

SHORT TITLE: Motor vehicle insurance; creating Uninsured Motorist Identification Database Program to be administered by Department of Public Safety; requiring Department contract with designated agent to develop and maintain computer database for certain purposes; assessing certain fee; repealer; codification; effective dates; emergency.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1129

By: Hendrick

AS INTRODUCED

An Act relating to motor vehicle insurance; amending 47 O.S. 1991, Sections 6-212, as amended by Section 6, Chapter 218, O.S.L. 1994, 7-603 and 7-609, as last amended by Section 6, Chapter 193, O.S.L. 1997 (47 O.S. Supp. 1997, Sections 6-212 and 7-609), which relate to conditions for reinstatement of driving privilege, verification of security and suspension of driver license and motor vehicle registration for failure to provide proof of insurance; providing short title; defining terms; creating Uninsured Motorist Identification Database Program to be administered by Department of Public Safety and stating purpose; requiring Department contract with designated agent to develop and maintain computer database for certain purposes and in conformance with certain guidelines; requiring information be provided by certain entities; stating information to be provided; providing penalty for failure to provide information and for waiver of penalty under certain conditions; providing immunity from liability for compliance with information requirements; requiring designated agent to periodically update database and use database to make certain comparison; requiring notice be given to persons no longer covered by insurance to provide within certain time certain

proof of security or exemption from coverage;
providing penalty for falsifying information;
declaring information provided to designated agent
property of entity providing information; stating
conditions under which information may be
disclosed; stating penalty for disclosing
information for unauthorized purposes; limiting
liability for certain acts and under certain
circumstances; requiring designated agent provide
errors and omissions insurance; providing for
promulgation of rules; creating revolving fund for
certain purposes; assessing fee on certain
insurers; providing for computation of fee and
requiring fee be deposited in revolving fund;
deleting conflicting language and conforming
language; clarifying language and modifying gender
references; making seizure of driver license or
license plate mandatory under certain conditions;
repealing 47 O.S. 1991, Section 7-608, as last
amended by Section 3, Chapter 322, O.S.L. 1997 (47
O.S. Supp. 1997, Section 7-608), which relates to
procedures for notifying Department of Public
Safety of insurance policy termination; providing
for codification; providing effective dates; and
declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-621 of Title 47, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Uninsured Motorist Identification Database Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-622 of Title 47, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Database" means the Uninsured Motorist Identification Database;

2. "Department" means the Department of Public Safety;

3. "Designated agent" means the third party with whom the Department contracts under Section 3 of this act; and

4. "Program" means the Uninsured Motorist Identification Database Program created in Section 3 of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-623 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Uninsured Motorist Identification Database Program for the purpose of establishing a database to use in verifying compliance with motor vehicle owner and operator security and compulsory liability insurance requirements under Section 7-600 et seq. of Title 47 of the Oklahoma Statutes. The program shall be administered by the Department of Public Safety.

B. In accordance with the Oklahoma Central Purchasing Act, not later than March 1, 1999, the Department shall contract with a designated agent to track compliance with motor vehicle owner and operator security and compulsory liability insurance requirements.

C. 1. Not later than January 1, 2000, the designated agent shall develop and maintain a computer database with information provided by:

- a. insurers and surety companies as required under Section 4 of this act, except that any person who maintains security by deposit of cash or securities or by self-insurance as described in Section 7-600 of Title 47 of the Oklahoma Statutes is not required to provide information to the designated agent, and
- b. the Department, which shall provide the designated agent with the name, date of birth, address, and driver license number of all licensed drivers in its computer database, and the make, year, and vehicle identification number of all registered vehicles.

2. The database shall be developed and maintained by the designated agent in accordance with guidelines established by the Department so that state and local law enforcement agencies can efficiently access the database.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-624 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Each insurer that issues an owner's or operator's policy as defined in Section 7-600 of Title 47 of the Oklahoma Statutes and each surety company that issues a bond meeting the requirements of Section 7-204 of Title 47 of the Oklahoma Statutes shall, before the seventh day of each calendar month, provide to the designated agent a record of each policy or bond in effect as of the previous month that was issued by the insurer or surety company. This requirement does not preclude more frequent reporting.

B. The record shall include:

1. The name, date of birth, driver license number, and address of each insured or bonded owner or operator;

2. The make, year, and vehicle identification number of each insured or bonded motor vehicle; and

3. The policy number, effective date, and expiration date of each policy or surety bond.

C. Each insurer and surety company shall provide this information in a form or manner acceptable to the designated agent.

D. 1. The Commissioner of Public Safety may, pursuant to the Administrative Procedures Act, assess a fine against an insurer or surety company of not more than Two Hundred Fifty Dollars (\$250.00) for each day the insurer or surety company fails to comply with this section.

