ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 359 By: Brooks of the Senate

and

Christian of the House

[motor vehicle insurance and security - failure to comply with Compulsory Insurance Law - storage fee - ~~emergency~~]

AUTHOR: Remove Christian as principal House author and substitute Walker as principal House author

AMENDMENT NO. 1. Strike the stricken title, enacting clause and entire bill and insert

"[uninsured motorists - Uninsured Vehicle Enforcement Program - district attorneys - automatic license plate reader systems - central database - Oklahoma Open Records Act - District Attorneys Council - Uninsured Vehicle Enforcement Diversion Program - Uninsured Vehicle Enforcement Diversion Program Fund - annual report - effective date]

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 7-606.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Uninsured Vehicle Enforcement Program.

B. The Uninsured Vehicle Enforcement Program shall be implemented and administered by the district attorneys of the State of Oklahoma. To implement this program, the use of technology and software to aid in detection of offenses involving uninsured motorists is necessary and district attorneys and participating law enforcement agencies shall have the authority to enter into contractual agreements with other entities to provide necessary technology, equipment and maintenance thereof.

C. 1. Participating law enforcement agencies may use automatic license plate reader systems utilizing individual automatic license plate reader system units to access and collect data for the investigation, detection, analysis or enforcement of Oklahoma's Compulsory Insurance Law.

2. Contracted entities may use automatic license plate reader systems utilizing individual automatic license plate reader system units for the collection and storage of data to assist the participating law enforcement agency in developing, utilizing and managing the program.

D. A central database for the collection, storage and dissemination of data captured by an automatic license plate reader system shall be established and operated by participating law enforcement agencies or other entities. The central database shall be located in a secure area. The central database shall fully comply with all National Law Enforcement Telecommunications System (NLETS) and Federal Bureau of Investigation hosting and security standards. Access to the database shall be restricted to authorized law enforcement agency users in the program and to any entities with which the participating law enforcement agencies contract to establish and operate the program and maintain the equipment.

E. To accomplish the purposes of the program, the Department of Public Safety shall allow law enforcement agencies access to the online verification system as provided for in Section 7-600.2 of Title 47 of the Oklahoma Statutes to be used only in connection with the automatic license plate reader system and in accordance with a memorandum of understanding to be executed between the district attorneys, Department of Public Safety, sheriffs and chiefs of police in the state.

F. The automatic license plate reader system may be used by a law enforcement officer or other authorized user employed by a participating law enforcement agency in the jurisdictions of the program as follows:

1. If a law enforcement officer, by using this system, is able to determine that the owner or operator of a motor vehicle is in violation of the Compulsory Insurance Law, through the process of accessing information from the central database described in subsection D of this section, that determination shall constitute probable cause to arrest the operator of the motor vehicle or to issue a citation to the owner or operator of the motor vehicle for the violation of the Compulsory Insurance Law; and

2. A law enforcement officer may verify by sworn affidavit that a photograph generated by an automatic license plate reader system unit identifies a particular vehicle operating on or having been operated on a public road, highway, street, turnpike, other public place or upon any private road, street, alley or lane which provides access to one or more single-family or multifamily dwellings and that the central database shows that the vehicle was uninsured at the time such vehicle was being operated. The affidavit shall constitute probable cause for prosecution under applicable state law.

G. Data collected or retained through the use of an automated license plate reader system pursuant to the program shall be retained by a law enforcement agency or other entity when the data is being used as evidence of a violation of the Compulsory Insurance Law or for the purpose of Amber Alerts and Silver Alerts.

H. 1. Data collected or retained through the use of an automated license plate reader system shall not be used by any individual or agency for purposes other than enforcement of Oklahoma's Compulsory Insurance Law, Amber Alerts, Silver Alerts or as otherwise permitted by law.

2. No law enforcement agency or other entity authorized to operate under this program shall sell captured license plate data for any purpose or share it for any purpose not expressly authorized by this section.

3. A participating law enforcement agency may provide data to another law enforcement agency upon written request of the other law enforcement agency for the purpose of Amber Alerts and Silver Alerts.

4. Any and all data collected, retained or shared through the use of an automated license plate reader system, except data retained as evidence of a violation of the Compulsory Insurance Law or for the purpose of Amber Alerts and Silver Alerts, shall be exempt from the Oklahoma Open Records Act.

I. The provisions of the Uninsured Vehicle Enforcement Program shall apply only to law enforcement agencies and other entities and shall not apply to, or be construed or interpreted in a manner to prohibit the use of, any other automated license plate reader system by an individual or private legal entity for purposes not otherwise prohibited by law.

J. By September 15, 2017, and by September 1 of each year thereafter, the District Attorneys Council shall publish an annual report for the previous fiscal year of the Uninsured Vehicle Enforcement Program. A copy of the report shall be distributed to the President Pro Tempore of the Senate and the Speaker of the House of Representatives and the chairs of the House and Senate Appropriations Committees. The report shall comprise an evaluation of program operations, and may include any information and recommendations for improvement of the program deemed appropriate by the entity submitting the report.

