

1-1 By: Swinford (Senate Sponsor - Carona) H.B. No. 3601
1-2 (In the Senate - Received from the House May 3, 2007;
1-3 May 7, 2007, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 10, 2007, reported
1-5 favorably by the following vote: Yeas 8, Nays 0; May 10, 2007, sent
1-6 to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the conduct of certain contested cases involving the
1-10 sale or lease of motor vehicles.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 2301.607(c), Occupations Code, is
1-13 amended to read as follows:

1-14 (c) If the administrative law judge [~~hearing examiner~~] does
1-15 not issue a proposal for decision and recommend to the director a
1-16 final order before the 151st day after the date a complaint is filed
1-17 under this subchapter, the director shall provide written notice by
1-18 certified mail to the complainant and to the manufacturer,
1-19 converter, or distributor of the expiration of the 150-day period
1-20 and of the complainant's right to file a civil action. The board
1-21 shall extend the 150-day period if a delay is requested or caused by
1-22 the person who filed the complaint.

1-23 SECTION 2. Section 2301.704, Occupations Code, is amended
1-24 to read as follows:

1-25 Sec. 2301.704. ADMINISTRATIVE LAW JUDGE [~~HEARINGS~~
1-26 ~~EXAMINER~~]. (a) A hearing under this subchapter must be held by an
1-27 administrative law judge of the State Office of Administrative
1-28 Hearings [~~the director or a hearings examiner. A reference in this~~
1-29 ~~chapter to a hearings examiner includes the director if the~~
1-30 ~~director is conducting the hearing~~].

1-31 (b) [~~A hearings examiner must be licensed to practice law in~~
1-32 ~~this state.~~

1-33 [~~(c)~~] An administrative law judge [~~A hearings examiner~~] has
1-34 all of the board's power and authority under this chapter to conduct
1-35 hearings, including the power to:

1-36 (1) hold a hearing;
1-37 (2) administer an oath;
1-38 (3) receive pleadings and evidence;
1-39 (4) issue a subpoena to compel the attendance of a
1-40 witness;

1-41 (5) compel the production of papers and documents;
1-42 (6) issue an interlocutory order, including a cease
1-43 and desist order in the nature of a temporary restraining order or a
1-44 temporary injunction;

1-45 (7) make findings of fact and conclusions of law; and
1-46 (8) issue a proposal for decision and recommend a
1-47 final order.

1-48 SECTION 3. Section 2301.709(a), Occupations Code, is
1-49 amended to read as follows:

1-50 (a) In a contested case, the administrative law judge
1-51 [~~hearings examiner~~] shall serve on each party a copy of the
1-52 administrative law judge's [~~examiner's~~] proposal for decision and
1-53 recommended order containing findings of fact and conclusions of
1-54 law. A party may file exceptions and replies to the board.

1-55 SECTION 4. This Act does not affect the validity of any
1-56 interagency cooperation contract entered into between the Motor
1-57 Vehicle Board of the Texas Department of Transportation and the
1-58 State Office of Administrative Hearings before the effective date
1-59 of this Act.

1-60 SECTION 5. The changes in law made by this Act that relate
1-61 to the procedures governing a hearing before the State Office of
1-62 Administrative Hearings apply only to a contested case that is
1-63 filed on or after the effective date of this Act. A contested case
1-64 filed before the effective date of this Act is governed by the law

2-1 in effect immediately before the effective date of this Act, or by
2-2 an interagency cooperation contract entered into between the Motor
2-3 Vehicle Board of the Texas Department of Transportation and the
2-4 State Office of Administrative Hearings in effect on that date, and
2-5 the former law is continued in effect for that purpose.

2-6 SECTION 6. This Act takes effect September 1, 2007.

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