

BILL ANALYSIS

Senate Research Center

H.B. 814
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Infrastructure Development and Security
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Engrossed

DIGEST AND PURPOSE

The Texas Motor Vehicle Safety Responsibility Act prohibits a person from operating a motor vehicle in Texas unless financial responsibility is established for that vehicle. Even so, many motorists circumvent the law. Some purchase an insurance policy solely to receive a proof-of-insurance card and then cancel the insurance policy. Other motorists purchase fraudulent proof-of-insurance cards based on nonexistent or deceptive insurance policies. These techniques prevent a proof-of-insurance card from being an effective method of verifying whether a motorist complies with current financial responsibility requirements. H.B. 814 establishes a motor vehicle financial responsibility verification program to verify compliance with the Motor Vehicle Safety Responsibility Act.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Public Safety in SECTION 1 (Sections 601.442, 601.444 and 601.448, Transportation Code), SECTION 2 (Section 601.0521, Transportation Code), and SECTION 4 (SECTION 601.081, Transportation Code) of this bill.

Rulemaking authority is expressly granted to the Texas Department of Transportation and the Texas Department of Public Safety in SECTION 6 (Section 502.1715, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 601, Transportation Code, by adding Subchapter N, as follows:

SUBCHAPTER N. MOTOR VEHICLE FINANCIAL RESPONSIBILITY VERIFICATION

Sec. 601.441. DEFINITIONS. Defines "database," "designated agent," and "program."

Sec. 601.442. ESTABLISHMENT OF PROGRAM. (a) Requires the Department of Public Safety (DPS) to establish a motor vehicle financial responsibility verification program to verify compliance with this chapter.

(b) Requires DPS by rule to administer the program with the assistance of a designated agent.

(c) Requires the program to comply with the Driver's Privacy Protection Act of 1994 (18 U.S.C. Section 2721 et seq.), as amended.

Sec. 601.443. DESIGNATED AGENT: MAINTENANCE OF DATABASE. (a) Requires DPS to contract with a person selected by the State Council on Competitive Government under a competitive bidding procedure to act as DPS's designated agent under this subchapter. Requires the contract to be funded from money appropriated for this purpose from the state highway fund.

(b) Requires the designated agent to develop and maintain a computer database to manage and provide access to information provided under Sections 601.445,

601.446, and 601.447.

(c) Requires the database to be developed, maintained, and administered in accordance with guidelines established by DPS to permit efficient access by courts and state and local law enforcement agencies.

Sec. 601.444. VERIFICATION: NOTICE FOR NONCOMPLIANCE. (a) Requires the designated agent, with information provided by DPS and TxDOT, to, at least monthly:

- (1) update the database with the motor vehicle insurance information provided by insurers under Section 601.445; and
- (2) compare all current motor vehicle registrations provided by TxDOT against the database.

(b) Requires the designated agent to mail a notice to owners of vehicles for which a comparison under this section shows that financial responsibility has not been established. Provides that the designated agent is not required to send a notice to all of those owners, but is required to determine the owners to which the notice is sent in the manner provided by DPS rule. Prohibits the manner of selection from being based directly or indirectly on the owner's race, religion, sex, national origin, age, marital status, physical or mental disability, economic status, or geographic location. Requires the notice to state that before the 31st day after the date of the notice, the owner must provide certain information.

(c) Requires each notice sent under this section to include, in English and Spanish, a clear and reasonably complete statement of an owner's rights and responsibilities under this chapter.

Sec. 601.445. INFORMATION PROVIDED BY INSURANCE COMPANY. (a) Requires each insurance company providing motor vehicle liability policies in this state to provide the designated agent a record of each motor vehicle insurance policy, including:

- (1) the insurance policy number, effective date, and expiration date of the policy;
- (2) the name, address, and driver's license number of each driver insured by the policy; and
- (3) the make, model, year, and vehicle identification number of each vehicle covered by the policy.

(b) Requires each insurance company to provide information required by Subsection (a) to the designated agent in an electronic submission monthly or more frequently as prescribed by the public safety director. Requires the designated agent and public safety director to consult with representatives of the insurance industry in determining appropriate formats and procedures for submission of the information.

