

By: Martinez

H.B. No. 2620

Substitute the following for H.B. No. 2620:

By: Bernal

C.S.H.B. No. 2620

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the movement of oversize or overweight vehicles,
3 including the enforcement of motor vehicle size and weight
4 limitations; creating a criminal offense.

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

6 SECTION 1. Section 541.001, Transportation Code, is amended
7 by amending Subdivision (1) and adding Subdivision (1-a) to read as
8 follows:

9 (1) "Escort flagger" has the meaning assigned by
10 Section 623.008.

11 (1-a) "Operator" means, as used in reference to a
12 vehicle, a person who drives or has physical control of a vehicle.

13 SECTION 2. Section 542.501, Transportation Code, is amended
14 to read as follows:

15 Sec. 542.501. OBEDIENCE REQUIRED TO POLICE OFFICERS, ~~[AND~~
16 ~~TO]~~ SCHOOL CROSSING GUARDS, AND ESCORT FLAGGERS. A person may not
17 wilfully fail or refuse to comply with a lawful order or direction
18 of:

19 (1) a police officer; ~~[or]~~

20 (2) a school crossing guard who:

21 (A) is performing crossing guard duties in a
22 school crosswalk to stop and yield to a pedestrian; or

23 (B) has been trained under Section 600.004 and is
24 directing traffic in a school crossing zone; or

1 (3) an escort flagger who is directing or controlling
2 the flow of traffic in accordance with a permit issued by the Texas
3 Department of Motor Vehicles under Subtitle E for the movement of an
4 oversize or overweight vehicle.

5 SECTION 3. Section 544.004(a), Transportation Code, is
6 amended to read as follows:

7 (a) The operator of a vehicle or streetcar shall comply with
8 an applicable official traffic-control device placed as provided by
9 this subtitle unless the person is:

10 (1) otherwise directed by a traffic officer, [~~or~~]
11 police officer, or escort flagger; or

12 (2) operating an authorized emergency vehicle and is
13 subject to exceptions under this subtitle.

14 SECTION 4. The heading to Section 621.503, Transportation
15 Code, is amended to read as follows:

16 Sec. 621.503. PROHIBITION OF LOADING MORE THAN SIZE OR
17 WEIGHT LIMITATION.

18 SECTION 5. Sections 621.503(a) and (b), Transportation
19 Code, are amended to read as follows:

20 (a) A person may not load, or cause to be loaded, a vehicle
21 for operation on a public highway of this state that exceeds the
22 height, width, length, or weight limitations for operation of that
23 vehicle provided by this subtitle [~~Section 621.101~~].

24 (b) Intent to violate a weight limitation is presumed if the
25 weight of the loaded vehicle is heavier than the applicable axle or
26 gross weight limit by 15 percent or more.

27 SECTION 6. Subchapter G, Chapter 621, Transportation Code,

1 is amended by adding Section 621.511 to read as follows:

2 Sec. 621.511. NAME ON PERMIT; OFFENSE. (a) A person
3 commits an offense if:

4 (1) the person operates or moves on a public highway a
5 vehicle that is issued a permit under this subtitle; and

6 (2) the person operating or moving the vehicle is not
7 the person named on the permit for the vehicle or an employee of
8 that person.

9 (b) An offense under this section is a Class C misdemeanor.

10 (c) It is an exception to the application of this section
11 that:

12 (1) the vehicle being operated or moved is a
13 combination of a tow truck and a disabled, abandoned, or
14 accident-damaged vehicle or vehicle combination; and

15 (2) the tow truck is towing the other vehicle or
16 vehicle combination directly to the nearest terminal, vehicle
17 storage facility, or authorized place of repair.

18 SECTION 7. Subchapter A, Chapter 623, Transportation Code,
19 is amended by adding Sections 623.004, 623.005, 623.006, 623.007,
20 and 623.008 to read as follows:

21 Sec. 623.004. DENIAL OF PERMIT. (a) The department may
22 deny an application for a permit under this subtitle submitted by an
23 applicant who:

24 (1) is the subject of an out-of-service order issued
25 by the Federal Motor Carrier Safety Administration; or

26 (2) the Department of Public Safety has determined
27 has:

1 (A) an unsatisfactory safety rating under 49
2 C.F.R. Part 385; or

3 (B) multiple violations of Chapter 644, a rule
4 adopted under that chapter, or Subtitle C.

5 (b) A denial of an application for a permit under this
6 section is not required to be preceded by notice and an opportunity
7 for hearing.

8 (c) An applicant may appeal a denial under this section by
9 filing an appeal with the department not later than the 26th day
10 after the date the department issues notice of the denial to the
11 applicant.

12 Sec. 623.005. DISPOSITION OF PERMIT FEE IN TEXAS DEPARTMENT
13 OF MOTOR VEHICLES FUND. (a) This section applies only to a permit
14 authorized by the legislature on or after September 1, 2019.

15 (b) Ten percent of the fee collected for a permit issued by
16 the department under this subtitle shall be deposited to the credit
17 of the Texas Department of Motor Vehicles fund with the remaining
18 fee distribution to be adjusted proportionately, if needed.

19 (c) Subsection (b) does not apply if a provision of this
20 subtitle expressly requires a different amount of a fee collected
21 to be deposited to the credit of the Texas Department of Motor
22 Vehicles fund.

