

# Texas 83rd Legislative Session Highlights

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Changes to Texas Laws  
Impacting Our Industry



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# 2013 Session by the Numbers



**5,868**  
Bills Filed



**1,437**  
Bills Passed



**18.5**  
Percent Passed



**28**  
Number Vetoed

# Texas' 83th Legislative Session

The 83rd Legislative Session provided a backdrop for many regulatory and governmental issues that involved the trucking industry. Those issues set the framework for TXTA's legislative agenda. Topics ranged from truck weight penalty increases to mileage based user fees. The Texas Margins Tax was finally adjusted to provide relief for the trucking industry.

This document details changes to Texas laws directly affected the trucking industry.



# 2013 Legislative Session Priorities

**MARGINS TAX** The trucking industry is being disproportionately affected by the margins tax. Many trucking companies have “pass-through” charges they have to pay tax on such as third party charges, i.e.; os/ow permits, oversize load escort services, fuel surcharges that are passed on directly to the independent contractor, third party loading and/or unloading services, etc.

**TAX ON REEFER FUEL** The temperature controlled trucking companies are required to pay fuel tax on fuel that is used to run units mounted on semi-trailers. These units have their own fuel tanks that helps keep track of the fuel used. Truckers could use tax-free “dyed diesel” however it is not readily available and not sold at retail/fuel truck stops.

**OS/OW PERMIT ISSUES** a rider placed under TxDOT’s 2011–12 budget calls for a permit study to be completed prior to the 2013 Legislative Session. We hope to have input into the study so that any permit issues we have can be addressed within this study. However, it was brought to our attention that Section 623.150 in the Transportation Code prohibited oil well servicing and drilling machinery permits to be issued to any company that had trucks with a GVWR greater than 26,000 pounds. We are not sure why that provision is in the law.

**SHIPPERS’ RESPONSIBILITIES AS RELATED TO OVERWEIGHT TRUCKS** There are some shippers that try to ship heavier loads than legally allowed in order to reduce the number of trucks they have to pay for. This overloading practice obviously reduces the shippers overall costs and boosts their profits. Under the current laws, there are no aiding and abetting provisions to hold the shippers accountable for their actions.

**TRUCK REGISTRATION/LICENSING** It is taking too long for trucks to be registered/licensed in the State. This is costly to the motor carriers who have to wait to use this equipment. The general public does not have the delay or wait when purchasing an automobile and the truck owners should not have this issue either. Some other states have implemented steps to reduce if not eliminate the wait time. Texas should be taking similar steps.



# Results of the Rider 36 Permit Study

## RIDER 36 RECOMMENDATIONS

1. Simplify permit fee structure.
2. Implement consumption fee system based on vehicle-miles-traveled for all permits.
3. Implement an operations and safety fee system based on vehicle-miles-traveled for assessing permit fees for oversize loads.
4. Apply a \$10 administrative fee to each permit sold.
5. Include a \$40 TxDOT base fee for each permit sold to help recover additional costs associated with OS/OW operations.
6. Create an OS/OW and Heavy Vehicle Training, Education and Study Center to be funded by portion of permit administrative fee.
7. Certain exemptions should be excluded from consideration for a permit fee.
8. The counties in which OS/OW permitted vehicles are intended to operate should be identified in every permit.
9. OS/OW vehicle fine/penalty revenue should be deposited in Fund 6.
10. Suggested permit increase of \$6,000 per truck for 2060 and an increase of \$400 million in additional permit fees.

## WHAT ACTUALLY OCCURRED

1. No simplification of the permit fee structure.
2. No Consumption fee system on vehicle-miles-traveled.
3. No operations and safety fee system based on vehicle-miles-traveled.
4. No \$10 administrative fee on each permit.
5. No \$40 TxDOT base fee for each permit sold.
6. No Heavy Vehicle Training Center.
7. No Changes to exemptions except for the creation of a Redi-Mix Concrete Annual Permit for \$1,000 as opposed to a bond and Timber Annual Permit for \$1,500.
8. No identification of county on permits.
9. OS/OW vehicle fine revenue is split between Fund 6 and the County where the violation occurred.
10. No increase in permit fees.



