

By: Phillips

H.B. No. 2893

A BILL TO BE ENTITLED

AN ACT

relating to a motor vehicle liability insurance compliance program;
providing civil and criminal penalties.

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

SECTION 1. Chapter 601, Transportation Code, is amended by
adding Subchapter N to read as follows:

SUBCHAPTER N. MOTOR VEHICLE LIABILITY INSURANCE COMPLIANCE PROGRAM

Sec. 601.501. ESTABLISHMENT OF PROGRAM. (a) The
department shall establish a motor vehicle liability insurance
compliance program.

(b) In establishing the program, the department may request
and obtain advice and assistance from any other agency of this or
another state, including the Texas Department of Insurance and the
Texas Department of Transportation.

(c) The department may contract with one or more public or
private entities to administer the program.

Sec. 601.502. REPORTING REQUIREMENTS. (a) The motor
vehicle liability insurance compliance program shall require that,
on or after the effective date of this subchapter, when an insurance
company authorized to write motor vehicle liability insurance in
this state or its designated agent issues or renews a motor vehicle
liability insurance policy that provides the minimum coverages
required by this chapter to a person who is required to maintain
insurance under this chapter and who is the holder of a Texas

1 driver's license or a Texas commercial driver's license, or
2 terminates or cancels such a policy, the insurance company or its
3 designated agent shall furnish to the department or administering
4 entity the following information:

5 (1) the insurance policy number;

6 (2) the effective date of the policy;

7 (3) the make, model, license plate number, and vehicle
8 identification number of each vehicle covered by the policy; and

9 (4) any other information reasonably required by the
10 department.

11 (b) The required information relating to an insurance
12 policy that is issued or renewed shall be provided to the department
13 or administering entity not later than the third business day after
14 the date of issuance or renewal.

15 (c) The required information relating to an insurance
16 policy that is terminated or canceled shall be provided to the
17 department before the effective date of the termination or
18 cancellation.

19 Sec. 601.503. ELECTRONIC REPORTING. (a) Each insurance
20 company or its designated agent shall provide information required
21 under Section 601.502 through an electronic system in the format
22 specified by the department or administering entity.

23 (b) The format specified by the department or administering
24 entity under Subsection (a) should be compatible with insurance
25 industry standards. The format must allow the information to be
26 submitted individually or in bulk.

27 (c) Any proprietary information provided by an insurance

1 company or an agent under this section remains the property of the
2 insurance company or the agent.

3 Sec. 601.504. COMPUTER DATABASE. From the information
4 provided by insurance companies or their designated agents under
5 this subchapter, the department or administering entity shall
6 develop and maintain a computer database to be used in the
7 administration and enforcement of this subchapter.

8 Sec. 601.505. CONFIDENTIALITY OF INFORMATION. (a)
9 Information in the computer database is confidential and not
10 subject to required public disclosure under Chapter 552, Government
11 Code.

12 (b) The department or administering entity shall develop
13 procedures to enable law enforcement officers, and other state or
14 local governmental entities that enforce this Act, to have access
15 to the information in the computer database. The department or
16 administering entity shall maintain the confidentiality of the
17 information in making information available to other entities
18 authorized to receive the information.

19 (c) The department or administering entity shall
20 periodically update the database to identify new insurance policies
21 and to determine whether previous insurance policies are still in
22 effect.

23 (d) A person commits an offense if the person:

24 (1) discloses information in the computer database to
25 a person who is not authorized to receive the information; or

26 (2) permits a person described by Subdivision (1) to
27 view, read, or copy the information.

1 (e) An offense under Subsection (d) is a state jail felony.

2 Sec. 601.506. CERTAIN FEES AND CHARGES PROHIBITED. An
3 insurance company or designated agent subject to the motor vehicle
4 liability insurance compliance program may not assess or collect
5 from the policyholder of a motor vehicle liability insurance policy
6 subject to this section a charge or fee because the company or agent
7 is required to comply with any part of the program.

8 Sec. 601.507. SPECIAL INSPECTION CERTIFICATES. (a)
9 Commencing not later than January 1, 2006, the department shall
10 issue or contract for the issuance of special inspection
11 certificates to be affixed to motor vehicles that are inspected and
12 found to be in proper and safe condition under Chapter 548.

13 (b) An inspection certificate under this section must
14 contain a tamper-resistant transponder, and at a minimum, be
15 capable of storing:

16 (1) the transponder's unique identification number;
17 and

18 (2) the make, model, and vehicle identification number
19 of the vehicle to which the certificate is affixed.

20 (c) In addition, the transponder must be compatible with:

21 (1) the automated vehicle registration and
22 certificate of title system established by the Texas Department of
23 Transportation; and

24 (2) interoperability standards established by the
25 Texas Department of Transportation and other entities for use of
26 the system of toll roads and toll facilities in this state.

