

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 3115

By: Peterson (Ron), Terrill,
Tibbs, Rousselot, Morgan
(Danny), Lamons, Worthen,
Thompson, Smithson,
Brannon, McDaniel, Dorman
and Pruett of the House

and

Williamson and Ford of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to motor vehicle insurance; providing for an online verification system for verifying compliance with the Compulsory Insurance Law; amending 47 O.S. 2001, Section 7-602, as amended by Section 5, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2005, Section 7-602), which relates to certification of existence of security; providing for certification after online verification system is implemented; amending 36 O.S. 2001, Section 942, as amended by Section 11, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2005, Section 942), which relates to use of traffic records in determining certain actions regarding motor vehicle policies; modifying length of time record may be considered for certain offenses; amending 47 O.S. 2001, Section 7-605, which relates to suspension of driving privilege and vehicle registration for failure to comply with the Compulsory Insurance Law; modifying reasons for suspension; making suspension mandatory; providing that binder policies are not owner's or operator's policies for certain purposes; requiring law enforcement officers to seize suspended driver license and license plate; restating that no property interest exists in a driver license, vehicle registration or vehicle license plate; providing penalties for refusal to surrender driver license or license plate; providing procedure for seizure and reimbursement therefor; providing for deposit of certain monies; providing immunity from liability to certain persons and agencies; prohibiting certain acts relating to fraudulent security verification forms and providing penalties therefor; amending 47 O.S. 2001, Section 7-606, which relates to penalties for failure to maintain insurance or security; modifying time permitted for presenting proof of security verification; amending 47 O.S. 2001, Sections 7-608 and 7-609, as amended by Section 11,

Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2005, Section 7-609), which relate to procedures when insurance is terminated; modifying procedures; modifying exceptions from suspension; requiring peace officers to perform certain acts; providing for codification; providing an effective date; 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 7-600.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Department of Public Safety shall promulgate and adopt rules for an online verification system for motor vehicle insurance or bond as required by the Compulsory Insurance Law, subject to the following:

1. The Department shall cooperate with the Oklahoma Tax Commission in the development of the verification system;
2. The verification system shall be accessible through the Internet, World Wide Web or a similar proprietary or common carrier electronic system by authorized personnel of the Department, the Oklahoma Tax Commission, the courts, law enforcement personnel, and any other entities authorized by the Department;
3. The verification system shall provide for direct inquiry and response between the Department and insurance carriers and direct access to insurers' records by personnel authorized by the Department;
4. The verification system shall be available twenty-four (24) hours a day to verify the insurance status of any vehicle registered in this state through the vehicle's identification number, policy number, registered owner's name or other identifying characteristic or marker as prescribed by the Department in its rules;

5. The Department shall conduct a pilot project to test the system prior to statewide use;

6. The verification system shall be installed and operational no later than July 1, 2008, following an appropriate testing period;

7. The Department may contract with a private vendor to assist in establishing and maintaining the verification system;

8. The verification system shall include appropriate provisions, consistent with industry standards, to secure its data against unauthorized access and to maintain a record of all information requests;

9. Information contained in the verification system shall not be considered a public record; and

10. Any law enforcement officer, during a traffic stop or accident investigation, may access information from the online verification system to establish compliance with the Compulsory Insurance Law and to verify the current validity of the policy described on a security verification form and produced by the operator of a motor vehicle during the traffic stop or accident investigation.

B. Insurance carriers shall cooperate with the Department in establishing and maintaining the insurance verification system and shall provide access to motor vehicle insurance policy status information as provided in the Department's rules.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 7-602, as amended by Section 5, Chapter 522, O.S.L. 2004 (47 O.S. Supp. 2005, Section 7-602), is amended to read as follows:

Section 7-602. A. 1. The owner of a motor vehicle registered in this state shall carry in such vehicle at all times a current owner's security verification form listing the vehicle or an equivalent form which has been issued by the Department of Public Safety and shall produce such form upon request for inspection by any law enforcement officer or representative of the Department and,

in case of a collision, the form shall be shown upon request to any person affected by the collision.

