

CHAPTER 1050

S.B. No. 292

AN ACT

relating to insurance required as a condition for obtaining a permit, license, or other authorization from a state agency.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subsection (a), Section 14.011, Agriculture Code, is amended to read as follows:

(a) Except as provided by Subsection (c) of this section, an applicant for a license must file or have on file with the department a certificate of insurance evidencing that:

(1) the applicant has an effective policy of insurance issued by an insurance company authorized to do business in this state *or, with the approval of the depart-*

*ment, by a surplus lines insurer that meets the requirements of Article 1.14-2, Insurance Code, and rules adopted by the State Board of Insurance under that article; and*

(2) the policy insures, in the name of the applicant, all grain that is or may be in the public grain warehouse for its full market value against loss by fire, internal explosion, lightning, windstorm, cyclone, or tornado.

SECTION 2. Subsection (a), Section 113.097, Natural Resources Code, is amended to read as follows:

(a) The commission shall not issue a license authorizing activities under Section 113.082 of this code or renew an existing license unless the applicant for license or license renewal provides proof of required insurance coverage with an insurance carrier authorized to do business in this state *or, if the applicant is unable to obtain coverage from such a carrier, provides, on approval of the commission, proof of required insurance coverage issued by a surplus lines insurer that meets the requirements of Article 1.14-2 of this code and rules adopted by the State Board of Insurance under that article.*

SECTION 3. Subsection (a), Section 131.143, Natural Resources Code, is amended to read as follows:

(a) After a permit application is approved but before the permit is issued, the applicant shall file a certificate of insurance certifying that the applicant has in force a public liability insurance policy issued by an insurance company authorized to conduct business in this state *or, if the applicant is unable to obtain coverage from an insurance carrier authorized to do business in this state, file, with the commission's approval, such a certificate of insurance from a surplus lines insurer that meets the requirements of Article 1.14-2, Insurance Code, and rules adopted by the State Board of Insurance under that article.*

SECTION 4. Section 11, Chapter 270, Acts of the 40th Legislature, Regular Session, 1927 (Article 911a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. The Commission shall, in the granting of any certificate to any motor bus company for regularly transporting persons as passengers for compensation or hire, require the owner or operator to first procure liability and property damage insurance from a company licensed to make and issue such insurance policy in the State of Texas *or, if the owner or operator is unable to procure insurance from an insurance company authorized to conduct business in this state, to first procure, with the Commission's approval, liability and property damage insurance from a surplus lines insurer that meets the requirements of Article 1.14-2, Insurance Code, and rules adopted by the State Board of Insurance under that article,* covering each and every motor propelled vehicle while actually being operated by such applicant. The amount of such policy or policies of insurance shall be fixed by the Commission by general order or otherwise, and the terms and conditions of said policy or policies covering said motor vehicle are to be such as to indemnify the applicant against loss by reason of any personal injury to any person or loss or damage to the property of any person other than the assured and his employees. Such policy or policies shall furthermore provide that the insurer will pay all judgments which may be recovered against the insured motor bus company based on claims for loss or damage from personal injury or loss of or injury to property occurring during the term of the said policy or policies and arising out of the actual operation of such motor bus or busses, and such policy or policies shall also provide for successive recoveries to the complete exhaustion of the face amount thereof, and that such judgment will be paid by the insurer irrespective of the solvency or insolvency of the insured. Such liability and property damage insurance as required by the Commission shall be continuously maintained in force on each and every motor propelled vehicle while being operated in common carrier service. In addition to the insurance hereinabove set forth, the owner or operator shall also protect his employees by taking out workmen's compensation insurance either as provided by the Workmen's Compensation Laws of the State of Texas or in a reliable insurance company approved by the Railroad Commission of the State of Texas. The taking out of such indemnity policy or policies shall be a condition precedent to any operation and such policy or policies as required under this Act, shall be approved

and filed with the Commission and failure to file and keep such policy or policies in force and effect as provided herein shall be cause for the revocation of the certificate and shall subject the motor bus company so failing to the penalties prescribed herein.

