

INSURANCE LAWS

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OBJECTIVES FOR CLASS

- ◆ Identify Statutory Authority Requirements for “Establishment of Financial Responsibility”;
- ◆ Apply Coverage Issues;
- ◆ Discuss Methods of Verification
- ◆ Examine Laws Applicable to License Suspensions
Impoundment of Vehicle and Surcharges

WHAT IS REQUIRED?

◆ **Texas Trans. Code § 601.051. REQUIREMENT OF FINANCIAL RESPONSIBILITY.**

A person may not operate a motor vehicle in this state unless **financial responsibility** is established for that vehicle through:

- (1) a motor vehicle liability insurance policy that complies with Subchapter D;
- (2) a surety bond filed under Section 601.121;
- (3) a deposit under Section 601.122;
- (4) a deposit under Section 601.123; or
- (5) self-insurance under Section 601.124.

WHAT IS FINANCIAL RESPONSIBILITY?

- ◆ **Texas Trans. Code § 601.002.DEFINITIONS.** In this chapter:
 - (3) "Financial responsibility" means the ability to respond in damages for liability for an accident that:
 - (A) occurs after the effective date of the document evidencing the establishment of the financial responsibility; and
 - (B) arises out of the ownership, maintenance, or use of a motor vehicle.

WHY IS THERE A NEED FOR FINANCIAL RESPONSIBILITY?

- ◆ According to the **Texas Department of Insurance**:
 - ◆ In **Texas, 20%** of the vehicles on our roads have no insurance coverage.
 - ◆ That's 1 in every 5 cars and trucks.
 - ◆ Law-abiding Texans are paying an estimated \$1 billion annually in optional insurance coverage to protect themselves against uninsured and underinsured motorists.

WHAT IS THE NATIONWIDE TREND?

- ◆ According to the Insurance Research Council (IRC):
 - ◆ 14% of drivers (one in seven) drive uninsured.
 - ◆ The estimated percentage of uninsured motorists declined four straight years before rising to 14.3 percent in 2008 and dropping to 13.8 percent in 2009.
 - ◆ The economic downturn is thought to be a major factor in the brief increase.

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Percent of Motorists Uninsured by State in 2009*



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◆ States with the **Highest** Uninsured Drivers estimates:

1. Mississippi (28%)
2. New Mexico (26%)
3. Tennessee (24%)
4. Oklahoma (24%)
5. Florida (24%)

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◆ States with the **Lowest** uninsured driver estimates:

1. Massachusetts (4%)
 2. Maine (4%)
 3. New York (5%)
 4. Pennsylvania (7%)
 5. Vermont (7%)
- ◆ Texas is at 15%.

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- ◆ States with the lowest uninsured driver estimates include five from the northeast.
- ◆ Massachusetts offers one of the harshest penalties to deter uninsured motorists:
A year in jail and/or a fine from \$500 to \$5,000.
- ◆ Apparently, it works!

WHEN IS EVIDENCE OF FR REQUIRED TO BE EXHIBITED WHEN REQUESTED?

- ◆ When are asked for it by a law enforcement officer;
(Texas Trans. Code § 601.053(a))
- ◆ When involved in an accident;
(Texas Trans. Code § 601.053(a))
- ◆ When registering your car or renew its registration;
(Texas Trans. Code §502.153)
- ◆ When obtaining or renewing your driver's license;
(Texas Trans. Code §521.143)
- ◆ When getting your vehicle inspected.
(Texas Trans. Code §548.105)

WHAT EVIDENCE OF FR IS REQUIRED WHEN REQUESTED?

- ◆ Texas Trans. Code § 601.053
EVIDENCE OF FINANCIAL RESPONSIBILITY
(a) As a condition of operating in this state a motor vehicle to which Section 601.051 applies, the operator of the vehicle on request shall provide to a peace officer, as defined by Article 2.12, Code of Criminal Procedure, or a person involved in an accident with the operator evidence of financial responsibility by exhibiting;

WHAT EVIDENCE OF FR IS REQUIRED WHEN REQUESTED?

◆ Texas Trans. Code § 601.053

- (1) a motor vehicle liability insurance policy covering the vehicle that satisfies Subchapter D or a photocopy of the policy;
- (2) a standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance under Section 601.081 and issued by a liability insurer for the motor vehicle;
- (3) an insurance binder that confirms the operator is in compliance with this chapter;

WHAT EVIDENCE OF FR IS REQUIRED WHEN REQUESTED?

