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4

A Bill

HOUSE BILL 2008

5 By: Representative Hubbard
6

For An Act To Be Entitled

8 AN ACT TO REQUIRE A MOTOR VEHICLE TO BE IMPOUNDED IF
9 THE DRIVER AND THE VEHICLE ARE IN VIOLATION OF THE
10 MINIMUM LIABILITY INSURANCE REQUIREMENTS; AND FOR
11 OTHER PURPOSES.
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Subtitle

14 TO REQUIRE A MOTOR VEHICLE TO BE
15 IMPOUNDED IF THE DRIVER AND THE VEHICLE
16 ARE IN VIOLATION OF THE MINIMUM LIABILITY
17 INSURANCE REQUIREMENTS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 27-22-104 is amended to read as follows:
24 27-22-104. Insurance required – Minimum coverage.

25 (a)(1) It shall be unlawful for any person to operate a motor vehicle
26 within this state unless both the vehicle and the person's operation of the
27 motor vehicle are covered by a certificate of self-insurance under the
28 provisions of § 27-19-107 or by an insurance policy issued by an insurance
29 company authorized to do business in this state.

30 (2) Failure to present proof of insurance coverage at the time
31 of arrest or a failure of the Vehicle Insurance Database or proof of
32 insurance card issued under § 23-89-213 to show current insurance coverage at
33 the time of the traffic stop creates a rebuttable presumption that the motor
34 vehicle or the person's operation of the motor vehicle is uninsured.

35 (b) The policy shall provide as a minimum the following coverage:

36 (1) Not less than twenty-five thousand dollars (\$25,000) for



1 bodily injury or death of one (1) person in any one (1) accident;

2 (2) Not less than fifty thousand dollars (\$50,000) for bodily
3 injury or death of two (2) or more persons in any one (1) accident; and

4 (3) If the accident has resulted in injury to or destruction of
5 property, not less than twenty-five thousand dollars (\$25,000) for the injury
6 to or destruction of property of others in any one (1) accident.

7 (c)(1)(A) If the operator of the motor vehicle is unable to present
8 proof of insurance coverage as required in subsection (a) of this section
9 when requested by a law enforcement officer or if a check of the Vehicle
10 Insurance Database at the time of the traffic stop fails to show current
11 insurance coverage, the operator shall be issued, in addition to any traffic
12 citation issued for a violation of this section, a notice of noncompliance
13 with the provisions of this section on a form to be provided to the
14 Department of Finance and Administration.

15 (B)(i)(a) If the operator of the motor vehicle proves that
16 the liability coverage required by §§ 27-22-101 – 27-22-104 was in effect at
17 the time of the traffic stop, then the failure to present proof of insurance
18 at the time of the traffic stop when requested by a law enforcement officer
19 shall be punished by a fine of twenty-five dollars (\$25.00). No court costs
20 under § 16-10-305 or other costs or fees shall be assessed under this
21 subdivision (c)(1)(B)(i)(a).

22 (b)(1) Eighty percent (80%) of the fines
23 collected under this subdivision (c)(1)(B)(i) shall be paid to the Treasurer
24 of State for the benefit of the Arkansas Citizens First Responder Safety
25 Enhancement Fund.

26 (2) Twenty percent (20%) of the fines
27 collected under this subdivision (c)(1)(B)(i) shall be retained by the court
28 that tries the offense.

29 (ii) If the operator of the motor vehicle is unable
30 to prove that the liability coverage required by §§ 27-22-101 – 27-22-104 was
31 in effect at the time of the traffic stop, then the failure to present proof
32 of insurance at the time of the traffic stop when requested by a law
33 enforcement officer shall be punished as provided under § 27-22-103.

34 (2) The officer shall forward a copy of the notice of
35 noncompliance to the department within ten (10) days of issuance.

36 (3)(A) In addition, the officer shall ~~remove and impound the~~

1 ~~license plate attached to the vehicle~~ impound the vehicle as provided under §
 2 27-22-109.

3 (B) The license plate shall be returned to the Office of
 4 Driver Services or to the local revenue office.

5 ~~(d)(1) The law enforcement officer who removes and impounds the~~
 6 ~~license plate pursuant to subdivision (e)(3)(A) of this section shall issue~~
 7 ~~for attachment to the rear of the vehicle a temporary sticker denoting its~~
 8 ~~use in lieu of an official license plate.~~

9 ~~(2) The sticker shall bear the date upon which it shall expire~~
 10 ~~in written or stamped numerals or alphabetic characters not less than three~~
 11 ~~inches (3") in height.~~

12 ~~(3) This temporary sticker shall only be effective for a period~~
 13 ~~of ten (10) days beginning from the day on which the license plate was taken.~~

14 ~~(4) The temporary stickers shall be designed by the department~~
 15 ~~and supplied at no cost to all law enforcement agencies authorized to enforce~~
 16 ~~traffic laws in Arkansas.~~

17 ~~(e)(1)(d)(1)~~ Upon receipt of the notice of noncompliance by the
 18 department, the department shall proceed to suspend the registration of the
 19 vehicle effective ten (10) days after the license plate was taken and the
 20 notice of noncompliance was issued.

