

BILL ANALYSIS

S.B. 1173
By: Nichols
Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

In an effort to reduce and prevent commercial motor vehicle accidents, fatalities, and injuries, the federal Commercial Motor Vehicle Safety Act of 1986 requires each state to meet certain minimum standards for commercial driver's license and commercial learner's permit issuance and renewals. States failing to comply with these federal standards risk losing significant amounts of federal highway funds. Recently, the Federal Motor Carrier Safety Administration established new minimum federal standards for commercial driver's license knowledge and skills testing applicable to the issuance of a commercial driver's license. S.B. 1173 seeks to revise state law to comply with the newly established federal standards.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes 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

S.B. 1173 amends the Transportation Code to redesignate the term "commercial driver learner's permit" as "commercial learner's permit," for purposes of the Texas Commercial Driver's License Act. The bill, for purposes of the act, clarifies that the term "driver's license" does not include a commercial learner's permit unless otherwise provided by the act and expands the definition of "serious traffic violation" to include a violation of a state or local law or ordinance prohibiting texting while driving or restricting or prohibiting the use of a wireless communication device while operating a commercial motor vehicle. The bill includes the United States, a state, or a political subdivision of a state in the definition of "person" and expands the regulations and criteria governing the term "out-of-service order."

S.B. 1173 makes the exemption from the offense of violating the prohibition against driving a commercial motor vehicle for a person who has in the person's immediate possession a commercial learner's permit issued by the Department of Public Safety (DPS), who is accompanied by the holder of a DPS-issued commercial driver's license appropriate for the class of vehicle being driven, and who, for driving instruction purposes, occupies a seat beside the permit holder apply only if the person also has a DPS-issued driver's license in the person's immediate possession and the commercial driver's license holder has any necessary endorsements appropriate for the class of vehicle being driven and occupies such seat at all times. The bill, for purposes of that exemption, in the case of a passenger vehicle, requires the commercial driver's license holder, for driving instruction purposes, to occupy a seat directly

behind the driver in a location that allows for direct observation and supervision of the permit holder. The bill establishes a defense to prosecution for that offense for a person driving a commercial motor vehicle who does not have in the person's immediate possession a commercial learner's permit and driver's license issued by DPS if the person charged produces in court a commercial learner's permit or driver's license, as appropriate, that was issued to the person and was valid when the offense was committed. The bill authorizes a court to assess a defendant an administrative fee capped at \$10 if a charge for violating commercial driver's license or learner's permit requirements is dismissed because of that defense to prosecution.

S.B. 1173 redesignates the term "nonresident commercial driver's license" as "non-domiciled commercial driver's license" for purposes of the act, authorizes DPS to issue a non-domiciled commercial learner's permit to a person domiciled in a foreign jurisdiction if the U.S. secretary of transportation has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction do not meet the testing standards established by federal commercial driver's license standards, and expands the scope of statutory provisions regarding non-domiciled commercial driver's licenses to include non-domiciled commercial learner's permits. The bill requires DPS, before issuing a non-domiciled commercial learner's permit, to establish the practical capability of disqualifying the person under the conditions applicable to a commercial learner's permit issued to a Texas resident and changes from "nonresident" to "non-domiciled" the text required to appear on the face of an issued non-domiciled commercial driver's license or learner's permit.

S.B. 1173 includes the previous issuance of a driver's license by DPS among the required criteria of an individual to whom DPS is authorized to issue a commercial learner's permit, requires a commercial learner's permit to be a separate document from a driver's license or a commercial driver's license, and establishes that the issuance of a commercial learner's permit is required for the initial issuance of a commercial driver's license or the upgrade in classification of a commercial driver's license that requires a skills test. The bill prohibits a commercial learner's permit holder from taking a commercial driver's license skills test before the 15th day after the date of the issuance of the permit. The bill includes among the conditions that must be satisfied for a person to be authorized to drive a commercial motor vehicle in Texas by virtue of holding a commercial learner's permit issued by another state or a foreign jurisdiction the issuance to the person of a driver's license by the same jurisdiction that issued the permit.

