86R11646 BEE-D

By:  Wilson H.B. No. 3469

A BILL TO BE ENTITLED

AN ACT

relating to fees charged for the operation of certain commercial motor vehicles on public highways; authorizing a fee.

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

SECTION 1.  Chapter 621, Transportation Code, is amended by adding Subchapter E-1 to read as follows:

SUBCHAPTER E-1. FEES FOR HIGHWAY OPERATION OF CERTAIN COMMERCIAL MOTOR VEHICLES

Sec. 621.361.  DEFINITIONS. In this subchapter:

(1)  "Highway" has the meaning assigned by Section 366.003.

(2)  "Transportation department" means the Texas Department of Transportation.

Sec. 621.362.  APPLICABILITY. (a) This subchapter applies only to a commercial motor vehicle operating on a highway in this state:

(1)  that is subject to the federal electronic logging device requirements of 49 C.F.R. Part 395; or

(2)  operating only in intrastate commerce that would be subject to the federal electronic logging device requirements of 49 C.F.R. Part 395 if operating in interstate or international commerce.

(b)  The transportation department by rule may determine whether this subchapter applies to a particular commercial motor vehicle or type of commercial motor vehicle.

Sec. 621.363.  PAVEMENT CONSUMPTION FEE IMPOSED. (a) A pavement consumption fee is imposed on the operation of a commercial motor vehicle to which this subchapter applies in the amount equal to the reasonable cost to repair damage to the pavement of a highway caused by the normal operation of the vehicle.

(b)  The pavement consumption fee is due and payable to the comptroller by the operator of a commercial motor vehicle quarterly on or before the 25th day of the month following each calendar quarter.

(c)  The comptroller shall adopt rules necessary to administer, collect, and enforce the highway repair fee, including rules allowing for prepayment of estimated fees calculated by the operator of a commercial motor vehicle under Section 621.368.

Sec. 621.364.  OPERATOR TO COLLECT AND REMIT FEE. (a) Except as provided by Subsection (b), the operator of a commercial motor vehicle subject to the pavement consumption fee who operates the vehicle in the performance of a service for a customer shall:

(1)  add the amount of the estimated fee calculated by the operator under Section 621.368 to the cost of the service and collect the fee at the same time that the operator collects from the customer the charge for the service performed; and

(2)  remit the fee to the comptroller in accordance with the rules adopted by the comptroller under this subchapter.

(b)  The operator of a commercial motor vehicle subject to the pavement consumption fee who operates the vehicle on the operator's own behalf shall remit the fee to the comptroller in accordance with the rules adopted by the comptroller under this subchapter.

Sec. 621.365.  PAVEMENT CONSUMPTION RATES. (a) The transportation department, in consultation with the University of Texas Center for Transportation Research and the Texas A&M Transportation Institute, shall establish rates for the fee that reflect the cost per mile to repair damage caused to the pavement of each section of a specific highway by the normal operation of a commercial motor vehicle subject to the pavement consumption fee.

(b)  In determining the rates under Subsection (a), the transportation department shall consider:

(1)  the type of each section of a specific highway, including the highway pavement material of each section; and

(2)  the characteristics of commercial motor vehicles normally operating on the section of the specific highway, including the vehicles' weight and the number of axles of the vehicles.

(c)  To the maximum extent feasible, the transportation department shall establish a rate under this section for each section of a specific highway based on the characteristics of that section. If a rate for a section of a highway cannot be established, the transportation department may establish an average rate for each county that applies to the sections of the highway in that county.

(d)  At least once every two years, the transportation department shall review the rates established under this section and update the rates as appropriate.

Sec. 621.366.  ELECTRONIC LOGGING DEVICE; REPORT REQUIRED BY OPERATOR. (a) The operator of a commercial motor vehicle subject to the pavement consumption fee shall:

(1)  install or cause to be installed on the vehicle an electronic logging device, if a device is not already installed, that complies with the requirements of 49 C.F.R. Part 395; and

(2)  not later than the fifth day of the month following each calendar quarter, report to the transportation department any route traveled by the vehicle on a highway of this state during the preceding month as recorded by the electronic device required under Subdivision (1).

(b)  A report required under Subsection (a) must include:

(1)  the vehicle's weight;

(2)  the number of axles of the vehicle; and

(3)  any other information required by transportation department rule to be included in the report.

Sec. 621.367.  FEE CALCULATION SYSTEM; REPORT TO COMPTROLLER AND OPERATOR OF COMMERCIAL MOTOR VEHICLE. (a) The transportation department, in consultation with the University of Texas Center for Transportation Research and the Texas A&M Transportation Institute, shall develop a system to calculate the total amount of the fee due for each reporting period from the operator of a commercial motor vehicle subject to the pavement consumption fee.

