

SUBJECT: Motor vehicle insurance verification program

COMMITTEE: Insurance — favorable, with amendment

VOTE: 6 ayes — Smithee, J. Moreno, Olivo, Seaman, Thompson, Wise
1 nay — Burnam
1 present, not voting — G. Lewis
1 absent — Eiland

WITNESSES: For — Kelly Atkinson; Jim Carroll, Explore Information Services; Hank Martin
Against — Birny Birnbaum; Rob Schneider, Consumers Union

BACKGROUND: Transportation Code, sec. 601.051 requires proof of financial responsibility for all motorists.

DIGEST: HB 2793, as amended, would require the Department of Public Safety (DPS) to contract with a third party to serve as its designated agent to develop and maintain a motor vehicle insurance verification program. The third party would be selected through competitive bidding. Funding for the program would come from a \$3 increase in the motor vehicle registration fee, to be deposited to the credit of the state highway fund.

Computer database. The insurance verification program would have to use a computer database that could compare current insurance policies to motor vehicle titles. The designated agent would have to perform this comparison at least monthly. Every insurer offering automobile coverage in Texas would have to give the designated agent a record of each policy on at least a monthly basis. Insurers would be responsible for making timely corrections of any errors in the records. The records would remain the property of the insurers and could be used only for state law enforcement purposes. The policy records would have to include:

- ! the policy number, effective date, and expiration date;
- ! the name, address, date of birth, and driver's license number for each driver insured by the policy; and
- ! the make, model, year, and vehicle identification (VIN) of every vehicle covered by the policy.

The Texas Department of Transportation (TxDOT) would have to provide the designated agent with all available information regarding:

- ! the name and address of a motor vehicle owner;
- ! the make, model, and year of the vehicle;
- ! the VIN and vehicle license plate number; and
- ! the date the certificate of title was issued.

DPS would have to provide the designated agent with:

- ! the name, address, date of birth, and license number and expiration date for every Texas license holder;
- ! the name, address, date of birth, and license number and expiration date for every person who had a bond, deposit, or certificate of self-insurance as proof of financial responsibility; and
- ! notice of the cancellation or termination of a bond, deposit, or certificate of self-insurance used as proof of financial responsibility.

Information provided by TxDOT and DPS would remain the agencies' property and could be sold or made available only for law enforcement purposes. Information provided to the designated agent by TxDOT and DPS would be confidential and not subject to disclosure under the open records law.

Notice for uninsured owners. If the database showed an uninsured vehicle, DPS could require the designated agent to mail a notice to the owner of the vehicle that would give the owner 45 days to provide one of the following documents:

- ! proof of financial responsibility;
- ! a letter from an insurer showing that the vehicle was insured on the date of the database search;
- ! proof of exemption from financial responsibility under law; or

! proof that the vehicle was insured by an out-of-state insurer and that the owner was in the military or was residing in this state either as a student or faculty member of a Texas educational institution.

If the owner did not comply with the notice within 45 days, DPS could direct the designated agent to send another notice.

Notice and penalties for noncompliant insurers. Insurers who failed to disclose their policy information or otherwise violated the law would be subject to all administrative penalties available to the commissioner of insurance, including revocation of the insurer's certificate of authority or a \$250 penalty for each policy involved for each day of noncompliance.

The commissioner would have to notify the insurer within 10 days of the violation of the insurer's right to a hearing and of the amount of the penalty. Failure by the insurer to request a hearing or pay the penalty within 20 days would waive the insurer's right to a hearing.

Immunity from liability. Insurers, TxDOT, DPS, the designated agent, and their employees and agents could not be held liable in a civil action for an act performed in good faith in providing information.

It would be a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000, for a person knowingly to release information maintained by DPS or the designated agent for purposes unrelated to law enforcement.

Rulemaking authority. DPS would have to prescribe rules for implementing HB 2793. DPS could waive a particular information requirement if the information was not useful or was too burdensome to collect. DPS also could exclude smaller insurers from the required filings. TxDOT could consult with DPS regarding the rules for reporting vehicle registration information.

