

- SUBJECT:** Creating a motor-vehicle insurance verification program
- COMMITTEE:** Insurance — favorable, with amendments
- VOTE:** 7 ayes — Smithee, Eiland, Averitt, G. Lewis, J. Moreno, Olivo, Thompson
0 nays
2 present, not voting — Burnam, Seaman
- WITNESSES:** For — Harry Faulk; Bill Lewis, Mothers Against Drunk Driving; David Steele; Michael Warner, Insure-rite

Against — Fred C. Bosse, United Services Automobile Association; Richard S. Geiger, Association of Fire and Casualty Companies in Texas; Rob Schneider, Consumers Union
- BACKGROUND:** Transportation Code, sec. 601.051 requires proof of financial responsibility for Texas motorists, whether through a motor-vehicle liability insurance policy, a surety bond, a cash deposit, or self-insurance. Sec. 601.052 lists several exceptions.
- DIGEST:** HB 1752, as amended, would require the Texas Department of Public Safety (DPS), rather than the Texas Department of Insurance (TDI), to prescribe and provide for the production of a standard form for proof of motor-vehicle liability insurance for use by insurers. DPS could contract with another person to produce the form. Each insurer issuing a standard proof of motor-vehicle liability insurance form would have to use the DPS form. DPS could adopt rules to implement this requirement.
- Motor-vehicle insurance verification program.** DPS would have to contract with a third party to develop and maintain a computer database to manage and provide access to information for an insurance verification program. The database would have to be able to compare current insurance policies to motor vehicle titles, and 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 insurance policy records would have to include:

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

Data provided by TxDOT and DPS would remain the agencies' property and could not be sold or made available except to enforce a state law.

Notice to uninsured owners. If the database revealed 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 living in Texas either as a student or as a 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.

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.

The bill would make it 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.

Program funding. Funding would come from a \$1 increase in the motor-vehicle registration fee, to be deposited to the credit of the state highway fund. This fee would be in addition to other fees imposed for registration of a motor vehicle, at the time of application for registering or renewing registration of a motor vehicle for which the owner had to submit evidence of financial responsibility. DPS would use money appropriated from the state highway fund that represented these fees to administer the bill's provisions and to reimburse DPS' administrative expenses for the program.

Rulemaking authority. DPS would have to prescribe rules to implement the bill's provisions. 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. TDI would have to adopt rules for enforcing compliance for reporting insurers.

Between January 1 and September 1, 2007, DPS would have to review the effectiveness of the program and determine the amount by which compliance had increased between September 1, 2001, and the date of the review. DPS could coordinate with TDI to conduct the review. If DPS determined that

compliance had not increased by at least 8 percent during that period, the motor-vehicle insurance verification program and the associated fee would expire September 1, 2007.

DPS would have to appoint a technical advisory committee including representatives from TxDOT and the affected insurers as soon as practicable after the bill's effective date. The advisory committee would have to prepare recommended rules for consideration by DPS not later than March 1, 2002. The committee would be abolished September 1, 2002.

Not later than September 1, 2002, DPS would have to contract with the designated agent for the program and to adopt any rules necessary for implementation. An insurer would not have to report insurance information to the agent before September 1, 2002. Before September 1, 2003, DPS by rule could designate, by market share, premium volume, or another similar characteristic, smaller motor vehicle insurance companies that would not have to report.

The bill would take effect September 1, 2001. DPS would not have to report the required information to the designated agent before September 1, 2002.

**SUPPORTERS
SAY:**

HB 1752 would use modern technology to assess where Texas really stands in terms of uninsured drivers. The extent of the uninsured motorist problem in Texas is unknown because there has been no comprehensive accounting of uninsured motorists. Sampling techniques have been ineffective in pinning this number down. If the number of uninsured motorists were known and those drivers could be identified, the state's motorists could have more accessible and affordable insurance.

Current law requires proof of financial responsibility for 14 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. HB 1752 would grant law enforcement agencies instant access to information about the number of uninsured motorists.

A database and uniform proof-of-insurance cards also would help fight the growing problem of counterfeit insurance cards. Insurers now use up to 100

different kinds of proof-of-insurance cards.

Colorado, Massachusetts, Nevada, and Utah already have database systems similar to the one proposed in HB 1752. These systems have been extremely effective in determining the number of uninsured motorists. The database used in Utah has a 95 percent match rate. Utah's law enforcement officers receive specialized instruction in the operation of the database.

While some people might be identified mistakenly as uninsured in startup stages of the program, motorists could correct these mistakes easily by sending in proof of insurance or 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 required proof of insurance.

OPPONENTS
SAY:

HB 1752 would require DPS to award a huge state contract to a private entity for an unproven system with negligible value, funded by motorists through higher vehicle registration fees. Assuming the 5 percent error factor 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.

Enforcement of the proof-of-liability law should not be increased until there is greater access to affordable insurance. It is not practical to think that the state could suspend the registrations of all 2 million Texans suspected of being uninsured. 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.

NOTES: The committee amendment would add the requirements that TDI adopt rules for enforcing compliance for reporting insurers and that DPS review the effectiveness of the motor-vehicle insurance verification program during 2007.

A similar bill in the 76th Legislature, HB 2793 by Gutierrez, failed to pass on second reading in the House.