

FIRST REGULAR SESSION

SENATE BILL NO. 383

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR VOGEL.

Read 1st time February 21, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

1649S.011

AN ACT

To repeal sections 303.026, 303.400, 303.403, 303.406, 303.409, 303.412, and 303.415, RSMo, and to enact in lieu thereof one new section relating to the motor vehicle financial responsibility law.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 303.026, 303.400, 303.403, 303.406, 303.409, 303.412, and 303.415, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 303.026, to read as follows:

303.026. 1. The director shall inform each owner who registers a motor vehicle of the following:

(1) The existence of the requirement that every motor vehicle owner in the state must maintain his financial responsibility;

(2) The requirement that every motor vehicle owner show an insurance identification card, or a copy thereof, or other proof of financial responsibility at the time of vehicle registration; this notice shall be given at least thirty days prior to the month for renewal and shall be shown in bold, colored print;

(3) The penalties which apply to violations of the requirement to maintain financial responsibility;

(4) The benefits of maintaining coverages in excess of those which are required;

(5) The director's authority to conduct samples of Missouri motor vehicle owners to ensure compliance.

2. No motor vehicle owner shall be issued registration for a vehicle unless the owner, or his authorized agent, signs an affidavit provided by the director of revenue at the time of registration of the vehicle certifying that such owner has and will maintain, during the period of registration, financial responsibility with respect to each motor vehicle that is owned,

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

licensed or operated on the streets or highways. The affidavit need not be notarized, but it shall be acknowledged by the person processing the form. The affidavit shall state clearly and in bold print the following: "Any false affidavit is a crime under section 575.050 of Missouri law.". In addition, every motor vehicle owner shall show proof of such financial responsibility by presenting his or her insurance identification card, as described in section 303.024, or a copy thereof, or some other proof of financial responsibility in the form prescribed by the director of revenue at the time of registration unless such owner registers his vehicle in conjunction with a reciprocity agreement entered into by the Missouri highway reciprocity commission pursuant to sections 301.271 to 301.279, RSMo, or unless the owner insures the vehicle according to the requirements of the division of motor carrier and railroad safety pursuant to section 390.126, RSMo.

3. To ensure compliance with this chapter, the director may utilize a variety of sampling techniques including but not limited to random samples of registrations subject to this section, uniform traffic tickets, insurance information provided to the director at the time of motor vehicle registration, and persons who during the preceding year have received a disposition of court-ordered supervision or suspension. The director may verify the financial responsibility of any person sampled or reported.

(1) Beginning January 1, 2001, the director may require such information, as in his or her discretion is necessary to enforce the requirements of subdivision (1) of subsection 1 of this section, to be submitted from the person's insurer or insurance company. When requested by the director of revenue, all licensed insurance companies in this state which sell private passenger (noncommercial) motor vehicle insurance policies shall report information regarding the issuance, nonrenewal and cancellation of such policies to the director, excluding policies issued to owners of fleet or rental vehicles or issued on vehicles that are insured pursuant to a commercial line policy. Such information shall be reported electronically in a format as prescribed by the director of the department of revenue by rule except that such rule shall provide for an exemption from electronic reporting for insurers with a statistically insignificant number of policies in force.

(2) The director may require ~~[the] data [described in subsection 2 of section 303.412]~~ **which includes, but is not limited to, the name, date of birth, driver's license number and address of each insured, the make, year, and vehicle identification number of each insured motor vehicle, and; the policy number and effective date of the policy** to be reported by insurance companies and require reporting periods of at least once per month. When required by the director of revenue, each insurance company shall provide to the department a record of each policy issued, canceled, terminated or revoked during the period since the previous report. Nothing in this section shall prohibit insurance companies from reporting more frequently than once per month.

(3) The director may use reports described in subdivision (1) of this subsection for

sampling purposes as provided in this section.

