

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

INTERIM STUDY PROPOSAL 2009-167

State of Arkansas

*As Engrossed: H3/30/09*

87th General Assembly

**A Bill**

Regular Session, 2009

HOUSE BILL 2125

By: Representatives J. Roebuck, Kerr

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

**For An Act To Be Entitled**

AN ACT TO ALLOW LAW ENFORCEMENT TO IMPOUND A  
MOTOR VEHICLE THAT DOES NOT HAVE THE MINIMUM  
LIABILITY INSURANCE REQUIRED BY LAW OR A  
CERTIFICATE OF SELF-INSURANCE; AND FOR OTHER  
PURPOSES.

**Subtitle**

TO ALLOW LAW ENFORCEMENT TO IMPOUND A  
MOTOR VEHICLE THAT DOES NOT HAVE THE  
MINIMUM LIABILITY INSURANCE REQUIRED BY  
LAW OR A CERTIFICATE OF SELF-INSURANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 27-22-104 is amended to read as follows:

27-22-104. Insurance required – Minimum coverage.

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

(2) Failure to present proof of insurance coverage at the time of arrest or a failure of the Vehicle Insurance Database or proof of insurance card issued under § 23-89-213 to show current insurance coverage at



1 the time of the traffic stop creates a rebuttable presumption that the motor  
2 vehicle or the person's operation of the motor vehicle is uninsured.

3 (b) The policy shall provide ~~as~~ at a minimum the following coverage:

4 (1) Not less than twenty-five thousand dollars (\$25,000) for  
5 bodily injury or death of one (1) person in any one (1) accident;

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

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

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

19 (2)(A) If the operator of the motor vehicle is unable to present  
20 proof of insurance coverage as required in subsection (a) of this section,  
21 the motor vehicle may be impounded at the officer's discretion if one (1) or  
22 more of the following occur:

23 (i) The officer issues a citation for a serious  
24 traffic violation to include without limitation:

25 (a) Driving fifteen miles per hour (15 m.p.h.)  
26 or more than the posted speed;

27 (b) Reckless, hazardous, careless, negligent,  
28 or unsafe driving;

29 (c) Leaving the scene of an accident; or

30 (d) Racing on a highway.

31 (ii) The driver is known by the officer to be a  
32 person who is a repeat violator of this section; or

33 (iii) The motor vehicle is being operated:

34 (a) Without a license plate in violation of §  
35 27-14-304;

36 (b) With an unofficial license plate in

1 violation of § 27-14-305;

2 (c) With improper use of evidence of  
3 registration in violation of § 27-14-306; or

4 (d) With false evidences of title or  
5 registration in violation of § 27-14-307.

6 (B) An inventory of the contents of the motor vehicle  
7 shall be taken if a motor vehicle is impounded under this subsection.

8 (C) If a motor vehicle is impounded under this subdivision  
9 (c)(2), the owner is responsible for the costs of the impoundment and § 27-  
10 50-1201 et seq. regarding the towing and storage of motor vehicles shall  
11 apply.

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

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

20 (D)(i) The motor vehicle shall remain impounded until the  
21 owner establishes to a court of competent jurisdiction that he or she is in  
22 compliance with this subchapter and the Motor Vehicle Safety Responsibility  
23 Act, § 27-19-101 et seq.

24 (ii) The court shall provide an order allowing the  
25 reinstatement of the registration and license of the motor vehicle to the  
26 Office of Motor Vehicle of the Division of Revenue of the Department of  
27 Finance and Administration.

28 ~~(B)(i)(a)(d)(1)(A)~~ (d)(1)(A) If the operator of the motor vehicle proves that  
29 the liability coverage required by ~~§§ 27-22-101—~~ 27-22-104 was in effect at  
30 the time of the traffic stop, ~~then~~ the failure to present proof of insurance  
31 at the time of the traffic stop when requested by a law enforcement officer  
32 shall be punished by a fine of twenty-five dollars (\$25.00).

33 (B) No court costs under § 16-10-305 or other costs or  
34 fees shall be assessed under this subdivision ~~(e)(1)(B)(i)(a)~~ (d)(1).

35 ~~(b)(1)(2)(A)~~ (d)(1)(A) Eighty percent (80%) of the fines collected under  
36 ~~this subdivision ~~(e)(1)(B)(i)~~ (d)(1) of this section~~ shall be paid to the

1 Treasurer of State for the benefit of the Arkansas Citizens First Responder  
2 Safety Enhancement Fund.

3 ~~(2)(B)~~ Twenty percent (20%) of the fines collected under  
4 ~~this subdivision (e)(1)(B)(i)~~ (d)(1) of this section shall be retained by the  
5 court that tries the offense.

6 ~~(ii)(e)(1)~~ If the operator of the motor vehicle is unable to prove  
7 that the liability coverage required by ~~§§ 27-22-101—~~ 27-22-104 was in  
8 effect at the time of the traffic stop, ~~then~~ the failure to present proof of  
9 insurance at the time of the traffic stop when requested by a law enforcement  
10 officer shall be punished as provided under § 27-22-103.

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

13 (3)(A) In addition, if the officer does not impound the motor  
14 vehicle as provided under subdivision (c)(2) of this section, the officer  
15 shall remove and impound the license plate attached to the vehicle.

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

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

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

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

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

30 ~~(e)(1)(g)(1)~~ Upon receipt of the notice of noncompliance by the  
31 department, the department shall proceed to suspend the registration of the  
32 vehicle effective ten (10) days after the license plate was taken and the  
33 notice of noncompliance was issued as provided under subdivision (e)(3)(A) of  
34 this section.

35 (2) However, if both the vehicle and the driver's operation of  
36 the vehicle were insured at the time of the offense, the owner of the vehicle

1 shall have ten (10) days to present proof of insurance coverage or other  
2 financial security in effect at the time of the offense, whereupon the  
3 license plate shall be returned at no cost to the owner of the vehicle.

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

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

11 (2) The person shall furnish the department one of the  
12 following:

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

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

17 ~~(g)~~~~(1)~~(i)(1) In order to reinstate the suspended registration and be  
18 reissued a license plate for any suspended motor vehicle, the owner shall  
19 present the proof of renewed or new financial coverage required in  
20 subdivision ~~(f)~~~~(1)~~ (h)(1) or (2) of this section to the department and shall  
21 pay to the department a twenty dollar (\$20.00) fee for reinstatement of the  
22 registration and reissuance of the license plate.

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

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

29 ~~(h)~~(j) The ~~department~~ Office of Motor Vehicle shall promulgate  
30 necessary rules and regulations for the administration of this section.

31  
32 /s/ J. Roebuck

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36 Filed Date: 04/09/2009 By: JSE\VJF