

TRANSPORTATION CODE  
TITLE 7. VEHICLES AND TRAFFIC  
SUBTITLE F. COMMERCIAL MOTOR VEHICLES  
CHAPTER 644. COMMERCIAL MOTOR VEHICLE SAFETY STANDARDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 644.001. DEFINITIONS. In this chapter:

(1) "Commercial motor vehicle" means:

(A) a commercial motor vehicle as defined by 49 C.F.R. Section 390.5, if operated interstate; or

(B) a commercial motor vehicle as defined by Section 548.001, if operated intrastate.

(2) "Department" means the Department of Public Safety.

(3) "Director" means the public safety director.

(4) "Federal hazardous material regulation" means a federal regulation in 49 C.F.R. Parts 101-199.

(5) "Federal motor carrier safety regulation" means a federal regulation in Subtitle A, Title 49, or Subchapter B, Chapter III, Subtitle B, Title 49, Code of Federal Regulations.

(6) "Federal safety regulation" means a federal hazardous material regulation or a federal motor carrier safety regulation.

(7) "Port of entry" has the meaning assigned by Section 621.001.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.24(a), 17.25(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 359, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 16.02, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 313 (S.B. 619), Sec. 4, eff. September 1, 2005.

Sec. 644.002. CONFLICTS OF LAW. (a) A federal motor carrier safety regulation prevails over a conflicting provision of

this title applicable to a commercial vehicle operated in interstate commerce. A rule adopted by the director under this chapter prevails over a conflicting provision of a federal motor carrier safety regulation applicable to a commercial vehicle operated in intrastate commerce.

(b) A safety rule adopted under this chapter prevails over a conflicting rule adopted by a local government, authority, or state agency or officer, other than a conflicting rule adopted by the Railroad Commission of Texas under Chapter [113](#), Natural Resources Code.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 872 (S.B. [1074](#)), Sec. 1, eff. September 1, 2005.

Sec. 644.003. RULES. The department may adopt rules to administer this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Sec. 644.004. APPLICABILITY TO FOREIGN COMMERCIAL MOTOR VEHICLES. Except as otherwise provided by law, this chapter also applies to a foreign commercial motor vehicle, as defined by Section [648.001](#).

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.26(a), eff. Sept. 1, 1999.

Sec. 644.005. DEPARTMENT DATABASE. The department shall develop and maintain a database on roadside vehicle inspection reports for defects on any intermodal equipment. The database shall include all citations involving intermodal equipment issued by officers certified under Section [644.101](#). The database shall be used to identify violations discovered on intermodal equipment during a roadside inspection.

Added by Acts 2001, 77th Leg., ch. 1227, Sec. 10, eff. Sept. 1, 2001.

SUBCHAPTER B. ADOPTION OF RULES

Sec. 644.051. AUTHORITY TO ADOPT RULES. (a) The director shall, after notice and a public hearing, adopt rules regulating:

(1) the safe transportation of hazardous materials;  
and

(2) the safe operation of commercial motor vehicles.

(b) A rule adopted under this chapter must be consistent with federal regulations, including federal safety regulations.

(c) The director may adopt all or part of the federal safety regulations by reference.

(d) Rules adopted under this chapter must ensure that:

(1) a commercial motor vehicle is safely maintained, equipped, loaded, and operated;

(2) the responsibilities imposed on a commercial motor vehicle's operator do not impair the operator's ability to operate the vehicle safely; and

(3) the physical condition of a commercial motor vehicle's operator enables the operator to operate the vehicle safely.

(e) A motor carrier safety rule adopted by a local government, authority, or state agency or officer must be consistent with corresponding federal regulations.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Sec. 644.052. APPLICABILITY OF RULES. (a) Notwithstanding an exemption provided in the federal safety regulations, other than an exemption relating to intracity or commercial zone operations provided in 49 C.F.R. Part 395, a rule adopted by the director under this chapter applies uniformly throughout this state.

(b) A rule adopted under this chapter applies to a vehicle that requires a hazardous material placard.

