

## **BILL ANALYSIS**

C.S.H.B. 8  
By: Krusee  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Chapter 2301 of the Occupations Code imposes licensing requirements on, and regulates the relations between and among, motor vehicle manufacturers, distributors, dealers, lessors, and lease facilitators. C.S.H.B. 8 provides conforming and corrective amendments to Chapter 2301, Occupations Code.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

- SECTION 1. Section 2301.002, Occupations Code, is amended by amending Subdivisions (6), (16), and (23), as amended by House Bill 3507, Acts of the 78th Legislature, Regular Session, 2003, amending Subdivision (32), and adding Subdivisions (1-a) and (14-a). One purpose of CSHB 8 is to provide conforming changes to Section 2301 of the Occupations Code and move Section 2301.252, the definitions of "ambulance manufacturer" and "fire-fighting vehicle manufacturer" to Section 2301.002 of the Occupations Code, which is the appropriate section for definitions.
- SECTION 2. Amends Section 2301.153 (a), Occupations Code, to add Subdivision (10) to provide that, notwithstanding any other law, the Motor Vehicle Board (MVB) of the Texas Department of Transportation has all powers necessary, incidental, or convenient to perform a power or duty expressly granted under this chapter, including the power to, with the prior approval of the MVB, accept a donation or contribution of property or services to be used by MVB or its staff in the execution of its legal duties. Redesignates Subdivisions (10)-(20) as (11)-(21).
- SECTION 3. Subchapter D, Chapter 2301, Occupations Code, is amended by adding Section 2301.161 as the Public Information Exception. Notwithstanding any other law or rule and except as provided by Subsections (c) and (d), this section of CSHB 8 includes the information on file with the board relating to a person is confidential and not subject to disclosure under Chapter 552, Government Code, regardless of whether the person resides in this state. Subsections (c) and (d) state the instances where information is excepted from disclosure.  
Another purpose of CSHB 8 was to clarify the public information section of the bill and the language was provided by the Texas Department of Transportation upon the request of the Subcommittee in order to address the concerns of the groups at the committee hearing.
- SECTION 4. Amends Section 2301.251 (a), Occupations Code, to make a conforming change.
- SECTION 5. Section 2301.252 (b), Occupations Code, as amended by House Bill 3507, Acts of the 78th Legislature, Regular Session, 2003, is amended to provide that for the

## **BILL ANALYSIS**

C.S.H.B. 8  
By: Krusee  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Chapter 2301 of the Occupations Code imposes licensing requirements on, and regulates the relations between and among, motor vehicle manufacturers, distributors, dealers, lessors, and lease facilitators. C.S.H.B. 8 provides conforming and corrective amendments to Chapter 2301, Occupations Code.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

- SECTION 1. Section 2301.002, Occupations Code, is amended by amending Subdivisions (6), (16), and (23), as amended by House Bill 3507, Acts of the 78th Legislature, Regular Session, 2003, amending Subdivision (32), and adding Subdivisions (1-a) and (14-a). One purpose of CSHB 8 is to provide conforming changes to Section 2301 of the Occupations Code and move Section 2301.252, the definitions of "ambulance manufacturer" and "fire-fighting vehicle manufacturer" to Section 2301.002 of the Occupations Code, which is the appropriate section for definitions.
- SECTION 2. Amends Section 2301.153 (a), Occupations Code, to add Subdivision (10) to provide that, notwithstanding any other law, the Motor Vehicle Board (MVB) of the Texas Department of Transportation has all powers necessary, incidental, or convenient to perform a power or duty expressly granted under this chapter, including the power to, with the prior approval of the MVB, accept a donation or contribution of property or services to be used by MVB or its staff in the execution of its legal duties. Redesignates Subdivisions (10)-(20) as (11)-(21).
- SECTION 3. Subchapter D, Chapter 2301, Occupations Code, is amended by adding Section 2301.161 as the Public Information Exception. Notwithstanding any other law or rule and except as provided by Subsections (c) and (d), this section of CSHB 8 includes the information on file with the board relating to a person is confidential and not subject to disclosure under Chapter 552, Government Code, regardless of whether the person resides in this state. Subsections (c) and (d) state the instances where information is excepted from disclosure.  
Another purpose of CSHB 8 was to clarify the public information section of the bill and the language was provided by the Texas Department of Transportation upon the request of the Subcommittee in order to address the concerns of the groups at the committee hearing.
- SECTION 4. Amends Section 2301.251 (a), Occupations Code, to make a conforming change.
- SECTION 5. Section 2301.252 (b), Occupations Code, as amended by House Bill 3507, Acts of the 78th Legislature, Regular Session, 2003, is amended to provide that for the

purposes of this section, the make of an ambulance is that of the ambulance manufacturer, and the make of a fire-fighting vehicle is that of the fire-fighting vehicle manufacturer.

