

## BILL ANALYSIS

Senate Research Center  
78R2290 DWS-F

S.B. 422  
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Business & Commerce  
4/2/2003  
As Filed

### DIGEST AND PURPOSE

Currently, 17 to 26 percent of Texas drivers are uninsured. As proposed, S.B. 422 provides methods to enhance enforcement of the state's laws requiring motorists to possess current liability insurance; requires standard appearance and form for proof of insurance cards; and permits the insured to waive coverage for noneconomic and exemplary damages.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Transportation in SECTION 1.01 (Sections 601.502 and 601.505, Transportation Code) and to the commissioner of insurance in SECTION 2.01 (Article 5.06-1, Insurance Code) and SECTION 3.01 (Article 5.06-7, Insurance Code) of this bill.

### SECTION BY SECTION ANALYSIS

#### ARTICLE 1. FINANCIAL RESPONSIBILITY REQUIREMENTS

SECTION 1.01. Amends Chapter 601, Transportation Code, by adding Subchapter N, as follows:

##### SUBCHAPTER N. VERIFICATION OF COMPLIANCE WITH AND ENFORCEMENT OF FINANCIAL RESPONSIBILITY REQUIREMENTS

Sec. 601.501. DEFINITION. Defines "verification date."

Sec. 601.502. VERIFICATION OF ESTABLISHMENT OF FINANCIAL RESPONSIBILITY THROUGH RANDOM SAMPLING. (a) Requires the Texas Department of Transportation (TxDOT) or an agent of that department to verify whether an owner who is selected or whose motor vehicle is selected has established financial responsibility through a process of random selection of samples of registrations of motor vehicles and owners of motor vehicles. Requires the Department of Public Safety (DPS) to provide the TxDOT access to certain information.

(b) Prohibits a sample from being selected by any discriminatory method.

(c) Authorizes TxDOT to select other certain registered motor vehicle owners, in addition to the general random sampling of motor vehicle registrations, to verify that the person has established financial responsibility.

(d) Requires TxDOT to send a request for information about the motor vehicle and the owner's method of establishing financial responsibility. Provides that the request must require the owner to state whether financial responsibility has been established as of the verification date.

(e) Requires TxDOT to adopt rules as necessary to implement this subchapter and requires TxDot to establish the frequency of sample selection and prescribe certain methods, a particular form, and information to be requested in the form.

(f) Authorizes TxDOT to require an owner to include a statement that the owner had established financial responsibility as of the verification date, through certain methods.

(g) Requires the owner, to whom the notice is sent to furnish requested information to TxDOT in the prescribed form, accompanied by a signed affirmation that the information is true and correct by a certain date.

(h) Provides that an owner who does not establish financial responsibility or who fails to respond to the request, is subject to suspension of the owner's motor vehicle registration.

(i) Authorizes TxDOT to conduct a verification investigation if the owner asserts in the request for information that the owner had, as of the verification date, established financial responsibility.

Sec. 601.503. VERIFICATION INVESTIGATION. (a) Authorizes TxDOT or an agent of that department to verify a response received from an owner under Section 601.502 by furnishing necessary information to the insurer, surety, or officer named in the response. Requires the insurer, surety, or officer to inform TxDOT by a certain date, after the date of receipt of the information, whether financial responsibility had been established for the affected motor vehicle. Provides that an insurer is subject to an administrative penalty for not complying with this subsection.

(b) Requires TxDOT to examine DPS records to verify that a certificate of self-insurance has been issued if an owner has stated that financial responsibility has been established through self-insurance.

Sec. 601.504. WARNING NOTICE. Requires TxDOT to issue a warning to the owner by certified mail if TxDOT in any way determines that an owner has registered or maintained the registration of a motor vehicle without establishing financial responsibility and to inform the owner that registration will be suspended on a certain date unless certain procedures are followed.

Sec. 601.505. SUSPENSION; REINSTATEMENT; EXCEPTION. (a) Requires TxDOT to suspend the registration of an owner to whom a warning notice is issued, after a certain time frame, unless the owner requests a hearing.

(b) Provides that an owner who receives a warning notice may request a hearing during a certain time. Requires TxDOT to adopt rules governing a hearing under this subsection. Requires TxDOT to suspend the registration of an owner who requests a hearing if on or before the date of the hearing the owner does not present certain proof of financial responsibility.

(c) Requires TxDOT to notify the owner by certified mail if TxDOT suspends an owner's motor vehicle registration under this section.

