

SUBJECT: Trucking deregulation; repeal of the Texas Motor Carrier Act

COMMITTEE: Transportation — favorable, without amendment

VOTE: 7 ayes — Alexander, Bosse, Alonzo, Clemons, Edwards, Siebert, Uher
0 nays
2 absent — Moreno, Price

SENATE VOTE: On final passage, March 9 — 29-0

WITNESSES: For — Larry Cernosek, Texas Towing and Storage Association; Mike Craddock, Southwest Warehouse and Transfer Association; Bill Haley, Texas Motor Transportation Association; Mark Foster, Texas Association of Business and Chambers of Commerce.

Against — None

On — Jim Allison, County Judges and Commissioners Association of Texas

BACKGROUND: Under the Texas Motor Carrier Act, the Texas Railroad Commission (TRC) regulates both rates and authority, determining who may offer trucking services, what commodities they may haul, where they may operate, and what rates they may charge. Additionally, the act allows the TRC to regulate the trucking industry for safety and insurance coverage. The Texas Department of Public Safety (DPS) is primarily responsible for the enforcement of motor carrier safety regulation.

Interstate regulation of motor carriers has decreased significantly since the passage of the federal Motor Carrier Act of 1980 and the broad interpretation of the act by the Interstate Commerce Commission (ICC). Entry into the market and trucking rates at the interstate level are based primarily on market needs, rather than government regulation.

In August 1994 Congress preempted states' authority to regulate motor carrier prices, routes or service, effectively ending economic regulation of

intrastate trucking. The state now has regulatory authority only in the areas of safety enforcement, registration of commercial vehicles and processing and maintenance of insurance filings.

For additional background on trucking regulation in Texas, please see House Research Organization Session Focus No. 74-11, *Transition to Deregulated Trucking Detailed*, April 19, 1995.

DIGEST:

CSSB 3 would repeal the Texas Motor Carrier Act and transfer regulatory authority over registration and safety of intrastate motor carriers from the Texas Railroad Commission to the Texas Department of Transportation and the Department of Public Safety (DPS).

Registration. A motor carrier would be prohibited from operating a motor vehicle or a tow truck on a road or highway of the state unless the carrier registered with TxDOT. Along with an application fee of \$100 plus a \$10 fee for each vehicle requiring registration, the applicant would have to file proof of insurance or financial responsibility.

Insurance. Motor carriers would have to maintain liability insurance at an amount that does not exceed the amount required for a motor carrier under federal regulations. Household goods carriers would be required to maintain cargo insurance in the same amount required for a motor carrier transporting household goods under federal law. A motor carrier would be able to meet the insurance requirements through self-insurance if the carrier demonstrated to TxDOT that it could satisfy its obligations for bodily injury and property damage liability. TxDOT could not require a motor carrier to carry workers' compensation or similar insurance coverage.

Administrative penalties by TxDOT. The legislation would authorize TxDOT to impose an administrative penalty against a motor carrier for a violation of this act. The penalty for a violation could be up to \$5,000 per violation or up to \$30,000 for multiple violations. Each day of the violation could be a separate offense.

Suspension and revocation of registration. TxDOT would be allowed to suspend or revoke a registration issued under this legislation for failing to maintain insurance and not registering all vehicles. DPS could request that

TxDOT suspend or revoke a registration if the motor carrier has an unsatisfactory safety rating.

Economic regulation. TxDOT could not regulate the prices, routes or services provided by a motor carrier. TxDOT could establish voluntary standards for uniform cargo liability, uniform bills of lading or receipts for cargo being transported and uniform cargo credit.

TxDOT would be required to adopt rules at least as stringent as corresponding federal provisions to protect consumers who contract with motor carriers that transport household goods. Household good carriers would be required to file a tariff with the department that establishes maximum charges for moving services. In no event could the department adopt rules regulating the rates, with the exception of the filing of the tariff, or routes of household goods carriers.

Antitrust exemption. The bill would exempt household goods motor carriers or any collective association of carriers or agents from prohibitions against collectively setting rates. Agreements would be submitted to TxDOT for approval.

Tow truck regulation by municipality. The legislation would allow, in addition to registration requirements, municipalities to regulate the operation of tow trucks to the extent allowed by federal law. A municipality would be prohibited from requiring the registration of a tow truck that performs consent tows unless the owner of the tow truck had a place of business in the municipality. The bill would allow the municipality to require the registration of a tow truck that performs a non-consent tow, regardless of whether the owner of the tow truck has a place of business in the municipality.

TxDOT would be required to appoint a rules advisory committee to advise the department on the application of this legislation to the operation of tow trucks.

Conflicts of laws. A federal motor carrier safety regulation would prevail over a conflicting provision of the bill or a rule adopted by the director.

Motor transportation brokers. The bill would prohibit a person from acting as a motor transportation broker unless the person provides a bond to TxDOT.

