

By: Gutierrez

H.B. No. 814

A BILL TO BE ENTITLED

AN ACT

relating to requirements regarding motor vehicle insurance and motor vehicle insurance verification; providing penalties.

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

ARTICLE 1. FINANCIAL RESPONSIBILITY REQUIREMENTS

SECTION 1.01. Chapter 601, Transportation Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. VERIFICATION OF COMPLIANCE WITH AND ENFORCEMENT OF FINANCIAL RESPONSIBILITY REQUIREMENTS

Sec. 601.441. DEFINITIONS. In this subchapter:

(1) "Database" means the motor vehicle insurance verification database established under this subchapter.

(2) "Designated agent" means a person administering the program under a contract with the department.

(3) "Program" means the motor vehicle insurance verification program established under this subchapter.

(4) "Verification date" means the date the Texas Department of Transportation mails a written request to an owner of a motor vehicle requiring the owner to state whether the owner has established financial responsibility in accordance with Section 601.051.

Sec. 601.442. ESTABLISHMENT OF FINANCIAL RESPONSIBILITY THROUGH RANDOM SAMPLING. (a) The Texas Department of Transportation or an agent designated by that department shall

1 randomly select samples of registrations of motor vehicles subject
2 to this chapter, and may select samples of owners of motor vehicles
3 subject to this chapter, to verify whether an owner who is selected
4 or whose motor vehicle is selected has established financial
5 responsibility in accordance with Section 601.051. The department
6 shall provide the Texas Department of Transportation access to any
7 information that will allow the Texas Department of Transportation
8 to comply with this subsection.

9 (b) A sample selected under this section may not be
10 classified on the basis of the owner's race, color, religion, sex,
11 national origin, age, marital status, physical or mental
12 disability, economic status, or geographic location.

13 (c) In addition to the general random sampling of motor
14 vehicle registrations, the Texas Department of Transportation may
15 randomly select other persons who own a registered motor vehicle to
16 verify that the person has established financial responsibility,
17 including a person:

18 (1) who, during the four-year period preceding the
19 date of selection, has been convicted of a violation of Section
20 601.191 or 601.195, or of Section 601.196 as it existed before
21 repeal, including a violation that occurred while the person was
22 operating a motor vehicle owned by another person; or

23 (2) whose driver's license or motor vehicle
24 registration has been suspended during the four-year period
25 preceding the date of selection.

26 (d) The Texas Department of Transportation or the agent
27 designated by the Texas Department of Transportation shall send to

1 the owner of a randomly selected motor vehicle, or to a randomly
2 selected motor vehicle owner, a request for information about the
3 motor vehicle and the owner's method of establishing financial
4 responsibility. The request must require the owner to state
5 whether the owner has, as of the verification date, established
6 financial responsibility in accordance with Section 601.051.

7 (e) The Texas Department of Transportation:

8 (1) shall adopt rules as necessary to implement this
9 subchapter; and

10 (2) by rule shall:

11 (A) establish the frequency of sample selection;
12 and

13 (B) prescribe:

14 (i) the methods employed for the random
15 selection of samples and the procedures necessary for
16 implementation of the verification process, including the method of
17 sending the verification request, which may include certified mail,
18 return receipt requested;

19 (ii) the form for verification of financial
20 responsibility; and

21 (iii) the information to be requested in
22 the prescribed form.

23 (f) The Texas Department of Transportation may require the
24 information provided by an owner to include a statement by the owner
25 that the owner had, as of the verification date, established
26 financial responsibility:

27 (1) through liability insurance under Subchapter D,

1 including:

2 (A) the name and address of the insurer;

3 (B) the number of the insurance policy; and

4 (C) the expiration date of the insurance
5 coverage;

6 (2) by filing a surety bond with the department under
7 Section 601.121, including:

8 (A) the name and address of the company issuing
9 the bond;

10 (B) the identification number of the bond; and

11 (C) the expiration date of the bond;

12 (3) by depositing cash or securities with the
13 comptroller under Section 601.122, including a copy of the
14 certificate issued by the comptroller showing compliance;

15 (4) by depositing cash or a cashier's check with the
16 county judge of the county in which the motor vehicle is registered
17 under Section 601.123, including a copy of the certificate issued
18 by the county judge showing compliance; or

19 (5) through self-insurance under Section 601.124,
20 including a copy of the certificate of self-insurance issued by the
21 department.