4. Information provided to the department by an insurance company for use in accordance with this section is the property of the insurer and is not subject to disclosure pursuant to chapter 610, RSMo. Such information may be utilized by the department for enforcement of this chapter but may not be disclosed except that the department shall disclose whether an individual is maintaining the required insurance coverage upon request of the following individuals and agencies only:

- (1) The individual;
- (2) The parent or legal guardian of an individual if the individual is an unemancipated minor;
- (3) The legal guardian of the individual if the individual is legally incapacitated;
- (4) Any person who has power of attorney from the individual;
- (5) Any person who submits a notarized release from the individual that is dated no more than ninety days before the request is made;
- (6) Any person claiming loss or injury in a motor vehicle accident in which the individual is involved;
- (7) The office of the state auditor, for the purpose of conducting any audit authorized by law.

5. The director, after consultation with the working group as provided for in section 303.406, may adopt any rules and regulations necessary to carry out the provisions of subdivisions (1) through (3) of subsection 3 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

6. Any person or agency who knowingly discloses information received from insurance companies pursuant to this section for any purpose, or to a person, other than those authorized in this section is guilty of a class A misdemeanor. No insurer shall be liable to any person for performing its duties pursuant to this section unless and to the extent the insurer commits a willful and wanton act of omission.

7. The department of revenue shall notify the department of insurance of any insurer who violates any provisions of this section. The department of insurance may, against any insurer who knowingly fails to comply with this section, assess an administrative penalty up to five hundred dollars per day of noncompliance. The department of insurance may excuse

the administrative penalty if an assessed insurer provides acceptable proof that such insurer's noncompliance was inadvertent, accidental or the result of excusable neglect. The penalty provisions of this section shall become effective six months after the rule issued pursuant to subsections 3 and 5 of this section is published in the code of state regulations.

8. To verify that financial responsibility is being maintained, the director shall notify the owner or operator of the need to provide, within fifteen days, proof of the existence of the required financial responsibility. The request shall require the owner or the operator to state whether or not the motor vehicle was insured on the verification date stated in the director's request. The request may include but not be limited to a statement of the names and addresses of insurers, policy numbers and expiration date of insurance coverage. Failure to provide such information shall result in the suspension of the registration of the owner's motor vehicle, and where applicable, the owner's or the operator's driving privilege, for failing to meet such requirements, as is provided in this chapter.

[303.400. The provisions of sections 303.400 to 303.415 shall be known as the "Motorist Insurance Identification Database Act".]

[303.403. As used in sections 303.400 to 303.415, the following terms mean:

- (1) "Database", the motorist insurance identification database;
- (2) "Department", the department of revenue;
- (3) "Designated agent", the party with which the department contracts to implement the motorist insurance identification database;
- (4) "Program", the motorist insurance identification database program.]

[303.406. 1. The "Motorist Insurance Identification Database" is hereby created for the purpose of establishing a database to use to verify compliance with the motor vehicle financial responsibility requirements of this chapter. The program shall be administered by the department and shall receive funding from the "Motorist Insurance Identification Database Fund", which is hereby created in the state treasury. Effective July 1, 2002, the state treasurer shall credit to and deposit in the motorist insurance identification database fund six percent of the net general revenue portion received from collections of the insurance premiums tax levied and collected pursuant to sections 148.310 to 148.461, RSMo.

2. To implement the program, the department may by July 1, 2002, contract with a designated agent which shall monitor compliance with the motor vehicle financial responsibility requirements of this chapter, except that the program shall not be implemented to notify owners of registered motor vehicles until the department certifies that the accuracy rate of the program exceeds ninety-five percent in correctly identifying owners of registered motor

vehicles as having maintained or failed to maintain financial responsibility. After the department has entered into a contract with a designated agent, the department shall convene a working group for the purpose of facilitating the implementation of the program.

