

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1871

5 By: Representative Johnson
6

For An Act To Be Entitled

8 AN ACT TO REGULATE MOTOR VEHICLE LIABILITY INSURANCE;
9 TO DEVELOP AND IMPLEMENT AN ONLINE MOTOR VEHICLE
10 LIABILITY INSURANCE VERIFICATION SYSTEM; TO ENHANCE
11 COMPLIANCE WITH AND THE ENFORCEMENT OF MOTOR VEHICLE
12 LIABILITY INSURANCE REQUIREMENTS; TO DECLARE AN
13 EMERGENCY; AND FOR OTHER PURPOSES.
14

Subtitle

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16
17 TO DEVELOP AND IMPLEMENT AN ONLINE MOTOR
18 VEHICLE LIABILITY INSURANCE VERIFICATION
19 SYSTEM; TO ENHANCE COMPLIANCE WITH AND
20 THE ENFORCEMENT OF MOTOR VEHICLE
21 LIABILITY INSURANCE REQUIREMENTS; AND TO
22 DECLARE AN EMERGENCY.
23
24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Effective January 1, 2017, Arkansas Code § 27-14-414 is
28 amended to read as follows:

29 27-14-414. Vehicle Insurance Database.

30 ~~(a) There is created the Vehicle Insurance Database within the Revenue~~
31 ~~Division of the Department of Finance and Administration to develop,~~
32 ~~establish, and maintain a database of information to verify compliance with~~
33 ~~the motor vehicle liability insurance laws of Arkansas set out in § 27-22-101~~
34 ~~et seq.~~

35 ~~(b)(1) The Vehicle Insurance Database shall be administered by the~~
36 ~~division with the assistance of the Department of Information Systems or any~~



1 other designated agent which may be contracted with to supply technical
2 database and data processing expertise.

3 ~~(2) The Vehicle Insurance Database shall be developed and~~
4 ~~maintained in accordance with guidelines established by the division so that~~
5 ~~the state and local law enforcement agencies can access the Vehicle Insurance~~
6 ~~Database to check the current insurance coverage on motor vehicles in~~
7 ~~Arkansas required to maintain current liability insurance as required by law.~~

8 ~~(c) The division shall have the authority to enter into or to make~~
9 ~~agreements, arrangements, or declarations necessary to carry out the~~
10 ~~provisions of this section.~~

11 ~~(d) The reports shall be retained by the Department of Finance and~~
12 ~~Administration so as to keep a twelve-month history of the insurance record~~
13 ~~of the vehicle for at least the preceding full twelve-month period.~~

14 ~~(e)(1) Upon request, the Department of Finance and Administration may~~
15 ~~release an individual's information in the Vehicle Insurance Database to:~~

16 ~~(A) That individual;~~

17 ~~(B) The parent or legal guardian of that individual who is~~
18 ~~under eighteen (18) years of age or who is legally incapacitated; and~~

19 ~~(C) State and local law enforcement agencies, to the~~
20 ~~Arkansas Crime Information Center, or to other government offices upon a~~
21 ~~showing of need.~~

22 ~~(2) Otherwise, all data and information received by the Vehicle~~
23 ~~Insurance Database are confidential and are not subject to examination or~~
24 ~~disclosure as public information under the Freedom of Information Act of~~
25 ~~1967, § 25-19-101 et seq.~~

26 ~~(f) The department or the reporting company shall not be liable for any~~
27 ~~damages to any property or person due to any act or omission in the reporting~~
28 ~~of or keeping of any record or information under the Vehicle Insurance~~
29 ~~Database or the issuing or renewing of any motor vehicle registration in~~
30 ~~accordance with the Vehicle Insurance Database.~~

31 ~~(g) The Director of the Department of Finance and Administration shall~~
32 ~~have the authority to adopt rules and regulations necessary to carry out the~~
33 ~~provisions of this section.~~

