

By: Farrar

H.B. No. 1753

A BILL TO BE ENTITLED

AN ACT

relating to authorizing a beneficiary designation that transfers a motor vehicle at the owner's death.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 2, Estates Code, is amended by adding Chapter 115 to read as follows:

CHAPTER 115. BENEFICIARY DESIGNATION FOR MOTOR VEHICLES

Sec. 115.001. DEFINITIONS. In this chapter:

(1) "Beneficiary designation" means the designation by an owner of a motor vehicle of a beneficiary of the vehicle as provided by Section 501.0315, Transportation Code.

(2) "Designated beneficiary" means a person designated as a beneficiary of an owner's interest in a motor vehicle under Section 501.0315, Transportation Code.

(3) "Joint owner with right of survivorship" or "joint owner" means a person who owns a motor vehicle concurrently with one or more other persons with a right of survivorship. The term does not include an owner of community property with or without a right of survivorship.

(4) "Motor vehicle" has the meaning assigned by Section 501.002, Transportation Code, except that the term does not include an all-terrain vehicle or a recreational off-highway vehicle, as those terms are defined by Section 502.001, Transportation Code, designed by the manufacturer for off-highway

1 use that is not required to be registered under the laws of this
2 state.

3 (5) "Person" has the meaning assigned by Section
4 311.005, Government Code.

5 Sec. 115.002. BENEFICIARY DESIGNATION AUTHORIZED. (a) An
6 owner of a motor vehicle may transfer the owner's interest in the
7 motor vehicle to a sole beneficiary effective on the owner's death
8 by designating a beneficiary as provided by Section 501.0315,
9 Transportation Code.

10 (b) A beneficiary designation is:

11 (1) subject to Section 115.003(b), revocable and may
12 be changed at any time without the consent of the designated
13 beneficiary as provided by Section 501.0315, Transportation Code;

14 (2) a nontestamentary instrument; and

15 (3) effective without:

16 (A) notice or delivery to or acceptance by the
17 designated beneficiary during the owner's life; or

18 (B) consideration.

19 (c) A will may not revoke or supersede a beneficiary
20 designation, regardless of when the will is made.

21 (d) A designated beneficiary may disclaim the designated
22 beneficiary's interest in the motor vehicle as provided by Chapter
23 240, Property Code.

24 Sec. 115.003. JOINT OWNERSHIP. (a) If a motor vehicle that
25 is the subject of a beneficiary designation is owned by joint owners
26 with right of survivorship, the beneficiary designation must be
27 made by all of the joint owners.

1 (b) A beneficiary designation made by joint owners with
2 right of survivorship:

3 (1) may be revoked or changed as provided by Section
4 501.0315, Transportation Code, only if it is revoked or changed by
5 all of the joint owners; and

6 (2) may be revoked or changed by the last surviving
7 joint owner as provided by Section 501.0315, Transportation Code.

8 Sec. 115.004. EFFECT OF BENEFICIARY DESIGNATION DURING
9 OWNER'S LIFE. During a motor vehicle owner's life, a beneficiary
10 designation does not:

11 (1) affect an interest or right of the owner or owners
12 making the designation, including the right to transfer or
13 encumber the motor vehicle that is the subject of the designation;

14 (2) create a legal or equitable interest in favor of
15 the designated beneficiary in the motor vehicle that is the subject
16 of the designation, even if the beneficiary has actual or
17 constructive notice of the designation;

18 (3) affect an interest or right of a secured or
19 unsecured creditor or future creditor of the owner or owners making
20 the designation, even if the creditor has actual or constructive
21 notice of the designation; or

22 (4) affect an owner's or the designated beneficiary's
23 eligibility for any form of public assistance, subject to
24 applicable federal law.

25 Sec. 115.005. EFFECT OF BENEFICIARY DESIGNATION AT OWNER'S
26 OR LAST SURVIVING OWNER'S DEATH. (a) On the death of the owner of a
27 motor vehicle that is the subject of a beneficiary designation, the

1 following rules apply to an interest in the motor vehicle:

2 (1) if the designated beneficiary survives the owner
3 making the designation by 120 hours, the interest in the motor
4 vehicle is transferred to the designated beneficiary; and

5 (2) if the designated beneficiary fails to survive the
6 owner making the designation by 120 hours, the share of the
7 designated beneficiary lapses, notwithstanding Section 111.052,
8 and is subject to and passes in accordance with Subchapter D,
9 Chapter 255, as if the beneficiary designation were a devise made in
10 a will.

