

Hall of the House of Representatives
91st General Assembly - Regular Session, 2017
Amendment Form

Subtitle of House Bill No. 2193

TO AMEND THE LAW CONCERNING DRIVERS EXCLUDED FROM A MOTOR VEHICLE INSURANCE
POLICY; AND TO IMPOSE CRIMINAL LIABILITY ON THE INSURED DRIVER AND THE EXCLUDED
DRIVER IN CERTAIN CIRCUMSTANCES.

Amendment No. 2 to House Bill No. 2193

Amend House Bill No. 2193 as engrossed, H3/14/17 (version: 03/14/2017 1:03:50 PM):

Page 1, delete lines 8 through 11, and substitute the following:
"AN ACT TO AMEND THE LAW CONCERNING MOTOR VEHICLE INSURANCE; AND FOR"

AND

Delete the subtitle in its entirety and substitute the following:
"TO AMEND THE LAW CONCERNING MOTOR
VEHICLE INSURANCE."

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 27-14-414 is repealed.

~~27-14-414. Vehicle Insurance Database.~~

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

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

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

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



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

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

~~(A) That individual;~~

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

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

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

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

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

SECTION 2. Arkansas Code Title 27, Chapter 22, is amended to add an additional subchapter to read as follows:

Subchapter 2 – Arkansas Online Insurance Verification System Act

27-22-201. Title.

This subchapter shall be known and may be cited as the "Arkansas Online Insurance Verification System Act".

27-22-202. Definitions.

As used in this subchapter:

(1) "Certificate of Insurance" means a document issued by an insurer or its authorized representative showing that a specific vehicle is insured as required under § 27-22-104;

(2) "Commercial automobile liability insurance policy" means an insurance policy:

(A) That is written on either a commercial coverage or other commercially rated personal policy form, including without limitation a commercial auto, garage, or truckers form, and that is is not dependent on the type, number, or ownership of vehicle or entity covered or insured; and

(B) That insures vehicles not identified individually by a vehicle identification number on the policy;

(3) "Dealer" means a person dealing in buying, selling, exchanging, advertising, or negotiating the sale of motor vehicles and licensed under §§ 27-14-205 and 27-14-601; and

(4) "Insurer" means a motor vehicle insurance company licensed or authorized to do business in this state.

27-22-203. Online insurance verification system.

(a) The Department of Finance and Administration shall establish an advisory group consisting of representatives of the State Insurance Department, insurance companies, the Department of Arkansas State Police, and other agencies or entities to:

- (1) Facilitate the implementation of the online insurance verification system;
- (2) Develop a guide for insurers providing data and other information necessary for compliance along with other necessary regulations;
- (3) Coordinate and conduct a testing phase;
- (4) Identify necessary changes during the testing phase; and
- (5) Issue recommendations based on periodic reviews of the online insurance verification system.

(b) The Department of Finance and Administration shall:

- (1) Cooperate with insurers in implementing the online insurance verification system;
- (2) Establish the online insurance verification system framework necessary to assist insurers using multiple keys for greater matching accuracy, including without limitation:

- (A) Insurer National Association of Insurance Commissioners insurer numbers;
 - (B) Motor vehicle identification numbers;
 - (C) Policy numbers; and
 - (D) Other key or keys specified by the advisory group; and
- (3) Be responsible for keeping the advisory group informed on implementation status.

(c) Each insurer shall cooperate with the Department of Finance and Administration in establishing the online insurance verification system.

27-22-204. Functions of the online insurance verification system.

The online insurance verification system shall:

- (1) Be accessible to:
 - (A) Authorized personnel of the Department of Finance and Administration by direct inquiry;
 - (B) The courts, insurers, law enforcement, and offices of the licensing officials charged with motor vehicle registration and titling responsibilities through authorized personnel of the department; and
 - (C) Insurance companies on a limited basis as required to operate the online insurance verification system;
- (2)(A) Have the ability to verify, on a twenty-four-hours-per-day, seven-days-per-week basis, minus permitted down time for system maintenance as prescribed by the advisory group established under § 27-22-203, the insurance status of a motor vehicle via the internet, or similar electronic system consistent with the insurance industry and Insurance Industry Committee on Motor Vehicle Administration recommendations and the specifications and standards of the Insurance Industry Committee on Motor Vehicle Administration model updated January 3, 2017, or later models as recommended by the advisory group and adopted by the department.
 - (B) The online insurance verification system shall include any additional features required by Arkansas law which may not be included in the Insurance Industry Committee on Motor Vehicle Administration

model;

(3) Be able to access insurers by using multiple keys for greater matching accuracy, including without limitation:

(A) The National Association of Insurance Commissioners insurer number assigned by the National Association of Insurance Commissioners;

(B) The motor vehicle identification number;

(C) The policy number; and

(D) Other key or keys specified by the advisory group.

