

By: Canales

H.B. No. 3514

A BILL TO BE ENTITLED

AN ACT

relating to the functions of the Texas Department of Motor Vehicles; authorizing a penalty.

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

SECTION 1. Section 306.001(9), Finance Code, is amended to read as follows:

(9) "Qualified commercial loan":

(A) means:

(i) a commercial loan in which one or more persons as part of the same transaction lends, advances, borrows, or receives, or is obligated to lend or advance or entitled to borrow or receive, money or credit with an aggregate value of:

(a) \$3 million or more if the commercial loan is secured by real property; or

(b) \$250,000 or more if the commercial loan is not secured by real property and, if the aggregate value of the commercial loan is less than \$500,000, the loan documents contain a written certification from the borrower that:

(1) the borrower has been advised by the lender to seek the advice of an attorney and an accountant in connection with the commercial loan; and

(2) the borrower has had the opportunity to seek the advice of an attorney and accountant of the borrower's choice in connection with the commercial loan; and

1 (ii) a renewal or extension of a commercial
2 loan described by Paragraph (A), regardless of the principal amount
3 of the loan at the time of the renewal or extension; and

4 (B) does not include a commercial loan made for
5 the purpose of financing a business licensed by the [~~Motor Vehicle~~
6 ~~Board of the~~] Texas Department of Motor Vehicles under Section
7 2301.251(a), Occupations Code.

8 SECTION 2. Section 572.003(c), Government Code, is amended
9 to read as follows:

10 (c) The term means a member of:

- 11 (1) the Public Utility Commission of Texas;
- 12 (2) the Texas Commission on Environmental Quality;
- 13 (3) the Texas Alcoholic Beverage Commission;
- 14 (4) the Finance Commission of Texas;
- 15 (5) the Texas Facilities Commission;
- 16 (6) the Texas Board of Criminal Justice;
- 17 (7) the board of trustees of the Employees Retirement
18 System of Texas;
- 19 (8) the Texas Transportation Commission;
- 20 (9) the Texas Department of Insurance;
- 21 (10) the Parks and Wildlife Commission;
- 22 (11) the Public Safety Commission;
- 23 (12) the Texas Ethics Commission;
- 24 (13) the State Securities Board;
- 25 (14) the Texas Water Development Board;
- 26 (15) the governing board of a public senior college or
27 university as defined by Section 61.003, Education Code, or of The

1 University of Texas Southwestern Medical Center, The University of
2 Texas Medical Branch at Galveston, The University of Texas Health
3 Science Center at Houston, The University of Texas Health Science
4 Center at San Antonio, The University of Texas M. D. Anderson Cancer
5 Center, The University of Texas Health Science Center at Tyler,
6 University of North Texas Health Science Center at Fort Worth,
7 Texas Tech University Health Sciences Center, Texas State Technical
8 College--Harlingen, Texas State Technical College--Marshall, Texas
9 State Technical College--Sweetwater, or Texas State Technical
10 College--Waco;

11 (16) the Texas Higher Education Coordinating Board;

12 (17) the Texas Workforce Commission;

13 (18) the board of trustees of the Teacher Retirement
14 System of Texas;

15 (19) the Credit Union Commission;

16 (20) the School Land Board;

17 (21) the board of the Texas Department of Housing and
18 Community Affairs;

19 (22) the Texas Racing Commission;

20 (23) the State Board of Dental Examiners;

21 (24) the Texas Medical Board;

22 (25) the Board of Pardons and Paroles;

23 (26) the Texas State Board of Pharmacy;

24 (27) the Department of Information Resources
25 governing board;

26 (28) the board of the Texas Department of Motor
27 Vehicles [~~Motor Vehicle Board~~];

- 1 (29) the Texas Real Estate Commission;
- 2 (30) the board of directors of the State Bar of Texas;
- 3 (31) the Bond Review Board;
- 4 (32) the Health and Human Services Commission;
- 5 (33) the Texas Funeral Service Commission;
- 6 (34) the board of directors of a river authority
- 7 created under the Texas Constitution or a statute of this state;
- 8 (35) the Texas Lottery Commission; or
- 9 (36) the Cancer Prevention and Research Institute of
- 10 Texas.

