

By: Noriega

H.B. No. 3450

A BILL TO BE ENTITLED

AN ACT

relating to the inspection of trailers designed to carry intermodal freight containers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle A, Title 14, Occupations Code is amended by adding Chapter 2306, to read as follows:

CHAPTER 2306. INTERMODAL EQUIPMENT ROADABILITY INSPECTIONS

Sec. 2306.001. DEFINITIONS. In this chapter:

(1) "Department" means the Texas Department of Transportation.

(2) "Chassis provider" means any entity, whether public or private, located at a port facility that is charged with providing and/or discharging intermodal chassis or trailers.

(3) "Intermodal chassis" or "chassis" means a trailer designed to carry intermodal freight containers, or the definition provided in 49 C.F.R. Section 393.5].

Sec. 2306.002. APPLICABILITY. (a) Any chassis provider that receives and dispatches intermodal chassis shall implement and carry out the intermodal chassis roadability inspection program, as described in this chapter.

(b) No chassis provider shall tender to, or interchange with, a motor carrier, an intermodal chassis that fails to pass the inspection required by this chapter and that fails to meet the requirements set forth in Federal Motor Carrier Safety Regulations.

1 49 C.F.R. Section 396. Any chassis provider tendering to, or
2 interchanging with, a motor carrier such equipment shall provide
3 certification that the chassis has passed the inspection set forth
4 in this chapter. Any chassis provider who violates this Section of
5 the chapter shall be fined \$500 per occurrence.

6 (c) Nothing in this chapter is meant to supercede the
7 inspection requirements and standards under 49 C.F.R. 396. Rather,
8 this chapter imposes an additional requirement that chassis
9 providers inspect chassis on a routine basis.

10 Sec. 2306.003. INTERMODAL EQUIPMENT ROADABILITY INSPECTION
11 PROGRAM. (a) Chassis providers shall inspect all chassis
12 pursuant to this Section before a container is placed on the
13 chassis, and before the chassis is released for operation. The
14 inspection shall include, but not be limited to, brake adjustment,
15 an inspection of brake system components and leaks, suspension
16 systems, tires and wheels, vehicle connecting devices, lights and
17 electrical systems, and a visual inspection of the chassis to
18 determine that it has not been tampered with.

19 (b) Each inspection shall be recorded on a daily roadability
20 inspection report that shall include, but not be limited to, all of
21 the following:

22 (1) Positive identification of the intermodal
23 chassis, including company identification number and vehicle
24 license plate number.

25 (2) Date and nature of each inspection.

26 (3) Signature, under penalty of perjury, of the
27 chassis provider or an authorized representative that the

1 inspection has been performed and that the chassis is roadworthy.
2 Individuals performing inspections pursuant to this Section shall
3 be qualified, at a minimum, as set forth in Section 49 C.F.R.
4 Section 396.19. Evidence of each inspector's qualification shall
5 be retained by the port or navigation district for the period of
6 time during which the inspector is performing such inspections and
7 30 days afterward. No inspector shall be threatened, coerced, or
8 otherwise retaliated against by a chassis provider for refusing to
9 pass a chassis that fails an inspection, or for designating a
10 chassis for repair. In the event that an inspector is so
11 threatened, the inspector shall be protected by and afforded all
12 rights and remedies provided in Chapter 545, Government Code.
13 Accordingly, any person who violates this Section of the chapter
14 shall be subject to the penalties provided in Chapter 554,
15 Government Code.

16 (4) As part of the inspection, the inspector shall
17 affix a tamper-proof green tag on a chassis that has passed
18 inspection and a red tag on a chassis that has failed inspection.
19 The tag shall contain the name of the inspector and the date and
20 time the inspection was completed and shall be placed on the
21 driver's side of the chassis next to the chassis' identification
22 plate. In addition, a red tag must specify the defects that
23 warranted the failed inspection and that require repair. The tag
24 shall be provided by the chassis provider and shall meet
25 specifications determined by the Department.

26 (c) Chassis shall be segregated according to that
27 designation. Green-tagged chassis shall be kept in an area

1 designated for interchange with motor carriers. Red-tagged chassis
2 shall be transported to an on-site facility where repairs and any
3 required maintenance may be performed. Defects identified during
4 any inspection of any intermodal chassis shall be repaired, and the
5 repairs shall be recorded on an intermodal chassis maintenance file
6 as defined in Section 2306.004, before the chassis is released from
7 the control of the chassis provider. No chassis subject to this
8 chapter shall be released to a motor carrier or operated on a public
9 road until all defects listed during the inspection have been
10 corrected, the chassis passes inspection, the chassis provider's
11 authorized representative attests to that fact and affixes a green
12 tag on the chassis.

13 (d) Any driver who believes that a chassis is in an unsafe
14 operating condition may request that the chassis be re-inspected by
15 the entity responsible for the inspection and maintenance of the
16 chassis pursuant to this chapter. In the event that such a request
17 is made, the driver:

18 (1) shall not be made responsible for delivery of the
19 chassis to the repair facility; and

20 (2) shall receive a green-tagged chassis without
21 delay. In the event a driver is forced to wait for one or more
22 hours, the chassis provider shall compensate the driver at a rate of
23 \$100 per hour. Such a request, any corrective action taken, or the
24 reason why corrective action was not taken shall be recorded in the
25 intermodal chassis maintenance file under Section 2306.004.
26 Alternatively, the driver may contact a law enforcement agency with
27 regard to the physical condition of the chassis.

