

1-1 By: Canales (Senate Sponsor - Seliger) H.B. No. 3514
 1-2 (In the Senate - Received from the House May 10, 2021;
 1-3 May 10, 2021, read first time and referred to Committee on
 1-4 Transportation; May 17, 2021, reported favorably by the following
 1-5 vote: Yeas 8, Nays 0; May 17, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9			X	
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the functions of the Texas Department of Motor
 1-20 Vehicles; authorizing a penalty.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 306.001(9), Finance Code, is amended to
 1-23 read as follows:

1-24 (9) "Qualified commercial loan":

1-25 (A) means:

1-26 (i) a commercial loan in which one or more
 1-27 persons as part of the same transaction lends, advances, borrows,
 1-28 or receives, or is obligated to lend or advance or entitled to
 1-29 borrow or receive, money or credit with an aggregate value of:

1-30 (a) \$3 million or more if the
 1-31 commercial loan is secured by real property; or

1-32 (b) \$250,000 or more if the commercial
 1-33 loan is not secured by real property and, if the aggregate value of
 1-34 the commercial loan is less than \$500,000, the loan documents
 1-35 contain a written certification from the borrower that:

1-36 (1) the borrower has been
 1-37 advised by the lender to seek the advice of an attorney and an
 1-38 accountant in connection with the commercial loan; and

1-39 (2) the borrower has had the
 1-40 opportunity to seek the advice of an attorney and accountant of the
 1-41 borrower's choice in connection with the commercial loan; and

1-42 (ii) a renewal or extension of a commercial
 1-43 loan described by Subparagraph (i) [~~Paragraph (A)~~], regardless of
 1-44 the principal amount of the loan at the time of the renewal or
 1-45 extension; and

1-46 (B) does not include a commercial loan made for
 1-47 the purpose of financing a business licensed by the [~~Motor Vehicle~~
 1-48 ~~Board of the~~] Texas Department of Motor Vehicles under Section
 1-49 2301.251(a), Occupations Code.

1-50 SECTION 2. Section 572.003(c), Government Code, is amended
 1-51 to read as follows:

1-52 (c) The term means a member of:

1-53 (1) the Public Utility Commission of Texas;

1-54 (2) the Texas Commission on Environmental Quality;

1-55 (3) the Texas Alcoholic Beverage Commission;

1-56 (4) the Finance Commission of Texas;

1-57 (5) the Texas Facilities Commission;

1-58 (6) the Texas Board of Criminal Justice;

1-59 (7) the board of trustees of the Employees Retirement
 1-60 System of Texas;

1-61 (8) the Texas Transportation Commission;

- 2-1 (9) the Texas Department of Insurance;
- 2-2 (10) the Parks and Wildlife Commission;
- 2-3 (11) the Public Safety Commission;
- 2-4 (12) the Texas Ethics Commission;
- 2-5 (13) the State Securities Board;
- 2-6 (14) the Texas Water Development Board;
- 2-7 (15) the governing board of a public senior college or
- 2-8 university as defined by Section 61.003, Education Code, or of The
- 2-9 University of Texas Southwestern Medical Center, The University of
- 2-10 Texas Medical Branch at Galveston, The University of Texas Health
- 2-11 Science Center at Houston, The University of Texas Health Science
- 2-12 Center at San Antonio, The University of Texas M. D. Anderson Cancer
- 2-13 Center, The University of Texas Health Science Center at Tyler,
- 2-14 University of North Texas Health Science Center at Fort Worth,
- 2-15 Texas Tech University Health Sciences Center, Texas State Technical
- 2-16 College--Harlingen, Texas State Technical College--Marshall, Texas
- 2-17 State Technical College--Sweetwater, or Texas State Technical
- 2-18 College--Waco;
- 2-19 (16) the Texas Higher Education Coordinating Board;
- 2-20 (17) the Texas Workforce Commission;
- 2-21 (18) the board of trustees of the Teacher Retirement
- 2-22 System of Texas;
- 2-23 (19) the Credit Union Commission;
- 2-24 (20) the School Land Board;
- 2-25 (21) the board of the Texas Department of Housing and
- 2-26 Community Affairs;
- 2-27 (22) the Texas Racing Commission;
- 2-28 (23) the State Board of Dental Examiners;
- 2-29 (24) the Texas Medical Board;
- 2-30 (25) the Board of Pardons and Paroles;
- 2-31 (26) the Texas State Board of Pharmacy;
- 2-32 (27) the Department of Information Resources
- 2-33 governing board;
- 2-34 (28) the board of the Texas Department of Motor
- 2-35 Vehicles [~~Motor Vehicle Board~~];
- 2-36 (29) the Texas Real Estate Commission;
- 2-37 (30) the board of directors of the State Bar of Texas;
- 2-38 (31) the Bond Review Board;
- 2-39 (32) the Health and Human Services Commission;
- 2-40 (33) the Texas Funeral Service Commission;
- 2-41 (34) the board of directors of a river authority
- 2-42 created under the Texas Constitution or a statute of this state;
- 2-43 (35) the Texas Lottery Commission; or
- 2-44 (36) the Cancer Prevention and Research Institute of
- 2-45 Texas.