(c) A rule adopted under this chapter may not apply to a vehicle that is operated intrastate and that is:

(1) a machine generally consisting of a mast, engine,

draw works, and chassis permanently constructed or assembled to be used and used in oil or water well servicing or drilling;

(2) a mobile crane that is an unladen, self-propelled vehicle constructed as a machine to raise, shift, or lower weight; or

(3) a vehicle transporting seed cotton.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 247 (H.B. 749), Sec. 5, eff. September 1, 2005.

Sec. 644.053. LIMITATIONS OF RULES. (a) A rule adopted under this chapter may not:

(1) prevent an intrastate operator from operating a vehicle up to 12 hours following eight consecutive hours off;

(2) require a person to meet the medical standards provided in the federal motor carrier safety regulations if the person:

(A) was regularly employed in this state as a commercial motor vehicle operator in intrastate commerce before August 28, 1989; and

(B) is not transporting property that requires a hazardous material placard;

(3) require a person who returns to the work-reporting location, is released from work within 12 consecutive hours, has at least eight consecutive hours off between each 12-hour period the person is on duty, and operates within a 150-air-mile radius of the normal work-reporting location to maintain a driver's record of duty status as described by 49 C.F.R. Section 395.8, provided that the person maintains time records in compliance with 49 C.F.R. Section 395.1(e)(5) and documents that verify the truth and accuracy of the time records such as:

(A) business records maintained by the owner that provide the date, time, and location of the delivery of a product or service; or

(B) documents required to be maintained by law,

including delivery tickets or sales invoices, that provide the date of delivery and the quantity of merchandise delivered; or

(4) impose during a planting or harvesting season maximum driving and on-duty times on an operator of a vehicle transporting an agricultural commodity in intrastate commerce for agricultural purposes from the source of the commodity to the first place of processing or storage or the distribution point for the commodity, if the place is located within 150 air miles of the source.

(b) For purposes of Subsection (a)(3)(A), an owner's time records must at a minimum include:

- (1) the time an operator reports for duty each day;
- (2) the number of hours an operator is on duty each day;
- (3) the time an operator is released from duty each day; and
- (4) an operator's signed statement in compliance with 49 C.F.R. Section 395.8(j)(2).

(c) In this section, "agricultural commodity" means an agricultural, horticultural, viticultural, silvicultural, or vegetable product, bees or honey, planting seed, cottonseed, rice, livestock or a livestock product, or poultry or a poultry product that is produced in this state, either in its natural form or as processed by the producer, including woodchips.

(d) A rule adopted by the director under this chapter that relates to hours of service, an operator's record of duty status, or an operator's daily log, for operations outside a 150-mile radius of the normal work-reporting location, also applies to and must be complied with by a motor carrier of household goods not using a commercial motor vehicle. In this subsection:

- (1) "commercial motor vehicle" has the meaning assigned by Section [548.001](#); and
- (2) "motor carrier" has the meaning assigned by Section [643.001](#).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.27(a), 17.27(b), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 872 (S.B. 1074), Sec. 2, eff. September 1, 2005.

Sec. 644.054. REGULATION OF CONTRACT CARRIERS OF CERTAIN PASSENGERS. (a) This section applies only to a contract carrier that transports an operating employee of a railroad on a road or highway of this state in a vehicle designed to carry 15 or fewer passengers.

(b) The department shall adopt rules regulating the operation of a contract carrier to which this section applies. The rules must:

(1) prohibit a person from operating a vehicle for more than 12 hours in a day;

(2) require a person who operates a vehicle for the number of consecutive hours or days the department determines is excessive to rest for a period determined by the department;

(3) require a contract carrier to keep a record of all hours a vehicle subject to regulation under this section is operated;

(4) require a contract carrier to perform alcohol and drug testing of vehicle operators on employment, on suspicion of alcohol or drug abuse, and periodically as determined by the department;

(5) require a contract carrier, at a minimum, to maintain liability insurance in the amount of \$1.5 million for each vehicle; and

(6) be determined by the department to be necessary to protect the safety of a passenger being transported or the general public.

(c) The department shall inform contract carriers and railroad companies that employ contract carriers of the requirements of state statutes applicable to contract carriers.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.28(a), eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 126 (S.B. 481), Sec. 1, eff.

September 1, 2009.

