

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 19, 2016

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 359

By: Brooks and Jech of the Senate and Walker of the House

Title: Uninsured Vehicle Enforcement Program; automatic license plate reader systems; central database. Effective date.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

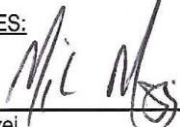
1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,


SENATE CONFEREES:



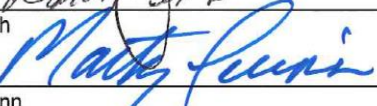
Brooks




Mazzei



Brown



Jech



Quinn



Sparks



Bass

HOUSE CONFEREES:

General Conference Committee on Appropriations

Senate Action _____ Date _____ House Action _____ Date _____

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1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 359

By: Brooks and Jech of the
Senate

6 and

7 Walker of the House

8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to motor vehicle insurance; creating
11 the Uninsured Vehicle Enforcement Program;
12 authorizing the district attorneys to administer
13 program; authorizing law enforcement agencies to use
14 automatic license plate readers to enforce Compulsory
15 Insurance Law; providing certain restrictions;
16 providing certain terms of use of readers;
17 authorizing collected data to be used as evidence of
18 certain violation; exempting collected data from the
19 Open Records Act; providing for delayed
20 implementation until certain conditions met;
21 requiring annual reporting; defining terms;
22 authorizing district attorneys to establish Uninsured
23 Vehicle Enforcement Diversion Program; providing
24 certain terms of diversion program; requiring notice
of complaint; providing terms of complaint; providing
terms of deferred prosecution under diversion
program; providing for additional fees to go to the
District Attorneys Council; establishing the
Uninsured Vehicle Enforcement Diversion Program Fund;
directing fund to cover costs of operating vehicle
insurance program and diversion program; requiring
records of deposits and disbursements from fund;
waiving fee if driver later provides proof of
insurance; directing staff of district attorney to
operate diversion program; requiring annual report of
deposits and expenditures of diversion program;
establishing terms of annual report; providing for

1 codification; providing an effective date; and
2 declaring an emergency.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

10 B. The Uninsured Vehicle Enforcement Program shall be
11 implemented and administered by the district attorneys of the State
12 of Oklahoma within their respective districts or at the District
13 Attorneys Council. To implement this program, the use of technology
14 and software to aid in detection of offenses involving uninsured
15 motorists is necessary and district attorneys and participating law
16 enforcement agencies shall have the authority to enter into
17 contractual agreements with automated license plate reader providers
18 to provide necessary technology, equipment and maintenance thereof.

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

1 2. To accomplish the purposes of the program, law enforcement
2 agencies shall be allowed to access the online verification system
3 for motor vehicle liability policies to establish compliance with
4 the Compulsory Insurance Law as provided in Section 7-600.2 of Title
5 47 of the Oklahoma Statutes.

6 3. Access to the system shall be restricted to authorized law
7 enforcement agency users in the program; provided, any entity with
8 which a contract is executed to provide necessary technology,
9 equipment and maintenance for purposes of the program shall be
10 authorized, as necessary, to collaborate for required updates and
11 maintenance of their software.

12 4. Any data collected and stored by law enforcement pursuant to
13 the program shall be considered evidence if noncompliance with the
14 Compulsory Insurance Law is confirmed.

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

1 E. Data collected or retained through the use of an automated
2 license plate reader system pursuant to the program shall be
3 retained by a law enforcement agency when the data is being used as
4 evidence of a violation of the Compulsory Insurance Law; provided,
5 when the data is no longer needed as evidence of a violation, the
6 data shall be deleted or destroyed.

7 F. Data collected or retained through the use of an automated
8 license plate reader system shall not be used by any individual or
9 agency for purposes other than enforcement of the Compulsory
10 Insurance Law or as otherwise permitted by law.

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

15 2. Any and all data collected, retained or shared through the
16 use of an automated license plate reader system, except data
17 retained as evidence of a violation of the Compulsory Insurance Law,
18 shall be exempt from the Oklahoma Open Records Act.

19 G. The provisions of the program shall not apply to, or be
20 construed or interpreted in a manner to prohibit the use of, any
21 other automated license plate reader system by an individual or
22 private legal entity for purposes not otherwise prohibited by law.

1 H. The provisions of the program shall not be implemented until
2 such time that the Department of Public Safety verifies that the
3 following conditions have been met:

4 1. At least Ninety-Five Percent (95%) of the personal lines
5 auto insurance market in the state participates in the Oklahoma
6 Compulsory Insurance Verification System using a real-time web
7 portal system; and

8 2. The Oklahoma Compulsory Insurance Verification System is
9 updated in such a way to allow for the provisions of the program to
10 be implemented without interrupting or impeding any other lawful
11 uses of the system.

12 I. Following the implementation of the program and every year
13 thereafter, the District Attorneys Council shall publish an annual
14 report for the previous fiscal year of the Uninsured Vehicle
15 Enforcement Program by September 1. An electronic copy of the
16 report shall be distributed to the President Pro Tempore of the
17 Senate and the Speaker of the House of Representatives and the
18 chairs of the House and Senate Appropriations Committees. The
19 report shall comprise an evaluation of program operations, and may
20 include any information and recommendations for improvement of the
21 program deemed appropriate by the entity submitting the report.