2-46 SECTION 3. Section 2301.453(c), Occupations Code, is

2-47 amended to read as follows:

2-48 (c) Except as provided by Subsection (d), the manufacturer,

2-49 distributor, or representative must provide written notice by

2-50 registered or certified mail to the dealer and the board stating the

2-51 specific grounds for the termination or discontinuance. The notice

2-52 must:

2-53 (1) be received not later than the 60th day before the

2-54 effective date of the termination or discontinuance; and

2-55 (2) contain on its first page a conspicuous statement

2-56 that reads: "NOTICE TO DEALER: YOU MAY BE ENTITLED TO FILE A PROTEST

2-57 WITH THE TEXAS DEPARTMENT OF MOTOR VEHICLES [~~VEHICLE BOARD~~] IN

2-58 AUSTIN, TEXAS, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE

2-59 PROPOSED TERMINATION OR DISCONTINUANCE OF YOUR FRANCHISE UNDER THE

2-60 TERMS OF CHAPTER 2301, OCCUPATIONS CODE, IF YOU OPPOSE THIS

2-61 ACTION."

2-62 SECTION 4. Section 2301.454(b), Occupations Code, is

2-63 amended to read as follows:

2-64 (b) The notice required by Subsection (a)(1) must:

2-65 (1) be given not later than the 60th day before the

2-66 date of the modification or replacement; and

2-67 (2) contain on its first page a conspicuous statement

2-68 that reads: "NOTICE TO DEALER: YOU MAY BE ENTITLED TO FILE A PROTEST

2-69 WITH THE TEXAS DEPARTMENT OF MOTOR VEHICLES [~~VEHICLE BOARD~~] IN

3-1 AUSTIN, TEXAS, AND HAVE A HEARING IN WHICH YOU MAY PROTEST THE
 3-2 PROPOSED MODIFICATION OR REPLACEMENT OF YOUR FRANCHISE UNDER THE
 3-3 TERMS OF CHAPTER 2301, OCCUPATIONS CODE, IF YOU OPPOSE THIS
 3-4 ACTION."

3-5 SECTION 5. Subchapter M, Chapter 2301, Occupations Code, is
 3-6 amended by adding Section 2301.612 to read as follows:

3-7 Sec. 2301.612. OPEN RECORDS EXCEPTION. Information filed
 3-8 with the department under this subchapter is not a public record and
 3-9 is not subject to disclosure under Chapter 552, Government Code,
 3-10 until the complaint is resolved by a final order of the department.

3-11 SECTION 6. Section 2301.711, Occupations Code, is amended
 3-12 to read as follows:

3-13 Sec. 2301.711. ORDERS AND DECISIONS. (a) Except as
 3-14 otherwise provided by this chapter, the [The] board or a [other]
 3-15 person delegated final order authority under Section 2301.154 shall
 3-16 issue final orders for the implementation and enforcement of this
 3-17 chapter and Chapter 503, Transportation Code.

3-18 (b) An order or decision under this chapter must:

3-19 (1) include a separate finding of fact with respect to
 3-20 each specific issue required by law to be considered in reaching a
 3-21 decision;

3-22 (2) set forth additional findings of fact and
 3-23 conclusions of law on which the order or decision is based;

3-24 (3) give the reasons for the particular actions taken;
 3-25 and

3-26 (4) be signed by the presiding officer or assistant
 3-27 presiding officer for the board, a [or other] person delegated
 3-28 final order authority under Section 2301.154, or a hearings
 3-29 examiner in a contested case hearing under Section 2301.204 or
 3-30 Subchapter M.

3-31 SECTION 7. Section 2301.712(b), Occupations Code, is
 3-32 amended to read as follows:

3-33 (b) If a person who brings a complaint under Subchapter M
 3-34 prevails in the case, the [board or a person delegated power from
 3-35 the board under Section 2301.154 shall order the] nonprevailing
 3-36 party in the case shall [to] reimburse the amount of the filing fee
 3-37 for the case.

3-38 SECTION 8. Section 2301.713(c), Occupations Code, is
 3-39 amended to read as follows:

3-40 (c) A motion for rehearing in a contested case under Section
 3-41 2301.204 or Subchapter M must be filed with [and decided by] the
 3-42 chief hearings examiner. The chief hearings examiner may designate
 3-43 a person to decide the motion.