2. If an insurer or surety company shows that the failure to comply with this section was inadvertent, accidental, or the result of excusable neglect, the Commissioner shall waive the fine.

E. An insurer or surety company shall not be liable to any person for complying with the provisions of this section.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-625 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. At least monthly, the designated agent shall:

1. Update the database with information provided by insurers and surety companies pursuant to Section 4 of this act; and

2. Compare all current motor vehicle registrations against the database.

B. 1. If the comparison made under subsection A of this section shows that a motor vehicle is not insured or bonded for three (3) consecutive months or a person is no longer covered by an operator's policy, the Department of Public Safety shall direct the designated agent to provide notice to the person owning the motor vehicle or the person who was covered by the operator's policy as the case may be that the person has forty-five (45) days to provide one of the following:

- a. proof of compliance with insurance or bond requirements set forth in Section 7-600 et seq. of Title 47 of the Oklahoma Statutes,
- b. proof of deposit of cash or securities or self-insurance as described in Section 7-600 of Title 47 of the Oklahoma Statutes,
- c. proof of exemption from the provisions of Section 7-600 et seq. of Title 47 of the Oklahoma Statutes, or
- d. in the case of a person not required to maintain an operator's policy, proof of relinquishment of ownership of the motor vehicle.

2. A letter mailed or faxed to the designated agent from an insurer, insurance agent, or surety company verifying that the person had the required coverage on the date specified shall be considered proof of compliance.

C. Any person who falsifies information which is submitted under subsection B of this section shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed One Thousand Dollars (\$1,000.00).

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-626 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Information provided to the designated agent by insurers, surety companies, or the Department of Public Safety for inclusion in the database is the property of the entity providing the information. The information may not be disclosed except as follows:

1. Beginning January 1, 2001, the designated agent shall verify an individual's coverage upon the request of a state or local government agency which is investigating, litigating, or enforcing compliance with security requirements of Section 7-600 et seq. of Title 47 of the Oklahoma Statutes;

2. The Department of Public Safety shall disclose whether an individual has the required coverage upon request of the following individuals and agencies only:

- a. the individual,
- b. the parent or legal guardian of the individual if the individual is an unemancipated minor,
- c. the legal guardian of the individual if the individual is legally incapacitated,
- d. a person who has power of attorney from the individual,
- e. a person who submits a notarized release from the individual that is dated no more than ninety (90) days before the date the request is made, or
- f. a person suffering loss or injury in a motor vehicle accident in which the individual is involved, but only as part of an accident report as authorized in Section 40-102 of Title 47 of the Oklahoma Statutes.

B. Any person who knowingly releases or discloses information from the database for a purpose or to a person other than those authorized in this section shall, upon conviction, be guilty of a misdemeanor and subject to a fine not to exceed Five Hundred Dollars (\$500.00).

C. 1. The state shall not be liable to any person for gathering, managing, or using information in the database pursuant to this act.

2. a. The designated agent shall not be liable to any person for performing its duties under this act, unless and to the extent the designated agent commits a willful and wanton act or omission. The designated agent shall be liable to any insurer or surety company damaged by the designated agent's negligent failure to protect the confidential and proprietary nature of the

information and data disclosed by the insurer or surety company to the designated agent.

- b. The designated agent shall provide to this state an errors and omissions insurance policy covering the designated agent in an appropriate amount as determined by the Department.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-627 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Department of Public Safety shall promulgate rules for the implementation of this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-628 of Title 47, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Department of Public Safety to be designated the "Uninsured Motorist Identification Database Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies from the uninsured motorist identification fee paid pursuant to Section 9 of this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department for the following purposes:

1. Funding the contract with the designated agent;
2. Offsetting costs to state and local law enforcement agents for verifying coverage required under Section 7-600 et seq. of Title 47 of the Oklahoma Statutes; and
3. Administering and enforcing the provisions of this act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 321.2 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. There shall be collected at the time of filing an annual statement pursuant to Section 311 of Title 36 of the Oklahoma Statutes, a fee payable by each insurer authorized to sell motor vehicle insurance in this state. The fee shall be an amount equal to the total premium collected by the insurer on its Oklahoma motor vehicle book of business divided by the sum of all premiums collected by all such insurers on their Oklahoma motor vehicle book of business multiplied by the amount certified annually by the Department of Public Safety as the costs necessary to fund the establishment, operation, and maintenance of the Uninsured Motorist Identification Database Program.

B. All amounts received pursuant to the provisions of this section by the Insurance Commissioner shall be paid into the State Treasury to the credit of the Uninsured Motorist Identification Database Revolving Fund, created pursuant to Section 8 of this act.

