

BILL ANALYSIS

C.S.H.B. 3679
By: Tepper
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that red dye diesel fuel meant only for off-road use, such as in farm and construction equipment, is exempt from taxation and that using dyed diesel on the highway or knowingly selling it for such use is illegal under both state and federal law. The bill author has also informed the committee that recent natural disasters exposed the unavailability of regular diesel fuel as a critical vulnerability for agriculture, and that in recent extreme weather events regular diesel supplies were quickly exhausted and unable to be replenished. Many agricultural producers had off-road, dyed diesel available for their tractors and other equipment but could not use that fuel legally to power motor vehicles on the highway. Additionally, during weather-related emergencies, the distribution of agricultural products is vital to the well-being of both Texans and the Texas economy. However, the bill author has further informed the committee that, due to current vehicle weight requirements, commercial motor vehicle operators must make numerous trips in order to provide disaster relief to, and meet the demand of, consumers impacted by these weather events. C.S.H.B. 3679 seeks to address these issues by authorizing the operation of a motor vehicle on a public highway with dyed diesel fuel under certain disaster-related conditions and by authorizing the Texas Department of Motor Vehicles to issue a special permit to an oversize or overweight vehicle or load during certain emergencies or disasters.

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 rulemaking authority is expressly granted to the board of the Texas Department of Motor Vehicles in SECTION 4 of this bill.

ANALYSIS

C.S.H.B. 3679 amends the Tax Code to authorize a person who purchases dyed diesel fuel, and furnishes to the licensed dyed diesel fuel supplier or distributor a signed statement that includes an end user number issued by the comptroller of public accounts, to operate a motor vehicle on a public highway in Texas with that dyed diesel fuel in the fuel supply tank of the vehicle under the following conditions:

- the vehicle is being operated during a period for which the IRS has specified that it will not impose a penalty when dyed diesel fuel is sold for use or used on a public highway; and
- the vehicle is being operated in an area that is included in an emergency or major disaster as declared by the president of the United States under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act or following a declaration of a state of disaster by the governor.

This authorization applies only to conduct that occurs on or after the bill's effective date. Conduct that occurred before that date is governed by the law in effect on the date the conduct occurred, and the former law is continued in effect for that purpose. For these purposes, conduct occurred before the bill's effective date if any element of the conduct occurred before that date.

C.S.H.B. 3679 amends the Transportation Code to authorize the Texas Department of Motor Vehicles (TxDMV) to issue a special permit to an oversize or overweight vehicle or load that can easily be dismantled or divided and will be used only to deliver agricultural commodities to or from a site that is located in an area included in an emergency or major disaster declaration by the U.S. president or the governor and affected by the emergency or major disaster for which the declaration was issued. The bill defines "agricultural commodities" as an agricultural, horticultural, viticultural, silvicultural, or vegetable product, bees or honey, planting seed, cottonseed, rice, livestock or a livestock product, or poultry or a poultry product that is produced in Texas, either in its natural form or as processed by the producer, including wood chips. The bill restricts issuance of the permit to the following circumstances:

- during an emergency or major disaster as declared by the U.S. president under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act or following a declaration of a state of disaster by the governor; and
- if the Department of Public Safety (DPS) authorizes the issuance of the permit.

If DPS authorizes the issuance of the permit, DPS must notify TxDMV of that decision in the manner prescribed by TxDMV and include in the notice the counties in which a vehicle issued the permit may be operated.

C.S.H.B. 3679 establishes that a permit to deliver agricultural commodities expires:

- on the date the emergency or major disaster declaration expires; or
- if the vehicle operating under the permit is using dyed diesel fuel in accordance with the bill's provisions, the earlier of:
 - the date the IRS has specified that it will resume imposing a penalty when dyed diesel fuel is sold for use or used on a public highway; or
 - the date the emergency or major disaster declaration expires.