(c) Requires the insurance company to provide corrected information to the designated agent in a timely manner as prescribed by the public safety director after the date the insurance company receives notice of the error from the designated agent, if information provided by an insurance company to the designated agent is incorrect.

(d) Provides that an insurance company that does not provide information as required by this section is liable to the state for a civil penalty of \$250 for each day the violation continues.

Sec. 601.446. INFORMATION PROVIDED BY DEPARTMENT. (a) Requires DPS to provide the designated agent the following information on each Texas driver's license

holder:

- (1) the holder's name and address; and
- (2) the driver's license number and expiration date.

(b) Requires DPS, for each motor vehicle covered by a bond filed under Section 601.121, a deposit made under Section 601.123, or a certificate of self-insurance issued under Section 601.124, to provide to the designated agent:

- (1) the owner's name and address; and
- (2) the owner's driver's license number and expiration date.

(c) Requires DPS to notify the designated agent of:

- (1) the cancellation of a bond filed under Section 601.121;
- (2) the cancellation of a deposit made under Section 601.123; or
- (3) the termination of a certificate of self-insurance issued under Section 601.124.

(d) Provides that this section does not require DPS to provide to the designated agent information that is not in the possession of DPS.

(e) Requires DPS to provide the information under this section in an electronic submission to the designated agent in a timely manner as prescribed by the public safety director.

Sec. 601.447. INFORMATION PROVIDED BY TEXAS DEPARTMENT OF TRANSPORTATION. (a) Requires TxDOT to provide DPS or its designated agent the following information for each vehicle to which this chapter applies, to the extent the information is in TxDOT's records:

- (1) the owner's name and address;
 - (2) the make, model, and year of the vehicle;
 - (3) the vehicle identification number and vehicle license plate number;
- and
- (4) the date the certificate of title was issued for the vehicle.

(b) Provides that TxDOT is not required to provide information under this section about a vehicle registered under Subchapter G, Chapter 502.

(c) Requires TxDOT to provide the information under this section and each change to information previously provided under this section in a weekly report that includes the information for registrations and changes occurring during the week preceding the date of the report.

(d) Requires TxDOT to provide by electronic submission to DPS or its designated agent any information required under this section in a timely manner as prescribed by the public safety director.

Sec. 601.448. RULES. (a) Authorizes DPS to adopt rules as necessary to implement this subchapter.

(b) Requires DPS to consult with TxDOT about rules that affect the reporting of information relating to vehicle registrations.

(c) Authorizes DPS by rule to waive a requirement that particular information be provided to the designated agent if DPS finds that the information is not useful for enforcing this chapter or that the burden of collecting or reporting the information is not justified by its value in enforcing this chapter.

Sec. 601.449. USE OF INFORMATION PROVIDED TO DESIGNATED AGENT. (a) Provides that information provided by an insurance company under Section 601.445, DPS under Section 601.446, or TxDOT under Section 601.447 remains the property of the insurance company or agency, as applicable. Provides that the information is confidential and prohibits its disclosure, except as provided by this section.

(b) Authorizes the designated agent to disclose whether financial responsibility has been established for a motor vehicle only to a state or local governmental entity enforcing this chapter.

(c) Provides that a person commits an offense if the person knowingly discloses information in violation of this subchapter. Provides that an offense under this subsection is a Class A misdemeanor.

(d) Provides that the state, an employee or officer of the state, an insurance company, or the designated agent is not liable for an act performed in good faith in carrying out this subchapter, except that the designated agent is liable to an insurance company damaged by the designated agent's negligent failure to protect the confidential and proprietary nature of the information disclosed to the designated agent by the insurance company.

Sec. 601.450. REVIEW OF PROGRAM. (a) Requires DPS, after January 1, 2009, and before January 1, 2010, to review the effectiveness of the program and determine the amount by which compliance with this chapter has increased between September 1, 2003, and the date of the review. Requires DPS to review all aspects of the program, including effectiveness and efficiency, and the error rate in matching proof of financial responsibility with motor vehicle registrations. Authorizes DPS to coordinate with the Texas Department of Insurance to conduct the review.

(b) Requires DPS, before September 1, 2010, to report its findings and recommendations to the lieutenant governor and the speaker of the house of representatives.

(c) Provides that this section expires September 2, 2010.