22 (g) Not later than the 30th day after the verification date,
23 the owner to whom the notice is sent shall furnish the requested
24 information to the Texas Department of Transportation in the form
25 prescribed by the Texas Department of Transportation, accompanied
26 by the owner's signed affirmation that the information is true and
27 correct.

1 (h) If the owner responds to the request for information by
2 asserting that the owner had, as of the verification date,
3 established financial responsibility in accordance with a method
4 authorized by Section 601.051, the Texas Department of
5 Transportation, or an agent designated by the Texas Department of
6 Transportation, may conduct a verification investigation as
7 provided by Section 601.445.

8 Sec. 601.443. ESTABLISHMENT OF VERIFICATION PROGRAM. (a)
9 The department shall establish a motor vehicle insurance
10 verification program to verify compliance with this chapter.

11 (b) The department by rule shall administer the program with
12 the assistance of a designated agent.

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

15 Sec. 601.444. DESIGNATED AGENT: MAINTENANCE OF DATABASE.

16 (a) The department's designated agent shall assist the Texas
17 Department of Transportation to randomly select samples of
18 registrations of motor vehicles or samples of owners of motor
19 vehicles subject to this chapter as provided by Section 601.442.

20 (b) The department shall contract with a person to act as
21 the department's designated agent under this subchapter. The
22 contract may be awarded under a competitive bid procedure as
23 provided by department rule. The contract may not obligate the
24 department to pay more money than the public safety director
25 determines will be available from fees collected under Section
26 502.1715.

27 (c) The designated agent shall develop and maintain a

1 computer database to manage and provide access to information
2 provided under Sections 601.446, 601.447, and 601.448.

3 (d) The database shall be developed, maintained, and
4 administered in accordance with guidelines established by the
5 department to permit efficient access by courts and state and local
6 law enforcement agencies.

7 Sec. 601.445. VERIFICATION: NOTICE FOR NONCOMPLIANCE. (a)
8 With information provided by the department and the Texas
9 Department of Transportation, the designated agent shall, at least
10 monthly:

11 (1) update the database with the motor vehicle
12 insurance information provided by insurers under Section 601.446;
13 and

14 (2) compare all current motor vehicle registrations,
15 provided by the Texas Department of Transportation, including
16 information received from the random selection, against the
17 database.

18 (b) If a comparison under this section shows that a motor
19 vehicle is not insured, the department may direct that the
20 designated agent mail a notice to the owner of the motor vehicle
21 stating that the owner has 30 days to provide:

22 (1) proof of the owner's financial responsibility in a
23 form described by Section 601.053;

24 (2) a letter from an insurance agent or company
25 verifying that the person had the required motor vehicle insurance
26 coverage on the date of action specified by the database query;

27 (3) proof of an exemption from the owner's financial

1 responsibility under Section 601.052; or

2 (4) proof that the owner of the motor vehicle is
3 insured by an insurance company located in another state because
4 the owner is a member of the United States armed forces, a student
5 attending an educational institution in this state and residing in
6 this state, or a faculty member of an educational institution in
7 this state who is residing in this state.

8 (c) If an owner of a motor vehicle has not provided proof of
9 financial responsibility to the designated agent before the 31st
10 day after the date the notice is sent, the department may direct the
11 designated agent to provide an additional notice.

12 Sec. 601.446. INFORMATION PROVIDED BY INSURANCE COMPANY.

13 (a) Each insurance company providing motor vehicle liability
14 policies in this state shall provide the designated agent a record
15 of each motor vehicle insurance policy, including:

16 (1) the insurance policy number, effective date, and
17 expiration date;

18 (2) the name, address, and driver's license number of
19 each driver insured by the policy; and

20 (3) the make, model, year, and vehicle identification
21 number of each vehicle covered by the policy.