2. a. Every person registering a motor vehicle in this state, except a motor vehicle which is not being used upon the public highways or public streets, or a manufactured home while on a permanent foundation, at the time of registration of such vehicle, shall certify the existence of security with respect to such vehicle by surrendering to a motor license agent or other registering agency a current owner's security verification form or an equivalent form issued by the Department. A motor license agent or other registering agency shall require the surrender of such form prior to processing an application for registration or renewal.

b. Effective upon implementation of the online verification system for motor vehicle insurance or bond provided for in Section 1 of this act, online verification shall replace the procedure provided for in subparagraph a of this paragraph and every motor license agent or other registering agency shall use the online verification system unless the online verification system is not online or the required information is otherwise not available. In such a case, the license agent or other registering agency may accept verification as provided in subparagraph a of this paragraph to certify the existence of the required insurance or bond prior to processing any application for motor vehicle registration.

3. Fleet vehicles operating under the authority of the Corporation Commission, the Federal Highway Administration, or vehicles registered pursuant to the provisions of Section 1120 of

this title, shall certify the existence of security with respect to such vehicle at the time of registration by submitting one of the following:

- a. a current owner's security verification form verifying the existence of security as required by Section 7-600 et seq. of this title, or
- b. a permit number verified by the Corporation Commission indicating the existence of a current liability insurance policy. Provided, in the event the Corporation Commission is unable to verify the existence of such insurance as provided herein in a prompt and timely fashion, the Corporation Commission may accept a current single state registration form issued by the Corporation Commission or any other regulating entity with which the Corporation Commission has entered into a reciprocal compact or agreement regarding the regulation of motor vehicles engaged in interstate or foreign commerce upon and over the public highways.

4. The following shall not be required to carry an owner's or operator's security verification form or an equivalent form from the Department during operation of the vehicle and shall not be required to surrender such form for vehicle registration purposes:

- a. any vehicle owned or leased by the federal or state government, or any agency or political subdivision thereof,
- b. any vehicle bearing the name, symbol, or logo of a business, corporation or utility on the exterior and which is in compliance with the provisions of Sections 7-600 through 7-610 of this title according to records of the Department of Public Safety which reflect a deposit, bond, self-insurance, or fleet policy,

- c. fleet vehicles maintaining current vehicle liability insurance as required by the Corporation Commission or any other regulating entity,
- d. any licensed taxicab, and
- e. any vehicle owned by a licensed used motor vehicle dealer.

5. Any person who knowingly issues or promulgates false or fraudulent information in connection with either an owner's or operator's security verification form or an equivalent form which has been issued by the Department of Public Safety shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding Five Hundred Dollars (\$500.00), or imprisonment for not more than six (6) months, or by both such fine and imprisonment.

B. Each motor license agent is authorized to charge a fee of One Dollar and fifty cents (\$1.50) to each person to whom the agent issues a certificate of registration and who is required to surrender proof of financial responsibility, or for whom the motor license agent certifies the existence of financial responsibility through an authorized online certification system, pursuant to the provisions of Sections 7-600 through 7-609 of this title. The fee may be retained by the agent as compensation for services in processing the proof of financial responsibility and for processing the driver's license information, insurance verification information, and other additional information furnished to the agent pursuant to Section 1112 of this title, if such agent does not receive the maximum compensation as authorized by law.

SECTION 3. AMENDATORY 36 O.S. 2001, Section 942, as amended by Section 11, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2005, Section 942), is amended to read as follows:

Section 942. Any insurance carrier that issues motor vehicle liability or collision insurance policies in this state shall not establish or apply premium rates, increase premium rates, cancel a

policy, or refuse to issue or renew a policy, based on any traffic record maintained by the Department of Public Safety which covers a period of time more than three (3) years prior to the date the insurance carrier makes a determination to take any such action; provided however, those offenses that are provided for in subsection C of Section 941 of this title and the offense of reckless driving as provided for in Section 11-901 of Title 47 of the Oklahoma Statutes may be considered by an insurance carrier for a period of not more than five (5) years.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 7-605, is amended to read as follows:

Section 7-605. A. 1. Every owner of a motor vehicle who permits the operation of the motor vehicle in this state, and every person who operates a motor vehicle in this state without the security required by this title, and any person who receives a deferred sentence, forfeits a bond, fails to appear, or is convicted in any state or municipal court for failure to carry a security verification form, shall ~~be subject to suspension of~~ have his or her driving privilege ~~and suspension of~~ suspended and the registration of any motor vehicle not covered by security shall also be suspended.

