

By: Farrar, Smithee, Neave

H.B. No. 1753

Substitute the following for H.B. No. 1753:

By: Farrar

C.S.H.B. No. 1753

A BILL TO BE ENTITLED

AN ACT

relating to authorizing a beneficiary designation that transfers a motor vehicle at the owner's death.

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

SECTION 1. Subtitle C, Title 2, Estates Code, is amended by adding Chapter 115 to read as follows:

CHAPTER 115. BENEFICIARY DESIGNATION FOR MOTOR VEHICLES

Sec. 115.001. DEFINITIONS. In this chapter:

(1) "Beneficiary designation" means the designation by an owner of a motor vehicle of a beneficiary of the vehicle as provided by Section 501.0315, Transportation Code.

(2) "Designated beneficiary" means a person designated as a beneficiary of an owner's interest in a motor vehicle under Section 501.0315, Transportation Code.

(3) "Joint owner with right of survivorship" or "joint owner" means a person who owns a motor vehicle concurrently with one or more other persons with a right of survivorship. The term does not include an owner of community property with or without a right of survivorship.

(4) "Motor vehicle" has the meaning assigned by Section 501.002, Transportation Code.

(5) "Person" has the meaning assigned by Section 311.005, Government Code.

Sec. 115.002. BENEFICIARY DESIGNATION AUTHORIZED. (a) An

1 owner of a motor vehicle may transfer the owner's interest in the
2 motor vehicle to a sole beneficiary effective on the owner's death
3 by designating a beneficiary as provided by Section 501.0315,
4 Transportation Code.

5 (b) A beneficiary designation is:

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

9 (2) a nontestamentary instrument; and

10 (3) effective without:

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

13 (B) consideration.

14 (c) A will may not revoke or supersede a beneficiary
15 designation, regardless of when the will is made.

16 (d) A designated beneficiary may disclaim the designated
17 beneficiary's interest in the motor vehicle as provided by Chapter
18 240, Property Code.

19 Sec. 115.003. JOINT OWNERSHIP. (a) If a motor vehicle that
20 is the subject of a beneficiary designation is owned by joint owners
21 with right of survivorship, the beneficiary designation must be
22 made by all of the joint owners.

23 (b) A beneficiary designation made by joint owners with
24 right of survivorship:

25 (1) may be revoked or changed as provided by Section
26 501.0315, Transportation Code, only if it is revoked or changed by
27 all of the joint owners; and

1 (2) may be revoked or changed by the last surviving
2 joint owner as provided by Section 501.0315, Transportation Code.

3 Sec. 115.004. EFFECT OF BENEFICIARY DESIGNATION DURING
4 OWNER'S LIFE. During a motor vehicle owner's life, a beneficiary
5 designation does not:

6 (1) affect an interest or right of the owner or owners
7 making the designation, including the right to transfer or
8 encumber the motor vehicle that is the subject of the designation;

9 (2) create a legal or equitable interest in favor of
10 the designated beneficiary in the motor vehicle that is the subject
11 of the designation, even if the beneficiary has actual or
12 constructive notice of the designation;

13 (3) affect an interest or right of a secured or
14 unsecured creditor or future creditor of the owner or owners making
15 the designation, even if the creditor has actual or constructive
16 notice of the designation; or

17 (4) affect an owner's or the designated beneficiary's
18 eligibility for any form of public assistance, subject to
19 applicable federal law.

20 Sec. 115.005. EFFECT OF BENEFICIARY DESIGNATION AT OWNER'S
21 OR LAST SURVIVING OWNER'S DEATH. (a) On the death of the owner of a
22 motor vehicle that is the subject of a beneficiary designation, the
23 following rules apply to an interest in the motor vehicle:

24 (1) if the designated beneficiary survives the owner
25 making the designation by 120 hours, the interest in the motor
26 vehicle is transferred to the designated beneficiary; and

27 (2) if the designated beneficiary fails to survive the

1 owner making the designation by 120 hours, the share of the
2 designated beneficiary lapses, notwithstanding Section 111.052,
3 and is subject to and passes in accordance with Subchapter D,
4 Chapter 255, as if the beneficiary designation were a devise made in
5 a will.

6 (b) If an owner is a joint owner with right of survivorship
7 who is survived by one or more other joint owners, the motor vehicle
8 that is the subject of the beneficiary designation belongs to the
9 surviving joint owner or owners. If an owner is a joint owner with
10 right of survivorship who is the last surviving joint owner, the
11 beneficiary designation is effective.

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

19 Sec. 115.006. CREDITOR CLAIMS; ALLOWANCES IN LIEU OF EXEMPT
20 PROPERTY AND FAMILY ALLOWANCES. Sections 114.104(b), (c), and (d)
21 and Section 114.106 apply to a transfer of an owner's interest in a
22 motor vehicle by a beneficiary designation in the same manner and to
23 the same extent as a transfer of real property under a transfer on
24 death deed under Chapter 114.

25 SECTION 2. Section 122.001(1), Estates Code, is amended to
26 read as follows:

27 (1) "Beneficiary" includes a person who would have

1 been entitled, if the person had not made a disclaimer, to receive
2 property as a result of the death of another person:

3 (A) by inheritance;

4 (B) under a will;

5 (C) by an agreement between spouses for community
6 property with a right of survivorship;

7 (D) by a joint tenancy with a right of
8 survivorship;

9 (E) by a survivorship agreement, account, or
10 interest in which the interest of the decedent passes to a surviving
11 beneficiary;

12 (F) by an insurance, annuity, endowment,
13 employment, deferred compensation, or other contract or
14 arrangement;

15 (G) under a pension, profit sharing, thrift,
16 stock bonus, life insurance, survivor income, incentive, or other
17 plan or program providing retirement, welfare, or fringe benefits
18 with respect to an employee or a self-employed individual; ~~[or]~~

19 (H) by a transfer on death deed; or

20 (I) by a beneficiary designation as defined by
21 Section 115.001.

22 SECTION 3. Subchapter B, Chapter 501, Transportation Code,
23 is amended by adding Section 501.0315 to read as follows:

24 Sec. 501.0315. BENEFICIARY DESIGNATION. (a) The owner of a
25 motor vehicle may designate a sole beneficiary to whom the owner's
26 interest in the vehicle transfers on the owner's death as provided
27 by Chapter 115, Estates Code, by submitting an application for

1 title under Section 501.023 with the designation. To be effective,
2 the designation must state that the transfer of an interest in the
3 vehicle to the designated beneficiary is to occur at the
4 transferor's death.

5 (b) The legal name of a beneficiary designated under this
6 section must be included on the title.

7 (c) The department shall transfer title of a motor vehicle
8 to a beneficiary designated under this section for the vehicle if
9 the beneficiary submits:

10 (1) an application for title under Section 501.023 not
11 later than the 180th day after the date of the owner's death or, if
12 the vehicle is owned by joint owners, the last surviving owner's
13 death, as applicable; and

14 (2) satisfactory proof of the death of the owner or
15 owners, as applicable.

16 (d) A beneficiary designation may be changed or revoked by
17 submitting a new application for title under Section 501.023.

18 (e) A beneficiary designation or a change or revocation of a
19 beneficiary designation made on an application for title of a motor
20 vehicle that has not been submitted to the department before the
21 death of a vehicle's owner or owners who made, changed, or revoked
22 the designation, as applicable, is invalid.

23 (f) The department may adopt rules to administer this
24 section.

25 SECTION 4. This Act takes effect September 1, 2017.