

By: Bivins

S.B. No. 422

A BILL TO BE ENTITLED

AN ACT

relating to requirements regarding motor vehicle insurance and proof of financial responsibility; 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. 601.501. DEFINITION. In this subchapter, "verification date" means the date on which 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(a).

Sec. 601.502. VERIFICATION OF ESTABLISHMENT OF FINANCIAL RESPONSIBILITY THROUGH RANDOM SAMPLING. (a) The Texas Department of Transportation or an agent of that department shall randomly select samples of registrations of motor vehicles subject to this chapter, and may select samples of owners of motor vehicles subject to this chapter, to verify whether an owner who is selected or whose motor vehicle is selected has established financial responsibility in accordance with Section 601.051(a). The Department of Public Safety shall provide the Texas Department of Transportation access

1 to any information that will allow the Texas Department of  
2 Transportation to comply with this subsection.

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

7 (c) In addition to the general random sampling of motor  
8 vehicle registrations, the Texas Department of Transportation may  
9 randomly select other persons who own a registered motor vehicle to  
10 verify that the person has established financial responsibility,  
11 including a person:

12 (1) who, during the four-year period preceding the  
13 date of selection, has been convicted of a violation of Section  
14 601.191, 601.195, 601.196, as it existed before repeal, or 601.508,  
15 including a violation that occurred while the person was operating  
16 a motor vehicle owned by another person;

17 (2) whose motor vehicle registration has been the  
18 subject of a deferred suspension under Section 601.505(e) during  
19 the four-year period preceding the date of selection; or

20 (3) whose driver's license or motor vehicle  
21 registration has been suspended during the four-year period  
22 preceding the date of selection.

23 (d) The Texas Department of Transportation shall send to the  
24 owner of a randomly selected motor vehicle, or to a randomly  
25 selected motor vehicle owner, a request for information about the  
26 motor vehicle and the owner's method of establishing financial  
27 responsibility. The request must require the owner to state

1 whether the owner has, as of the verification date, established  
2 financial responsibility in accordance with Section 601.051(a).

3 (e) The Texas Department of Transportation:

4 (1) shall adopt rules as necessary to implement this  
5 subchapter; and

6 (2) by rule shall:

7 (A) establish the frequency of sample selection;  
8 and

9 (B) prescribe:

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

15 (ii) the form for verification of financial  
16 responsibility; and

17 (iii) the information to be requested in  
18 the prescribed form.

19 (f) The Texas Department of Transportation may require the  
20 information provided by an owner to include a statement by the owner  
21 that the owner had, as of the verification date, established  
22 financial responsibility:

23 (1) through liability insurance under Subchapter D,  
24 including:

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

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

27 (C) the expiration date of the insurance

1 coverage;

2 (2) by filing a surety bond with the Department of  
3 Public Safety under Section 601.121, including:

4 (A) the name and address of the company issuing  
5 the bond;

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

7 (C) the expiration date of the bond;

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

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

15 (5) through self-insurance under Section 601.124,  
16 including a copy of the certificate of self-insurance issued by the  
17 Department of Public Safety.

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

23 (h) An owner whose response indicates that the owner had not  
24 established financial responsibility in accordance with Section  
25 601.051(a), or who fails to respond to the request, is subject to  
26 suspension of the owner's motor vehicle registration in the manner  
27 provided by Section 601.505.

1       (i) 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(a), the Texas Department of  
5 Transportation may conduct a verification investigation as  
6 provided by Section 601.503.

7       Sec. 601.503. VERIFICATION INVESTIGATION. (a) To verify a  
8 response received from an owner under Section 601.502, the Texas  
9 Department of Transportation or an agent of that department may  
10 furnish necessary information to the insurer, surety, or officer  
11 named in the response. Not later than the 30th day after the date of  
12 receipt of the information, the insurer, surety, or officer shall  
13 inform the Texas Department of Transportation whether, as of the  
14 verification date, financial responsibility had been established  
15 for the affected motor vehicle in accordance with Section  
16 601.051(a). An insurer that does not comply with this subsection is  
17 subject to an administrative penalty under Chapter 84, Insurance  
18 Code.