◆ Texas Trans. Code § 601.053

- (4) a surety bond certificate issued under Section 601.121;
- (5) a certificate of a deposit with the comptroller covering the vehicle issued under Section 601.122;
- (6) a copy of a certificate of a deposit with the appropriate county judge covering the vehicle issued under Section 601.123; or
- (7) a certificate of self-insurance covering the vehicle issued under Section 601.124 or a photocopy of the certificate.

ESTABLISHMENT OF FINANCIAL RESPONSIBILITY THROUGH MV LIABILITY INSURANCE (SUBCHAPTER D)

◆ Texas Trans. Code § 601.071.

A motor vehicle liability insurance policy must be an owner's or operator's policy that:

- (1) except as provided by Section 601.083, is issued by an insurance company authorized to write motor vehicle liability insurance in this state;
- (2) is written to or for the benefit of the person named in the policy as the insured; and
- (3) meets the requirements of this subchapter.

MINIMUM COVERAGE AMOUNTS

◆ Texas Trans. Code § 601.071

(a-1) Effective January 1, 2011, the minimum amounts of motor vehicle liability insurance coverage required to establish financial responsibility under this chapter are:

- (1) \$30,000 for bodily injury to or death of one person in one accident;
- (2) \$60,000 for bodily injury to or death of two or more persons in one accident, subject to the amount provided by Subdivision (1) for bodily injury to or death of one of the persons; and
- (3) \$25,000 for damage to or destruction of property of others in one accident.

WHAT TERMS ARE REQUIRED ON THE POLICY?

◆ Texas Trans. Code § 601.073

(a) A motor vehicle liability insurance policy must state:

- (1) the name and address of the named insured; (2) the coverage provided; (3) the premium charged; (4) the policy period; and (5) the limits of liability.

(b) The policy must contain an agreement or endorsement that the insurance coverage ... is (1) provided in accordance with the coverage required by this chapter for bodily injury, death, and property damage...

REQUIRED TERMS ON A OWNER'S POLICY

◆ Texas Trans. Code § 601.076

An owner's motor vehicle liability insurance policy must:

- (1) cover each motor vehicle for which coverage is to be granted; and
- (2) pay on behalf of the named insured or another person who, as insured, uses a covered motor vehicle with the express or implied permission of the named insured, ...damages arising out of the ownership, maintenance, or use of the motor vehicle in the United States or Canada, ...

REQUIRED TERMS ON A OPERATOR'S POLICY

◆ Texas Trans. Code § 601.077

An operator's motor vehicle liability insurance policy must pay, on behalf of the named insured, amounts the insured becomes obligated to pay as damages arising out of the use by the insured of a motor vehicle the insured does not own, ...

OWNER MAY PROVIDE EVIDENCE OF FINANCIAL RESPONSIBILITY FOR OTHERS

◆ Texas Trans. Code § 601.054

(a) The department shall accept evidence of financial responsibility from an owner for another person required to establish evidence of financial responsibility if the other person is:

- (1) an operator employed by the owner; or
- (2) a member of the owner's immediate family or household.

OWNER MAY PROVIDE EVIDENCE OF FINANCIAL RESPONSIBILITY FOR OTHERS

◆ Texas Trans. Code § 601.054

(c) Evidence of financial responsibility accepted by the department under Subsection (a) is a substitute for evidence by the other person and permits the other person to operate a motor vehicle for which the owner has provided evidence of financial responsibility.

(d) The department shall designate the restrictions imposed by this section on the face of the other person's driver's license.

COVERAGE ISSUES

◆QUESTION:

You are a guest at a friend's dinner party when the host realizes she does not have enough wine for the party. She asks you to use her car and go to the local grocery store and pick up a bottle for the party. On the way to the store, in your haste you are stopped by a police officer for speeding. You are unable to produce liability insurance coverage but for your friend's owners policy in the glove box.

Should the police officer issue you a citation for failure to maintain liability insurance?

COVERAGE ISSUES

◆ANSWER:

Yes. You are not able to show proof of coverage at the time of the stop. However, if your friend provides a statement or affidavit to the court which gave you permission to use her vehicle, the court will dismiss the citation.

