

SUBJECT: Requiring named driver policies to also be operator's policies

COMMITTEE: Insurance — favorable, without amendment

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul,  
Sanford, Turner, Vo

0 nays

WITNESSES: *(at March 14 hearing)*

For — Ware Wendell, Texas Watch; Robert Beck; *(Registered, but did not testify: Price Ashley, Coalition for Affordable Responsible Insuring; Jeff Martin and Mario Martinez, Texas Independent Auto Dealers Association; Allen Anding; Martin Garcia; Thomas Parkinson)*

Against — Ross Bennett, ACCC Insurance Company; Lee Loftis, Independent Insurance Agents of Texas; Paul Martin, National Association of Mutual Insurance Companies; Joe Woods, Property Casualty Insurers Association of America *(Registered, but did not testify: Shannon Meroney, Alinsco Insurance Group; Joe Garcia, Old American County Mutual Insurance)*

On — Marianne Baker, Texas Department of Insurance *(Registered, but did not testify: Joe Matetich, OPIC; Mandy Messey, Texas Department of Insurance)*

*(at March 21 hearing)*

For — *(Registered, but did not testify: Jeff Martin, Texas Independent Auto Dealers Association)*

Against — Paul Martin; National Association of Mutual Insurance Companies; *(Registered, but did not testify: Thomas Ratliff, American Insurance Association; Anne Oryan, Auto Club Co. Mutual and Interinsurance Exchange of the Auto Club; John Marlow, Chubb)*

On — *(Registered, but did not testify: Marianne Baker and Rachel Cloyd,*

Texas Department of Insurance; Joe Matetich, OPIC)

**BACKGROUND:** Insurance Code, sec. 1952.0545 defines a named driver policy as "an automobile insurance policy that does not provide coverage for an individual residing in a named insured's household specifically unless the individual is named on the policy. The term includes an automobile insurance policy that has been endorsed to provide coverage only for drivers specifically named on the policy." It also requires an agent or insurer to make a warning disclosure, orally and in writing, to the applicant or insured of a named driver policy that the policy does not provide coverage for individuals residing in the insured's household not named in the policy.

Transportation Code, sec. 601.081 requires the Texas Department of Insurance's standard proof of motor vehicle liability insurance form to disclose a warning that a named driver policy does not provide coverage for individuals residing in the insured's household that are not named on the policy.

**DIGEST:** HB 915 would prohibit Texas automobile insurers from delivering, issuing for delivery, or renewing a named driver policy that was not also an operator's policy, defined by the bill as a policy that covers the named insured when operating a car the insured does not own. The bill's provisions would apply to any insurer writing automobile insurance in Texas, including a county mutual insurance company.

The bill would redefine "named driver policy" as one that provides any type of coverage for those named on the policy but does not provide coverage for every individual residing in the named insured's household. The bill would define a "household" to include persons living together in the same home, mobile home, duplex, apartment unit, condominium unit, or any dwelling unit in a multi-unit residential structure, regardless of whether they are related to each other.

Under the bill, an insurer could exclude a specified driver from a named driver policy if a provision or endorsement of the policy named each

excluded driver, did not exclude a class of drivers, and the named insured accepted the exclusion in writing.

The bill would remove the requirement that an agent or insurer make a disclosure, orally and in writing, that the named driver policy does not provide coverage for individuals residing in the insured's household not named in the policy. It also would eliminate the same warning from the Texas Department of Insurance's standard proof of liability insurance form.

The bill would take effect September 1, 2017, and would apply only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2018.

**SUPPORTERS  
SAY:**

HB 915 would protect Texas drivers and families from having to pay for accidents caused by a driver who was not insured under a named driver policy. The bill was proposed in honor of Walter Sullivan, who was on his way to golf when he was fatally hit by a man who was not insured to operate the car he was driving, though the owner of the car had a named driver policy. Under current Texas law, named driver policies are not adequately insuring their customers, leaving other drivers in Texas vulnerable to having to pay for damages in the case of an accident.

According to the Texas Department of Insurance, named driver policies have twice the percentage of cases closed without payment as other automobile policies. The coverage under these policies is confusing. Named driver policies have permissive non-household use but no permissive household use. This means that the insured can give someone outside his or her household permission to drive the insured's car and that person will be covered, but not anyone within the household, including family.

Companies who currently sell these policies would not lose the ability to sell insurance under HB 915. The bill merely would require these companies to sell a transparent, understandable product instead of one providing inadequate insurance that does not protect Texans.

Under current law, a driver may appear to have proof of insurance for a car, but it may not be worth anything in the case of an accident. This bill would ensure that drivers had adequate automobile insurance by requiring named driver insurance also to cover the operator of the car. The gaps in coverage under current named driver policies mean that they are worthless in the case of an accident caused by someone driving the car who was not either the named driver or someone outside the named driver's household who had permission.

The bill would allow specific exclusions to the named driver policies to keep the price of these policies low while clarifying to the insured who would be excluded. Insurance companies or the insured individual still could exclude anyone in the insured's household who might raise the cost of the insurance premium. The existing disclosure given to named driver policy applicants or those insured under the policy is inadequate and fails to protect Texans from uninsured drivers, as demonstrated by the high rates of unpaid claims for these policies.

The Texas Department of Insurance has a legislative mandate to regulate the insurance market in Texas while protecting the people and businesses served by insurance. This bill would not affect the department's role.

**OPPONENTS  
SAY:**

By requiring named driver policies also to be operator's policies, HB 915 could raise the cost of automobile insurance by making insurance companies take on the risk of anyone in the insured's household driving the insured's car.

Under current law, named driver policies allow permissive non-household use because individuals outside the household are less likely to use the insured's car or have access to the keys. Consumers who buy these policies cannot afford more expensive automobile insurance, and by increasing costs this bill could encourage more drivers simply to go without insurance.

The Legislature allows flexibility in the insurance market to keep prices

down and requires named driver policies to disclose to the applicant or insured that these policies do not provide coverage for individuals residing in the insured's household who are not named on the policy. This disclosure is sufficient to inform the insured about who is covered when driving the insured's car. Disregarding this disclosure shows a lack of responsibility on the part of the insured.

This bill inappropriately would increase regulation of the insurance market when regulating insurance offered by private insurers is not the proper role of government.

**NOTES:**

A companion bill, SB 923 by Perry, was referred to the Senate Committee on Business and Commerce on February 28.