

By: Wilson

H.B. No. 3469

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

9 Sec. 621.361. DEFINITIONS. In this subchapter:

10 (1) "Highway" has the meaning assigned by Section
11 366.003.

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

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

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

19 (2) operating only in intrastate commerce that would
20 be subject to the federal electronic logging device requirements of
21 49 C.F.R. Part 395 if operating in interstate or international
22 commerce.

23 (b) The transportation department by rule may determine
24 whether this subchapter applies to a particular commercial motor

1 vehicle or type of commercial motor vehicle.

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

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

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

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

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

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

25 (b) The operator of a commercial motor vehicle subject to
26 the pavement consumption fee who operates the vehicle on the
27 operator's own behalf shall remit the fee to the comptroller in

1 accordance with the rules adopted by the comptroller under this
2 subchapter.

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

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

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

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

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

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

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

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

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

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

13 (1) the vehicle's weight;

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

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

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

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

27 (1) the vehicle's route reported under Section

1 621.366;

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

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

7 (c) The transportation department shall:

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

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

15 Sec. 621.368. USE OF FEE CALCULATION SYSTEM BY OPERATOR TO
16 ESTIMATE AMOUNT OF FEE. (a) The system developed under Section
17 621.367 must allow the operator of a commercial motor vehicle
18 subject to the pavement consumption fee to:

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

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

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

26 (1) collect the fee from a customer under Section
27 621.364(a); or

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

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

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

11 (2) the operator shall refund the overpaid fees to the
12 customers from which the operator collected the fees under Section
13 621.364(a)(1), if any.

14 (d) If it is determined that an operator of a commercial
15 motor vehicle prepaid an amount that is less than the actual amount
16 due, the operator shall remit the amount due to the comptroller in
17 accordance with rules adopted by the comptroller under Section
18 621.363(c).

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

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

27 (2) on which a commercial motor vehicle subject to the

1 pavement consumption fee is operated.

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

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

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

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

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

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

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

10 SECTION 2. Not later than September 1, 2020:

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

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

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

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

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