Texas Trans. Code § 601.076

An owner's motor vehicle liability insurance policy must ...pay, on behalf of the named insured or another person who, as insured, uses a covered motor vehicle with the express or implied permission of the named insured.

COVERAGE ISSUES

◆QUESTION:

JR lives with his mom and dad. Mom sends him to the store to pick up milk. The vehicle is insured under mom and dad's name but not JR's. JR is stopped by a police officer for speeding.

Should the police officer issue JR a citation for failure to maintain liability insurance?

COVERAGE ISSUES

◆ ANSWER:

Yes. JR is not able to show proof of coverage at the time of the stop. However, JR may show the court proof that he is a immediate family member under mom and dad's policy.

Texas Trans. Code § 601.054

(a) The department shall accept evidence of financial responsibility from an owner for another person required to establish evidence of financial responsibility if the other person is: ... (2) a member of the owner's immediate family or household.

PRESCRIBED STANDARD PROOF OF MV LIABILITY INSURANCE

◆ Texas Trans. Code § 601.081

A standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance must include:

- (1) the name of the insurer;
- (2) the insurance policy number;
- (3) the policy period;
- (4) the name and address of each insured;
- (5) the policy limits or a statement that the coverage of the policy complies with the minimum amounts of motor vehicle liability insurance required by this chapter; and
- (6) the make and model of each covered vehicle.

ALTERNATIVE METHODS OF ESTABLISHING FINANCIAL RESPONSIBILITY (SUBCHAPTER E.)

◆ Texas Trans. Code § 601.121. SURETY BOND

(a) A person may establish financial responsibility by filing with the department a bond:

(1) with at least two individual sureties, each of whom owns real property in this state that is not exempt from execution under the constitution or laws of this state;

(b) The real property must be described in the bond approved by a judge of a court of record. The assessor-collector of the county in which the property is located must certify the property as free of any tax lien. The sureties in combination must have equity in the property in an amount equal to at least twice the amount of the bond.

ALTERNATIVE METHODS OF ESTABLISHING FINANCIAL RESPONSIBILITY (SUBCHAPTER E.)
◆ Texas Trans. Code § 601.122. DEPOSIT OF CASH OR SECURITIES WITH COMPTROLLER
 (a) A person may establish financial responsibility by depositing \$55,000 with the comptroller in:
 (1) cash; or
 (2) securities that: (A) are of the type that may legally be purchased by savings banks or trust funds; and (B) have a market value equal to the required amount.

ALTERNATIVE METHODS OF ESTABLISHING FINANCIAL RESPONSIBILITY (SUBCHAPTER E.)
◆ Texas Trans. Code § 601.123. DEPOSIT OF CASH OR CASHIER'S CHECK WITH COUNTY JUDGE
 (a) A person may establish financial responsibility by making a deposit with the county judge of the county in which the motor vehicle is registered.
 (b) The deposit must be made in cash or a cashier's check in the amount of at least \$55,000.
 (c) On receipt of the deposit, the county judge shall issue to the person making the deposit a certificate stating that a deposit complying with this section has been made. The certificate must be acknowledged by the sheriff of that county and filed with the department.

ALTERNATIVE METHODS OF ESTABLISHING FINANCIAL RESPONSIBILITY (SUBCHAPTER E.)
◆ Texas Trans. Code § Sec. 601.124. SELF-INSURANCE
 (a) A person in whose name more than 25 motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the department as provided by this section.
 (b) The department may issue a certificate of self-insurance to a person if:
 (1) the person applies for the certificate; and
 (2) the department is satisfied that the person has and will continue to have the ability to pay judgments obtained against the person.

FINANCIAL RESPONSIBILITY VERIFICATION PROGRAM (SUBCHAPTER N)

- ◆ TexasSure, Texas' financial responsibility verification program, is a joint project mandated by the 79th Texas Legislature and developed by the:
 - Texas Department of Insurance;
 - Texas Department of Public Safety;
 - Texas Department of Motor Vehicles; and
 - Texas Department of Information Resources
- ◆ TexasSure is a vehicle insurance verification system that allows law enforcement and county tax officials to confirm whether a vehicle in Texas has personal auto liability insurance coverage.

