

By: Hill

H.B. No. 2093

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the enforcement of motor carrier registration and  
3 overweight and oversize permits.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 623.144, Transportation Code, is amended  
6 to read as follows:

7 Sec. 623.144. REGISTRATION OF VEHICLE. A permit under this  
8 subchapter may be issued only if the vehicle is registered under  
9 Chapter 502 for the maximum gross weight applicable to the vehicle  
10 under Section 621.101 or has the distinguishing license plates as  
11 provided by Section 504.504 [~~502.276~~] if applicable to the vehicle.

12 SECTION 2. Section 623.149(a), Transportation Code, is  
13 amended to read as follows:

14 (a) The department may establish criteria to determine  
15 whether oil well servicing, oil well clean out, or oil well drilling  
16 machinery or equipment is subject to registration under Chapter 502  
17 or eligible for the distinguishing license plate provided by  
18 Section 504.504 [~~502.276~~].

19 SECTION 3. Section 623.194, Transportation Code, is amended  
20 to read as follows:

21 Sec. 623.194. REGISTRATION OF VEHICLE. A permit under this  
22 subchapter may be issued only if the vehicle to be moved is  
23 registered under Chapter 502 for the maximum gross weight  
24 applicable to the vehicle under Section 621.101 or has the

1 distinguishing license plates as provided by Section 504.504  
2 [~~502.276~~] if applicable to the vehicle.

3 SECTION 4. Section 623.199(a), Transportation Code, is  
4 amended to read as follows:

5 (a) The department may establish criteria to determine  
6 whether an unladen lift equipment motor vehicle that because of its  
7 design for use as lift equipment exceeds the maximum weight and  
8 width limitations prescribed by statute is subject to registration  
9 under Chapter 502 or eligible for the distinguishing license plate  
10 provided by Section 504.504 [~~502.276~~].

11 SECTION 5. Chapter 623, Transportation Code, is amended by  
12 adding Subchapter N to read as follows:

13 SUBCHAPTER N. ADMINISTRATIVE SANCTIONS

14 Sec. 623.271. ADMINISTRATIVE ENFORCEMENT. (a) The  
15 department may investigate and impose an administrative penalty or  
16 revoke an oversize or overweight permit issued under this chapter  
17 if the person or the holder of the permit, as applicable:

18 (1) provides false information on the permit  
19 application or another form required by the department for the  
20 issuance of an oversize or overweight permit;

21 (2) violates this chapter, Chapter 621, or Chapter  
22 622;

23 (3) violates a rule or order adopted under this  
24 chapter, Chapter 621, or Chapter 622; or

25 (4) fails to obtain an oversize or overweight permit  
26 when a permit is required.

27 (b) The notice and hearing requirements of Section 643.2525

1 apply to the imposition of an administrative penalty or the  
2 revocation of a permit under this section as if the action were  
3 being taken under that section.

4 (c) The amount of an administrative penalty imposed under  
5 this section is calculated in the same manner as the amount of an  
6 administrative penalty imposed under Section 643.251.

7 (d) A person who has been ordered to pay an administrative  
8 penalty under this section and the vehicle that is the subject of  
9 the enforcement order may not be issued a permit under this chapter  
10 until the amount of the penalty has been paid to the department.

11 Sec. 623.272. INJUNCTIVE RELIEF. (a) The attorney general,  
12 at the request of the department, may petition a district court for  
13 appropriate injunctive relief to prevent or abate a violation of  
14 this chapter or a rule or order adopted under this chapter.

15 (b) Venue in a suit for injunctive relief under this section  
16 is in Travis County.

17 (c) On application for injunctive relief and a finding that  
18 a person is violating, has violated, or threatens to violate this  
19 chapter or a rule or order adopted under this chapter, the court  
20 shall grant the appropriate relief.