19       (b) If the response received from an owner under Section  
20 601.502 states that financial responsibility has been established  
21 through self-insurance, the Texas Department of Transportation  
22 shall examine the records of the Department of Public Safety to  
23 verify that a certificate of self-insurance has been issued in  
24 accordance with Section 601.124.

25       Sec. 601.504. WARNING NOTICE. If an owner responds under  
26 Section 601.502 that the owner has not established financial  
27 responsibility or the owner fails to respond in a timely manner, or

1 if the Texas Department of Transportation otherwise determines that  
2 an owner has registered or maintained the registration of a motor  
3 vehicle without establishing financial responsibility in  
4 accordance with Section 601.051(a), the Texas Department of  
5 Transportation by certified mail shall issue to the owner a warning  
6 notice that informs the owner that the owner is not in compliance  
7 with Section 601.051(a) and that the owner's motor vehicle  
8 registration will be suspended on the 45th day after the date on  
9 which the warning notice is mailed unless the owner, not later than  
10 the 30th day after the date of the mailing of the warning notice,  
11 establishes financial responsibility in the manner prescribed by  
12 Section 601.505(e) or mails to the Texas Department of  
13 Transportation a written request for a hearing.

14 Sec. 601.505. SUSPENSION; REINSTATEMENT; EXCEPTION.

15 (a) Unless the owner requests a hearing under Subsection (b), the  
16 Texas Department of Transportation shall suspend the registration  
17 of an owner to whom a warning notice is issued under Section 601.504  
18 on the 45th day after the date of the mailing of the notice.

19 (b) An owner who receives a warning notice under Section  
20 601.504 may request a hearing on or before the 30th day after the  
21 date of the mailing of the notice. The Texas Department of  
22 Transportation shall adopt rules governing a hearing under this  
23 subsection. The Texas Department of Transportation shall suspend  
24 the registration of an owner who requests a hearing if on or before  
25 the date of the hearing the owner does not present proof of  
26 financial responsibility that:

27 (1) complies with Section 601.051(a); and

1           (2) was in effect on the verification date.

2           (c) If the Texas Department of Transportation suspends an  
3 owner's motor vehicle registration under this section, the Texas  
4 Department of Transportation shall notify the owner of the  
5 suspension by certified mail.

6           (d) For a first violation, the Texas Department of  
7 Transportation shall terminate the suspension on payment by the  
8 owner of a \$100 reinstatement fee and submission of proof of  
9 financial responsibility in the manner prescribed by the Texas  
10 Department of Transportation. For a second or subsequent violation  
11 during the four-year period that follows the first violation or for  
12 a violation of Section 601.507, the Texas Department of  
13 Transportation shall terminate the suspension on the 120th day  
14 after the effective date of the suspension on payment by the owner  
15 of a \$200 reinstatement fee and submission of proof of financial  
16 responsibility in a manner prescribed by the Texas Department of  
17 Transportation.

18           (e) For a first violation, the Texas Department of  
19 Transportation shall defer the suspension if the owner submits to  
20 the Texas Department of Transportation, not later than the 30th day  
21 after the date of the mailing of the warning notice under Section  
22 601.504 or on or before the date of a hearing requested by the owner  
23 under Subsection (b), proof of financial responsibility evidenced  
24 by a motor vehicle insurance policy that complies with Subchapter  
25 D, the premiums for which have been prepaid for a term of at least  
26 six months. On the earlier of the 180th day after the date of the  
27 mailing of the warning notice or the expiration date of the

1 insurance policy described by this subsection, the owner shall  
2 submit to the Texas Department of Transportation evidence of  
3 renewal of the motor vehicle insurance policy, the premiums for  
4 which have been prepaid for a term of at least six months. If the  
5 owner fails to submit the required evidence of renewal, the Texas  
6 Department of Transportation shall impose the suspension and  
7 reinstatement fee.

