

**SUBJECT:** Creating a motor vehicle liability insurance verification program

**COMMITTEE:** Transportation — committee substitute recommended

**VOTE:** 7 ayes — Krusee, Phillips, Deshotel, Callegari, Casteel, Hill, West  
0 nays  
2 absent — Flores, Hamric

**WITNESSES:** For — David Eberwine, Digital Traffic Solutions, Inc.; Rick Guest, Automobile Insurance Agents of Texas  
Against — None  
On — Fred Bosse, American Insurance Association; Jerry Dike, Texas Department of Transportation; Beaman Floyd, USAA, State Farm, Allstate, Nationwide, American Insurance Association; Sheri Gipson, Texas Department of Public Safety; Leticia Hinojosa, Cyndi Taylor Krier, Doug Trager, USAA.

**BACKGROUND:** The Motor Vehicle Safety Responsibility Act (Transportation Code, ch. 601) contains provisions with which Texas motorists must comply to ensure financial responsibility in case of accident. Sec. 601.051 prohibits motorists from operating vehicles without establishing financial responsibility through liability insurance or other means.

Ch. 502 governs vehicle registration, including fees. In 2003, the Legislature approved an additional \$1 motor vehicle registration fee, part of which was dedicated toward a feasibility study on the affordability, and practicability of using a database interface software system for verification of whether owners of motor vehicles have established financial responsibility as required by Transportation Code, ch. 601.

The Texas Department of Public Safety (DPS) and the Texas Department of Insurance (TDI) were required jointly to conduct the study. Criteria for the consideration of these agencies included whether a proposed system would reduce the number of uninsured drivers in this state, operate

reliably, be cost-effective, protect privacy, and ensure the security and integrity of each database to which it was applied.

**DIGEST:**

CSHB 2573 would require the Texas Department of Transportation (TxDOT), in consultation with TDI and the Department of Information Resources (DIR), to establish a program for verification of whether owners of motor vehicles had established financial responsibility and, through a competitive bidding process, select an agent to develop, implement, operate and maintain the program. The three agencies jointly would adopt rules to administer the program. A contract to operate the program could not have a term of more than 10 years.

The program established would have to be the one most likely to reduce the number of uninsured drivers in this state, operate reliably, be cost-effective, protect privacy, ensure the security and integrity of each database to which it was applied, and identify and employ a method of compliance that improved public convenience. In addition, the system would have to be capable of undergoing an audit by an independent auditor.

Each insurance company providing motor vehicle liability insurance policies in Texas would have to provide necessary information to allow a chosen agent sufficient access to its databases to allow the implementation of the program. The agent would be entitled only to information determined by the implementing agencies to be necessary to carry out the program. Information would be confidential, and could not be used for commercial or other purposes. Using this information for an unauthorized purpose would be a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000).

The bill would take effect September 1, 2005. TxDOT would have to select an agent to carry out the program before December 31, 2005, and the program would have to be implemented by December 31, 2006.

**SUPPORTERS  
SAY:**

CSHB 2573 would allow Texas to address its uninsured motorist problem by authorizing TxDOT, in consultation with TDI and DIR, to come up with a program for identifying uninsured motorists and to contract with a qualified private vendor to carry out such a program by the end of 2006.

By some estimates, at least 20 percent of Texas motorists are uninsured. Uninsured motorists drive up premiums for law-abiding citizens,

especially low-income Texans. CSHB 2573 would help lower insurers' costs for uninsured motorist claims and would bring Texas alongside 27 other states with similar programs that have reduced the number of uninsured motorists by double-digit percentages.

Current law requires proof of financial responsibility for about 15 million vehicles in Texas, but proof is verified only when a motorist is stopped by a police officer, changes or renews title or registration, or complies with inspection requirements. People can avoid the insurance requirement by buying policies for as short a period as a month and canceling them after they have presented necessary proof. A verification system would provide easier access to information and would help fight the growing problem of counterfeit insurance cards.

Over the past several sessions, the Legislature has considered adopting a database reporting system, combined with selective written verification, revocation of vehicle registration, and penalties for failure to comply with state laws requiring liability insurance. As part of a feasibility study authorized by the Legislature in 2003, DPS and TDI recommended that Texas consider alternatives to a database software interface system that would provide the maximum reduction in the uninsured motorist rate in Texas. The bill would give TxDOT the authority to request proposals that could include either a database interface system or other possibilities that TxDOT determined to be a better approach.

