

BILL ANALYSIS

Senate Research Center
85R31039 JRR-F

C.S.H.B. 3254
By: Phillips (Nichols)
Transportation
5/17/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas Department of Motor Vehicles (TxDMV) needs additional authority in regulating motor carriers and enforcing that regulation, including authority to deny a motor carrier registration to a carrier that changes names or operates under various aliases to continue operations without remedying previous penalties or sanctions, which are often related to safety. H.B. 3254 seeks to provide for this expanded authority.

H.B. 3254 clarifies TxDMV's authority to deny a motor carrier registration if the applicant is owned, operated, managed, or otherwise controlled by or affiliated with a person that the Texas Department of Public Safety has determined has an unsatisfactory safety rating under applicable federal regulations or has multiple violations of commercial motor vehicle safety standards or rules of the road. H.B. 3254 authorizes TxDMV to deny a supplement to a motor carrier's application for registration if the motor carrier has unpaid administrative penalties assessed under statutory provisions relating to motor carrier registration or vehicle size and weight.

H.B. 3254 prohibits a motor carrier from renewing a registration that has been expired for more than 180 days but authorizes the motor carrier to obtain a new registration by complying with the requirements and procedures for obtaining an original registration. H.B. 3254 replaces the requirement for a motor carrier that is required to register and that transports household goods for compensation to file a tariff with TxDMV that establishes maximum charges for transportation between two or more municipalities with the requirement for such a motor carrier to file a tariff that establishes maximum charges for all transportation services. H.B. 3254 specifies that a motor carrier complying with that requirement by filing a copy of the carrier's tariff governing interstate transportation must do so in a manner determined by TxDMV. H.B. 3254 replaces the authorization for TxDMV to participate to the fullest extent practicable in a federal motor carrier registration program under the unified carrier registration system or a single state registration system established under federal law with the authorization for TxDMV to participate to the fullest extent practicable in the federal unified carrier registration plan and agreement. H.B. 3254 replaces the requirement for TxDMV to adopt rules that are consistent with federal law providing for administrative penalties and sanctions for a failure to register as required by the unified carrier registration system or single state registration system or for certain violations with the authorization for TxDMV to adopt rules providing for administrative penalties for a failure to register or submit information and documents under the unified carrier registration plan and agreement or for a violation of that plan and agreement. (Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 3254 amends current law relating to the regulation of a motor carrier and the enforcement of motor carrier regulations, and authorizes the imposition of a fee.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Department of Motor Vehicles (TxDMV) is modified in SECTION 13 (Section 645.002, Transportation Code) and SECTION 14 (Section 645.003, Transportation Code) of this bill.

Rulemaking authority previously granted to TxDMV is rescinded in SECTION 16 (Section 643.064, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 171.1011(g-7), Tax Code, to redefine "qualified courier and logistics company."

SECTION 2. Amends Sections 643.054(a-2) and (a-3), Transportation Code, as follows:

(a-2) Authorizes the Texas Department of Motor Vehicles (TxDMV) to deny a registration if the applicant, rather than the applicant's business, is owned, operated, managed, or otherwise controlled by or affiliated with a person, including a family member, corporate officer, entity, or shareholder, rather than the applicant, a relative, family member, corporate officer, entity, or shareholder, that the Texas Department of Public Safety (DPS) has determined has an unsatisfactory safety rating under 49 C.F.R. Part 385 or multiple violations of Chapter 644 (Commercial Motor Vehicle Safety Standards), a rule adopted under that chapter, or Subtitle C (Rules of the Road).

(a-3) Authorizes TxDMV to deny a registration if the applicant is owned, operated, managed, or otherwise controlled by or affiliated with a certain person, including a family member, corporate officer, entity, or shareholder, that:

(1) owned, operated, managed, or otherwise controlled a motor carrier that the Federal Motor Carrier Safety Administration (FMCSA) has placed out of service for unacceptable safety compliance; or

(2) has unpaid administrative penalties assessed under this chapter (Motor Carrier Registration) or Subtitle E (Vehicle Size and Weight).

Deletes existing text authorizing TxDMV to deny a registration if the applicant is a motor carrier whose business is operated, managed, or otherwise controlled by or affiliated with a person, including certain persons, whom DPS has determined has an unsatisfactory safety rating under 49 C.F.R. Part 385 or multiple violations of Chapter 644, a rule adopted under that chapter, or Subtitle C.