SUBCHAPTER C. ADMINISTRATIVE ENFORCEMENT

Sec. 644.101. CERTIFICATION OF CERTAIN PEACE OFFICERS. (a) The department shall establish procedures, including training, for the certification of municipal police officers, sheriffs, and deputy sheriffs to enforce this chapter.

(b) A police officer of any of the following municipalities is eligible to apply for certification under this section:

(1) a municipality with a population of 50,000 or more;

(2) a municipality with a population of 25,000 or more any part of which is located in a county with a population of 500,000 or more;

(3) a municipality with a population of less than 25,000:

(A) any part of which is located in a county with a population of 3.3 million; and

(B) that contains or is adjacent to an international port;

(4) a municipality with a population of at least 34,000 that is located in a county that borders two or more states;

(5) a municipality any part of which is located in a county bordering the United Mexican States;

(6) a municipality with a population of less than 5,000 that is located:

(A) adjacent to a bay connected to the Gulf of Mexico; and

(B) in a county adjacent to a county with a population greater than 3.3 million;

(7) a municipality that is located:

(A) within 25 miles of an international port; and

(B) in a county that does not contain a highway that is part of the national system of interstate and defense highways and is adjacent to a county with a population greater than 3.3 million;

(8) a municipality with a population of less than 8,500 that:

(A) is the county seat; and

(B) contains a highway that is part of the national system of interstate and defense highways;

(9) a municipality located in a county with a population between 60,000 and 66,000 adjacent to a bay connected to the Gulf of Mexico;

(10) a municipality with a population of more than 40,000 and less than 50,000 that is located in a county with a population of more than 285,000 and less than 300,000 that borders the Gulf of Mexico; or

Text of subdivision as added by Acts 2017, 85th Leg., R.S., Ch. 138

(H.B. [1355](#)), Sec. 1

(11) a municipality with a population between 18,000 and 18,500 that is located entirely in a county that:

(A) has a population of less than 200,000;

(B) is adjacent to two counties that each have a population of more than 1.2 million; and

(C) contains two highways that are part of the national system of interstate and defense highways

Text of subdivision as added by Acts 2017, 85th Leg., R.S., Ch. 142

(H.B. [1570](#)), Sec. 1

(11) a municipality with a population of more than 3,000 and less than 10,000 that:

(A) contains a highway that is part of the national system of interstate and defense highways; and

(B) is located in a county with a population between 150,000 and 155,000.

(c) A sheriff or a deputy sheriff of a county bordering the United Mexican States or of a county with a population of 700,000 or more is eligible to apply for certification under this section.

(d) A sheriff, a deputy sheriff, or any peace officer that



does not attend continuing education courses on the enforcement of traffic and highway laws and on the use of radar equipment as prescribed by Subchapter F, Chapter [1701](#), Occupations Code, shall not enforce traffic and highway laws.

(e) The department by rule shall establish reasonable fees sufficient to recover from a municipality or a county the cost of certifying its peace officers under this section.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.29(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1189, Sec. 39, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1227, Sec. 11, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 508 (S.B. [545](#)), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 702 (H.B. [2077](#)), Sec. 1, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1030 (H.B. [1638](#)), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 23.009, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 249 (H.B. [1010](#)), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. [2702](#)), Sec. 176, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 683 (H.B. [2304](#)), Sec. 1, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 278 (H.B. [716](#)), Sec. 1, eff. June 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1130 (S.B. [58](#)), Sec. 1, eff. September 1, 2015.

Reenacted and amended by Acts 2017, 85th Leg., R.S., Ch. 138 (H.B. [1355](#)), Sec. 1, eff. September 1, 2017.

Reenacted and amended by Acts 2017, 85th Leg., R.S., Ch. 142 (H.B. [1570](#)), Sec. 1, eff. September 1, 2017.

Reenacted and amended by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. [1488](#)), Sec. 18.003, eff. September 1, 2017.

Sec. 644.102. MUNICIPAL AND COUNTY ENFORCEMENT REQUIREMENTS. (a) The department by rule shall establish uniform standards for municipal or county enforcement of this chapter.

(b) A municipality or county that engages in enforcement under this chapter:

(1) shall pay all costs relating to the municipality's or county's enforcement;

(2) may not be considered, in the context of a federal grant related to this chapter:

(A) a party to a federal grant agreement, except as provided by Subsection (b-1); or

(B) a grantee under a federal grant to the department; and

(3) must comply with the standards established under Subsection (a).