22 (b) Each insurance company shall provide information
23 required by Subsection (a) to the designated agent in an electronic
24 submission monthly or more frequently as prescribed by the public
25 safety director.

26 (c) If information provided by an insurance company to the
27 designated agent is incorrect, the insurance company shall provide

1 corrected information to the designated agent in a timely manner as
2 prescribed by the public safety director after the date the
3 insurance company receives notice of the error from the designated
4 agent.

5 (d) Information provided by an insurance company under this
6 section remains the property of the insurance company and may not be
7 sold or made available except to enforce a state law.

8 Sec. 601.447. INFORMATION PROVIDED BY DEPARTMENT. (a) The
9 department shall provide to the designated agent the following
10 information for each Texas driver's license holder:

11 (1) the holder's name and address; and

12 (2) the driver's license number and expiration date.

13 (b) For each motor vehicle covered by a bond filed under
14 Section 601.121, a deposit made under Section 601.123, or a
15 certificate of self-insurance issued under Section 601.124, the
16 department shall provide to the designated agent:

17 (1) the owner's name and address; and

18 (2) the owner's driver's license number and expiration
19 date.

20 (c) The department shall notify the designated agent of:

21 (1) the cancellation of a bond filed under Section
22 601.121;

23 (2) the cancellation of a deposit filed under Section
24 601.123; or

25 (3) the termination of a certificate of self-insurance
26 issued under Section 601.124.

27 (d) This section does not require the department to provide

1 to the designated agent information that is not in the possession of
2 the department.

3 (e) The department shall provide to the designated agent the
4 information under this section in an electronic submission in a
5 timely manner as prescribed by the public safety director.

6 (f) The department is not liable to any person for damages
7 arising as a result of providing information as required by this
8 section.

9 Sec. 601.448. INFORMATION PROVIDED BY TEXAS DEPARTMENT OF
10 TRANSPORTATION. (a) The Texas Department of Transportation shall
11 provide the department or the department's designated agent the
12 following information for each motor vehicle to which this chapter
13 applies, to the extent the information is in the Texas Department of
14 Transportation's records:

15 (1) the owner's name and address;

16 (2) the make, model, and year of the vehicle;

17 (3) the vehicle identification number and vehicle
18 license plate number; and

19 (4) the date the certificate of title was issued for
20 the vehicle.

21 (b) The Texas Department of Transportation is not required
22 to provide information under this section about a vehicle
23 registered under Subchapter G, Chapter 502.

24 (c) The Texas Department of Transportation shall provide
25 the information under this section and each change to information
26 previously provided under this section in a weekly report that
27 includes the information for registrations and changes occurring

1 during the week preceding the date of the report.

2 (d) The Texas Department of Transportation shall provide by
3 electronic submission to the department or the department's
4 designated agent any information required under this section in a
5 timely manner as prescribed by the public safety director.

6 Sec. 601.449. RULES. (a) The department may adopt rules as
7 necessary to implement this subchapter.

8 (b) The department shall consult with the Texas Department
9 of Transportation about rules that affect the reporting of
10 information relating to vehicle registrations.

11 (c) The department by rule may waive a requirement that
12 particular information be provided to the designated agent if the
13 department finds that the information is not useful for enforcing
14 this chapter or that the burden of collecting or reporting the
15 information is not justified by its value in enforcing this
16 chapter.

17 (d) The Texas Department of Insurance shall adopt rules for
18 enforcing compliance for insurance companies reporting under
19 Section 601.446.

20 Sec. 601.450. INFORMATION REMAINS PROPERTY OF AGENCIES.

21 (a) Information provided by the department under Section 601.447
22 and information provided by the Texas Department of Transportation
23 under Section 601.448 remains the property of each agency and may
24 not be sold or made available except to enforce a state law.

25 (b) Information provided by the department under Section
26 601.447 and information provided by the Texas Department of
27 Transportation under Section 601.448 is confidential and not

1 subject to disclosure under Chapter 552, Government Code.