3. The designated agent, using its own computer network, shall, no later than December 31, 2002, develop, deliver and maintain a computer database with information provided by:

(1) Insurers, pursuant to sections 303.400 to 303.415; except that, any person who qualifies as self-insured pursuant to this chapter, or provides proof of insurance to the director pursuant to the provisions of section 303.160, shall not be required to provide information to the designated agent, but the state shall supply these records to the designated agent for inclusion in the database; and

(2) The department, which shall provide the designated agent with the name, date of birth and address of all persons in its computer database, and the make, year and vehicle identification number of all registered motor vehicles.

4. The department shall establish guidelines for the designated agent's development of the computer database so the database can be easily accessed by state and local law enforcement agencies within procedures already established, and shall not require additional computer keystrokes or other additional procedures by dispatch or law enforcement personnel. Once the database is operational, the designated agent shall, at least monthly, update the database with information provided by insurers and the department, and compare then-current motor vehicle registrations against the database.

5. Information provided to the designated agent by insurers and the department for inclusion in the database established pursuant to this section is the property of the insurer or the department, as the case may be, and is not subject to disclosure pursuant to chapter 610, RSMo. Such information may not be disclosed except as follows:

(1) The designated agent shall verify a person's insurance coverage upon request by any state or local government agency investigating, litigating or enforcing such person's compliance with the motor vehicle financial responsibility requirements of this chapter;

(2) The department shall disclose whether an individual is maintaining the required insurance coverage upon request of the following individuals and agencies only:

(a) The individual;

(b) The parent or legal guardian of an individual if the individual is an unemancipated minor;

(c) The legal guardian of the individual if the individual is legally incapacitated;

(d) Any person who has power of attorney from the individual;

(e) Any person who submits a notarized release from the individual that is dated no more than ninety days before the request is made;

(f) Any person claiming loss or injury in a motor vehicle accident in which the individual is involved;

(g) The office of the state auditor, for the purpose of conducting any audit authorized by law.

6. Any person or agency who knowingly discloses information from the database for any purpose, or to a person, other than those authorized in this section is guilty of a class A misdemeanor. The state shall not be liable to any person for gathering, managing or using information in the database pursuant to this section. The designated agent shall not be liable to any person for performing its duties pursuant to this section unless and to the extent such agent commits a willful and wanton act or omission or is negligent. The designated agent shall be liable to any insurer damaged by the designated agent's negligent failure to protect the confidentiality of the information and data disclosed by the insurer to the designated agent. The designated agent shall provide to this state an errors and omissions insurance policy covering such agent in an appropriate amount. No insurer shall be liable to any person for performing its duties pursuant to this section unless and to the extent the insurer commits a willful and wanton act of omission.

7. The department shall review the operation and performance of the motorist insurance identification database program to determine whether the number of uninsured motorists has declined during the first three years following implementation and shall submit a report of its findings to the general assembly no later than January fifteenth of the year following the third complete year of implementation. The department shall make copies of its report available to each member of the general assembly.

8. This section shall not supersede other actions or penalties that may be taken or imposed for violation of the motor vehicle financial responsibility requirements of this chapter.

9. The working group as provided for in subsection 2 of this section shall consist of representatives from the insurance industry, department of insurance, department of public safety and the department of revenue. The

director of revenue, after consultation with the working group, shall promulgate any rules and regulations necessary to administer and enforce this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.]

[303.409. 1. If the motorist insurance identification database indicates the owner of a registered motor vehicle has, regardless of the owner's operation of such motor vehicle, failed to maintain the financial responsibility required in section 303.025 for two consecutive months, the designated agent shall on behalf of the director inform the owner that the director will suspend the owner's vehicle registration if the owner does not present proof of insurance as prescribed by the director within thirty days from the date of mailing. The designated agent shall not select owners of fleet or rental vehicles or vehicles that are insured pursuant to a commercial line policy for notification to determine motor vehicle liability coverage. The director may prescribe rules and regulations necessary for the implementation of this subsection. The notice issued to the vehicle owner by the designated agent shall be sent to the last known address shown on the department's records. The notice is deemed received three days after mailing. The notice of suspension shall clearly specify the reason and statutory grounds for the suspension and the effective date of the suspension, the right of the person to request a hearing, the procedure for requesting a hearing and the date by which that request for a hearing must be made. The suspension shall become effective thirty days after the subject person is deemed to have received the notice of suspension by first class mail as provided in section 303.041. If the request for a hearing is received prior to the effective date of the suspension, the effective date of the suspension will be stayed until a final order is issued following the hearing; however, any delay in the hearing which is caused or requested by the subject person or counsel representing that person without good cause shown shall not result in a stay of the suspension during the period of delay.