21 SECTION 6. Section 643.251(a), Transportation Code, is  
22 amended to read as follows:

23 (a) The department may impose an administrative penalty  
24 against a motor carrier required to register under Subchapter B  
25 that violates this chapter [~~Subchapter B or C or Section 643.151,~~  
26 ~~643.152, 643.153(a)-(f), or 643.155]~~ or a rule or order adopted  
27 under this chapter [~~those provisions or Section 643.003. The~~

1 ~~department shall designate one or more employees to investigate~~  
2 ~~violations and administer penalties under this section].~~

3 SECTION 7. The heading to Section 643.252, Transportation  
4 Code, is amended to read as follows:

5 Sec. 643.252. ADMINISTRATIVE SANCTIONS [~~SUSPENSION AND~~  
6 ~~REVOCATION OF REGISTRATION~~].

7 SECTION 8. Section 643.252(a), Transportation Code, is  
8 amended to read as follows:

9 (a) The department may suspend, ~~[or]~~ revoke, or deny a  
10 registration issued under this chapter or place on probation a  
11 motor carrier whose registration is suspended if a motor carrier:

12 (1) fails to maintain insurance or evidence of  
13 financial responsibility as required by Section 643.101(a), (b),  
14 (c), or (d);

15 (2) fails to keep evidence of insurance in the cab of  
16 each vehicle as required by Section 643.103(b);

17 (3) fails to register a vehicle requiring  
18 registration;

19 (4) violates any other provision of this chapter;

20 (5) knowingly provides false information on any form  
21 filed with the department under this chapter; or

22 (6) ~~(5)~~ violates a rule or order adopted under this  
23 chapter [Section 643.063].

24 SECTION 9. Subchapter F, Chapter 643, Transportation Code,  
25 is amended by adding Section 643.2525 to read as follows:

26 Sec. 643.2525. ADMINISTRATIVE HEARING PROCESS. (a) If the  
27 department determines that a violation has occurred for which an

1 enforcement action is being taken under Section 643.251 or 643.252,  
2 the department shall give written notice to the motor carrier by  
3 first class mail to the carrier's address as shown in the records of  
4 the department. Notice is presumed to be received on the fifth day  
5 after the date the notice is mailed.

6 (b) A notice required by Subsection (a) must include:

7 (1) a brief summary of the alleged violation;

8 (2) a statement of each administrative sanction being  
9 taken;

10 (3) the effective date of each sanction;

11 (4) a statement informing the carrier of the carrier's  
12 right to request a hearing; and

13 (5) a statement as to the procedure for requesting a  
14 hearing, including the period during which a request must be made.

15 (c) If not later than the 26th day after the date the notice  
16 is mailed the department receives a written request for a hearing,  
17 the department shall set a hearing and give notice of the hearing to  
18 the carrier. The hearing shall be conducted by an administrative  
19 law judge of the State Office of Administrative Hearings.

20 (d) If the motor carrier does not timely request a hearing  
21 under Subsection (c), the department's decision becomes final on  
22 the expiration of the period described by Subsection (c).

23 (e) The administrative law judge shall make findings of fact  
24 and conclusions of law and promptly issue to the director a proposal  
25 for a decision as to the occurrence of the violation and the  
26 administrative penalties or sanctions.

27 (f) In addition to a penalty or sanction proposed under

1 Subsection (e), the administrative law judge shall include in the  
2 proposal for a decision a finding setting out costs, fees,  
3 expenses, and reasonable and necessary attorney's fees incurred by  
4 the state in bringing the proceeding. The director may adopt the  
5 finding and make it a part of a final order entered in the  
6 proceeding.

7 (g) Based on the findings of fact, conclusions of law, and  
8 proposal for a decision, the director by order may find that a  
9 violation has occurred and impose the sanctions or may find that a  
10 violation has not occurred.

11 (h) The director shall provide written notice to the motor  
12 carrier of a finding made under Subsection (g) and shall include in  
13 the notice a statement of the right of the carrier to judicial  
14 review of the order.

15 (i) Before the 31st day after the date the director's order  
16 under Subsection (g) becomes final as provided by Section 2001.144,  
17 Government Code, the motor carrier may appeal the order by filing a  
18 petition for judicial review contesting the order. Judicial review  
19 is under the substantial evidence rule.

20 (j) A petition filed under Subsection (i) stays the  
21 enforcement of the administrative action until the earlier of the  
22 550th day after the date the petition was filed or the date a final  
23 judgment is rendered by the court.