K. For purposes of this section:

1. "Automatic license plate reader system" means a system of one or more mobile or law-enforcement-controlled cameras combined with computer algorithms to convert images of registration plates into computer-readable data;

2. "Law enforcement agency" includes the district attorney's office of any county, the Department of Public Safety, the sheriff's office of any county, and the chiefs of police of any city or town having a population of more than one hundred thousand (100,000) residents;

3. "Other entity" means any entity with which a district attorney or participating law enforcement agency contracts to implement and administer the program; and

4. "Program" means the Uninsured Vehicle Enforcement Program.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-606.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Each district attorney may create within the district attorney's office an Uninsured Vehicle Enforcement Diversion Program and assign sufficient staff and resources for the efficient operation of the program. The purpose of the Uninsured Vehicle Enforcement Diversion Program is to allow the district attorney the discretion to divert criminal complaints involving the failure to comply with mandatory vehicle liability insurance coverage from criminal court and to enhance public safety and security through increased compliance with mandatory vehicle liability insurance coverage.

B. 1. Referral of a criminal complaint to the Uninsured Vehicle Enforcement Diversion Program shall be at the discretion of the district attorney. This act shall not limit the power of the district attorney to prosecute criminal complaints.

2. Upon receipt of a criminal complaint for failure to comply with the Compulsory Insurance Law, the district attorney shall determine if the complaint is one which is appropriate for deferred prosecution.

3. In determining whether to defer prosecution and refer a case to the Uninsured Vehicle Enforcement Diversion Program, the district attorney shall consider the following factors:

a. whether the criminal complaint alleges an offense involving the failure to maintain required vehicle liability insurance coverage,

b. whether it is in the best interest of the accused if the accused person is processed through deferred prosecution in the Uninsured Vehicle Enforcement Diversion Program,

c. the prospects for adequate protection of the public if the accused person is processed through deferred prosecution in the Uninsured Vehicle Enforcement Diversion Program,

d. the number of criminal complaints against the defendant previously received by the district attorney,

e. whether or not there are other criminal complaints currently pending against the defendant, and

f. the strength of the evidence of the particular criminal complaint.

C. Upon referral of a complaint to the Uninsured Vehicle Enforcement Diversion Program, a notice of the complaint shall be forwarded by mail to the accused person. The notice shall contain:

1. The date the act which is the subject of the complaint occurred;

2. A statement of the penalty for the violation of the Compulsory Insurance Law which is the subject of the complaint;

3. A statement that the complaint against the accused person has been referred to the Uninsured Vehicle Enforcement Diversion Program; and

4. The date before which the accused person must contact the office of the district attorney concerning the complaint.

D. The district attorney may enter into a written agreement with the accused person to defer prosecution on the complaint for a period to be determined by the district attorney, not to exceed two (2) years. The conditions of an agreement to defer prosecution shall include:

1. The accused shall provide verification of current insurance upon request of the district attorney;

2. The accused shall comply with the provisions of the Oklahoma Compulsory Insurance Law for the full term of the agreement; and

3. The accused shall not own or operate any vehicle in violation of the Oklahoma Compulsory Insurance Law during the full term of the agreement.

E. Each diversion agreement shall include a provision requiring the accused person to pay to the district attorney's office a fee equal to the amount which would have been assessed as court costs upon the filing of the case in district court. This fee shall be deposited in a special fund with the county treasurer to be known as

the "Uninsured Vehicle Enforcement Diversion Program Fund". The monies deposited in the Uninsured Vehicle Enforcement Diversion Program Fund shall be used by the district attorney to pay for all expenses and costs of equipping, operating and monitoring the vehicle insurance program, including but not limited to contractual payments to third-party entities providing essential services and/or equipment for detection of violations of Oklahoma's Compulsory Insurance Law, and payment of reasonable compensation to authorized and participating law enforcement agencies as may be agreed between such entities and law enforcement agencies and the district attorney. District attorneys may use proceeds from this diversion program to pay for any lawful expenditure associated with the operation of the district attorney's office. The district attorney shall keep records of all monies deposited to and disbursed from the Uninsured Vehicle Enforcement Diversion Program Fund. The records of these funds shall be audited at the same time the records of county funds are audited.

F. Members of the district attorney's staff shall perform duties in connection with the Uninsured Vehicle Enforcement Diversion Program in addition to any other duties which may be assigned by the district attorney.

G. 1. District attorneys shall prepare and submit an annual report to the District Attorneys Council showing total deposits and total expenditures in the Uninsured Vehicle Enforcement Diversion

Program. Each district attorney shall submit information requested by the District Attorneys Council regarding the Uninsured Vehicle Enforcement Diversion Program.

2. By September 15 of each year, the District Attorneys Council shall publish an annual report for the previous fiscal year of the Uninsured Vehicle Enforcement Diversion Program. A copy of the report shall be distributed to the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives and the chairs of the House and Senate Appropriations Committees. The report required by this paragraph shall include the number of cases processed, the total amount of fees collected, the total cost of the program and such other information as required by the District Attorneys Council.

SECTION 3. This act shall become effective November 1, 2016."

Passed the House of Representatives the 18th day of April, 2016.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2016.