(b-1) Subsection (b) does not prohibit a municipality or county from receiving High Priority Activity Funds provided under the federal Motor Carrier Safety Assistance Program.

(c) Municipal or county enforcement under Section [644.103\(b\)](#) is not considered departmental enforcement for purposes of maintaining levels of effort required by a federal grant.

(d) In each fiscal year, a municipality may retain fines from the enforcement of this chapter in an amount not to exceed 110 percent of the municipality's actual expenses for enforcement of this chapter in the preceding fiscal year, as determined by the comptroller after reviewing the most recent municipal audit conducted under Section [103.001](#), Local Government Code. If there are no actual expenses for enforcement of this chapter in the most recent municipal audit, a municipality may retain fines in an amount not to exceed 110 percent of the amount the comptroller estimates would be the municipality's actual expenses for enforcement of this chapter during the year.

(e) In each fiscal year, a county may retain fines from the enforcement of this chapter in an amount not to exceed 110 percent of the county's actual expenses for enforcement of this chapter in the preceding fiscal year, as determined by the comptroller after

reviewing the most recent county audit conducted under Chapter 115, Local Government Code. If there are no actual expenses for enforcement of this chapter in the most recent county audit, a county may retain fines in an amount not to exceed 110 percent of the amount the comptroller estimates would be the county's actual expenses for enforcement of this chapter during the year.

(f) A municipality or county shall send to the comptroller the proceeds of all fines that exceed the limit imposed by Subsection (d) or (e). The comptroller shall then deposit the remaining funds to the credit of the Texas Department of Transportation.

(f-1) A municipality or county that retains a fine from the enforcement of this chapter shall annually file with the comptroller a report that details the amount of fines retained from the enforcement of this chapter and the actual expenses claimed by the municipality or county for the enforcement of this chapter during the previous fiscal year. A municipality or county that fails to file a report as required by this subsection shall send to the comptroller for deposit to the credit of the Texas Department of Transportation an amount equal to the amount retained by the municipality or county in the fiscal year the report would cover.

(f-2) The comptroller shall adopt rules as necessary to implement and enforce Subsection (f-1).

(g) The department shall revoke or rescind the certification of any peace officer who fails to comply with any standard established under Subsection (a).

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 292, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1227, Sec. 12, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 13.01, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 159 (H.B. 2065), Sec. 1, eff. September 1, 2017.

Sec. 644.103. DETENTION OF VEHICLES. (a) An officer of the

department may stop, enter, or detain on a highway or at a port of entry a motor vehicle that is subject to this chapter.

(b) A municipal police officer who is certified under Section 644.101 may stop, enter, or detain on a highway or at a port of entry within the territory of the municipality a motor vehicle that is subject to this chapter. A sheriff or deputy sheriff who is certified under Section 644.101 may stop, enter, or detain on a highway or at a port of entry within the territory of the county a motor vehicle that is subject to this chapter.

(c) A person who detains a vehicle under this section may prohibit the further operation of the vehicle on a highway if the vehicle or operator of the vehicle is in violation of a federal safety regulation or a rule adopted under this chapter.

(d) A noncommissioned employee of the department who is certified for the purpose by the director and who is supervised by an officer of the department may, at a commercial motor vehicle inspection site, stop, enter, or detain a motor vehicle that is subject to this chapter. If the employee's inspection shows that an enforcement action, such as the issuance of a citation, is warranted for a violation of this title or a rule adopted under this title, including a federal safety regulation adopted under this chapter, the noncommissioned employee may take enforcement action only if the employee is under the supervision of an officer of the department.

(e) The department's training and other requirements for certification of a noncommissioned employee of the department under this section must be the same as the training and requirements, other than the training and requirements for becoming and remaining a peace officer, for officers who enforce this chapter.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 17.31(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1189, Sec. 40, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1227, Sec. 13, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 359, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 16.03, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 313 (S.B. 619), Sec. 5, eff.

September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 12 (S.B. 330), Sec. 2, eff. April 23, 2007.

