

1
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INTERIM STUDY PROPOSAL 2015-110
As Engrossed: H3/18/15 H3/20/15

A Bill

HOUSE BILL 1871

5
6 By: Representative Johnson
7 *By: Senator J. English*

8 *Filed with: House Committee on Public Transportation*
9 *pursuant to A.C.A. §10-3-217.*

For An Act To Be Entitled

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

Subtitle

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

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

28
29 SECTION 1. Arkansas Code § 27-14-414 is amended to read as follows:
30 27-14-414. Vehicle Insurance Database.

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

1 ~~(b)(1) The Vehicle Insurance Database shall be administered by the~~
2 ~~division with the assistance of the Department of Information Systems or any~~
3 ~~other designated agent which may be contracted with to supply technical~~
4 ~~database and data processing expertise.~~

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

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

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

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

18 ~~(A) That individual;~~

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

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

24 ~~(2) Otherwise, all data and information received by the Vehicle~~
25 ~~Insurance Database are confidential and are not subject to examination or~~
26 ~~disclosure as public information under the Freedom of Information Act of~~
27 ~~1967, § 25-19-101 et seq.~~

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

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

1 (a)(1) The Department of Finance and Administration, in cooperation
2 with the Insurance Commissioner and the Department of Arkansas State Police,
3 shall develop, operate, and maintain an accessible online motor vehicle
4 liability insurance verification system in compliance with specifications and
5 standards of the Insurance Industry Committee on Motor Vehicle Administration
6 to be known as the "Vehicle Insurance Database":

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

10 (B) That is designed to:

11 (i) Reduce the number of uninsured motorists in this
12 state;

13 (ii) Operate reliably;

14 (iii) Be cost-effective;

15 (iv) Protect sufficiently the privacy of the motor
16 vehicle owner or operator;

17 (v) Safeguard sufficiently the security and
18 integrity of information provided by motor vehicle liability insurance
19 companies;

20 (vi) Identify and employ a method of compliance that
21 improves public convenience; and

22 (vii) Provide information that is:

23 (a) Accurate and current; and

24 (b) Capable of being audited by an independent
25 auditor.

26 (2) The Department of Finance and Administration:

27 (A)(i) May contract with a private vendor or vendors to
28 develop, implement, operate, or maintain all or part of the database.

29 (ii) A vendor shall be selected under the Arkansas
30 Procurement Law, § 19-11-201 et seq.; and

31 (B) Is not subject to liability or suit for any error in
32 the database.

33 (b) The Vehicle Insurance Database shall:

34 (1) Contain information provided under § 27-22-107 by motor
35 vehicle liability insurers to verify motor vehicle liability insurance
36 coverage using electronic services established by the motor vehicle liability

1 insurers through the Internet, or a similar proprietary or common carrier
2 electronic system in compliance with the specifications and standards of the
3 Insurance Industry Committee on Motor Vehicle Administration established by
4 the Department of Finance and Administration;

5 (2) Include appropriate provisions to secure the database's data
6 against unauthorized access and to maintain a record of all requests and
7 responses;

8 (3) Be accessible without fee to:

9 (A) Authorized personnel and authorized agents of the
10 Department of Finance and Administration;

11 (B) The Insurance Commissioner;

12 (C) The courts;

13 (D) Law enforcement personnel; and

14 (E) County assessors;

15 (4) Interface, when possible, with existing computer systems and
16 applications of the Department of Finance and Administration and law
17 enforcement agencies;

18 (5) Receive motor vehicle liability insurance data file
19 transfers from motor vehicle liability insurers under specifications and
20 standards established by the Department of Finance and Administration to
21 identify vehicles that are not covered by a motor vehicle liability insurance
22 policy;

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

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

30 (A) Subject to a certificate of self-insurance under § 27-
31 19-107;

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

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

35 (8) Be available at all times, subject to reasonable allowances
36 for scheduled maintenance or temporary system failures, to verify the motor

1 vehicle liability insurance status of any vehicle in a manner prescribed by
2 the Department of Finance and Administration;

3 (9) Provide a means to facilitate the administration and notice
4 of suspension of motor vehicle registration under § 27-22-103 upon receipt of
5 notice that a motor vehicle liability insurance policy has been cancelled or
6 no longer meets the minimum coverage requirements of § 27-22-104; and

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

9 (B) The presumption under subdivision (b)(10)(A) of this
10 section is rebuttable by a proof-of-insurance card issued under § 23-89-213
11 within the preceding sixty (60) days of the attempt to verify motor vehicle
12 liability insurance coverage.

