

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE FOR  
HOUSE BILL NO. 2413

By: Stottlemyre

COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 7-301, 7-302, 7-304, 7-305, 7-306, 7-307, 7-319, 7-320, 7-321, 7-324, 7-326 and 7-335, which relate to proof of financial responsibility for the future; removing reference to future responsibility; clarifying scope of article; removing requirement that proof be given for certain period of time; amending 47 O.S. 1991, Section 7-403, which relates to violations of financial responsibility law; clarifying language; amending 47 O.S. 1991, Section 7-505, which relates to miscellaneous provisions relating to financial responsibility; clarifying scope of section; removing requirement that proof be given for certain period of time; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 47 O.S. 1991, Section 7-301, is amended to read as follows:

Section 7-301. The provisions of this chapter requiring the deposit of proof of financial responsibility ~~for the future~~, subject to certain exemptions, shall apply with respect to persons who are required to deposit security under the provisions of Article II, or persons who have been convicted of or forfeited bail for certain offenses under motor vehicle laws or who have failed to pay judgments upon causes of action arising out of ownership, maintenance or use of vehicles of a type subject to registration under the laws of this state. Provided, that the provisions of this ~~chapter~~ article shall not apply to any situation in which the license of a driver or owner of a motor vehicle has been suspended, not arising under the conditions specified in Section 7-201 of this title.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 7-302, is amended to read as follows:

Section 7-302. The term "proof of financial responsibility ~~for the future~~" as used in this ~~chapter~~ article shall mean: Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a vehicle of a type subject to registration under the laws of this state, in the amount of Ten Thousand Dollars (\$10,000.00) because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of Twenty Thousand Dollars (\$20,000.00) because of bodily injury to or death of two or more persons in any one accident, and in the amount of Ten Thousand Dollars (\$10,000.00) because of injury to or destruction of property of others in any one accident. Wherever used in this title, the terms "proof of financial responsibility" or "proof" shall be synonymous ~~with the term "proof of financial responsibility for the future"~~.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 7-304, is amended to read as follows:

Section 7-304. Whenever, under any law of this state, the license of any person is suspended or revoked by reason of a conviction or a forfeiture of bail, the Department shall suspend the registration of all vehicles registered in the name of such person as owner, except that (a) if such owner has previously given or shall immediately give and thereafter maintains proof of financial responsibility ~~for the future~~ with respect to all such vehicles registered by such person as the owner, the Department shall not suspend such registration unless otherwise required by law; (b) if a conviction arose out of the operation, with permission, of a vehicle owned by or leased to the United States, this state or any political subdivision of this state or a municipality thereof, the Department shall suspend or revoke such license only with respect to the operation of vehicles not so owned or leased and shall not suspend the registration of any vehicle so owned or leased.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 7-305, is amended to read as follows:

Section 7-305. The suspension or revocation ~~hereinbefore~~ required by this article shall remain in effect and the Department shall not issue to such person any new or renewal of license or register or reregister in the name of such person as owner any such vehicle until permitted under the motor vehicle laws of this state, and not then unless and until such person shall give and thereafter maintain proof of financial responsibility ~~for the future.~~

SECTION 5. AMENDATORY 47 O.S. 1991, Section 7-306, is amended to read as follows:

Section 7-306. If a person has no license, but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the suspension or revocation of license, or for driving a motor vehicle upon the highways without being licensed to do so, or for driving an unregistered vehicle upon the highways, no license shall be thereafter issued to such person and no such vehicle shall continue to be registered or thereafter be registered in the name of such person as owner unless he shall give and thereafter maintain proof of financial responsibility ~~for the future.~~

SECTION 6. AMENDATORY 47 O.S. 1991, Section 7-307, is amended to read as follows:

Section 7-307. Whenever the Department suspends or revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, such privilege shall remain so suspended or revoked unless such person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility ~~for the future.~~

SECTION 7. AMENDATORY 47 O.S. 1991, Section 7-319, is amended to read as follows:

Section 7-319. No vehicle shall be or continue to be registered in the name of any person required to file proof of

financial responsibility ~~for the future~~ unless such proof shall be furnished for such vehicle.