Sec. 644.104. INSPECTION OF PREMISES. (a) An officer or employee of the department who has been certified for the purpose by the director may enter a motor carrier's premises to:

(1) inspect real property, including a building, or equipment; or

(2) copy or verify the correctness of documents, including records or reports, required to be kept or made by rules adopted under this chapter.

(b) The officer or employee may conduct the inspection:

(1) at a reasonable time;

(2) after stating the purpose of the inspection; and

(3) by presenting to the motor carrier:

(A) appropriate credentials; and

(B) a written statement from the department to the motor carrier indicating the officer's or employee's authority to inspect.

(c) The department may use an officer to conduct an inspection under this section if the inspection involves a situation that the department determines to reasonably require the use or presence of an officer to accomplish the inspection.

(d) The department's training and other requirements for certification of a noncommissioned employee of the department under this section must be the same as the training and requirements, other than the training and requirements for becoming and remaining a peace officer, for officers who enforce this chapter.

(e) A municipal police officer who is certified under Section 644.101 may enter a motor carrier's premises to inspect equipment on a per unit basis or in a manner agreeable between the motor carrier and the enforcement entity:

(1) at a reasonable time;

(2) after stating the purpose of the inspection; and

(3) by presenting to the motor carrier appropriate credentials.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1189, Sec. 41, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 642, Sec. 1, eff. June 13, 2001.

SUBCHAPTER D. OFFENSES, PENALTIES, AND JUDICIAL ENFORCEMENT

Sec. 644.151. CRIMINAL OFFENSE. (a) A person commits an offense if the person:

(1) violates a rule adopted under this chapter;

(2) does not permit an inspection authorized under Section [644.104](#); or

(3) knowingly operates a commercial motor vehicle in violation of an out-of-service order issued under 49 C.F.R. Section 385.13(d)(1) or owns, leases, or assigns a person to drive a commercial motor vehicle that is knowingly operated in violation of an out-of-service order issued under 49 C.F.R. Section 385.13(d)(1).

(b) An offense under Subsection (a)(1) or (2) is a Class C misdemeanor.

(b-1) An offense under Subsection (a)(3) is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if it is shown on the trial of the offense that at the time of the offense the commercial motor vehicle was involved in a motor vehicle accident that resulted in bodily injury; or

(2) a felony of the second degree if it is shown on the trial of the offense that at the time of the offense the commercial motor vehicle was involved in a motor vehicle accident that resulted in the death of a person.

(c) Each day a violation continues under Subsection (a)(1) or each day a person refuses to allow an inspection described under Subsection (a)(2) is a separate offense.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 703 (H.B. [3254](#)), Sec. 11, eff.

January 1, 2018.

Sec. 644.152. CIVIL PENALTY. (a) A person who does not permit an inspection authorized by Section 644.104 is liable to the state for a civil penalty in an amount not to exceed \$1,000.

(b) The attorney general may sue to collect the penalty in:

(1) the county in which the violation is alleged to have occurred; or

(2) Travis County.

(c) The penalty provided by this section is in addition to the penalty provided by Section 644.151.

(d) Each day a person refuses to permit an inspection described by Subsection (a) is a separate violation for purposes of imposing a penalty.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997.

Sec. 644.153. ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty against a person who violates:

(1) a rule adopted under this chapter; or

(2) a provision of Subchapter C that the department by rule subjects to administrative penalties.

(b) To be designated as subject to an administrative penalty under Subsection (a)(2), a provision must relate to the safe operation of a commercial motor vehicle.

(c) The department shall:

(1) designate one or more employees to investigate violations and conduct audits of persons subject to this chapter; and

(2) impose an administrative penalty if the department discovers a violation that is covered by Subsection (a) or (b).

(d) A penalty under this section may not exceed the maximum penalty provided for a violation of a similar federal safety regulation.

(e) If the department determines to impose a penalty, the department shall issue a notice of claim. The department shall send the notice of claim by certified mail, registered mail, personal

delivery, or another manner of delivery that records the receipt of the notice by the person responsible. The notice of claim must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and inform the person that the person is entitled to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty. A person who is subject to an administrative penalty imposed by the department under this section is required to pay the penalty or respond to the department within 20 days of receipt of the department's notice of claim.

