

- SUBJECT:** Creating a motor vehicle liability insurance verification program
- COMMITTEE:** Insurance — committee substitute recommended
- VOTE:** 9 ayes — Smithee, Seaman, Eiland, Bonnen, Gallego, Keffer, Taylor, Thompson, Van Arsdale
- 0 nays
- WITNESSES:** For — Larry Cernosek; (*Registered, but did not testify:*) Brian Bozick; Vanessa J. Lerma; AnnMarie Marshall; Maria E. Potts, Safeway Insurance Co.; Rafael S. Ramirez, Jr.; Rosalinda J. Ramirez, Michael Warner, Automobile Insurance Agents of Texas
- Against — Rob Schneider, Consumers Union
- On — Jerry Dike, Texas Department of Transportation; Frank Elder, Texas Department of Public Safety; Marilyn Hamilton, Texas Department of Insurance
- 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.
- DIGEST:** CSHB 814 would require the Department of Public Safety (DPS) to establish a motor vehicle financial responsibility program in compliance with the federal Driver's Privacy Protection Act of 1994. It would include computer database monitoring, selective written verification, revocation of vehicle registration, and penalties for failure to comply.
- By December 31, 2003, DPS would have to contract with a designated agent selected by the State Council on Competitive Government and paid from the State Highway Fund. By July 1, 2004, the contractor would have to develop, maintain, and administer a computer database containing automobile liability

insurance coverage information provided by insurers to verify motor vehicle owners' proof of financial responsibility under DPS guidelines.

Insurance companies would have to provide policy data to the contractor, including policy numbers and effective and expiration dates; policyholders' names, addresses, and driver's license numbers; and makes, models, years, and vehicle identification numbers (VINs) of each vehicle covered by the insurers' policies.

Companies would have to correct erroneous data in a timely manner upon notification. Companies failing to provide required data would be liable for a civil penalty of \$250 for each day they were in violation.

DPS would have to provide electronically the names, addresses, driver's license numbers, and license expiration dates of each licensed driver, bondholder, depositor, or self-insurer, and notice of cancellation of bonds and deposits and termination of self-insurance certificates used as proof of financial responsibility. The Texas Department of Transportation (TxDOT) would have to provide electronically vehicle owners' names and addresses; vehicle makes, models, years, VINs, and license plate numbers; and issuance dates of title certificates.

The bill would establish disclosure and confidentiality requirements regarding the information provided and would make unauthorized disclosure a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000. Information provided by insurers, DPS, and TxDOT would remain their property. It would be confidential and could be disclosed only as the bill specified. The contractor could disclose the information only to state or local governmental entities enforcing the statute.

At least monthly, the contractor would have to update insurance policy information in the database and compare it to all current motor-vehicle registrations provided by TxDOT and driver's license information from DPS. Comparisons revealing uninsured vehicles would generate notices to owners. The contractor would mail notices to owners selected according to DPS rules. Notices would have to specify deadlines for responses and penalties for noncompliance. The contract would have to specify how many notices would have to be mailed per fiscal year through 2008.

Within 30 days of receiving notice, an owner would be liable for a \$100 civil penalty if he or she did not prove financial responsibility based on:

- liability insurance, bond, deposit, or self-insurance;
- a letter from an insurer verifying coverage on the date the database comparison occurred;
- proof of a legal exemption; or
- proof of out-of-state insurance coverage due to the owner's being in the military or a college student or faculty member.

The contractor would have to send noncomplying owners final warnings giving them 15 days to comply or have their vehicle registration terminated by TxDOT. Vehicles could not be registered again until the civil penalties and new registration fees were paid. Notices would have to include statements of owners' rights and responsibilities in English and Spanish. Penalties collected would be remitted to the comptroller and deposited into general revenue. Terminated registrations could be reinstated without fee payments if owners showed valid proof of financial responsibility in effect when the database comparison occurred and at the time reinstatement was requested.

