

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 317 & 319

97TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, April 4, 2013, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

1506S.05C

AN ACT

To repeal section 303.024, RSMo, and to enact in lieu thereof four new sections relating to providing and presenting certain insurance documents through electronic means, with penalty provisions.

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

Section A. Section 303.024, RSMo, is repealed and four new sections
2 enacted in lieu thereof, to be known as sections 301.149, 303.024, 379.011, and
3 379.012, to read as follows:

**301.149. 1. Notwithstanding any law to the contrary, proof of
2 financial responsibility required for vehicle registration under section
3 301.147 may be provided by displaying an electronic image of an
4 insurance identification card on a mobile electronic device.**

5 **2. Whenever a person presents a mobile electronic device as
6 proof of financial responsibility to any employee of the department of
7 revenue or any agent authorized by the department of revenue under
8 section 136.055 to register motor vehicles and trailers, the person
9 presenting such mobile electronic device shall assume all liability for
10 any damage that may occur to the mobile electronic device, except for
11 damage willfully or maliciously caused by a department employee or
12 agent.**

13 **3. When a person provides evidence of financial responsibility
14 using a mobile electronic device pursuant to this section to any
15 employee of the department of revenue or any agent authorized by the
16 department of revenue under section 136.055 to register motor vehicles**

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

17 **and trailers, such employees or agents shall only view the evidence of**
18 **financial responsibility and shall not view any other content on the**
19 **mobile electronic device.**

20 **4. As used in this section, the term "mobile electronic device"**
21 **means any small handheld computing or communications device that**
22 **has a display screen with a touch input or a miniature keyboard.**

303.024. 1. Each insurer issuing motor vehicle liability policies in this
2 state, or an agent of the insurer, shall furnish an insurance identification card
3 to the named insured for each motor vehicle insured by a motor vehicle liability
4 policy that complies with the requirements of sections 303.010 to 303.050,
5 303.060, 303.140, 303.220, 303.290, 303.330 and 303.370. **Such insurance**
6 **identification card may be produced in either paper or electronic**
7 **format. Acceptable electronic forms include display of electronic**
8 **images on a cellular phone or any other type of portable electronic**
9 **device.**

10 2. The insurance identification card shall include all of the following
11 information:

12 (1) The name and address of the insurer;

13 (2) The name of the named insured;

14 (3) The policy number;

15 (4) The effective dates of the policy, including month, day and year;

16 (5) A description of the insured motor vehicle, including year and make
17 or at least five digits of the vehicle identification number or the word Fleet if the
18 insurance policy covers five or more motor vehicles; and

19 (6) The statement "THIS CARD MUST BE CARRIED IN THE INSURED
20 MOTOR VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed
21 on the card.

22 3. A new insurance identification card shall be issued when the insured
23 motor vehicle is changed, when an additional motor vehicle is insured, and when
24 a new policy number is assigned. A replacement insurance identification card
25 shall be issued at the request of the insured in the event of loss of the original
26 insurance identification card.

27 4. The director shall furnish each self-insurer, as provided for in section
28 303.220, an insurance identification card for each motor vehicle so insured. The
29 insurance identification card shall include all of the following information:

30 (1) Name of the self-insurer;

31 (2) The word self-insured; and

32 (3) The statement "THIS CARD MUST BE CARRIED IN THE
33 SELF-INSURED MOTOR VEHICLE FOR PRODUCTION UPON DEMAND"
34 prominently displayed on the card.

35 5. An insurance identification card shall be carried in the insured motor
36 vehicle at all times. The operator of an insured motor vehicle shall exhibit the
37 insurance identification card on the demand of any peace officer, commercial
38 vehicle enforcement officer or commercial vehicle inspector who lawfully stops
39 such operator or investigates an accident while that officer or inspector is
40 engaged in the performance of the officer's or inspector's duties. If the operator
41 fails to exhibit an insurance identification card, the officer or inspector shall issue
42 a citation to the operator for a violation of section 303.025. A motor vehicle
43 liability insurance policy, a motor vehicle liability insurance binder, [or] receipt,
44 **or a photocopy or an image displayed on a mobile electronic device**
45 which contains the policy information required in subsection 2 of this section,
46 shall be satisfactory evidence of insurance in lieu of an insurance identification
47 card. **The display of an image of the insurance card on a mobile**
48 **electronic device shall not serve as consent for such officer, inspector,**
49 **or other person to access other contents of the mobile electronic device**
50 **in any manner other than to verify the image of the insurance card. As**
51 **used in this section, the term "mobile electronic device" means any**
52 **small handheld computing or communications device that has a display**
53 **screen with a touch input or a miniature keyboard. Whenever a person**
54 **presents a mobile electronic device as proof of financial responsibility**
55 **to any peace officer, commercial vehicle enforcement officer, or**
56 **commercial vehicle inspector pursuant to this section, that person shall**
57 **assume all liability for any damage to the mobile electronic device,**
58 **except for damage willfully or maliciously caused by a peace officer,**
59 **commercial vehicle enforcement officer, or commercial vehicle**
60 **inspector.**

61 6. Any person who knowingly or intentionally produces, manufactures,
62 sells, or otherwise distributes a fraudulent document, **photocopy, or image**
63 **displayed on a mobile electronic device** intended to serve as an insurance
64 identification card is guilty of a class D felony. Any person who knowingly or
65 intentionally possesses a fraudulent document **or photocopy** intended to serve
66 as an insurance identification card **or knowingly or intentionally uses a**