The bill authorizes the board of TxDMV to adopt rules necessary to implement the bill's provisions relating to the permit, including rules that establish the requirements for obtaining a permit. The bill authorizes TxDMV to impose conditions on a permit holder to ensure the safe operation of a permitted vehicle and minimize damage to roadways, including requirements related to vehicle routing, hours of operation, weight limits, and lighting and requirements for escort vehicles.

C.S.H.B. 3679 establishes that the bill's provisions relating to the permit expressly do not authorize the operation on the national system of interstate and defense highways or the federal aid primary highway system in Texas of a vehicle with a size or weight greater than those permitted under applicable federal law. If the United States authorizes the operation on such highway systems of a vehicle with a size or weight greater than those permitted under federal law on September 1, 2025, the new limit automatically takes effect on those highways in Texas.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3679 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.

Whereas the introduced authorized a person who purchases dyed motor fuel and furnishes to the licensed fuel supplier or distributor the requisite signed statement to operate a motor vehicle on

a public highway in Texas with that dyed motor fuel in the vehicle's fuel supply tank under certain conditions, the substitute authorizes a person who purchases dyed diesel fuel and furnishes such a statement to operate a motor vehicle on a public highway in Texas with that dyed diesel fuel in the vehicle's fuel supply tank under certain conditions.

The introduced set out the conditions under which the person may operate the vehicle as follows:

- during a period beginning on the date a state of disaster is declared by the governor due to a fire, flood, earthquake, tornado, hurricane, storm, or energy emergency and ending on the 30th day after the declaration expires or otherwise terminates; and
- the vehicle is operated in either of the following:
 - the area designated a disaster area by the disaster declaration; or
 - in another area if the dyed motor fuel was placed in the vehicle's fuel supply tank in the disaster area.

The substitute instead sets out the conditions under which the person may operate the vehicle as follows:

- during a period for which the IRS has specified that it will not impose a penalty when dyed diesel fuel is sold for use or used on a public highway; and
- the vehicle is being operated in an area that is included in an emergency or major disaster as declared by the president of the United States under the federal Robert T. Stafford Disaster Relief and Emergency Assistance Act or following a declaration of a state of disaster by the governor.

The substitute omits the provision in the introduced that defined "division" as the Texas Division of Emergency Management (TDEM).

With respect to the introduced version's authorization for TxDMV to issue a special permit to an oversize or overweight vehicle or load that can easily be dismantled or divided and will be used only to deliver agricultural commodities, the substitute includes a specification absent from the introduced that the delivery is to or from a site that is located in an area included in an emergency or major disaster declaration by the U.S. president or the governor and affected by the emergency or major disaster for which the declaration was issued. Whereas the introduced established that this authorization is notwithstanding any other law, the substitute establishes that the authorization is notwithstanding any other state law.

While both the introduced and the substitute restrict the authority of TxDMV to issue the special permit under certain circumstances, the substitute replaces the introduced version's authorization for TxDMV to issue the permit preceding an event that may result in a declaration of a state of disaster by the governor, if issuance of the permit for the event is authorized by TDEM, with an authorization for TxDMV to issue the permit if DPS authorizes the issuance of the permit. Accordingly, the substitute replaces the introduced version's requirement for TDEM, upon authorizing the issuance of the permit, to notify TxDMV of that decision with a requirement for DPS, upon authorizing the issuance of the permit, to notify TxDMV of that decision.

The substitute omits the introduced version's authorization for a person to file an application to TDEM in the manner prescribed by TDEM requesting that TDEM authorize the issuance of a permit preceding an event that may result in a declaration of a state of disaster by the governor.

The substitute changes the expiration date for the permit from either not later than the 120th day after the date of the applicable declaration or the 120th day after the date TxDMV receives notice from TDEM authorizing the issuance of the permit, as in the introduced, to either the date the applicable declaration expires or, if the vehicle operating under the permit is using dyed diesel fuel in accordance with the bill's provisions, the earlier of the date the IRS has specified that it will resume imposing a penalty when dyed diesel fuel is sold for use or used on a public highway or the date the applicable declaration expires.