Bonds. VACS art. 6701a would be amended to exempt motor carriers from bonding requirements pertaining to the driving or transporting of farm equipment being used for agricultural purposes. CSSB 3 would also amend VACS art. 6701d-11 to exempt motor carriers from the bonding requirements pertaining to permits issued for the operation of overweight trucks.

Appropriation. Any appropriation made to the TRC for the biennium ending August 31, 1997, for the administration of a law repealed by this legislation would be transferred to:

- TxDOT, if the appropriation was for an activity previously administered by the TRC that would now be administered by TxDOT;
- DPS, if the appropriation was for an activity previously administered by the TRC that would now be administered by DPS

Administration. CSSB 3 would require TRC, TxDOT, and DPS to adopt a memorandum of understanding regarding the transfer of administrative duties that would occur as a result of this legislation. Notwithstanding any other law, the memorandum could provide for the lateral transfer of one or more of the employees whose positions would be eliminated by this legislation and whose current duties and functions approximate those required by TxDOT or DPS to implement this legislation.

By January 1, 1996, TxDOT and DPS would be required to review all rules adopted to enforce this legislation; not later than January 1, 1996, all state agencies would be required to review existing regulations that affect motor carriers. This review would include efforts to eliminate duplicative regulations.

All certificates of public convenience and necessity and permits issued to contract carriers would be canceled.

Motor carrier would be defined as an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more vehicles that transport persons or cargo over a road or highway in this state.

The bill would take effect September 1, 1995.

**SUPPORTERS
SAY:**

Federal preemption of state regulated trucking effectively ended economic regulation of intrastate trucking. After enactment of the federal preemption consumer and industry meetings were held to discuss how best to implement safety and consumer protections in the new era of deregulated trucking in Texas. This legislation is a result of those meetings and would bring state law into compliance with the new federal deregulation standards.

For 65 years elected railroad commissioners strictly regulated Texas' trucking industry. CSSB 3 would promote competition and encourage the motor carrier industry by requiring every state agency to review existing regulations that affect the trucking industry. The bill would promote administrative efficiency, while keeping Texas' roads safe and the economy sound.

CSSB 3 would repeal the Texas Motor Carrier Act and transfer regulatory authority over registration and safety of intrastate motor carriers from the Texas Railroad Commission to the Texas Department of Transportation and the Department of Public Safety.

The current railroad commissioners support the transfer of authority over trucking from TRC as it would allow the agency to focus exclusively on energy issues. It makes administrative sense to shift control over licensing and registration to TxDOT and safety compliance to DPS. This legislation provides uniform and consistent registration and insurance filing procedures for motor carriers operating in Texas and retain all enforcement and rulemaking authority needed to ensure safety compliance.

CSSB 3 would maintain insurance, registration and safety regulation as stringent as they are now and offers TxDOT and DPS wide latitude in issuing administrative penalties up to \$30,000 for violations of these provisions.

The legislation would allow TxDOT to establish necessary safety regulations for drug screening, driver qualifications prior to hiring, commercial driver license compliance, logging hours of driver service and many other safety regulations. The bill also provides an exemption to antitrust law for discussions between household goods movers and their agents regarding rates and require TxDOT to adopt rules that are at least as stringent as federal regulations to protect consumers. These measures are designed to protect consumers from fly by night household goods moving operations, while opening the industry to more competition.

The legislation would allow, in addition to registration requirements, municipalities to regulate the operation of tow trucks to the extent allowed by federal law. In addition, TxDOT would be required to appoint a rules advisory committee to advise the department on the application of this legislation to the operation of tow trucks.

The legislation would eliminate or exempt motor carriers from unnecessary bonding requirements. Overweight trucks could still be prosecuted for violations of the weight limits on trucks traveling on Texas roads.

The bill would establish a transitional arrangement for employees at TRC by encouraging TxDOT and DPS to accept as part of a lateral transfer anyone who could work to implement this legislation.

OPPONENTS
SAY:

The regulations on household goods movers would apply only to trucks with a weight rating more than 26,000 pounds. All for-hire household goods carriers, regardless of vehicle weight, should be incorporated into the proposed new regulatory scheme. Every company, no matter how small, should be required to conduct its business according to the highest and strictest standards of safety.

This bill would exempt all motor carriers from the bonding requirements that protect counties from overweight trucks, costing counties millions of dollars in extra expenses related to fixing roads damaged by heavy trucks. The bonding requirements for overweight trucks should remain a mandatory provision.

NOTES:

The committee substitute would:

- require that a filing fee accompany every application;
- ensure that TxDOT is the sole administrator of registration suspensions and revocations;
- allow TxDOT to adopt rules to authorize the use of electronic funds transfer or credit card transactions to pay fees;
- provide TxDOT administrative penalty power to enforce the Single State Registration;
- provide that interstate motor vehicles, trailers, and semitrailers are exempt from the sales and use tax, effective September 1, 2000;
- provide that all motor carriers are exempt from posting bonds with TxDOT;
- authorize the lateral transfer of employees from TRC to TxDOT; and

- declare all certificates of public convenience and necessity, and permits issued to contract carriers are canceled.