

SHORT TITLE: Motor vehicle insurance; prohibiting termination of policy during minimum time period unless certain proof is provided; requiring certain notification of Department of Public Safety; effective date.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 299

By: Price

AS INTRODUCED

An Act relating to motor vehicle insurance; amending 36 O.S. 1991, Section 3635.1, which relates to motor vehicle insurance policies; amending 47 O.S. 1991, Sections 7-605, as last amended by Section 9, Chapter 218, O.S.L. 1994, 7-606, 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 failure to provide insurance and related sanctions; requiring certain policies be issued for certain minimum period of time; prohibiting termination during minimum time period unless certain proof is provided; requiring certain notification of Department of Public Safety; modifying time period for relinquishing license to Department; deleting obsolete language; prohibiting certain action by court; providing exceptions; conforming language; modifying time period for providing proof of insurance; modifying circumstances under which proof of insurance and payment of certain fees is not required; making certain discretionary action mandatory; 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. 1. 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. 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, transfer of insurance coverage, or proof of damage 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.

2. If a policy lapses or is terminated, 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 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. 1. 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 or her driving privilege and registrations of any motor vehicle not covered by security. ~~Such~~ The 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.

2. 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 or her driver license or registration to the Department within ~~sixty (60)~~ ten (10) days of receipt of said notice of suspension shall pay a fee of Fifty Dollars (\$50.00) in addition to the fees provided for in Section 6-212 of this title.

3. 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~~ the 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 3. AMENDATORY 47 O.S. 1991, Section 7-606, is amended to read as follows:

Section 7-606. A. 1. An owner or operator who fails to comply with the Compulsory Insurance Law of this state, Section 7-600 et seq. of this title, or who fails to produce for inspection a valid and current security verification form or equivalent form which has been issued by the Department of Public Safety upon request of any peace officer, representative of the Department of Public Safety, or other authorized person, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not more than Two Hundred Fifty Dollars (\$250.00), or imprisonment for not more than thirty (30) days, or by both such fine and imprisonment, and in addition thereto, shall be subject to suspension of license and registration in accordance with Section 7-605 of this title.

~~2. An owner who fails to provide proof of security pursuant to the provisions of Section 7-603.1 of this title shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than Five Hundred Dollars (\$500.00), or imprisonment for not more than six (6) months, or by both fine and imprisonment, and in addition thereto, the driver's license of the owner and registration~~

~~of any motor vehicle not covered by security shall be suspended in accordance with the provisions of Section 7-605 of this title. The penalties provided for in this paragraph only apply to the registered vehicle owner. Beginning July 1, 1991, the provisions of this subsection shall cease to have the force or effect of law.~~

3. An owner other than an owner of an antique or a classic automobile as defined by the Oklahoma Tax Commission who files an affidavit that a vehicle shall not be driven upon the public highways or public streets, pursuant to Section 7-607 of this title, who drives or permits the driving of the vehicle upon the public highways or public streets, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than Five Hundred Dollars (\$500.00), or imprisonment for not more than thirty (30) days, or by both such fine and imprisonment, and in addition thereto, shall be subject to suspension of license and registration in accordance with Section 7-605 of this title.

B. ~~A sentence imposed for any violation of Section 7-600 et seq. of this title may be suspended or deferred in whole or in part by the court~~ The court shall not suspend, defer, or dismiss any charge resulting from a violation of Section 7-600 et seq. of this title, except as provided in subsection C of this section.

C. 1. Any person producing proof in court that a current security verification form or equivalent form which has been issued by the Department reflecting liability coverage for ~~such~~ the person was in force at the time of the alleged offense shall be entitled to dismissal of ~~such~~ the charge upon payment of court costs; however, if proof of security verification is presented to the court within forty-eight (48) hours after the violation, the charge shall be dismissed without payment of court costs.

2. If the defendant produces proof that liability coverage has been obtained after the alleged offense but prior to the defendant's court appearance, this fact shall be noted in the abstract forwarded

to the Department of Public Safety and the defendant shall not be subject to suspension of license and registration.

D. Upon conviction, or bond forfeiture ~~or deferral of sentence~~, the court clerk shall forward an abstract to the Department of Public Safety within ten (10) days reflecting the action taken by the court.

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~~ the policy for nonpayment or refund of premium if ~~such~~ the 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~~ on a monthly basis pursuant to subsection C of this section, 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~~ received proof of sale of the vehicle, transfer of insurance coverage, or proof of damage pursuant to Section 3635.1 of Title 36 of the Oklahoma Statutes, 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, by mail, notify the vehicle owner of the receipt of ~~such~~ the termination notice and shall request proof of insurance from the vehicle owner. Within ~~thirty (30)~~ ten (10) days of the postmark date 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 of proof of sale of the vehicle, transfer of insurance coverage, or proof of damage 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~~ the 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~~ The 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~~ is not subject to the Compulsory Insurance Law of this state, Section 7-600 et seq. of this title, proof of insurance and payment of the processing and reinstatement fee shall not be required ~~for reinstatement~~, 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 immediately submit his or her driver license and license plate to the Department within ~~thirty (30)~~ ten (10) 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 the~~ the person or motor vehicle anywhere upon a public street, highway, roadway, turnpike or public parking lot within this state, ~~forthwith~~ stop ~~such the~~ the person or motor vehicle and seize ~~such the~~ 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~~ the 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 by 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~~ the fee in the office of the State Treasurer. The State Treasurer shall credit ~~said~~ the 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~~ the 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~~ Section 7-600 et seq. of this title performed in good faith.

SECTION 6. This act shall become effective November 1, 1997.

46-1-0363

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