8 (f) Notwithstanding any other provision of this subchapter,  
9 the Texas Department of Transportation may reinstate the suspended  
10 motor vehicle registration of an owner who:

11 (1) received a request for information under Section  
12 601.502; and

13 (2) presents proof of financial responsibility that:

14 (A) complies with Section 601.051(a); and

15 (B) was in effect on the verification date.

16 (g) An owner whose vehicle registration has been suspended  
17 under this section may not:

18 (1) transfer the registration unless the transfer is  
19 authorized under Subsection (h); or

20 (2) register in another name the motor vehicle to  
21 which the registration applies.

22 (h) The Texas Department of Transportation may authorize  
23 the transfer of a vehicle registration if that department is  
24 satisfied that the transfer is proposed in good faith and not to  
25 defeat the purposes of this subchapter.

26 (i) Subsection (g) does not affect the rights of a  
27 conditional vendor or lessor of, or a person with a security



1 interest in, a motor vehicle owned by a person whose vehicle  
2 registration has been suspended under this section if the vendor,  
3 lessor, or secured party is not the registered owner of the vehicle.

4 Sec. 601.506. SUBMISSION OF FALSE PROOF. If the Texas  
5 Department of Transportation determines that the proof of financial  
6 responsibility submitted by a motor vehicle owner under Section  
7 601.502 is false, and that the owner had knowledge that the proof of  
8 financial responsibility was false, the Texas Department of  
9 Transportation shall suspend the owner's motor vehicle  
10 registration. The Texas Department of Transportation shall  
11 terminate the suspension on or after the 180th day after the  
12 effective date of the suspension on payment by the owner of a \$500  
13 reinstatement fee and submission of proof of financial  
14 responsibility as prescribed by the Texas Department of  
15 Transportation.

16 Sec. 601.507. OPERATION OF MOTOR VEHICLE WHILE REGISTRATION  
17 SUSPENDED FOR FAILURE TO ESTABLISH FINANCIAL RESPONSIBILITY;  
18 OFFENSE. (a) A person who operates a motor vehicle while the  
19 registration of the motor vehicle is suspended under this  
20 subchapter commits an offense.

21 (b) An offense under this section is punishable by a fine of  
22 not less than \$1,000 or more than \$2,000.

23 (c) It is a defense to prosecution under this section that  
24 the person charged with an offense produces in court satisfactory  
25 evidence that, at the time of the alleged offense, the owner or  
26 operator had established financial responsibility in accordance  
27 with Section 601.051(a).

1       Sec. 601.508. DISPLAY OF FALSE PROOF OF FINANCIAL  
2 RESPONSIBILITY; OFFENSE. (a) A person commits an offense if the  
3 person provides evidence of financial responsibility to a peace  
4 officer, as defined by Article 2.12, Code of Criminal Procedure,  
5 court, or officer of the court knowing that financial  
6 responsibility has not been established as required under Section  
7 601.051(a) or that the evidence of financial responsibility is  
8 illegally altered, counterfeit, or otherwise invalid.

9       (b) If a peace officer issues a citation to a motor vehicle  
10 operator for displaying invalid evidence of financial  
11 responsibility, the officer shall confiscate the invalid evidence  
12 of financial responsibility for presentation in court.

13       (c) An offense under this section is punishable by a fine of  
14 not less than \$500 or more than \$750.

15       Sec. 601.509. DISPOSITION OF FEES. From the reinstatement  
16 fees collected under this subchapter, the Texas Department of  
17 Transportation shall recover its costs in implementing and  
18 administering the verification program under this subchapter. The  
19 Texas Department of Transportation shall deposit any amounts  
20 collected that exceed the administrative costs of that department  
21 under this subchapter to the credit of the state highway fund.

22       Sec. 601.510. USE OF AGENTS. The Texas Department of  
23 Transportation may submit requests for proposals for contracts with  
24 private vendors to perform the random sampling and the verification  
25 investigations required under this subchapter as an agent of that  
26 department. The Texas Department of Transportation may enter into  
27 contracts as necessary to implement the use of agents.

