

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1871

Bill Subtitle: TO DEVELOP AND IMPLEMENT AN ONLINE MOTOR VEHICLE LIABILITY INSURANCE VERIFICATION SYSTEM; TO ENHANCE COMPLIANCE WITH AND THE ENFORCEMENT OF MOTOR VEHICLE LIABILITY INSURANCE REQUIREMENTS; AND TO DECLARE AN EMERGENCY.

Basic Change : Rep. B. Johnson

This bill amends Arkansas law to regulate the motor vehicle liability insurance; to develop and implement an online motor vehicle liability insurance verification system; to enhance compliance with the enforcement of motor vehicle liability insurance requirements. The implementation date for this bill is January 1, 2017.

Section 1 of the bill directs DFA to work with the Insurance Commissioner and the Arkansas State Police to develop, operate and maintain an accessible online motor vehicle liability insurance verification system. DFA is authorized in this bill to contract with a private vendor pursuant to the state procurement law to develop, implement, operate, or maintain all or part of the system.

The bill provides that the system must be secure against unauthorized access and a record must be kept of all requests and responses. The information in the system is confidential and not subject to the Freedom of Information Act requests but may be obtained by the individual policy holder or parents or legal guardian of a minor. The system may be accessible without fee to: DFA personnel and authorized agents; the Insurance Commissioner; the courts; law enforcement personnel and county assessors. Also, the system must provide a means to facilitate the administration and notice of suspension of the motor vehicle registration when the vehicle is no longer covered by a liability insurance policy as is required by existing law.

Section 2 addresses the motor vehicle insurance reporting required by the insurance carriers. The monthly reporting requirement has been deleted from the existing law, and this bill provides that DFA may promulgate rules to assess a penalty against an insurance company for failure to provide the required information. Any penalties collected shall be deposited as special revenue into the State Central Services Fund and the net amount credited as direct revenue to be used by DFA to offset the costs of administering this section. The bill adds that the Insurance Commissioner may impose an appropriate sanction under current law for non-compliance.

Section 3 authorizes impounding of a motor vehicle by a law enforcement officer if:

1. The Vehicle Insurance Database does not contain proof of the minimum motor vehicle liability insurance coverage required unless proof of insurance or a written proof of insurance binder issued within the preceding 30 days is presented to the officer at the time proof of insurance is requested by the officer; or
2. The law enforcement officer issues a citation for a traffic violation that is classified as an offense under § 27-50-302 and the operator has:
 - (A) Received 3 or more warnings for driving without insurance;
 - (B) Pled guilty or nolo contendere to or been found guilty of 3 or more violations of driving without insurance; or
 - (C) Received a total of 3 or more warning or convictions of driving without insurance.

The owner or operator, or other person in charge of the vehicle has the right to contest impoundment and shall be given notice of impoundment. If a motor vehicle is properly and lawfully impounded, then the owner and the operator of the motor vehicle are jointly and severally liable for all reasonable towing, recovery, storage and other incidental costs. This will apply even if the owner or operator of the vehicle has the insurance required but fails to present the proof of insurance.

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Revenue Impact :

None

Taxpayer Impact :

Taxpayers may have their vehicle impounded and vehicle registration suspended for driving without the required liability insurance.

Resources Required :

Estimate of around \$900,000 to implement the system and additional cost of \$400,000 per year to administer the program. DFA does not have the necessary funds in its budget to implement this program.

Time Required :

The effective date for implementation is January 1, 2017 so no additional time is required

Procedural Changes :

New procedures will be developed if this bill is passed.

Other Comments

It is unclear whether an innocent party would have their vehicle impounded if they are stopped and a data entry error has occurred resulting in the vehicle identification number not matching the insurance record.

Legal Analysis :

HB1817 provides for creation of "an accessible online motor vehicle liability insurance verification system in compliance with the specifications and standards of the Insurance Industry Committee on Motor Vehicle Administration." Appropriate state personnel such as law enforcement officials can use the VID to verify that minimum liability insurance coverage is maintained by owners and operators of vehicles in this State. § 27-14-414 as amended specifically sets forth the purposes of the VID. HB1871 does not address whether the existing VID must be updated or changed as a result of implementation of the amended statutes addressing its creation and use, who would be responsible for implementing any necessary changes, and how changes to the database would be funded.

Authority to create and administer the VID vests in DFA and DFA is free to contract with private parties in order to carry out the requirements of the statute. The amended statute removes a provision contained in the current statute stating that DFA is not liable for damages to any property or person due to any act or omission in the reporting or keeping of records in the VID.

HB1871 contains a section addressing motor vehicle reporting requirements. DFA's power to obtain records is broadened under the amended statute, providing that carriers produce "all information in the time and manner required by DFA. The statute as amended identifies specific information that shall be produced by carriers subject to the statute, includes new information production requirements, and keeps in place the statutory mechanism for imposing a penalty on subject carriers for failure to comply with the reporting requirements of the statute. HB1871 provides the Insurance Commissioner with the authority to impose sanctions on noncompliant insurance carriers.

As in the current statute, one of the amended statutes proposed by HB1871 states that the VID records are confidential and are not subject to the Freedom of Information Act.