3-44 SECTION 9. Section 23.121, Tax Code, is amended by amending
 3-45 Subsection (h) and adding Subsection (h-1) to read as follows:

3-46 (h) If a dealer fails to file a declaration as required by
 3-47 this section, [or if, on the declaration required by this section, a
 3-48 dealer reports the sale of fewer than five motor vehicles in the
 3-49 prior year,] the chief appraiser may [shall] report the dealer
 3-50 [that fact] to the Texas Department of Motor Vehicles to [and the
 3-51 department shall] initiate cancellation of the dealer's general
 3-52 distinguishing number [termination proceedings]. The chief
 3-53 appraiser shall include with the report written verification that
 3-54 the chief appraiser informed the dealer of the requirement to file a
 3-55 declaration under this section [a copy of a declaration, if any,
 3-56 indicating the sale by a dealer of fewer than five motor vehicles in
 3-57 the prior year. A report by a chief appraiser to the Texas
 3-58 Department of Motor Vehicles as provided by this subsection is
 3-59 prima facie grounds for the cancellation of the dealer's general
 3-60 distinguishing number under Section 503.038(a)(9), Transportation
 3-61 Code, or for refusal by the Texas Department of Motor Vehicles to
 3-62 renew the dealer's general distinguishing number].

3-63 (h-1) If, on the declaration required by this section, a
 3-64 dealer reports the sale of fewer than five motor vehicles in the
 3-65 prior year, the chief appraiser shall report the dealer to the Texas
 3-66 Department of Motor Vehicles to initiate cancellation of the
 3-67 dealer's general distinguishing number. The chief appraiser shall
 3-68 include with the report a copy of a declaration indicating the sale
 3-69 by a dealer of fewer than five motor vehicles in the prior year. A

4-1 report by a chief appraiser to the Texas Department of Motor
 4-2 Vehicles as provided by this subsection is prima facie grounds for
 4-3 the cancellation of the dealer's general distinguishing number
 4-4 under Section 503.038(a)(9), Transportation Code, or for refusal by
 4-5 the Texas Department of Motor Vehicles to renew the dealer's
 4-6 general distinguishing number.

4-7 SECTION 10. Section 201.805(a), Transportation Code, is
 4-8 amended to read as follows:

4-9 (a) The department shall annually publish in appropriate
 4-10 media and on the department's Internet website in a format that
 4-11 allows the information to be read into a commercially available
 4-12 electronic database a statistical comparison of department
 4-13 districts and the following information, calculated on a per capita
 4-14 basis considering the most recent census data and listed for each
 4-15 county and for the state for each fiscal year:

- 4-16 (1) the number of square miles;
 4-17 (2) the number of vehicles registered;
 4-18 (3) the population;
 4-19 (4) daily vehicle miles;
 4-20 (5) the number of centerline miles and lane miles;
 4-21 (6) construction, maintenance, and contracted routine
 4-22 and preventive maintenance expenditures;
 4-23 (7) combined construction, maintenance, and
 4-24 contracted routine and preventive maintenance expenditures;
 4-25 (8) the number of district and division office
 4-26 construction and maintenance employees;
 4-27 (9) information regarding grant programs, including:
 4-28 (A) ~~[Motor Vehicle Crime Prevention Authority~~
 4-29 ~~grants,~~
 4-30 ~~[(B)]~~ Routine Airport Maintenance Program
 4-31 grants;
 4-32 (B) ~~[(C)]~~ Public Transportation Grant Program
 4-33 grants;
 4-34 (C) ~~[(D)]~~ Medical Transportation Program grants;
 4-35 and
 4-36 (D) ~~[(E)]~~ aviation grants or aviation capital
 4-37 improvement grants;
 4-38 (10) approved State Infrastructure Bank loans;
 4-39 (11) Texas Traffic Safety Program grants and
 4-40 expenditures;
 4-41 (12) the dollar amount of any pass-through toll
 4-42 agreements;
 4-43 (13) the percentage of highway construction projects
 4-44 completed on time;
 4-45 (14) the percentage of highway construction projects
 4-46 that cost:

- 4-47 (A) more than the contract amount; and
 4-48 (B) less than the contract amount; and
 4-49 (15) a description of real property acquired by the
 4-50 department through the exercise of eminent domain, including the
 4-51 acreage of the property and the location of the property.

