Texas Bill Seeks to Reduce Large Jury Verdicts in Crash Suits

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The Texas legislature has proposed legislation to address large-scale verdicts that continue to impact the trucking industry and consumers alike. On May 3, 2021, the Texas House passed HB19 and sent the bill to the Senate for consideration. In its current form, HB19 has a few key provisions, the most important of which, if enacted into law, could reshape the litigation of trucking torts. That is, the proposed law would require trials concerning commercial motor vehicle accidents to be bifurcated into two phases. The first phase of the trial would only allow evidence as to fault, liability, and compensatory damages. The trial's second phase would resolve questions concerning allegations of unsafe motor carrier practices and the availability and imposition of punitive or exemplary damages. By bifurcating the trial, juries will not be provided information about a trucking carrier's financial condition when determining liability, as such metrics are only relevant to assess punishment through a punitive damages finding. Accordingly, many defense attorneys argue that juries are more likely to find in favor of defendants when they are prohibited from learning the scope of the defendant trucking company's assets or wealth. In other words, some litigators suggest that plaintiffs have an “edge” when they can frame the case as being against “Big Trucking.” Yet, when commercial vehicle accidents are judged purely on the reasonable person standard required in most negligence cases, defendants win.

Consequently, the policy considerations behind this bill cannot be overstated. High verdicts imposed against drivers and their employers are producing two immediate and very real, very practical effects both in Texas and across the country. First, the most significant portion of the damages awarded (i.e., the punitive damages) are not covered by insurance, and often force companies into bankruptcy. This leaves employees out of work and, in turn, consumer deliveries and commercial supplies are delayed or become more expensive due to supply chain interference. Second, industry-wide insurance premiums may rise exponentially because of the risks associated with high verdict exposures. These “costs of doing business” either get passed on to consumers or hinders the profitability of trucking companies to such an extent that companies may lose incentive to stay in business.

While the trucking industry generally favors the enactment of HB19, the proposed changes may entice plaintiffs' attorneys to redouble their efforts to weaponize safety standards imposed by individual carriers as well as recognized trade standards, and federal and state regulations.

Considering the nature of the trucking business, Texas' population, and the state's geographic location HB19 will, in some way, affect trucking companies and business both across the country. Although it is unlikely that New England states will soon adopt similar measures, if enacted, the HB19 experiment will almost immediately provide quantitative data to litigation attorneys and insurance actuaries concerning changes to verdict values after bifurcating trials. Indeed, if Texas verdict awards trend significantly downward, a ripple effect may ensue relative to insurance premiums and other related industry-wide costs of business.

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