

1 AN ACT

2 relating to civil liability of a commercial motor vehicle owner or  
3 operator, including the effect that changes to that liability have  
4 on commercial automobile insurance.

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

6 SECTION 1. The heading to Chapter 72, Civil Practice and  
7 Remedies Code, is amended to read as follows:

8 CHAPTER 72. LIABILITY OF MOTOR VEHICLE OWNER OR OPERATOR [~~TO GUEST~~]

9 SECTION 2. Chapter 72, Civil Practice and Remedies Code, is  
10 amended by designating Sections 72.001, 72.002, 72.003, and 72.004  
11 as Subchapter A and adding a subchapter heading to read as follows:

12 SUBCHAPTER A. LIABILITY TO GUEST

13 SECTION 3. Sections 72.002 and 72.003, Civil Practice and  
14 Remedies Code, are amended to read as follows:

15 Sec. 72.002. LIMITATION NOT APPLICABLE. There is no  
16 limitation under this subchapter [~~chapter~~] on the liability of an  
17 owner or operator who is not related to the guest within the second  
18 degree by consanguinity or affinity.

19 Sec. 72.003. EFFECT ON OTHER LIABILITY. (a) This  
20 subchapter [~~chapter~~] does not affect judicially developed or  
21 developing rules under which a person is or is not totally or  
22 partially immune from tort liability by virtue of family  
23 relationship.

24 (b) This subchapter [~~chapter~~] does not relieve the owner or

1 operator of a motor vehicle being demonstrated to a prospective  
2 purchaser or relieve a public carrier of responsibility for  
3 injuries sustained by a passenger being transported.

4 SECTION 4. Chapter 72, Civil Practice and Remedies Code, is  
5 amended by adding Subchapter B to read as follows:

6 SUBCHAPTER B. ACTIONS REGARDING COMMERCIAL MOTOR VEHICLES

7 Sec. 72.051. DEFINITIONS. In this subchapter:

8 (1) "Accident" means an event in which operating a  
9 commercial motor vehicle causes bodily injury or death.

10 (2) "Civil action" means an action in which:

11 (A) a claimant seeks recovery of damages for  
12 bodily injury or death caused in an accident; and

13 (B) a defendant:

14 (i) operated a commercial motor vehicle  
15 involved in the accident; or

16 (ii) owned, leased, or otherwise held or  
17 exercised legal control over a commercial motor vehicle or operator  
18 of a commercial motor vehicle involved in the accident.

19 (3) "Claimant" means a person, including a decedent's  
20 estate, seeking or who has sought recovery of damages in a civil  
21 action. The term includes a plaintiff, counterclaimant,  
22 cross-claimant, third-party plaintiff, and an intervenor. The term  
23 does not include a passenger in a commercial motor vehicle unless  
24 the person is an employee of the owner, lessor, lessee, or operator  
25 of the vehicle.

26 (4) "Commercial motor vehicle" means a motor vehicle  
27 being used for commercial purposes in interstate or intrastate

1 commerce to transport property or passengers, deliver or transport  
2 goods, or provide services. The term does not include a motor  
3 vehicle being used at the time of the accident for personal, family,  
4 or household purposes.

5 (5) "Compensatory damages" has the meaning assigned by  
6 Section 41.001.

7 (6) "Employee" means a person who works for another  
8 person for compensation. The term includes a person deemed an  
9 employee under state or federal law and any other agent or person  
10 for whom an employer may be liable under respondeat superior.

11 (7) "Exemplary damages" has the meaning assigned by  
12 Section 41.001.

13 (8) "Motor vehicle" means a self-propelled device in  
14 which a person or property can be transported on a public highway.  
15 The term includes a trailer when in use with a self-propelled device  
16 described by this subdivision. The term does not include a device  
17 used exclusively upon stationary rails or tracks.

18 (9) "Operated," "operating," and "operation," when  
19 used with respect to a commercial motor vehicle, means to cause the  
20 vehicle to move or function in any respect, including driving,  
21 stopping, or parking the vehicle or otherwise putting the vehicle  
22 into use or operation. These terms include a commercial motor  
23 vehicle that has become disabled.

24 (10) "Video" means an electronic representation of a  
25 sequence of images, with or without accompanying audio, depicting  
26 either stationary or moving scenes, regardless of the manner in  
27 which the sequence of images is captured, recorded, or stored.

1       Sec. 72.052. BIFURCATED TRIAL IN CERTAIN COMMERCIAL MOTOR  
2 VEHICLE ACCIDENT ACTIONS. (a) In a civil action under this  
3 subchapter, on motion by a defendant, the court shall provide for a  
4 bifurcated trial under this section.

5       (b) A motion under this section shall be made on or before  
6 the later of:

7           (1) the 120th day after the date the defendant  
8 bringing the motion files the defendant's original answer; or

9           (2) the 30th day after the date a claimant files a  
10 pleading adding a claim or cause of action against the defendant  
11 bringing the motion.