11 SECTION 3. Section 2301.453(c), Occupations Code, is

12 amended to read as follows:

13 (c) Except as provided by Subsection (d), the manufacturer,

14 distributor, or representative must provide written notice by

15 registered or certified mail to the dealer and the board stating the

16 specific grounds for the termination or discontinuance. The notice

17 must:

18 (1) be received not later than the 60th day before the

19 effective date of the termination or discontinuance; and

20 (2) contain on its first page a conspicuous statement

21 that reads: "NOTICE TO DEALER: YOU MAY BE ENTITLED TO FILE A PROTEST

22 WITH THE TEXAS DEPARTMENT OF MOTOR VEHICLES [~~VEHICLE BOARD~~] IN

23 AUSTIN, TEXAS, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE

24 PROPOSED TERMINATION OR DISCONTINUANCE OF YOUR FRANCHISE UNDER THE

25 TERMS OF CHAPTER 2301, OCCUPATIONS CODE, IF YOU OPPOSE THIS

26 ACTION."

27 SECTION 4. Section 2301.454(b), Occupations Code, is

1 amended to read as follows:

2 (b) The notice required by Subsection (a)(1) must:

3 (1) be given not later than the 60th day before the
4 date of the modification or replacement; and

5 (2) contain on its first page a conspicuous statement
6 that reads: "NOTICE TO DEALER: YOU MAY BE ENTITLED TO FILE A PROTEST
7 WITH THE TEXAS DEPARTMENT OF MOTOR VEHICLES [~~VEHICLE BOARD~~] IN
8 AUSTIN, TEXAS, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE
9 PROPOSED MODIFICATION OR REPLACEMENT OF YOUR FRANCHISE UNDER THE
10 TERMS OF CHAPTER 2301, OCCUPATIONS CODE, IF YOU OPPOSE THIS
11 ACTION."

12 SECTION 5. Subchapter M, Chapter 2301, Occupations Code, is
13 amended by adding Section 2301.612 to read as follows:

14 Sec. 2301.612. OPEN RECORDS EXCEPTION. Information filed
15 with the department under this subchapter is not a public record and
16 is not subject to disclosure under Chapter 552, Government Code,
17 until the complaint is resolved by a final order of the department.

18 SECTION 6. Section 2301.711, Occupations Code, is amended
19 to read as follows:

20 Sec. 2301.711. ORDERS AND DECISIONS. (a) Except as
21 otherwise provided by this chapter, the [~~The~~] board or a [~~other~~]
22 person delegated final order authority under Section 2301.154 shall
23 issue final orders for the implementation and enforcement of this
24 chapter and Chapter 503, Transportation Code.

25 (b) An order or decision under this chapter must:

26 (1) include a separate finding of fact with respect to
27 each specific issue required by law to be considered in reaching a

1 decision;

2 (2) set forth additional findings of fact and
3 conclusions of law on which the order or decision is based;

4 (3) give the reasons for the particular actions taken;
5 and

6 (4) be signed by the presiding officer or assistant
7 presiding officer for the board, a ~~[or other]~~ person delegated
8 final order authority under Section 2301.154, or a hearings
9 examiner in a contested case hearing under Section 2301.204 or
10 Subchapter M.

11 SECTION 7. Section 2301.712(b), Occupations Code, is
12 amended to read as follows:

13 (b) If a person who brings a complaint under Subchapter M
14 prevails in the case, the ~~[board or a person delegated power from~~
15 ~~the board under Section 2301.154 shall order the]~~ nonprevailing
16 party in the case shall ~~[to]~~ reimburse the amount of the filing fee
17 for the case.

18 SECTION 8. Section 2301.713(c), Occupations Code, is
19 amended to read as follows:

20 (c) A motion for rehearing in a contested case under Section
21 2301.204 or Subchapter M must be filed with ~~[and decided by]~~ the
22 chief hearings examiner. The chief hearings examiner may designate
23 a person to decide the motion.