(f) Before the 21st day after the date the person receives the notice of claim, the person may:

(1) accept the determination and pay the recommended penalty; or

(2) make a written request for an informal hearing or an administrative hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) At the conclusion of an informal hearing requested under Subsection (f), the department may modify the recommendation for a penalty.

(h) If the person requests an administrative hearing, the department shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the director a proposal for a decision as to the occurrence of the violation and the amount of a proposed penalty.

(i) If a penalty is proposed under Subsection (h), the administrative law judge shall include in the proposal for a decision a finding setting out costs, fees, expenses, and reasonable and necessary attorney's fees incurred by the state in bringing the proceeding. The director may adopt the finding and make it a part of a final order entered in the proceeding.

(j) Based on the findings of fact, conclusions of law, and proposal for a decision, the director by order may find that a violation has occurred and impose a penalty or may find that no



violation occurred. The director may, pursuant to Section 2001.058(e), Government Code, increase or decrease the amount of the penalty recommended by the administrative law judge within the limits prescribed by this chapter.

(k) Notice of the director's order shall be given to the affected person in the manner required by Chapter 2001, Government Code, and must include a statement that the person is entitled to seek a judicial review of the order.

(l) Before the 31st day after the date the director's order becomes final as provided by Section 2001.144, Government Code, the person must:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting:

(A) the occurrence of the violation;

(B) the amount of the penalty; or

(C) both the occurrence of the violation and the amount of the penalty; or

(3) without paying the amount of the penalty, file a petition for judicial review contesting:

(A) the occurrence of the violation;

(B) the amount of the penalty; or

(C) both the occurrence of the violation and the amount of the penalty.

(m) Within the 30-day period under Subsection (l), a person who acts under Subsection (l) may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) filing with the court a supersedeas bond approved by the court for the amount of the penalty that is effective until all judicial review of the director's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court an affidavit of the person stating that the person is financially unable to pay the

amount of the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the director by certified mail.

(n) Before the sixth day after the date the director receives a copy of an affidavit filed under Subsection (m)(2), the department may file with the court a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty if the court finds that the alleged facts are true. The person who files an affidavit under Subsection (m)(2) has the burden of proving that the person is financially unable to:

- (1) pay the amount of the penalty; and
- (2) file the supersedeas bond.

(o) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the director may:

- (1) refer the matter to the attorney general for collection of the amount of the penalty;
- (2) initiate an impoundment proceeding under Subsection (q); or
- (3) refer the matter to the attorney general and initiate the impoundment proceeding.

(p) A person who fails to pay, or becomes delinquent in the payment of an administrative penalty imposed by the department under this subchapter may not operate or direct the operation of a commercial motor vehicle on the highways of this state until the administrative penalty has been remitted to the department.

(q) The department shall impound any commercial motor vehicle owned or operated by a person in violation of Subsection (p) after the department has first served the person with a notice of claim. Service of the notice may be by certified mail, registered mail, personal delivery, or any other manner of delivery showing receipt of the notice.

(r) A commercial motor vehicle impounded by the department under Subsection (q) shall remain impounded until the administrative penalties imposed against the person are remitted to the department, except that an impounded commercial motor vehicle

left at a vehicle storage facility controlled by the department or any other person shall be considered an abandoned motor vehicle on the 11th day after the date of impoundment if the delinquent administrative penalty is not remitted to the department before that day. Chapter 683 applies to the commercial motor vehicle, except that the department is entitled to receive from the proceeds of the sale the amount of the delinquent administrative penalty and costs.

(s) All costs associated with the towing and storage of the commercial motor vehicle and load shall be the responsibility of the person and not the department or the State of Texas.

(t) A proceeding under this section is subject to Chapter 2001, Government Code.

(u) Each penalty collected under this section shall be deposited to the credit of the Texas mobility fund.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 292, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 359, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 11.08, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 11.08, 16.04, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(85), eff. September 1, 2005.

Sec. 644.154. SUIT FOR INJUNCTION. (a) The attorney general shall sue to enjoin a violation or a threatened violation of a rule adopted under this chapter on request of the director.

(b) The suit must be brought in the county in which the violation or threat is alleged to have occurred.

