

## **BILL ANALYSIS**

C.S.H.B. 4218

By: Leach

Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Many Texas businesses lease their commercial motor vehicle (CMV) fleets from third-party truck rental companies. These truck rental companies are often sued in CMV collision cases even though they did not control the vehicle or driver at the time of the collision. These defendants are sued under a negligence theory that certain safety equipment or technology that might have been included on the CMV by the manufacturer was not present at the time of the collision, and had it been present, the collision would have been avoided. C.S.H.B. 4218 seeks to address this gap by exempting a seller who rents or leases an applicable motor vehicle to another person from liability in a civil action for failing to retrofit the vehicle with component parts or equipment, or for failing to select component parts or equipment included in the vehicle, that were not required by applicable federal motor vehicle safety standards at the time the vehicle was manufactured or sold.

### **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. 4218 amends the Civil Practice and Remedies Code to exempt a seller who rents or leases an applicable motor vehicle to another person from liability in any civil action, including a products liability action, alleging negligence, gross negligence, or strict liability, for failing to retrofit the vehicle with component parts or equipment, or for failing to select component parts or equipment included in the vehicle that were not required by applicable federal motor vehicle safety standards at the time the vehicle was manufactured or sold. The exemption does not apply if the seller fails to comply with a law or regulation, issued after the seller's motor vehicle was manufactured or sold, requiring a mandatory recall or retrofit of the vehicle.

C.S.H.B. 4218 applies only to a motor vehicle as follows:

- that has a gross vehicle weight rating or gross vehicle weight of at least 6,000 pounds;
- for which the owner's liability for an accident is governed by federal law relating to rented or leased motor vehicle safety and responsibility; and
- that is not a motor vehicle that was manufactured primarily for use in the transportation of not more than 10 individuals.

The bill establishes that "retrofit" means to install new equipment or component parts that were not included in a motor vehicle when the vehicle was manufactured or sold, but excludes from

the term routine maintenance or repairs to the vehicle as a result of wear and tear or required by damage resulting from an accident or other cause.

C.S.H.B. 4218 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. 4218 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.

While both the introduced and the substitute set out provisions limiting the liability of certain persons for a failure to retrofit an applicable vehicle with component parts or equipment or to select component parts or equipment included in the vehicle that were not required by applicable federal motor vehicle safety standards at the time the vehicle was manufactured or sold, the introduced did so by amending statutory provisions governing actions regarding commercial motor vehicles, and the substitute does so by amending statutory provisions governing products' liability. The introduced provided for this limited liability by doing the following, which is not included in the substitute:

- establishing that a motor vehicle being used at the time of an accident for personal, family, or household purposes is not considered a commercial motor vehicle for purposes of the provisions regarding commercial motor vehicle actions unless the vehicle meets certain weight and liability conditions; and
- establishing that in a civil action under those provisions, the duty of care applicable to the owner, lessor, or operator of a commercial vehicle involved in an accident or a person renting the vehicle to another person does not include an obligation or duty to make the applicable retrofits or parts or equipment selections.

The substitute provides for the limited liability by providing an exemption that was not in the introduced from liability in any civil action alleging negligence, gross negligence, or strict liability for a seller who rents or leases to another person a motor vehicle that meets the weight and liability conditions specified in the introduced, but that also is not a motor vehicle that was manufactured primarily for use in the transportation of not more than 10 individuals, which was not in the introduced, for a failure to make the applicable retrofits or parts or equipment selections from civil liability.

The substitute includes provisions absent from the introduced that define "retrofit" and exclude from the bill's limited liability a seller who fails to comply with a law or regulation, issued after the seller's motor vehicle was manufactured or sold, requiring a mandatory recall or retrofit of the vehicle.

Whereas the introduced made the bill's provisions applicable only to an action commenced on or after the bill's effective date or pending on that date and in which the trial, or any new trial or retrial following motion, appeal, or otherwise, begins on or after that date, the substitute makes the bill's provisions applicable instead only to a cause of action that accrues on or after the bill's effective date. Additionally, whereas the introduced provided for the bill's possible immediate effect, contingent on receiving the requisite constitutional vote, the substitute changes the effective date to September 1, 2023, with no possibility for immediate effect.