24 (k) If the motor carrier is required to pay a penalty or cost  
25 under Subsection (f), failure to pay the penalty or cost before the  
26 61st day after the date the requirement becomes final is a violation  
27 of this chapter and may result in an additional penalty, revocation

1 or suspension of a motor carrier registration, or denial of renewal  
2 of a motor carrier registration.

3 (l) A motor carrier that is required to pay a penalty, cost,  
4 fee, or expense under this section or Section 643.251 is not  
5 eligible for a reinstatement or renewal of a registration under  
6 this chapter until all required amounts have been paid to the  
7 department.

8 (m) If the suspension of a motor carrier's registration is  
9 probated, the department may require the carrier to report  
10 regularly to the department on any matter that is the basis of the  
11 probation. Any violation of the probation may result in the  
12 imposition of an administrative penalty or the revocation of the  
13 registration.

14 (n) All proceedings under this section are subject to  
15 Chapter 2001, Government Code.

16 SECTION 10. Section 643.254(a), Transportation Code, is  
17 amended to read as follows:

18 (a) To investigate an alleged violation of this chapter or a  
19 rule or order adopted under this chapter [~~Subchapter B, C, or D~~], an  
20 officer or employee of the department who has been certified for the  
21 purpose by the director may enter a motor carrier's premises to  
22 inspect, copy, or verify the correctness of a document, including  
23 an operation log or insurance certificate.

24 SECTION 11. Subchapter F, Chapter 643, Transportation Code,  
25 is amended by adding Section 643.255 to read as follows:

26 Sec. 643.255. INJUNCTIVE RELIEF. (a) The attorney general,  
27 at the request of the department, may petition a district court for

1 appropriate injunctive relief to prevent or abate a violation of  
2 this chapter or a rule or order adopted under this chapter.

3 (b) Venue in a suit for injunctive relief under this section  
4 is in Travis County.

5 (c) On application for injunctive relief and a finding that  
6 a person is violating, has violated, or threatens to violate this  
7 chapter or a rule or order adopted under this chapter, the court  
8 shall grant the appropriate relief.

9 SECTION 12. Section 645.003, Transportation Code, is  
10 amended to read as follows:

11 Sec. 645.003. ENFORCEMENT RULES. The department shall  
12 adopt rules that are consistent with federal law providing for [+

13 [~~(1)~~] administrative penalties and sanctions for a  
14 failure to register as required by the unified carrier registration  
15 system or a violation of this chapter or a rule adopted under this  
16 chapter in the same manner as Subchapter F, Chapter 643 [Section  
17 643.251, and

18 [~~(2) suspension and revocation of registration in the~~  
19 ~~same manner as Section 643.252].~~

20 SECTION 13. The following laws are repealed:

21 (1) Sections 643.251(d), (e), (f), (g), (h), (i), (j),  
22 (k), (l), (m), (n), (o), (p), (q), and (r), Transportation Code; and

23 (2) Sections 643.252(c), (d), and (e), Transportation  
24 Code.

25 SECTION 14. (a) Subchapter N, Chapter 623, Transportation  
26 Code, as added by this Act, applies only to a violation that occurs,  
27 or information that is provided to the Texas Department of

1 Transportation, on or after the effective date of this Act.

2 (b) Section 643.2525, Transportation Code, as added by this  
3 Act, applies only to a violation for which an enforcement action  
4 under Section 643.251 or 643.252, Transportation Code, is commenced  
5 on or after the effective date of this Act, regardless of when the  
6 violation occurred. An action commenced under Section 643.251 or  
7 643.252, Transportation Code, before the effective date of this Act  
8 is governed by the law in effect immediately before the effective  
9 date of this Act, and the former law is continued in effect for that  
10 purpose.

11 SECTION 15. This Act takes effect immediately if it  
12 receives a vote of two-thirds of all the members elected to each  
13 house, as provided by Section 39, Article III, Texas Constitution.  
14 If this Act does not receive the vote necessary for immediate  
15 effect, this Act takes effect September 1, 2007.