STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2331 By: Martin (Steve)

COMMITTEE SUBSTITUTE

An Act relating to motor vehicles; amending Section 1, Chapter 322, O.S.L. 2006, as last amended by Section 2, Chapter 340, O.S.L. 2009, and 47 O.S. 2001, Sections 7-602, as last amended by Section 33, Chapter 62, O.S.L. 2009, 7-605, as last amended by Section 36, Chapter 62, O.S.L. 2009 and 7-606, as last amended by Section 37, Chapter 62, O.S.L. 2009 (47 O.S. Supp. 2009, Sections 7-600.2, 7-602, 7-605 and 7-606), which relate to compulsory liability insurance verification requirements and penalties; modifying rules of the online verification system for motor vehicle liability policies; authorizing law enforcement to access information from the online verification system under certain circumstances; providing for the issuance of citations under certain circumstances; modifying registration procedures for motor license agents and registering agencies; authorizing the seizure of uninsured vehicles under certain circumstances; amending 47 O.S. 2001, Section 955, as last amended by Section 1, Chapter 14, O.S.L. 2009 (47 O.S. Supp. 2009, Section 955), which relates to grounds for towing vehicles from roadway; authorizing uninsured vehicles to be towed under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY Section 1, Chapter 322, O.S.L. 2006, as last amended by Section 2, Chapter 340, O.S.L. 2009 (47 O.S. Supp. 2009, Section 7-600.2), is amended to read as follows:

Section 7-600.2 A. The Department of Public Safety shall promulgate and adopt, pursuant to the Administrative Procedures Act, rules for an online verification system for motor vehicle liability policies as required by the Compulsory Insurance Law, subject to the following:

1. The Oklahoma Tax Commission and the Insurance Department shall cooperate with the Department of Public Safety 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 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, or such other method of inquiry and response as agreed to by the Department and individual 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 December 31, 2008, following an appropriate testing period and after December 31, 2009, the verification system shall be installed and operational through the Internet as a web based portal system;~~

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

~~8.~~ 6. 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.~~ 7. Information contained in the verification system shall not be considered a public record;

~~10.~~ 8. Any law enforcement officer, to establish compliance with the Compulsory Insurance Law:

a. during a traffic stop or accident investigation, ~~may~~ shall 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~~ each motor vehicle during the traffic stop or accident investigation, or

b. at any other time, may access information from the online verification system and, if compliance is not confirmed, stop the operator of the motor vehicle and verify the current validity of the policy described on a security verification form produced by the operator.

If compliance is not confirmed for the policy described on the security verification form produced or if no security verification form is produced, the officer shall issue a citation to the operator for failure to comply with the Compulsory Insurance Law; and

~~11.~~ 9. All information exchanged between the Department and insurance companies, any database created, and all reports, responses, or other information generated for the purposes of the verification system shall not be subject to the Oklahoma Open Records Act.

B. This section shall not apply to a policy issued pursuant to paragraph 3 of subsection A of Section 7-601.1 of this title or paragraph 3 of subsection A of Section 7-602 of this title to insure a commercial motor vehicle or to insure any vehicle under a commercial policy that provides commercial auto coverage as defined in Section 7-600 of this title.

C. ~~Effective December 31, 2009, as~~ As a condition for writing motor vehicle liability policies in this state, 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 of the Department.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 7-602, as last amended by Section 33, Chapter 62, O.S.L. 2009 (47 O.S. Supp. 2009, 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 the 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 the operator of the vehicle shall produce the form upon request for inspection by any law enforcement officer or representative of the Department and, in case of an accident, the form shall be shown upon request to any person affected by the accident.

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 the vehicle, shall certify the existence of security with respect to the vehicle by surrendering to a motor license agent or other registering agency a current owner's security

verification form from an insurance carrier authorized to do business in this state or an equivalent form issued by the Department of Public Safety. A motor license agent or other registering agency shall require the surrender of the form prior to processing an application for registration or renewal.

b. ~~Effective upon implementation of the online verification system for motor vehicle insurance provided for in Section 7-600.2 of this title, online verification shall replace the procedure provided for in subparagraph a of this paragraph and every~~ Every motor license agent or other registering agency shall use the online verification system to certify the existence of security with respect to the vehicle from an insurance carrier authorized to do business in this state 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 prior to processing any application for motor vehicle registration. The Oklahoma Tax Commission and any motor license agent shall not require an insurance

carrier to provide any documentation other than the security verification.

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 each 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 the Compulsory Insurance Law, 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 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 of Public Safety during operation of the vehicle and shall not be required to surrender a security verification 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 the Compulsory Insurance Law according to records of the Corporation Commission which reflect a deposit 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 the Compulsory Insurance Law. The fee may be retained by the agent as compensation for services in processing the proof of financial responsibility and for processing the driver 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 47 O.S. 2001, Section 7-605, as last amended by Section 36, Chapter 62, O.S.L. 2009 (47 O.S. Supp. 2009, Section 7-605), is amended to read as follows:

Section 7-605. A. 1. Whenever any person forfeits a bond, fails to appear, or is convicted in any state or municipal court for permitting the operation in this state of a motor vehicle owned by the person without the security required by this title, for operating a motor vehicle in this state without the security

required by this title, or for failure to carry a security verification form, the Department of Public Safety shall suspend the driving privilege of the person.

