

- SUBJECT:** Increased minimum liability insurance coverage for DWI offenders
- COMMITTEE:** Insurance — favorable, without amendment
- VOTE:** 8 ayes — Smithee, Eiland, Hancock, Nash, Sheets, L. Taylor, Vo, Walle  
0 nays  
1 absent — Torres
- WITNESSES:** For — (*Registered, but did not testify:* Bill Lewis, Mothers Against Drunk Driving; Ware Wendell, Texas Watch)  
  
Against — None  
  
On — (*Registered, but did not testify:* Leslie Hurley, Texas Department of Insurance)
- BACKGROUND:** Transportation Code, ch. 601 outlines the Texas Motor Vehicle Safety Responsibility Act. Sec. 601.072 specifies the minimum amounts of coverage Texas drivers are obligated to maintain to establish financial responsibility, which currently are:
- \$30,000 for bodily injury to or death of one person in one accident;
  - \$60,000 for bodily injury to or death of two or more persons in one accident, subject to the \$30,000 amount for bodily injury to or death of one of the persons; and
  - \$25,000 for damage to or destruction of property of others in one accident.
- DIGEST:** HB 1020 would require persons convicted of offenses related to driving while intoxicated (DWI) to maintain auto insurance coverage additional to the minimum currently required by state law. The required liability coverage amounts would increase by \$25,000 for each conviction.
- The bill would be effective September 1, 2011, and would apply only to offenses committed on or after that date.

SUPPORTERS  
SAY:

Since DWI offenders have identified themselves as high-risk insurance consumers, HB 1020 would ensure that they maintained adequate financial responsibility to cover damages if they committed the offense again and caused a collision with another driver. The bill would aid insurance companies in appropriately allocating costs of risk among consumers. HB 1020 also would assist innocent drivers by offsetting costs incurred when involved in an auto accident with a repeat DWI offender.

The bill would effectively deter repeat criminal behavior. According to the Texas Department of Transportation (TxDOT), about half of DWI defendants have previously committed the offense. The department also reports that repeat DWI offenders present a higher risk than drivers who have never been convicted because the offenders are more likely to be involved in a fatal accident. Since the bill would make it more difficult for DWI offenders to obtain auto insurance coverage, it would prevent them from operating vehicles without the required amount of financial responsibility. If those who have been identified as more likely to drive while intoxicated were hindered from committing another offense, then the bill would have accomplished part of its purpose. The likelihood that it would increase the number of uninsured drivers is minimal.

HB 1020 would not make auto insurance coverage unavailable to repeat DWI offenders. For a higher premium, numerous insurers in Texas would provide coverage to repeat DWI offenders. Additionally, the Texas Automobile Insurance Plan Association, authorized by statute, would work with twice-rejected consumers to obtain minimum auto insurance coverage required by state law. The association would assist people who were unable to obtain insurance on their own. When a market for a certain product presents itself, companies work to meet the need.

HB 1020 would allow Texas to join other states that have held drivers who operated cars under the influence of alcohol to a higher standard of financial responsibility in light of their high-risk behavior. For example, Florida has enacted similar legislation for these offenders. Florida law increases the minimum auto coverage from \$10,000 for personal injury protection and \$10,000 for property damage liability for drivers with clean records to at least \$100,000 for injury or death to one person, \$300,000 per accident, and \$50,000 for property damage liability for DWI offenders. Although it would use an alternate method of gradual coverage increase, this bill would similarly increase minimum required coverage for DWI offenders.

OPPONENTS  
SAY:

HB 1020 could make it too difficult for DWI offenders, who already have difficulty obtaining auto insurance coverage, to obtain auto coverage under the higher minimum requirements. Since DWI offenders already are subject to higher auto insurance premiums, maintaining or obtaining coverage could quickly become cost prohibitive for these consumers. Also, the financial benefits of the bill for accident victims would be minimal because the \$25,000 additional coverage required for repeat convictions could be relatively small in relation to costs incurred from an auto accident.

HB 1020 would do little to change the behavior of DWI offenders. The bill would not be an effective deterrent because the inability to obtain auto insurance coverage does not prevent people from driving. According to TxDOT, approximately 20 percent of Texas automobiles are not covered by insurance at any point in time. If the cost or availability of auto insurance prevented offenders from obtaining coverage, it would simply encourage more offenders to drive uninsured. The public would be more at risk of having collisions with uninsured motorists. Essentially, HB 1020 would be another way for auto insurers to charge more money for products targeted toward higher-risk consumers.

The bill would be unfair and excessively punitive for DWI offenders. Since the bill would not limit the length of time that an offender would have to maintain the additional coverage, these persons would be punished indefinitely for past offenses. Insurance companies are allowed to charge DWI offenders higher premiums for approximately three years after a conviction. Similarly, under the Texas Driver Responsibility Program, governed by the Transportation Code, DWI offenders generally have to pay an annual surcharge of \$1,000 for only three years. Since it would not specifically limit the additional financial burden placed on DWI offenders, HB 1020 would not treat these persons consistently under Texas law.