2. The suspension shall remain in effect until payment is made of the fees provided for in Section 6-212 of this title and proof of security is furnished to the Department of Public Safety which complies with the requirements of ~~Section 7-601 of this title~~ the Compulsory Insurance Law; provided, for the purposes of this section, proof of security shall not mean a binder policy but shall mean an owner's policy or an operator's policy, as defined in Section 7-600 of this title; provided further, a suspension for failure to appear shall remain in effect until proof of appearance is received by the Department from the reporting court. Suspension

under this section shall be effective when notice thereof is given pursuant to Section 2-116 of this title.

3. Any person whose driving privilege or registration has been suspended pursuant to the provisions of this subsection shall surrender to the Department his or her driver license and the license plate of any motor vehicle registered in his or her name and not covered by security. Any person failing to voluntarily relinquish his or her driver license or license plate or plates to the Department within thirty (30) days of receipt of the notice specified in paragraph 2 of this subsection shall pay a fee of Fifty Dollars (\$50.00) in addition to the fees provided for in Section 6-212 of this title.

4. 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 payment of either of the above fees.

B. 1. When suspending a driver license or motor vehicle registration for violation of the Compulsory Insurance Law, Section 7-600 et seq. of this title, or for violation of a municipal ordinance requiring security or the carrying of a security verification form, the Department may rely upon court records which indicate that a person was either convicted or failed to appear upon the charge when the record is obtained from any court of competent jurisdiction which indicates one of the following:

- a. a charge and the imposition of a deferred sentence,
- b. a conviction, or
- c. a notice of bond forfeiture.

2. A court record is sufficient under paragraph 1 of this subsection which includes a statement such as "No Security Form", "No Insurance" or other term indicating lack of security.

3. The Department may continue to rely on such records until proof is submitted from the issuing court clerk which indicates that the record either:

- a. was issued in error, or
- b. was not related to a violation of:
 - (1) the Compulsory Insurance Law,
 - (2) a security verification form as required by Chapter 7 of this title, or
 - (3) a municipal ordinance requiring security or the carrying of a security verification form.

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 the nonresident resides.

D. Whenever any person's driving privilege and vehicle registration has been suspended pursuant to this section, the Department may notify any law enforcement officer of the suspension. Any law enforcement officer who has been notified that a person's driving privilege and vehicle registration have been suspended, upon observing the person or motor vehicle anywhere upon a public street, highway, roadway, turnpike, or public parking lot, shall stop the person or motor vehicle and seize the person's driver license and license plate.

E. No person shall have a property interest in a driver license, vehicle registration, or vehicle license plate issued pursuant to the laws of this state 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 or both upon the request of any law enforcement officer or representative of the Department.

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 that his or her driving privilege or motor vehicle registration 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 law enforcement officer pursuant to the Compulsory Insurance Law shall be submitted to a representative of the Department in a manner and with a form or method approved by the Department.

H. The Department shall deposit fees collected pursuant to paragraph 3 of subsection A of this section in a special account of the Department maintained with the office of the State Treasurer. The State Treasurer shall credit these fees to this special account to be distributed as hereinafter provided.

I. The Department shall identify the name of the employing law enforcement agency from which a suspended driver license or license plate has been received pursuant to this section, and determine that the fee required by paragraph 3 of subsection A of this section has been paid. The Department shall reimburse the law enforcement agency so identified the sum of Twenty-five Dollars (\$25.00) for each driver license and the sum of Twenty-five Dollars (\$25.00) for each vehicle license plate from the special account.

J. Any unencumbered monies remaining in the special account at the close of each calendar month shall be transferred by the Department 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 the Compulsory Insurance Law performed in good faith.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-612 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. It is a misdemeanor for any person:

1. To purchase a security verification form which bears altered or fictitious information concerning the existence of security required by the Compulsory Insurance Law;

2. To display or cause or permit to be displayed or to possess a security verification form which the person knows bears altered or fictitious information concerning the existence of security required by the Compulsory Insurance Law; or

3. To display or cause or permit to be displayed or to possess any security verification form that is counterfeit.

B. It is a felony for anyone, other than an insurance carrier or insurance producer as defined by Section 1435.2 of Title 36 of the Oklahoma Statutes, to:

1. Create or otherwise manufacture a security verification form or facsimile thereof, or to create, manufacture or possess an engraved plate or other such device for the printing of security verification forms; or

2. Issue or sell security verification forms.

C. 1. The violation of any of the provisions of subsection A of this section shall constitute a misdemeanor punishable by a fine of not less than Twenty-five Dollars (\$25.00), nor more than Two Hundred Fifty Dollars (\$250.00) and by mandatory suspension of the person's driving privilege and vehicle registration.