(d) Requires TxDOT to follow certain guidelines relating to the reinstatement of suspended motor vehicle registrations.

(e) Requires TxDOT to defer the suspension for a first violation if the owner submits certain information in a certain time frame. Requires TxDOT to impose the suspension and reinstatement fee if the owner fails to submit the required evidence of renewal.

(f) Authorizes TxDOT to reinstate the suspended motor vehicle registration of an owner who received a request for information and presents proof of financial responsibility.

(g) Prohibits an owner whose vehicle registration has been suspended from transferring the registration under certain conditions or registering the motor vehicle in another name.

(h) Provides that TxDOT may authorize the transfer of a vehicle registration if the transfer is proposed in good faith and not to defeat the purposes of this subchapter.

(i) Provides that Subsection (g) does not affect the rights of a conditional vendor or lessor of, or a person with a security interest in, a motor vehicle owned by a person whose vehicle registration has been suspended if the vendor, lessor, or secured party is not the registered owner of the vehicle.

Sec. 601.506. SUBMISSION OF FALSE PROOF. Authorizes TxDOT to suspend the owner's motor vehicle registration if the owner knowingly submits false proof of financial responsibility. Authorizes TxDOT to terminate the suspension under certain requirements.

Sec. 601.507. OPERATION OF MOTOR VEHICLE WHILE REGISTRATION SUSPENDED FOR FAILURE TO ESTABLISH FINANCIAL RESPONSIBILITY; OFFENSE. (a) Provides that a person who operates a motor vehicle while the registration of the motor vehicle is suspended commits an offense.

(b) Provides that an offense under this section is punishable by a fine of not less than \$1,000 or more than \$2,000.

(c) Provides that it is a defense to prosecution that the person charged with an offense under this section produces satisfactory evidence of established financial responsibility in accordance with certain requirements in court.

Sec. 601.508. DISPLAY OF FALSE PROOF OF FINANCIAL RESPONSIBILITY; OFFENSE. (a) Provides that a person commits an offense if the person knowingly provides false proof of financial responsibility or evidence of financial responsibility that is illegally altered, counterfeit, or otherwise invalid, to certain officers of the court.

(b) Requires a peace officer to confiscate invalid evidence of financial responsibility for presentation in court if the officer issues a citation to a motor vehicle operator for displaying invalid evidence of financial responsibility.

(c) Provides that an offense under this section is punishable by a fine of not less than \$500 or more than \$750.

Sec. 601.509. DISPOSITION OF FEES. Requires TxDOT to recover its costs in implementing and administering the verification program from the reinstatement fees collected under this subchapter. Requires TxDOT to deposit excess funds to the credit of the state highway fund.

Sec. 601.510. USE OF AGENTS. Authorizes TxDOT to submit requests for proposals for contracts with private vendors to perform the random sampling and the verification investigations as an agent of that department. Authorizes TxDOT to enter into contracts as necessary to implement the use of agents.

SECTION 1.02. Amends Section 601.051, Transportation Code, as follows:

(a) Creates this subsection from existing text. Provides that a person may not operate, register, or maintain registration of a motor vehicle in this state unless financial responsibility is established through certain means.

(b) Adds this subsection to prohibit an owner of a motor vehicle from allowing another

person to operate the motor vehicle in this state unless financial responsibility is established and evidenced.

SECTION 1.03. Amends Section 601.191, Transportation Code, as follows:

Sec. 601.191. New Heading: OPERATION OF MOTOR VEHICLE IN VIOLATION OF FINANCIAL RESPONSIBILITY REQUIREMENTS; OFFENSE. (a) Provides that a person commits an offense if the person operates a motor vehicle or permits another person to operate a motor vehicle in violation of Section 601.051.

(b) Increases the fine for an offense under this section from not less than \$175 or more than \$350 to not less than \$500 or more than \$1,000, except as provided by Subsection (d).

(c) Provides that it is a defense to prosecution under this section that the owner or operator charged with an offense produces satisfactory evidence in court that at the time of the alleged offense, the owner or operator had established financial responsibility. Deletes reference to previous convictions of an offense under this section and the related fines.

(d) Increases the amount by which a court may reduce a fine from \$175 to \$500.

SECTION 1.04. Amends Section 601.195, Transportation Code, by adding Subsection (c) to make a conforming change.

SECTION 1.05. Requires TxDOT, in performing sample selection under Section 601.502, Transportation Code, as added by this Act, to ensure that at least 500,000 samples are selected on or before September 1, 2005.

