

BILL ANALYSIS

Senate Research Center
87R18527 SRA-F

H.B. 3514
By: Canales (Seliger)
Transportation
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Concerns have been raised regarding state law governing certain functions of the Texas Department of Motor Vehicles (TxDMV). It has been suggested that the law is filled with references and procedures in need of updates and clarification to more closely reflect long-standing practices of TxDMV. H.B. 3514 seeks to address this issue by providing for these updates.

H.B. 3514 amends current law relating to the functions of the Texas Department of Motor Vehicles and authorizes a penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 306.001(9), Finance Code, to redefine "qualified commercial loan" for purposes of Chapter 306 (Commercial Transactions).

SECTION 2. Amends Section 572.003(c), Government Code, to provide that for purposes of Chapter 572 (Personal Financial Disclosure, Standards of Conduct, and Conflict of Interest), the term "appointed officer of a major state agency" includes a member of the board of the Texas Department of Motor Vehicles (TxDMV), rather than a member of the Motor Vehicle Board.

SECTION 3. Amends Section 2301.453(c), Occupations Code, to make a conforming change.

SECTION 4. Amends Section 2301.454(b), Occupations Code, to make a conforming change.

SECTION 5. Amends Subchapter M, Chapter 2301, Occupations Code, by adding Section 2301.612, as follows:

Sec. 2301.612. OPEN RECORDS EXCEPTION. Provides that information filed with TxDMV under Subchapter M (Warranties: Rights of Vehicle Owners) is not a public record and is not subject to disclosure under Chapter 552 (Public Information), Government Code, until the complaint is resolved by a final order of TxDMV.

SECTION 6. Amends Section 2301.711, Occupations Code, as follows:

Sec. 2301.711. ORDERS AND DECISIONS. (a) Requires the board of TxDMV (board) or a person delegated final order authority under Section 2301.154 (Delegation of Powers), except as otherwise provided by Chapter 2301 (Sale or Lease of Motor Vehicle) to issue final orders for the implementation and enforcement of this chapter and Chapter 503 (Dealer's and Manufacturer's Vehicle License Plates), Transportation Code. Makes nonsubstantive changes.

(b) Requires that an order or decision under Chapter 2301 be signed by the presiding officer or assistant presiding officer for the board, a person delegated

final order authority under Section 2301.154, or a hearings examiner in a contested case hearing under Section 2301.204 (Complaint Concerning Vehicle Defect) or Subchapter M.

SECTION 7. Amends Section 2301.712(b), Occupations Code, to delete existing text requiring the board or a person delegated power from the board under Section 2301.154, if a person who brings a complaint under Subchapter M prevails in a contested case, to order the nonprevailing party in the case to reimburse the amount of the filing fee for the case. Makes a nonsubstantive change.

SECTION 8. Amends Section 2301.713(c), Occupations Code, as follows:

(c) Authorizes the chief hearings examiner to designate a person to decide a motion for rehearing in a contested case under Section 2301.204 or Subchapter M. Deletes existing text requiring that the motion be decided by the chief hearings examiner.

SECTION 9. Amends Section 23.121, Tax Code, by amending Subsection (h) and adding Subsection (h-1), as follows:

(h) Authorizes the chief appraiser, if a dealer fails to file a declaration as required by Section 23.121 (Dealer's Motor Vehicle Inventory; Value), to report the dealer to TxDMV to initiate cancellation of the dealer's general distinguishing number. Requires the chief appraiser to include with the report written verification that the chief appraiser informed the dealer of the requirement to file a declaration under Section 23.121. Deletes existing text providing that, if a dealer fails to file a declaration as required by Section 23.121, the chief appraiser is required to report that fact to TxDMV and TxDMV is required to initiate termination proceedings. Makes nonsubstantive changes.