2 Sec. 601.451. LIABILITY OF CERTAIN OFFICERS, EMPLOYEES, AND
3 AGENTS. An officer or employee of an insurance company, an officer,
4 employee, or agent of the department, or an officer, employee,
5 agent, or statutory agent of the Texas Department of Transportation
6 is not liable in a civil action for an act performed in good faith in
7 providing information in compliance with this subchapter.

8 Sec. 601.452. VIOLATION; CRIMINAL PENALTY. (a) A person
9 commits an offense if the person knowingly releases information
10 maintained by the department or its designated agent under this
11 subchapter except to enforce a state law.

12 (b) An offense under this section is a Class A misdemeanor.

13 Sec. 601.453. REVIEW OF PROGRAM. (a) After January 1,
14 2009, and before September 1, 2009, the department shall review the
15 effectiveness of the program and determine the amount by which
16 compliance with this chapter has increased between September 1,
17 2003, and the date of the review. The department may coordinate
18 with the Texas Department of Insurance to conduct the review.
19 Before November 1, 2009, the department shall file copies of the
20 review with the governor, the lieutenant governor, the speaker of
21 the house of representatives, and the Texas Legislative Council and
22 file a summary of the review with the secretary of state for
23 publication in the Texas Register. If the department determines
24 that compliance has not increased by at least eight percent during
25 that period, this subchapter and Section 502.1715 expire September
26 2, 2009.

27 (b) This section expires September 2, 2009.

1 ARTICLE 2. PROOF OF INSURANCE CARDS

2 SECTION 2.01. Section 601.053(a), Transportation Code, is
3 amended to read as follows:

4 (a) As a condition of operating in this state a motor
5 vehicle to which Section 601.051 applies, the operator of the
6 vehicle on request shall provide to a peace officer, as defined by
7 Article 2.12, Code of Criminal Procedure, or a person involved in an
8 accident with the operator evidence of financial responsibility by
9 exhibiting:

10 (1) a motor vehicle liability insurance policy
11 covering the vehicle that satisfies Subchapter D or a photocopy of
12 the policy;

13 (2) a standard proof of motor vehicle liability
14 insurance form prescribed by the department [~~Texas Department of~~
15 ~~Insurance~~] under Section 601.081 and issued by a liability insurer
16 for the motor vehicle;

17 (3) an insurance binder that confirms the operator is
18 in compliance with this chapter;

19 (4) a surety bond certificate issued under Section
20 601.121;

21 (5) a certificate of a deposit with the comptroller
22 covering the vehicle issued under Section 601.122;

23 (6) a copy of a certificate of a deposit with the
24 appropriate county judge covering the vehicle issued under Section
25 601.123; or

26 (7) a certificate of self-insurance covering the
27 vehicle issued under Section 601.124 or a photocopy of the

1 certificate.

2 SECTION 2.02. Section 601.081, Transportation Code, is
3 amended to read as follows:

4 Sec. 601.081. STANDARD PROOF OF MOTOR VEHICLE LIABILITY
5 INSURANCE FORM. (a) The department shall provide for the
6 production of a standard proof of motor vehicle liability insurance
7 form for use by insurers. The department may contract with another
8 person for production of the form.

9 (b) Each insurer issuing a standard proof of motor vehicle
10 liability insurance form shall use a form produced by the
11 department.

12 (c) The department may adopt rules to implement this
13 section, including rules relating to the use of security features
14 for the form.

15 (d) The [A] standard proof of motor vehicle liability
16 insurance form prescribed by the department [Texas Department of
17 Insurance] must include:

- 18 (1) the name of the insurer;
- 19 (2) the insurance policy number;
- 20 (3) the policy period;
- 21 (4) the name and address of each insured;
- 22 (5) the policy limits or a statement that the coverage
23 of the policy complies with the minimum amounts of motor vehicle
24 liability insurance required by this chapter; and
- 25 (6) the make and model of each covered vehicle.

26 SECTION 2.03. Sections 601.371(d) and (e), Transportation
27 Code, are amended to read as follows:

1 (d) Except as provided by Subsection (e), an offense under
2 this section is a misdemeanor punishable by[+]

3 [~~(1)~~] a fine of not less than \$100 or more than \$750
4 [~~\$500, and~~

5 [~~(2) confinement in county jail for a term of not less~~
6 ~~than 72 hours or more than six months]~~.

