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4

As Engrossed: H3/14/11 H3/16/11

# A Bill

HOUSE BILL 1953

5 By: Representative J. Roebuck  
6

## For An Act To Be Entitled

8 AN ACT TO ALLOW LAW ENFORCEMENT TO IMPOUND A MOTOR  
9 VEHICLE THAT DOES NOT HAVE THE MINIMUM LIABILITY  
10 INSURANCE REQUIRED BY LAW OR A CERTIFICATE OF SELF-  
11 INSURANCE; AND FOR OTHER PURPOSES.  
12  
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### Subtitle

14 TO ALLOW LAW ENFORCEMENT TO IMPOUND A  
15 MOTOR VEHICLE THAT DOES NOT HAVE THE  
16 MINIMUM LIABILITY INSURANCE REQUIRED BY  
17 LAW OR A CERTIFICATE OF SELF-INSURANCE.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 *SECTION 1. Arkansas Code § 27-22-103(b), regarding penalties for*  
24 *failing to comply with the mandatory motor vehicle liability insurance law,*  
25 *is amended to add an additional subdivision to read as follows:*

26 *(4)(A)(i) If the person is unable to establish that liability*  
27 *coverage required by §§ 27-22-101 – 27-22-104 is in effect at the time of the*  
28 *disposition of the charge, the judge or clerk of the court shall prepare and*  
29 *transmit to the Office of Motor Vehicle of the Revenue Division of the*  
30 *Department of Finance and Administration an order suspending the registration*  
31 *of the motor vehicle involved in the violation until such time as the person*  
32 *presents proof of coverage to the Office of Motor Vehicle.*

33 *(ii) The order shall include:*

34 *(a) The name and address of the person charged;*

35 *(b) The driver's license number, if any, of the*  
36 *person charged;*



1 (c) The vehicle identification number or license  
 2 plate number of the motor vehicle involved;

3 (d) The date of the hearing;

4 (e) The judgment of the court; and

5 (f) The amount of the fine.

6 (iii) The judge or clerk of the court shall prepare and  
 7 transmit an order under subdivision (b)(4)(A) of this section within five (5)  
 8 business days after the plea or judgment is entered.

9 (B)(i) In order to reinstate the suspended registration for any  
 10 suspended motor vehicle, the owner shall present proof of the requisite  
 11 liability coverage to the Office of Motor Vehicle and shall pay to the Office  
 12 of Motor Vehicle a fee of twenty dollars (\$20.00) for reinstatement of the  
 13 registration.

14 (ii) The revenues derived from this reinstatement fee  
 15 shall be deposited as a special revenue into the State Central Services Fund  
 16 and credited as a direct revenue to be used by the Office of Motor Vehicle to  
 17 offset the costs of administering this section.

18 (iii) This fee shall be in addition to any other fines,  
 19 fees, or other penalties for other violations of this subchapter.

20  
 21 SECTION 2. Arkansas Code § 27-22-104 is amended to read as follows:

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

23 (a)(1) It ~~shall be~~ is unlawful for ~~any~~ a person to operate a motor  
 24 vehicle within this state ~~unless~~ if both the motor vehicle and the person's  
 25 operation of the motor vehicle are not covered by:

26 (A) a certificate of self-insurance under ~~the provisions~~  
 27 ~~of~~ § 27-19-107; or

28 (B) ~~an~~ An insurance policy issued by an insurance company  
 29 authorized to do business in this state.

30 (2) Failure to present proof of insurance coverage at the time  
 31 of arrest or a failure of the Vehicle Insurance Database or proof of an  
 32 insurance card issued under § 23-89-213 to show current insurance coverage at  
 33 the time of the traffic stop creates a rebuttable presumption that the motor  
 34 vehicle or the person's operation of the motor vehicle is uninsured.

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

36 (1) Not less than twenty-five thousand dollars (\$25,000) for

1 bodily injury or death of one (1) person in any one (1) accident;

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

4 (3) If the accident ~~has resulted~~ results in ~~injury damage~~ to or  
5 destruction of property, not less than twenty-five thousand dollars (\$25,000)  
6 for the ~~injury damage~~ to or destruction of property of others in any one (1)  
7 accident.

