

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1640

By: Adair

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 7-206, 7-209, 7-211, 7-212, 7-605 and 7-609, as amended by Section 2, Chapter 351, O.S.L. 1992 (47 O.S. Supp. 1992, Section 7-609), which relate to financial responsibility; providing for impoundment of vehicles in certain circumstances; providing exceptions; providing for payment of storage costs; providing procedures; modifying certain disbursements; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 7-206, is amended to read as follows:

Section 7-206. In the event that any person required to deposit security and file proof of financial responsibility under this chapter fails to deposit such security and file such proof of financial responsibility within ten (10) days after the Department has sent the notice as hereinbefore provided, the Department shall thereupon suspend:

1. The license and all registrations of each driver in any manner involved in the accident;

2. The license and all registrations of all vehicles owned by the owner on or after the effective date of the suspension order of each vehicle involved in such accident, and any other vehicles thereafter acquired and registered in the name of the owner thereof, of a type subject to registration under the laws of this state;

3. If the driver is a nonresident, the privilege of operating a vehicle within this state;

4. If such owner is a nonresident, the privilege of operating any vehicle owned by him on or after the effective date of the suspension order.

Such suspensions shall be made in respect to persons required by the Department to deposit security who fail to deposit such security, except as otherwise provided under succeeding sections of this chapter.

In addition, on or after the effective date of the suspension order, the Department shall impound any vehicle involved in such accident that is owned or was driven by a person who failed to deposit the required security and file proof of financial responsibility. Provided, the Department shall not impound a vehicle if the driver of the vehicle is not the owner and the owner had not given the driver permission to drive the vehicle.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 7-209, is amended to read as follows:

Section 7-209. ~~(a)~~ A. Any two or more of the persons involved in or affected by an accident as described in Section 7-201 of this title may at any time enter into a written agreement for the payment of an agreed amount with respect to all claims of any of such persons because of bodily injury to or death or property damage arising from such accident, which agreement may provide for payment

in installments, and may file a signed copy thereof with the Department.

~~(b)~~ B. The Department, to the extent provided by any such written agreement filed with it, shall not require the deposit of security and shall terminate any prior order of suspension or impoundment, provided that proof of financial responsibility has been filed, or, if security has previously been deposited, the Department shall immediately return such security to the depositor or his personal representative.

~~(c)~~ C. In the event of a default in any payment under such agreement and upon notice of such default the Department shall take action suspending the license and registration and impounding the vehicle of such person in default as would be appropriate in the event of failure of such person to deposit security when required under this chapter.

~~(d)~~ D. Such suspension and impoundment shall remain in effect and such license and registration shall not be restored unless and until:

1. Security is deposited and proof of financial responsibility is filed as required under this chapter, the security to be in such amount as the Department may then determine 7i or

2. When, following any such default and suspension, the person in default has paid the balance of the agreed amount 7i or

3. One (1) year has elapsed following the effective date of such suspension and evidence satisfactory to the Department has been filed with it that during such period no action at law upon such agreement has been instituted and is pending.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 7-211, is amended to read as follows:

Section 7-211. The Department, if satisfied as to the existence of any fact which under Sections 7-207, 7-208, 7-209 or 7-210 of this title would entitle a person to be relieved from the security

requirements of this chapter, shall not require the deposit of security by the person so relieved from such requirement and shall terminate any prior order of suspension or impoundment in respect to such person, provided that he has filed proof of financial responsibility, or, if security has previously been deposited by such person, the Department shall immediately return such deposit to such person or to his personal representative.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 7-212, is amended to read as follows:

Section 7-212. Unless a suspension or impoundment order is terminated under other provisions of this chapter, any order of suspension or impoundment by the Department under this chapter shall remain in effect and no license shall be renewed for or issued to any person whose license is so suspended ~~and~~, no registration shall be renewed for or issued to any person whose vehicle registration is so suspended and no impounded vehicle shall be released, until:

1. Such person shall deposit and file or there shall be deposited and filed on his behalf the security and proof of financial responsibility required under this chapter~~;~~ or

2. One (1) year shall have elapsed following the date of such suspension and evidence satisfactory to the Department has been filed with it that during such period no action for damages arising out of the accident resulting in such suspension has been instituted, provided that such person has filed the required proof of financial responsibility; and

3. Such person has paid any costs incurred by the Department for storage of the impounded vehicle.

An affidavit of the applicant that no action at law for damages arising out of the accident has been filed against him or, if filed, that it is not still pending shall be prima facie evidence of that fact. The Department may take whatever steps are necessary to verify the statement set forth in any said affidavit.

SECTION 5. AMENDATORY 47 O.S. 1991, Section 7-605, is amended to read as follows:

Section 7-605. A. Every owner or operator of a motor vehicle registered in this state who operates the vehicle or permits it to be operated in this state when no security exists as required by Section 7-601 of this title, ~~or, until July 1, 1991, any owner who fails to provide proof of security pursuant to the provisions of Section 7-603.1 of this title,~~ or any person who receives a deferred sentence, forfeits a bond or is convicted in any state or municipal court for failure to carry a security verification form, shall be subject to suspension of the driver's license and registrations of any motor vehicle not covered by security and impoundment of the vehicle. Such suspension and impoundment shall remain in effect until payment of a reinstatement fee of One Hundred Dollars (\$100.00), payment of any costs incurred by the Department for storage of the vehicle, and proof of security is furnished through filing of a certificate of insurance with the Department which complies with the requirements of Section 7-321 of this title. The certificate of insurance shall be kept on file with the Department for three (3) years. Suspension and impoundment under this section shall be effective upon the Department giving notice pursuant to Section 2-116 of this title that the owner or operator is without security. Any person failing to voluntarily relinquish the suspended license or registration or impounded vehicle to the Department within sixty (60) days of receipt of said notice shall pay a fee of Fifty Dollars (\$50.00) in addition to the One Hundred Dollar (\$100.00) reinstatement fee. If a person furnishes proof to the satisfaction of the Department that security was in effect at the time of the alleged offense, the Department shall vacate the suspension and impoundment order and shall not require the filing of a certificate of insurance nor either of the above fees.

