

SUBJECT: Prohibiting named driver auto insurance policies

COMMITTEE: Insurance — committee substitute recommended

VOTE: 8 ayes — Lucio, G. Bonnen, S. Davis, Julie Johnson, Lambert, Paul, C. Turner, Vo

0 nays

1 absent — Oliverson

WITNESSES: For — Ware Wendell, Texas Watch (*Registered, but did not testify*: Adam Burklund, Sentry Insurance; Robert Braziel, Texas Automobile Dealers Association; Jeff Martin, Texas Independent Automobile Dealers Association; Maria Person)

Against — Jack Ikenaga and Ross Bennett, ACCC Insurance Company; Joe Woods, American Property and Casualty Insurance Association; Jessie Cienega, Cienega Insurance; Hector Delgado, Guard Co. Insurance Group LLC; Juan Aburto, Imperial Insurance Agency; Brad Rose, Venture General Agency; Octavio Lopez; Dennis Walsh (*Registered, but did not testify*: Carl Isett, ACCC Insurance Company; Hugo Rivera; Patricia Ryan)

On — Marianne Baker, Texas Department of Insurance (*Registered, but did not testify*: Melissa Hamilton, Office of Public Insurance Counsel)

BACKGROUND: Insurance Code sec. 1952.0545 defines a "named driver policy" as an automobile insurance policy that does not provide coverage for an individual residing in a named insured's household specifically unless the individual is named on the policy. The term includes an automobile insurance policy that has been endorsed to provide coverage only for drivers specifically named on the policy.

An agent or insurer is required make a warning disclosure, orally and in writing, to the applicant or insured of a named driver policy that the policy

does not provide coverage for individuals residing in the insured's household not named in the policy.

Transportation Code sec. 601.081 requires the Texas Department of Insurance's standard proof of motor vehicle liability insurance form to disclose a warning that a named driver policy does not provide coverage for individuals residing in the insured's household that are not named on the policy.

DIGEST:

CSHB 259 would prohibit Texas automobile insurers from delivering, issuing for delivery, or renewing a named driver policy that was not also an operator's policy, defined by the bill as a policy that covers the named insured when operating an automobile the insured does not own. The bill's provisions would apply to any insurer writing automobile insurance in Texas, including a county mutual insurance company.

The bill would redefine "named driver policy" as one that provides any type of coverage for those named on the policy but does not provide coverage for every individual residing in the named insured's household. The bill would define "household" to include persons living together in the same home, mobile home, duplex, apartment unit, condominium unit, or any dwelling unit in a multi-unit residential structure, regardless of whether they are related to each other.

Under the bill, an insurer could exclude a specified driver from a named driver policy if a provision or endorsement of the policy named each excluded driver, did not exclude a class of drivers, and the named insured accepted the exclusion in writing.

The bill would remove the requirement that an agent or insurer make a disclosure, orally and in writing, that the named driver policy does not provide coverage for individuals residing in the insured's household not named in the policy. It also would eliminate the same warning from the Texas Department of Insurance's standard proof of liability insurance form.

The bill would apply to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2020.

The bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

CSHB 259 would protect Texas drivers and families from having to pay for accidents caused by a driver who was not insured under a named driver policy. Under current Texas law, named driver policies are not adequately insuring their customers, leaving other drivers in Texas vulnerable to having to pay for damages in the case of an accident.

The coverage under named driver policies is confusing. Named driver policies have permissive non-household use but no permissive household use. This means that the insured can give someone outside his or her household permission to drive the insured's car and that person will be covered, but not anyone within the household, including family.

Companies who currently sell these policies would not lose the ability to sell insurance under CSHB 259. The bill merely would require these companies to sell a transparent, understandable product instead of one providing inadequate insurance.

The bill would allow specific exclusions to the named driver policies to keep the price of these policies low while clarifying whom the policies would exclude. Insurance companies or the insured individual still could exclude anyone in the insured's household who might raise the cost of the insurance premium. The existing disclosure given to named driver policy applicants or those insured under the policy is inadequate and fails to protect Texans from uninsured drivers, as demonstrated by the high rates of unpaid claims for these policies.

**OPPONENTS
SAY:**

By requiring named driver policies to also be operator's policies, CSHB 259 could raise the cost of automobile insurance by making insurance companies take on the risk of anyone in the insured's household driving the insured's car.

Under current law, named driver policies allow permissive non-household use because individuals outside the household are less likely to use the insured's car or have access to the keys. Consumers who buy these policies cannot afford more expensive automobile insurance, and by reducing auto insurance options this bill could encourage more drivers to go without insurance.

Flexibility in the insurance market keeps prices down. Agents who sell named driver policies must make disclosures to the applicant that these policies do not provide coverage for individuals residing in the insured's household who are not named on the policy. This disclosure is sufficient to inform the insured about who is covered when driving the insured's car. Disregarding this disclosure shows a lack of responsibility on the part of the insured, not a failure of the insurance product.