SECTION 8. AMENDATORY 47 O.S. 1991, Section 7-320, is amended to read as follows:

Section 7-320. Proof of financial responsibility when required under this ~~chapter~~ article, with respect to such a vehicle or with respect to a person who is not the owner of such a vehicle, may be given by filing:

1. A certificate of insurance as provided in Section 7-321 or Section 7-322 of this title;

2. A bond as provided in Section 7-327 of this title;

3. A certificate of deposit of money or securities as provided in Section 7-330 of this title; or

4. A certificate of self-insurance, as provided in ~~section~~ Section 7-503 of this title, supplemented by an agreement by the self-insurer that, with respect to accidents occurring while the certificate is in force, he will pay the same amounts that an insurer would have been obliged to pay under an owner's motor vehicle liability policy if it had issued such a policy to said self-insurer.

SECTION 9. AMENDATORY 47 O.S. 1991, Section 7-321, is amended to read as follows:

Section 7-321. Proof of financial responsibility ~~for the future~~ required by this article may be furnished by filing with the Department the written certificate of any insurance carrier duly authorized to do business in this state certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle. The provisions of this section shall not be construed to apply to persons found to be in violation of Article VI of this chapter.

SECTION 10. AMENDATORY 47 O.S. 1991, Section 7-324, is amended to read as follows:

Section 7-324. (a) Certification. A "motor vehicle liability policy" as the term is used in this ~~title~~ article shall mean an "owner's policy" or an "operator's policy" of liability insurance, certified as provided in Section 7-321 or Section 7-322 of this title as proof of financial responsibility ~~for the future~~, and issued, except as otherwise provided in Section 7-322 of this title, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(b) Owner's policy. Such owner's policy of liability insurance:

1. Shall designate by explicit description or by appropriate reference all vehicles with respect to which coverage is thereby to be granted; and

2. Shall insure the person named therein and any other person except as herein provided, as insured, using any such vehicle or vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such vehicle or vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such vehicle, as follows: Ten Thousand Dollars (\$10,000.00) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, Twenty Thousand Dollars (\$20,000.00) because of bodily injury to or death of two or more persons in any one accident, and Ten Thousand Dollars (\$10,000.00) because of injury to or destruction of property of others in any one accident.

~~(c)~~ 3. May by agreement in a separate written endorsement between any named insured and the insurer exclude as insured any person or persons designated by name from coverage under the policy.

~~(d)~~ (c) Operator's policy. Such operator's policy of liability insurance shall insure the person named as insured

therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

~~(e)~~ (d) Required statements in policies. Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this title.

~~(f)~~ (e) Policy need not insure workmen's compensation. Such motor vehicle liability policy need not insure any liability under any workmen's compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

~~(g)~~ (f) Provisions incorporated in policy. Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

1. The liability of the insurance carrier with respect to the insurance required by this title shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be cancelled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy.

2. The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage.

3. The insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in ~~subdivision~~ paragraph 2 of subsection (b) of this section.

4. The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this title shall constitute the entire contract between the parties.

~~(h)~~ (g) Excess or additional coverage. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such excess or additional coverage shall not be subject to the provisions of this title. With respect to a policy which grants such excess or additional coverage, the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

~~(i)~~ (h) Reimbursement provision permitted. Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this title.

~~(j)~~ (i) Proration of insurance permitted. Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

~~(k)~~ (j) Multiple policies. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

~~(l)~~ (k) Binders. Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

SECTION 11. AMENDATORY 47 O.S. 1991, Section 7-326, is amended to read as follows:

Section 7-326. (a) This article and Article II of this chapter shall not be held to apply to or affect policies of automobile insurance against liability which may now or hereafter be required by any other law of this state, and such policies, if they contain an agreement or are endorsed to conform with the requirements of this article and Article II of this chapter, may be certified as proof of financial responsibility under this article and Article II of this chapter.

(b) This article and Article II of this chapter shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on his behalf of vehicles not owned by the insured.

