

By: Swinford

H.B. No. 3601

Substitute the following for H.B. No. 3601:

By: Flores

C.S.H.B. No. 3601

A BILL TO BE ENTITLED

AN ACT

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relating to contested cases involving the regulation of, and enforcement of certain laws concerning the sale or lease of motor vehicles.

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

SECTION 1. Section 2301.607(c), Occupations Code, is amended to read as follows:

(c) If the administrative law judge [~~hearing examiner~~] does not issue a proposal for decision and recommend to the director a final order before the 151st day after the date a complaint is filed under this subchapter, the director shall provide written notice by certified mail to the complainant and to the manufacturer, converter, or distributor of the expiration of the 150-day period and of the complainant's right to file a civil action. The board shall extend the 150-day period if a delay is requested or caused by the person who filed the complaint.

SECTION 2. Section 2301.704, Occupations Code, is amended to read as follows:

Sec. 2301.704. ADMINISTRATIVE LAW JUDGE [~~HEARINGS EXAMINER~~]. (a) A hearing under this subchapter must be held by an administrative law judge of the State Office of Administrative Hearings [~~the director or a hearings examiner. A reference in this chapter to a hearings examiner includes the director if the director is conducting the hearing~~].

1 (b) ~~[A hearings examiner must be licensed to practice law in~~  
2 ~~this state.]~~

3 ~~[(c)]~~ An administrative law judge ~~[A hearings examiner]~~ has  
4 all of the board's power and authority under this chapter to conduct  
5 hearings, including the power to:

- 6 (1) hold a hearing;
- 7 (2) administer an oath;
- 8 (3) receive pleadings and evidence;
- 9 (4) issue a subpoena to compel the attendance of a  
10 witness;
- 11 (5) compel the production of papers and documents;
- 12 (6) issue an interlocutory order, including a cease  
13 and desist order in the nature of a temporary restraining order or a  
14 temporary injunction;
- 15 (7) make findings of fact and conclusions of law; and
- 16 (8) issue a proposal for decision and recommend a  
17 final order.

18 SECTION 3. Section 2301.709(a), Occupations Code, is  
19 amended to read as follows:

20 (a) In a contested case, the administrative law judge  
21 ~~[hearings examiner]~~ shall serve on each party a copy of the  
22 administrative law judge's ~~[examiner's]~~ proposal for decision and  
23 recommended order containing findings of fact and conclusions of  
24 law. A party may file exceptions and replies to the board.

25 SECTION 4. This Act does not affect the validity of any  
26 interagency cooperation contract entered into between the Motor  
27 Vehicle Board of the Texas Department of Transportation and the

1 State Office of Administrative Hearings before the effective date  
2 of this Act.

3 SECTION 5. The changes in law made by this Act that relate  
4 to the procedures governing a hearing before the State Office of  
5 Administrative Hearings apply only to a contested case that is  
6 filed on or after the effective date of this Act. A contested case  
7 filed before the effective date of this Act is governed by the law  
8 in effect immediately before the effective date of this Act, or by  
9 an interagency cooperation contract entered into between the Motor  
10 Vehicle Board of the Texas Department of Transportation and the  
11 State Office of Administrative Hearings in effect on that date, and  
12 the former law is continued in effect for that purpose.

13 SECTION 6. This Act takes effect September 1, 2007.