

SUBJECT: Designating constables as weight enforcement officers on state roads

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 7 ayes — Lewis, W. Smith, Casteel, Farabee, Flynn, Olivo, Quintanilla

1 nay — Chisum

1 absent — Farrar

WITNESSES: For — Jim Allison, County Judges and Commissioners Association of Texas; Chris King, Wharton County Commissioners Court; Rick Muse, Denton County Precinct No. 2; John Szymanski, Wharton County Constable’s Office, Precinct No. 2

Against — Les Findeisen, Texas Motor Transportation Association; Chris Kirk, Sheriff’s Association of Texas

BACKGROUND: Transportation Code, ch. 621 imposes weight limitations on vehicles that operate on a public highway or at a port of entry between Texas and Mexico. The chapter regulates the weight, among other features, of vehicles operating in these areas. Vehicles may not operate in these areas if they have:

- a single axle weight heavier than 20,000 pounds, including all enforcement tolerances;
- a tandem axle weight heavier than 34,000 pounds, including all enforcement tolerances; or
- an overall gross weight on a group of two or more consecutive axles heavier than the weight computed through a specific formula.

Sec. 621.408 states that, except for the authority granted to a port-of-entry supervisor or inspector, weight enforcement officers have exclusive authority to enforce the chapter’s vehicle-weight limitations. An officer with reason to believe that a vehicle has violated weight limitations may:

- weigh the vehicle by using portable or stationary scales furnished or approved by the Department of Public Safety (DPS);

- require the vehicle to be weighed by a public weigher; or
- require that a vehicle be driven to the nearest available scales.

A violation of weight regulations is a misdemeanor punishable by a fine ranging from \$100 to \$2,000 per violation, depending on the weight and timing of the violation.

Sec. 621.401 defines a weight enforcement officer as a license and weight inspector of DPS, a highway patrol officer, a sheriff or sheriff's deputy, and certain municipal police officers. The Texas Department of Transportation has established procedures, including training, for certifying municipal police officers, sheriffs, and deputy sheriffs to enforce the statute.

Sec. 251.153 authorizes the county commissioners courts to authorize a county traffic officer, sheriff, deputy sheriff, constable, or deputy constable to weigh a vehicle to ascertain whether the vehicle's load exceeds the limit prescribed by the commissioners court. The authorization allows this enforcement work only on county roads.

DIGEST:

HB 1186 would authorize a county commissioners court to designate a constable or deputy constable of the county to serve as a weight enforcement officer. It would list a constable or deputy constable in the definition of a weight enforcement officer.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

HB 1186 would allow counties to make use of an existing law enforcement resource to help combat the problem of overweight motor vehicles, especially large trucks, operating on state roads. In 2000, 444 fatalities in Texas resulted from crashes involving large trucks, far more than in any other state. Overweight trucks are believed to be a primary cause of many large truck crashes. HB 1186 would allow county constables to help save more lives by deterring the operation of overweight trucks on state roads. Because county commissioners courts already have authority to authorize constables to enforce weight limits on county roads, the bill would simply allow them to

extend constables' jurisdiction — to include state roads — in enforcing weight limits.

The bill also would help preserve county resources. Residents of counties pay to help maintain smaller state roads that truckers sometimes use to bypass weigh stations on state highways. In terms of wear and tear, the passage of one overweight truck is estimated to equal the passage of 1,000 cars. Counties need more enforcement of weight standards on state roads to deter operators of overweight trucks from creating this damage. For the same reason, as the North American Free Trade Agreement encourages more commercial transit across Texas, the need grows for stricter enforcement of truck weight regulations.

The bill likely would not motivate counties to pursue more authorizations of constables as weight enforcement officers as a means of generating revenue. One responsibility of weight enforcement officers is to weigh vehicles when asked to, not only in connection with enforcement work.

**OPPONENTS
SAY:**

Current law already designates enough law enforcement officers to enforce vehicle-weight laws on state roads. DPS' License and Weight Division alone maintains more than 30 offices in the state to enforce the vehicle-weight limitations. At the county level, sheriffs and their deputies also can receive certification to enforce these laws on state roads. Constables should concentrate on their core administrative and law enforcement functions rather than undertake weight-law enforcement work over a greater jurisdiction at the direction of county commissioners. County commissioners courts likely would use the law as a means to raise money, because counties can keep all or some of the fine assessed, depending on its amount.

HB 1186 would yield diminishing returns in enforcing vehicle-weight limitations on state roads. Three separate authorities at state and local levels already have enforcement authority in this area. If a fourth were authorized, accountability for enforcing weight laws would diminish as the agencies would come to expect others to enforce the law. Also, the risk of inconsistent enforcement standards would increase, and vehicle operators subject to weight-law standards could grow even more confused in understanding how to comply. If a county needs better weight enforcement to protect its citizens

and public roads, it should request the assistance of DPS or better support enforcement work by sheriffs.

Any additional enforcement efforts to deter the operation of overweight trucks should target cargo container shippers who actually load and weigh the truck trailers before their transfer to drivers for final delivery. Shippers have economic bargaining power over truckers, yet the truck drivers unfairly pay the cost of weight violations.

**OTHER
OPPONENTS
SAY:**

As constitutional county officers, constables should not be subject to designation by county commissioners courts, including for the purpose of serving as weight enforcement officers. The bill should authorize constables to enforce vehicle weight-limit laws on state roads without requiring the commissioners court's designation.