S.B. 1173 removes the requirement of an applicant for a non-domiciled commercial driver's license who is domiciled in a foreign jurisdiction that does not meet federal commercial driver's license testing and licensing standards to present, in addition to the applicant's social security card, a passport issued by the applicant's country of residence, a Temporary Worker visa, and a Form I-94 Arrival/Departure record or a successor document and instead requires such an applicant to present, in addition to the applicant's social security card, an unexpired foreign passport issued to the applicant; either a Form I-94 Arrival/Departure record or a successor document, or an unexpired employment authorization document; and documentation demonstrating proof of Texas residence. The bill changes the penalty to which a person who knowingly falsifies such information or certification is subjected from a 60-day cancellation of the person's commercial driver's license, commercial learner's permit, or application to a 60-day disqualification of those documents. The bill authorizes DPS to administer a skills test to a person who holds a commercial learner's permit issued by another state or jurisdiction and removes the requirement of DPS, if a person surrenders a driver's license, commercial driver's license, or commercial learner's permit issued by another state for purposes of obtaining a commercial driver's license from DPS, to return the surrendered license or permit to the issuing state for cancellation and instead requires DPS to notify the issuing state of the surrendered license or permit under such a condition.

S.B. 1173 requires DPS to check a commercial learner's permit applicant's driving record as required by federal regulations before issuing the permit. The bill revises the applicable fees for a commercial driver's license and commercial learner's permit. The bill sets the fee for the

issuance or renewal of a commercial learner's permit at \$24 and sets the fee for the administration of a skills test to a person who is not domiciled in Texas at \$60. The bill repeals provisions relating to the fee for renewal of a commercial driver's license or a commercial driver learner's permit that includes authorization to operate a motorcycle and removes language setting the fee for issuance of a commercial driver learner's permit that includes an authorization to operate a motorcycle or moped.

S.B. 1173 requires a commercial learner's permit to be marked "Commercial Learner's Permit" or "CLP," changes from the mailing address to the domicile address the address of the person to whom a commercial driver's license or commercial learner's permit is issued that is required to be included on the license or permit, and removes the requirement that the photograph of the license or permit holder required to be included on the license or permit be in color. The bill sets the fee for a commercial learner's permit issued to certain sex offenders at \$24. The bill sets a commercial driver's license issued to a person whose driver's license or personal identification certificate record indicates that the person is subject to sex offender registration requirements to expire on the first birthday of the license holder occurring after the date of application or on the second such birthday for an initial license, regardless of the license holder's citizenship or legal residence status in the United States.

S.B. 1173 removes statutory provisions requiring an applicant for an original commercial driver learner's permit that includes an authorization to operate a motorcycle to furnish to DPS satisfactory evidence that the applicant has successfully completed a DPS-approved basic motorcycle operator training course and expands the scope of provisions regarding commercial driver's license classifications to include such classifications with respect to a commercial learner's permit. The bill authorizes DPS to issue a commercial learner's permit and to issue a commercial learner's permit with endorsements authorizing the driving of a passenger vehicle, a school bus, or a tank vehicle and establishes that such an endorsement for a passenger vehicle or a school bus allows a permit holder to operate a vehicle with only certain passengers. The bill establishes that such an endorsement for a tank vehicle allows a permit holder to operate only an empty tank vehicle that has been purged of any hazardous materials. The bill prohibits the holder of a commercial learner's permit from driving a vehicle that requires an endorsement unless the proper endorsement appears on the permit and makes it a Class C misdemeanor for a permit holder to violate the endorsement requirements.