SECTION 2. Amends Subchapter C, Chapter 601, Transportation Code, by adding Section 601.0521, as follows:

Sec. 601.0521. SEASONAL EXCEPTION FOR CERTAIN FARM VEHICLES. (a) Defines "road tractor," "truck-tractor," "farm tractor," "farm trailer," and "farm semitrailer."

(b) Provides that during a season when the vehicle is not in use, Section 601.051 does not apply to a road tractor, truck-tractor, farm tractor, farm trailer, or farm semitrailer used exclusively to transport seasonally harvested agricultural products or livestock from the place of production to the place of processing, market, or storage.

(c) Authorizes the designated agent to send a notice under Section 601.444 to the owner of a vehicle to which this section applies only during a season when the vehicle is in use.

(d) Requires DPS by rule to provide a method of determining the season when a vehicle to which this section applies is in use.

SECTION 3. Amends Section 601.053(a), Transportation Code, to replace the Texas Department of Insurance with DPS in relation to a standard proof of motor vehicle liability insurance form.

SECTION 4. Amends Section 601.081, Transportation Code, as follows:

Sec. 601.081. STANDARD PROOF OF MOTOR VEHICLE LIABILITY INSURANCE FORM. (a) Requires DPS to provide for the production of a standard proof of motor vehicle liability insurance form for use by insurers. Authorizes DPS to contract with another person for production of the form.

(b) Requires each insurer issuing a standard proof of motor vehicle liability insurance form to use a form produced by DPS

(c) Authorizes DPS to adopt rules to implement this section, including rules relating to the use of security features for the form.

(d) Makes a conforming change.

SECTION 5. Amends Section 502.104, Transportation Code, as follows:

Sec. 502.104. DISPOSITION OF CERTAIN SPECIAL FEES. Includes a reference to Section 502.1715 in relation to collected fees.

SECTION 6. Amends Subchapter D, Chapter 502, Transportation Code, by adding Section 502.1715, as follows:

Sec. 502.1715. ADDITIONAL FEE FOR MOTOR VEHICLE INSURANCE VERIFICATION PROGRAM. (a) Requires an applicant, in addition to other fees imposed for registration of a motor vehicle, at the time of application for registration or renewal of registration of a motor vehicle for which the owner is required to submit evidence of financial responsibility under Section 502.153, to pay a fee of \$1.

(b) Requires fees collected under this section to be deposited to the credit of the state highway fund. Requires TxDOT to use money appropriated from the state highway fund that represents those fees to administer Subchapter N, Chapter 601, and Section 601.081 and to reimburse DPS for expenses in administering those provisions.

(c) Requires TxDOT and DPS to adopt rules and develop forms necessary to administer this section.

SECTION 7. (a) Provides that not later than December 31, 2003:

(1) Requires the State Council on Competitive Government to select and DPS to contract with an entity to serve as the designated agent under Subchapter N, Chapter 601, Transportation Code, as added by this Act; and

(2) Requires DPS to adopt any rules necessary to implement Subchapter N, Chapter 601, Transportation Code, as added by this Act.

(b) Provides that a motor vehicle insurance company, DPS, and TxDOT are not required to report under Section 601.445, 601.446, or 601.447, Transportation Code, as added by this Act, before the date on which DPS declares that the motor vehicle financial responsibility verification database is ready to receive data.

(c) Requires the contract entered into under Subsection (a) to require that the designated agent ensure certain requirements.

SECTION 8. Requires DPS and TxDOT, at the time of initiation of the motor vehicle financial responsibility verification program established under Subchapter N, Chapter 601, Transportation Code, as added by this Act, to the extent money is appropriated for this purpose, conduct a program to inform the motoring public throughout the state of the existence and requirements of

the program.

SECTION 9. Requires the governor to appoint a committee to investigate the factors that determine motor vehicle liability insurance rates in this state. Requires the committee to include representatives of insurers who provide motor vehicle liability policies in this state, consumers, and persons with actuarial and economic expertise. Requires the committee, not later than December 31, 2004, to submit a report of its findings and recommendations for making motor vehicle liability insurance more affordable to the governor, the lieutenant governor, the speaker of the house of representatives, the Texas Department of Insurance, DPS, and TxDOT.

SECTION 10. Effective date: September 1, 2003.