The bill would add a \$1 surcharge to vehicle-registration fees collected by county tax assessor-collectors on TxDOT's behalf, which would have to be deposited to the State Highway Fund. TxDOT would reimburse DPS from the fund for the contractor's program implementation costs.

Neither the state, its employees or officers, insurance companies, nor the contractor would be liable for good-faith acts performed to carry out the program.

DPS would have to review the program's effectiveness during 2009, in coordination with the Texas Department of Insurance (TDI), and determine the increase in compliance that had occurred. DPS would have to report its findings to the lieutenant governor and House speaker by September 1, 2010, at which time the review requirements would expire.

DPS would have to develop and produce, and could contract for, standard forms proving liability insurance coverage. DPS and TxDOT would have to develop all forms and rules necessary to implement the bill's provisions. DPS

and TxDOT would have to conduct a public information program publicizing the verification program.

The governor would have to appoint a committee to investigate factors affecting vehicle liability insurance rates in Texas under guidelines set forth by the bill. Findings would have to be reported to the governor, lieutenant governor, House speaker, DPS, TxDOT, and TDI by December 31, 2004.

The bill would take effect September 1, 2003.

**SUPPORTERS
SAY:**

At least 20 percent of Texas motorists are uninsured, by some estimates. Uninsured motorists drive up premiums for law-abiding citizens, especially low-income Texans. CSHB 814 would lower insurers' costs for uninsured motorist claims by almost \$200 million, which would represent damages not incurred by drivers. The bill would implement a recommendation of the comptroller's e-Texas report, *Limited Government, Unlimited Opportunity*. It would bring Texas alongside 19 other states with similar programs that have reduced the number of uninsured motorists by double-digit percentages.

CSHB 814 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 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 were known and those drivers could be identified, Texas motorists could have more accessible and affordable insurance.

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. CSHB 814 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.

Several other states already have database systems similar to the one proposed in CSHB 814. These systems have been extremely effective in determining the number of uninsured motorists. Utah's database 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 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 required proof of insurance.

The registration fee surcharge proposed by the bill would cover costs and hold down any premium increases.

**OPPONENTS
SAY:**

CSHB 814 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.

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 814 only would make it more difficult for them by pressuring them to obtain something they often cannot afford without making it more affordable. The bill would do nothing 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.

The database would be vulnerable to “hacking” and inappropriate uses of personal and proprietary information. The bill would not provide enough safeguards to protect vehicle owners from abuse of their privacy rights or sale of their information without their permission.

OTHER
OPPONENTS
SAY:

The proposed \$1 hike in vehicle registration fees is too high. It would raise almost \$42 million in fiscal 2004-05 to pay for a program that DPS estimates would cost only \$3 million to implement. The fee should be reduced so as not to turn the program into a “cash cow” for the State Highway Fund.

Fee revenue is not dedicated, so it could be raided as the automobile theft prevention program budget is being raided for fiscal 2004-05 to pay for other programs during difficult fiscal conditions. The additional fee revenue should be dedicated to this program so it could not be diverted to other highway fund programs or to general revenue.

The bill should identify insurance company data as proprietary and should specify that it is exempt from state public information laws but subject to disclosure to other governmental entities.

NOTES:

According to the fiscal note, CSHB 814 would generate almost \$28 million in net general revenue and more than \$38 million in net revenue to the State Highway Fund during fiscal 2004-05.

The committee substitute would modify the filed version of HB 814 by:

- removing provisions for random sampling;
- requiring notices to be mailed to owners identified as not having financial responsibility evidence;
- requiring civil monetary penalties and termination of registration for

- failing to meet deadlines to show proof of responsibility;
- adding provisions for registering vehicles whose registrations had been terminated under the program;
- modifying program review and reporting deadlines;
- requiring a gubernatorial study committee and a public awareness program;
- adding provisions on contractor selection, contract terms, and database operational date; and
- removing the offense of operating a vehicle in violation of a suspension.

A similar bill, SB 422 by Bivins, passed the Senate by voice vote on April 22. The House Insurance Committee considered SB 422 in a public hearing on April 28 and left it pending.

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