B. The Department may rely upon an abstract which indicates a charge and the imposition of a deferred sentence pending compliance with the Compulsory Insurance Law, Section 7-600 et seq. of this title, or an abstract of conviction or a notice of bond forfeiture from any court of competent jurisdiction, which indicates that the person was either convicted, or failed to appear upon a charge of failure to carry a security verification form or the lack of security, indicated by "No Security Form", "No Insurance" or other such term indicating lack of security. The Department may continue to rely on such abstract or notice unless proof is submitted from the issuing court clerk which indicates that the abstract or notice was issued in error, or was not related to a violation of the Compulsory Insurance Law or a security verification form as required by Chapter 7 of this title or by municipal ordinance.

SECTION 6. AMENDATORY 47 O.S. 1991, Section 7-609, as amended by Section 2, Chapter 351, O.S.L. 1992 (47 O.S. Supp. 1992, Section 7-609), is amended to read as follows:

Section 7-609. A. In the event the owner fails to timely furnish proof of insurance or fails to timely respond to the Department's request as required by subsection D of Section 7-608 of this title, the Department shall suspend the person's driver's license ~~and~~, the registration of any motor vehicle registered in the name of such person as owner and not covered by security, and impound any such motor vehicle, effective immediately upon the lapse of the thirty-day response period as provided in subsection D of Section 7-608 of this title. Such suspension and impoundment order shall remain in effect until payment of a reinstatement fee of One Hundred Dollars (\$100.00) and proof of insurance is presented to the Department. Provided, if the person is not an owner of any motor vehicle or if the motor vehicle in which the person has an ownership interest has been repossessed, or if the person proves to the satisfaction of the Department that the request of the Department to

provide proof of insurance was not received, proof of insurance and payment of the reinstatement fee and vehicle storage costs shall not be required for reinstatement of the driver's license or release of the impounded vehicle.

B. Any person whose driver's license and registration have been suspended and vehicle impounded pursuant to the provisions of subsection A of this section shall submit such driver's license ~~and,~~ license plate, and vehicle to the Department within thirty (30) days from the date of such suspension and order of impoundment. Any owner failing to submit the suspended license ~~or,~~ license plate, or vehicle to the Department within such time shall pay a fee of Fifty Dollars (\$50.00) in addition to the reinstatement fee.

C. Whenever any person's driver's license or registration of any motor vehicle is suspended or motor vehicle is impounded pursuant to this section according to the records of the Department, the Department may accordingly notify any law enforcement agency, police officer, sheriff, deputy sheriff, highway patrol trooper or other peace officer of such suspension or impoundment order.

D. Any peace officer who has been notified that a person's driver's license or registration of a motor vehicle is currently under suspension or that an impoundment order has been issued for the motor vehicle according to the records of the Department may, upon observing such person or motor vehicle anywhere upon a public street, highway, roadway, turnpike or public parking lot within this state, forthwith stop such person or motor vehicle and seize such suspended driver's license ~~or,~~ license plate, and motor vehicle.

E. No person who has been issued a driver's license, vehicle registration or vehicle license plate pursuant to the laws of this state shall obtain or retain a property interest therein and it shall be the duty of every person to forthwith surrender such suspended driver's license or license plate upon the request of any peace officer or representative of the Department of Public Safety.

F. Any person upon a public street, highway, roadway, turnpike or public parking lot within this state who willfully refuses to surrender possession of a driver's license ~~or~~, license plate or motor vehicle after being informed by a peace officer or representative of the Department of Public Safety that the same is currently under suspension and impoundment order according to the records of the Department, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than ten (10) days or a fine not to exceed Five Hundred Dollars (\$500.00) or by both such fine and imprisonment.

G. Any driver's license ~~or~~, license plate or motor vehicle surrendered to or seized by a peace officer pursuant to this section shall be submitted to a representative of the Department of Public Safety in a manner and with a form or method approved by the Department.

H. Following receipt of the fifty-dollar fee collected pursuant to subsection B of this section, the Department shall deposit said fee in the office of the State Treasurer. The State Treasurer shall credit said fees into a special account to be distributed as hereinafter provided.

I. The Department shall certify to the State Treasurer the name of the employing law enforcement agency from which a suspended driver's license ~~or~~, license plate or impounded motor vehicle has been received pursuant to this section, together with a certification that the fifty-dollar fee required by subsection B of this section has been paid. Following receipt of certification from the Department as provided herein, the State Treasurer shall reimburse the law enforcement agency named in the certificate the sum of Twenty-five Dollars (\$25.00) for each driver's license ~~and~~, the sum of ~~Twenty-five Dollars (\$25.00)~~ Fifteen Dollars (\$15.00) for each vehicle registration plate as shown on the certificate, and the

sum of Ten Dollars (\$10.00) for each vehicle impoundment as shown on the certificate, from the special account.

J. Any unencumbered monies remaining in said special account at the close of each calendar month shall be transferred to the General Revenue Fund of the State Treasury.

K. The State of Oklahoma, the departments and agencies thereof, including the Department of Public Safety, all political subdivisions, and the officers and employees of each, shall not be held legally liable in any suit in law or in equity for any erroneous entry of a suspension upon the records of the Department, for any erroneous impoundment of a motor vehicle, nor for the enforcement of the provisions of this act performed in good faith.

SECTION 7. This act shall become effective September 1, 1993.

44-1-5214

SD