7 (e) If it is shown on the trial of an offense under this
8 section that the person has previously been convicted two or more
9 times of an offense under this section or under Section 521.457, the
10 offense is punishable as a Class B [~~A~~] misdemeanor.

11 ARTICLE 3. FEE FOR MOTOR VEHICLE INSURANCE VERIFICATION PROGRAM

12 SECTION 3.01. Section 502.104, Transportation Code, is
13 amended to read as follows:

14 Sec. 502.104. DISPOSITION OF CERTAIN SPECIAL FEES. Each
15 Monday a county assessor-collector shall send to the department an
16 amount equal to collections for the preceding week for:

17 (1) each transfer fee collected under Section 502.175;
18 and

19 (2) each fee collected under Section 502.169(b),
20 502.1715, or 502.279.

21 SECTION 3.02. Subchapter D, Chapter 502, Transportation
22 Code, is amended by adding Section 502.1715 to read as follows:

23 Sec. 502.1715. ADDITIONAL FEE FOR MOTOR VEHICLE INSURANCE
24 VERIFICATION PROGRAM. (a) In addition to other fees imposed for
25 registration of a motor vehicle, at the time of application for
26 registration or renewal of registration of a motor vehicle for
27 which the owner is required to submit evidence of financial

1 responsibility under Section 502.153, the applicant shall pay a fee
2 of \$1.

3 (b) Fees collected under this section shall be deposited to
4 the credit of the state highway fund. The department shall use
5 money appropriated from the state highway fund that represents
6 those fees to administer Subchapter N, Chapter 601, and to
7 reimburse the Department of Public Safety for expenses in
8 administering that subchapter.

9 (c) The department and the Department of Public Safety shall
10 adopt rules and develop forms necessary to administer this section.

11 ARTICLE 4. EFFECTIVE DATE; TRANSITION

12 SECTION 4.01. This Act takes effect September 1, 2003.

13 SECTION 4.02. (a) As soon as practicable after the
14 effective date of this Act, the Department of Public Safety shall
15 appoint a technical advisory committee to assist the department in
16 developing the initial rules required for implementation of
17 Subchapter N, Chapter 601, Transportation Code, as added by this
18 Act. The technical advisory committee must include representatives
19 of the affected insurance companies and representatives of the
20 Texas Department of Transportation.

21 (b) The technical advisory committee shall prepare
22 recommended rules for consideration by the Department of Public
23 Safety not later than March 1, 2004.

24 (c) This section expires and the technical advisory
25 committee is abolished September 1, 2004.

26 SECTION 4.03. (a) Not later than September 1, 2004:

27 (1) the Department of Public Safety shall contract

1 with an entity to serve as the designated agent under Subchapter N,
2 Chapter 601, Transportation Code, as added by this Act; and

3 (2) the Department of Public Safety shall adopt any
4 rules necessary to implement Subchapter N, Chapter 601,
5 Transportation Code, as added by this Act.

6 (b) Except as provided by Subsection (c) of this section, a
7 motor vehicle insurance company is not required to report under
8 Section 601.446, Transportation Code, as added by this Act, before
9 September 1, 2004.

10 (c) The Department of Public Safety by rule may designate,
11 by market share, premium volume, or another similar characteristic,
12 smaller motor vehicle insurance companies that are not required to
13 report under Section 601.446, Transportation Code, as added by this
14 Act, before September 1, 2005.

15 (d) The Department of Public Safety is not required to
16 report under Sections 601.447(b) and (c), Transportation Code, as
17 added by this Act, before September 1, 2004.

18 SECTION 4.04. (a) The change in law made by this Act to
19 Section 601.371, Transportation Code, applies only to an offense
20 committed on or after the effective date of this Act. For the
21 purposes of this section, an offense is committed before the
22 effective date of this Act if any element of the offense occurs
23 before that date.

24 (b) An offense committed before the effective date of this
25 Act is governed by the law in effect when the offense was committed,
26 and the former law is continued in effect for that purpose.