SECTION 3. Amends Section 643.056, Transportation Code, by adding Subsection (c), to authorize TxDMV to deny a supplement to a motor carrier's application for registration if the motor carrier is owned, operated, managed, or otherwise controlled by or affiliated with a certain person.

SECTION 4. Amends Section 643.058, Transportation Code, by adding Subsections (d) and (e), as follows:

(d) Prohibits a motor carrier from renewing a registration that has been expired for more than 180 days. Authorizes the motor carrier to obtain a new registration by complying with the requirements and procedures for obtaining an original registration under this chapter.

(e) Authorizes TxDMV to deny a motor carrier's application to renew a registration if the motor carrier is owned, operated, managed, or otherwise controlled by or affiliated with a certain person that DPS has made certain determinations about, has owned, operated, managed, or otherwise controlled a motor carrier that the FMCSA has placed out of service for unacceptable safety compliance, or has unpaid administrative penalties assessed under this chapter or Subtitle E.

SECTION 5. Amends Subchapter B, Chapter 643, Transportation Code, by adding Section 643.0585, as follows:

Sec. 643.0585. REREGISTRATION. (a) Authorizes the motor carrier, if a motor carrier's registration has been revoked, to apply to TxDMV for reregistration not later than the 180th day after the date the registration was revoked.

(b) Requires that an application for reregistration be submitted on a form prescribed by TxDMV and accompanied by a \$10 fee for each vehicle requiring registration, evidence of insurance or financial responsibility as required by Section 643.103(a) (relating to the filing by a motor carrier to TxDMV in a certain form), and any insurance filing fee required under Section 643.103(c) (relating to TxDMV charging a certain fee).

(c) Authorizes TxDMV to deny a motor carrier's application for reregistration if the motor carrier is owned, operated, managed, or otherwise controlled by or affiliated with a certain person that DPS has made certain determinations about, has owned, operated, managed, or otherwise controlled a motor carrier that FMCSA has placed out of service for unacceptable safety compliance, or has unpaid administrative penalties assessed under this chapter or Subtitle E.

SECTION 6. Amends Section 643.153(d), Transportation Code, as follows:

(d) Requires a motor carrier that is required to register under Subchapter B (Registration) and that transports household goods to file a tariff with TxDMV that establishes maximum charges for all transportation services, rather than for transportation between two or more municipalities. Authorizes a motor carrier to comply with this requirement by filing, in a manner determined by TxDMV, a copy of the carrier's tariff governing interstate transportation services, rather than transportation services on a highway between two or more municipalities. Requires TxDMV to make tariffs filed under this subsection available for public inspection, rather than for public inspection at TxDMV.

SECTION 7. Amends Section 643.252(a), Transportation Code, as follows:

(a) Authorizes TxDMV to suspend, revoke, or deny a registration issued under this chapter or place on probation a motor carrier whose registration is suspended if a motor carrier:

(1) fails to maintain insurance or evidence of financial responsibility as required by Section 643.101(a) (relating to a motor carrier's requirement to maintain certain liability insurance), (b) (relating to the authority of TxDMV to establish a set amount of required liability insurance), or (c) (relating to a certain motor carrier's requirement to maintain cargo insurance), rather than Section 643.101(a), (b), (c) or (d);

(2) and (3) makes no changes to these subdivisions;

(4) violates any other provision of this chapter or Chapter 621 (General Provisions Relating to Vehicle Size and Weight), 622 (Special Provisions and Exceptions for Oversize or Overweight Vehicles), or 623 (Permits for Oversize or Overweight Vehicles);

(5) knowingly provides false information on any form filed with TxDMV under this chapter or Chapter 621, 622, or 623;

(6) violates a rule or order adopted under this chapter or Chapter 621, 622, or 623; or

(7) is owned, operated, managed, or otherwise controlled by or affiliated with a person, including a family member, corporate officer, entity, or shareholder whose registration has previously been revoked or denied or that has unpaid administrative penalties assessed under this chapter or Subtitle E.

Makes nonsubstantive changes.

SECTION 8. Amends Sections 643.2525(c), (e), (k), and (l), Transportation Code, as follows:

(c) Requires TxDMV, if not later than the 26th day after the date the notice is mailed TxDMV receives a written request for a hearing, to set a hearing and provide the carrier notice of the hearing and the opportunity to present evidence at the hearing, rather than to give notice of the hearing to the carrier. Requires that the hearing be conducted by an administrative law judge (ALJ) of the State Office of Administrative Hearings.