_____
Presiding Officer of the Senate

ENGROSSED SENATE
BILL NO. 359 By: Brooks of the Senate

and

Christian of the House

[motor vehicle insurance and security - failure to comply with Compulsory Insurance Law - storage fee - ~~emergency~~]

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 7-606, as last amended by Section 1, Chapter 29, O.S.L. 2014 (47 O.S. Supp. 2014, 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:

a. 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, or

b. seize the license plate of the vehicle and issue the citation to the vehicle operator, provided that the vehicle is in a drivable condition at the time of issuing the citation. A copy of the citation retained by the owner or operator of the vehicle shall serve as the temporary license plate of the vehicle for up to ten (10) calendar days after the issuance of the citation. After ten (10) calendar days, the vehicle shall not be used until the vehicle operator or owner completes the requirements to retrieve the license plate.

(1) After the issuance of the citation, the law enforcement agency issuing the citation shall, within three (3) days, deposit the license plate and deliver a copy of the citation to the county

sheriff's office of the county where the violation has occurred.

(2) The vehicle owner or operator may retrieve the license plate from the county sheriff's office upon providing verification of compliance with the Compulsory Insurance Law, payment in full of an administrative fee of One Hundred Twenty-five Dollars ($125.00) to the county sheriff's office and payment in full of the citation to the court clerk. The county sheriff's office shall transfer the administrative fee to the Plan Administrator. The Plan Administrator shall distribute the administrative fee as follows:

(a) ~~Twenty Dollars ($20.00)~~ Thirty Dollars ($30.00) of the fee shall be distributed to the county sheriff's office to defray any expenses involved in the storage of the license plate,

(b) ~~Seventy Dollars ($70.00)~~ Fifty Dollars ($50.00) of the fee shall be transferred to the law enforcement agency which issued the citation and may be used for any lawful purpose,

(c) Twenty-five Dollars ($25.00) of the fee shall be transferred to the Temporary Insurance Premium Pool, ~~and~~

(d) the Plan Administrator shall retain ~~Ten Dollars ($10.00)~~ Twenty Dollars ($20.00) of the fee, and

(e) If the citation is dismissed without cost, due to proof of insurance, the county sheriff's office shall be prohibited from collecting the full administrative fee of One Hundred Twenty-five Dollars ($125.00), but shall charge the vehicle owner or operator a fee of Fifty Dollars ($50.00) to be distributed by the Plan Administrator to defray any expenses involved in the storage of the license plate as follows:

i. Twenty Dollars ($20.00) of the fee shall be distributed to the county sheriff’s office to defray any expenses involved in the storage of the license plate,

ii. Twenty Dollars ($20.00) of the fee shall be transferred to the law enforcement agency which issued the

citation and may be used for any lawful purpose,

iii. the Plan Administrator shall retain Ten Dollars ($10.00) of the fee.

(3) The county sheriff's office may dispose of any unclaimed license plate after ninety (90) days according to applicable state law. After the license plate has been disposed of by the county sheriff's office, the operator or owner shall be required to obtain a new license plate pursuant to all existing requirements.

If the operator of the vehicle produces what appears to be a valid security verification form and the officer is unable to confirm compliance through the online verification system or noncompliance by a subsequent investigation, the officer shall be prohibited from seizing the license plate or seizing the vehicle and causing such vehicle to be towed and stored. Further, no vehicle shall be seized and towed under the provisions of this paragraph if ~~said~~ the vehicle is displaying a temporary license plate that has not expired pursuant to the provisions of Sections 1137.1 and 1137.3 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 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. If proof of security verification is presented to the court by no later than the business day preceding the first scheduled court appearance date, the dismissal shall be without payment of court costs. The court may access information from the online verification system to confirm liability coverage. The court shall not dismiss the fine unless proof that liability coverage for the person was in force at the time of the alleged offense is presented to the court.

D. Upon conviction or bond forfeiture, the court clerk shall forward an abstract to the Department of Public Safety within five (5) days reflecting the action taken by the court.

E. For purposes of this section, "court" means any court in this state.

SECTION 2. AMENDATORY 47 O.S. 2011, Section 7-623, is amended to read as follows:

Section 7-623. A. There is hereby created the Temporary Insurance Premium Pool. Funds shall be deposited into the Temporary Insurance Premium Pool pursuant to subparagraph b of paragraph 1 of subsection A of Section 7-606 of Title 47 of the Oklahoma Statutes.

B. Any interest or earning accrued to the Plan Administrator accounts associated with the Oklahoma Temporary Motorist Liability Plan shall be deposited into the Temporary Insurance Premium Pool.

C. At the end of any state fiscal year, if the Temporary Insurance Premium Pool reserves exceed that year's three-month average total statewide premium, then the excess funds shall be distributed to the ~~Department of Public Safety's operations fund~~ Plan Administrator.

D. The Temporary Insurance Premium Pool is subject to audit by the State Auditor and Inspector.

~~SECTION 3. 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.~~

Passed the Senate the 12th day of March, 2015.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2015.

_____
Presiding Officer of the House of Representatives