

EHB 3115

THE STATE SENATE
Monday, April 10, 2006

ENGROSSED

House Bill No. 3115

As Amended

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 of the Senate.

[motor vehicle insurance - online verification system - amending 36 O.S., Sections 3636 and 942 - amending 3 sections in Title 47 - suspension of driving privilege - codification - effective date - 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 7-705.1 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

(Bold face denotes Committee Amendments)

1 Oklahoma Tax Commission, the courts, law enforcement personnel, and
2 any other entities authorized by the Department;

3 3. The verification system shall provide for direct inquiry and
4 response between the Department and insurance carriers and direct
5 access to insurers' records by personnel authorized by the
6 Department;

7 4. The verification system shall be available twenty-four (24)
8 hours a day to verify the insurance status of any vehicle registered
9 in this state through the vehicle's identification number, policy
10 number, registered owner's name or other identifying characteristic
11 or marker as prescribed by the Department in its rules;

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

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

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

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

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

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

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

12 SECTION 2. AMENDATORY 36 O.S. 2001, Section 942, as
13 amended by Section 11, Chapter 519, O.S.L. 2004 (36 O.S. Supp. 2005,
14 Section 942), is amended to read as follows:

15 Section 942. Any insurance carrier that issues motor vehicle
16 liability or collision insurance policies in this state shall not
17 establish or apply premium rates, increase premium rates, cancel a
18 policy, or refuse to issue or renew a policy, based on any traffic
19 record maintained by the Department of Public Safety which covers a
20 period of time more than three (3) years prior to the date the
21 insurance carrier makes a determination to take any such action;
22 provided however, those offenses that are provided for in subsection
23 C of Section 941 of this title and the offense of reckless driving

1 as provided for in Section 11-901 of Title 47 of the Oklahoma
2 Statutes may be considered by an insurance carrier for a period of
3 not more than five (5) years.

4 SECTION 3. AMENDATORY 47 O.S. 2001, Section 7-605, is
5 amended to read as follows:

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

16 2. The suspension shall remain in effect until payment is made
17 of the fees provided for in Section 6-212 of this title and proof of
18 security is furnished to the Department of Public Safety which
19 complies with the requirements of ~~Section 7-601 of this title~~ the
20 Compulsory Insurance Law; provided, for the purposes of this
21 section, proof of security shall not mean a binder policy but shall
22 mean an owner's policy or an operator's policy, as defined in
23 Section 7-600 of this title; provided further, a suspension for

1 failure to appear shall remain in effect until proof of appearance
2 is received by the Department from the reporting court. Suspension
3 under this section shall be effective when notice thereof is given
4 pursuant to Section 2-116 of this title.

5 3. Any person whose driving privilege or registration has been
6 suspended pursuant to the provisions of this subsection shall
7 surrender to the Department his or her driver license and the
8 license plate of any motor vehicle registered in his or her name and
9 not covered by security. Any person failing to voluntarily
10 relinquish his or her driver license or license plate or plates to
11 the Department within thirty (30) days of receipt of the notice
12 specified in paragraph 2 of this subsection shall pay a fee of Fifty
13 Dollars (\$50.00) in addition to the fees provided for in Section 6-
14 212 of this title.

15 4. If a person furnishes proof to the satisfaction of the
16 Department that security was in effect at the time of the alleged
17 offense, the Department shall vacate the suspension order and shall
18 not require the filing of a certificate of insurance nor payment of
19 either of the above fees.

20 B. 1. When suspending a driver license or motor vehicle
21 registration for violation of the Compulsory Insurance Law, Section
22 7-600 et seq. of this title, or for violation of a municipal
23 ordinance requiring security or the carrying of a security

1 verification form, the Department may rely upon court records which
2 indicate that a person was either convicted or failed to appear upon
3 the charge when the record is obtained from any court of competent
4 jurisdiction which indicates one of the following:

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

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

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

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

21 C. If a nonresident's driving privilege or registration is
22 suspended pursuant to subsection A of this section, the Department
23 shall transmit a certified copy of the record of such action to the

1 official or officials in charge of the issuance of licenses and
2 registration certificates in the state in which the nonresident
3 resides.

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

13 E. No person shall have a property interest in a driver
14 license, vehicle registration, or vehicle license plate issued
15 pursuant to the laws of this state and it shall be the duty of every
16 person whose driving privilege or motor vehicle registration has
17 been suspended to forthwith surrender such driver license or license
18 plate or both upon the request of any law enforcement officer or
19 representative of the Department.

