

SUBJECT: Expanding enforcement for commercial motor vehicle safety standards

COMMITTEE: Transportation — favorable, without amendment

VOTE: 8 ayes — Pickett, Phillips, Callegari, Y. Davis, Harper-Brown,
McClendon, T. Smith, W. Smith

1 nay — Merritt

2 absent — Dunnam, Guillen

WITNESSES: For — Randy McDaniel, Montgomery County Sheriff's Office
(*Registered, but did not testify*: Charles Gee, Texas Logging Council;
Michael Vasquez, Texas Conference of Urban Counties)

Against — Ronald Hufford, Texas Forestry Association (*Registered, but
did not testify*: Norman Garza, Texas Farm Bureau)

On — (*Registered, but did not testify*: Les Findeisen, Texas Motor
Transportation Association)

BACKGROUND: Transportation Code, ch. 644 authorizes the Department of Public Safety
(DPS) to adopt rules to promote the safe transportation of hazardous
materials and safe operations of commercial motor vehicles. Any rules
imposed under this authority must ensure that:

- a commercial motor vehicle is safely maintained, equipped, loaded,
and operated;
- the responsibilities imposed on a commercial motor vehicle's
operator do not impair the operator's ability to operate the vehicle
safely; and
- the physical condition of a commercial motor vehicle's operator
enables the safe operation of the vehicle.

DPS also may establish procedures, including training, for the certification
of municipal police officers, sheriffs, and deputy sheriffs to enforce
commercial motor vehicle safety. Transportation Code, sec. 644.101,
establishes the municipalities and counties whose police officers are
eligible to apply for certification.

Transportation Code, sec. 644.101(c) allows the certification of a sheriff or a deputy sheriff of a county bordering the United Mexican States or of a county with a population of 2.2 million.

Transportation Code, sec. 644.102 allows counties each fiscal year to retain fines collected for violations of up to 110 percent of their actual enforcement costs in the preceding fiscal year as determined through an audit review by the comptroller. The comptroller may estimate actual expenses if there were no cost for enforcing the safety requirements. Any fine revenue exceeding costs of enforcement goes to the Texas Department of Transportation (TxDOT).

DIGEST: HB 2537 would make any sheriff or deputy sheriff eligibility to apply for certification to enforce commercial motor vehicle safety standards under Transportation Code, ch. 644.

The bill would take effect on September 1, 2009.

SUPPORTERS SAY: HB 2537 would provide a simple, permissive means of expanding commercial vehicle enforcement through existing certification and training programs. Millions of commercial vehicles travel through Texas annually, and unregulated vehicles pose a danger to operators of those vehicles and other drivers. The bill would help disperse enforcement authority among Texas counties and reduce the enforcement burden on overwhelmed DPS and local authorities. Texas counties have the responsibility for maintaining thousands of miles of roads that cannot be sufficiently policed by DPS.

The bill would allow counties that have experienced rapid growth and a marked increase in commercial vehicle traffic to take a limited role in enforcing state laws. Required training courses currently ensure that deputies authorized to enforce state laws over commercial vehicles do so with the greatest uniformity possible. Extending the power to enforce regulations governing commercial vehicles would be no different than the many other laws with statewide dimensions that sheriff's departments regularly enforce.

Because all Texans have a stake in commercial vehicle safety, the state's counties should have the opportunity to play a role in ensuring compliance with safety standards. Existing restrictions have worked well in ensuring that local jurisdictions conduct inspections to ensure safety and not as a

source of revenue. Further limits on the portion of fines allocated to local governments would not be necessary.

OPPONENTS
SAY:

HB 2537 could create incentives for counties to use expanded powers to generate additional revenue and could result in inconsistent enforcement across the state. DPS currently does the bulk of commercial vehicle safety enforcement, but the program is structured so that money collected stays in the county where it is collected. This structure ensures that DPS focuses on safety inspections rather than generating revenue for the state. If more local law enforcement officers were to be authorized to enforce commercial motor vehicle safety standards, as HB 2537 would do, then more of the money from fines should be sent to the state so that enforcement is for safety reasons and not for raising local revenue.

In addition, HB 2537 could create fractured enforcement practices throughout the state. Many commercial vehicles travel across multiple counties in their course of business. Being subjected to possible variations in enforcement procedures across counties could pose inconveniences and confusion for businesses that transport goods across the state. Enforcement should remain primarily with the state, which is most capable of applying uniform regulations in all counties.

OTHER
OPPONENTS
SAY:

HB 2537 would create expansive authority to enforce commercial vehicle safety standards to areas that have no pressing need for the additional enforcement powers. The counties primarily in need of the expanded enforcement authority are larger, quickly growing counties in and around metropolitan areas. The bill should be tailored to suit the enforcement needs that are most pressing and should be limited to only those counties with a population greater than 400,000.

NOTES:

A related bill, HB 207 by Jackson, which would allow a sheriff or deputy in a county with a population of 250,000 or greater to be eligible for the commercial vehicle safety enforcement certification, was considered by the House on April 24 and failed to pass by 20-100.