1 (e) No driver shall be threatened, coerced, or otherwise
2 retaliated against by a port or navigation district operator,
3 chassis provider, shipping company, steamship line, or motor
4 carrier for requesting that the intermodal chassis be re-inspected
5 or repaired or for contacting a law enforcement agency with regard
6 to the physical condition of a chassis. In the event that a
7 commercial driver is so threatened, coerced, or otherwise
8 retaliated against by a port or navigation district operator,
9 chassis provider, shipping company, steamship line, or motor
10 carrier for requesting that the intermodal chassis be re-inspected
11 or repaired or for contacting a law enforcement agency with regard
12 to the physical condition of a chassis, the driver shall be
13 protected by and afforded all rights and remedies provided in
14 Chapter 554, Government Code. Accordingly, any person who violates
15 this Section of the chapter shall be subject to the penalties
16 provided in Chapter 554, Government Code.

17 Sec. 2306.004. MAINTENANCE AND INSPECTION OF RECORDS. (a)
18 Records of each inspection conducted pursuant to this chapter shall
19 be:

20 (1) maintained for 90 days by the chassis provider at
21 the port or navigation district where each chassis is inspected;

22 (2) made available upon request by any authorized
23 employee of the Department; and

24 (3) made available during normal business hours to any
25 motor carrier or driver or the authorized representative thereof
26 who has been engaged to transport an intermodal container on a
27 chassis inspected pursuant to this Section from the port or

1 navigation district.

2 (b) Records of maintenance or repairs performed pursuant to
3 the inspection in Section 2306.002 shall be:

4 (1) maintained for two years by the chassis provider;
5 and

6 (2) made available upon request of the Department.

7 (c) Requests for re-inspection made pursuant to Section
8 2306.003(d) shall be recorded in the intermodal chassis maintenance
9 file and shall be maintained and made available pursuant to Section
10 2306.004(a).

11 (d) All above-described records may be kept in a computer
12 system if printouts of those records may be provided upon request.

13 Sec. 2306.005. COMPLIANCE WITH INTERMODAL CHASSIS
14 ROADABILITY INSPECTION PROGRAM. (a) The Department shall conduct
15 random, but at least annual on-site reviews to determine whether
16 the chassis provider is complying with the requirements of this
17 chapter, including but not limited to inspection, tagging,
18 quarantine/repair, and record-keeping requirements. Following an
19 inspection in which the Department determines that a chassis
20 provider has failed to comply with any of the requirements of this
21 chapter, the Department shall:

22 (1) direct the chassis provider to comply immediately
23 with the requirements of the chapter;

24 (2) fine the chassis provider \$100 for every day,
25 after the day of inspection, that the provider fails to comply with
26 the requirements of this chapter;

27 (3) after 10 days of non-compliance, immediately

1 forward a recommendation to the Department to suspend the
2 provider's motor carrier property permit, and forward a
3 recommendation to the Federal Motor Carrier Safety Administration
4 for administrative or other action deemed necessary against the
5 carrier's interstate operating authority.

6 (4) after 20 days on non-compliance, the chassis
7 provider's property permit shall be revoked.

8 (b) If any inspection results in an unsatisfactory rating
9 due to conditions presenting an imminent danger to the public
10 safety, the Department shall take actions pursuant to Section
11 2306.004(a)(3) and/or 2306.004(a)(4) of the chapter.

12 (c) Any police or highway patrol officer, while in the
13 performance of the duties of office, is authorized to enter upon and
14 perform inspections of green-tagged chassis at any port or
15 navigation district which are intended to be tendered to or
16 interchanged with a motor carrier for use on a highway. In the
17 event the officer determines that any green-tagged chassis is
18 unroadworthy, the chassis provider shall be fined \$500 per
19 occurrence.

20 (d) Any citation issued for violation of this chapter
21 related to the defective condition of an intermodal chassis shall
22 be issued to the chassis provider responsible for the inspection
23 and maintenance of the chassis, providing that the chassis is not
24 owned by the driver and excepting that the defective condition of
25 the chassis was caused by the failure of the motor carrier or its
26 driver to operate the commercial vehicle in a safe manner.

27 Sec. 2306.006. CERTAIN CONTRACT PROVISIONS VOID. (a) Any

1 provision in a contract between an owner or lessee of an intermodal
2 chassis and a driver that contains a hold-harmless or indemnity
3 clause concerning defects in the physical condition of the
4 intermodal chassis shall be void as against public policy.

5 (b) This Section shall not apply to damage to the intermodal
6 chassis caused by the neglect or willful failure of the motor
7 carrier or its driver to operate the commercial vehicle in a safe
8 manner.

9 Sec. 2306.007. RULES. The Department shall adopt the rules
10 necessary to administer Chapter 2306, Occupations Code, as added by
11 this Act.

12 SECTION 4. This Act takes effect September 1, 2003.