20 F. Any person upon a public street, highway, roadway, turnpike,
21 or public parking lot, within this state, who willfully refuses to
22 surrender possession of a driver license or license plate after
23 being informed by a peace officer or representative of the

1 Department that his or her driving privilege or motor vehicle
2 registration is currently under suspension according to the records
3 of the Department, shall be guilty of a misdemeanor, punishable by
4 imprisonment in the county jail for not more than ten (10) days or a
5 fine not to exceed Five Hundred Dollars (\$500.00) or by both such
6 fine and imprisonment.

7 G. Any driver license or license plate surrendered to or seized
8 by a law enforcement officer pursuant to the Compulsory Insurance
9 Law shall be submitted to a representative of the Department in a
10 manner and with a form or method approved by the Department.

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

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

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

4 K. The State of Oklahoma, the departments and agencies thereof,
5 including the Department of Public Safety, all political
6 subdivisions, and the officers and employees of each, shall not be
7 held legally liable in any suit in law or in equity for any
8 erroneous entry of a suspension upon the records of the Department,
9 nor for the enforcement of the provisions of the Compulsory
10 Insurance Law performed in good faith.

11 SECTION 4. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 7-612 of Title 47, unless there
13 is created a duplication in numbering, reads as follows:

14 A. It is a misdemeanor for any person:

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

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

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

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

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

8 2. Issue or sell security verification forms.

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

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

19 SECTION 5. AMENDATORY 47 O.S. 2001, Section 7-606, is
20 amended to read as follows:

21 Section 7-606. A. 1. An owner or operator who fails to comply
22 with the Compulsory Insurance Law of this state, or who fails to
23 produce for inspection a valid and current security verification

1 form or equivalent form which has been issued by the Department of
2 Public Safety upon request of any peace officer, representative of
3 the Department of Public Safety or other authorized person, shall be
4 guilty of a misdemeanor and upon conviction shall be subject to a
5 fine of not more than Two Hundred Fifty Dollars (\$250.00), or
6 imprisonment for not more than thirty (30) days, or by both such
7 fine and imprisonment, and in addition thereto, shall be subject to
8 suspension of license and registration in accordance with Section
9 7-605 of this title.

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

21 B. A sentence imposed for any violation of Section 7-600 et
22 seq. of this title may be suspended or deferred in whole or in part
23 by the court.

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

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

14 SECTION 6. AMENDATORY 47 O.S. 2001, Section 7-608, is
15 amended to read as follows:

16 Section 7-608. A. ~~Each insurance carrier, which issues a~~
17 ~~vehicle liability policy pursuant to the provisions of Sections 7-~~
18 ~~601 through 7-610 of this title, shall provide notice, either by~~
19 ~~means of written or electronic communication, to the Department of~~
20 ~~Public Safety of the termination of the policy for nonpayment or~~
21 ~~refund of premium if the termination is final and occurs within the~~
22 ~~first one hundred eighty (180) days of the inception date of such~~
23 ~~policy. Each insurance carrier also shall provide such notice for~~

1 ~~any such policy which has been issued for a period of less than six~~
2 ~~(6) months which expires without renewal. Any notice required by~~
3 ~~this subsection shall be provided to the Department within a~~
4 ~~reasonable time after the expiration of any applicable grace period.~~

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

10 ~~C. The Department of Public Safety shall implement a method of~~
11 ~~insurance verification, by promulgated rule, utilizing the system~~
12 ~~specified in Section 1 of this act which shall be a method of~~
13 ~~determining verification after the initial insurance verification~~
14 ~~provided at the time of registration of a vehicle, after~~
15 ~~reinstatement for a suspension for violation of the Compulsory~~
16 ~~Insurance Law, or if the Department has reason to believe an owner~~
17 ~~or operator may not be in compliance with the Compulsory Insurance~~
18 ~~Law. The system shall provide procedures for direct inquiry and~~
19 ~~response between the Department and insurance carriers. The~~
20 ~~Department also shall implement a method of verification, by~~
21 ~~promulgated rule, for determining verification prior to the full~~
22 ~~implementation of Section 1 of this act.~~

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

7 ~~D.~~ C. Upon receipt of a ~~notice of termination~~ response of no
8 insurance coverage or invalid insurance coverage from a carrier
9 pursuant to subsection A of this section, the Department of Public
10 Safety shall notify the vehicle owner of the ~~receipt of the~~
11 ~~termination notice~~ response of the insurance carrier and shall
12 request proof of insurance from the vehicle owner. Within thirty
13 (30) days of the postmark date of the request for proof of
14 insurance, the vehicle owner shall submit such proof of insurance on
15 a form prescribed by the Department. ~~The Department shall not be~~
16 ~~required to notify or request proof of insurance from a former~~
17 ~~vehicle owner if the Department receives the notification as~~
18 ~~provided in subsection B of this section, unless the Department has~~
19 ~~reason to believe that the person should be maintaining an~~
20 ~~operator's policy.~~

