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PROPOSAL OF
43 TAC §57.52

INTRODUCTION. The Motor Vehicle Crime Prevention Authority (MVCPA) proposes new 43 Texas Administrative Code (TAC) §57.52 concerning a penalty for late payment of fee or filing of report; appeal. This new section is necessary to implement House Bill (HB) 3514 enacted during the 87th Legislature, Regular Session (2021). HB 3514 provides that the MVCPA may assess a penalty if an insurer fails to timely pay the fee required under Transportation Code §1006.153 or fails to timely file a report of the fee. An insurer that is assessed a penalty or interest for the late filing of a fee or report may appeal the assessment to the MVCPA board under the new section.

EXPLANATION.

New §57.52 implements HB 3514 enacted by the 87th Legislature, 2021. Transportation Code §1006.153, Fee Imposed on Insurers, provides “motor vehicle years of insurance” means the total number of years or portions of years during which a motor vehicle is covered by insurance. Insurers are required to pay to the Authority a fee equal to \$4 multiplied by the total number of motor vehicle years of insurance policies delivered, issued for delivery, or renewed by the insurer. Transportation Code §1006.153(b). Insurers are required to pay the fee not later than: (1) March 1 of each year for a policy delivered, issued, or renewed from July 1 to December 31 of the previous calendar year; and (2) August 1 of each year for a policy delivered, issued, or renewed from January 1 through June 30 of that year.

New §57.52 provides that a penalty shall be imposed on an insurer for the delinquent payment of the required fee or the delinquent filing of the report of a fee that is required by rule. The penalty shall be assessed in the same manner as the assessment of a penalty for a delinquent tax payment or filing or a report under Tax Code §111.061(a). Interest accrues in the manner described in Tax Code §111.060 on

1 any fee paid after the due date required under Transportation Code §1006.153(b). HB 3514 provides the
2 Authority with the ability to audit or contract for the audit of the fees paid under Transportation Code
3 §1006.153(b-2) and requires the Authority to establish procedures by rule that provide a right to an appeal
4 to an insurer assessed a penalty or interest under this section. The final decision regarding an insurer's
5 appeal is decided by a majority vote of the Authority. The appeal of the assessment of a penalty or interest
6 is not a contested case under Government Code, Chapter 2001.

7 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
8 Texas Department of Motor Vehicles has determined that for each year of the first five years the new
9 section will be in effect, there will be no significant fiscal impact to state or local governments as a result
10 of the enforcement or administration of the proposal. Joe Canady, Director of the Motor Vehicle Crime
11 Prevention Authority (MVCPA) Division, has determined that there will be no measurable effect on local
12 employment or the local economy as a result of the proposal.

13 **PUBLIC BENEFIT AND COST NOTE.** Mr. Canady has also determined that, for each year of the first five
14 years new section is in effect, the public benefits anticipated as a result of the proposal include the timely
15 payment of the MVCPA fee and timely filing of the report of the MVCPA fee by insurers.

16 Anticipated Costs To Comply With The Proposal. Mr. Canady anticipates that there will be costs
17 to comply with these rules. The cost to persons required to comply with the proposal are the payment of
18 a penalty and any interest accrued on that penalty for the delinquent payment of the fee or delinquent
19 filing of the report of the fee.

20 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by the
21 Government Code, §2006.002, the department has determined that the proposed new section will not
22 have an adverse economic effect on small businesses, micro-businesses, and rural communities because
23 the new section does not require small businesses, micro-businesses, or rural communities to comply.

1 Therefore, the MVCPA is not required to prepare a regulatory flexibility analysis under Government Code,
2 §2006.002.

3 **TAKINGS IMPACT ASSESSMENT.** The MVCPA has determined that no private real property interests are
4 affected by this proposal and that this proposal does not restrict or limit an owner's right to property that
5 would otherwise exist in the absence of government action and, therefore, does not constitute a taking
6 or require a takings impact assessment under the Government Code, §2007.043.

7 **GOVERNMENT GROWTH IMPACT STATEMENT.** The MVCPA has determined that each year of the first
8 five years the proposed new section is in effect, no government program would be created or eliminated.
9 Implementation of the proposed new section would not require the creation of new employee positions
10 or elimination of existing employee positions. Implementation would not require an increase or decrease
11 in future legislative appropriations to the MVCPA or an increase or decrease of fees paid to the MVCPA.
12 The proposed new section does not create a new regulation, or expand, limit, or repeal an existing
13 regulation. Lastly, the proposed new section does not affect the number of individuals subject to the
14 rule's applicability and will not affect this state's economy.

15 **REQUEST FOR PUBLIC COMMENT.**

16 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on October 8,
17 2023. A request for a public hearing must be sent separately from your written comments. Send written
18 comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas
19 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the
20 department will consider written comments and public testimony presented at the hearing.

21 **STATUTORY AUTHORITY.** The MVCPA proposes new section 43 TAC §57.52 under Transportation Code
22 §1006.101.

1 Transportation Code §1006.101 authorizes the MVCPA may adopt rules to administer Chapter
2 1006.

3 **CROSS REFERENCE TO STATUTE.** Art. 4413(37) §6.

4

5 **TEXT.**

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43 TAC §57.52

7 §57.52. Assessment of Penalty or Interest for Late Payment of the Fee, Filing of Report; Appeal.

8 (a) Penalty for Late Payment of Fee or Filing of Report.

9 (1) A penalty shall be assessed against an insurer for the delinquent payment of the fee
10 required under Transportation Code §1006.153(b-1) or the delinquent filing of any report of the fee
11 required.

12 (2) The penalty for the delinquent payment of the fee or late filing of the report shall be
13 assessed in accordance with Tax Code §111.061(a).

14 (3) Interest accrues in the manner described in Tax Code §111.060 on any fee paid after
15 the due date.

16 (b) Appeal Procedures.

17 (1) An insurer that is assessed a penalty or interest by the MVCPA under Transportation
18 Code §1006.153 may appeal the assessment by submitting an MVCPA prescribed form to the MVCPA
19 Director within thirty (30) days of the date of the assessment.

20 (2) An insurer shall provide the MVCPA with any written documentation or evidence
21 demonstrating the reasons for the late payment of the fee or late filing of the report.