FINANCIAL RESPONSIBILITY VERIFICATION PROGRAM (SUBCHAPTER N)

- ◆ The *TexasSure* program goal is to help reduce the number of uninsured vehicles in Texas.
- ◆ The program should also prevent motorists from avoiding the law by using counterfeit proof of insurance cards or canceling cards after they're used for a registration or inspection.

WHAT ARE THE EXCEPTIONS TO FINANCIAL RESPONSIBILITY?

- ◆ Texas Trans. Code § Sec. 601.124
 - (a) Section 601.051 does not apply to:
 - (1) the operation of a motor vehicle that:
 - (A) is a former military vehicle or is at least 25 years old;
 - (B) is used only for exhibitions, club activities, parades, and other functions of public interest and not for regular transportation; and
 - (C) for which the owner files with the department an affidavit, signed by the owner, stating that the vehicle is a collector's item and used only as described by Paragraph (B);

WHAT ARE THE EXCEPTIONS TO FINANCIAL RESPONSIBILITY?

◆ Texas Trans. Code § Sec. 601.124

- (a) Section 601.051 does not apply to:
- (2) the operation of a golf cart that is operated only as authorized by Section 551.403; or
- (3) a volunteer fire department for the operation of a motor vehicle the title of which is held in the name of a volunteer fire department.
- (b) Subsection (a)(3) does not exempt from the requirement of Section 601.051 a person who is operating a vehicle described by that subsection.

WHAT ARE OTHER EXCEPTIONS TO FINANCIAL RESPONSIBILITY UNDER CHAP 601?

◆ Texas Trans. Code § Sec. 601.007 **APPLICABILITY OF CHAPTER TO GOVERNMENT VEHICLES**

- (a) This chapter does not apply to a government vehicle.
- (b) The provisions of this chapter, other than Section 601.004(reporting of an accident), do not apply to an officer, agent, or employee of the United States, this state, or a political subdivision of this state while operating a government vehicle in the course of that person's employment.
- (c) The provisions of this chapter, other than Sections 601.004 and 601.054, do not apply to a motor vehicle that is subject to Chapter 643(tow trucks, motor carriers and vehicles transporting persons or cargo).

WHAT ARE THE CRIMINAL PENALTIES FOR FAILURE TO MAINTAIN MOTOR VEHICLE LIABILITY INSURANCE? (SUBCHAPTER G)

◆ Texas Trans. Code § 601.191

- (a) A person commits an offense if the person operates a motor vehicle in violation of Section 601.051.
- (b) Except as provided by Subsections (c) and (d), an offense under this section is a misdemeanor punishable by a fine of not less than \$175 or more than \$350.
- (c) If a person has been previously convicted of an offense under this section, an offense under this section is a misdemeanor punishable by a fine of not less than \$350 or more than \$1,000.
- (d) If the court determines that a person who has not been previously convicted of an offense under this section is economically unable to pay the fine, the court may reduce the fine to less than \$175.

WHAT ARE THE DEFENSES TO THE REQUIREMENT OF FINANCIAL RESPONSIBILITY?

◆ Texas Trans. Code § 601.193. DEFENSE: FINANCIAL RESPONSIBILITY IN EFFECT AT TIME OF ALLEGED OFFENSE

(a) It is a defense to prosecution under Section 601.191 or 601.195 that the person charged produces to the court one of the documents listed in Section 601.053(a) that was valid at the time that the offense is alleged to have occurred.

(b) After the court verifies a document produced under Subsection (a), the court shall dismiss the charge.

HOW DOES A COURT VERIFY FINANCIAL RESPONSIBILITY DOCUMENTS?

- ◆ Examination of documents and questioning of violator;
- ◆ Requiring violator to complete an sworn affidavit;
- ◆ Call insurance company to verify coverage or require violator to bring in proof from insurance company;

WHAT ARE THE DEFENSES TO THE REQUIREMENT OF FINANCIAL RESPONSIBILITY?