1 SECTION 1.02. Section 601.051, Transportation Code, is  
2 amended to read as follows:

3 Sec. 601.051. REQUIREMENT OF FINANCIAL  
4 RESPONSIBILITY. (a) A person may not operate, register, or  
5 maintain registration of a motor vehicle in this state unless  
6 financial responsibility is established for that vehicle through:

- 7 (1) a motor vehicle liability insurance policy that  
8 complies with Subchapter D;  
9 (2) a surety bond filed under Section 601.121;  
10 (3) a deposit under Section 601.122;  
11 (4) a deposit under Section 601.123; or  
12 (5) self-insurance under Section 601.124.

13 (b) An owner of a motor vehicle may not permit another  
14 person to operate the motor vehicle in this state unless financial  
15 responsibility is established for that vehicle and evidenced  
16 through a method described by Subsection (a).

17 SECTION 1.03. Section 601.191, Transportation Code, is  
18 amended to read as follows:

19 Sec. 601.191. OPERATION OF MOTOR VEHICLE IN VIOLATION OF  
20 FINANCIAL RESPONSIBILITY REQUIREMENTS [~~MOTOR VEHICLE LIABILITY~~  
21 ~~INSURANCE REQUIREMENT~~]; OFFENSE. (a) A person commits an offense  
22 if the person operates a motor vehicle or permits another person to  
23 operate a motor vehicle in violation of Section 601.051.

24 (b) Except as provided by Subsection [~~Subsections (c) and~~  
25 (d)], an offense under this section is a misdemeanor punishable by a  
26 fine of not less than \$500 [~~\$175~~] or more than \$1,000 [~~\$350~~].

27 (c) It is a defense to prosecution under this section that

1 the person charged with an offense produces in court satisfactory  
2 evidence that, at the time of the alleged offense, the owner or  
3 operator had established financial responsibility in accordance  
4 with Section 601.051(a). [~~If a person has been previously~~  
5 ~~convicted of an offense under this section, an offense under this~~  
6 ~~section is a misdemeanor punishable by a fine of not less than \$350~~  
7 ~~or more than \$1,000.~~]

8 (d) If the court determines that a person who has not been  
9 previously convicted of an offense under this section is  
10 economically unable to pay the fine, the court may reduce the fine  
11 to less than \$500 [~~\$175~~].

12 SECTION 1.04. Section 601.195, Transportation Code, is  
13 amended by adding Subsection (c) to read as follows:

14 (c) It is a defense to prosecution under this section that  
15 the person charged with an offense produces in court satisfactory  
16 evidence that, at the time of the alleged offense, the owner or  
17 operator had established financial responsibility in accordance  
18 with Section 601.051(a).

19 SECTION 1.05. In performing sample selection under Section  
20 601.502, Transportation Code, as added by this Act, the Texas  
21 Department of Transportation shall ensure that at least 500,000  
22 samples are selected on or before September 1, 2005.

23 SECTION 1.06. (a) In cooperation with the Texas Department  
24 of Insurance and the Department of Public Safety of the State of  
25 Texas, the Texas Department of Transportation shall conduct an  
26 evaluation of the implementation and operation of the verification  
27 program adopted under Subchapter N, Chapter 601, Transportation

1 Code, as added by this Act, and of the effectiveness of the  
2 verification program in increasing compliance with the financial  
3 responsibility requirements established under Subchapter C,  
4 Chapter 601, Transportation Code. The evaluation must include:

5 (1) a computation, by year, of the number of persons  
6 determined by the Texas Department of Transportation through the  
7 application of the verification program to be driving without  
8 compliance with the financial responsibility requirements  
9 established under Subchapter C, Chapter 601, Transportation Code;  
10 and

11 (2) the annual effect of the program, as determined by  
12 the Texas Department of Insurance, on the rate for uninsured  
13 motorist insurance coverage under Article 5.06-1, Insurance Code.

14 (b) The Texas Department of Transportation shall enter into  
15 contracts, memoranda of understanding, or interagency agreements  
16 as necessary to implement this section.