12       (c) The trier of fact shall determine liability for and the  
13 amount of compensatory damages in the first phase of a bifurcated  
14 trial under this section.

15       (d) The trier of fact shall determine liability for and the  
16 amount of exemplary damages in the second phase of a bifurcated  
17 trial under this section.

18       (e) For purposes of this section, a finding by the trier of  
19 fact in the first phase of a bifurcated trial that an employee  
20 defendant was negligent in operating an employer defendant's  
21 commercial motor vehicle may serve as a basis for the claimant to  
22 proceed in the second phase of the trial on a claim against the  
23 employer defendant, such as negligent entrustment, that requires a  
24 finding by the trier of fact that the employee was negligent in  
25 operating the vehicle as a prerequisite to the employer defendant  
26 being found negligent in relation to the employee defendant's  
27 operation of the vehicle. This subsection does not apply to a

1 claimant who has pursued a claim described by this subsection in the  
2 first phase of a trial that is bifurcated under this section.

3 Sec. 72.053. FAILURE TO COMPLY WITH REGULATIONS OR  
4 STANDARDS. (a) In this section, "regulation or standard" includes  
5 a statute, regulation, rule, or order regulating equipment or  
6 conduct adopted or promulgated by the federal government, a state  
7 government, a local government, or a governmental agency or  
8 authority.

9 (b) In a civil action under this subchapter, evidence of a  
10 defendant's failure to comply with a regulation or standard is  
11 admissible in the first phase of a trial bifurcated under Section  
12 72.052 only if, in addition to complying with other requirements of  
13 law:

14 (1) the evidence tends to prove that failure to comply  
15 with the regulation or standard was a proximate cause of the bodily  
16 injury or death for which damages are sought in the action; and

17 (2) the regulation or standard is specific and  
18 governs, or is an element of a duty of care applicable to, the  
19 defendant, the defendant's employee, or the defendant's property or  
20 equipment when any of those is at issue in the action.

21 (c) Nothing in this section prevents a claimant from  
22 pursuing a claim for exemplary damages under Chapter 41 relating to  
23 the defendant's failure to comply with other applicable regulations  
24 or standards, or from presenting evidence on that claim in the  
25 second phase of a bifurcated trial.

26 Sec. 72.054. LIABILITY FOR EMPLOYEE NEGLIGENCE IN OPERATING  
27 COMMERCIAL MOTOR VEHICLE. (a) Except as provided by Subsection

1 (d), in a civil action under this subchapter, an employer  
2 defendant's liability for damages caused by the ordinary negligence  
3 of a person operating the defendant's commercial motor vehicle  
4 shall be based only on respondeat superior if the defendant  
5 stipulates, within the time provided by Section 72.052 for filing a  
6 motion to bifurcate, that, at the time of the accident, the person  
7 operating the vehicle was:

8 (1) the defendant's employee; and

9 (2) acting within the scope of employment.

10 (b) Except as provided by Subsection (c), if an employer  
11 defendant stipulates in accordance with Subsection (a) and the  
12 trial is bifurcated under Section 72.052, a claimant may not, in the  
13 first phase of the trial, present evidence on an ordinary  
14 negligence claim against the employer defendant, such as negligent  
15 entrustment, that requires a finding by the trier of fact that the  
16 employer defendant's employee was negligent in operating a vehicle  
17 as a prerequisite to the employer defendant being found negligent  
18 in relation to the employee defendant's operation of the vehicle.  
19 This subsection does not prevent a claimant from presenting  
20 evidence allowed by Section 72.053(b).

21 (c) In a civil action under this subchapter in which an  
22 employer defendant is regulated by the Motor Carrier Safety  
23 Improvement Act of 1999 (Pub. L. No. 106-159) or Chapter 644,  
24 Transportation Code, a party may present any of the following  
25 evidence in the first phase of a trial that is bifurcated under  
26 Section 72.052 if applicable to a defendant in the action:

27 (1) whether the employee who was operating the

1 employer defendant's commercial motor vehicle at the time of the  
2 accident that is the subject of the civil action:

3 (A) was licensed to drive the vehicle at the time  
4 of the accident;

5 (B) was disqualified from driving the vehicle  
6 under 49 C.F.R. Section 383.51, 383.52, or 391.15 at the time of the  
7 accident;

8 (C) was subject to an out-of-service order, as  
9 defined by 49 C.F.R. Section 390.5, at the time of the accident;

10 (D) was driving the vehicle in violation of a  
11 license restriction imposed under 49 C.F.R. Section 383.95 or  
12 Section 522.043, Transportation Code, at the time of the accident;

13 (E) had received a certificate of driver's road  
14 test from the employer defendant as required by 49 C.F.R. Section  
15 391.31 or had an equivalent certificate or license as provided by 49  
16 C.F.R. Section 391.33;

17 (F) had been medically certified as physically  
18 qualified to operate the vehicle under 49 C.F.R. Section 391.41;