(4) Provide data security for the type of information transferred as prescribed by the advisory group.

(5) Utilize open and agreed to data and data transmission standards and standard schema as specified by the advisory group.

27-22-205. Responsibilities of an insurer.

(a) An insurer shall:

(1) Operate the online insurance verification system in cooperation with the Department of Finance and Administration;

(2) Maintain the data necessary to verify insurance status through the online insurance verification system for a period to be specified by the advisory group established under § 27-22-203, allowing for the printing of renewal notices, online multi-year renewals and renewals at all state revenue offices;

(3) Maintain the web service as required under the online insurance verification system and as specified by the advisory group;

(4) Provide data security for the type of information transferred as required by the advisory group that does not violate state or federal privacy laws;

(5) Be immune from civil and administrative liability for good faith efforts to comply with the terms of this subchapter;

(6) Provide an insured motor vehicle under a automobile insurance liability policy with an insurance card clearly indicating that the motor vehicle is insured under an automobile liability insurance policy in accordance with § 27-22-104; and

(7) Allow access through an online insurance verification system to verify insurance status.

(b) This section shall not prohibit an insurer from using the services of a third party vendor for facilitating the online insurance verification system required by this subchapter.

27-22-206. Responsibilities of the department.

The Department of Finance and Administration shall:

(1) Cooperate with insurers and the advisory group established under § 27-22-203 in operating the online insurance verification system;

(2) Maintain the list of authorized requesting entities and individuals and make the list a part of the online insurance verification system;

(3) Maintain the online insurance verification system framework necessary for insurers using the key or keys under § 27-22-104'

(4)(A) Provide data security for the type of information transferred as prescribed by the advisory group.

(B) Data secured via the online insurance verification

system may not be shared with any party other than those permitted by state or federal privacy laws;

(5) Be responsible for keeping the advisory group informed on functionality and planned or unplanned service interruptions;

(6) Provide alternative methods of reporting for small insurers insuring no more than fifty (50) motor vehicles in the state as prescribed by the department;

(7) Work with the advisory group on issues as they emerge for an equitable resolution for all parties;

(8) Maintain records of online insurance verification system data for a period of time specified by the department;

(9) Provide a means to separately track or distinguish motor vehicles where the owner qualifies as self-insured and financial responsibility is provided by a certificate of insurance under § 27-19-107 or other method authorized by law;

(10) Administer and enforce this subchapter and propose reasonable rules and regulations concerning any matter administered in this subchapter;

(11) Provide suitable notices and forms necessary to carry out the provisions of this subchapter;

(12) Suspend motor vehicle registrations under this subchapter;
and

(13) This section does not prohibit the department from using the services of a third party vendor for facilitating the operation of online insurance verification system required by this subchapter.

27-22-207. Exemptions.

This subchapter shall not apply to any of the following motor vehicles or operators:

(1) Trailers as defined in § 27-14-1202, including without limitation semitrailers, travel trailers, boat trailers, pole trailers, and utility trailers;

(2) Implements of husbandry as defined in § 27-14-212;

(3) Any vehicle moved solely by animal power;

(4) Inoperable or stored motor vehicles that are not operated, as defined by the rules and regulations of the department and not subject to the provisions of this subchapter;

(5) Motor vehicles owned by a licensed motor vehicle dealer, wholesaler, rebuilder, or reconitioner and held in inventory that are covered by a blanket liability insurance policy or commercial automobile liability insurance policy;

(6) Motor vehicles properly registered in another jurisdiction and not legally required to be registered under this subchapter;

(7) Motor vehicles owned by a bank, a subsidiary or affiliate of a bank, or finance company, acquired as an incident to their regular business, that are covered by a blanket liability insurance policy or commercial automobile liability insurance policy; or

(8) Motor vehicles as prescribed by the Insurance Commissioner that are covered by a blanket liability insurance policy or commercial automobile liability insurance policy.

27-22-208. Reporting violations.