SECTION 5. Section 13, Chapter 314, Acts of the 41st Legislature, Regular Session, 1929 (Article 911b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13. Before any permit or certificate of public convenience and necessity may be issued to any motor carrier and before any motor carrier may lawfully operate under such permit or certificate as the case may be, such motor carrier shall file with the Commission bonds and/or insurance policies issued by some insurance company including mutuals and reciprocals or bonding company authorized by law to transact business in Texas *or, if the motor carrier is unable to obtain insurance from an insurance company authorized to do business in this state, with the Commission's approval, insurance policies issued by a surplus lines insurer that meet the requirements of Article 1.14-2, Insurance Code, and rules adopted by the State Board of Insurance under that article*, in an amount to be fixed by the Commission under such rules and regulations as it may prescribe, which bonds and insurance policies shall provide that the obligor therein will pay to the extent of the face amount of such insurance policies and bonds all judgments which may be recovered against the motor carrier so filing said insurance policies and bonds, based on claims for loss or damages from personal injury or loss of, or injury to property occurring during the term of said bonds and policies and arising out of the actual operation of such motor carrier; and such bonds and policies shall also provide for successive recoveries to the complete exhaustion of the face amount thereof and that such judgments will be paid by the obligor in said bonds and insurance policies irrespective of the solvency or insolvency of the motor carrier; provided, however, such bonds and policies shall not cover personal injuries sustained by the servants, agents or employees of such motor carrier. Provided further, that in the event the insured shall abandon his permit or certificate and leave the state, a claimant, asserting a claim within the provisions of said bonds or policies, may file suit against the sureties executing such bond or the company issuing such policies in a court of competent jurisdiction without the necessity of making the insured a party to said suit. Provided, however, that the Commission shall not require insurance covering loss of or damage to cargo in amount excessive for the class of service to be rendered by any motor carrier. Each such motor carrier shall, on or before the date of the expiration of the term of any policy or bond so filed by him, file a renewal thereof, or new bonds or policies containing the same terms and obligations of the preceding bonds and policies, and shall each year thereafter on or before the expiration date of the existing bonds and policies, file such renewal policies and bonds so as to provide continuous and unbroken protection to the public having legal claims against such motor carrier; and in the event such renewal bonds and policies are not so filed, the Commission, after notice to the motor carrier, and hearing, may, within its discretion if it shall find and determine that the ends of justice will be better subserved thereby, cancel such permit or certificate for failure to furnish and provide such bonds or insurance as herein required. The Commission may accept in lieu of the filing of the original policies of insurance, a certificate of insurance, in such form as may be prescribed by the Commission, which certificate, when filed with the Commission, will bind the obligor thereunder and satisfy the requirements of this section as if the original policies of insurance had been filed.

Each motor carrier shall also protect his employees by taking out workmen's compensation insurance, either as provided by the Workmen's Compensation Laws of the State of Texas, or in a reliable insurance company authorized to write workmen's compensation insurance approved by the Commission.

SECTION 6. Subsection (e), Section 7A, Chapter 234, Acts of the 51st Legislature, Regular Session, 1949 (Article 5221a-5, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) A licensee shall take out a policy of insurance with an insurance carrier authorized to do business in the State of Texas in an amount satisfactory to the Commissioner, which insures the licensee against liability for damage to persons or property arising out of the licensee's operation of, or ownership of, any motor vehicle for the transportation of

individuals in connection with his business, activities, or operations as a labor agent. *If a licensee is unable to obtain insurance with an insurance carrier authorized to do business in this state, the licensee, with the Commissioner's approval, may purchase the required insurance from a surplus lines insurer that meets the requirements of Article 1.14-2, Insurance Code, and rules adopted by the State Board of Insurance under that article.*

SECTION 7. Section 2A, Chapter 18, General Laws, Acts of the 41st Legislature, 5th Called Session, 1930, as amended (Article 6675a-6e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2A. To expedite and facilitate, during the harvesting season, the harvesting and marketing of farm products produced in this State, the Department is authorized to issue to a nonresident owner a 30-day temporary registration permit for any truck, truck tractor, trailer or semitrailer to be used in the movement of such farm commodities from the place of production to market, storage or railhead, not more than seventy-five (75) miles distant from such place of production, or to be used in the movement of machinery used to harvest any of the commodities named in this section.