◆ Texas Trans. Code § 601.194

DEFENSE: POSSESSION OF MOTOR VEHICLE FOR MAINTENANCE OR REPAIR

It is a defense to prosecution of an offense under Section 601.191 that the motor vehicle operated by the person charged:

- (1) was in the possession of that person for the sole purpose of maintenance or repair; and
- (2) was not owned in whole or in part by that person

WHAT ARE THE CIVIL PENALTIES FOR FAILURE TO MAINTAIN MOTOR VEHICLE LIABILITY INSURANCE? (SUBCHAPTER H)

◆ Texas Trans. Code § 601.231

SUSPENSION OF DRIVER'S LICENSE AND VEHICLE REGISTRATION

◆ (a) If a person is convicted of an offense under Section 601.191 and a prior conviction ... has been reported to the department, the department shall suspend the driver's license and vehicle registrations of the person unless the person files and maintains evidence of financial responsibility with the department until the second anniversary of the date of the subsequent conviction.

WHAT ARE THE CIVIL PENALTIES FOR FAILURE TO MAINTAIN MOTOR VEHICLE LIABILITY INSURANCE? (SUBCHAPTER H)

◆ Texas Trans. Code § 601.231

SUSPENSION OF DRIVER'S LICENSE AND VEHICLE REGISTRATION

◆ (b) The department may waive the requirement of maintaining evidence of financial responsibility under Subsection (a) if satisfactory evidence is filed with the department showing that at the time of arrest the person was in compliance with the financial responsibility requirement... or was exempt...

NOTICE OF POTENTIAL SUSPENSION

◆ Texas Trans. Code § 601.233

◆ (a) A citation for an offense under Section 601.191 issued as a result of Section 601.053 must include, in type larger than other type on the citation, except for the type of the statement required by Sect 708.105, the following statement:

NOTICE OF POTENTIAL SUSPENSION

"A second or subsequent conviction of an offense under the Texas Motor Vehicle Safety Responsibility Act will result in the suspension of your driver's license and motor vehicle registration unless you file and maintain evidence of financial responsibility with the Department of Public Safety for two years from the date of conviction. The department may waive the requirement to file evidence of financial responsibility if you file satisfactory evidence with the department showing that at the time this citation was issued, the vehicle was covered by a motor vehicle liability insurance policy or that you were otherwise exempt from the requirements to provide evidence of financial responsibility."

NOTICE OF POTENTIAL SUSPENSION

◆ Texas Trans. Code § 601.233
◆ (b) A judge presiding at a trial at which a person is convicted of an offense under Section 601.191 shall notify the person that the person's driver's license is subject to suspension if the person fails to provide to the department evidence of financial responsibility as required by Section 601.231.

WHAT ARE THE CIVIL PENALTIES FOR FAILURE TO MAINTAIN MOTOR VEHICLE LIABILITY INSURANCE? (SUBCHAPTER I)

◆ Texas Trans. Code § 601.261 IMPOUNDMENT OF MOTOR VEHICLE
On a second or subsequent conviction for an offense under Section 601.191, the court shall order the sheriff of the county in which the court has jurisdiction to impound the motor vehicle operated by the defendant at the time of the offense if the defendant:
(1) was an owner of the motor vehicle at the time of the offense;
and
(2) is an owner on the date of that conviction.

WHAT ARE THE CIVIL PENALTIES FOR FAILURE TO MAINTAIN MOTOR VEHICLE LIABILITY INSURANCE? (SUBCHAPTER I)

◆ Texas Trans. Code §601.262. DURATION OF IMPOUNDMENT

(a) The duration of an impoundment under Section 601.261 is 180 days.

(b) The court may not order the release of the vehicle unless the defendant applies to the court for the vehicle's release and provides evidence of financial responsibility...

(c) The evidence of financial responsibility must cover the two-year period immediately following the date the defendant applies for release of the impounded vehicle. The court, by order, shall permit a defendant to provide evidence of insurability in increments of a period of not less than six months.

WHAT ARE THE CIVIL PENALTIES FOR FAILURE TO MAINTAIN MOTOR VEHICLE LIABILITY INSURANCE? (SUBCHAPTER I)

◆ Texas Trans. Code §708.103 SURCHARGE FOR CONVICTION OF DRIVING WHILE LICENSE INVALID OR WITHOUT FINANCIAL RESPONSIBILITY

(a) Each year the department shall assess a surcharge on the license of each person who during the preceding 36-month period has been convicted of an offense under Section 521.457, 601.191, or 601.371.

(b) The amount of a surcharge under this section is \$250 per year.