17 (c) The Texas Department of Transportation shall report the  
18 results of the evaluation conducted under this section to the  
19 legislature not later than February 1, 2011. The department shall  
20 provide written copies of the report to the governor, the  
21 lieutenant governor, and the speaker of the house of  
22 representatives.

23 ARTICLE 2. UNINSURED AND UNDERINSURED MOTORIST COVERAGE

24 SECTION 2.01. Article 5.06-1, Insurance Code, is amended to  
25 read as follows:

26 Art. 5.06-1. UNINSURED OR UNDERINSURED MOTORIST COVERAGE.

27 (a) ~~[(1)]~~ No automobile liability insurance, ~~[(1)]~~ including

1 insurance issued through the Texas Automobile Insurance Plan  
2 Association [~~pursuant to an Assigned Risk Plan established under~~  
3 ~~authority of Section 35 of the Texas Motor Vehicle~~  
4 ~~Safety-Responsibility Act~~), covering liability arising out of the  
5 ownership, maintenance, or use of any motor vehicle shall be  
6 delivered or issued for delivery in this state unless coverage is  
7 provided therein or supplemental thereto, [~~in at least the limits~~  
8 ~~described in the Texas Motor Vehicle Safety-Responsibility Act,~~]  
9 under provisions prescribed by the commissioner [~~Board~~], for the  
10 protection of persons insured thereunder who are legally entitled  
11 to recover damages from owners or operators of uninsured or  
12 underinsured motor vehicles because of bodily injury, sickness, or  
13 disease, including death, or property damage resulting therefrom.  
14 The coverages required under this Article shall not be applicable  
15 where any insured named in the policy shall reject the coverage in  
16 writing; provided that unless the named insured thereafter  
17 requests such coverage in writing, such coverage need not be  
18 provided in or supplemental to a renewal policy where the named  
19 insured has rejected the coverage in connection with a policy  
20 previously issued to the named insured [~~him~~] by the same insurer or  
21 by an affiliated insurer.

22 (b) [~~(2)~~] For the purpose of these coverages:

23 (1) "Exemplary damages" has the meaning assigned by  
24 Section 41.001, Civil Practice and Remedies Code.

25 (2) "Noneconomic damages" means damages other than  
26 compensatory damages for pecuniary loss. The term includes damages  
27 for physical pain and mental anguish, loss of consortium,

1 disfigurement, physical impairment, or loss of companionship and  
2 society. The term does not include exemplary damages.

3 (3) "Uninsured [~~(a) the term "uninsured]~~ motor  
4 vehicle" shall, subject to the terms and conditions of such  
5 coverage, be deemed to include an insured motor vehicle where the  
6 liability insurer thereof is unable to make payment with respect to  
7 the legal liability of its insured within the limits specified  
8 therein because of insolvency.

9 (4) "Underinsured [~~(b) The term "underinsured]~~ motor  
10 vehicle" means an insured motor vehicle on which there is valid and  
11 collectible liability insurance coverage with limits of liability  
12 for the owner or operator which were originally lower than, or have  
13 been reduced by payment of claims arising from the same accident to,  
14 an amount less than the limit of liability stated in the  
15 underinsured coverage of the insured's policy.

16 (c) The commissioner [~~Board]~~ may, in the policy forms  
17 adopted under Article 5.06 of this code, define "uninsured motor  
18 vehicle" to exclude certain motor vehicles whose operators are in  
19 fact uninsured.

20 (d) The portion of a policy form adopted under Article 5.06  
21 of this code to provide coverage under this article shall include  
22 provisions that, regardless of the number of persons insured,  
23 policies or bonds applicable, vehicles involved, or claims made,  
24 the total aggregate limit of liability to any one person who  
25 sustains bodily injury or property damage as the result of any one  
26 occurrence shall not exceed the limit of liability for these  
27 coverages as stated in the policy and the total aggregate limit of

1 liability to all claimants, if more than one, shall not exceed the  
2 total limit of liability per occurrence as stated in the policy; and  
3 shall provide for the exclusion of the recovery of damages for  
4 bodily injury or property damage or both resulting from the  
5 intentional acts of the insured. The portion of a policy form  
6 adopted under Article 5.06 of this code to provide coverage under  
7 this article shall require that in order for the insured to recover  
8 under the uninsured motorist coverages where the owner or operator  
9 of any motor vehicle which causes bodily injury or property damage  
10 to the insured is unknown, actual physical contact must have  
11 occurred between the motor vehicle owned or operated by such  
12 unknown person and the person or property of the insured.

