

## **BILL ANALYSIS**

C.S.H.B. 1745  
By: Leach  
Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In Texas, transportation network companies provide liability insurance coverage for drivers, riders, and any third parties injured by a vehicle providing a ride on a company platform. Concerns have been raised regarding the costs associated with frivolous lawsuits against transportation network companies for damages that seek to take advantage of the required liability insurance coverage of these companies. In an effort to reduce legal costs for both Texas consumers and transportation network companies and ensure that auto accident claims are not clogging up the courts and can be paid out as quickly as possible, C.S.H.B. 1745 provides for a limitation on a transportation network company's vicarious liability for damages.

### **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. 1745 amends the Civil Practice and Remedies Code to exempt a transportation network company from vicarious liability for damages in certain actions or arbitration proceedings if the claimant does not prove by clear and convincing evidence that the company was grossly negligent with respect to the subject claim or the company has fulfilled all of the company's obligations with respect to the transportation network company driver as required by applicable Occupations Code provisions relating to the subject claim. This exemption does not affect the liability of a transportation network company arising out of the company's own negligence or gross negligence for an act or omission relating to the use of the company's digital network, including the failure to prevent a driver from logging on to the digital network if, at the time of the event giving rise to the cause of action, the company had actual knowledge that the driver was disqualified from logging on to the company's digital network for one of the reasons prescribed by existing statute, that occurred after the most recent review of the driver's driving record or criminal background check. The reasons for disqualification under the existing statute include the following:

- the driver has been convicted of the following in the three-year period preceding the issue date of the driving record obtained and reviewed by the transportation network company:
  - more than three offenses classified by the Department of Public Safety as moving violations; or
  - one or more of the following offenses:
    - fleeing or attempting to elude a police officer;
    - reckless driving;

- driving without a valid driver's license; or
  - driving with an invalid driver's license;
- the driver has been convicted in the preceding seven-year period of any of the following:
  - driving while intoxicated;
  - use of a motor vehicle to commit a felony;
  - a felony crime involving property damage;
  - fraud or theft; or
  - an act of violence or terrorism; or
- the driver is found to be registered in the national sex offender public website maintained by the U.S. Department of Justice.

C.S.H.B. 1745 applies to an action or arbitration proceeding in which the following conditions apply:

- a transportation network company is a defendant;
- the claimant seeks recovery of damages for loss of property, bodily injury, or death;
- the claim for which the action or proceeding is brought arises out of the ownership, use, operation, or possession of a network vehicle while the vehicle's driver or passenger was logged on to a transportation network company's digital network; and
- the theory of recovery for which damages are sought against the transportation network company is based on the following:
  - the ownership, operation, design, manufacture, or maintenance of a digital network accessed by a driver or passenger; or
  - the relationship, affiliation, or interaction with a driver logged on to a transportation network company's digital network.

C.S.H.B. 1745 provides for the meaning for "digital network" and "transportation network company" by reference to the definitions of those terms under Occupations Code provisions relating to transportation network companies. The bill defines "network vehicle" as a land motor vehicle that meets the following conditions:

- is available on a digital network;
- is a black car or other for hire, or a private passenger, pickup truck, or cargo van;
- is designed to operate primarily on a public road;
- has at least four wheels; and
- has seating for not more than eight passengers, including the driver.

C.S.H.B. 1745 applies only to a cause of action that accrues on or after the bill's effective date.

### **EFFECTIVE DATE**

September 1, 2023.

### **COMPARISON OF INTRODUCED AND SUBSTITUTE**

While C.S.H.B. 1745 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include provisions from the introduced that required a claimant at the time the claimant initially names a transportation network company as a party in an applicable action or proceeding to file with the petition or provide to an arbitration tribunal and each other party at the initiation of the arbitration, as applicable, the following:

- an affidavit setting forth certain information for each theory of recovery for which damages are sought; and
- an affidavit attesting that the damages suffered by the claimant exceed the applicable insurance coverage limit.

Accordingly, the substitute does not include provisions from the introduced that provided for the following:

- establishing limited exceptions to these contemporaneous affidavit filing requirements and establishing related deadlines for pleadings and answers to the petition; and
- dismissal of a complaint for failure to provide the affidavits.

Whereas the introduced exempted a transportation network company from vicarious liability for damages only if the company did not commit a crime under state or federal law and the company has fulfilled all of the company's obligations with respect to the company driver relating to the claim, the substitute exempts a company from vicarious liability for damages if either the claimant does not prove by clear and convincing evidence that the company was grossly negligent with respect to the subject claim or if the company has fulfilled all such obligations.

The substitute includes a provision absent from the introduced establishing that the exemption from vicarious liability does not affect the transportation network company's liability arising out of the company's own negligence or gross negligence for an act or omission relating to the use of the company's digital network that occurred after the most recent review of the driver's driving record or criminal background check.