

BILL ANALYSIS

C.S.H.B. 19
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Over the past 11 years, the number of motor vehicle lawsuits have increased by 118 percent while the number of collisions involving a fatality, severe injury, or any injury at all have increased by single-digit percentages or have decreased. In many instances, the person being sued is not at fault, yet must spend increasing amounts of money in court and to purchase insurance coverage. Excessive commercial motor vehicle litigation has been a concern of businesses of all sizes, employees, and drivers across Texas. C.S.H.B. 19 seeks to modify state law to streamline and create a fair framework for such litigation, thereby ensuring victims of collisions can have their day in court while also protecting commercial motor vehicle operators from unjust and excessive lawsuits.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 19 amends the Civil Practice and Remedies Code to provide a framework for trial procedures, the use of evidence, and the determination of liability in certain civil actions involving commercial motor vehicles. The bill defines "civil action," for purposes of its provisions, as an action in which a claimant seeks recovery of damages for bodily injury or death caused in an accident and a defendant operated a commercial motor vehicle involved in an accident or owned, leased, or otherwise held or exercised legal control over a commercial motor vehicle or operator of a commercial motor vehicle involved in an accident. The bill defines, among other terms, "accident," "claimant," "commercial motor vehicle," "motor vehicle," and "video," and defines "operated," "operating," and "operation" when used with respect to a commercial motor vehicle.

C.S.H.B. 19 requires a court, on any defendant's motion, to provide for a bifurcated trial in a civil action involving a commercial motor vehicle accident. The bill requires such a motion to be made not later than the 120th day after the date the defendant bringing the motion files the defendant's original answer. In the first phase of a bifurcated trial, the trier of fact is required to determine liability for and the amount of compensatory damages. In the second phase of the trial, the trier of fact is required to determine liability for and the amount of exemplary damages. A finding by trier of fact in the first trial phase that an employee defendant was negligent in operating an employer defendant's commercial motor vehicle may serve as a basis for the claimant to proceed, in the second phase of the trial, on a negligence claim against the employer

defendant in relation to the employee defendant's operation of the vehicle if that claim is of a nature that depends on a prerequisite finding by trier of fact of employee negligence in operating the vehicle.

C.S.H.B. 19 establishes that, in an applicable civil action, evidence of a defendant's failure to comply with a governmental regulation or standard is admissible in the first phase of a bifurcated trial only if, in addition to other requirements of law, the following conditions are met:

- the evidence tends to prove that failure to comply with the regulation or standard was a proximate cause of the bodily injury or death for which damages are sought; and
- the regulation or standard is specific and governs, or is an element of a duty of care applicable to, the defendant, the defendant's employee, or the defendant's property or equipment when any of those is at issue.

These provisions expressly do not prevent a claimant from taking the following actions:

- pursuing a claim for exemplary damages relating to the defendant's failure to comply with other applicable regulations or standards under statutory provisions governing the award of damages in general; or
- presenting evidence on that claim in the second trial phase.

C.S.H.B. 19 restricts the basis of an employer defendant's liability, in an applicable civil action, for damages caused by the ordinary negligence of a person operating the defendant's commercial motor vehicle to respondeat superior if the defendant stipulates that at the time of the accident the person operating the vehicle was the defendant's employee and was acting within the scope of employment. In the first phase of a bifurcated trial in which the employer defendant makes such a stipulation, a claimant may not present evidence on an ordinary negligence claim against the employer defendant in relation to the employee defendant's operation of the vehicle if that claim is of a nature that depends on a prerequisite finding by trier of fact of employee negligence in operating the vehicle. The bill's provisions relating to the effect of such a stipulation on the scope of a trial expressly do not prevent a claimant from taking the following actions:

- pursuing an ordinary negligence claim against an employer defendant for negligence in maintaining the commercial motor vehicle involved in an accident;
- pursuing another ordinary negligence claim against an employer defendant that does not require a finding by trier of fact of negligence by an employee as a prerequisite to an employer defendant being found negligent for its conduct or omission, or presenting evidence on that claim in the first phase of a bifurcated trial; or
- pursuing a claim for exemplary damages arising from an employer defendant's conduct or omissions in relation to the accident that is the subject of the action under statutory provisions governing the award of damages in general, or presenting evidence on that claim in the second phase of a bifurcated trial.