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

14 (A) Is confidential;

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

20 (C) Pertaining to an individual, may be released only to
21 the following individuals or entities at the request of the individual or
22 entity:

23 (i) The individual;

24 (ii) The parent or legal guardian of the individual
25 if the individual is under eighteen (18) years of age or is legally
26 incapacitated; and

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

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

32 (d) A motor vehicle liability insurer:

33 (1) Shall cooperate with the Department of Finance and
34 Administration to establish and maintain the database and the integrity of
35 the database;

1 (2) Shall provide access to the status of motor vehicle
2 liability insurance policy information to verify motor vehicle liability
3 insurance coverage:

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

6 (B) If available, for a vehicle that is insured by the
7 motor vehicle liability insurer or that is operated in this state and the
8 subject of an accident investigation, regardless of where the vehicle is
9 registered; and

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

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

15
16 *SECTION 2. Arkansas Code § 27-22-104(a)(2)(A), concerning the failure*
17 *to present proof of insurance at the time of a traffic stop, is amended to*
18 *read as follows:*

19 (2)(A)(i) ~~Failure to present proof of insurance coverage at the~~
20 ~~time of a traffic stop or arrest or a failure of the Vehicle Insurance~~
21 ~~Database or proof of an insurance a proof-of-insurance card issued under §~~
22 ~~23-89-213 within the preceding sixty (60) days to show current the minimum~~
23 ~~motor vehicle liability insurance coverage at the time of the traffic stop~~
24 ~~required by this section creates a rebuttable presumption that:~~

25 (a) ~~the~~ The motor vehicle or the person's
26 operation of the motor vehicle is ~~uninsured~~ not in compliance with the
27 minimum motor vehicle liability insurance coverage requirements of this
28 section; and

29 (b) The operator of the motor vehicle failed
30 to present the proof-of-insurance card required by § 27-22-111(a).

31 (ii) The law enforcement officer who conducts the
32 stop shall search the name of the operator and the vehicle identification
33 number of the stopped motor vehicle to determine compliance with this
34 section.

35
36 *SECTION 3. Arkansas Code § 27-22-107 is amended to read as follows:*

1 27-22-107. Motor vehicle insurance reporting.

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

14 (2)(A) ~~The Director of the Department of Finance and~~
 15 ~~Administration may choose a vendor to provide an online insurance~~
 16 ~~verification system which will comply with the industry standards as~~
 17 ~~recommended by the Insurance Industry Committee on Motor Vehicle~~
 18 ~~Administration when there are two (2) or more vendors that demonstrate to the~~
 19 ~~department the ability to meet the Industry Committee on Motor Vehicle~~
 20 ~~Administration standard.~~

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

26 (ii) ~~If an insurance company elects to participate~~
 27 ~~in the online insurance verification system, then the insurance company will~~
 28 ~~be exempt from providing the report before the seventh day of each calendar~~
 29 ~~month as the department and law enforcement will be able to obtain data~~
 30 ~~online in real time.~~

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

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

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

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

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

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

11 (C) The name of the insurance provider, policy number,
 12 effective date, and expiration date of each motor vehicle liability insurance
 13 policy;

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

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

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

18 (A) The date of birth of each insured owner or operator;
 19 and

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

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

26 (2) If an insurance company shows that the failure to comply
 27 with this section was inadvertent, accidental, outside of the control of the
 28 insurance company, or the result of excusable neglect, the Director of the
 29 Department of Finance and Administration may excuse the penalty.

