



Legislative Issues

TCCE Policy Center



Commercial Truck Lawsuit Reform

Background

The trucking industry plays a vital role in the supply chain and distribution system in the United States. As more businesses move to online sales, there is an increasing demand for trucking and delivery services as a critical component of the online business model. Unfortunately, according to recent studies, motor vehicle litigation is increasing in Texas and has climbed 118% over a short period.

Plaintiffs' attorneys promote their names or logos on television, radio, billboards, buildings, buses, and social media, advertising crash litigation and the idea of easy money. The lawsuit-to-crash ratio increased from one in 17 in 2018 to one in 10 in 2019. Although highways and vehicles are safer, lawsuits have increased. Fortunately, the severity of accidents is not increasing.

The trucking industry has been affected by truck accident litigation. There is growing concern that accidents are being turned into a profit-making business model for plaintiffs' attorneys, instead of a fair accountability system.

What's at Issue

If lawsuits against trucking companies continue to rise, trucking companies may cease operating or raise rates to cover litigation expenses and to pass those increases on to their clients/businesses. Trucks and the trucking industry deliver over 73% of all community goods, and in the past six years the insurance rates for trucking companies have increased 225%, driving up operating expenses and costs. The litigation is hurting consumers with increasing costs. There are currently multimillion-dollar claims for small accidents, and many trucking companies are closing their doors every day because of dramatic increases in operation costs. If no reform passes, trucking companies may have to close their doors, which would accelerate consolidation.

There is growing evidence that plaintiffs' attorneys partner with medical providers to inflate injury claims grossly beyond the patient's actual needs. These excessive costs are used to leverage lawsuit settlements. As a result, insurance rates are skyrocketing for the transportation industry, and insurers are leaving the market, forcing many companies that operate commercial vehicles to close their doors.

Arguments against reform:

- Critics argue that reforming commercial truck liability will not fix the problems that lead to accidents.
- Limits on trucking liability would limit the justice people receive for their injuries.

- Trucking liability reform limits or penalizes people who cannot afford legal counsel.
- By lowering or limiting potential damages awards, the system disincentivizes attorneys from helping financially disadvantaged victims.
- Any tort reform tends to impact economically disadvantaged and minority groups.
- Liability reform does not necessarily mean lower insurance premiums or lower costs.

Arguments for reform:

- Ninety percent of the truck companies are small business operations.
- When insurance costs rise for trucking companies, it limits their ability to hire and produce new jobs and for the economy to grow.
- There is a negative impact on the economy because higher costs to trucking firms mean higher costs to consumers.
- Trucking safety has increased dramatically over the last several decades, and yet, trucking lawsuits continue to increase.
- Plaintiffs' attorneys are reaching back beyond just the accident that they have been retained to argue and seek records that go back ten to fifteen years that don't involve the truck or the driver involved in the accident.
- Any accident can lead to a lawsuit even when companies are not at fault, and it translates to mom-and-pop businesses not being able to afford the increase in costs.
- When a commercial vehicle driver wrongfully causes a crash or injury, the company should be held accountable, and those injured should be compensated fairly. The reform does not seek to reduce or limit accountability.
- Transportation is essential to any economy, especially in a state as large and as fast-growing as Texas.

Lawsuit Reform Legislation Should Include the Following:

- Legislation that controls inflated medical costs in which the healthcare party foregoes payment by third party providers such as health insurance, Medicare or Medicaid and agrees to a "letter of protection." The letter assures the healthcare provider will be paid out of future lawsuit recovery.
- Legislation that remedies the "paid or incurred" statute's intent from the 2003 legislation. If an independent third party has paid the plaintiff's medical bills, the jury must base its decision on medical damages on actually-paid bills or still-owed bills by the third party.
- The scope of lawsuits should mainly focus on who caused the crash and what are the plaintiff's legitimate injuries. The evidence presented should be directly relevant to causation and injuries. Legislation should also limit general history of employment and safety practices of the trucking firm. Evidence presented should be directly relevant to the causation and injuries of the specific accident.

References:

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