

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 2139

By: Paulk

AS INTRODUCED

An Act relating to motor vehicle insurance; amending 36 O.S. 1991, Section 3635.1, which relates to motor vehicle insurance; requiring issuance of liability policies for certain period of time; providing exceptions; requiring copy of policy be sent to lienholder; requiring certain proof to terminate policy; amending 47 O.S. 1991, Section 6-303, as amended by Section 5, Chapter 97, O.S.L. 1993 (47 O.S. Supp. 1996, Section 6-303), which relates to driving while license is suspended; modifying penalty if suspension is for violation of Compulsory Insurance Law; amending 47 O.S. 1991, Sections 7-605, as last amended by Section 9, Chapter 218, O.S.L. 1994, 7-608, as amended by Section 1, Chapter 351, O.S.L. 1992 and 7-609, as last amended by Section 10, Chapter 218, O.S.L. 1994 (47 O.S. Supp. 1996, Sections 7-605, 7-608 and 7-609), which relate to the Compulsory Insurance Law; modifying time periods for relinquishment of driver license and vehicle registration for failure to maintain security or provide proof of insurance; modifying time period for notification by insurance carrier of lapse of insurance; making notification requirement apply to all policies nonpayment or

refund of premium; authorizing the Department of Public Safety to move for the forfeiture of certain motor vehicles; establishing certain procedures to be followed; providing for disposal of forfeited vehicles by Department of Public Safety; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 3635.1, is amended to read as follows:

Section 3635.1 A. All policies insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle, as defined in Section 3635 of this title, shall expire at 12:01 a.m. Standard Time on the expiration date stated in the policy. This section shall apply to all such policies on the first policy renewal date after December 31, 1982.

B. Beginning November 1, 1997, no insurer shall issue or renew a policy provided for in subsection A of this section for a term of less than six (6) months. A copy of the policy shall be sent to any lienholder indicated on the certificate of title of the vehicle. The policy cannot be terminated during the six-month term by the insured unless the vehicle is sold, insurance coverage is transferred to another insurer, or the vehicle is so badly damaged that it cannot be operated on the public roads. Proof of sale of the vehicle or transfer of insurance coverage shall be required prior to cancellation of the policy. Proof of sale of the vehicle shall be in the form of a copy of the notarized title with the name of the new owner. Proof of transfer of coverage shall be in the form of a letter from the assuming insurer, acknowledging issuance

of a policy for the vehicle. Proof of damage shall either be in the form of a letter from an insurer declaring that the vehicle is a total loss or in the form of a copy of a salvage title. If a policy lapses, the insurer shall notify the Department of Public Safety pursuant to the provisions of Section 7-608 of Title 47 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 6-303, as amended by Section 5, Chapter 97, O.S.L. 1993 (47 O.S. Supp. 1996, Section 6-303), is amended to read as follows:

Section 6-303. A. No person shall operate a motor vehicle upon the public roads, streets, highways, turnpikes or other public place of this state without having first procured a driver's license from the Oklahoma Department of Public Safety except as herein specifically exempted.

Any violation of the provisions of this subsection shall constitute a misdemeanor and shall be punishable by a fine of not less than Fifty Dollars (\$50.00) nor more than Three Hundred Dollars (\$300.00) plus costs or by imprisonment for not more than thirty (30) days, or by both such fine and imprisonment.

B. ~~Any~~ Except as provided in subsection C of this section, any person who drives a motor vehicle on any public roads, streets, highways, turnpikes or other public place of this state at a time when his privilege to do so is canceled, denied, suspended or revoked or at a time when he is disqualified from so doing shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than one (1) year or by both such fine and imprisonment. Each act of driving on the highways as prohibited shall constitute a separate offense.