34 (a)(1) The Department of Finance and Administration, in cooperation
35 with the Insurance Commissioner and the Department of Arkansas State Police,
36 shall develop, operate, and maintain an accessible online motor vehicle

1 liability insurance verification system in compliance with specifications and
2 standards of the Insurance Industry Committee on Motor Vehicle Administration
3 to be known as the "Vehicle Insurance Database":

4 (A) To verify the compliance of a motor vehicle owner or
5 operator with the minimum motor vehicle liability insurance requirements
6 under § 27-22-104; and

7 (B) That is designed to:

8 (i) Reduce the number of uninsured motorists in this
9 state;

10 (ii) Operate reliably;

11 (iii) Be cost-effective;

12 (iv) Protect sufficiently the privacy of the motor
13 vehicle owner or operator;

14 (v) Safeguard sufficiently the security and
15 integrity of information provided by motor vehicle liability insurance
16 companies;

17 (vi) Identify and employ a method of compliance that
18 improves public convenience; and

19 (vii) Provide information that is:

20 (a) Accurate and current; and

21 (b) Capable of being audited by an independent
22 auditor.

23 (2)(A) The Department of Finance and Administration may contract
24 with a private vendor or vendors to develop, implement, operate, or maintain
25 all or part of the database.

26 (B) A vendor shall be selected under the Arkansas
27 Procurement Law, § 19-11-201 et seq.

28 (b) The Vehicle Insurance Database shall:

29 (1) Contain information provided under § 27-22-107 by motor
30 vehicle liability insurers to verify motor vehicle liability insurance
31 coverage using electronic services established by the motor vehicle liability
32 insurers through the Internet, or a similar proprietary or common carrier
33 electronic system in compliance with the specifications and standards of the
34 Insurance Industry Committee on Motor Vehicle Administration established by
35 the Department of Finance and Administration;

36 (2) Include appropriate provisions to secure the database's data

1 against unauthorized access and to maintain a record of all requests and
2 responses;

3 (3) Be accessible without fee to:

4 (A) Authorized personnel and authorized agents of the
5 Department of Finance and Administration;

6 (B) The Insurance Commissioner;

7 (C) The courts;

8 (D) Law enforcement personnel; and

9 (E) County assessors;

10 (4) Interface, when possible, with existing computer systems and
11 applications of the Department of Finance and Administration and law
12 enforcement agencies;

13 (5) Receive motor vehicle liability insurance data file
14 transfers from motor vehicle liability insurers under specifications and
15 standards established by the Department of Finance and Administration to
16 identify vehicles that are not covered by a motor vehicle liability insurance
17 policy;

18 (6) Provide a means by which low-volume motor vehicle liability
19 insurers that are unable to deploy an online interface with the database can
20 report motor vehicle liability insurance policy data to the Department of
21 Finance and Administration or its designee for inclusion in the database;

22 (7) Provide a means to track separately and verify the existence
23 or nonexistence of minimum motor vehicle liability insurance coverage for or
24 distinguish motor vehicles that are:

25 (A) Subject to a certificate of self-insurance under § 27-
26 19-107;

27 (B) Reported under subdivision (b)(6) of this section; or

28 (C) Registered but not subject to a motor vehicle
29 liability insurance verification by any other means provided by this section;

30 (8) Be available at all times, subject to reasonable allowances
31 for scheduled maintenance or temporary system failures, to verify the motor
32 vehicle liability insurance status of any vehicle in a manner prescribed by
33 the Department of Finance and Administration;

34 (9) Provide a means to facilitate the administration and notice
35 of suspension of motor vehicle registration under § 27-22-103 upon receipt of
36 notice that a motor vehicle liability insurance policy has been cancelled or

1 no longer meets the minimum coverage requirements of § 27-22-104; and

2 (10)(A) Be prima facie evidence of the existence or nonexistence
3 of minimum motor vehicle liability insurance coverage.

