

By: Swinford

H.B. No. 3601

A BILL TO BE ENTITLED

1 AN ACT

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

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

6 SECTION 1. Section 2301.704, Occupations Code, is amended  
7 to read as follows:

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

14 (b) [~~A hearings examiner must be licensed to practice law in~~  
15 ~~this state.~~

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

- 19 (1) hold a hearing;
- 20 (2) administer an oath;
- 21 (3) receive pleadings and evidence;
- 22 (4) issue a subpoena to compel the attendance of a  
23 witness;
- 24 (5) compel the production of papers and documents;

1           (6) issue an interlocutory order, including a cease  
2 and desist order in the nature of a temporary restraining order or a  
3 temporary injunction;

4           (7) make findings of fact and conclusions of law; and

5           (8) issue a proposal for decision and recommend a  
6 final order.

7           SECTION 2. Section 2301.709, Occupations Code, is amended  
8 to read as follows:

9           Sec. 2301.709. PROPOSED DECISION; REVIEW BY BOARD. (a) In  
10 a contested case, the administrative law judge [~~hearings examiner~~]  
11 shall serve on each party a copy of the administrative law judge's  
12 [~~examiner's~~] proposal for decision and recommended order  
13 containing findings of fact and conclusions of law. A party may  
14 file exceptions and replies to the board.

15           (b) In reviewing the case, the board may consider only  
16 materials that are submitted timely.

17           (c) The board may hear such oral argument from any party as  
18 the board may allow.

19           (d) The board shall take any further action conducive to the  
20 issuance of a final order and shall issue a written final decision  
21 or order. A majority vote of a quorum of the board is required to  
22 adopt a final decision or order of the board.

23           SECTION 3. This Act does not affect the validity of any  
24 interagency cooperation contract entered into between the Motor  
25 Vehicle Board of the Texas Department of Transportation and the  
26 State Office of Administrative Hearings before the effective date  
27 of this Act.

1           SECTION 4. The changes in law made by this Act that relate  
2 to the procedures governing a hearing before the State Office of  
3 Administrative Hearings apply only to a case that is filed on or  
4 after September 1, 2007. Procedures relating to a case filed before  
5 September 1, 2007, shall continue to be used in a hearing as those  
6 procedures existed on August 31, 2007, or as provided by an  
7 interagency cooperation contract entered into between the Motor  
8 Vehicle Board of the Texas Department of Transportation and the  
9 office in effect on that date, and are continued in effect only for  
10 that purpose.

11           SECTION 5. This Act takes effect September 1, 2007.