13 (e) Except as provided by Subsection (f) of this article,  
14 the [(3) The] limits of liability for bodily injury, sickness, or  
15 disease, including death, shall be offered to the insured in  
16 amounts not less than those prescribed in Chapter 601,  
17 Transportation Code, [the Texas Motor Vehicle  
18 Safety-Responsibility Act] and such higher available limits as may  
19 be desired by the insured, but not greater than the limits of  
20 liability specified in the bodily injury liability provisions of  
21 the insured's policy.

22 (f) The named insured may elect to waive coverage under this  
23 article for recovery of noneconomic and exemplary damages resulting  
24 from bodily injury, sickness, or disease, including death. If an  
25 insured elects to waive coverage under this subsection, Subsection  
26 (e) of this article does not apply to the limits of liability that  
27 are applicable to the coverage provided under the policy issued to



1 the insured for damages resulting from bodily injury, sickness, or  
2 disease, including death. The commissioner by rule may adopt  
3 minimum limits of liability applicable to those damages. Waiver of  
4 coverage under this subsection does not affect the insured's right  
5 to bring an action for noneconomic and exemplary damages against a  
6 responsible party. A written rejection of coverage for noneconomic  
7 and exemplary damages is not effective unless the insurer provides  
8 the insured with a written notice, acknowledged in writing by the  
9 insured at the time of the rejection, disclosing the amount of  
10 potential coverage that is available, the types of damages that  
11 would be covered, and the amount of premium saved because the  
12 coverage is rejected.

13 (g) [(4)(a)] Coverage for property damage shall be offered  
14 to the insured in amounts not less than those prescribed in Chapter  
15 601, Transportation Code, [the Texas Motor Vehicle  
16 Safety-Responsibility Act] and such higher available limits as may  
17 be desired by the insured, but not greater than limits of liability  
18 specified in the property damage liability provisions of the  
19 insured's policy, subject to a deductible amount of \$250.

20 (h) [(b)] If the insured has collision coverage and  
21 uninsured or underinsured property damage liability coverage, the  
22 insured may recover under the policy coverage chosen by the  
23 insured. In the event neither coverage is sufficient alone to cover  
24 all damage resulting from a single occurrence, the insured may  
25 recover under both coverages. When recovering under both  
26 coverages, the insured shall designate one coverage as the primary  
27 coverage and pay the deductible applicable to that coverage. The

1 primary coverage must be exhausted before any recovery is made  
2 under the secondary coverage. If both coverages are utilized in the  
3 payment of damages from a single occurrence, the insured shall not  
4 be required to pay the deductible applicable to the secondary  
5 coverage when the amount of the deductible otherwise applicable to  
6 the secondary coverage is the same as or less than the amount of the  
7 deductible applicable to the primary coverage. If both coverages  
8 are utilized in the payment of damages from a single occurrence and  
9 the amount of the deductible otherwise applicable to the secondary  
10 coverage is greater than the amount of the deductible applicable to  
11 the primary coverage, the insured shall be required to pay in  
12 respect of the secondary coverage only the difference between the  
13 amount of the two deductibles. In no event shall the insured  
14 recover under both coverages more than the actual damages suffered.

15 (i) [~~(5)~~] The underinsured motorist coverage shall provide  
16 for payment to the insured of all sums which the insured [~~he~~] shall  
17 be legally entitled to recover as damages from owners or operators  
18 of underinsured motor vehicles because of bodily injury or property  
19 damage in an amount up to the limit specified in the policy, reduced  
20 by the amount recovered or recoverable from the insurer of the  
21 underinsured motor vehicle. If the named insured has waived  
22 coverage under Subsection (f) of this article for recovery of  
23 noneconomic and exemplary damages, the amount paid to the insured  
24 may not include any amount attributable to noneconomic and  
25 exemplary damages.