4 (B) The presumption under subdivision (b)(10)(A) of this
5 section is rebuttable by proof of insurance or a written proof-of-insurance
6 binder issued within the preceding thirty (30) days of the attempt to verify
7 motor vehicle liability insurance coverage.

8 (c)(1) Information obtained under this section and § 27-22-107:

9 (A) Is confidential;

10 (B) May be used only by authorized personnel and
11 authorized agents of the Department of Finance and Administration, the
12 Insurance Commissioner, the courts, law enforcement personnel, and county
13 assessors for a purpose authorized under this section and § 27-22-101 et
14 seq.; and

15 (C) Pertaining to an individual, may be released only to
16 the following individuals or entities at the request of the individual or
17 entity:

18 (i) The individual;

19 (ii) The parent or legal guardian of the individual
20 if the individual is under eighteen (18) years of age or is legally
21 incapacitated; and

22 (iii) State and local law enforcement agencies, the
23 Arkansas Crime Information Center, or other government offices upon a showing
24 of need.

25 (2) The Freedom of Information Act of 1967, § 25-19-101 et seq.,
26 does not apply to the information contained in the database.

27 (d) A motor vehicle liability insurer:

28 (1) Shall cooperate with the Department of Finance and
29 Administration to establish and maintain the database and the integrity of
30 the database;

31 (2) Shall provide access to the status of motor vehicle
32 liability insurance policy information to verify motor vehicle liability
33 insurance coverage:

34 (A) For a vehicle insured by the motor vehicle liability
35 insurer that is registered in this state; and

36 (B) If available, for a vehicle that is insured by the

1 motor vehicle liability insurer or that is operated in this state and the
 2 subject of an accident investigation, regardless of where the vehicle is
 3 registered; and

4 (3) Is not liable for an act or omission taken in good faith to
 5 comply with this section or § 27-22-107.

6 (e) This section does not apply to motor vehicle insurance that is
 7 written under a commercial motor vehicle liability coverage form approved by
 8 the Insurance Commissioner.

9
 10 SECTION 2. Arkansas Code § 27-22-107 is amended to read as follows:

11 27-22-107. Motor vehicle insurance reporting.

12 ~~(a)(1) Each An insurance company providing that provides motor vehicle~~
 13 ~~liability insurance coverage required under § 27-22-104(a), in this state~~
 14 ~~shall provide before the seventh day of each calendar month to the Revenue~~
 15 ~~Division all information in the time and manner required by of the Department~~
 16 ~~of Finance and Administration a record of each motor vehicle insurance policy~~
 17 ~~in effect as of the previous month that was issued by the insurance company.~~
 18 ~~The reports shall be provided to the division through any means of electronic~~
 19 ~~or electromagnetic medium available to and approved by the department, unless~~
 20 ~~the insurance company qualifies for an exception to this electronics~~
 21 ~~reporting requirement as a result of being a small or low volume insurer as~~
 22 ~~may otherwise be provided for under regulations promulgated by the Department~~
 23 ~~of Finance and Administration.~~

24 ~~(2)(A) The Director of the Department of Finance and~~
 25 ~~Administration may choose a vendor to provide an online insurance~~
 26 ~~verification system which will comply with the industry standards as~~
 27 ~~recommended by the Insurance Industry Committee on Motor Vehicle~~
 28 ~~Administration when there are two (2) or more vendors that demonstrate to the~~
 29 ~~department the ability to meet the Industry Committee on Motor Vehicle~~
 30 ~~Administration standard.~~

31 ~~(i) The department shall notify each insurance~~
 32 ~~company in writing of the chosen vendor. If the insurance company elects to~~
 33 ~~participate in the online insurance verification system that complies with~~
 34 ~~the industry standards, the company may then work with the vendor and the~~
 35 ~~department on an agreeable schedule to convert to the new system.~~