To expedite and facilitate, during the harvesting season, the harvesting and movement of farm products produced outside of Texas but marketed or processed in Texas or moved to points in Texas for shipment, the Department is authorized to issue to a nonresident owner a 30-day temporary registration permit for any truck, truck tractor, trailer or semitrailer to be used in the movement of such farm commodities from the point of entry into Texas to market, storage, processing plant, railhead or seaport not more than eighty (80) miles distant from such point of entry into Texas. All mileages and distances referred to herein are State Highway mileages. Before such temporary registration provided for in this paragraph may be issued, the applicant must present satisfactory evidence that such motor vehicle is protected by such insurance and in such amounts as may be described in Section 5 of the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes) as it is now written or as it may hereafter be amended, and such policies must be issued by an insurance company or surety company authorized to write Motor Vehicle Liability Insurance in this State *unless the applicant is unable to obtain the insurance coverage from an insurance company authorized to write the coverage in this State, in which case, the applicant, with the Department's approval, may obtain the coverage from a surplus lines insurer that meets the requirements of Article 1.14-2, Insurance Code, and rules adopted by the State Board of Insurance under that article;* and that such vehicle has been inspected as required under the Uniform Act Regulating Traffic on Highways in Texas (Article XV of Article 6701d, Vernon's Texas Civil Statutes) as it is now written or as it may hereafter be amended.

The Department is authorized to prescribe the form of the application and the information to be furnished therein for such temporary registration permits. If the application is granted, the Department shall issue a special distinguishing insignia which must be attached to such vehicle in lieu of the regular Texas Highway registration plates. Such special insignia shall show its expiration date. The temporary registration permit fee shall be one-twelfth ( $\frac{1}{12}$ ) of the annual Texas registration fee for the vehicle for which the special permit is secured.

The temporary permits herein authorized shall be issued only when the vehicle for which said permit is issued is legally registered in the nonresident owner's home state or country for the current registration year; and said permit will remain valid only so long as the home state or country registration is valid; but in any event the Texas temporary registration permit will expire 30 days from the date of issuance. Not more than three (3) such temporary registration permits may be issued to a nonresident owner during any one (1) vehicle registration year in the State of Texas. A vehicle registered under the terms of this Act may not be operated in Texas after the expiration of the temporary permit unless the nonresident owner secures a second temporary permit as provided above, or unless the nonresident owner registers the vehicle under the appropriate Texas vehicular registration statutes, applicable to residents, for the remainder of the registration year. No such vehicle may be registered with a Texas farm truck license.

Any person who shall transport any of the commodities described in this Act, under a temporary permit provided for herein, to a market, place of storage, processing plant, railhead or seaport, which is a greater distance from the place of production of such commodity in this State, or the point of entry into the State of Texas than is provided for in said temporary permit, or shall follow a route other than that prescribed by the Highway Commission, shall be punished by a fine of not less than Twenty-five Dollars (\$25), nor more than Two Hundred Dollars (\$200).

Nothing in this Act shall be construed to authorize such nonresident owner or operator to operate or cause to be operated any of such vehicles in this State in violation of Chapter 314, Acts of the 41st Legislature, Regular Session, 1929, as amended (Article 911b, Vernon's Texas Civil Statutes) or any of the other laws of this State.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 8, 1987, by the following vote: Yeas 29, Nays 0. Passed the House on May 22, 1987, by the following vote: Yeas 145, Nays 0, one present not voting.

Approved June 19, 1987.

Effective June 19, 1987.