26 (j) [~~(6)~~] In the event of payment to any person under any  
27 coverage required by this article [~~Section~~] and subject to the

1 terms and conditions of such coverage, the insurer making such  
2 payment shall, to the extent thereof, be entitled to the proceeds of  
3 any settlement or judgment resulting from the exercise of any  
4 rights of recovery of such person against any person or  
5 organization legally responsible for the bodily injury, sickness or  
6 disease, or death for which such payment is made, including the  
7 proceeds recoverable from the assets of the insolvent insurer;  
8 provided, however, whenever an insurer shall make payment under a  
9 policy of insurance issued pursuant to this article [~~Act~~], which  
10 payment is occasioned by the insolvency of an insurer, the insured  
11 of said insolvent insurer shall be given credit in any judgment  
12 obtained against the insured [~~him~~], with respect to the insured's  
13 [~~his~~] legal liability for such damages, to the extent of such  
14 payment, but, subject to Section 12 of Article 21.28-C of this code,  
15 such paying insurer shall have the right to proceed directly  
16 against the insolvent insurer or its receiver, and in pursuance of  
17 such right such paying insurer shall possess any rights which the  
18 insured of the insolvent company might otherwise have had if the  
19 insured of the insolvent insurer had made the payment.

20 (k) [~~(7)~~] If a dispute exists as to whether a motor vehicle  
21 is uninsured, the burden of proof as to that issue shall be upon the  
22 insurer.

23 (1) [~~(8)~~] Notwithstanding Section 15.032, Civil Practice  
24 and Remedies Code, an action against an insurer in relation to the  
25 coverage provided under this article, including an action to  
26 enforce that coverage, may be brought only:

27 (1) [~~(a)~~] in the county in which the policyholder or

1 beneficiary instituting the suit resided at the time of the  
2 accident; or

3 (2) [~~(b)~~] in the county in which the accident  
4 involving the uninsured or underinsured motor vehicle occurred.

5 ARTICLE 3. PROOF OF INSURANCE CARDS

6 SECTION 3.01. Subchapter A, Chapter 5, Insurance Code, is  
7 amended by adding Article 5.06-7 to read as follows:

8 Art. 5.06-7. FORM AND APPEARANCE OF PROOF OF MOTOR VEHICLE  
9 LIABILITY INSURANCE. (a) The commissioner shall prescribe by rule  
10 a standard appearance and form for a card issued by an insurer as  
11 proof of motor vehicle liability insurance prescribed by Section  
12 601.081, Transportation Code.

13 (b) In prescribing the appearance of a proof of motor  
14 vehicle liability insurance card under Subsection (a) of this  
15 article, the commissioner shall require an appearance that is:

- 16 (1) difficult to alter, duplicate, or counterfeit; and  
17 (2) not cost-prohibitive for consumers.

18 ARTICLE 4. REPEALER

19 SECTION 4.01. Section 601.193, Transportation Code, is  
20 repealed.

21 ARTICLE 5. TRANSITION; EFFECTIVE DATE

22 SECTION 5.01. The change in law made by this Act to Chapter  
23 601, Transportation Code, applies only to punishment for an offense  
24 committed on or after the effective date of this Act. For purposes  
25 of this section, an offense is committed before the effective date  
26 of this Act if any element of the offense occurs before that date.

27 SECTION 5.02. Article 5.06-1, Insurance Code, as amended by

1 this Act, applies only to a motor vehicle liability insurance  
2 policy that is delivered, issued for delivery, or renewed on or  
3 after January 1, 2004. A policy that is delivered, issued for  
4 delivery, or renewed before January 1, 2004, is governed by the law  
5 as it existed immediately before the effective date of this Act, and  
6 that law is continued in effect for that purpose.

7 SECTION 5.03. (a) Except as provided by Subsection (b) of  
8 this section, this Act takes effect September 1, 2003.

9 (b) Article 1 of this Act takes effect January 1, 2005.