22 J. For purposes of this section:

23 1. "Automatic license plate reader system" means a system of
24 one or more mobile or law-enforcement-controlled cameras combined

1 with computer algorithms to convert images of registration plates
2 into computer-readable data;

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

8 3. "Program" means the Uninsured Vehicle Enforcement Program.

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

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

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

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

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

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

12 b. whether it is in the best interest of the accused for
13 the accused person to be processed through deferred
14 prosecution in the Uninsured Vehicle Enforcement
15 Diversion Program,

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

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

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

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

3 C. Upon referral of a complaint to the Uninsured Vehicle
4 Enforcement Diversion Program, a notice of the complaint shall be
5 forwarded by mail to the last known address of the record owner of
6 the vehicle. The notice shall contain:

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

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

11 3. A statement that the records of the State of Oklahoma
12 indicate that the owner of the vehicle is not in compliance with the
13 provisions of the Compulsory Vehicle Insurance Law and that the
14 complaint against the owner has been referred to the Uninsured
15 Vehicle Enforcement Diversion Program; and

16 4. The date before which the owner must contact the office of
17 the district attorney concerning the complaint.

18 D. If the owner fails to comply with the letter, the district
19 attorney may file the information and proceed with the prosecution
20 of the owner as provided by law.

21 E. The district attorney may enter into a written agreement
22 with the owner pursuant to the provisions of Sections 305.1 through
23 305.6 of Title 22 of the Oklahoma Statutes to defer prosecution on
24 the complaint for a period to be determined by the district

1 attorney, not to exceed two (2) years. The conditions of an
2 agreement to defer prosecution shall include:

3 1. The owner shall provide verification of current insurance
4 upon request of the district attorney;

5 2. The owner shall comply with the provisions of the Compulsory
6 Insurance Law for the full term of the agreement; and

7 3. The owner shall not own or operate any vehicle in violation
8 of th Compulsory Insurance Law during the full term of the
9 agreement.

10 F. Each diversion agreement shall include a provision requiring
11 the owner to pay to the district attorney's office or District
12 Attorneys Council a fee equal to the amount which would have been
13 assessed as court costs upon the filing of the case in district
14 court pursuant to the provisions of Section 153 of Title 28 of the
15 Oklahoma Statutes. This fee shall be deposited in a special
16 district attorney fund with the county treasurer to be known as the
17 "Uninsured Vehicle Enforcement Diversion Program Fund". Diversion
18 fees paid to the District Attorneys Council shall be deposited in a
19 special fund to be known as the "Uninsured Vehicle Enforcement
20 Diversion Program Fund".

21 1. Each diversion agreement shall also include a provision
22 requiring the owner to pay an additional fee of Twenty Dollars
23 (\$20.00) to the District Attorneys Council, of which Five Dollars
24 (\$5.00) will be used in processing the payment, Ten Dollars (\$10.00)

1 will be used in operating and maintaining the Compulsory Insurance
2 Verification System and Five Dollars (\$5.00) will be deposited in
3 the Oklahoma Pension Improvement Revolving Fund created by section 2
4 of Enrolled Senate Bill No. 1128 of the 2nd Session of the 55th
5 Oklahoma Legislature.

6 2. The monies deposited in the Uninsured Vehicle Enforcement
7 Diversion Program Fund of a district attorney or the District
8 Attorneys Council shall be used by the district attorney and
9 District Attorneys Council to pay for all expenses and costs of
10 equipping, operating and monitoring the vehicle insurance program,
11 including but not limited to, contractual payments to third-party
12 entities providing essential services and/or equipment for detection
13 of violations of Compulsory Insurance Law, and payment of reasonable
14 compensation to authorized and participating law enforcement
15 agencies as may be agreed between such entities, law enforcement
16 agencies and the district attorney or District Attorneys Council.

17 3. Proceeds from the Uninsured Vehicle Enforcement Diversion
18 Program administered by the District Attorneys Council may be used
19 to pay for any lawful expenditures associated with the operation of
20 the diversion program by the District Attorneys Council. The net
21 proceeds shall be allocated and distributed to the district
22 attorneys by the District Attorneys Council. District attorneys may
23 use proceeds from this diversion program to pay for any lawful
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1 expenditure associated with the operation of the district attorney's
2 office.

3 4. The district attorney and District Attorneys Council shall
4 keep records of all monies deposited to and disbursed from the
5 Uninsured Vehicle Enforcement Diversion Program Fund. The records
6 of these funds shall be audited at the same time the records of the
7 district attorney and District Attorneys Council, respectively, are
8 audited.

9 5. If the owner furnishes proof to the satisfaction of the
10 district attorney's office or District Attorneys Council that the
11 required vehicle liability insurance coverage was in effect at the
12 time of the alleged violation, no fee shall be required.

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

23 By September 15 of each year following the implementation of the
24 Uninsured Vehicle Enforcement Program, the District Attorneys

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

10 SECTION 3. This act shall become effective July 1, 2016.

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

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