

**SUBJECT:** Surplus lines insurance coverage for trucking company employees

**COMMITTEE:** Transportation — favorable, without amendment

**VOTE:** 7 ayes — Siebert, Y. Davis, Edwards, Hamric, Hill, Noriega, Uher  
0 nays  
2 absent — Alexander, Hawley

**WITNESSES:** None

**BACKGROUND:** Sec. 643.106(a) of the Transportation Code requires commercial motor carriers to provide either workers' compensation insurance or accidental insurance coverage for its employees from a company licensed by the state.

**DIGEST:** HB 2035 would allow commercial motor carriers to insure their employees using a surplus lines insurance provider as authorized under Article 1.14-2 of the Insurance Code.

Any substantive changes made by the bill would not be affected by any non-substantive additions and corrections made to the Transportation Code in the 76th legislative session.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS SAY:** HB 2035 would reduce costs for trucking companies by providing them with a broader market to buy accidental insurance policies. The trucking industry is the only industry in Texas required to purchase workers' compensation or accidental insurance coverage for its employees. Trucking companies should have the best available options for purchasing affordable accidental insurance since they are required to do so by law.

The bill is not intended to circumvent the intent of the Insurance Code, which requires insurance agents to use policies written by licensed insurance providers if they meet the needs of the client. Insurance agents could only recommend insurance from surplus lines providers if licensed providers are

unable to meet the needs of the client.

There are certain types of high-risk policies for accidental insurance coverage that are provided only by surplus lines companies. Trucking companies are currently ineligible for these. This bill would give companies the option to purchase surplus lines insurance to provide adequate health coverage for high-risk activities.

Surplus lines insurance policies already are used by trucking companies for liability insurance. Surplus lines providers authorized to do business in the state of Texas would be reliable sources for affordable accidental insurance as well.

Some insurance agents have issued surplus lines accidental insurance policies for trucking companies without the knowledge of company officials. This could lead to severe liability for the companies. This bill would remove the risk to companies of unknowingly carrying prohibited forms of accidental insurance.

**OPPONENTS  
SAY:**

HB 2035 would allow companies to bypass licensed insurance providers in favor of surplus lines providers for any type of accidental insurance coverage. This would violate the intent of the Insurance Code, which prevents surplus lines insurance providers from competing with licensed providers for equivalent policies. Surplus lines providers would be in violation of the Insurance Code if they sold policies equivalent to the policies provided by licensed companies.

The bill would not increase the options for trucking companies to purchase accidental insurance for high-risk situations. There are sufficient health coverage policies provided by workers' compensation or licensed accidental insurance providers to cover any high-risk situation. Surplus lines policies are written for property and liability coverage, not for the health-related coverage required by Section 643.106(a) of the Transportation Code.

Surplus lines providers are not licensed by the state of Texas. The Texas Department of Insurance has no control over the types of policies or rates established by these providers. Although surplus lines providers are authorized by the state, this authorization is not adequate to ensure that the providers are issuing appropriate policies and rates.

The bill would protect unscrupulous insurance agents who illegally issue surplus lines insurance policies to trucking companies. If companies are afraid of illegal insurance coverage, they should be more diligent in reviewing the source of their policies with their agents.