21 SECTION 7. AMENDATORY 47 O.S. 2001, Section 7-609, as
22 amended by Section 11, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2005,
23 Section 7-609), is amended to read as follows:

1 Section 7-609. A. Whenever any owner fails to timely furnish
2 proof of insurance or fails to timely respond as required by
3 subsection ~~D~~ C of Section 7-608 of this title, the Department of
4 Public Safety shall suspend the person's driving privilege and the
5 registration of any motor vehicle registered in the name of such
6 person as owner which is not covered by security. The suspension
7 shall be effective immediately upon the lapse of the thirty-day
8 response period in subsection ~~D~~ C of Section 7-608 of this title.
9 The suspension shall remain in effect until payment is made of the
10 fees provided for in Section 6-212 of this title and proof of
11 insurance is presented to the Department; provided, if the person ~~is~~
12 ~~not an owner of any motor vehicle or~~ is not subject to the
13 Compulsory Insurance Law of this state ~~or~~, provides proof the
14 vehicle ~~was~~ is insured ~~prior to the suspension date~~ and there has
15 been no break in insurance coverage, provides proof the vehicle is
16 and has been inoperable since or prior to the cancellation date of
17 the insurance policy, provides proof the person no longer owns the
18 vehicle and has not since or prior to the cancellation date of the
19 insurance policy, or is not an owner of any motor vehicle and the
20 Department does not have reason to believe the person should be
21 maintaining an operator's policy, then proof of insurance and
22 payment of the processing and reinstatement fee shall not be

1 required and the Department shall vacate the suspension of the
2 person's driving privilege.

3 B. Any person whose driving privilege and registration have
4 been suspended pursuant to the provisions of subsection A of this
5 section shall surrender to the Department his or her driver license
6 and the license plate of any motor vehicle registered in his or her
7 name and not covered by security within thirty (30) days from the
8 date of the suspension. Any owner failing to surrender his or her
9 driver license or license plate or plates to the Department within
10 such time shall pay a fee of Fifty Dollars (\$50.00) which shall be
11 in addition to the fees provided for in Section 6-212 of this title.

12 C. Whenever any person's driving privilege or registration of
13 any motor vehicle is suspended pursuant to this section according to
14 the records of the Department, the Department may accordingly notify
15 any peace officer of the suspension.

16 D. Any peace officer who has been notified that a person's
17 driving privilege or registration of a motor vehicle is currently
18 under suspension according to the records of the Department ~~may~~
19 shall, upon observing the person or motor vehicle anywhere upon a
20 public street, highway, roadway, turnpike, or public parking lot,
21 within this state, forthwith stop the person or motor vehicle and
22 seize the person's driver license or license plate or both.

1 E. No person shall have a property interest in a driver
2 license, vehicle registration, or vehicle license plate issued
3 pursuant to the laws of this state and it shall be the duty of every
4 person whose driving privilege or motor vehicle registration has
5 been suspended to forthwith surrender such driver license or license
6 plate or both upon the request of any peace officer or
7 representative of the Department.

8 F. Any person upon a public street, highway, roadway, turnpike,
9 or public parking lot, within this state, who willfully refuses to
10 surrender possession of a driver license or license plate after
11 being informed by a peace officer or representative of the
12 Department that his or her driving privilege or motor vehicle
13 registration is currently under suspension according to the records
14 of the Department, shall be guilty of a misdemeanor, punishable by
15 imprisonment in the county jail for not more than ten (10) days or a
16 fine not to exceed Five Hundred Dollars (\$500.00) or by both such
17 fine and imprisonment.

18 G. Any driver license or license plate surrendered to or seized
19 by a peace officer pursuant to this article shall be submitted to a
20 representative of the Department in a manner and with a form or
21 method approved by the Department.

22 H. The Department shall deposit fees collected pursuant to
23 subsection B of this section and paragraph 3 of subsection A of

1 Section 7-605 of this title in a special account of the Department
2 maintained with the office of the State Treasurer. The State
3 Treasurer shall credit these fees to this special account to be
4 distributed as hereinafter provided.

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

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

17 K. The State of Oklahoma, the departments and agencies thereof,
18 including the Department of Public Safety, all political
19 subdivisions, and the officers and employees of each, shall not be
20 held legally liable in any suit in law or in equity for any
21 erroneous entry of a suspension upon the records of the Department,
22 nor for the enforcement of the provisions of the Compulsory

1 Insurance Law, Section 7-600 et seq. of this title, performed in
2 good faith.

3 SECTION 8. This act shall become effective July 1, 2006.

4 SECTION 9. It being immediately necessary for the preservation
5 of the public peace, health and safety, an emergency is hereby
6 declared to exist, by reason whereof this act shall take effect and
7 be in full force from and after its passage and approval.

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 4-4-06 - DO PASS,
9 As Amended.