(b)  A system developed under this section shall calculate the pavement consumption fee for each commercial motor vehicle operating on a highway during each reporting period based on:

(1)  the vehicle's route reported under Section 621.366;

(2)  the pavement consumption rates established under Section 621.365 for each section of each specific highway included in the vehicle's route; and

(3)  the vehicle's weight and the number of axles of the vehicle.

(c)  The transportation department shall:

(1)  use the system developed under this section to calculate the amount of the pavement consumption fee due quarterly from each operator of a commercial motor vehicle who reports the information required under Section 621.366; and

(2)  notify the comptroller and operator of the actual amount of the fee calculated for the preceding quarter not later than the 15th day of each month following each calendar quarter.

Sec. 621.368.  USE OF FEE CALCULATION SYSTEM BY OPERATOR TO ESTIMATE AMOUNT OF FEE. (a) The system developed under Section 621.367 must allow the operator of a commercial motor vehicle subject to the pavement consumption fee to:

(1)  enter a proposed route for and characteristics of the vehicle; and

(2)  calculate an estimated pavement consumption fee based on the information entered under Subdivision (1).

(b)  The operator of a commercial motor vehicle shall use the calculation of the estimated amount of a pavement consumption fee to:

(1)  collect the fee from a customer under Section 621.364(a); or

(2)  prepay the fee to the comptroller in accordance with rules adopted under Section 621.363(c) if the operator chooses to prepay the fee.

(c)  If an operator of a commercial motor vehicle chooses to prepay the fee and, based on the calculation made by the transportation department under Section 621.367, it is determined that the operator prepaid an amount that exceeds the actual amount due:

(1)  the comptroller shall refund the overpaid fees to the operator; and

(2)  the operator shall refund the overpaid fees to the customers from which the operator collected the fees under Section 621.364(a)(1), if any.

(d)  If it is determined that an operator of a commercial motor vehicle prepaid an amount that is less than the actual amount due, the operator shall remit the amount due to the comptroller in accordance with rules adopted by the comptroller under Section 621.363(c).

Sec. 621.369.  RESPONSIBILITY FOR HIGHWAY MAINTENANCE. The transportation department, in consultation with the University of Texas Center for Transportation Research and the Texas A&M Transportation Institute, shall determine the state agency or political subdivision responsible for the maintenance of each section of each highway:

(1)  under the supervision of the state or a political subdivision of the state; and

(2)  on which a commercial motor vehicle subject to the pavement consumption fee is operated.

Sec. 621.370.  AGENCIES' AND POLITICAL SUBDIVISIONS' SHARE OF FEE. (a) A state agency or political subdivision responsible for the maintenance of a highway on which a commercial motor vehicle subject to the pavement consumption fee is operated is entitled to a share of the fee in an amount equal to the length in miles of any route of the vehicle on a section of a specific highway maintained by the state agency or political subdivision multiplied by the pavement consumption rate established for the section of highway under Section 621.365 for a vehicle of comparable weight and number of axles.

(b)  Not later than the 15th day of each month following each calendar quarter, the transportation department shall report to the comptroller the total amount of the pavement consumption fees collected in the preceding calendar quarter to which each state agency or political subdivision is entitled under Subsection (a).

(c)  Not later than the 45th day following each calendar quarter, the comptroller shall distribute the pavement consumption fees collected in the preceding calendar quarter to each state agency or political subdivision entitled to a share of a fee as reported by the transportation department under Subsection (b).

Sec. 621.371.  REGISTRATION AND PERMIT FEES. (a) Notwithstanding any other provision of this code, a registration or permit fee for a commercial motor vehicle subject to the pavement consumption fee may not include any amount that is allocated to be used for the maintenance of a highway by a state agency or political subdivision.

(b)  A state agency that charges a registration or permit fee for a commercial motor vehicle subject to the pavement consumption fee shall:

(1)  determine whether any portion of the registration or permit fee is allocated to be used for the maintenance of a highway by a state agency or political subdivision; and

(2)  adjust any registration or permit fee for a commercial motor vehicle subject to the pavement consumption fee in accordance with Subsection (a).

SECTION 2.  Not later than September 1, 2020:

(1)  the Texas Department of Transportation, in consultation with the University of Texas Center for Transportation Research and the Texas A&M Transportation Institute, shall develop a system to calculate the pavement consumption fee in accordance with Subchapter E-1, Chapter 621, Transportation Code, as added by this Act; and

(2)  the comptroller shall adopt rules necessary to administer, collect, and enforce the pavement consumption fee.

SECTION 3.  Section 621.371, Transportation Code, as added by this Act, applies only to a registration or permit fee charged on or after the effective date of this Act.

SECTION 4.  (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2020.

(b)  Section 2 of this Act takes effect September 1, 2019.