19 (G) was operating the vehicle when prohibited  
20 from doing so under 49 C.F.R. Section 382.201, 382.205, 382.207,  
21 382.215, 395.3, or 395.5 or 37 T.A.C. Section 4.12, as applicable,  
22 on the day of the accident;

23 (H) was texting or using a handheld mobile  
24 telephone while driving the vehicle in violation of 49 C.F.R.  
25 Section 392.80 or 392.82 at the time of the accident;

26 (I) provided the employer defendant with an  
27 application for employment as required by 49 C.F.R. Section

1 391.21(a) if the accident occurred on or before the first  
2 anniversary of the date the employee began employment with the  
3 employer defendant; and

4 (J) refused to submit to a controlled substance  
5 test as required by 49 C.F.R. Section 382.303, 382.305, 382.307,  
6 382.309, or 382.311 during the two years preceding the date of the  
7 accident; and

8 (2) whether the employer defendant:

9 (A) allowed the employee to operate the  
10 employer's commercial motor vehicle on the day of the accident in  
11 violation of 49 C.F.R. Section 382.201, 382.205, 382.207, 382.215,  
12 382.701(d), 395.3, or 395.5 or 37 T.A.C. Section 4.12, as  
13 applicable;

14 (B) had complied with 49 C.F.R. Section 382.301  
15 in regard to controlled-substance testing of the employee driver  
16 if:

17 (i) the employee driver was impaired  
18 because of the use of a controlled substance at the time of the  
19 accident; and

20 (ii) the accident occurred on or before the  
21 180th day after the date the employee driver began employment with  
22 the employer defendant;

23 (C) had made the investigations and inquiries as  
24 provided by 49 C.F.R. Section 391.23(a) in regard to the employee  
25 driver if the accident occurred on or before the first anniversary  
26 of the date the employee driver began employment with the employer  
27 defendant; and



1           (D) was subject to an out-of-service order, as  
2 defined by 49 C.F.R. Section 390.5, at the time of the accident.

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

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

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

13           (e) The provisions of Subsection (c) may not be construed to  
14 create a new rule or regulation or subject a person to a rule or  
15 regulation not applicable to the person without regard to this  
16 section.

17           (f) Nothing in this section prevents a claimant from  
18 pursuing:

19           (1) an ordinary negligence claim against an employer  
20 defendant for a claim, such as negligent maintenance, that does not  
21 require a finding of negligence by an employee as a prerequisite to  
22 an employer defendant being found negligent for its conduct or  
23 omission, or from presenting evidence on that claim in the first  
24 phase of a bifurcated trial; or

25           (2) a claim for exemplary damages under Chapter 41 for  
26 an employer defendant's conduct or omissions in relation to the  
27 accident that is the subject of the action, or from presenting

1 evidence on that claim in the second phase of a bifurcated trial.

2 Sec. 72.055. ADMISSIBILITY OF VISUAL DEPICTIONS OF  
3 ACCIDENT. (a) In a civil action under this subchapter, a court may  
4 not require expert testimony for admission into evidence of a  
5 photograph or video of a vehicle or object involved in an accident  
6 that is the subject of the action except as necessary to  
7 authenticate the photograph or video.

8 (b) If properly authenticated under the Texas Rules of  
9 Evidence, a photograph or video of a vehicle or object involved in  
10 an accident that is the subject of a civil action under this  
11 subchapter is presumed admissible, even if the photograph or video  
12 tends to support or refute an assertion regarding the severity of  
13 damages or injury to an object or person involved in the accident.

14 SECTION 5. Subchapter A, Chapter 38, Insurance Code, is  
15 amended by adding Section 38.005 to read as follows:

16 Sec. 38.005. COMMERCIAL AUTOMOBILE INSURANCE REPORT. (a)  
17 The department shall conduct a study each biennium on the effect,  
18 for each year of the biennium, on premiums, deductibles, coverage,  
19 and availability of coverage for commercial automobile insurance of  
20 H.B. 19, 87th Legislature, Regular Session, 2021.

21 (b) Not later than December 1 of each even-numbered year,  
22 the department shall submit a written report of the results of the  
23 study conducted under Subsection (a) for the preceding biennium to  
24 the legislature.

25 (c) This section expires December 31, 2026.

26 SECTION 6. The changes in law made by this Act apply only to  
27 an action commenced on or after the effective date of this Act. An

1 action commenced before the effective date of this Act is governed  
2 by the law applicable to the action immediately before the  
3 effective date of this Act, and that law is continued in effect for  
4 that purpose.

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

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 19 was passed by the House on April 30, 2021, by the following vote: Yeas 81, Nays 49, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 19 on May 28, 2021, by the following vote: Yeas 106, Nays 38, 1 present, not voting.

\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 19 was passed by the Senate, with amendments, on May 19, 2021, by the following vote: Yeas 30, Nays 1.

\_\_\_\_\_  
Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

\_\_\_\_\_  
Governor