# Truck Weight Penalty Comparison

## CURRENT PENALTIES

Penalties can double after first offense within one year

### Less than 5,000 lbs.

\$100–\$150

### 5001–10,000 lbs.

\$300–\$500

### Over 10,000 lbs.

\$500–\$1,000

## CSHB 2741 PENALTIES

Multiple tiers with increased penalties within one year

Penalties at a higher rate after the first year violation

### Less than 5,000 lbs.

\$500–\$1,250

### 5001–10,000 lbs.

\$2,500–\$4,500

### 10,001–20,000 lbs.

\$4,500–\$8,000

### Over 20,000 lbs.

\$9,250–\$18,000

## FINAL HB 2741 PENALTIES

Penalties can double after second offense within one year

Axle penalties stop at 5,001–10,000 lbs. level

### Less than 2,500 lbs.

\$100–\$500

### 2,501–5,000 lbs.

\$500–\$1,000

### 5,001–10,000 lbs.

\$1,000–\$2,500

### 10,001–20,000 lbs.

\$2,500–\$5,000

### 20,001–40,000 lbs.

\$5,000–\$7,000

### Over 40,000 lbs.

\$7,000–\$10,000

## PENALTIES

Not Having Permit for Non-Divisible Load  
No Provision

Over 84,000 lbs. With Divisible Load  
No Provision

Not Having Permit for Non-Divisible Load  
\$5,000

Over 84,000 lbs. With Divisible Load  
No Provision

Not Having Permit for Non-Divisible Load  
\$500–\$1,000 First Offense  
\$2,500–\$5,000 additional offenses

Over 84,000 lbs. With Divisible Load  
\$500–\$1,000 first offense  
\$2,500–\$5,000 additional offenses



# HB 500 Margins Tax Bill

## KEY TRUCKING PROVISIONS OF THE BILL

1. Motor carriers can exclude, from their total revenue flow through, revenue derived from taxes or fees.
2. Motor carriers transporting “Barite” can exclude subcontracting payments to non-employee agents.
3. Motor carriers transporting “Aggregates” can exclude subcontracting payments to non-employee agents.
4. Temporary Permissive Alternative Rates:
  - a. The rate of 97.5 percent of taxable rate would apply to the January 1, 2014 tax year;
  - b. The rate of 95 percent of the taxable rate would apply to the January 1, 2015 tax year provided the Comptroller certifies sufficient revenue is available for the fiscal year.
5. All businesses are guaranteed a \$1 million deduction from their total revenue.



# Bills That Passed

## HB 338

Court in which a hearing regarding the towing of a motor vehicle may be held. The bill would amend the Occupations Code to add an additional venue option for towing suits. The owner of the towed motor vehicle may request the case be brought in any justice court in the county from which the vehicle was towed.

## HB 474

Optional procedure for the issuance of a permit by a certain regional mobility authority for the movement of oversize or overweight vehicles. The bill allows the Hidalgo County Regional Mobility Authority (HCRMA) to issue permits for the movement of oversize or overweight vehicles carrying cargo on specified roads in Hidalgo County. The bill would authorize the HCRMA to collect a permit fee not to exceed \$80 per trip.

## HB 1025

Fiscal matters that gives \$450,000,000 to the Texas Department of Transportation, for several contingencies based on passage of certain legislation, including \$225 million that would be transferred to State Highway Fund 6 for certain projects within the state highway system and \$225 million that would be transferred to the Transportation Infrastructure Fund for county transportation projects.

## HB 511, SB 685

Registration of token trailers. The bill creates a non-expiring license plate and eliminates the requirements to show the expiration date on the license plate and to carry a paper registration receipt on the trailer.

## HB 777

Oversize or overweight vehicles transporting timber or timber products. Amended onto HB 2741.

## HB 500

Omnibus Margins Tax Bill.