(c) The court may grant the director, without bond or other undertaking:

(1) a prohibitory or mandatory injunction, including a temporary restraining order; or

(2) after notice and hearing, a temporary or permanent injunction.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept.

1, 1997.

Sec. 644.155. COMPLIANCE REVIEW AND SAFETY AUDIT PROGRAM. The department shall implement and enforce a compliance review and safety audit program similar to the federal program established under 49 C.F.R. Part 385 for any person who owns or operates a commercial motor vehicle that is domiciled in this state.

Added by Acts 1997, 75th Leg., ch. 165, Sec. 30.151(a), eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 292, Sec. 3, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 359, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1325, Sec. 16.05, eff. Sept. 1, 2003.

#### SUBCHAPTER E. ROUTING OF HAZARDOUS MATERIALS

Sec. 644.201. ADOPTION OF RULES. (a) The Texas Transportation Commission shall adopt rules under this subchapter consistent with 49 C.F.R. Part 397 for the routing of nonradioactive hazardous materials.

(b) Rules concerning signage, public participation, and procedural requirements may impose more stringent requirements than provided by 49 C.F.R. Part 397.

(c) The rules must provide for consultation with a political subdivision when a route is being proposed within the jurisdiction of the political subdivision.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.32(a), eff. Sept. 1, 1999.

Sec. 644.202. DESIGNATION OF ROUTE. (a) A political subdivision of this state or a state agency may designate a route for the transportation of nonradioactive hazardous materials over a public road or highway in this state only if the Texas Department of Transportation approves the route.

(b) A municipality with a population of more than 850,000 shall develop a route for commercial motor vehicles carrying hazardous materials on a road or highway in the municipality and submit the route to the Texas Department of Transportation for

approval. If the Texas Department of Transportation determines that the route complies with all applicable federal and state regulations regarding the transportation of hazardous materials, the Texas Department of Transportation shall approve the route and notify the municipality of the approved route.

(c) The Texas Transportation Commission may designate a route for the transportation of nonradioactive hazardous materials over any public road or highway in this state. The designation may include a road or highway that is not a part of the state highway system only on the approval of the governing body of the political subdivision that maintains the road or highway.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.32(a), eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 177, eff. September 1, 2011.

Sec. 644.203. SIGNS. (a) The Texas Department of Transportation shall provide signs for a designated route under Section 644.202(c) over a road or highway that is not part of the state highway system. Notwithstanding Section 222.001, the Texas Department of Transportation may use money in the state highway fund to pay for the signs.

(b) The political subdivision that maintains the road or highway shall bear the costs for installation and maintenance of the signs.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 17.32(a), eff. Sept. 1, 1999.

#### SUBCHAPTER F. REPORT ON ALCOHOL AND DRUG TESTING

Sec. 644.251. DEFINITIONS. In this subchapter:

(1) "Employee" has the meaning assigned by 49 C.F.R. Section 40.3.

(2) "Valid positive result" means:

(A) an alcohol concentration of 0.04 or greater on an alcohol confirmation test; or

(B) a result at or above the cutoff concentration levels listed in 49 C.F.R. Section 40.87 on a confirmation drug test.

Added by Acts 2005, 79th Leg., Ch. 9 (S.B. 217), Sec. 2, eff. September 1, 2005.

Sec. 644.252. REPORT OF REFUSAL AND CERTAIN RESULTS. (a) An employer required to conduct alcohol and drug testing of an employee who holds a commercial driver's license under Chapter 522 under federal safety regulations as part of the employer's drug testing program or consortium, as defined by 49 C.F.R. Part 382, shall report to the department:

(1) a valid positive result on an alcohol or drug test performed and whether the specimen producing the result was a dilute specimen, as defined by 49 C.F.R. Section 40.3;

(2) a refusal to provide a specimen for an alcohol or drug test; or

(3) an adulterated specimen or substituted specimen, as those terms are defined by 49 C.F.R. Section 40.3, on an alcohol or drug test performed.

(b) The department shall maintain the information provided under this section.

(c) Information maintained under this section is confidential and only subject to release as provided by Section 521.053.

Added by Acts 2005, 79th Leg., Ch. 9 (S.B. 217), Sec. 2, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 367 (S.B. 328), Sec. 1, eff. September 1, 2007.