a
18 commercial motor vehicle or holder of a commercial driver's
19 license or commercial [~~driver~~] learner's permit, for the
20 violation of a law regulating the operation of vehicles on
21 highways, must contain the information required by department
22 rule, to comply with Chapter 522 and the federal Commercial
23 Motor Vehicle Safety Act of 1986 (Title 49, U.S.C. Section 2701
24 et seq.).

25 SECTION __. Section 543.202(b), Transportation Code, is
26 amended to read as follows:

27 (b) The record must be made on a form or by a data
28 processing method acceptable to the department and must include:

29 (1) the name, address, physical description,
30 including race or ethnicity, date of birth, and driver's license
31 number of the person charged;

1 (2) the registration number of the vehicle involved;

2 (3) whether the vehicle was a commercial motor
3 vehicle as defined by Chapter 522 or was involved in
4 transporting hazardous materials;

5 (4) the person's social security number, if the
6 person was operating a commercial motor vehicle or was the
7 holder of a commercial driver's license or commercial [~~driver~~]
8 learner's permit;

9 (5) the date and nature of the offense, including
10 whether the offense was a serious traffic violation as defined
11 by Chapter 522;

12 (6) whether a search of the vehicle was conducted and
13 whether consent for the search was obtained;

14 (7) the plea, the judgment, whether the individual
15 was adjudicated under Article 45.0511, Code of Criminal
16 Procedure, and whether bail was forfeited;

17 (8) the date of conviction; and

18 (9) the amount of the fine or forfeiture.

19 SECTION __. Subchapter I, Chapter 545, Transportation
20 Code, is amended by adding Section 545.4255 to read as follows:

21 Sec. 545.4255. CERTAIN COMMUNICATIONS BY OPERATOR OF
22 COMMERCIAL MOTOR VEHICLE PROHIBITED; OFFENSE. (a) In this
23 section:

24 (1) "Driving" means operating a vehicle on a highway,
25 including while temporarily stopped because of traffic, a
26 traffic control device, or other momentary delays. The term
27 does not include stationary operation of the vehicle alongside
28 or off of a highway in a safe location.

29 (2) "Text message" means a message generated by
30 manually entering alphanumeric characters into an electronic
31 device. The term includes a short message service, e-mail,

1 instant message, a command or request to access an Internet
2 website, a voice communication using a wireless communication
3 device that requires pressing more than one button to initiate
4 or terminate, or any other form of electronic text for present
5 or future communication.

6 (b) The operator of a commercial motor vehicle may not
7 generate, send, or read a text message while driving the
8 vehicle.

9 (c) A person who violates Subsection (b) commits an
10 offense. An offense under this subsection is a Class C
11 misdemeanor.

12 (d) This section does not apply to:

13 (1) an operator of a commercial motor vehicle who:

14 (A) inputs, selects, or reads information on a
15 global positioning or navigation system;

16 (B) presses a single button to initiate or
17 terminate a voice communication using a wireless communication
18 device;

19 (C) uses a device capable of performing multiple
20 functions, such as a fleet management system, dispatch service,
21 smart phone, citizens band radio, or music player, in a manner
22 that is not prohibited by this section; or

23 (D) communicates with law enforcement officials
24 or other emergency services personnel; or

25 (2) a law enforcement officer, firefighter, or
26 operator of an authorized emergency vehicle communicating while
27 engaged in the performance of official duties.

28 SECTION __. Article 62.060(a), Code of Criminal Procedure,
29 is amended to read as follows:

30 (a) A person subject to registration under this chapter
31 shall apply to the department in person for the issuance of, as

1 applicable, an original or renewal driver's license under
2 Section 521.272, Transportation Code, an original or renewal
3 personal identification certificate under Section 521.103,
4 Transportation Code, or an original or renewal commercial
5 driver's license or commercial ~~driver~~ learner's permit under
6 Section 522.033, Transportation Code, not later than the 30th
7 day after the date:

8 (1) the person is released from a penal institution
9 or is released by a court on community supervision or juvenile
10 probation; or

11 (2) the department sends written notice to the person
12 of the requirements of this article.

13 SECTION __. Section 522.029(f), Transportation Code, as
14 added by Chapter 1156 (S.B. 99), Acts of the 75th Legislature,
15 Regular Session, 1997, is repealed.