36 ~~(ii) If an insurance company elects to participate~~

1 ~~in the online insurance verification system, then the insurance company will~~
 2 ~~be exempt from providing the report before the seventh day of each calendar~~
 3 ~~month as the department and law enforcement will be able to obtain data~~
 4 ~~online in real time.~~

5 ~~(B) If the director certifies that seventy percent (70%)~~
 6 ~~or more of the motor vehicle insurance policies in effect on a specific date~~
 7 ~~are being accessed according to the industry standards in the online~~
 8 ~~insurance verification system, each insurance company shall provide access to~~
 9 ~~the data through the online insurance verification system.~~

10 ~~(C) At the discretion of the department, rules and~~
 11 ~~regulations may be established to offer insurers who write fewer policies an~~
 12 ~~alternative method for reporting insurance policy data.~~

13 ~~(D) The department shall select a vendor under the~~
 14 ~~Arkansas Procurement Law, § 19-11-201 et seq.~~

15 (b)(1) The ~~reports~~ information shall include for each motor vehicle
 16 liability insurance policy:

17 (A) The name and ~~the~~ address of ~~the~~ each named insured;

18 (B) The make, year, and vehicle identification number of
 19 each insured vehicle; ~~and~~

20 (C) The name of the insurance provider, policy number,
 21 effective date, and expiration date of each motor vehicle liability insurance
 22 policy;

23 (D) The NAIC number assigned by the National Association
 24 of Insurance Carriers code Commissioners to the insurance company;

25 (E) ~~the~~ The name of each driver excluded from coverage.

26 (2) The ~~reports~~ information may include:

27 (A) The date of birth of each insured owner or operator;
 28 and

29 (B) The driver's license number of each insured owner or
 30 operator.

31 (c)(1) The department may, following procedures set forth in
 32 ~~regulations~~ rules promulgated by the department, assess a penalty against
 33 ~~each an~~ an insurance company ~~of up to~~ not to exceed two hundred fifty dollars
 34 (\$250) for each day the insurance company fails to comply with this section.

35 (2) If an insurance company shows that the failure to comply
 36 with this section was inadvertent, accidental, outside of the control of the

1 insurance company, or the result of excusable neglect, the Director of the
 2 Department of Finance and Administration may excuse the penalty.

3 (3) The moneys collected from ~~these~~ the penalties prescribed by
 4 this subsection shall be deposited as a special revenue into the State
 5 Central Services Fund, and the net amount shall be credited as a direct
 6 revenue to be used by the department to offset the costs of administering
 7 this section.

8 ~~(d) The department shall promulgate necessary rules and regulations~~
 9 ~~for the administration of this section.~~ If an insurance company fails to
 10 comply with this section, the Insurance Commissioner may impose an
 11 appropriate sanction under § 23-63-213, including the suspension or
 12 revocation of the insurance company's certificate of authority.

13
 14 SECTION 3. Effective January 1, 2017, Arkansas Code § 27-22-109 is
 15 amended to read as follows:

16 27-22-109. Impounding motor vehicle for violation.

17 (a)~~(1)~~ If A law enforcement officer may impound a motor vehicle if:

18 ~~(1) an operator of a motor vehicle is unable to present proof of~~
 19 ~~insurance coverage to a law enforcement officer as required under § 27-22-~~
 20 ~~104, The Vehicle Insurance Database does not contain proof of the minimum~~
 21 ~~motor vehicle liability insurance coverage required by this subchapter unless~~
 22 ~~proof of insurance or a written proof-of-insurance binder issued within the~~
 23 ~~preceding thirty (30) days is presented to the law enforcement officer at the~~
 24 ~~time proof of motor vehicle liability insurance is requested by the law~~
 25 ~~enforcement officer; or~~

26 ~~(2) the motor vehicle may be impounded at the officer's~~
 27 ~~discretion if the The law enforcement officer issues a citation for a traffic~~
 28 violation that is classified as an offense under § 27-50-302 and the operator
 29 has:

30 (A) Received three (3) or more warnings for a violation of
 31 § 27-22-104;

32 (B) Pleaded guilty or nolo contendere to or been found
 33 guilty of three (3) or more violations of § 27-22-104; or

34 (C) Received a total of three (3) or more warnings for a
 35 violation of § 27-22-104 or convictions for a violation of § 27-22-104.

