



Overview of HB 19

HB 19 is laser focused on the changes in law that are necessary to protect the rights of Texans who are truly injured in a commercial vehicle accident while simultaneously reducing opportunities for some trial lawyers to mislead juries to seek millions in damages in cases where the commercial vehicle owner was not at fault or the plaintiff was not injured.

HB 19 has four parts: (1) bifurcated trials; (2) evidence of violations of regulations and standards; (3) employer liability for employee negligence; and (4) admissibility of photographs and videos.

Bifurcated Trials

At the defendant's request, a commercial vehicle case can be presented to a jury in two phases:

1. In the first phase, the jury will determine who caused the accident and the amount of money that should be paid to the plaintiff to make him/her whole for the injury caused in the accident (compensatory damages).
2. In the second phase, the jury will determine whether a defendant was grossly negligent in causing the accident, and if so, the amount of money that should be assessed against the defendant as punishment.

HB 19 simplifies and clarifies the bifurcated trial provision, but retains the goal of ensuring the evidence introduced matches the type of damages to be awarded.

Evidence of Violations of Regulations and Standards

HB 19 provides that when considering the amount to award an injured plaintiff as *compensatory* damages, the finder of fact may consider whether the defendant violated a regulation or standard that governs the defendant's conduct, but only if that violation was a cause of the accident.

If the trial is bifurcated, other alleged violations of regulations or standards that may not have caused the accident—*but may show the defendant repeatedly refuses to follow safety regulations*—may be presented to the jury in the second phase of trial to support an award of *punitive* damages against the defendant.

Employer Liability for Employee Negligence

Under Texas law, an employer is liable as a matter of law for the negligent acts of an employee committed in the scope of employment. This principle is known as respondeat superior.



HB 19 provides that if an employer stipulates that the employee whose conduct caused a commercial vehicle accident was acting in the scope of employment at the time of the accident, then respondeat superior will serve as the basis for holding the employer liable for *all* compensatory damages owed to the plaintiff.

There are several so-called direct actions against employer defendants related to an employee's negligence in driving a commercial motor vehicle, such as negligent hiring, training, supervision or retention. HB 19 recognizes these claims are wholly *dependent* on the employee's negligence. That is to say, the fact that an employee was negligently hired or insufficiently trained or supervised is irrelevant *if* the driver of the commercial vehicle did not cause the accident. It follows, then, that evidence regarding an employer's negligent training, hiring, etc. may be relevant to whether the employer should be punished, but not relevant to the jury's decision about whether the employee caused the accident or the amount of money required to make the injured plaintiff whole (compensatory damages).

On the other hand, if the company defendant failed to maintain the commercial vehicle and that failure caused the accident, this negligence is *not* dependent on the driver's negligence. Negligent maintenance and negligence in loading or securing a load, therefore, are examples of *independent* actions.

HB 19 makes clear that evidence regarding the *independent* negligence of the company defendant (like negligent maintenance) is heard by the jury in the first phase of a two-part trial to support an award of compensatory damages, while evidence regarding the company's acts that are *dependent* on the driver's negligence (like negligent training) are heard in the second phase of a two-part trial to support an award of punitive damages.

Admissibility of Photographs and Videos

HB 19 provides that a properly authenticated photograph or video of a vehicle or object involved in a collision is presumed admissible and that expert testimony is not required for the photograph or video to be admitted into evidence. This provision prevents trial courts from excluding photographs that show minor damage to a plaintiff's vehicle in cases when the plaintiff is claiming tens or hundreds of thousands of dollars in medical expenses as a result of the accident.