21 (2) However, if both the vehicle and the driver's operation of
 22 the vehicle were insured at the time of the offense, the owner of the vehicle
 23 shall have ten (10) days to present proof of insurance coverage or other
 24 financial security in effect at the time of the offense, whereupon the
 25 license plate shall be returned at no cost to the owner of the vehicle.

26 ~~(f)(e)~~ Any suspension by the department under this section shall be
 27 subject to the notice and hearing provisions of § 27-19-404 and shall remain
 28 in effect and no registration shall be renewed for or issued to any person
 29 whose vehicle registration is so suspended until:

30 (1) The person shall deposit or there shall be deposited on his
 31 or her behalf sufficient security as provided for under the Motor Vehicle
 32 Safety Responsibility Act, § 27-19-101 et seq.; or

33 (2) The person shall furnish the department one (1) of the
 34 following:

35 (A) A certificate of self-insurance under the provisions
 36 of § 27-19-107; or

1 (B) A sufficient insurance policy issued by an insurance
2 company authorized to do business in this state.

3 ~~(g)(1)(f)(1)~~ In order to reinstate the suspended registration and ~~be~~
4 ~~reissued a license plate for any suspended motor vehicle~~ obtain the release
5 of the motor vehicle from impoundment, the owner shall present the proof of
6 renewed or new financial coverage required in subdivision ~~(f)(1)~~ (e)(1) or
7 (2) of this section to the department and shall pay to the department a fee
8 of twenty dollar dollars (\$20.00) ~~fee~~ for reinstatement of the registration
9 and reissuance of the license plate.

10 (2) The revenues derived from this reinstatement fee shall be
11 deposited as a special revenue into the State Central Services Fund and
12 credited as a direct revenue to be used by the department to offset the costs
13 of administering this section.

14 (3) This fee shall be in addition to any other fines, fees, or
15 other penalties for other violations of this section.

16 ~~(h)(g)~~ The department shall promulgate necessary rules and regulations
17 for the administration of this section.

18 ~~(i)(1)(h)(1)~~ For purposes of this subsection, "operating motor
19 vehicle" means a motor vehicle that is actually driven out of the government-
20 owned and government-operated storage facility under its own power.

21 (2) A government-owned and government-operated storage facility
22 for motor vehicles may refuse to release an operating motor vehicle from the
23 storage facility if the owner of the motor vehicle cannot establish that the
24 motor vehicle is covered by insurance as required under this section.

25 (3) The following are exempt from the requirements of this
26 subsection:

27 (A) A motor vehicle that is considered salvage;

28 (B) A motor vehicle when an insurer holds the title to the
29 motor vehicle; and

30 (C) A motor vehicle that is not driven out of the
31 government-owned and government-operated storage facility under its own
32 power.

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34 SECTION 2. Arkansas Code Title 27, Chapter 22, Subchapter 1 is amended
35 to add an additional section to read as follows:

36 27-22-109. Impounding a motor vehicle for a violation.

1 (a) If an operator of a motor vehicle is unable to present proof of
2 insurance coverage to a law enforcement officer as required under § 27-22-104
3 and the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., the
4 motor vehicle shall be impounded.

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

6 (1) An inventory of the contents of the motor vehicle shall be
7 taken;

8 (2) The owner is responsible for the costs of the impoundment
9 and storage; and

10 (3) The provisions of § 27-50-1201 et seq., regarding the towing
11 and storage of motor vehicles shall apply.

12 (c)(1) If the Department of Arkansas State Police is the law
13 enforcement agency that impounds the motor vehicle under this section, the
14 Department of Arkansas State Police shall use its towing rotation list and
15 the rules related to the towing rotation list.

16 (2) If a sheriff's office or other law enforcement agency
17 impounds the motor vehicle under this section, the office or agency shall use
18 its towing rotation list and any policies or rules related to the towing
19 rotation list, if applicable.

20 (d)(1)(A) If a motor vehicle is impounded under this section, a court
21 of competent jurisdiction shall conduct a hearing within forty-eight (48)
22 hours after the motor vehicle is impounded.

23 (B) The owner of a motor vehicle may request an extension
24 of this initial hearing but the extension shall not exceed an additional
25 twenty-four (24) hours.

26 (2) The owner shall establish to the court that he or she is in
27 compliance with this subchapter and the Motor Vehicle Safety Responsibility
28 Act, § 27-19-101 et seq., to authorize the release of the motor vehicle by
29 presenting proof of insurance coverage or a certificate of self-insurance.

30 (3) Upon finding that the owner is in compliance with this
31 subchapter and the Motor Vehicle Safety Responsibility Act, § 27-19-101 et
32 seq., the court shall order the Office of Motor Vehicle of the Revenue
33 Division of the Department of Finance and Administration to reinstate the
34 registration and license of the motor vehicle.

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