

SUBJECT: Vehicle weight enforcement by non-commissioned DPS employees

COMMITTEE: Transportation — favorable, without amendment

VOTE: 9 ayes — Alexander, Hawley, Y. Davis, Edwards, Hamric, Hill, Noriega, Pickett, Swinford

0 nays

0 absent

SENATE VOTE: On final passage, April 3 — voice vote

WITNESSES: For — *Registered but did not testify:* Les Findeisen, Texas Motor Transportation Association

Against — None

BACKGROUND: In 1999, the 76th Legislature enacted SB 370 by Brown, continuing the Department of Public Safety (DPS). The sunset legislation required DPS to use more non-commissioned employees (civilians, not peace officers) to enforce commercial motor vehicle rules, including roadside inspections and compliance reviews.

Ports of entry are federal border crossing inspection stations operated by the U.S. Customs Service. Fixed-site facilities are interior weigh stations owned either by counties or the state.

DIGEST: SB 888 would amend Transportation Code, sec. 621.402 to give non-commissioned DPS employees specific authority to weigh, require to be weighed, or order to be driven to the nearest scales for weighing vehicles in ports-of-entry or at fixed-site facilities. The employees would have to be certified by DPS and supervised by a DPS officer. Non-commissioned employees could not take enforcement actions, such as issuing citations, even if they determined that they were warranted.

The bill would amend sec. 621.408 to give weight enforcement officers statewide jurisdiction, including over all ports-of-entry on the Texas-Mexico border. It would repeal population brackets disallowing their authority in cities of more than 100,000 population or cities greater than 74,000 in counties exceeding 1.5 million.

The bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

SB 888 would correct an oversight in the DPS sunset bill. A misconception about non-commissioned personnel's duties apparently led to omission of language specifically authorizing them to weigh vehicles. They currently are trained and qualified to do so; this bill would clarify their authority in statute.

Formally including staff in the vehicle weighing function would fulfill the innovation mandated by SB 370. Its purpose was to handle increased border and other traffic with civilian personnel who could be hired more cheaply and would have to be trained less extensively than peace officers, thereby freeing them for law enforcement duties. "Non-coms" are supervised by commissioned officers and do not participate in patrols.

The long-standing geographic restrictions on weight enforcement officers resulted from the tradition of DPS being primarily a rural law enforcement agency. With the influx of truck traffic, caused most notably by the North American Free Trade Agreement, it no longer makes sense for DPS troopers to stop enforcing weight restrictions at city limits. Freeing DPS troopers for this duty would help better protect Texas roads, which are sustaining too much damage to maintain this anachronistic policy. Cities need DPS' help in apprehending overweight trucks.

**OPPONENTS
SAY:**

Weighing vehicles is not merely a perfunctory act. As the bill states, it can lead to enforcement actions if violations are found. Consequently, functions with such potentially serious consequences should be performed by commissioned officers. SB 888 would give civilians with too little expertise too much discretion to interfere with commercial vehicle traffic and international commerce.