

BILL ANALYSIS

C.S.S.B. 604
By: Buckingham
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In 2009, as a result of a recommendation of the Sunset Commission, the Texas Legislature moved the motor vehicle-related functions of the Texas Department of Transportation to a newly created agency to make sure that certain motor vehicle-related functions received the focus and attention needed to improve operations and overall customer service. The Texas Department of Motor Vehicles (TxDMV) now provides title, registration, and license plate services and regulates key aspects of the motor vehicle and motor vehicle industries, and this Sunset review is the legislature's first opportunity to comprehensively evaluate how well TxDMV is meeting goals for improved performance. Overall, the commission determined that TxDMV has largely accomplished the legislature's stated goals by modernizing motor vehicle services and improving customer service for both the public and industry and should be continued. However, the commission also determined that TxDMV faces several new challenges that were never envisioned when it was created. C.S.S.B. 604 seeks to continue TxDMV with certain statutory modifications and provides for the implementation of certain recommendations of the commission related to these unanticipated challenges.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Motor Vehicles board in SECTIONS 2.05, 2.12, 3.01, 3.04, 3.06 and 3.07 of this bill.

ANALYSIS

C.S.S.B. 604 amends the Transportation Code to postpone from September 1, 2019, to September 1, 2031, the date on which the Texas Department of Motor Vehicles (TxDMV) is abolished and related provisions expire unless continued in existence as provided by the Texas Sunset Act.

C.S.S.B. 604 repeals the provisions exempting advisory committees established by TxDMV and by the TxDMV board from statutory provisions governing state agency advisory committees. The bill revises provisions regarding the separation of the board's policy-making responsibilities and TxDMV management responsibilities, requires the TxDMV board to maintain a system for the investigation and resolution of complaints filed with TxDMV, and provides for the development and implementation of a negotiated rulemaking and alternative dispute resolution policy.

C.S.S.B. 604 revises the information provided in board member training, requires the executive

director of TxDMV to create a training manual for board members, provides for the annual distribution of the manuals, and sets out procedures for the members to acknowledge receipt and review of the manual. The revised training requirements apply to board members appointed before, on, or after the bill's effective date, except that a member who completed the existing training requirements must complete only the additional training on subjects added by the bill. The bill prohibits a board member from voting, deliberating, or being counted as a member in attendance at a board meeting held on or after December 1, 2019, until the member completes the additional required training.

C.S.S.B. 604 amends the Occupations Code to eliminate a representative's license, repeal a provision relating to a representative's license, and provide for the expiration on the bill's effective date of a representative's license that was issued before that date.

C.S.S.B. 604 requires the board to adopt rules and policies that establish standards for reviewing a contested case. The rules and policies must:

- specify the role of applicable personnel in managing contested cases before the board or a person delegated power from the board;
- specify appropriate conduct and discussion by the board or a person delegated power from the board regarding proposals for decision issued by administrative law judges;
- specify clear expectations limiting arguments and discussion in oral argument to evidence in the record of the contested case hearing held by the administrative law judge;
- address ex parte communications; and
- distinguish between using industry expertise and representing or advocating for an industry when reviewing a contested case.

C.S.S.B. 604 authorizes the board to order a person to pay a refund to the buyer or lessee of the motor vehicle that is the subject of an applicable proceeding regarding the sale or lease of a motor vehicle if, after the proceeding, the board determines that a person is violating or has violated provisions regarding the sale or lease of motor vehicles or a rule adopted or order issued under those provisions.

C.S.S.B. 604 creates a single salvage vehicle dealer license that authorizes a person who holds the license to perform any of the activities of a salvage vehicle dealer and repeals provisions establishing a salvage dealer license based on a classification and endorsement system. The bill eliminates the salvage vehicle agent license, repeals provisions regarding the license, and provides for the expiration of an agent's license on the bill's effective date. The bill changes the term of a salvage vehicle dealer license from a one-year term to a term that is prescribed by the board and provides for an applicably prorated fee to reflect the term of a license.

C.S.S.B. 604 authorizes the board to issue a cease and desist order, after notice and an opportunity for a hearing, to a person who is not licensed as a salvage dealer if it appears to the board that the person is violating applicable provisions relating to salvage vehicle dealers or a rule or order adopted under those provisions.

C.S.S.B. 604 amends the Transportation Code to require TxDMV by rule to:

- establish education and training requirements, to be provided by an education and training program approved by TxDMV, for an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer, and
- require such an applicant to establish that the applicant completed the required education and training.

C.S.S.B. 604 authorizes TxDMV to order a motor carrier that violates statutory provisions relating to motor carrier registration or a rule or order adopted under those provisions to pay a refund to a consumer who paid the motor carrier to transport household goods.

C.S.S.B. 604 requires TxDMV to establish by rule a risk-based system of monitoring and preventing fraudulent activity related to vehicle registration and titling in order to efficiently allocate resources and personnel. The bill requires each county assessor-collector, not later than September 1, 2020, to make available to motor vehicle dealers the electronic system designed by TxDMV that allows a motor vehicle dealer to submit a title and registration application online in the name of the purchaser of a motor vehicle.

