

SUBJECT: Allowing beneficiary designations of motor vehicles by owners

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

SENATE VOTE: On final passage, April 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 1753:*
For — Trish McAllister, Texas Access to Justice Commission;
(*Registered, but did not testify:* Jacqueline Pontello, One Voice Texas;
Guy Herman, Statutory Probate Courts of Texas; Karen Phillips, Texas
Automobile Dealers Association; Lora Davis; Steve Davis; Craig Hopper)

Against — None

On — (*Registered, but did not testify:* Jeremiah Kuntz and Clint
Thompson, Texas Department of Motor Vehicles)

BACKGROUND: Transportation Code, sec. 501.023 governs applications for motor vehicle titles. To obtain a title, the owner of a motor vehicle must present identification and apply to the county assessor-collector in the county where the owner is domiciled or where the motor vehicle is purchased or encumbered. The assessor-collector must send the application to the Texas Department of Motor Vehicles or enter it into the department's titling system within 72 hours after receiving it.

Concerns have been raised that no mechanism is currently available, other than probate, for the owner of a motor vehicle to arrange for the transfer of the vehicle at the owner's death.

DIGEST: SB 869 would create a method for an owner of a motor vehicle to transfer the owner's interest in the vehicle to a sole beneficiary effective on the

owner's death. The owner would have to make a beneficiary designation, which would be a revocable nontestamentary instrument that could be changed at any time by the owner without the consent of the beneficiary. It could not be revoked or superseded by a will, regardless of when the will was made.

To make the designation, the owner would have to submit an application for title with the designation to the county assessor-collector. To be effective, the title would have to contain the legal name of the designated beneficiary, and the designation would have to state that the transfer of interest in the vehicle was to occur at the owner's death. The owner could change or revoke the beneficiary designation at any time by submitting a new application for title.

During the life of the owner, the designation would not:

- affect any interest or right of the owner making the designation;
- create a legal or equitable interest in favor of the beneficiary;
- affect an interest or right of a secured or unsecured creditor; or
- affect the owner's or the beneficiary's eligibility for any form of public assistance, subject to applicable federal law.

If the beneficiary failed to survive the owner by 120 hours, the designation would lapse and the interest in the vehicle would pass as if the designation were a devise made in a will.

If the beneficiary survived the owner by 120 hours, the interest in the vehicle would be transferred to the beneficiary, unless the beneficiary chose to disclaim his or her interest in a manner provided by the Uniform Disclaimer of Property Interests Act. The beneficiary would have to submit an application for title within 180 days of the owner's death with satisfactory proof of the owner's death. The Department of Motor Vehicles would then have to transfer title to the beneficiary. The beneficiary would take the vehicle subject to all encumbrances, assignments, contracts, liens, and other interests that the vehicle was subject to at the owner's death.

If the vehicle was owned by joint owners with a right of survivorship, all joint owners would have to make the beneficiary designation or agree to revoke or change a beneficiary designation. If only one joint owner remained, that owner could revoke or change the designation. The beneficiary could not claim his or her interest until all joint owners had passed.

The bill would take effect on September 1, 2017.

NOTES:

A companion bill, HB 1753 by Farrar, was approved by the House on May 4.