16 SECTION __. (a) The changes in law made by this Act to
17 Sections 522.011, 522.042, and 522.071, Transportation Code,
18 apply only to an offense that is committed on or after the
19 effective date of this Act. An offense committed before the
20 effective date of this Act is governed by the law in effect on
21 the date the offense was committed, and the former law is
22 continued in effect for that purpose. For purposes of this
23 subsection, an offense was committed before the effective date
24 of this Act if any element of the offense occurred before that
25 date.

26 (b) The change in law made by this Act to Section 522.021,
27 Transportation Code, applies only to an application for a
28 license that is filed on or after the effective date of this
29 Act.

30 (c) The changes in law made by this Act to Sections
31 522.029, 522.033, and 522.051, Transportation Code, apply only

1 to a license or permit that is issued on or after the effective
2 date of this Act.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 21, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3523 by Lewis (Relating to punishment for the offense of driving a commercial motor vehicle without a commercial driver's license.), **As Passed 2nd House**

An indeterminate amount of revenue is anticipated as the result of the provisions of the bill.
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The bill would amend the Transportation Code to elevate the punishment for operating a commercial motor vehicle without a commercial driver's license from a Class C misdemeanor to a Class B misdemeanor in the event that the defendant had been convicted of the same offense within the previous year. A Class C misdemeanor is punishable by a fine of not more than \$500. A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both.

The bill would also amend the Transportation Code and the Code of Criminal Procedure to revise the definitions of "commercial learner's" and "commercial driver's" licenses to be in compliance with rules and regulations of the Federal Motor Carrier Safety Administration. The bill would change the reference of "nonresident" license holder or learner's permit holder to "nondomiciled" license holder or learner's permit holder.

The bill would establish a \$24 fee for commercial learner's permits and would add penalties for violations in the use of a commercial learner's permit. The bill would also add a \$60 fee for the administration of a skills test to a non-domiciled person seeking a commercial driver license. The bill would authorize courts to assess a defendant an administrative fee not to exceed \$10 if a charge pertaining to a defendant's possession of a proper commercial driver's permit or license is dismissed.

Presumably the provisions of the bill would positively impact state revenues. However, the Comptroller has noted that because the information upon which to base an estimate of the number of persons who would apply for a commercial learner's permit is not available, the fiscal impact of the bill is indeterminate. Similarly, the Office of Court Administration has noted that it is not possible to provide an estimate of the revenue which may be generated from the administrative fee for the following reasons: the administrative fee amount is variable; the administrative fee is permissive; and the number of persons who will use the defense is unknown.

It is assumed the costs associated with implementing the provisions of the bill could be absorbed within existing resources. The bill would take effect January 1, 2014, except as otherwise provided.

Local Government Impact

The bill would allow courts to collect a fee not to exceed \$10 from a defendant who has a charge pertaining to the defendant's possession of a commercial permit or license dismissed. Because the fee level is indeterminate, and the number of individuals obtaining such dismissals is unknown, the local fiscal impact of the bill is indeterminate.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304
Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: UP, AG, KKR, ESi, AI, JAW

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 13, 2013

TO: Honorable Robert Nichols, Chair, Senate Committee on Transportation

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3523 by Lewis (Relating to punishment for the offense of driving a commercial motor vehicle without a commercial driver's license.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend Transportation Code to elevate the punishment for operating a commercial motor vehicle without a commercial driver's license from a Class C misdemeanor to a misdemeanor punishable by a fine not to exceed \$1,000, or a Class B misdemeanor in the event that the offender had been convicted of the same offense within the previous year.

A Class C misdemeanor is punishable by a fine of not more than \$500. A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both.

Local Government Impact

Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies:

LBB Staff: UP, AG, ESi, KKR

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 10, 2013

TO: Honorable Joseph Pickett, Chair, House Committee on Homeland Security & Public Safety

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3523 by Lewis (Relating to punishment for the offense of driving a commercial motor vehicle without a commercial driver's license.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Transportation Code to elevate the punishment for operating a commercial motor vehicle without a commercial driver's license from a Class C misdemeanor to a misdemeanor punishable by a fine not to exceed \$1,000, or a Class B misdemeanor in the event that the offender had been convicted of the same offense within the previous year.

A Class C misdemeanor is punishable by a fine of not more than \$500. A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both.

Local Government Impact

Costs associated with enforcement and prosecution could likely be absorbed within existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies:

LBB Staff: UP, ESi, KKR