C.S.H.B. 19 prohibits a court in an applicable civil action from requiring expert testimony as a condition of the admission into evidence of a photograph or video of a vehicle or object involved in an accident. Such a photograph or video, if properly authenticated under the Texas Rules of Evidence, is presumed admissible even if the photograph or video tends to support or refute an assertion regarding the severity of damages or injury to an object or person involved in the accident.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 19 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute revises definitions as follows:

- changes the definition of "accident" to specify that it is an event in which operating a commercial motor vehicle causes bodily injury or death and to remove a reference to the vehicle's contact with a person or object;
- changes the definition of "civil action" to exclude an action involving a responsible third party;
- changes the definition of "claimant" to exclude a passenger who paid to ride in the commercial motor vehicle and a passenger in a vehicle transporting children to or from a school or school-sponsored event;
- changes the definition of "commercial motor vehicle" to clarify that the term does not include a vehicle used primarily for personal, family, or household purposes at the time of the accident;
- changes the definition of "regulation or standard" to exclude a defendant's own policies, procedures, or statements;
- changes the definition of "employee," including a reference to certain federal regulations;
- does not include definitions of "future damages," "future loss of earnings," "gross negligence," and "periodic payments"; and
- includes definitions of "operated," "operating," and "operation," when used in reference to a commercial motor vehicle.

The substitute changes the deadline for a defendant to file a motion for a bifurcated trial from before the beginning of jury selection or at a time specified by a pretrial order to not later than the 120th day after the date the moving defendant files the original answer.

The substitute does not include a condition under which the trier of fact in the first phase of a bifurcated trial determines only the amount of compensatory damages if a defendant has stipulated to liability.

The substitute does not include certain conditions that must be met in order for the trier of fact to determine liability for exemplary damages and the amount of those damages to be awarded during the second phase of a bifurcated trial on the basis of the claimant's pleading. The substitute revises a provision relating to the effect of certain first-phase findings by trier of fact on subsequent claims against an employer defendant as follows:

- changes the finding by trier of fact that enables applicable subsequent claims from a finding by trier of fact that can support a judgment against the defendant under respondeat superior for an employee's negligence to a finding by trier of fact that an employee defendant was negligent in operating the employer defendant's commercial motor vehicle;
- removes a requirement for that finding by trier of fact to be regarded as supporting exemplary damages in the second trial phase in a direct action against the employer defendant; and
- establishes instead that the finding by trier of fact may serve as a basis for proceeding on a negligence claim against the employer defendant in the second trial phase, if that claim is of a nature that depends on a prerequisite finding by trier of fact of employee negligence in operating the vehicle.

The substitute restricts the applicability of conditions on the admissibility of evidence of a defendant's failure to comply with a regulation or standard to the first phase of a bifurcated trial. The substitute includes a provision establishing that those conditions do not prevent a claimant from pursuing a claim for exemplary damages against the defendant in relation to a failure to comply with other regulations or standards or from presenting evidence on that claim in the second trial phase. The substitute does not include the following:

- a provision for the admissibility of further evidence relating to compliance with regulations or standards under certain conditions; or

- related discovery procedures, including provisions for appellate review of an order allowing discovery.

With respect to restricting the basis of a negligence claim against an employer defendant to respondeat superior if that defendant makes a certain stipulation, the substitute revises the effects of that stipulation and restriction as follows:

- specifies that the stipulation and restriction apply if the vehicle operator's negligence was ordinary negligence;
- includes a prohibition against a claimant presenting evidence in the first phase of a bifurcated trial on an ordinary negligence claim against a defendant employer who makes such a stipulation; and
- includes a provision establishing that certain other ordinary negligence claims and exemplary damages claims against an employer defendant are not prevented by the stipulation and restriction; but
- does not include a requirement that the court dismiss a direct action against a defendant who makes the stipulation.

The substitute does not include provisions relating to the following:

- an employer defendant's direct liability for exemplary damages in cases involving the employer defendant's gross negligence, including provisions for discovery and for rulings on certain motions; or
- periodic payments of future damages.

With respect to the bill's provisions relating to the admissibility of visual depictions of an accident, the substitute makes the following changes:

- changes the applicability of those provisions from any civil action involving a motor vehicle to a civil action, as defined by the bill, involving a commercial motor vehicle; and
- does not include a prohibition against the exclusion from evidence of a photograph or video depicting an accident that meets certain criteria or a provision establishing that a tendency to support or refute certain assertions is not a basis for exclusion; but
- includes a prohibition against the court requiring expert testimony as a condition of admissibility and includes a presumption of admissibility for a properly authenticated photograph or video under the Texas Rules of Evidence.

The substitute includes a caption change.