2. Neither the fact that, subsequent to the date of verification, the owner acquired the required liability insurance policy nor the fact that the owner terminated ownership of the motor vehicle shall have any bearing upon the director's decision to suspend. The suspension shall remain in force until termination despite the renewal of registration or acquisition of a new registration for the motor vehicle. The suspension shall also apply to any motor vehicle to which the owner transfers the registration.

3. Upon receipt of notification from the designated agent, the director

shall suspend the owner's vehicle registration effective immediately. The suspension period shall be as follows:

(1) If the person's record shows no prior violation, the director shall terminate the suspension upon payment of a reinstatement fee of twenty dollars and submission of proof of insurance, as prescribed by the director;

(2) If the person's record shows one prior violation for failure to maintain financial responsibility within the immediately preceding two years, the director shall terminate the suspension ninety days after its effective date upon payment of a reinstatement fee of two hundred dollars and submission of proof of insurance, as prescribed by the director;

(3) If the person's record shows two or more prior violations for failure to maintain financial responsibility, the period of suspension shall terminate one year after its effective date upon payment of a reinstatement fee of four hundred dollars and submission of proof of insurance, as prescribed by the director.

4. In the event that proof of insurance as prescribed by the director has not been filed with the department of revenue in accordance with this chapter prior to the end of the period of suspension provided in this section, such period of suspension shall be extended until such proof of insurance has been filed. In no event shall filing proof of insurance reduce any period of suspension. If proof of insurance is not maintained during the three-year period following the reinstatement or termination of the suspension, the director shall again suspend the license and motor vehicle registration until proof of insurance is filed or the three-year period has elapsed. In no event shall filing proof of insurance reduce any period of suspension.

5. Notwithstanding the provisions of subsection 1 of this section, the director shall not suspend the registration or registrations of any owner who establishes to the satisfaction of the director that the owner's motor vehicle was inoperable or being stored and not operated on the date proof of financial responsibility is required by the director.]

[303.412. 1. Beginning March 1, 2003, before the seventh working date of each calendar month, all licensed insurance companies in this state shall provide to the designated agent a record of all policies in effect on the last day of the preceding month. This subsection shall not prohibit more frequent reporting.

2. The record pursuant to subsection 1 of this section shall include the following:

(1) The name, date of birth, driver's license number and address of each

insured;

(2) The make, year and vehicle identification number of each insured motor vehicle;

(3) The policy number and effective date of the policy.

3. The department of revenue shall notify the department of insurance of any insurer who violates any provisions of this act. The department of insurance may, against any insurer who fails to comply with this section, assess a fine not greater than one thousand dollars per day of noncompliance. The department of revenue may assess a fine not greater than one thousand dollars per day against the designated agent for failure to complete the project by the dates designated in sections 303.400 to 303.415 unless the delay is deemed beyond the control of the designated agent or the designated agent provides acceptable proof that such a noncompliance was inadvertent, accidental or the result of excusable neglect. The department of insurance shall excuse the fine against any insurer if an assessed insurer provides acceptable proof that such insurer's noncompliance was inadvertent, accidental or the result of excusable neglect.]

[303.415. 1. Sections 303.400 and 303.403 shall become effective on July 1, 2002, and shall expire on June 30, 2007.

2. The enactment of section 303.025, and the repeal and reenactment of sections 303.406, 303.409, 303.412 and 303.415 shall become effective July 1, 2002 and sections 303.406, 303.409 and 303.412 shall expire on June 30, 2007.]

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