2. The suspension of the driving privilege 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 the Compulsory Insurance Law; provided, for 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 has been suspended pursuant to the provisions of this subsection shall surrender to the Department his or her driver license. Any person failing to voluntarily relinquish his or her driver license 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 the driving privilege for violation of the Compulsory Insurance Law, 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 conviction, or

b. 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 this article, or

(3) a municipal ordinance requiring security or the carrying of a security verification form.

C. If a nonresident's driving privilege is suspended pursuant to subsection A of this section, the Department shall transmit notice of the suspension to the licensing agency in the state in which the nonresident resides.

D. Whenever any person's driving privilege has been suspended pursuant to this section or Section 7-612 of this title, the Department may notify any law enforcement officer of the suspension. Any law enforcement officer who has been notified that ~~a person's~~ the driving privilege of a person has 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 of the person, seize the vehicle being operated by the person and cause the vehicle to be towed and stored as provided in subsection B of Section 955 of this title, if the officer has probable cause to believe that the vehicle is not insured as required by the Compulsory Insurance Law of this state.

E. No person shall have a property interest in a driver license issued pursuant to the laws of this state and it shall be the duty of every person whose driving privilege has been suspended to

forthwith surrender his or her driver license 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 after being informed by a peace officer or representative of the Department that his or her driving privilege is currently under suspension according to the records of the Department, shall be guilty of a misdemeanor, punishable as provided in Section 17-101 of this title.

G. Any driver license 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 or pursuant to subsection E of Section 7-612 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 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 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 4. AMENDATORY 47 O.S. 2001, Section 7-606, as last amended by Section 37, Chapter 62, O.S.L. 2009 (47 O.S. Supp. 2009, 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, 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 the driving privilege of the person in accordance with Section 7-605 of this title. Upon issuing a citation under this paragraph, the law enforcement officer issuing the citation may seize the vehicle being operated by the person and cause the vehicle to be towed and stored as provided by Subsection B of Section 955 of this title, if the officer has probable cause to believe that the vehicle is not insured as required by the Compulsory Insurance Law of this state.

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 the driving privilege of the person in accordance with Section 7-605 of this title.

B. A sentence imposed for any violation of the Compulsory Insurance Law 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 of Public Safety reflecting liability coverage for the person was in force at the time of the alleged offense shall be entitled to dismissal of the charge upon payment of court costs; however, if proof of security verification is presented to the court by the assigned court appearance date, the court shall access information from the online verification system and, if compliance is confirmed, 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 5. AMENDATORY 47 O.S. 2001, Section 955, as last amended by Section 1, Chapter 14, O.S.L. 2009 (47 O.S. Supp. 2009, Section 955), is amended to read as follows:

Section 955. A. Any officer of the Department of Public Safety or any other political subdivision of this state is hereby authorized to cause to be towed any vehicle found upon the roadway when:

1. Report has been made that the vehicle has been stolen or taken without the consent of its owner;

2. The officer has reason to believe the vehicle has been abandoned as defined in Sections 901 and 902 of this title;

3. The person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested or summoned before a proper magistrate without unnecessary delay;

4. At the scene of an accident, when the owner or driver is not in a position to take charge of the vehicle and direct or request its proper removal; ~~or~~

5. The officer has probable cause that the person operating the vehicle has not been granted driving privileges or that the driving privileges of the person are currently suspended, revoked, canceled, denied, or disqualified; or

6. The officer has probable cause that the vehicle is not insured as required by the Compulsory Insurance Law of this state.

B. A licensed wrecker operator is not liable for damage to a vehicle, vessel, or cargo that obstructs the normal movement of traffic or creates a hazard to traffic and is removed in compliance with the request of a law enforcement officer, unless there is failure to exercise reasonable care in the performance of the act or for conduct that is willful or malicious.

C. Each officer of the Department shall use the services of the licensed wrecker operator whose location is nearest to the vehicle to be towed in all instances in subsection A of this section. The

requests for services may be alternated or rotated among all licensed wrecker operators who are located within a reasonable radius of each other. In like manner, the officer shall advise any person requesting information as to the availability of a wrecker or towing service, the name of the nearest licensed wrecker operator, giving equal consideration to all licensed wrecker operators located within a reasonable radius of each other. In cities of less than fifty thousand (50,000) population, all licensed wrecker operators located near or in the city limits of such cities shall be considered as being equal distance and shall be called on an equal basis as nearly as possible. In counties bordering other states, if the officer deems safety and time considerations warrant, the officer may call a wrecker or towing service that is not on the rotation log.

D. Any officer of the Department who has been requested by a person in need of wrecker or towing service to call a specific wrecker or towing service for such person, and who calls a different wrecker or towing service other than the one requested, without the consent of the person, except where hazardous conditions exist, shall be suspended from the Department, without compensation, for a period of thirty (30) days, except in instances where a vehicle is removed from the roadway under the authority of paragraphs 3 and 4 of subsection A of this section.

SECTION 6. This act shall become effective November 1, 2010.

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