

## **BILL ANALYSIS**

Senate Research Center  
85R5488 MTB-F

S.B. 869  
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State Affairs  
3/24/2017  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, there is no mechanism for owners to transfer their vehicle upon their death without going through probate. This is a corollary bill to the Transfer on Death Deed passed by the 84th Legislature, Regular Session, 2015. S.B. 869 creates a process to allow owners to transfer their vehicle to a beneficiary upon their death and enable the asset to transfer outside of probate.

As proposed, S.B. 869 amends current law relating to authorizing a beneficiary designation that transfers a motor vehicle at the owner's death.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Department of Motor Vehicles in SECTION 3 (Section 501.0315, Transportation Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle C, Title 2, Estates Code, by adding Chapter 115, as follows:

#### CHAPTER 115. BENEFICIARY DESIGNATION FOR MOTOR VEHICLES

Sec. 115.001. DEFINITIONS. Defines “beneficiary designation,” “designated beneficiary,” “joint owner with right of survivorship” or “joint owner,” “motor vehicle,” and “person.”

Sec. 115.002. BENEFICIARY DESIGNATION AUTHORIZED. (a) Authorizes an owner of a motor vehicle to transfer the owner’s interest in the motor vehicle to a sole beneficiary effective on the owner’s death by designating a beneficiary as provided by Section 501.0315, Transportation Code, which is added by this Act.

(b) Provides that a beneficiary designation is:

(1) subject to Section 115.003(b), revocable and may be changed at any time without the consent of the designated beneficiary as provided by Section 501.0315, Transportation Code;

(2) a nontestamentary instrument; and

(3) effective without:

(A) notice or delivery to or acceptance by the designated beneficiary during the owner’s life; or

(B) consideration.

(c) Prohibits a will from revoking or superseding a beneficiary designation, regardless of when the will is made.

(d) Authorizes a designated beneficiary to disclaim the designated beneficiary's interest in the motor vehicle as provided by Chapter 240 (Texas Uniform Disclaimer of Property Interests Act), Property Code.

Sec. 115.003. JOINT OWNERSHIP. (a) Requires the beneficiary designation, if a motor vehicle that is the subject of a beneficiary designation is owned by joint owners with right of survivorship, to be made by all of the joint owners.

(b) Authorizes a beneficiary designation made by joint owners with right of survivorship to be revoked or changed as provided by Section 501.0315, Transportation Code, only if it is revoked or changed by all of the joint owners and authorizes the beneficiary designation to be revoked or changed by the last surviving joint owner as provided by Section 501.0315, Transportation Code.

Sec. 115.004. EFFECT OF BENEFICIARY DESIGNATION DURING OWNER'S LIFE. Provides that, during a motor vehicle owner's life, a beneficiary designation does not affect an interest or right of the owner or owners making the designation, including the right to transfer or encumber the motor vehicle that is the subject of the designation; create a legal or equitable interest in favor of the designated beneficiary in the motor vehicle that is the subject of the designation, even if the beneficiary has actual or constructive notice of the designation; affect an interest or right of a secured or unsecured creditor or future creditor of the owner or owners making the designation, even if the creditor has actual or constructive notice of the designation; or affect an owner's or the designated beneficiary's eligibility for any form of public assistance, subject to applicable federal law.

Sec. 115.005. EFFECT OF BENEFICIARY DESIGNATION AT OWNER'S OR LAST SURVIVING OWNER'S DEATH. (a) Sets forth certain rules that apply, on the death of the owner of a motor vehicle that is the subject of a beneficiary designation, to an interest in the motor vehicle.

(b) Provides that, if an owner is a joint owner with right of survivorship who is survived by one or more other joint owners, the motor vehicle that is the subject of the beneficiary designation belongs to the surviving joint owner or owners. Provides that, if an owner is a joint owner with right of survivorship who is the last surviving joint owner, the beneficiary designation is effective.

(c) Provides that a designated beneficiary takes the motor vehicle subject to all encumbrances, assignments, contracts, liens, and other interests to which the vehicle is subject at the owner's or last surviving owner's death, as applicable. Provides that the transfer to the designated beneficiary does not affect the ability of a lienholder to pursue an existing means of debt collection permitted under the laws of this state.

Sec. 115.006. CREDITOR CLAIMS; ALLOWANCES IN LIEU OF EXEMPT PROPERTY AND FAMILY ALLOWANCES. Provides that Sections 114.104(b) (relating to personal representative giving notice of transferor to creditor), (c) (relating to secured creditor electing to have claim treated as preferred debt and lien claim), and (d) (relating to secured creditor electing to have claim treated as matured secured claim) and Section 114.106 (Liability for Creditor Claims; Allowances in Lieu of Exempt Property and Family Allowances) apply to a transfer of an owner's interest in a motor vehicle by a beneficiary designation in the same manner and to the same extent as a transfer of real property under a transfer on death deed under Chapter 114 (Transfer on Death Deed).

SECTION 2. Amends Section 122.001(1), Estates Code, as follows:

(1) Provides that "beneficiary" includes a person who would have been entitled, if the person had not made a disclaimer, to receive property as a result of the death of another person, among certain other ways, by a beneficiary designation as defined by Section 115.001.

SECTION 3. Amends Subchapter B, Chapter 501, Transportation Code, by adding Section 501.0315, as follows:

Sec. 501.0315. BENEFICIARY DESIGNATION. (a) Provides that, notwithstanding Section 501.002 (Definitions), in this section, “motor vehicle” does not include an all-terrain vehicle or a recreational off-highway vehicle, as those terms are defined by Section 502.001 (Definitions), designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state.

(b) Authorizes the owner of a motor vehicle to designate a sole beneficiary to whom the owner’s interest in the vehicle transfers on the owner’s death as provided by Chapter 115, Estates Code, by submitting an application for title under Section 501.023 (Application for Title) with the designation. Requires the designation, to be effective, to state that the transfer of an interest in the vehicle to the designated beneficiary is to occur at the transferor’s death.

(c) Requires that the legal name of a designated beneficiary be included on the title.

(d) Requires the Texas Department of Motor Vehicles (TxDMV) to transfer title of a motor vehicle to a designated beneficiary for the vehicle if the beneficiary submits certain documentation.

(e) Authorizes a beneficiary designation to be changed or revoked by submitting a new application for title under Section 501.023.

(f) Provides that a beneficiary designation or a change or revocation of a beneficiary designation made on an application for title of a motor vehicle that has not been submitted to TxDMV before the death of a vehicle’s owner or owners who made, changed, or revoked the designation, as applicable, is invalid.

(g) Authorizes TxDMV to adopt rules to administer this section.

SECTION 4. Effective date: September 1, 2017.