

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 359

By: Brooks of the Senate

and

Walker of the House

8
9
10 COMMITTEE SUBSTITUTE

11 [uninsured motorists - Uninsured Vehicle Enforcement
12 Program - district attorneys - automatic license
13 plate reader systems - central database - Oklahoma
14 Open Records Act - District Attorneys Council -
15 Uninsured Vehicle Enforcement Diversion Program -
16 Uninsured Vehicle Enforcement Diversion Program
17 Fund - annual report - effective date]

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

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 7-606.1 of Title 47, unless
23 there is created a duplication in numbering, reads as follows:

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

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

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

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

21 D. A central database for the collection, storage and
22 dissemination of data captured by an automatic license plate reader
23 system shall be established and operated by participating law
24 enforcement agencies or other entities. The central database shall

1 be located in a secure area. The central database shall fully
2 comply with all National Law Enforcement Telecommunications System
3 (NLETS) and Federal Bureau of Investigation hosting and security
4 standards. Access to the database shall be restricted to authorized
5 law enforcement agency users in the program and to any entities with
6 which the participating law enforcement agencies contract to
7 establish and operate the program and maintain the equipment.

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

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

20 1. If a law enforcement officer, by using this system, is able
21 to determine that the owner or operator of a motor vehicle is in
22 violation of the Compulsory Insurance Law, through the process of
23 accessing information from the central database described in
24 subsection D of this section, that determination shall constitute

1 probable cause to arrest the operator of the motor vehicle or to
2 issue a citation to the owner or operator of the motor vehicle for
3 the violation of the Compulsory Insurance Law; and

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

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

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

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

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

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

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

20 J. By September 15, 2017, and by September 1 of each year
21 thereafter, the District Attorneys Council shall publish an annual
22 report for the previous fiscal year of the Uninsured Vehicle
23 Enforcement Program. A copy of the report shall be distributed to
24 the President Pro Tempore of the Senate and the Speaker of the House

1 of Representatives and the chairs of the House and Senate
2 Appropriations Committees. The report shall comprise an evaluation
3 of program operations, and may include any information and
4 recommendations for improvement of the program deemed appropriate by
5 the entity submitting the report.

6 K. For purposes of this section:

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

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

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

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

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

23 A. Each district attorney may create within the district
24 attorney's office an Uninsured Vehicle Enforcement Diversion Program

1 and assign sufficient staff and resources for the efficient
2 operation of the program. The purpose of the Uninsured Vehicle
3 Enforcement Diversion Program is to allow the district attorney the
4 discretion to divert criminal complaints involving the failure to
5 comply with mandatory vehicle liability insurance coverage from
6 criminal court and to enhance public safety and security through
7 increased compliance with mandatory vehicle liability insurance
8 coverage.

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

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

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

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

23 b. whether it is in the best interest of the accused if
24 the accused person is processed through deferred

1 prosecution in the Uninsured Vehicle Enforcement
2 Diversion Program,

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

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

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

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

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

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

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

21 3. A statement that the complaint against the accused person
22 has been referred to the Uninsured Vehicle Enforcement Diversion
23 Program; and
24

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

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

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

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

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

15 E. Each diversion agreement shall include a provision requiring
16 the accused person to pay to the district attorney's office a fee
17 equal to the amount which would have been assessed as court costs
18 upon the filing of the case in district court. This fee shall be
19 deposited in a special fund with the county treasurer to be known as
20 the "Uninsured Vehicle Enforcement Diversion Program Fund". The
21 monies deposited in the Uninsured Vehicle Enforcement Diversion
22 Program Fund shall be used by the district attorney to pay for all
23 expenses and costs of equipping, operating and monitoring the
24 vehicle insurance program, including but not limited to contractual

1 payments to third-party entities providing essential services and/or
2 equipment for detection of violations of Oklahoma's Compulsory
3 Insurance Law, and payment of reasonable compensation to authorized
4 and participating law enforcement agencies as may be agreed between
5 such entities and law enforcement agencies and the district
6 attorney. District attorneys may use proceeds from this diversion
7 program to pay for any lawful expenditure associated with the
8 operation of the district attorney's office. The district attorney
9 shall keep records of all monies deposited to and disbursed from the
10 Uninsured Vehicle Enforcement Diversion Program Fund. The records
11 of these funds shall be audited at the same time the records of
12 county funds are audited.

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

17 G. 1. District attorneys shall prepare and submit an annual
18 report to the District Attorneys Council showing total deposits and
19 total expenditures in the Uninsured Vehicle Enforcement Diversion
20 Program. Each district attorney shall submit information requested
21 by the District Attorneys Council regarding the Uninsured Vehicle
22 Enforcement Diversion Program.

23 2. By September 15 of each year, the District Attorneys Council
24 shall publish an annual report for the previous fiscal year of the

1 Uninsured Vehicle Enforcement Diversion Program. A copy of the
2 report shall be distributed to the Governor, President Pro Tempore
3 of the Senate, Speaker of the House of Representatives and the
4 chairs of the House and Senate Appropriations Committees. The
5 report required by this paragraph shall include the number of cases
6 processed, the total amount of fees collected, the total cost of the
7 program and such other information as required by the District
8 Attorneys Council.

9 SECTION 3. This act shall become effective November 1, 2016.
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11 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
12 04/07/2016 - DO PASS, As Amended and Coauthored.
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