

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1009

By: Shoemake

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 7-204, as amended by Section 31, Chapter 519, O.S.L. 2004 (47 O.S. Supp. 2004, Section 7-204), which relates to motor vehicle insurance; decreasing policy limits for certain policies; amending 47 O.S. 2001, Sections 7-302, 7-316, 7-324, 8-101, 8-104 and 425, as amended by Sections 32, 33, 34 and 35, Chapter 519, O.S.L. 2004 (47 O.S. Supp. 2004, Sections 7-324, 8-101, 8-104 and 425), which relate to proof of financial responsibility; decreasing liability insurance limits; amending 70 O.S. 2001, Section 1210.43, as amended by Section 36, Chapter 519, O.S.L. 2004 (70 O.S. Supp. 2004, Section 1210.43), which relates to vocational or area school vehicles; decreasing liability insurance limits; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 7-204, as amended by Section 31, Chapter 519, O.S.L. 2004 (47 O.S. Supp. 2004, Section 7-204), is amended to read as follows:

Section 7-204. A. No policy or bond shall be effective under Section 7-203 of this title unless issued by an insurance company or surety company authorized to do business in this state, except as provided in subsection B of this section, nor unless such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than the following:

~~1. For policies or bonds issued or renewed before April 1, 2005, Ten Thousand Dollars (\$10,000.00) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than Twenty Thousand~~

~~Dollars (\$20,000.00) because of bodily injury to or death of two or more persons in any one accident, and if the accident has resulted in injury to or destruction of property to a limit of not less than Ten Thousand Dollars (\$10,000.00) because of injury to or destruction of property of others in any one accident;~~

2. For policies or bonds issued or renewed on or after ~~April 1, 2005, Twenty-five Thousand Dollars (\$25,000.00)~~ November 1, 2005, Fifteen Thousand Dollars (\$15,000.00) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than ~~Fifty Thousand Dollars (\$50,000.00)~~ Thirty-five Thousand Dollars (\$35,000.00) because of bodily injury to or death of two or more persons in any one accident, and if the accident has resulted in injury to or destruction of property to a limit of not less than ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) because of injury to or destruction of property of others in any one accident.

B. No policy or bond shall be effective under Section 7-203 of this title with respect to any vehicle which was not registered in this state or was a vehicle which was registered elsewhere than in this state at the effective date of the policy or bond or the most recent renewal thereof, unless the insurance company or surety company issuing such policy or bond is authorized to do business in this state, or if said company is not authorized to do business in this state, unless it shall execute a power of attorney authorizing the Commissioner to accept service on its behalf of notice or process in any action upon such policy or bond arising out of such accident.

C. The Department may rely upon the accuracy of the information in a required report of an accident as to the existence of insurance or a bond unless and until the Department has reason to believe that the information is erroneous.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 7-302, is amended to read as follows:

Section 7-302. The term "proof of financial responsibility" as used in this article shall mean: Proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a vehicle of a type subject to registration under the laws of this state, in the amount of ~~Ten Thousand Dollars (\$10,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of ~~Twenty Thousand Dollars (\$20,000.00)~~ Thirty-five Thousand Dollars (\$35,000.00) because of bodily injury to or death of two or more persons in any one accident, and in the amount of ~~Ten Thousand Dollars (\$10,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) because of injury to or destruction of property of others in any one accident. Wherever used in this title, the terms "proof of financial responsibility" or "proof" shall be synonymous.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 7-316, is amended to read as follows:

Section 7-316. (a) Judgments herein referred to shall, for the purpose of this chapter only, be deemed satisfied:

1. When ~~Ten Thousand Dollars (\$10,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;

2. When, subject to such limit of ~~Ten Thousand Dollars (\$10,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) because of bodily injury to or death of one person, the sum of ~~Twenty Thousand Dollars (\$20,000.00)~~ Thirty-five Thousand Dollars (\$35,000.00) has been credited upon any judgment or judgments rendered in excess of that

amount because of bodily injury to or death of two or more persons as the result of any one accident; or

3. When ~~Ten Thousand Dollars (\$10,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.

(b) Provided, however, payments made in settlements of any claims because of bodily injury, death or property damage arising from such accident shall be credited in reduction of the amounts provided for in this section.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 7-324, as amended by Section 32, Chapter 519, O.S.L. 2004 (47 O.S. Supp. 2004, Section 7-324), is amended to read as follows:

Section 7-324. (a) Certification. A "motor vehicle liability policy" as the term is used in this article shall mean an "owner's policy" or an "operator's policy" of liability insurance, certified as provided in Section 7-321 or Section 7-322 of this title as proof of financial responsibility, and issued, except as otherwise provided in Section 7-322 of this title, by an insurance carrier duly authorized to transact business in this state, to or for the benefit of the person named therein as insured.