- SECTION 6. Amends Section 2301.301 (c), Occupations Code, to exempt the fee required in conjunction with an application to relocate a franchised dealership within the city limits of the city in which the dealership is located from the requirement that the fee for a license is prorated.
- SECTION 7. Amends Section 2301.705 (b), Occupations Code, to require notice to a person outside the United States to be given by registered mail, return requested, or by a private carrier who offers confirmation of delivery.
- SECTION 8. Section 2301.803, Occupations Code, is transferred to Subchapter O, Chapter 2301, Occupations Code, and renumbered as Section 2301.7075, Occupations Code.
- SECTION 9. Subsection (c), Section 2301.7075, Occupations Code, as renumbered from Section 2301.803, Occupations Code, by this Act, is amended to say that a person affected by a statutory stay imposed by this chapter may request a hearing to modify, vacate, or clarify the extent and application of the statutory stay.  
With respect to the discussions during the committee hearing, the language was provided to clarify that a request for a hearing on a statutory stay is not a separate proceeding from the one in which the stay is in effect.
- SECTION 10. The timeline for the act to take effect.

#### **EFFECTIVE DATE**

November 1, 2003.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

- SECTION 1. CSHB 8 differed from the original in that CSHB 8 provided conforming changes to Section 2301 of the Occupations Code and moved Section 2301.252, the definitions of “ambulance manufacturer” and “fire-fighting vehicle manufacturer” to Section 2301.002 of the Occupations Code, which is the appropriate section for definitions.
- SECTION 3. CSHB 8 additionally differed from the original in that CSHB 8 clarified the public information section of the bill and language was provided by the Texas Department of Transportation upon the request of the Subcommittee in order to address the concerns of the groups at the committee hearing.
- SECTION 9. CSHB 8 additionally differed from the original in that language was provided to clarify that a request for a hearing on a statutory stay is not a separate proceeding from the one in which the stay is in effect. Section 8 of this Bill transfers this language to another section of the Occupations Code and then Section 9 of this Bill amends the section of the Occupations Code to clarify the process of requesting a hearing of a statutory stay.

Section 2301.267, Occupations Code, that authorizes a period of unlicensed operation of a dealership was removed from the Bill. There have been experiences where some manufacturers take the position that a vehicle sold by someone who is not franchised and licensed is not covered by their warranty.

purposes of this section, the make of an ambulance is that of the ambulance manufacturer, and the make of a fire-fighting vehicle is that of the fire-fighting vehicle manufacturer.

- SECTION 6. Amends Section 2301.301 (c), Occupations Code, to exempt the fee required in conjunction with an application to relocate a franchised dealership within the city limits of the city in which the dealership is located from the requirement that the fee for a license is prorated.
- SECTION 7. Amends Section 2301.705 (b), Occupations Code, to require notice to a person outside the United States to be given by registered mail, return requested, or by a private carrier who offers confirmation of delivery.
- SECTION 8. Section 2301.803, Occupations Code, is transferred to Subchapter O, Chapter 2301, Occupations Code, and renumbered as Section 2301.7075, Occupations Code.
- SECTION 9. Subsection (c), Section 2301.7075, Occupations Code, as renumbered from Section 2301.803, Occupations Code, by this Act, is amended to say that a person affected by a statutory stay imposed by this chapter may request a hearing to modify, vacate, or clarify the extent and application of the statutory stay.  
With respect to the discussions during the committee hearing, the language was provided to clarify that a request for a hearing on a statutory stay is not a separate proceeding from the one in which the stay is in effect.
- SECTION 10. The timeline for the act to take effect.

#### **EFFECTIVE DATE**

November 1, 2003.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

- SECTION 1. CSHB 8 differed from the original in that CSHB 8 provided conforming changes to Section 2301 of the Occupations Code and moved Section 2301.252, the definitions of “ambulance manufacturer” and “fire-fighting vehicle manufacturer” to Section 2301.002 of the Occupations Code, which is the appropriate section for definitions.
- SECTION 3. CSHB 8 additionally differed from the original in that CSHB 8 clarified the public information section of the bill and language was provided by the Texas Department of Transportation upon the request of the Subcommittee in order to address the concerns of the groups at the committee hearing.
- SECTION 9. CSHB 8 additionally differed from the original in that language was provided to clarify that a request for a hearing on a statutory stay is not a separate proceeding from the one in which the stay is in effect. Section 8 of this Bill transfers this language to another section of the Occupations Code and then Section 9 of this Bill amends the section of the Occupations Code to clarify the process of requesting a hearing of a statutory stay.

Section 2301.267, Occupations Code, that authorizes a period of unlicensed operation of a dealership was removed from the Bill. There have been experiences where some manufacturers take the position that a vehicle sold by someone who is not franchised and licensed is not covered by their warranty.