2. The violation of any of the provisions of subsection B of this section shall constitute a felony punishable by a fine not exceeding Ten Thousand Dollars (\$10,000.00) or a term of imprisonment in the custody of the Department of Corrections not to exceed seven (7) years, or by both such fine and imprisonment.

SECTION 6. AMENDATORY 47 O.S. 2001, 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, 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 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.

C. 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 person was in force at the time of the alleged offense shall be entitled to dismissal of such 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~~ by the assigned court appearance date, the charge shall be dismissed without payment of court costs.

D. Upon conviction, 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 7. AMENDATORY 47 O.S. 2001, 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 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 the policy for nonpayment or refund of premium if 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 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 implement a method of insurance verification, by promulgated rule, utilizing the system specified in Section 1 of this act which shall be a method of determining verification after the initial insurance verification provided at the time of registration of a vehicle, after reinstatement for a suspension for violation of the Compulsory Insurance Law, or if the Department has reason to believe an owner or operator may not be in compliance with the Compulsory Insurance Law. The system shall provide procedures for direct inquiry and response between the Department and insurance carriers. The Department also shall implement a method of verification, by promulgated rule, for determining verification prior to the full implementation of Section 1 of this act.

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

~~D.~~ C. Upon receipt of a ~~notice of termination~~ response of no insurance coverage or invalid insurance coverage from a carrier pursuant to subsection A of this section, the Department of Public Safety shall notify the vehicle owner of the ~~receipt of the termination notice~~ response of the insurance carrier and shall request proof of insurance from the vehicle owner. Within thirty (30) 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 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 8. AMENDATORY 47 O.S. 2001, Section 7-609, as amended by Section 11, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2005, Section 7-609), is amended to read as follows:

Section 7-609. A. Whenever any owner fails to timely furnish proof of insurance or fails to timely respond as required by subsection ~~D~~ C of Section 7-608 of this title, 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 person as owner which is not covered by security. The suspension shall be effective immediately upon the lapse of the thirty-day response period in subsection ~~D~~ C of Section 7-608 of this title. The suspension shall remain in effect until payment is made 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~~ is not subject to the Compulsory Insurance Law of this state ~~or~~ and provides proof the vehicle ~~was~~ is insured ~~prior to the suspension date and there has been no break in insurance coverage, provides proof the vehicle is and has been inoperable since or prior to the cancellation date of the insurance policy, provides proof the person no longer owns the vehicle and has not since or prior to the cancellation date of the insurance policy, or is not an owner of any motor vehicle and the Department does not have reason to believe the person should be maintaining an operator's policy,~~ then 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 surrender to the Department his or her driver license and the license plate of any motor vehicle registered in his or her name and not covered by security within thirty (30) days from the date of the suspension. Any owner failing to surrender his or her driver license or license plate or plates to the Department within such time shall pay a fee of Fifty Dollars (\$50.00) which shall be 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 peace officer of 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 the person or motor vehicle anywhere upon a public street, highway, roadway, turnpike, or public parking lot, within this state, forthwith stop the person or motor vehicle and seize the person's driver license or license plate or both.

E. No person shall have a property interest in a driver license, vehicle registration, or vehicle license plate issued pursuant to the laws of this state 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 or both upon the request of any peace officer or representative of the Department.

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 that his or her driving privilege or motor vehicle

registration 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 article shall be submitted to a representative of the Department in a manner and with a form or method approved by the Department.

H. The Department shall deposit fees collected pursuant to subsection B of this section and paragraph 3 of subsection A of Section 7-605 of this title in a special account of the Department maintained with the office of the State Treasurer. The State Treasurer shall credit these fees to this special account to be distributed as hereinafter provided.

I. The Department shall identify the name of the employing law enforcement agency from which a suspended driver license or license plate has been received pursuant to this section, and determine that the fee required by subsection B of this section or paragraph 3 of subsection A of Section 7-605 of this title has been paid. The Department shall reimburse the law enforcement agency so identified the sum of Twenty-five Dollars (\$25.00) for each driver license and the sum of Twenty-five Dollars (\$25.00) for each vehicle license plate from the special account.

J. Any unencumbered monies remaining in the special account at the close of each calendar month shall be transferred by the Department 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 the Compulsory Insurance Law, Section 7-600 et seq. of this title, performed in good faith.

SECTION 9. This act shall become effective July 1, 2006.

SECTION 10. 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.

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