4-52 SECTION 11. Section 503.009(b), Transportation Code, as
 4-53 repealed by Chapter 1135 (H.B. 2741), Acts of the 83rd Legislature,
 4-54 Regular Session, 2013, and amended by Chapter 1379 (H.B. 1692),
 4-55 Acts of the 83rd Legislature, Regular Session, 2013, is reenacted
 4-56 and amended to read as follows:

4-57 (b) The procedures applicable to a hearing conducted under
 4-58 this section are those applicable to a hearing conducted under
 4-59 Chapter 2301 [as provided by Section 2301.606], Occupations Code,
 4-60 or Chapter 2001, Government Code.

4-61 SECTION 12. Section 520.063, Transportation Code, is
 4-62 amended to read as follows:

4-63 Sec. 520.063. EXEMPTIONS. The following persons and their
 4-64 agents are exempt from the licensing and other requirements
 4-65 established by this subchapter:

- 4-66 (1) a franchised motor vehicle dealer or independent
 4-67 motor vehicle dealer who holds a general distinguishing number
 4-68 issued by the department under Chapter 503;
 4-69 (2) a vehicle lessor holding a license issued by the

5-1 department [~~Motor Vehicle Board~~] under Chapter 2301, Occupations
5-2 Code, or a trust or other entity that is specifically not required
5-3 to obtain a lessor license under Section 2301.254(a) of that code;
5-4 and

5-5 (3) a vehicle lease facilitator holding a license
5-6 issued by the department [~~Motor Vehicle Board~~] under Chapter 2301,
5-7 Occupations Code.

5-8 SECTION 13. Section 1006.152, Transportation Code, is
5-9 amended by adding Subsection (f) to read as follows:

5-10 (f) The authority may recover from an insurer requesting a
5-11 refund under this section any costs associated with a denied or
5-12 improperly requested refund.

5-13 SECTION 14. Section 1006.153, Transportation Code, is
5-14 amended by adding Subsections (b-1), (b-2), and (b-3) and amending
5-15 Subsection (e) to read as follows:

5-16 (b-1) A penalty shall be imposed on an insurer for the
5-17 delinquent payment of the fee required by this section or the
5-18 delinquent filing of any report of the fee required by rule. The
5-19 penalty shall be assessed in the manner prescribed for the
5-20 assessment of a penalty for a delinquent tax payment or filing of a
5-21 report under Section 111.061(a), Tax Code. Interest accrues in the
5-22 manner described by Section 111.060, Tax Code, on any fee paid after
5-23 the due date in Subsection (b).

5-24 (b-2) The authority may audit or contract for the audit of
5-25 fees paid by an insurer under this section.

5-26 (b-3) A determination under this section shall be made in
5-27 accordance with procedures the authority adopts by rule. An insurer
5-28 assessed a penalty or interest under Subsection (b-1) may appeal
5-29 the assessment to the authority. The authority shall make the final
5-30 decision on the appeal by a simple majority vote. The appeal of an
5-31 assessment of a penalty or interest is not a contested case under
5-32 Chapter 2001, Government Code.

5-33 (e) Out of each fee collected under Subsection (b) or an
5-34 amount collected under Subsection (b-1):

5-35 (1) 20 percent shall be appropriated to the authority
5-36 for the purposes of this chapter;

5-37 (2) 20 percent shall be deposited to the credit of the
5-38 general revenue fund, to be used only for criminal justice
5-39 purposes; and

5-40 (3) 60 percent shall be deposited to the credit of the
5-41 designated trauma facility and emergency medical services account
5-42 under Section 780.003, Health and Safety Code, to be used only for
5-43 the criminal justice purpose of funding designated trauma
5-44 facilities, county and regional emergency medical services, and
5-45 trauma care systems that provide trauma care and emergency medical
5-46 services to victims of accidents resulting from traffic offenses.

5-47 SECTION 15. Section 1006.154, Transportation Code, is
5-48 amended by adding Subsection (d) to read as follows:

5-49 (d) For purposes of Subsection (b), administrative expenses
5-50 do not include administrative expenses related to the collection of
5-51 a fee under Section 1006.153, including salaries.

5-52 SECTION 16. (a) Section 1006.153(b-1), Transportation
5-53 Code, as added by this Act, applies only to a fee due on or after the
5-54 effective date of this Act. A fee due before the effective date of
5-55 this Act is governed by the law in effect on the date the fee was
5-56 due, and the former law is continued in effect for that purpose.

5-57 (b) Section 503.009(b), Transportation Code, as reenacted
5-58 and amended by this Act, applies only to a hearing under Chapter
5-59 503, Transportation Code, that is commenced on or after the
5-60 effective date of this Act. A hearing commenced before the
5-61 effective date of this Act is governed by the law in effect
5-62 immediately before the effective date of this Act, and that law is
5-63 continued in effect for that purpose.

5-64 SECTION 17. This Act takes effect September 1, 2021.

5-65 * * * * *