

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1871**

**Amendment Number: H1 (3/18/15 Engrossment)**

**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.**

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**Basic Change :** Rep. B. Johnson

This bill as amended with amendment 1 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.

Amendment 1 adds Senator J. English as a cosponsor of the bill rearranges and renumbers some of the sections of the bill. The amendment also adds that DFA is not subject to liability or suit for any error in the database. Current law also has this exemption from liability.

Section 1 of the bill with amendment 1 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 , 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.

Amendment 1 adds a new Section 2 concerning failure to present proof of insurance at the time of a traffic stop of the Insurance Verification System or proof-of-insurance card issued within the preceding 60 days to show the minimum motor vehicle liability coverage required creates a rebuttable presumption that:

1. The motor vehicle or the person's operation of the motor vehicle is not in compliance with the law; and
2. The operator of the motor vehicle failed to present the proof-of-insurance card as required by law.

Section 3 of the amendment 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 4 of the amendment 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 card issued within the preceding 60 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

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under § 27-50-302 and the operator has:

- (A) Received 3 or more warnings for driving without insurance;
- (B) Pleaded 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.

### **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 or more 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.

### **Legal Analysis :**

Amendment No. 1 to HB1871 removes the emergency clause and provides that the bill will be effective on January 1, 2017. The amendment also provides that DFA shall be immune from liability or lawsuit in the event any errors occur in the motor vehicle liability insurance database.

In addition, under the prior version of the bill, the insurance information provided in the database was evidence on its face that a vehicle was or was not insured, which could be rebutted by a proof of insurance binder. The amendment provides that the information contained in the database may be rebutted instead by a proof of insurance card that was issued within the past 60 days.

The amendment also adds two new Sections to amend §§ 27-22-104 and 27-22-111 to provide that a law enforcement officer may verify insurance coverage through the database at the time of a traffic stop.