SECTION 1.06. (a) Requires TxDOT, in cooperation with the Texas Department of Insurance and the Department of Public Safety of the State of Texas, to conduct an evaluation of the implementation and operation of the verification program adopted under Chapter 601N, Transportation Code, as added by this Act, and of the effectiveness of the verification program in increasing compliance with the financial responsibility requirements established under Chapter 601C, Transportation Code. Requires the evaluation to include certain information.

(b) Requires TxDOT to enter into contracts, memoranda of understanding, or interagency agreements as necessary to implement this section.

(c) Requires TxDOT to report the results of the evaluation conducted under this section to the legislature not later than February 1, 2011. Requires TxDOT to provide written copies of the report to the governor, the lieutenant governor, and the speaker of the house of representatives.

## ARTICLE 2. UNINSURED AND UNDERINSURED MOTORIST COVERAGE

SECTION 2.01. Amends Article 5.06-1, Insurance Code, as follows:

(a) Redesignated from Subdivision (1). Deletes language referring to an Assigned Risk Plan established under Section 35 of the Texas Motor Vehicle Safety-Responsibility Act and inserts the Texas Automobile Insurance Plan Association. Replaces "Board" with "commissioner of insurance (commissioner)" and "him" with "the named insured." Makes conforming and nonsubstantive changes.

(b) Redesignated from Subdivision (2). Defines "exemplary damages" and "noneconomic damages." Makes nonsubstantive and conforming changes.

(c) Makes a conforming change.

(e) Provides that this subsection applies except as provided by Subsection (f) of this article. Replaces the Texas Motor Vehicle Safety-Responsibility Act with Chapter 601, Transportation Code. Makes a conforming change.

(f) Authorizes the named insured to elect to waive coverage under this article for recovery of noneconomic and exemplary damages resulting from bodily injury, sickness, or disease, including death. Provides that if an insured elects to waive coverage under this subsection, Subsection (e) of this article does not apply to the limits of liability that are applicable to the coverage provided under the policy issued to the insured for damages resulting from bodily injury, sickness, or disease, including death. Authorizes the commissioner by rule to adopt minimum limits of liability applicable to those damages. Provides that waiver of coverage under this subsection does not affect the insured's right to bring an action for noneconomic and exemplary damages against a responsible party. Provides that written rejection of coverage for noneconomic and exemplary damages is not effective unless the insurer provides the insured with a written notice, acknowledged in writing by the insured at the time of the rejection, disclosing the amount of potential coverage that is available, the types of damages that would be covered, and the amount of premium saved because the coverage is rejected.

(g) Redesignated from Subdivision (4)(a). Makes a conforming change.

(h) Redesignated from Subdivision (4)(b).

(i) Redesignated from Subdivision (5). Provides that if the named insured has waived coverage under Subsection (f) of this article for recovery of noneconomic and exemplary damages, the amount paid to the insured may not include any amount attributable to noneconomic and exemplary damages.

(j) Redesignated from Subdivision (6) to make conforming and nonsubstantive changes.

(k) Redesignated from Subdivision (7).

(l) Redesignated from Subdivision (8) to make nonsubstantive changes.

### ARTICLE 3. PROOF OF INSURANCE CARDS

SECTION 3.01. Amends Subchapter A, Chapter 5, Insurance code, by adding Article 5.06-7.

Article 5.06-7. FORM AND APPEARANCE OF PROOF OF MOTOR VEHICLE LIABILITY INSURANCE. (a) Requires the commissioner of insurance (commissioner) to prescribe by rule a standard appearance and form for a proof of motor vehicle liability insurance card.

(b) Requires the commissioner to require an appearance of the card that is difficult to alter, duplicate, or counterfeit and not cost-prohibitive for consumers.

### ARTICLE 4. REPEALER

SECTION 4.01. Repealer: Section 601.193 ( Defense: Financial Responsibility in Effect at Time of Alleged Offense), Transportation Code.

### ARTICLE 5. TRANSITION; EFFECTIVE DATE

SECTION 5.01. Makes application of the change in law made by this Act to Chapter 601, Transportation Code, prospective.

SECTION 5.02. Makes application of amendments to Article 5.06-1, Insurance Code, prospective to January 1, 2004.

SECTION 5.03. (a) Effective date: September 1, 2003, except as provided by Subsection (b) of this section.

(b) Article 1 of this Act takes effect January 1, 2005.