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

35 ~~(d) The department shall promulgate necessary rules and regulations~~
 36 ~~for the administration of this section.~~ If an insurance company fails to

1 comply with this section, the Insurance Commissioner may impose an
2 appropriate sanction under § 23-63-213, including the suspension or
3 revocation of the insurance company's certificate of authority.
4

5 SECTION 4. Arkansas Code § 27-22-109 is amended to read as follows:
6 27-22-109. Impounding motor vehicle for violation.

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

8 (1) an operator of a motor vehicle is unable to present proof of
9 insurance coverage to a law enforcement officer as required under § 27-22-
10 104, The Vehicle Insurance Database does not contain proof of the minimum
11 motor vehicle liability insurance coverage required by this subchapter unless
12 a proof-of-insurance card issued under § 23-89-213 within the preceding sixty
13 (60) days is presented to the law enforcement officer at the time proof of
14 motor vehicle liability insurance is requested by the law enforcement
15 officer; or

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

20 (A) Received three (3) or more warnings for a violation of
21 § 27-22-104;

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

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

26 ~~(2) If an operator of a motor vehicle is unable to present proof~~
27 ~~of insurance coverage to a law enforcement officer as required under § 27-22-~~
28 ~~104, the motor vehicle may be impounded at the officer's discretion if one~~
29 ~~(1) or more of the following occur:~~

30 ~~(A) The driver is operating a motor vehicle on a~~
31 ~~cancelled, suspended, or revoked driver's license in violation of § 27-16-~~
32 ~~303;~~

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

35 ~~(C) The driver is operating a motor vehicle:~~

1 ~~(i) Without a license plate in violation of § 27-14-~~
 2 ~~304;~~

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

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

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

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

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

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

15 (3) An inventory of the contents of the motor vehicle shall be
 16 taken; and

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

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

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

22 (c)(1) If a motor vehicle is properly and lawfully impounded under
 23 this section, the ~~following~~ owner and the operator of the motor vehicle are
 24 ~~responsible~~ liable, jointly and severally, for all reasonable towing,
 25 recovery, storage, and other incidental costs;

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

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

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

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

33
 34 SECTION 5. *Arkansas Code § 27-22-111(a), concerning the failure to*
 35 *present proof of insurance at the time of a traffic stop, is amended to read*
 36 *as follows:*

1 (a)(1) ~~After At the time of a traffic stop has been completed, if, a~~
2 ~~law enforcement officer shall request~~ an operator of a motor vehicle ~~proves~~
3 ~~that the liability coverage required by §§ 27-22-101 — 27-22-104 was in~~
4 ~~effect at the time of the traffic stop, to present a proof-of-insurance card~~
5 ~~issued under § 23-89-213 in paper form or electronic form that evidences~~
6 ~~compliance with the minimum motor vehicle liability insurance requirements of~~
7 ~~§ 27-22-104.~~

8 (2) ~~the~~ The failure to present ~~proof of insurance~~ the proof-of-
9 insurance card required by subdivision (a)(1) of this section at the time of
10 the traffic stop when requested by a law enforcement officer shall be
11 punished by a fine of twenty-five dollars (\$25.00).
12

13 SECTION 6. DO NOT CODIFY. CONTINGENT EFFECTIVE DATE – IMPLEMENTATION
14 AUTHORITY.

15 (a) The Department of Finance and Administration may begin the
16 implementation of Section 1 of this act when and as funding is received.

17 (b)(1) Except as provided in subsection (a) of this section, this act
18 shall not become effective until the Chief Fiscal Officer of the State
19 certifies that sufficient funding exists to complete the implementation
20 of the Vehicle Insurance Database required by Section 1 of this act and
21 notifies the:

- 22 (A) Secretary of State;
- 23 (B) Legislative Council;
- 24 (C) Arkansas Code Revision Commission; and
- 25 (D) Office of Motor Vehicle.

26 (2) If a certification is made under subdivision (b)(1) of this
27 section, this act shall be effective on and after the ninety-first day after
28 the certification.

29
30 /s/Johnson
31

32
33 Referred by the Arkansas House of Representatives

34 Prepared by: VJF
35
36