C. Any person who drives a motor vehicle on any public roads, streets, highways, turnpikes or other public place of this state at

a time when the person's privilege to do so is canceled, denied, suspended or revoked or at a time when the person is disqualified from so doing for a violation of the Compulsory Insurance Law shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100.00) and not more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than one (1) year or by both such fine and imprisonment. Any person convicted of a second or subsequent violation of of the Compulsory Insurance Law, in addition to the fine and imprisonment provided for in this subsection shall have the privilege to operate a vehicle in this state suspended for not less than two (2) years. Each act of driving on the highways as prohibited shall constitute a separate offense.

D. The Department upon receiving a record of conviction of an offense committed by any person whose license or privilege to operate motor vehicles is under suspension or revocation or who is disqualified from operating a motor vehicle, shall extend the period of such disqualification, suspension or revocation for an additional three-month period of time. The additional orders of suspension, disqualification or revocation shall be dated and become effective the day following the date terminating the prior order of suspension, disqualification or revocation.

~~D.~~ E. It shall be a misdemeanor, punishable by imprisonment for not less than seven (7) days, nor more than six (6) months or by a fine of not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment for any person to apply for a renewal or a replacement license to operate a motor vehicle while his license, permit or other evidence of driving privilege is in the custody of a law enforcement officer or the Department. A notice regarding this offense and the penalty therefor shall be included on the same form containing the notice of revocation issued by the officer.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 7-605, as last amended by Section 9, Chapter 218, O.S.L. 1994 (47 O.S. Supp. 1996, Section 7-605), is amended to read as follows:

Section 7-605. A. Every owner or operator of a motor vehicle who operates the vehicle or permits it to be operated in this state when no security exists as required by 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 his driving privilege and registrations of any motor vehicle not covered by security. Such suspension shall remain in effect until payment of the fees provided for in Section 6-212 of this title, and proof of security is furnished to the Department which complies with the requirements of Section 7-601 of this title. ~~Suspension~~ If the fees are not paid and the security furnished within ten (10) days after notification of suspension is received, suspension 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 suspended person failing to voluntarily relinquish his driver license or registration to the Department within ~~sixty (60)~~ ten (10) days of receipt of said notice shall pay a fee of Fifty Dollars (\$50.00) in addition to the fees provided for in Section 6-212 of this title. 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 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.

C. If a nonresident's driving privilege or registration is suspended pursuant to subsection A of this section, the Department shall transmit a certified copy of the record of such action to the official or officials in charge of the issuance of licenses and registration certificates in the state in which such nonresident resides.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 7-608, as amended by Section 1, Chapter 351, O.S.L. 1992 (47 O.S. Supp. 1996, Section 7-608), is amended to read as follows:

Section 7-608. A. Each insurance carrier, which issues a vehicle liability policy pursuant to the provisions of Section 3635.1 of Title 36 of the Oklahoma Statutes and Sections 7-601 through 7-610 of this title, shall provide notice, either by means of written or electronic communication, to the Department of Public Safety of the termination of such policy for nonpayment or refund of premium if such termination is final ~~and occurs within the first one hundred eighty (180) days of the inception date of such policy.~~ ~~Each insurance carrier also shall provide such notice for any such policy which has been issued for a period of less than six (6) months which expires without renewal.~~ Any notice required by this subsection shall be provided to the Department ~~within a reasonable time~~ immediately after the expiration of any applicable grace period.

B. If an insurance carrier, required to provide notification pursuant to subsection A of this section, has knowledge that relinquishment of vehicle ownership is the reason for termination or expiration without renewal of a policy, that fact shall be included in the notification.

C. The Department of Public Safety shall promulgate rules and regulations governing the notification requirements specified in subsections A and B of this section, including the development of procedures which would permit insurance carriers to provide the required notices to the Department by means of written or electronic communication on a monthly basis.

D. Upon receipt of a notice of termination of insurance from a carrier pursuant to subsection A of this section, the Department of Public Safety shall notify the vehicle owner of the receipt of such termination notice and shall request proof of insurance from the vehicle owner. Within ~~thirty (30)~~ ten (10) days of the request for proof of insurance, the vehicle owner shall submit such proof of insurance on a form prescribed by the Department. The Department shall not be required to notify or request proof of insurance from a former vehicle owner if the Department receives the notification as provided in subsection B of this section, unless the Department has reason to believe that the person should be maintaining an operator's policy.