(e) Requires the ALJ, if a hearing set under Subsection (c) is held and evidence is presented at the hearing, to make findings of fact and conclusions of law and promptly issue a certain proposal.

(k) Provides that, if the motor carrier is required to pay a penalty or cost under Subsection (f), failure to pay the penalty or cost before the 61st day after the date the requirement becomes final is a violation of this chapter and is authorized to result in an additional penalty, revocation or suspension of a motor carrier registration, or denial of a motor carrier registration renewal or reregistration, rather than denial of renewal of a motor carrier registration.

(l) Provides that a motor carrier that is required to pay a penalty, cost, fee, or expense under this section or Section 643.251 (Administrative Penalty) is not eligible for a registration, reregistration, or registration renewal, rather than reinstatement or renewal of a registration, under this chapter until all required amounts have been paid to TxDMV.

SECTION 9. Amends the heading to Section 643.2526, Transportation Code, to read as follows:

Sec. 643.2526. APPEAL OF DENIAL OF REGISTRATION, RENEWAL, OR REREGISTRATION.

SECTION 10. Amends Section 643.2526(a), Transportation Code, to provide that, notwithstanding any other law, a denial of an application for registration, renewal of registration, or reregistration, rather than reinstatement of registration, under this chapter is not required to be preceded by notice and an opportunity for hearing.

SECTION 11. Amends the heading to Chapter 645, Transportation Code, to read as follows:

CHAPTER 645. UNIFIED CARRIER REGISTRATION

SECTION 12. Amends Section 645.001, Transportation Code, as follows:

Sec. 645.001. New heading: FEDERAL UNIFIED CARRIER REGISTRATION; DEFINITION. (a) Defines "unified carrier registration plan and agreement."

(b) Authorizes TxDMV, to the fullest extent practicable, to participate in the unified carrier registration plan and agreement. Deletes existing text authorizing TxDMV, to the fullest extent practicable, to participate in a federal motor carrier registration program under the unified carrier registration system as defined by Section 643.001 or a single state registration system established under federal law.

SECTION 13. Amends Section 645.002(b), Transportation Code, to authorize TxDMV to adopt rules regarding the method of payment of a fee required under the unified carrier registration plan and agreement, rather than under this chapter.

SECTION 14. Amends Section 645.003, Transportation Code, as follows:

Sec. 645.003. ENFORCEMENT RULES. (a) Authorizes TxDMV to adopt rules, rather than requires TxDMV to adopt rules that are consistent with federal law, providing for

administrative penalties, rather than penalties and sanctions, for a failure to register or submit information and documents under the unified carrier registration plan and agreement, rather than as required by the unified carrier registration system or single state registration system, or for a violation of the unified carrier registration plan and agreement, rather than this chapter or a rule adopted under this chapter in the same manner as Subchapter F, Chapter 64. Creates this subsection from existing text.

(b) Provides that the notice, hearing, and other procedural requirements of Section 643.2525 apply to the imposition of an administrative penalty under this section as if the action were being taken under that section.

(c) Provides that the amount of an administrative penalty imposed under this section is calculated in the same manner as the amount of an administrative penalty imposed under Section 643.251.

SECTION 15. Amends Sections 645.004(a) and (c), Transportation Code, as follows:

(a) Provides that a person commits an offense if the person fails to:

(1) register as required by the unified carrier registration plan and agreement. Creates this subdivision from existing text under Subdivision (2); or

(2) submit information and documents as required by the unified carrier registration plan and agreement.

Deletes existing text providing that a person commits an offense if the person violates a rule adopted under this chapter or fails to register a vehicle required to be registered under this chapter.

(c) Provides that each day a violation occurs, rather than a violation of a rule occurs, is a separate offense under this section.

SECTION 16. Repealers: Sections 643.001(7-a) (relating to the definition of "unified carrier registration system"), 643.064(a) (relating to TxDMV's requirement, to provide by rule, for the issuance of an identification number), and 645.002(a) (relating to TxDMV's authority to charge a motor carrier holding a permit a certain fee), Transportation Code.

SECTION 17. (a) Makes application of this Act prospective.

(b) Makes application of this Act, relating to an application filed under Chapter 643, Transportation Code, prospective.

SECTION 18. Effective date: January 1, 2018.