

By: Leach

H.B. No. 19

Substitute the following for H.B. No. 19:

By: Smith

C.S.H.B. No. 19

A BILL TO BE ENTITLED

AN ACT

relating to civil liability of a commercial motor vehicle owner or operator.

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

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

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

SECTION 2. Chapter 72, Civil Practice and Remedies Code, is amended by adding Subchapter A, and a heading is added to that subchapter to read as follows:

SUBCHAPTER A. LIABILITY TO GUEST

SECTION 3. Sections 72.001, 72.002, 72.003, and 72.004, Civil Practice and Remedies Code, are transferred to Subchapter A, Chapter 72, Civil Practice and Remedies Code, as added by this Act.

SECTION 4. Sections 72.002 and 72.003, Civil Practice and Remedies Code, are amended to read as follows:

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

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

1 relationship.

2 (b) This subchapter [~~chapter~~] does not relieve the owner or
3 operator of a motor vehicle being demonstrated to a prospective
4 purchaser or relieve a public carrier of responsibility for
5 injuries sustained by a passenger being transported.

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

8 SUBCHAPTER B. ACTIONS REGARDING COMMERCIAL MOTOR VEHICLES

9 Sec. 72.051. DEFINITIONS. In this subchapter:

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

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

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

15 (B) a defendant:

16 (i) operated a commercial motor vehicle
17 involved in an accident; or

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

21 (3) "Claimant" means a person, including a decedent's
22 estate, seeking or who has sought recovery of damages in a civil
23 action. The term does not include:

24 (A) a passenger who, in a commercial transaction,
25 paid to ride in a commercial motor vehicle; or

26 (B) a passenger in a motor vehicle transporting
27 children to or from a school or school-sponsored event.

1 (4) "Commercial motor vehicle" means a motor vehicle
2 being used for commercial purposes in interstate or intrastate
3 commerce to transport property or passengers, deliver or transport
4 goods, or provide services. The term does not include a motor
5 vehicle used at the time of the accident primarily for personal,
6 family, or household purposes.

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

9 (6) "Employee" means a person who works for another
10 person for compensation. The term includes an "employee" as defined
11 by 49 C.F.R. Section 390.5 and any other agent or person for whom an
12 employer may be liable under respondeat superior.

13 (7) "Exemplary damages" has the meaning assigned by
14 Section 41.001.

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

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

26 (10) "Video" means an electronic representation of a
27 sequence of images, with or without accompanying audio, depicting

1 either stationary or moving scenes, regardless of the manner in
2 which the sequence of images is captured, recorded, or stored.

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

7 (b) A motion under this section shall be made not later than
8 the 120th day after the date the defendant bringing the motion files
9 the defendant's original answer.

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

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

16 (e) For purposes of this section, a finding by the trier of
17 fact in the first phase of a bifurcated trial that an employee
18 defendant was negligent in operating an employer defendant's
19 commercial motor vehicle may serve as a basis for the claimant to
20 proceed in the second phase of the trial on a claim against the
21 employer defendant that requires a finding by the trier of fact that
22 the employee was negligent in operating the vehicle as a
23 prerequisite to the employer defendant being found negligent in
24 relation to the employee defendant's operation of the vehicle.

25 Sec. 72.053. FAILURE TO COMPLY WITH REGULATIONS OR
26 STANDARDS. (a) In this section, "regulation or standard" includes
27 a statute, regulation, rule, or order regulating equipment or

1 conduct adopted or promulgated by the federal government, a state
2 government, a local government, or a governmental agency or
3 authority.

4 (b) In a civil action under this subchapter, evidence of a
5 defendant's failure to comply with a regulation or standard is
6 admissible in the first phase of a trial bifurcated under Section
7 72.052 only if, in addition to complying with other requirements of
8 law:

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

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

16 (c) Nothing in this section prevents a claimant from
17 pursuing a claim for exemplary damages relating to the defendant's
18 failure to comply with other applicable regulations or standards as
19 provided by Chapter 41, or from presenting evidence on that claim in
20 the second phase of a bifurcated trial.

21 Sec. 72.054. LIABILITY FOR EMPLOYEE NEGLIGENCE IN OPERATING
22 COMMERCIAL MOTOR VEHICLE. (a) In a civil action under this
23 subchapter, an employer defendant's liability for damages caused by
24 the ordinary negligence of a person operating the defendant's
25 commercial motor vehicle shall be based only on respondeat superior
26 if the defendant stipulates that, at the time of the accident, the
27 person operating the vehicle was:

- (1) the defendant's employee; and
- (2) acting within the scope of employment.

(b) If an employer defendant stipulates in accordance with Subsection (a) and the trial is bifurcated under Section 72.052, a claimant may not, in the first phase of the trial, present evidence on an ordinary negligence claim against the employer defendant that requires a finding by the trier of fact that the employer defendant's employee was negligent in operating a vehicle as a prerequisite to the employer defendant being found negligent in relation to the employee defendant's operation of the vehicle.

(c) Nothing in this section prevents a claimant from pursuing:

(1) an ordinary negligence claim against an employer defendant for negligence in maintaining the commercial motor vehicle involved in an accident;

(2) an ordinary negligence claim against an employer defendant for another claim that does not require a finding of negligence by an employee as a prerequisite to an employer defendant being found negligent for its conduct or omission, or from presenting evidence on that claim in the first phase of a bifurcated trial; or

(3) 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 as provided by Chapter 41, or from presenting evidence on that claim in the second phase of a bifurcated trial.

Sec. 72.055. ADMISSIBILITY OF VISUAL DEPICTIONS OF

1 ACCIDENT. (a) In a civil action under this subchapter, a court may
2 not require expert testimony for admission into evidence of a
3 photograph or video of a vehicle or object involved in an accident.

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

10 SECTION 6. The changes in law made by this Act apply only to
11 an action commenced on or after the effective date of this Act. An
12 action commenced before the effective date of this Act is governed
13 by the law applicable to the action immediately before the
14 effective date of this Act, and that law is continued in effect for
15 that purpose.

16 SECTION 7. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2021.