24 SECTION 9. Section 23.121, Tax Code, is amended by amending
25 Subsection (h) and adding Subsection (h-1) to read as follows:

26 (h) If a dealer fails to file a declaration as required by
27 this section, ~~[or if, on the declaration required by this section, a~~

1 ~~dealer reports the sale of fewer than five motor vehicles in the~~
2 ~~prior year,]~~ the chief appraiser may ~~[shall]~~ report the dealer
3 ~~[that fact]~~ to the Texas Department of Motor Vehicles to ~~[and the~~
4 ~~department shall]~~ initiate cancellation of the dealer's general
5 distinguishing number ~~[termination proceedings]~~. The chief
6 appraiser shall include with the report written verification that
7 the chief appraiser informed the dealer of the requirement to file a
8 declaration under this section ~~[a copy of a declaration, if any,~~
9 ~~indicating the sale by a dealer of fewer than five motor vehicles in~~
10 ~~the prior year. A report by a chief appraiser to the Texas~~
11 ~~Department of Motor Vehicles as provided by this subsection is~~
12 ~~prima facie grounds for the cancellation of the dealer's general~~
13 ~~distinguishing number under Section 503.038(a)(9), Transportation~~
14 ~~Code, or for refusal by the Texas Department of Motor Vehicles to~~
15 ~~renew the dealer's general distinguishing number].~~

16 (h-1) If, on the declaration required by this section, a
17 dealer reports the sale of fewer than five motor vehicles in the
18 prior year, the chief appraiser shall report the dealer to the Texas
19 Department of Motor Vehicles to initiate cancellation of the
20 dealer's general distinguishing number. The chief appraiser shall
21 include with the report a copy of a declaration indicating the sale
22 by a dealer of fewer than five motor vehicles in the prior year. A
23 report by a chief appraiser to the Texas Department of Motor
24 Vehicles as provided by this subsection is prima facie grounds for
25 the cancellation of the dealer's general distinguishing number
26 under Section 503.038(a)(9), Transportation Code, or for refusal by
27 the Texas Department of Motor Vehicles to renew the dealer's

1 general distinguishing number.

2 SECTION 10. Section 201.805(a), Transportation Code, is
3 amended to read as follows:

4 (a) The department shall annually publish in appropriate
5 media and on the department's Internet website in a format that
6 allows the information to be read into a commercially available
7 electronic database a statistical comparison of department
8 districts and the following information, calculated on a per capita
9 basis considering the most recent census data and listed for each
10 county and for the state for each fiscal year:

- 11 (1) the number of square miles;
- 12 (2) the number of vehicles registered;
- 13 (3) the population;
- 14 (4) daily vehicle miles;
- 15 (5) the number of centerline miles and lane miles;
- 16 (6) construction, maintenance, and contracted routine
17 and preventive maintenance expenditures;
- 18 (7) combined construction, maintenance, and
19 contracted routine and preventive maintenance expenditures;
- 20 (8) the number of district and division office
21 construction and maintenance employees;
- 22 (9) information regarding grant programs, including:
 - 23 (A) [~~Motor Vehicle Crime Prevention Authority~~
24 ~~grants,~~]
 - 25 [~~(B)~~] Routine Airport Maintenance Program
26 grants;
 - 27 (B) [~~(C)~~] Public Transportation Grant Program

1 grants;

2 (C) [~~(D)~~] Medical Transportation Program grants;

3 and

4 (D) [~~(E)~~] aviation grants or aviation capital
5 improvement grants;

6 (10) approved State Infrastructure Bank loans;

7 (11) Texas Traffic Safety Program grants and
8 expenditures;

9 (12) the dollar amount of any pass-through toll
10 agreements;

11 (13) the percentage of highway construction projects
12 completed on time;

13 (14) the percentage of highway construction projects
14 that cost:

15 (A) more than the contract amount; and

16 (B) less than the contract amount; and

17 (15) a description of real property acquired by the
18 department through the exercise of eminent domain, including the
19 acreage of the property and the location of the property.