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

16 ~~(B)(i)(a) If the operator of the motor vehicle proves that~~  
17 ~~the liability coverage required by §§ 27-22-101—27-22-104 was in effect at~~  
18 ~~the time of the traffic stop, then the failure to present proof of insurance~~  
19 ~~at the time of the traffic stop when requested by a law enforcement officer~~  
20 ~~shall be punished by a fine of twenty-five dollars (\$25.00). No court costs~~  
21 ~~under § 16-10-305 or other costs or fees shall be assessed under this~~  
22 ~~subdivision (c)(1)(B)(i)(a).~~

23 ~~(b)(1) Eighty percent (80%) of the fines~~  
24 ~~collected under this subdivision (c)(1)(B)(i) shall be paid to the Treasurer~~  
25 ~~of State for the benefit of the Arkansas Citizens First Responder Safety~~  
26 ~~Enhancement Fund.~~

27 ~~(2) Twenty percent (20%) of the fines~~  
28 ~~collected under this subdivision (c)(1)(B)(i) shall be retained by the court~~  
29 ~~that tries the offense.~~

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

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

1           ~~(3)(A) In addition, the officer shall remove and impound the~~  
2 ~~license plate attached to the vehicle.~~

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

5           ~~(d)(1) The law enforcement officer who removes and impounds the license~~  
6 ~~plate pursuant to subdivision (c)(3)(A) of this section shall issue for~~  
7 ~~attachment to the rear of the vehicle a temporary sticker denoting its use in~~  
8 ~~lieu of an official license plate.~~

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

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

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

17           ~~(e)(1) Upon receipt of the notice of noncompliance by the department,~~  
18 ~~the department shall proceed to suspend the registration of the vehicle~~  
19 ~~effective ten (10) days after the license plate was taken and the notice of~~  
20 ~~noncompliance was issued.~~

21           ~~(2) However, if both the vehicle and the driver's operation of~~  
22 ~~the vehicle were insured at the time of the offense, the owner of the vehicle~~  
23 ~~shall have ten (10) days to present proof of insurance coverage or other~~  
24 ~~financial security in effect at the time of the offense, whereupon the~~  
25 ~~license plate shall be returned at no cost to the owner of the vehicle.~~

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

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

33           ~~(2) The person shall furnish the department one of the~~  
34 ~~following:~~

35           ~~(A) A certificate of self-insurance under the provisions~~  
36 ~~of § 27-19-107; or~~

1                   ~~(B) A sufficient insurance policy issued by an insurance~~  
2 ~~company authorized to do business in this state.~~

3           ~~(g)(1) In order to reinstate the suspended registration and be~~  
4 ~~reissued a license plate for any suspended motor vehicle, the owner shall~~  
5 ~~present the proof of renewed or new financial coverage required in~~  
6 ~~subdivision (f)(1) or (2) of this section to the department and shall pay to~~  
7 ~~the department a twenty dollar (\$20.00) fee for reinstatement of the~~  
8 ~~registration and reissuance of the license plate.~~

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

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

15           ~~(h) The department shall promulgate necessary rules and regulations~~  
16 ~~for the administration of this section.~~

17           ~~(i)(1)(c)(1)~~ For purposes of this subsection, "operating motor  
18 vehicle" means a motor vehicle that is actually driven out of the government-  
19 owned and government-operated storage facility under its own power.

20           (2) A government-owned and government-operated storage facility  
21 for motor vehicles may refuse to release an operating motor vehicle from the  
22 storage facility if the owner of the motor vehicle cannot establish that the  
23 motor vehicle is covered by insurance as required under this section.

24           (3) The following are exempt from the requirements of this  
25 subsection:

26                   (A) A motor vehicle that is considered salvage;

27                   (B) A motor vehicle when an insurer holds the title to the  
28 motor vehicle; and

29                   (C) A motor vehicle that is not driven out of the  
30 government-owned and government-operated storage facility under its own  
31 power.

32  
33           SECTION 3. Arkansas Code Title 27, Chapter 22, Subchapter 1 is amended  
34 to add additional sections to read as follows:

35           27-22-109. Impounding a motor vehicle for a violation.

36           (a)(1) If an operator of a motor vehicle is unable to present proof of

1 insurance coverage to a law enforcement officer as required under § 27-22-  
2 104, the motor vehicle may be impounded at the officer's discretion if it is  
3 the operator's third violation of § 27-22-104, and the officer issues a  
4 citation for a traffic violation that is classified as an offense under § 27-  
5 50-302.

