

Amend Amendment No. 1 by Leach to CSHB 19 by adding the following appropriately numbered items to the amendment and renumbering subsequent items of the amendment accordingly:

(____) On page 5, line 22, strike "In" and substitute "Except as provided by Subsection (d), in".

(____) On page 6, line 3, strike "If" and substitute "Except as provided by Subsection (c), if".

(____) On page 6, at the end of line 10, immediately after the underlined period, insert the following:

This subsection does not prevent a claimant from presenting evidence allowed by Section 72.053.

(____) On page 6, between lines 10 and 11, insert the following:

(c) In regard to an employer defendant who is regulated by the Motor Carrier Safety Improvement Act of 1999 (Pub. Law 106-159) or Chapter 644, Transportation Code, and the defendant's employee, a party may present any of the following evidence in the first phase of a trial that is bifurcated under Section 72.052 if the evidence is applicable to the defendant:

(1) whether the employee who was operating the employer defendant's commercial motor vehicle at the time of the accident that is the subject of the civil action:

(A) was licensed to drive the vehicle;

(B) was disqualified from driving the vehicle under 49 C.F.R. Section 391.15 or the corresponding law of this state;

(C) should not have been allowed by the employer defendant to operate the vehicle under 49 C.F.R. Section 382.701(d) or the corresponding law of this state;

(D) was medically certified as physically qualified to operate the vehicle under 49 C.F.R. Section 391.41 or the corresponding law of this state; or

(E) was operating the vehicle when prohibited from doing so under 49 C.F.R. Section 382.201, 382.205, 382.207, or 382.215 or the corresponding law of this state;

(2) whether the employer defendant had complied with 49 C.F.R. Section 382.301 or a corresponding law of this state in

regard to controlled-substance testing of the employee who was operating the employer's commercial motor vehicle at the time of the accident that is the subject of the civil action if the employee was impaired because of the use of a controlled substance at the time of the accident;

(3) whether the employer defendant failed to comply with 49 C.F.R. Section 382.201, 382.205, 382.207, 382.215, 382.701(d), 390.13, 391.15, 391.21, 391.23(a), 391.25, 391.31, 391.33, 391.41, or 383.51 or the corresponding law of this state; and

(4) whether the employer defendant failed to comply with 49 C.F.R. Section 395.3 or 395.5 or a corresponding law of this state if the employer defendant had knowledge of the failure to comply at the time of the accident that is the subject of the civil action.

(d) If a civil action is bifurcated under Section 72.052, evidence admissible under Subsection (c) is:

(1) admissible in the first phase of the trial only to prove ordinary negligent entrustment by the employer defendant to the employee who was driving the employer defendant's commercial motor vehicle at the time of the accident that is the subject of the civil action; and

(2) the only evidence that may be presented by the claimant in the first phase of the trial on the negligent entrustment claim.

(e) Nothing in this section may be construed to create a new rule or regulation or subject a person to a rule or regulation not applicable to the person without regard to this section.

(____) On page 6, line 11, strike "(c)" and substitute "(f)".

(____) On page 7, strike lines 16-20 and substitute the following:

SECTION 7. This Act takes effect September 1, 2021.