C.S.S.B. 604 requires a county tax assessor-collector who awards a contract to a full service deputy for the performance of registration and titling services to comply with standard state contracting practices as if the county tax assessor-collector were a state agency and to monitor and evaluate the performance of the deputy and use that information in determining whether to renew or extend the contract or award a new contract. The bill requires each county tax assessor-collector who has entered into such a contract before the bill's effective date to rebid the contract using the contracting standards not later than March 31, 2020. The bill requires TxDMV to provide guidance and recommendations on contracting practices to the county tax assessor-collector in order to assist the county tax assessor-collector in the rebidding of contracts.

C.S.S.B. 604 authorizes TxDMV and county tax assessor-collectors to audit or perform a compliance review of a person performing registration or titling services and sets out related authorizations for an audit, review, or investigation. The bill establishes that such authority of TxDMV is not limited by a similar audit, review, or investigation conducted by such a county tax assessor-collector. The bill authorizes the comptroller of public accounts, in coordination with TxDMV, to include as part of the comptroller's regular audits of state revenue collection by county tax assessor-collector offices the review of processes relating to a county's collection and remittance of revenue included in an audit.

C.S.S.B. 604 establishes that TxDMV has the sole authority to determine access to its automated registration and titling system and authorizes TxDMV to adopt rules and policies for the maintenance and use of the system. The bill requires TxDMV to:

- implement a training program providing information on the system and on the identification of fraudulent activity related to vehicle registration and titling;
- require a person performing registration or titling services to complete the training; and
- adopt rules to implement the training program not later than December 1, 2019.

C.S.S.B. 604 requires TxDMV, in coordination with county tax assessor-collectors and not later than March 1, 2020, to develop, adopt, and implement rules that create clear criteria for the suspension or denial of access to the automated registration and titling system if a county tax assessor-collector suspects abuse, fraud, or waste relating to the system by an employee or deputy.

C.S.S.B. 604 transfers from the Revised Statutes to the Transportation Code provisions relating to the Automobile Burglary and Theft Prevention Authority. The bill revises and amends those transferred provisions, renames the authority as the Motor Vehicle Crime Prevention Authority, and provides for the transition from the former authority to the revised authority on the bill's effective date.

C.S.S.B. 604 requires the authority, in consultation with TxDMV, annually to update the standard performance measures developed for each category of grants provided by the authority and periodically to update those measures. The bill revises those measures and, with respect to matters relating to fraud-related motor vehicle crime:

- requires the authority to ensure that grant funds are used to help increase the clearance rate of such crimes and increase the number of persons arrested for such crimes;
- includes the number of such crimes in Texas as one of the bases for allocating grant funds;
- revises the requisite elements in the authority's plan of operation to include certain efforts with respect to such crimes; and
- includes among the authorized uses of the authority's appropriated funds the provision of financial support to law enforcement agencies for fraud-related motor vehicle crime enforcement teams and to certain entities for programs designed to reduce the incidence of such crimes.

C.S.S.B. 604 revises the information that must be provided in the training for members of the authority, requires the executive director of TxDMV to create a training manual for authority members, provides for the annual distribution of the manual, and sets out procedures for the members to acknowledge receipt and review of the manual. The revised training requirements apply to authority members appointed to the applicable authority before, on, or after the bill's effective date, except that a member who completed the training requirements that existed before the bill's effective date must complete only the additional training on subjects added by the bill. The bill prohibits an applicable member from voting, deliberating, or being counted as a member in attendance at a meeting of the authority held on or after December 1, 2019, until the applicable member completes the additional required training.

C.S.S.B. 604 requires TxDMV, using existing funds, to organize a study on:

- the impact of the alternatively fueled vehicles industry on the state,
- the options available to the state for collecting fees from owners of alternatively fueled vehicles to replace the loss of revenue from motor fuel taxes, and
- the feasibility and desirability of establishing a fee for alternatively fueled vehicles.

The bill requires the study to be conducted by TxDMV, the Public Utility Commission of Texas, the Texas Department of Transportation, the Department of Public Safety, and the Texas Commission on Environmental Quality. The bill sets out the required examinations of the study and requires TxDMV, not later than December 1, 2020, to prepare and submit to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature a written report that includes a summary of the results of the study and any legislative recommendations based on the study. These provisions expire September 1, 2021.

C.S.S.B. 604 amends the Insurance Code to make a conforming change.

C.S.S.B. 604 repeals the following provisions:

- Section 2110.002(c), Government Code
- Sections 2301.264(c), 2302.001(6), 2302.102, and 2302.107, Occupations Code
- Section 1001.031(a-1), Transportation Code
- Sections 9 and 11, Article 4413(37), Revised Statutes
- the headings to Sections 3, 5, and 6, Article 4413(37), Revised Statutes
- the heading to Article 4413(37), Revised Statutes

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 604 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute does not include a requirement for the governor to designate a public member of the board to serve as chair if the chair of the board is not a public member.

The substitute does not include an authorization for the board to file a complaint against an applicable license holder after giving the license holder notice and opportunity to cure certain violations relating to advertising.

The substitute does not include a repeal of a prohibition against a person who holds a license under provisions governing the sale or lease of motor vehicles participating in a new motor vehicle show or exhibition except under certain conditions.

The substitute revises provisions relating to the required study regarding alternatively fueled vehicles.