6 (2) If an operator of a motor vehicle is unable to present proof  
7 of insurance coverage to a law enforcement officer as required under § 27-22-  
8 104, the motor vehicle may be impounded at the officer's discretion if one  
9 (1) or more of the following occur:

10 (A) The driver is operating a motor vehicle on a  
11 cancelled, suspended, or revoked driver's license in violation of § 27-16-  
12 303;

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

15 (C) The driver is operating a motor vehicle:

16 (i) Without a license plate in violation of § 27-14-  
17 304;

18 (ii) With an unofficial license plate in violation  
19 of § 27-14-305;

20 (iii) With improper use of evidence of registration  
21 in violation of § 27-14-306; or

22 (iv) With false evidences of title or registration  
23 in violation of § 27-14-307.

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

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

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

30 (3) An inventory of the contents of the motor vehicle shall be  
31 taken; and

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

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

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

1 (c)(1) If a motor vehicle is properly and lawfully impounded under  
2 this section, the following are responsible for all reasonable towing,  
3 recovery, storage, and other incidental costs:

4 (A) The operator of the vehicle;

5 (B) The owner of the vehicle; or

6 (C) Both the owner and the operator of the vehicle.

7 (2) This subsection applies even if the owner has insurance but  
8 fails to present proof of insurance.

9  
10 27-22-110. Hold on release from storage facility authorized.

11 (a) For purposes of this section:

12 (1) "Operational motor vehicle" means a motor vehicle that is  
13 driven under its own power out of a storage facility; and

14 (2) "Proof of compliance" means:

15 (A) An order of a court of competent jurisdiction issued  
16 under § 27-22-103(b);

17 (B) A certificate of self-insurance under § 27-19-107; or

18 (C) An insurance policy that meets the requirements of §  
19 27-22-104.

20 (b)(1) A law enforcement agency that impounds a motor vehicle under §  
21 27-22-109 may place a hold on the release of an operational motor vehicle  
22 from a storage facility consistent with § 27-50-1206(a)(3) until the owner or  
23 operator of the motor vehicle provides proof of compliance to the law  
24 enforcement agency.

25 (2) If the owner or operator provides proof of compliance to the  
26 law enforcement agency, the law enforcement agency shall release the hold on  
27 the vehicle and notify the storage facility in writing of the release.

28 (c) The following vehicles are exempt from a hold on release under  
29 this section:

30 (1) A salvage vehicle as defined under § 27-14-2301 that is  
31 acquired by an insurance company;

32 (2) A motor vehicle that is incapable of being driven out of the  
33 storage facility under its own power and is removed by a towing firm licensed  
34 by and subject to the rules of the Arkansas Towing and Recovery Board;

35 (3) A motor vehicle acquired by a lienholder if the lienholder  
36 provides to the law enforcement agency:

1                   (A) A sworn statement in the form of either a repossession  
2 title or an affidavit that the lienholder is entitled to take immediate  
3 possession of the vehicle; and

4                   (B) If the vehicle is to be driven from the storage  
5 facility, proof of insurance coverage as required under § 27-22-104; or

6                   (4) A motor vehicle acquired subsequent to impounding by a  
7 transferee if the transferee provides to the law enforcement agency:

8                   (A) A sworn statement in the form of an affidavit that the  
9 transferee has obtained all right, title, and interest in the vehicle;

10                   (B) A copy of the document transferring ownership of the  
11 vehicle; and

12                   (C) If the vehicle is to be driven from the storage  
13 facility, proof of insurance coverage as required under § 27-22-104.

14  
15                   27-22-111. Fine for failure to present proof of insurance at time of  
16 traffic stop.

17                   (a) After a traffic stop has been completed, if an operator of a motor  
18 vehicle proves that the liability coverage required by §§ 27-22-101 – 27-22-  
19 104 was in effect at the time of the traffic stop, the failure to present  
20 proof of insurance at the time of the traffic stop when requested by a law  
21 enforcement officer shall be punished by a fine of twenty-five dollars  
22 (\$25.00).

23                   (b) Court costs under § 16-10-305 or other costs or fees shall not be  
24 assessed under this section.

25                   (c) The fines collected under this section shall be distributed as  
26 follows:

27                   (1) Eighty percent (80%) shall be paid to the Treasurer of State  
28 for the benefit of the Arkansas Citizens First Responder Safety Enhancement  
29 Fund; and

30                   (2) Twenty percent (20%) shall be retained by the court that  
31 tries the offense.

32                   (d) If an operator of a motor vehicle is unable to prove that the  
33 liability coverage required by §§ 27-22-101 – 27-22-104 was in effect at the  
34 time of the traffic stop, the failure to present proof of insurance at the  
35 time of the traffic stop when requested by a law enforcement officer shall be  
36 punished as provided under § 27-22-103.



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/s/J. Roebuck