27 Sec. 601.508. CIVIL PENALTY. (a) If an electronic reading

1 device detects and identifies a motor vehicle to which a special
2 inspection certificate is affixed that is not covered by a motor
3 vehicle liability insurance policy that provides the minimum
4 coverages required by this chapter, on verification of the
5 information and issuance of a written notice of noncompliance, the
6 registered owner of the vehicle is liable to the state for the
7 payment of a civil penalty in the amount of \$250.

8 (b) In connection with the same vehicle, until the 60th day
9 after the date of issuance of a written notice under Subsection (a),
10 the registered owner is not liable for the payment of another civil
11 penalty under this subchapter if that vehicle is subsequently
12 detected and identified by an electronic reading device and
13 determined not to be covered by an appropriate motor vehicle
14 liability insurance policy.

15 Sec. 601.509. WRITTEN NOTICE TO VEHICLE OWNER. (a) The
16 department or administering entity shall send a written notice of
17 the civil penalty to the registered owner of the vehicle at that
18 owner's address as shown in the insurance database by first class
19 mail not later than the 30th day after the date the owner's vehicle
20 was determined not to be in compliance with the insurance
21 requirements of this chapter.

22 (b) The notice shall state that the registered owner of the
23 vehicle is:

24 (1) required to pay the full amount of the civil
25 penalty not later than the 30th day after the date the notice was
26 sent; or

27 (2) entitled to appeal the imposition of the civil

1 penalty.

2 Sec. 601.510. PAYMENT OF CIVIL PENALTY. A person paying a
3 civil penalty under this subchapter shall mail or electronically
4 submit payment to the department at its headquarters in Austin or to
5 the administering entity at its address as stated in the notice.

6 Sec. 601.511. HEARING REQUEST. If, not later than the 15th
7 day after the date on which the person receives notice under Section
8 601.509, the department receives at its headquarters in Austin, or
9 the administering entity receives, in writing, including a
10 facsimile transmission, or by another manner prescribed by the
11 department or administering entity, a request that a hearing be
12 held, a hearing shall be held as provided by this subchapter.

13 Sec. 601.512. EFFECT OF HEARING REQUEST. A request for a
14 hearing stays the imposition of the civil penalty until the date of
15 the final determination of the appeal.

16 Sec. 601.513. HEARING DATE. (a) A hearing requested under
17 Section 601.511 shall be held not earlier than the 11th day after
18 the date on which the person requesting the hearing is notified of
19 the hearing unless the parties agree to waive this requirement.

20 (b) The hearing shall be held not later than the 30th day
21 after the date the department or administering entity received the
22 request for the hearing.

23 Sec. 601.514. RESCHEDULING. (a) A hearing shall be
24 rescheduled if, before the fifth day before the date scheduled for
25 the hearing, the department or administering entity receives a
26 request for a continuance from the person who requested the
27 hearing. Unless both parties agree otherwise, the hearing shall be

1 rescheduled for a date not earlier than the fifth day after the date
2 the department or administering entity receives the request for the
3 continuance.

4 (b) A person who requests a hearing under this subchapter
5 may obtain only one continuance unless the person shows that a
6 medical condition prevents the person from attending the
7 rescheduled hearing, in which event one additional continuance may
8 be granted for a period not to exceed 10 days.

9 Sec. 601.515. STATE OFFICE OF ADMINISTRATIVE HEARINGS. (a)
10 A hearing under this subchapter shall be heard by an administrative
11 law judge employed by the State Office of Administrative Hearings.

12 (b) The State Office of Administrative Hearings shall
13 provide for the stenographic or electronic recording of the
14 hearing.

15 Sec. 601.516. HEARING LOCATION. A hearing under this
16 subchapter shall be held:

17 (1) at the location designated by the State Office of
18 Administrative Hearings; or

19 (2) with the consent of the person and the department
20 or administering entity, by telephone conference call.

21 Sec. 601.517. HEARING. (a) The only issues that must be
22 proved at a hearing by a preponderance of the evidence are whether
23 on the date that the motor vehicle was determined to have been
24 operated without being covered by a motor vehicle liability
25 insurance policy that provides the minimum coverages required by
26 this chapter:

27 (1) the motor vehicle owned by the person was not

1 required by this chapter to be covered by such a policy;

2 (2) the motor vehicle owned by the person was covered
3 by such a policy; or

4 (3) the motor vehicle was not owned by the person who
5 requested the hearing.

6 (b) The burden of proof in a hearing is on the person who
7 requested the hearing.

8 (c) If the administrative law judge finds in favor of the
9 person who requested the hearing, the judge shall vacate the
10 imposition of the civil penalty.

11 (d) If the administrative law judge does not find in favor
12 of the person who requested the hearing, the judge shall:

13 (1) sustain the imposition of the civil penalty; and

14 (2) order the person to pay the amount of the civil
15 penalty in the time and manner required by the department or
16 administering entity.

17 (e) The decision of the administrative law judge is final
18 when issued and signed.