## HB 2741

Became the Omnibus Transportation Bill.

## HB 2148

Motor fuel tax on compressed natural gas and liquefied natural gas. The bill changes the way in which tax is paid and collected on both compressed natural gas (CNG) and liquefied natural gas (LNG) used as a motor fuel in motor vehicles. The bill would leave the tax rate on both CNG and LNG unchanged at 15 cents per gallon.





### **HB 2304**

Certification of sheriffs and deputy sheriffs to enforce commercial motor vehicle safety standards. The provisions of the bill would only apply to Bexar, Tarrant and Travis counties.

### **HB 2612**

Liability on a county road. A road supervisor may prohibit or restrict the use of a road or a section of a road by a vehicle that will unduly damage the road under specified circumstances, if an alternative, more suitable road is available within the county at the time. A person required to operate or move a vehicle or other object on an alternate route would not be liable for damage sustained by the road, including a bridge, unless the act or omission resulting in the damage constitutes wanton, willful and intentional misconduct; or gross negligence.

### **HB 3125**

Route designation for the issuance of a permit by the Port of Brownsville for the movement of oversize and overweight vehicles to include additional highways on which the permitted vehicles could carry cargo.

### **SB 274**

Permits for oversize and overweight vehicles. The bill would expand the portions of SH 99 and FM 565 within Chambers County for which the county is authorized to issue oversize/overweight (OS/OW) permits for loads with a gross vehicle weight of up to 100,000 pounds.

### **SB 1671**

Fines for and other enforcement of laws providing for the operation of oversize or overweight vehicles.

### **SB 229**

Exception to the domicile requirement for issuance of a commercial driver's license for certain military personnel. The bill will allow commercial driver's licenses to be issued to active or reserve service members, whose temporary or permanent duty station is located in Texas, by waiving the current residency requirement.

### **SB 1727**

The bill would make various changes to the Texas Emissions Reduction Plan (TERP) program. It creates the new Drayage Truck Incentive Program within the TERP program to provide rebate-type funding for the replacement of a pre-2007 model year drayage truck with a 2010 or newer model year truck.

### **SB 1747**

Relating to county road funding. The bill would amend the Transportation Code to allow counties to designate County Energy Transportation Reinvestment Zones (CETRZ) in order to promote transportation infrastructure projects in areas affected by oil and gas exploration and production activities. The bill would allow counties to use revenue from taxes designated to a CETRZ to finance certain transportation projects.



# Bills Not Passed

## HB 245

Sleep apnea and the creation of a Drowsy Driving Study Commission.

## HB 2073

Driving with certain untreated sleep disorders or employing a person with an untreated sleep disorder as a commercial motor vehicle driver.

## HB 2132

Certification and regulation of escort flag vehicle pilots.

## HB 2499

Use of Texas emissions reduction plan funds for a drayage truck purchase incentive program.

## SB 1670

Fees for oversize and overweight vehicle permits.

## HB 2735

Exemption from motor carrier registration for certain vehicles used to transport household goods.

## HB 3523

Punishment for the offense of driving a commercial motor vehicle without a commercial driver's license.

## HB 2882

Movement of certain commercial motor vehicles by convoy on state highways. Would have required trucks to keep 150 feet separation at all times.

## HB 1288, SB 145

Credit or a refund for diesel fuel taxes paid on diesel fuel used in this state by auxiliary power units or power take-off equipment.

## SB 459

Sale, storage, transportation and disposal of scrap or used tires.

## SB 1020

Requirements for employers who do not obtain workers' compensation insurance coverage under the Texas Workers' Compensation Act.

## SB 1664

Commercial driver's licenses and commercial learner's permits and the operation of commercial motor vehicles.

For additional summaries, statistics and information related to the 83rd Texas Legislative Session and other past sessions please visit the Legislative Reference Library of Texas at [www.lrl.texas.gov/sessions/sessionYears.cfm](http://www.lrl.texas.gov/sessions/sessionYears.cfm)