SECTION 12. AMENDATORY 47 O.S. 1991, Section 7-335, is amended to read as follows:

Section 7-335. (a) The Department shall upon request consent to the immediate cancellation of any bond ~~or certificate of insurance~~ or the Department shall direct and the State Treasurer shall return to the person entitled thereto any money or securities deposited pursuant to this article or Article II of this chapter as proof of financial responsibility, or the Department shall waive the requirement of filing proof, in any of the following events:

~~1. At any time after three (3) years from the date such proof was required when, during the three-year period preceding the request, the Department has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license or registration of the person by or for whom such proof was furnished; or~~

~~2.~~ In the event of the death of the person on whose behalf such proof was filed or the permanent incapacity of such person to operate a motor vehicle; or

~~3.~~ 2. In the event the person who has given proof surrenders his license and registration to the Department.

(b) Provided, however, that the Department shall not consent to the cancellation of any bond or the return of any money or

securities in the event any action for damages upon a liability covered by such proof is then pending or any judgment upon any such liability is then unsatisfied, or in the event the person who has filed such bond or deposited such money or securities has within one (1) year immediately preceding such request been involved as a driver or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts, or that he has been released from all of his liability, or has been finally adjudicated not to be liable, for such injury or damage, shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the Department.

~~(c) Whenever any person whose proof has been canceled or returned under subdivision 3 of this section applies for a license or registration within a period of three (3) years from the date proof was originally required, any such application shall be refused unless the applicant shall reestablish such proof for the remainder of such three-year period.~~

SECTION 13. AMENDATORY 47 O.S. 1991, Section 7-403, is amended to read as follows:

Section 7-403. Any person who shall forge, or, without authority, sign any evidence of proof of financial responsibility ~~for the future~~, or who files or offers for filing any such evidence of proof knowing or having reason to believe that it is forged or signed without authority, shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than one (1) year, or both.

SECTION 14. AMENDATORY 47 O.S. 1991, Section 7-505, is amended to read as follows:

Section 7-505. (a) In order to furnish a means of relief from extreme and unusually severe hardship in the application of this chapter, it is hereby provided that any owner or operator whose license or registration has been suspended by the Department under the provisions of this chapter for failure to furnish security or for failure to satisfy a judgment may make application for

modification of the order of suspension to the district court of the county where such owner or operator resides.

The application shall contain the following:

1. The name and address of the applicant.

2. The date and location of the accident, names of any fatality or fatalities, names of persons injured, and/or names of persons whose real or personal property was damaged in said accident.

3. That applicant has failed to comply with the provisions of the Financial Responsibility Act by either failing to post security or to satisfy a judgment.

4. The facts creating an unusual or severe hardship impairing the ability of the applicant to earn a livelihood.

5. That applicant has initiated action to post proof of ~~future~~ financial responsibility by a method enumerated in Section 7-320 of this act and that said applicant will maintain such proof for a period of three (3) years from the date of modification title.

6. A true copy of the order of suspension attached thereto.

7. A verification by the applicant.

(b) The district court shall set the application for hearing not less than fifteen (15) days nor more than thirty (30) days from the date of filing the application.

(c) A certified copy of the application, bond, order for hearing and any other pleadings shall be served upon the Department of Public Safety, all judgment creditors and/or persons on whose behalf security has been required or by mailing a copy to their last known address at least ten (10) days before said hearing.

(d) Persons required to be notified of the hearing may appear and resist the application. At said hearing the court shall take testimony concerning the hardship of the applicant, testimony of any interested party, and allow the driving and accident record of the applicant to be introduced into evidence by the Department of Public Safety. After hearing on the application, but not before, if the court finds that such suspension has resulted or will

result in extreme and unusually severe hardship, seriously impairing the ability of the applicant to earn a livelihood, the court may modify, but not vacate, the order of suspension and the extent to which said applicant must comply with the provisions of Articles II and III of this chapter with respect to furnishing security or satisfying a judgment. If the court finds the order of suspension should be modified, then the court shall require that the applicant furnish proof of financial responsibility ~~for the future~~ by a method enumerated in Section 7-320 of this ~~act~~ title. Such proof shall be furnished to the Department of Public Safety ~~and maintained for a period of three (3) years from the date of modification~~. The modification shall not become effective until such proof is furnished to the Department together with a certified order of the court setting forth the modification.

(e) An appeal may be taken by any interested party from the order of the district court to the Supreme Court of the State of Oklahoma.

(f) It shall be the duty of the district attorney in the county where said application is filed to represent the Department of Public Safety in the proceedings under the statute upon request from the Department of Public Safety.

SECTION 15. This act shall become effective September 1, 1994.