

CHAPTER 478

H.B. No. 2496

An Act relating to the issuance of permits for certain lift equipment motor vehicles on public highways.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. The provisions of this Act shall be cumulative of all other laws regulating the operation of vehicles and the movement of machinery on the highways of this state, it being the express intent of this Act to provide an optional procedure for the issuance of permits for the movement of unladen lift equipment motor vehicles which because of their design for use as lift equipment exceed the maximum weight and width limitations prescribed by statute.

SECTION 2. When any person, firm or corporation desires to operate over any road or highway under the jurisdiction of the State Department of Highways and Public Transportation any vehicle which is an unladen lift equipment motor vehicle when such vehicle cannot comply with one or more of the restrictions set out in Sections 3 and 5 of Chapter 42, General Laws,

Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon's Texas Civil Statutes), the State Department of Highways and Public Transportation may, as an alternative to any other procedure authorized by law, upon application, issue a permit for the movement of such vehicle when the department is of the opinion that the same may be moved without material damage to the highway or serious inconvenience to highway traffic. Provided, however, that all cities and towns having a state highway within their limits may designate to the State Department of Highways and Public Transportation the route within the city or town to be used by said vehicles operating over the state highway. When so designated, the route shall be shown on all maps routing said vehicles by the State Department of Highways and Public Transportation. In the event a route is not so designated by a city or town, the State Department of Highways and Public Transportation shall determine the route on state highways for such vehicles within cities or towns. No fee, permit or license shall be required by any city or town for movement of said vehicles on the route of a state highway designated by the State Department of Highways and Public Transportation or on said special route designated by a city or town.

SECTION 3. Prior to issuing any permit for the movement of such vehicles, said vehicles must have been registered under Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-1 et seq., Vernon's Texas Civil Statutes), for the maximum gross weight applicable to such vehicles under Section 5, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon's Texas Civil Statutes), or shall have the distinguishing license plates as provided in Subsection (c) of Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes), if applicable to said vehicles.

SECTION 4. The State Highway and Public Transportation Commission shall formulate rules and regulations regarding the issuance of such permits including, but not limited to, the forms and procedures to be used in applying for same; conditions with regard to route and time of movement and special requirements as to flags, flagmen and warning devices; the fees to be collected and deposited in the state highway fund; whether a particular permit shall be for one trip only, or for a period of time to be established by the commission, and such other matters as the commission may deem necessary to carry out the provisions of the Act. The failure of an owner or his representative to comply with any rule or regulation of the commission or with any condition placed on his permit shall render the permit void and, immediately upon such violation, any further movement over the highways of the oversize or overweight vehicles shall be in violation of existing laws regulating the size and weight of vehicles on public highways.

It is recognized that the movement of such overweight and oversize vehicles is a privilege not accorded to every user of the highway system, and it is logical and proper that the fee to be charged for a special transportation permit be sufficient to provide that the permittee pay the administrative costs incurred in the processing and issuing of the permits, pay for the added wear on the highways in proportion to the reduction of service life, and pay for the special privilege of transporting a more hazardous load over the highways thus compensating for the economic loss to the operators of vehicles in regular operation due to necessary delays and inconveniences occasioned by these types of vehicle movements. It is, therefore, declared to be the policy of the legislature that in formulating such rules and regulations and in establishing such fees, the commission shall consider and be guided by:

- a. The state's investment in its highway system;
- b. The safety and convenience of the general traveling public;
- c. The amount of the registration or license fee previously paid on the vehicle for which the permit is desired, and the amount of such fees paid by vehicles operating within legal limits; and
- d. The suitability of roadways and sub-grades on the various classes of highways of the system, variation in soil grade prevalent in the different regions of the state, and the seasonal effects on highway load capacity as well as the highway shoulder design and other highway geometrics and the load capacity of the highway bridges.

SECTION 5. The issuance of a permit for an oversize or overweight movement shall not be a guarantee by the Department that the highways can safely accommodate such movement, and the owner of any vehicle involved in any oversize or overweight movement, whether with or without permit, shall be strictly liable for any damage such movement shall cause the highway system or any of its structures or appurtenances.

SECTION 6. With respect to unladen lift equipment motor vehicles which because of their design for use as lift equipment exceed the maximum weight and width limitations prescribed by statute, the State Department of Highways and Public Transportation may, if determined by it to be necessary or expedient for the proper administration of the laws of this state regarding the registration and licensing of motor vehicles, establish criteria for determining whether a vehicle of the specific type described in this Section is subject to registration under Chapter 88, General

Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-1 et seq., Vernon's Texas Civil Statutes), or eligible for the distinguishing license plate provided for in Subsection (c) of Section 2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes), and on the basis of such criteria, said Department is authorized to determine whether such vehicle is or is not subject to registration under that chapter. Provided, however, that no vehicle heretofore authorized by the State Department of Highways and Public Transportation to operate without registration under the provisions of that chapter shall hereafter be required to register under the provisions thereof.

SECTION 7. Nothing in this Act shall be construed to include or apply to any person, firm or corporation authorized by the Railroad Commission of Texas to operate as a carrier for compensation or hire over the public highways of this state, whether or not all the operations of such person, firm or corporation are performed under such certificate, permit or authority granted by the commission.

SECTION 8. This Act does not repeal, or prevent the State Department of Highways and Public Transportation from issuing annual permits under Chapter 14, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6701d-18, Vernon's Texas Civil Statutes).

SECTION 9. If any provision of this Act or the application thereof to any body or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end, the provisions of this Act are declared to be severable.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 17, 1985, by the following vote: Yeas 112, Nays 0, 1 present, not voting; passed by the Senate on May 26, 1985, by the following vote: Yeas 31, Nays 0.

Approved: June 11, 1985

Effective: Immediately