(h-1) Requires the chief appraiser, if, on the declaration required by this section, a dealer reports the sale of fewer than five motor vehicles in the prior year, to report the dealer to TxDMV to initiate cancellation of the dealer's general distinguishing number. Requires the chief appraiser to include with the report a copy of a declaration indicating the sale by a dealer of fewer than five motor vehicles in the prior year. Provides that a report by a chief appraiser to TxDMV as provided by this subsection is prima facie grounds for the cancellation of the dealer's general distinguishing number under Section 503.038(a)(9) (relating to authorizing TxDMV to cancel a dealer's general distinguishing number if the dealer has been licensed for at least 12 months and has not assigned at least five vehicles during the previous 12-month period), Transportation Code, or for refusal by TxDMV to renew the dealer's general distinguishing number.

SECTION 10. Amends Section 201.805(a), Transportation Code, to delete existing text requiring the Texas Department of Transportation (TxDOT) to annually publish in appropriate media and on TxDOT's Internet website information regarding Motor Vehicle Crime Prevention Authority grants. Makes nonsubstantive changes.

SECTION 11. Reenacts Section 503.009(b), Transportation Code, as repealed by Chapter 1135 (H.B. 2741), Acts of the 83rd Legislature, Regular Session, 2013, and amended by Chapter 1379 (H.B. 1692), Acts of the 83rd Legislature, Regular Session, 2013, and amends it as follows:

(b) Provides that the procedures applicable to a hearing conducted under Section 503.009 (Procedure for Certain Contested Cases) are those applicable to a hearing conducted under Chapter 2301, Occupations Code, or Chapter 2001 (Administrative Procedure), Government Code, rather than as provided by Section 2301.606 (Conduct of Proceedings), Occupations Code.

SECTION 12. Amends Section 520.063, Transportation Code, to make conforming changes.

SECTION 13. Amends Section 1006.152, Transportation Code, by adding Subsection (f), to authorize the Motor Vehicle Crime Prevention Authority (authority) to recover from an insurer

requesting a refund under Section 1006.152 (Refunds) any costs associated with a denied or improperly requested refund.

SECTION 14. Amends Section 1006.153, Transportation Code, by adding Subsections (b-1), (b-2), and (b-3) and amending Subsection (e), as follows:

(b-1) Requires that a penalty be imposed on an insurer for the delinquent payment of the fee required by Section 1006.153 (Fee Imposed on Insurer) or the delinquent filing of any report of the fee required by rule. Requires that the penalty be assessed in the manner prescribed for the assessment of a penalty for a delinquent tax payment or filing of a report under Section 111.061(a) (relating to requiring a penalty of five percent of the tax be imposed on a person who fails to pay a certain tax or file a certain report), Tax Code. Provides that interest accrues in the manner described by Section 111.060 (Interest on Delinquent Tax), Tax Code, on any fee paid after the due date in Subsection (b) (relating to requiring an insurer to pay to the authority a fee equal to \$4 multiplied by a total number of motor vehicle years of insurance).

(b-2) Authorizes the authority to audit or contract for the audit of fees paid by an insurer under Section 1006.153.

(b-3) Requires that a determination under Section 1006.153 be made in accordance with procedures the authority adopts by rule. Authorizes an insurer assessed a penalty or interest under Subsection (b-1) to appeal the assessment to the authority. Requires the authority to make the final decision on the appeal by a simple majority vote. Provides that the appeal of an assessment of a penalty or interest is not a contested case under Chapter 2001, Government Code.

(e) Provides that out of each fee collected under Subsection (b) or an amount collected under Subsection (b-1) certain amounts are required to be appropriated or deposited in a certain manner.

SECTION 15. Amends Section 1006.154, Transportation Code, by adding Subsection (d), to provide that, for purposes of Subsection (b) (relating to prohibiting the amount of the administrative expenses of the authority from exceeding eight percent of the total expenditures of the authority), administrative expenses do not include administrative expenses related to the collection of a fee under Section 1006.153, including salaries.

SECTION 16. (a) Makes application of Section 1006.153(b-1), Transportation Code, as added by this Act, prospective.

(b) Makes application of Section 503.009(b), Transportation Code, as reenacted and amended by this Act, prospective.

SECTION 17. Effective date: September 1, 2021.