(b) Owner's policy. Such owner's policy of liability insurance:

1. Shall designate by explicit description or by appropriate reference all vehicles with respect to which coverage is thereby to be granted; and

2. Shall insure the person named therein and any other person except as herein provided, as insured, using any such vehicle or vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such vehicle or vehicles within the United States of America or the Dominion of

Canada, subject to limits exclusive of interest and costs, with respect to each such vehicle, as follows: ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, ~~Fifty Thousand Dollars (\$50,000.00)~~ Thirty-five Thousand Dollars (\$35,000.00) because of bodily injury to or death of two or more persons in any one accident, and ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) because of injury to or destruction of property of others in any one accident.

3. May by agreement in a separate written endorsement between any named insured and the insurer exclude as insured any person or persons designated by name from coverage under the policy.

(c) Operator's policy. Such operator's policy of liability insurance shall insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance.

(d) Required statements in policies. Such motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all the provisions of this title.

(e) Policy need not insure workmen's compensation. Such motor vehicle liability policy need not insure any liability under any workmen's compensation law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in

the employment, other than domestic, of the insured, or while engaged in the operation, maintenance or repair of any such vehicle nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

(f) Provisions incorporated in policy. Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein:

1. The liability of the insurance carrier with respect to the insurance required by this title shall become absolute whenever injury or damage covered by said motor vehicle liability policy occurs; said policy may not be canceled or annulled as to such liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage; no statement made by the insured or on his behalf and no violation of said policy shall defeat or void said policy.

2. The satisfaction by the insured of a judgment for such injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage.

3. The insurance carrier shall have the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in paragraph 2 of subsection (b) of this section.

4. The policy, the written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this title shall constitute the entire contract between the parties.

(g) Excess or additional coverage. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and such

excess or additional coverage shall not be subject to the provisions of this title. With respect to a policy which grants such excess or additional coverage, the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this section.

(h) Reimbursement provision permitted. Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this title.

(i) Proration of insurance permitted. Any motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

(j) Multiple policies. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

(k) Binders. Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

SECTION 5. AMENDATORY 47 O.S. 2001, Section 8-101, as amended by Section 33, Chapter 519, O.S.L. 2004 (47 O.S. Supp. 2004, Section 8-101), is amended to read as follows:

Section 8-101. (a) It shall be unlawful for the owner of any motor vehicle engaged in the business of renting motor vehicles without drivers to rent a motor vehicle without a driver otherwise than as a part of a bona fide transaction involving the sale of such motor vehicle, unless he has previously notified the Department of the intention to so rent such vehicle and has given proof of financial responsibility, and the Tax Commission shall not register any such vehicle unless and until the owner gives proof of financial responsibility either as provided in this section or, in the alternative, as provided in Section 8-102 of this title. The

Department shall cancel the registration of any motor vehicle rented without a driver whenever the Department ascertains that the owner has failed or is unable to give and maintain such proof of financial responsibility.

(b) Such owner shall submit to the Commissioner evidence that there has been issued to him by an insurance carrier authorized to do business in this state a public liability insurance policy or policies covering each such motor vehicle so rented in the amounts as hereinafter stated and insuring every person operating such vehicle under a rental agreement or operating the vehicle with the express or implied permission of the owner against loss from the liability imposed by law upon such person arising out of the operation of said vehicle in the amount of ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) for bodily injury to or death of one person and, subject to said limit as respects bodily injury to or death of any one person, the amount of ~~Fifty Thousand Dollars (\$50,000.00)~~ Thirty-five Thousand Dollars (\$35,000.00) on account of bodily injury to or death of more than one person in any one accident and ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) for damage to property of others in any one accident. Provided, that the Commissioner is authorized to accept, in lieu of such public liability insurance policy covering specific vehicles, proof by evidence satisfactory to the Commissioner of a valid and binding lease contract between the owner and a renter wherein it is agreed between such owner and the lessee-renter that such lessee-renter accepts responsibility for loss from any liability imposed by law upon any person arising out of the operation, either by express or implied permission of the lessee-renter, of any vehicle covered by such lease in amounts of not less than the minimum amounts before set out in this subsection, together with satisfactory evidence of issuance to such lessee-renter, by an insurance carrier authorized

to do business in this state, of proper public liability insurance policies in amounts of not less than the minimum amounts before set out in this subsection or sufficient showing of financial responsibility of such lessee-renter as is required of owners by the provisions of Section 8-102 of this title.