23 Sec. 623.006. DISPOSITION AND USE OF PERMIT FEES DUE TO
24 COUNTY OR MUNICIPALITY. Except as otherwise specified by this
25 subtitle:

26 (1) at least once each fiscal year, the comptroller
27 shall send from fees collected for a permit issued by the department

1 under this chapter any amounts due to a county or municipality;

2 (2) amounts due to a county must be sent to the county
3 treasurer or office performing the function of that office for
4 deposit to the credit of the county road and bridge fund; and

5 (3) amounts due to a municipality must be sent to the
6 office performing the function of treasurer for the municipality
7 and may be used by the municipality only to fund commercial motor
8 vehicle enforcement programs or road and bridge maintenance or
9 infrastructure projects.

10 Sec. 623.007. PERMIT TO BE CARRIED IN VEHICLE. A permit
11 issued by the department under this subtitle must be carried, in a
12 manner prescribed by the department, in the vehicle that is being
13 operated under the permit.

14 Sec. 623.008. AUTHORITY TO REQUIRE ESCORT FLAG VEHICLES AND
15 ESCORT FLAGGERS. (a) In this section:

16 (1) "Escort flag vehicle" means a vehicle that
17 precedes or follows an oversize or overweight vehicle operating
18 under a permit issued by the department for the purpose of
19 facilitating the safe movement of the oversize or overweight
20 vehicle over roads.

21 (2) "Escort flagger" means a person who:

22 (A) has successfully completed a training
23 program in traffic direction as defined by the basic peace officer
24 course curriculum established by the Texas Commission on Law
25 Enforcement; and

26 (B) in accordance with a permit issued by the
27 department under this subtitle, operates an escort flag vehicle or

1 directs and controls the flow of traffic using a hand signaling
2 device or an automated flagger assistance device.

3 (b) In addition to any other specific requirement under this
4 subtitle, the department may require a person operating under a
5 permit issued by the department under this subtitle to use one or
6 more escort flag vehicles and escort flaggers if required:

7 (1) by the Texas Department of Transportation; or

8 (2) for the safe movement over roads of an oversize or
9 overweight vehicle and its load.

10 SECTION 8. Section 623.099, Transportation Code, is amended
11 by adding Subsection (g) to read as follows:

12 (g) A county or municipality may not require the use of an
13 escort flag vehicle or any other kind of escort for the movement of
14 a manufactured house under a permit issued under this subchapter
15 that is in addition to the escort flag vehicle requirements of this
16 section.

17 SECTION 9. The heading to Section 623.272, Transportation
18 Code, is amended to read as follows:

19 Sec. 623.272. ADMINISTRATIVE PENALTY FOR FAILURE TO PROVIDE
20 CERTIFICATE OR FOR FALSE INFORMATION ON CERTIFICATE.

21 SECTION 10. Section 623.272(a), Transportation Code, is
22 amended to read as follows:

23 (a) The department may investigate and impose an
24 administrative penalty on a shipper who:

25 (1) does not provide a shipper's certificate of weight
26 required under Section 623.274(b); or

27 (2) provides false information on a shipper's

1 certificate of weight that the shipper delivers to a person
2 transporting a shipment.

3 SECTION 11. Section 623.274, Transportation Code, is
4 amended by amending Subsection (b) and adding Subsection (c) to
5 read as follows:

6 (b) On the written request of the person transporting the
7 shipment, a [~~For a shipper's certificate of weight to be valid, the~~]
8 shipper must:

9 (1) certify that the information contained on the
10 certificate of weight [~~form~~] is accurate; and

11 (2) deliver the certificate of weight to the person
12 transporting the shipment [~~motor carrier or other person~~
13 ~~transporting the shipment before the motor carrier or other person~~
14 ~~applies for an overweight permit under this chapter~~].

15 (c) A person transporting a shipment must provide the
16 department with a copy of the certificate of weight before the
17 issuance of an overweight permit under this chapter if the combined
18 weight of the vehicle or vehicles and load is more than 200,000
19 pounds.

20 SECTION 12. The following provisions of the Transportation
21 Code are repealed:

22 (1) Sections 623.0171(m), 623.081, and 623.324(b);

23 (2) Section 623.403(c), as added by Chapter 750 (S.B.
24 1383), Acts of the 85th Legislature, Regular Session, 2017; and

25 (3) Sections 623.404(b) and (c), as added by Chapter
26 108 (S.B. 1524), Acts of the 85th Legislature, Regular Session,
27 2017.

1 SECTION 13. Section 621.511, Transportation Code, as added
2 by this Act, applies only to a vehicle that is issued a permit under
3 Subtitle E, Title 7, Transportation Code, on or after the effective
4 date of this Act.

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

14 (b) The change in law made by this Act relating to an
15 application filed under Chapter 623, Transportation Code, applies
16 only to an application filed under that chapter on or after the
17 effective date of this Act. An application filed before that date
18 is governed by the law in effect on the date the application was
19 filed, and the former law is continued in effect for that purpose.

20 SECTION 15. To the extent of any conflict, this Act prevails
21 over another Act of the 86th Legislature, Regular Session, 2019,
22 relating to nonsubstantive additions to and corrections in enacted
23 codes.

24 SECTION 16. This Act takes effect September 1, 2019.