20 SECTION 11. Section 503.009(b), Transportation Code, as
21 repealed by Chapter 1135 (H.B. 2741), Acts of the 83rd Legislature,
22 Regular Session, 2013, and amended by Chapter 1379 (H.B. 1692),
23 Acts of the 83rd Legislature, Regular Session, 2013, is reenacted
24 and amended to read as follows:

25 (b) The procedures applicable to a hearing conducted under
26 this section are those applicable to a hearing conducted under
27 Chapter 2301 [~~as provided by Section 2301.606~~], Occupations Code,

1 or Chapter 2001, Government Code.

2 SECTION 12. Section 520.063, Transportation Code, is
3 amended to read as follows:

4 Sec. 520.063. EXEMPTIONS. The following persons and their
5 agents are exempt from the licensing and other requirements
6 established by this subchapter:

7 (1) a franchised motor vehicle dealer or independent
8 motor vehicle dealer who holds a general distinguishing number
9 issued by the department under Chapter 503;

10 (2) a vehicle lessor holding a license issued by the
11 department [~~Motor Vehicle Board~~] under Chapter 2301, Occupations
12 Code, or a trust or other entity that is specifically not required
13 to obtain a lessor license under Section 2301.254(a) of that code;
14 and

15 (3) a vehicle lease facilitator holding a license
16 issued by the department [~~Motor Vehicle Board~~] under Chapter 2301,
17 Occupations Code.

18 SECTION 13. Section 1006.152, Transportation Code, is
19 amended by adding Subsection (f) to read as follows:

20 (f) The authority may recover from an insurer requesting a
21 refund under this section any costs associated with a denied or
22 improperly requested refund.

23 SECTION 14. Section 1006.153, Transportation Code, is
24 amended by amending Subsection (e) and adding Subsections (b-1),
25 (b-2), and (b-3) to read as follows:

26 (b-1) A penalty shall be imposed on an insurer for the
27 delinquent payment of the fee required by this section. The penalty

1 shall be assessed in the manner prescribed for the assessment of a
2 penalty for a delinquent tax payment under Section 111.061(a), Tax
3 Code. Interest accrues in the manner described by Section 111.060,
4 Tax Code, on any fee paid after the due date in Subsection (b).

5 (b-2) The authority may audit or contract for the audit of
6 fees paid by an insurer under this section.

7 (b-3) A determination under this section shall be made in
8 accordance with procedures the authority adopts by rule. An insurer
9 assessed a penalty or interest under Subsection (b-1) may appeal
10 the assessment to the authority. The authority shall make the final
11 decision on the appeal by a simple majority vote. The appeal of an
12 assessment of a penalty or interest is not a contested case under
13 Chapter 2001, Government Code.

14 (e) Out of each fee collected under Subsection (b) or an
15 amount collected under Subsection (b-1):

16 (1) 20 percent shall be appropriated to the authority
17 for the purposes of this chapter;

18 (2) 20 percent shall be deposited to the credit of the
19 general revenue fund, to be used only for criminal justice
20 purposes; and

21 (3) 60 percent shall be deposited to the credit of the
22 designated trauma facility and emergency medical services account
23 under Section 780.003, Health and Safety Code, to be used only for
24 the criminal justice purpose of funding designated trauma
25 facilities, county and regional emergency medical services, and
26 trauma care systems that provide trauma care and emergency medical
27 services to victims of accidents resulting from traffic offenses.

1 SECTION 15. Section 1006.154, Transportation Code, is
2 amended by adding Subsection (d) to read as follows:

3 (d) For purposes of Subsection (b), administrative expenses
4 do not include administrative expenses related to the collection of
5 a fee under Section 1006.153, including salaries.

6 SECTION 16. (a) Section 1006.153(b-1), Transportation
7 Code, as added by this Act, applies only to a fee imposed on or after
8 the effective date of this Act. A fee charged before the effective
9 date of this Act is governed by the law in effect on the date the fee
10 was charged, and the former law is continued in effect for that
11 purpose.

12 (b) Section 503.009(b), Transportation Code, as reenacted
13 and amended by this Act, applies only to a hearing under Chapter
14 503, Transportation Code, that is commenced on or after the
15 effective date of this Act. A hearing commenced before the
16 effective date of this Act is governed by the law in effect
17 immediately before the effective date of this Act, and that law is
18 continued in effect for that purpose.

19 SECTION 17. This Act takes effect September 1, 2021.