(c) The owner shall maintain such policy or policies in full force and effect during all times that he is engaged in the business of renting any motor vehicle without a driver unless said owner shall have given proof of financial responsibility as provided in Section 8-102 of this title.

(d) Said policy or policies need not cover any liability incurred by the renter of any vehicle to any passenger in such vehicle.

(e) When any suit or action is brought against the owner of a for-rent motor vehicle upon a liability under this title, it shall be the duty of the judge of the court before whom the case is pending to cause a preliminary hearing to be had, in the absence of the jury, for the purpose of determining whether the owner has obtained and there is in full force and effect, a policy or policies of insurance covering the person operating the vehicle under a rental agreement, in the limits above mentioned. When it appears that the owner has obtained such policy or policies and that the same are in full force and effect, the judge or magistrate before whom such action is pending shall dismiss the action as to the owner of the motor vehicle.

(f) Whenever the owner of a motor vehicle rents such vehicle without a driver to another, it shall be unlawful for the latter to permit any other person to operate such vehicle without the permission of the owner.

(g) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred

Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

SECTION 6. AMENDATORY 47 O.S. 2001, Section 8-104, as amended by Section 34, Chapter 519, O.S.L. 2004 (47 O.S. Supp. 2004, Section 8-104), is amended to read as follows:

Section 8-104. A. 1. Every person, firm or corporation engaged in the business of operating a taxicab or taxicabs within a municipality shall file with the governing board of the municipality in which such business is operated proof of financial responsibility.

2. No governing board of a municipality shall hereafter issue any certificate of convenience and necessity, franchise, license permit or other privilege or authority to any person, firm or corporation authorizing such person, firm or corporation to engage in the business of operating a taxicab or taxicabs within the municipality unless such person, firm or corporation first files with the governing board proof of financial responsibility.

3. Every person, firm or corporation engaging in the business of operating a taxicab or taxicabs without the corporate city limits of a municipality or municipalities shall file with the Department of Public Safety, Financial Responsibility Division, of the state, proof of financial responsibility.

4. No person, firm or corporation shall hereafter engage in the business of operating a taxicab or taxicabs without the corporate city limits of a municipality or municipalities in the state unless such person, firm or corporation first files with the Department of Public Safety proof of financial responsibility.

B. As used in this section, "proof of financial responsibility" shall mean a certificate of any insurance carrier or risk retention group, as defined in Section 6453 of Title 36 of the Oklahoma Statutes, authorized to do business in the state certifying that there is in effect a policy of liability insurance insuring the

owner and operator of the taxicab business, his agents and employees while in the performance of their duties against loss from any liability imposed by law for damages including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property caused by accident and arising out of the ownership, use or operation of such taxicab or taxicabs, subject to minimum limits, exclusive of interest and cost, with respect to each such motor vehicle as follows:

1. ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person;

2. ~~Fifty Thousand Dollars (\$50,000.00)~~ Thirty-five Thousand Dollars (\$35,000.00) because of bodily injury to or death of two or more persons in any one accident; and

3. ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) because of injury to or destruction of property of others in any one accident.

SECTION 7. AMENDATORY 47 O.S. 2001, Section 425, as amended by Section 35, Chapter 519, O.S.L. 2004 (47 O.S. Supp. 2004, Section 425), is amended to read as follows:

Section 425. (a) No license shall be issued by the Commission until the applicant shall have filed with each application, and the same have been approved by the Commission, the following insurance policies and bonds issued by an insurance carrier or bonding company authorized to do business within this state. In lieu of such policies, the applicant may file the written certificate or certificates of any insurance carrier duly authorized to do business in this state, certifying that it has issued to, or for the benefit of, the applicant, named as the insured therein, a policy or policies meeting the requirements of this section as hereinafter provided, and that said policy or policies are then in full force

and effect. Such certificate or certificates shall give the dates of issuance and expiration of such policy or policies, and shall designate by explicit designation or by appropriate reference all motor vehicles covered thereby.