The bill would allow the state to assess where Texas really stands in terms of uninsured drivers. The extent of the uninsured motorist problem in Texas is not fully known because no comprehensive accounting of uninsured motorists has occurred. Sampling techniques have been ineffective in pinning this number down. If the number of uninsured motorists was known and those drivers could be identified, Texas motorists could have more accessible and affordable insurance.

While some people might be identified mistakenly as uninsured in startup stages of a verification program, motorists easily could correct these mistakes by sending in proof of insurance or by correcting any errors in registration information. Many of these errors would be due to motor vehicles that were not registered or titled to the current owners, despite current laws requiring owners to hold title and registration. The proposed database also could help identify those violations.

Financial responsibility laws are not to blame for the lack of affordable and available insurance. Insurers' discriminatory practices are more to blame than proof of insurance requirements.

OPPONENTS  
SAY:

CSHB 2573 would require TxDOT to award a huge state contract to a private entity for a system with questionable value. According to the Legislative Budget Board, this unproven system would cost \$6 million to implement in the first year and some \$2 million to maintain in each following year. While the bill would authorize TxDOT to seek bids for alternative methods of verification, the agency would have to adopt a program and choose a contractor by December 31, 2005. Because of this short timeline, TxDOT may feel pressured to adopt a database reporting system, which the state's own feasibility study advised against because of problems revealed by the use of similar systems in other states.

The DPS/TDI feasibility study pointed out that for a database reporting system, versions of which currently are used by 27 states, the primary concern is with the error match rates associated with combining insurance company databases and motor vehicle registration information. By applying to Texas the 5 percent error rate in Utah's system, more than 700,000 motorists in Texas could be reported wrongfully as uninsured in a database search. These drivers would have to go through procedural hurdles to clear their records or risk suspension of their licenses or registrations.

The bill would add reporting costs for insurers, which could be passed on to policyholders in the form of higher rates. Savings resulting from a decrease in uninsured motorists could be offset by these higher reporting costs. Smaller insurers, in particular, would have trouble keeping up with the regular reporting requirements that would be needed for almost any verification system.

The state should not increase enforcement of the proof-of-liability law until access to affordable insurance improves. Less intrusive methods are available to increase the number of insured motorists — for example, a “pay-at-the-pump” system of insurance, under which a tax on gasoline would fund an insurance pool for all motorists.

Monitoring liability status and enhancing enforcement would not address the fundamental problem that keeps most low-income motorists from buying insurance. The bill would not address affordability issues facing

low-income motorists who often must choose between insuring their vehicles and buying groceries or medicine. CSHB 2573 only would make it more difficult for them by pressuring them to obtain insurance they already cannot afford while doing nothing to make insurance more affordable. The bill would take no steps to eliminate or curtail inappropriate insurance underwriting practices, such as credit scoring, that prevent many motorists from obtaining insurance and have nothing to do with their driving records.

OTHER  
OPPONENTS  
SAY:

Past efforts to establish an insurance verification program have envisioned the involvement of public safety officers checking proof of insurance through a database system. If TxDOT adopts a program involving similar procedures, DPS should be officially involved in the planning and execution of such a program.

NOTES:

According to the fiscal note, the cost programming modifications for insurance verification and development of the associated database would cost nearly \$6 million from Fund 6 in fiscal 2006. The cost of maintaining the database thereafter would be approximately \$2 million per fiscal year.

The companion bill, SB 1670 by Staples, passed the Senate on the Local and Uncontested Calendar on April 26 and was reported favorably, as substituted, by the House Transportation Committee on May 5, making it eligible to be considered in lieu of HB 2573.

The Legislature has considered similar bills in recent sessions. During the 78th Legislature in 2003, HB 814 by Gutierrez passed the House but died in the Senate. During the 77th Legislature in 2001, HB 1752 by Gutierrez passed the House but died in the Senate Business and Commerce Committee. During the 76th Legislature in 1999, HB 2793 by Gutierrez failed to pass on second reading in the House.