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HOUSE BILL 19

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WHAT IS HOUSE BILL 19?

House Bill 19 is a Texas Bill that changes how trials are conducted for personal injury suits involving collisions with commercial vehicles





Applicability

House Bill 19 applies to any “commercial vehicle”

In the context of this Bill, a commercial vehicle is “a motor vehicle being used for commercial purposes in interstate or intrastate commerce to transport property or passengers, deliver or transport goods, or provide services.

This includes:

- 18-wheelers
- Delivery Drivers
- Rideshare Vehicles
- Etc.





A trial will not be bifurcated unless the defendant submits a motion to the court:

- On or before the 120th day after the defendant's original answer; or
- On or before the 30th day after the date a claimant files a pleading adding a claim or cause of action against the defendant

Motion

House Bill 19 gives the option for a Defendant to submit a motion to the court to bifurcate a trial

The Defendant is required to stipulate that at the time of the accident, the person operating the vehicle was:

1. The Defendant's Employee
2. Acting with the course and scope of employment
3. At the time of the subject incident (Sec. 72.054 (a)(1)-(2))

BIFURCATED TRIAL

1

PHASE ONE

- Liability of the Employee Driver
- Compensatory Damages

2

PHASE TWO

- Liability of the Employer of the Driver
- Exemplary Damages

LIABILITY

In the bifurcated trial, the jury would have to determine that the employee driver was liable in phase one before phase two liability of the employer could be reached



PHASE TWO LIABILITY




- If phase two is reached, liability against the employer is proven by a vicarious liability standard
- Once the jury has determined that the employee driver is liable for the collision, the employer's independent liability for the employee's negligent conduct will be determined
- If the jury determines that the employee is not liable for the collision, then phase two will not be reached and liability of the employer will not be determined

EVIDENCE

House Bill 19 also dictates what evidence counsel can present in phase one of the bifurcated trial





Regulations

REGULATIONS AND STANDARDS

A defendant's failure to comply with a regulation or standard is admissible evidence in Phase One, but only if:

- The failure was a proximate cause
- The regulation or standard is applicable to:
 - The Defendant
 - The Defendant's Employee
 - The Defendant's Property or Equipment

ADMISSIBLE EVIDENCE – EMPLOYEE

Whether the employee:

- Was licensed to drive the vehicle
- Was disqualified from driving the vehicle
- Was subject to an out-of-service order
- Was driving the vehicle in violation of a license restriction
- Had received a certificate of driver's road test from the employer or had an equivalent certificate or license
- Was medically certified as physically qualified to operate the vehicle
- Was operating the vehicle when prohibited from doing so
- Was texting or using a cell phone while driving the vehicle
- Provided the employer with an application for employment (if the accident occurred on or before the first anniversary of the date the employee began employment)
- Refused to submit to a controlled substance test during the two years preceding the date of the collision



ADMISSIBLE EVIDENCE EMPLOYER



Whether the employer defendant:

- Allowed the employee to operate the employer's commercial motor vehicle on the day of the collision in violation of:
 - 49 CFR 382.201, 382.205, 382.207, 382.215, 382.701(d), 395.3, or 395.5
 - 37 TAC 4.12
- Had complied with controlled substance testing of the employee driver if:
 - The employee driver was impaired because of the use of a controlled substance at the time of the collision
 - The collision occurred on or before the 180th day after the date the employee driver began employment
- Had made the investigations and inquiries provided by 49 CFR 391.23(a) regarding the employee driver if:
 - The collision occurred on or before the first anniversary of the date the employee began employment
 - The employee was subject to an out-of-service order



EXCLUSION OF EVIDENCE

- A court should not exclude photographic evidence if it:
 - Accurately depicts the vehicle or object involved in the collision
- A court may not require expert testimony for admission of photographs or videos of a vehicle
- Photographs and videos are admissible even if they tend to support or refute the severity of damages



EFFECTS

GOOD

- Bill may backfire on lawmakers' intentions
- Shielding the company's identity may potentially increase liability and damage awards in phase two
 - All attention turns to the employer

BAD

- The Bill would be protecting companies from liability
- Liability against companies may be lower because jurors are more hesitant to find employee drivers liable for damages than a corporation

EFFECTIVE DATE

HB 19 takes effect on
September 1, 2021

The Bill will only apply to
actions commenced on
or after the effective date



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Questions?