DPS would have to appoint a technical advisory committee including representatives from TxDOT and the affected insurers upon enactment of HB 2793. The advisory committee would have to prepare recommended rules by April 1, 2000. The committee would be abolished on September 1, 2000.

Standard proof-of-insurance forms through TxDOT. HB 2793 would require TxDOT to provide for the production of standard proof-of-insurance forms for insurers. TxDOT could contract with a third party to produce the forms. Insurers would have to use the standard forms issued by TxDOT and could not produce their own copies of the forms.

HB 2793 would take effect September 1, 1999. The award of the designated agent contract and the information filings by agencies and insurers would not be required until September 1, 2000.

**SUPPORTERS
SAY:**

The law requires proof of financial responsibility for all 14 million vehicles in Texas, but this proof is verified only when a motorist is stopped by a police officer or changes the title or registration. People can avoid the insurance requirement by purchasing one-month policies and canceling them after the proof has been presented. HB 2793 would give law enforcement agencies instant access to the number of uninsured motorists.

The extent of the uninsured motorist problem in Texas is unknown because there is no comprehensive list of uninsured motorists. Sampling techniques have been ineffective in identifying the number of uninsured motorists. HB 2793 would use modern technology to discover where Texas really stands. If the number of uninsured motorists was known and those owners could be identified, the state would be better able to implement insurance accessibility programs.

The database and uniform proof-of-insurance cards would help fight the growing problem of counterfeit proof-of-insurance cards. Insurers now use 50 to 100 different kinds of insurance cards.

Database systems similar to one proposed in HB 2793 already are used in Colorado, Massachusetts, Nevada, and Utah. These systems have been extremely effective for determining the number of uninsured motorists. The database used in Utah has a 95 percent match rate, and law enforcement officers are given specialized instruction in the use of the database.

While some people might be identified mistakenly as uninsured in the early stages of the program, motorists could correct these mistakes easily by sending in proof of insurance or correcting any errors in registration information. Most errors would be due to motor vehicles that were not

registered or titled to their current owners. This happens even though current law requires motor vehicles to be registered and titled to their current owners. The database would remedy these violations of the law.

Affordable and available insurance is important, but financial responsibility laws are not to blame for the lack of accessibility. Insurers who use redlining and other discriminatory practices are responsible for keeping affordable insurance away from many Texans.

While it is a well intentioned program, “pay at the pump” is impractical because it would raise gasoline prices by almost \$1 per gallon. A database would be the most direct and realistic way to determine the current number of uninsured motorists.

OPPONENTS
SAY:

HB 2793 would require DPS to award a huge state contract to a private company for an unproven system with negligible value. Assuming the 5 percent error factor of the Utah system, 700,000 people in Texas would be reported wrongfully as uninsured in a database search. These people would have to go through procedural hurdles to clear their records or risk the suspension of their registrations.

Enforcement of the proof-of-liability law should not be increased until there is greater access to affordable insurance. The money that would be spent on this program could pay for many thousands of insurance policies. It is not practical to believe that the state could suspend the registrations of all two million people who might be uninsured.

Less intrusive methods are available to increase the number of insured motorists. One alternative would be a “pay at the pump” system, under which a tax on gasoline would fund an insurance pool for all motorists.

NOTES:

The committee amendment added the provisions that would require TxDOT to provide and insurers to use standard proof-of-insurance forms.

The author plans to introduce a floor amendment that would require TxDOT to suspend the registration of a motor vehicle owner who did not respond to the second notice from the designated agent within 45 days. The amendment would provide that for a first violation, the owner could terminate the suspension immediately by paying a \$100 reinstatement fee and submitting

proof of financial responsibility. For a second or subsequent violation, the owner would have to wait 120 days before meeting the conditions to have the suspension terminated.

The author also intends to introduce a floor amendment that would lower the proposed fee increase for vehicle registration from \$3 to \$1.