(a) If an insurance company fails to consistently allow access through an online insurance verification system to verify coverage of motor vehicle liability insurance coverage, the Department of Finance and Administration shall notify the State Insurance Department of repeated violations that the Department of Finance and Administration is not able to resolve with the insurer.

(b) The Department of Finance and Administration shall provide the form and manner of transmission for the purposes of notifying the State Insurance Department and insurer under subsection (a) of this section.

(c) The State Insurance Department may impose a penalty or fine under § 23-60-108.

27-22-209. Suspension of registration.

(a)(1) The Department of Finance and Administration shall suspend the motor vehicle registration of any motor vehicle determined to be in violation of § 27-22-104 or this subchapter.

(2) Suspension will occur regardless of whether:

(A) The owner of the motor vehicle acquires the required liability insurance policy after the date of verification; or

(B) The owner of the motor vehicle terminates ownership of the motor vehicle.

(b) The department, or a designated third-party will provide notification of the suspension to the owner of the motor vehicle.

(c) In the case of a violation, the department shall terminate the suspension upon payment by the owner of the motor vehicle of a reinstatement fee of one hundred dollars (\$100) and submission of proof of current insurance as verified through the online insurance verification system.

(d) The reinstatement fee collected by the department shall be distributed under § 27-16-808.

(e) All officials authorized by law to register motor vehicles, issue motor vehicle license plates, and to perform other duties in connection with the issuance of motor vehicle license plates shall refuse to register or re-register a motor vehicle or refuse to transfer the license plates if the registration is suspended.

(f) Information regarding the motor vehicle registration suspension or reinstatement status of a person is confidential and shall be released only to the person who is the subject of a suspension or possible suspension, or to law enforcement agencies, courts, and other governmental entities, including officials responsible for the issuance of license plates, as necessary in the administration of the provisions of this chapter.

27-22-210. Penalties.

(a) A person is guilty of a Class C misdemeanor upon conviction if he or she:

(1) Operates a motor vehicle without a liability insurance policy or proof of self-insurance in accordance with this chapter;

(2) Operates a motor vehicle with notice of cancellation, recession, abrogation, or termination of insurance or registers or attempts to register a motor vehicle;

(3) Operates a motor vehicle and, upon demand of a law enforcement officer, fails or refuses to present satisfactory evidence of insurance unless a law enforcement officer verifies motor vehicle liability

insurance coverage through the online insurance verification system;

(4) Operates a motor vehicle the registration of which is suspended or revoked under this chapter; or

(5) Operates a motor vehicle and presents evidence of insurance when there is no valid insurance in effect on the motor vehicle as required by this chapter.

(b)(1) A motor vehicle may be impounded at the discretion of a law enforcement officer if the operator fails to provide evidence of registration and insurance as required by § 27-22-104.

(2) Proof of registration and insurance may be verified through the online insurance verification system and other electronic means as necessary.

(c)(1) For the purposes of this section, the reference herein to operating a motor vehicle shall be satisfied whenever it is apparent that the vehicle has traveled any distance upon a public road or highway and a law enforcement officer may have only observed the results of finding the vehicle stopped either on or off the public road or highway, as for example when the vehicle has come to a stop after an accident.

(2) Witnessing the operation of the motor vehicle is not required for a citation to be issued under this section.

(d) A person is guilty of a Class C felony if he or she knowingly:

(1) Alters, forges, or counterfeits an insurance card to make it appear valid; or

(2) Makes, sells, or otherwise makes available an invalid or counterfeit insurance card, or other evidence of insurance.

27-22-211. Registration and licensing.

(a) The Department of Finance and Administration shall not register or re-register a motor vehicle or transfer the license plates if the registration is suspended under § 27-22-109.

(b) Notwithstanding the provisions of subsection (c) of this section, the department, upon the request of the registrant, shall reinstate a suspended registration at such time the registrant meets the provisions of reinstatement provided for by this chapter.

(c) A vehicle registration or renewal shall not be issued to a motor vehicle unless the department receives proof of insurance or verification of motor vehicle liability insurance through the online insurance verification system that provides the minimum motor vehicle insurance coverage required by § 27-22-104.

27-22-212 Reporting of violation.

A court shall forward a report of the conviction of a person under § 27-22-104 to the Department of Finance and Administration within ten (10) calendar days in a form prescribed by the department.

SECTION 3. EFFECTIVE DATE. This act shall be effective on and after January 1, 2019."

The Amendment was read _____

By: Representative Hammer
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DTP315

Chief Clerk