(1) A bond in the penal sum of Five Hundred Dollars (\$500.00) in such form as may be prescribed by the Commission for the purpose of protecting the public against fraud, conditioned upon the delivery of correct weights, measures, footage, or grades, if the commodities handled by the itinerant merchant are those customarily sold by weights, measures, footage, or grades, accurate representation as to quality or class of such commodities, the actual payment of checks, drafts or other obligations delivered by the itinerant merchant in exchange for the purchase of commodities, and conditioned to pay any judgment or judgments that may be obtained against the itinerant merchant for civil liability arising out of the conduct of his business, and further providing for the prompt payment of license fees and taxes to this state or any governmental subdivision thereof, including the matters hereinbefore specified in this paragraph, but not including any causes of action covered by the insurance policies described in paragraph (2) of this subsection. Said bond shall further provide that any person dealing with said itinerant merchant, any person using the commodities handled by him, and any person holding checks, drafts, or other obligations, shall have cause of action upon said bond by reason of any violation of the terms of said bond with respect to such dealing, said commodities, or said checks, drafts or other obligations.

(2) A liability insurance policy or bond which shall bind the obligors to pay compensation for injuries to persons and damage to property resulting from the negligent operation of the motor vehicle operated under authority of the itinerant merchant's license, said policy or bond to be conditioned to pay any sum up to ~~Twenty-five~~

~~Thousand Dollars (\$25,000.00)~~ Fifteen Thousand Dollars (\$15,000.00)
for personal injury to or death of one individual, and up to ~~Fifty
Thousand Dollars (\$50,000.00)~~ Thirty-five Thousand Dollars
(\$35,000.00) for personal injuries or deaths resulting from any
single accident, and up to ~~Twenty-five Thousand Dollars (\$25,000.00)~~
Fifteen Thousand Dollars (\$15,000.00) for damage to property in any
single accident.

(b) Every insurance policy and bond or certificate thereof
filed with the Commission under the provisions of this act shall
contain an endorsement or provision that the same shall not be
cancelled by the obligor, shall not expire, and shall not become
reduced in amount, until thirty (30) days after notice by registered
United States mail has been sent to the Commission of the intention
to cancel the same, or that the same is to expire or is to be
reduced in amount. Upon receipt of such notice the Commission shall
immediately notify the itinerant merchant by registered United
States mail, return receipt requested, of the receipt of such
notice, and shall advise him that unless a new insurance policy or
bond is filed to replace the one to be canceled, or to expire, or to
be reduced in amount, prior to the time such cancellation,
expiration or reduction becomes effective, the license of such
itinerant merchant in connection with which said policy or bond was
issued shall be revoked at the time such cancellation, expiration or
reduction becomes effective. If a new policy or bond is not filed
or the amount of the reduction restored prior to the time such
cancellation, expiration or reduction becomes effective, the
Commission must revoke said license at said time, and licensee shall
return license and license plate to the Commission.

(c) Any person having a cause of action against the itinerant
merchant arising out of the matters described in paragraphs (1) and
(2) of subsection (a) of this section may join said itinerant
merchant and the surety on his bond in the same action, or may sue

said surety without joining said itinerant merchant in the action if the itinerant merchant is deceased or if it is impossible to obtain jurisdiction of his person within the state where the cause of action arose.

SECTION 8. AMENDATORY 70 O.S. 2001, Section 1210.43, as amended by Section 36, Chapter 519, O.S.L. 2004 (70 O.S. Supp. 2004, Section 1210.43), is amended to read as follows:

Section 1210.43 In event the vehicle is loaned the board of education shall provide insurance, by securing a policy from an insurance company authorized to do business in this state, with limits of not less than ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than ~~Fifty Thousand Dollars (\$50,000.00)~~ Thirty-five Thousand Dollars (\$35,000.00) because of bodily injury to or death of two or more persons in any one accident, and if the accident has resulted in injury to or destruction of property to a limit of not less than ~~Twenty-five Thousand Dollars (\$25,000.00)~~ Fifteen Thousand Dollars (\$15,000.00) because of injury to or destruction of property of others in any one accident, to cover such motor vehicle and its use while in its possession or control, and the owner so furnishing same shall not be liable for any personal injury or property damage resulting from the use of any such motor vehicle while in the possession of the board of education, its officials, employees or students.

The use of such motor vehicles for the purposes stated in Section 1210.41 of this title by technology center schools or technology center school districts is declared to be a public governmental function and no action for damages shall be brought against such schools or school districts or the boards of education thereof and the amount of damages, if any, recoverable against and collectible from such insurer may be determined in an action brought

against said insurance company and shall be limited to the amount provided in the insurance contract.

SECTION 9. This act shall become effective November 1, 2005.

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