11 (b) If an owner is a joint owner with right of survivorship
12 who is survived by one or more other joint owners, the motor vehicle
13 that is the subject of the beneficiary designation belongs to the
14 surviving joint owner or owners. If an owner is a joint owner with
15 right of survivorship who is the last surviving joint owner, the
16 beneficiary designation is effective.

17 (c) A designated beneficiary takes the motor vehicle
18 subject to all encumbrances, assignments, contracts, liens, and
19 other interests to which the vehicle is subject at the owner's or
20 last surviving owner's death, as applicable. The transfer to the
21 designated beneficiary does not affect the ability of a lienholder
22 to pursue an existing means of debt collection permitted under the
23 laws of this state.

24 Sec. 115.006. CREDITOR CLAIMS; ALLOWANCES IN LIEU OF EXEMPT
25 PROPERTY AND FAMILY ALLOWANCES. Sections 114.104(b), (c), and (d)
26 and Section 114.106 apply to a transfer of an owner's interest in a
27 motor vehicle by a beneficiary designation in the same manner and to

1 the same extent as a transfer of real property under a transfer on
2 death deed under Chapter 114.

3 SECTION 2. Section 122.001(1), Estates Code, is amended to
4 read as follows:

5 (1) "Beneficiary" includes a person who would have
6 been entitled, if the person had not made a disclaimer, to receive
7 property as a result of the death of another person:

8 (A) by inheritance;

9 (B) under a will;

10 (C) by an agreement between spouses for community
11 property with a right of survivorship;

12 (D) by a joint tenancy with a right of
13 survivorship;

14 (E) by a survivorship agreement, account, or
15 interest in which the interest of the decedent passes to a surviving
16 beneficiary;

17 (F) by an insurance, annuity, endowment,
18 employment, deferred compensation, or other contract or
19 arrangement;

20 (G) under a pension, profit sharing, thrift,
21 stock bonus, life insurance, survivor income, incentive, or other
22 plan or program providing retirement, welfare, or fringe benefits
23 with respect to an employee or a self-employed individual; [~~or~~]

24 (H) by a transfer on death deed; or

25 (I) by a beneficiary designation as defined by
26 Section 115.001.

27 SECTION 3. Subchapter B, Chapter 501, Transportation Code,

1 is amended by adding Section 501.0315 to read as follows:

2 Sec. 501.0315. BENEFICIARY DESIGNATION. (a)

3 Notwithstanding Section 501.002, in this section, "motor vehicle"
4 does not include an all-terrain vehicle or a recreational
5 off-highway vehicle, as those terms are defined by Section 502.001,
6 designed by the manufacturer for off-highway use that is not
7 required to be registered under the laws of this state.

8 (b) The owner of a motor vehicle may designate a sole
9 beneficiary to whom the owner's interest in the vehicle transfers
10 on the owner's death as provided by Chapter 115, Estates Code, by
11 submitting an application for title under Section 501.023 with the
12 designation. To be effective, the designation must state that the
13 transfer of an interest in the vehicle to the designated
14 beneficiary is to occur at the transferor's death.

15 (c) The legal name of a beneficiary designated under this
16 section must be included on the title.

17 (d) The department shall transfer title of a motor vehicle
18 to a beneficiary designated under this section for the vehicle if
19 the beneficiary submits:

20 (1) an application for title under Section 501.023 not
21 later than the 180th day after the date of the owner's death or, if
22 the vehicle is owned by joint owners, the last surviving owner's
23 death, as applicable; and

24 (2) satisfactory proof of the death of the owner or
25 owners, as applicable.

26 (e) A beneficiary designation may be changed or revoked by
27 submitting a new application for title under Section 501.023.

1 (f) A beneficiary designation or a change or revocation of a
2 beneficiary designation made on an application for title of a motor
3 vehicle that has not been submitted to the department before the
4 death of a vehicle's owner or owners who made, changed, or revoked
5 the designation, as applicable, is invalid.

6 (g) The department may adopt rules to administer this
7 section.

8 SECTION 4. This Act takes effect September 1, 2017.