S.B. 1173 establishes that a non-domiciled commercial driver's license other than a temporary non-domiciled commercial driver's license expires on the earlier of the first birthday of the license holder occurring after the fifth anniversary of the date of the application or the expiration date of the license holder's lawful presence in the United States as determined by the appropriate U.S. agency in compliance with federal law or expires on the first anniversary of the date of issuance, if there is no definitive expiration date for the applicant's authorized stay in the United States. The bill removes provisions establishing the expiration of such a license on the earlier of the expiration date of a Temporary Worker visa or the expiration date of the Form I-94 Arrival/Departure record or a successor document. The bill establishes that a commercial learner's permit expires on the earlier of the expiration date of the driver's license or commercial driver's license or the 181st day after the date of issuance and removes provisions establishing different expiration dates for an original commercial learner's permit under different circumstances. The bill removes the prohibition against the renewal of a commercial driver learner's permit and instead authorizes a commercial learner's permit to be renewed once for an additional 180 days without requiring the applicant to retake the general and endorsement knowledge tests.

S.B. 1173 expands DPS authority to deny under certain circumstances renewal of a DPS-issued commercial driver's license in the manner ordered by a court in another state in connection with a matter involving a certain motor vehicle traffic control violation and on receipt of the necessary information from the other state to include the authority to deny renewal of a DPS-issued commercial learner's permit under such circumstances and expands those circumstances to

include failure to answer a citation or to pay fines, penalties, or costs related to the original violation. The bill requires DPS to apply any such notification received from another state as a conviction to the person's driving record.

S.B. 1173 expands the scope of the following statutory provisions regarding commercial driver's licenses to make the provisions applicable also to a commercial learner's permit: provisions regarding clearance notice from another state to DPS that the grounds for denial of the renewal of a commercial driver's license based on previously reported violations have ceased to exist, provisions regarding driving a commercial motor vehicle while disqualified for a commercial driver's license, provisions regarding the circumstances under which a commercial driver's license holder is disqualified from driving a commercial motor vehicle, and provisions regarding notification to DPS or to a commercial driver's license holder's employer of a conviction in another state of a certain motor vehicle traffic control violation. The bill includes a driver's license and commercial learner's permit issued by another state among the licenses for which the final conviction of a violation of a state traffic law or local traffic ordinance that was committed in a commercial motor vehicle requires DPS to notify the driver's licensing authority in the issuing state of that conviction. The bill includes among the circumstances under which a commercial driver's license or commercial learner's permit holder is disqualified from driving a commercial motor vehicle for one year a first conviction of driving while intoxicated with a child passenger and includes among the licensing authorities in other states that DPS must notify after disqualifying a person who has a domicile in another state or in a foreign jurisdiction of such disqualification the licensing authority that issued the person's driver's license.

S.B. 1173 establishes that the following disqualifications imposed on a commercial driver's license or commercial learner's permit holder from driving a commercial motor vehicle take effect on the 10th day after the date DPS issues the order of disqualification: the 60-day disqualification for one violation of a law that regulates the operation of a motor vehicle at a railroad grade crossing, the one-year disqualification for a first conviction of certain motor vehicle-related violations, and the disqualification for life for using a motor vehicle in the commission of certain controlled substance-related felonies. The bill clarifies that a suspension, revocation, cancellation, or denial of a permit, in addition to a driver's license or privilege under state law, disqualifies a person under the Texas Commercial Driver's License Act.

S.B. 1173, effective January 30, 2016, requires DPS to remove the commercial driver's license privilege from a commercial driver's license or a commercial learner's permit holder if the holder fails to provide DPS a self-certification of operating status or fails to provide and maintain with DPS a current medical examiner's certificate that is required based on the self-certification.

S.B. 1173 specifies that the required disqualification by DPS of a person driving a commercial motor vehicle due to a peace officer's report that the person refused to give a requested specimen or submitted a specimen that disclosed an alcohol concentration of 0.04 or more begins on the 45th day after the date the report is received unless a hearing is granted. The bill prohibits the operator of a commercial motor vehicle from generating, sending, or reading a text message while driving the vehicle, makes it a Class C misdemeanor to violate the prohibition, and sets out the individuals exempted from the prohibition.

S.B. 1173 amends the Code of Criminal Procedure to make a conforming change.

S.B. 1173 repeals Section 522.029(f), Transportation Code, as added by Chapter 1156 (S.B. 99), Acts of the 75th Legislature, Regular Session, 1997.

EFFECTIVE DATE

Except as otherwise provided, January 1, 2016.