SECTION 5. AMENDATORY 47 O.S. 1991, Section 7-609, as last amended by Section 10, Chapter 218, O.S.L. 1994 (47 O.S. Supp. 1996, 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 driving privilege and the registration of any motor vehicle registered in the name of such person as owner and not covered by security,

effective immediately upon the lapse of the ~~thirty-day~~ ten-day response period as provided in subsection D of Section 7-608 of this title. Such suspension shall remain in effect until payment of the fees provided for in Section 6-212 of this title 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 by sworn affidavit or otherwise 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 shall not be required for reinstatement of the person's driving privilege.

B. Any person whose driving privilege and registration have been suspended pursuant to the provisions of subsection A of this section shall immediately submit his driver license and license plate to the Department ~~within thirty (30) days from the date of such suspension~~. Any owner failing to submit the driver license or license plate to the Department within such time shall pay a fee of Fifty Dollars (\$50.00) in addition to the fees provided for in Section 6-212 of this title.

C. Whenever any person's driving privilege or registration of any motor vehicle is suspended 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.

D. Any peace officer who has been notified that a person's driving privilege or registration of a motor vehicle is currently under suspension 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 person's driver license or license plate.

E. No person who has been issued a driver 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 whose driving privilege or motor vehicle registration has been suspended to forthwith surrender such driver 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 license or license plate after being informed by a peace officer or representative of the Department of Public Safety that the driving privilege or motor vehicle registration of such person is currently under suspension 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 license or license plate 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 license or license plate 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 license and the sum of Twenty-five Dollars (\$25.00) for each vehicle registration plate 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, nor for the enforcement of the provisions of this act performed in good faith.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-611 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. After a suspension of driver license and vehicle registration for an offense under Section 7-605 of Title 47 of the Oklahoma Statutes, the Department of Public Safety may move the court to order the forfeiture of the motor vehicle.

B. Upon receipt of a motion for forfeiture, the court shall schedule a hearing on the matter and shall notify the Department of Public Safety and the convicted person of the time and place set for the hearing. Upon receiving notice from the court of the time and place set for a hearing under this section, the Department shall provide to every person who has an ascertainable ownership or security interest in the motor vehicle a written notice that includes:

1. A full description of the motor vehicle;
2. The time and place of the forfeiture hearing;

3. The legal authority under which the motor vehicle may be forfeited; and

4. Notice of the right to intervene to protect the interest in the motor vehicle.

C. At the hearing, a person who claims an ownership or security interest in the motor vehicle must establish by a preponderance of the evidence that:

1. The person has an interest in the motor vehicle acquired in good faith;

2. The person is not the person convicted of the offense that resulted in the forfeiture proceeding; and

3. Before parting with the motor vehicle, the person did not know or have reasonable cause to believe that it would be used in the commission of an offense.

D. If a person satisfies the requirements of subsection C of this section, the court shall order that an amount equal to the value of the interest of that person in the motor vehicle shall be paid to that person upon sale of the motor vehicle.

E. At the hearing, the court may order the forfeiture of the motor vehicle if it is determined by a preponderance of the evidence that the forfeiture of the motor vehicle will serve one or more of the following purposes:

1. Deterrence of the convicted person from the commission of future violations of the Compulsory Insurance Law;

2. Protection of the safety and welfare of the public;

3. Deterrence of other persons who are potential offenders under the Compulsory Insurance Law; and

4. Expression of public condemnation of the serious or aggravated nature of the conduct of the convicted person.

F. Upon forfeiture of a motor vehicle, the court shall require the surrender of the motor vehicle, the certificate of title and registration of the motor vehicle. The vehicle, the certificate of

title and registration shall be delivered to the Department of Public Safety. A motor vehicle forfeited pursuant to this section shall be disposed of by the Department of Public Safety as provided by law.

SECTION 7. This act shall become effective November 1, 1997.

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