19 Sec. 601.518. FAILURE TO APPEAR. A person who requests a
20 hearing and fails to appear without just cause waives the right to a
21 hearing and the imposition of the civil penalty is final.

22 Sec. 601.519. NOTICE REQUIREMENTS. (a) Notice required to
23 be provided by the department or administering entity under this
24 subchapter may be given by telephone or other electronic means. If
25 notice is given by telephone or other electronic means, written
26 notice must also be provided.

27 (b) Notice by mail is considered received on the fifth day

1 after the date the notice is deposited with the United States Postal
2 Service.

3 Sec. 601.520. APPEAL FROM ADMINISTRATIVE HEARING. (a) The
4 department or administering entity or the person whose civil
5 penalty is sustained may appeal the decision by filing a petition
6 not later than the 30th day after the date the administrative law
7 judge's decision is final. The administrative law judge's final
8 decision is immediately appealable without the requirement of a
9 motion for rehearing.

10 (b) A petition under Subsection (a) must be filed in a
11 county court at law in the county in which the person resides or, if
12 there is not a county court at law in the county, in the county
13 court. If the county judge is not a licensed attorney, the county
14 judge shall transfer the case to a district court for the county on
15 the motion of either party or of the judge.

16 (c) If the department or administering entity files an
17 appeal under this section, a copy of the petition must be sent by
18 certified mail to the person at the address indicated in the records
19 of the department or administering entity and to the State Office of
20 Administrative Hearings at that agency's headquarters in Austin.

21 (d) A person who files an appeal under this section shall
22 send a copy of the petition by certified mail to the department or
23 administering entity and to the State Office of Administrative
24 Hearings at each agency's headquarters in Austin.

25 (e) The copy of a petition sent by the department or
26 administering entity or by the person must be certified by the clerk
27 of the court in which the petition is filed.

1 (f) If the department is a party to an appeal, a district or
2 county attorney may represent the department in the appeal.

3 Sec. 601.521. REVIEW; ADDITIONAL EVIDENCE. (a) Review on
4 appeal is on the record certified by the State Office of
5 Administrative Hearings with no additional testimony.

6 (b) On appeal, a party may apply to the court to present
7 additional evidence. If the court is satisfied that the additional
8 evidence is material and that there were good reasons for the
9 failure to present it in the proceeding before the administrative
10 law judge, the court may order that the additional evidence be taken
11 before an administrative law judge on conditions determined by the
12 court.

13 (c) There is no right to a jury trial in an appeal under this
14 section.

15 (d) An administrative law judge may change a finding or
16 decision made in the original hearing because of the additional
17 evidence and shall file the additional evidence and any changes,
18 new findings, or decisions with the reviewing court.

19 (e) A remand under this section stays the imposition of the
20 civil penalty.

21 Sec. 601.522. TRANSCRIPT OF ADMINISTRATIVE HEARING. (a)
22 To obtain a transcript of an administrative hearing, the party who
23 appeals the administrative law judge's decision must apply to the
24 State Office of Administrative Hearings.

25 (b) On payment of a fee not to exceed the actual cost of
26 preparing the transcript, the State Office of Administrative
27 Hearings shall promptly furnish both parties with a transcript of

1 the administrative hearing.

2 Sec. 601.523. NONPAYMENT OF CIVIL PENALTY; OFFENSE. (a) A
3 person liable for payment of a civil penalty under Section 601.508,
4 other than a person who requests a hearing under Section 601.511,
5 who fails or refuses to pay the full amount of the civil penalty
6 commits an offense.

7 (b) A person ordered to pay a civil penalty under Section
8 601.517, other than a civil penalty that is not sustained on appeal,
9 who fails or refuses to pay the full amount of the civil penalty
10 commits an offense.

11 (c) Each failure or refusal by a person under Subsection (a)
12 or (b) is a separate offense.

13 (d) An offense under this section is a Class C misdemeanor.
14 Venue for the offense is in the justice precinct in which the
15 defendant resides.

16 (e) The court in which a person is convicted of an offense
17 under this section shall also collect the amount of the civil
18 penalty imposed on the person. A court that collects a civil
19 penalty:

20 (1) may retain 10 percent of the amount of the penalty
21 for deposit in the county treasury; and

22 (2) shall forward the remainder to the department in
23 the form and manner prescribed by the department.

24 Sec. 601.524. SUSPENSION OF DRIVER'S LICENSE AND VEHICLE
25 REGISTRATION. (a) The department shall suspend the driver's
26 license and vehicle registrations of a person who fails or refuses
27 to timely pay a civil penalty imposed on the person under this

1 subchapter.

2 (b) A suspension under this section is for a six-month
3 period beginning on the delinquency date of the civil penalty.

4 Sec. 601.525. USE OF MONEY. Money collected under this
5 subchapter shall be deposited in a separate account and may only be
6 used by the department in the enforcement of this chapter.

7 SECTION 2. This Act takes effect September 1, 2005.