36 ~~(2) If an operator of a motor vehicle is unable to present proof~~

1 of insurance coverage to a law enforcement officer as required under § 27-22-
 2 104, the motor vehicle may be impounded at the officer's discretion if one
 3 ~~(1) or more of the following occur:~~

4 ~~(A) The driver is operating a motor vehicle on a~~
 5 ~~cancelled, suspended, or revoked driver's license in violation of § 27-16-~~
 6 ~~303;~~

7 ~~(B) The driver is operating the motor vehicle without a~~
 8 ~~driver's license in violation of § 27-16-602; or~~

9 ~~(C) The driver is operating a motor vehicle:~~
 10 ~~(i) Without a license plate in violation of § 27-14-~~
 11 ~~304;~~

12 ~~(ii) With an unofficial license plate in violation~~
 13 ~~of § 27-14-305;~~

14 ~~(iii) With improper use of evidence of registration~~
 15 ~~in violation of § 27-14-306; or~~

16 ~~(iv) With false evidences of title or registration~~
 17 ~~in violation of § 27-14-307.~~

18 (b) If a motor vehicle is impounded under this section:

19 (1) The law enforcement agency shall use its towing policy as
 20 required for the towing and storage of motor vehicles under § 27-50-1207 and
 21 a towing rotation list if applicable;

22 (2) The provisions of § 27-50-1201 et seq. regarding the towing
 23 and storage of motor vehicles shall apply;

24 (3) An inventory of the contents of the motor vehicle shall be
 25 taken; and

26 (4) The owner, operator, or other person in charge of the
 27 vehicle:

28 (A) Has the right to contest the impoundment; and

29 (B) Shall be given notice at the time of impoundment of
 30 the right to contest the impoundment consistent with § 27-50-1207.

31 (c)(1) If a motor vehicle is properly and lawfully impounded under
 32 this section, the ~~following~~ owner and the operator of the motor vehicle are
 33 ~~responsible~~ liable, jointly and severally, for all reasonable towing,
 34 recovery, storage, and other incidental costs:

35 ~~(A) The operator of the vehicle;~~

36 ~~(B) The owner of the vehicle; or~~

1 ~~(C) Both the owner and the operator of the vehicle.~~

2 (2) ~~This subsection~~ Subdivision (c)(1) of this section applies
 3 ~~even~~ if the owner or operator of the motor vehicle has the insurance required
 4 by this subchapter but fails to present the proof of insurance required by
 5 this subchapter.

6
 7 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
 8 General Assembly of the State of Arkansas that motor vehicle accidents
 9 involving uninsured motorists who fail to comply with the minimum motor
 10 vehicle liability insurance requirements established by state law result in
 11 an undue financial burden and hardship to the state's law-abiding citizens;
 12 that the implementation and development of a real-time, online vehicle
 13 insurance verification system to replace the state's existing Vehicle
 14 Insurance Database are necessary to combat the problem; and that immediate
 15 work among affected government agencies, law enforcement, and the insurance
 16 industry is necessary in order to implement the system as soon as possible.
 17 Therefore, an emergency is declared to exist, and this act being immediately
 18 necessary for the preservation of the public peace, health, and safety shall
 19 become effective on:

20 (1) The date of its approval by the Governor;

21 (2) If the bill is neither approved nor vetoed by the Governor,
 22 the expiration of the period of time during which the Governor may veto the
 23 bill; or

24 (3) If the bill is vetoed by the Governor and the veto is
 25 overridden, the date the last house overrides the veto.