SECTION 10. AMENDATORY 47 O.S. 1991, Section 6-212, as amended by Section 6, Chapter 218, O.S.L. 1994 (47 O.S. Supp. 1997, Section 6-212), is amended to read as follows:

Section 6-212. A. Effective April 1, 1995, the Department of Public Safety shall:

1. Abolish and cease the policy and procedure of assessing and collecting multiple reinstatement fees when reinstating the driving privilege of any person having more than one suspension or revocation affecting his driving privilege at the time of reinstatement; and

2. Suspend or revoke a person's driving privilege for each basis as delineated within the Oklahoma Statutes; and

3. Require any person having more than one suspension or revocation affecting his driving privilege to meet the statutory

requirements for each action as a condition precedent to the reinstatement of any driving privilege. Provided, however, reinstatement fees shall not be cumulative, and a single reinstatement fee, as provided for in subsection B of this section, shall be paid for all suspensions or revocations as shown by the Department's records at the time of reinstatement.

B. Whenever a person's privilege to operate a motor vehicle is suspended or revoked pursuant to any provision as authorized by the Oklahoma Statutes, the license or privilege to operate a motor vehicle shall remain under suspension or revocation and shall not be reinstated until:

1. The expiration of each such revocation or suspension order;
and
2. The person has paid to the Department:
 - a. if such privilege is suspended or revoked pursuant to Section 1115.5 of Title 22 of the Oklahoma Statutes or pursuant to any provisions of this title, except as provided in subparagraph b of this paragraph, a processing fee of Twenty-five Dollars (\$25.00) for each such suspension or revocation as shown by the Department's records, or
 - b. if such privilege is suspended or revoked pursuant to the provisions of Section 6-205, 6-205.1, 7-506, ~~7-608~~ 7-609, 753, 754 or 761 of this title or pursuant to subsection A of Section 7-605 of this title for a conviction for failure to maintain the mandatory motor vehicle insurance required by law or pursuant to subsection B of Section 6-206 of this title for a suspension other than for points accumulation, a processing fee of Seventy-five Dollars (\$75.00) for each such suspension or revocation as shown by the Department's records; and

3. The person has paid to the Department a single reinstatement fee of Twenty-five Dollars (\$25.00).

SECTION 11. AMENDATORY 47 O.S. 1991, Section 7-603, is amended to read as follows:

Section 7-603. ~~A.~~ From its own records, the Department of Public Safety may verify the existence of security made in the form of a deposit or of self-insurance for which a certification has been made.

~~B. The Department may, either at the time of registration or at other intervals thereafter as it may determine, forward copies of certifications to insurance companies and surety companies, as the case may be, for verification of the security certified to in policies or bonds issued by such companies. The companies thereafter and not later than thirty (30) days following receipt of such copies shall cause to be filed with the Department a written record of those certifications as respects which no policy or bond is applicable.~~

~~C. Until July 1, 1991, the Department shall randomly verify the existence of security pursuant to the provisions of Section 7-603.1 of this title.~~

SECTION 12. AMENDATORY 47 O.S. 1991, Section 7-609, as last amended by Section 6, Chapter 193, O.S.L. 1997 (47 O.S. Supp. 1997, Section 7-609), is amended to read as follows:

Section 7-609. A. In the event ~~the~~ an owner of a motor vehicle or a person required to carry an operator's policy 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~~ provide the information required under subsection B of Section 5 of this act within the forty-five-day response period, the Department of Public Safety shall suspend the person's driving privilege and the registration of any motor vehicle registered in the name of ~~such~~ that person as owner and not covered by security,

effective immediately upon the lapse date of the ~~thirty-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, in the case of a person who is not required to carry an operator's policy if the person is not an owner of any motor vehicle, or if a person is not subject to the Compulsory Insurance Law of this state, proof of insurance and payment of the processing and reinstatement fee shall not be required, and the Department shall vacate the suspension 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 submit his or her 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 the~~ 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~~ shall, 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 the~~ person or motor vehicle and seize ~~such the~~ 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, upon conviction, 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~~ the fees ~~into~~ to 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~~ Uninsured Motorist Identification Database Revolving Fund.

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 13. REPEALER 47 O.S. 1991, Section 7-608, as last amended by Section 3, Chapter 322, O.S.L. 1997 (47 O.S. Supp. 1997, Section 7-608), is hereby repealed.

SECTION 14. Sections 1 through 9 of this act shall become effective July 1, 1998.

SECTION 15. Sections 10 through 13 of this act shall become effective January 1, 2001.

SECTION 16. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-2-1790

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