

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

May 20, 2021

TO: Honorable Dade Phelan, Speaker of the House, House of Representatives

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB19 by Leach (Relating to civil liability of a commercial motor vehicle owner or operator, including the effect that changes to that liability have on commercial automobile insurance.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code to provide that, in a civil action involving a commercial motor vehicle, on motion of the defendant the court must provide for a bifurcated trial. Under the bill's provisions, the motion would have to be made no later than 120 days after the date the defendant bringing the motion files the defendant's original answer or 30 days after the date the claimant files a pleading adding a claim or cause of action against the defendant bringing the motion. The trier of fact would determine liability for and the amount of compensatory damages in the first phase of the bifurcated trial and liability for and the amount of exemplary damages in the second.

Under the bill's provisions, a defendant's failure to comply with a regulation or standard is admissible in the first phase only if certain conditions are met. The bill would provide that, with certain exceptions, in a civil action under the bill's provisions, an employer defendant's liability for damages caused by ordinary negligence of a person operating the defendant's commercial motor vehicle can be based only on respondeat superior if the defendant stipulates that the person operating the vehicle was the defendant's employee and acting within the scope of employment. The bill would limit what evidence a claimant may present in the first phase if the employer makes this stipulation.

The bill would define the evidence that could be presented in the first phase of a bifurcated trial related to employer defendants regulated by the Motor Carrier Safety Improvement Act of 1999 or Chapter 644, Transportation Code. The bill would establish what photographic or video evidence could be admitted without expert testimony in a civil action under the bill's provisions.

The bill would also amend the Insurance Code to require the Department of Insurance (TDI) to conduct a study each biennium on the effect of the bill, for each year of the biennium, on premiums, deductibles, coverage, and availability of coverage for commercial automobile insurance.

The bill would take effect September 1, 2021.

Based on the analysis of the Office of Court Administration and TDI, it is assumed that duties and responsibilities associated with implementing the bill could be accomplished utilizing existing resources. In addition, no significant fiscal impact to the state court system is anticipated with the implementation of the bill.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin, 454 Department of Insurance

LBB Staff: JMc, LBO, BH, AAL, SLE, MW