67 **fraudulent image displayed on a mobile electronic device is guilty of a**
68 **class B misdemeanor.**

379.011. 1. As used in this section, the following terms mean:

2 **(1) "Delivered by electronic means", includes delivery to an**
3 **electronic mail address at which a party has consented to receive**
4 **notices or documents, or posting on an electronic network or site**
5 **accessible via the internet, mobile application, computer, mobile**
6 **device, tablet, or any other electronic device, together with a separate**
7 **notice to a party directed to the electronic mail address at which the**
8 **party has consented to receive notice of the posting;**

9 **(2) "Party", any recipient of any notice or document required as**
10 **part of an insurance transaction, including but not limited to an**
11 **applicant, an insured, a policyholder, or an annuity contract holder.**

12 **2. Subject to subsection 3 of this section, any notice to a party or**
13 **any other document required under applicable law in an insurance**
14 **transaction or that is to serve as evidence of insurance coverage may**
15 **be delivered, stored, and presented by electronic means so long as it**
16 **meets the requirements of sections 432.200 through 432.295. Delivery**
17 **of a notice or document in accordance with this subsection shall be**
18 **considered equivalent to any delivery method required under**
19 **applicable law, including delivery by first class mail, first class mail**
20 **postage prepaid, certified mail, or certificate of mailing.**

21 **3. A notice or document may be delivered by electronic means by**
22 **an insurer to a party under this subsection if:**

23 **(1) The party has consented to that method of delivery and has**
24 **not withdrawn the consent;**

25 **(2) The party, before giving consent, is provided with a clear and**
26 **conspicuous statement informing the party of:**

27 **(a) Any right or option to have the notice or document provided**
28 **in paper or another nonelectronic form;**

29 **(b) The right of party to withdraw consent to have a notice or**
30 **document delivered by electronic means and any fees, conditions, or**
31 **consequences imposed in the event consent is withdrawn;**

32 **(c) Whether the party's consent applies only to the particular**
33 **transaction as to which the notice or document must be given or to**
34 **identified categories of notices or documents that may be delivered by**
35 **electronic means during the course of the parties' relationship;**

36 **(d) The means, after consent is given, by which a party may**
37 **obtain a paper copy of a notice or document delivered by electronic**
38 **means and the fee, if any, for the paper copy; and**

39 **(e) The procedure a party must follow to withdraw consent to**
40 **have a notice or document delivered by electronic means and to update**
41 **information needed to contact the party electronically;**

42 **(3) The party, before giving consent, is provided with a**
43 **statement of the hardware and software requirements for access to and**
44 **retention of a notice or document delivered by electronic means and**
45 **consents electronically, or confirms consent electronically, in a manner**
46 **that reasonably demonstrates that the party can access information in**
47 **the electronic form that will be used for notices or documents delivered**
48 **by electronic means as to which the party has given consent; and**

49 **(4) After consent of the party is given, the insurer, in the event**
50 **a change in the hardware or software requirements needed to access**
51 **or retain a notice or document delivered in electronic means creates a**
52 **material risk that the party will not be able to access or retain a**
53 **subsequent notice or document to which the consent applies:**

54 **(a) Provides the party with a statement of the revised hardware**
55 **and software requirements for access to and retention of a notice or**
56 **document delivered by electronic means and of the right of the party**
57 **to withdraw consent without the imposition of any fee, condition, or**
58 **consequence that was not disclosed pursuant to paragraph (b) of**
59 **subdivision (2) of this subsection; and**

60 **(b) Complies with subdivision (2) of this subsection.**

61 **4. This section does not affect requirements relating to content**
62 **or timing of any notice or document required under applicable law. If**
63 **any provision of applicable law requiring a notice or document to be**
64 **provided to a party expressly requires verification or acknowledgment**
65 **of receipt of the notice or document, the notice or document may be**
66 **delivered by electronic means only if the method used provides for**
67 **verification or acknowledgment of receipt. The legal effectiveness,**
68 **validity, or enforceability of any contract or policy of insurance**
69 **executed by a party may not be denied solely because of the failure to**
70 **obtain electronic consent or confirmation of consent of the party in**
71 **accordance with subdivision (3) of subsection 3 of this section.**

72 **5. A withdrawal of consent by a party does not affect the legal**

73 effectiveness, validity, or enforceability of a notice or document
74 delivered by electronic means to the party before the withdrawal of
75 consent is effective. A withdrawal of consent by a party is effective
76 within a reasonable period of time after receipt of the withdrawal by
77 the insurer. Failure by an insurer to comply with subdivision (4) of
78 subsection 3 of this section may be treated, at the election of the party,
79 as a withdrawal of consent for purposes of this section.

80 6. This section does not apply to a notice or document delivered
81 by an insurer in an electronic form before the effective date of this
82 section to a party who, before that date, has consented to receive
83 notices or documents in an electronic form otherwise allowed by law.
84 If the consent of a party to receive certain notices or documents in an
85 electronic form is on file with an insurer before the effective date of
86 this section, and pursuant to this section, an insurer intends to deliver
87 additional notices or documents to such party in an electronic form,
88 then prior to delivering such additional notices or documents
89 electronically, the insurer shall notify the party of:

90 (1) The notices or documents that may be delivered by electronic
91 means under this section that were not previously delivered
92 electronically; and

93 (2) The party's right to withdraw consent to have notices or
94 documents delivered by electronic means.

95 7. Except as otherwise provided by law, if an oral communication
96 or a recording of an oral communication from a party can be reliably
97 stored and reproduced by an insurer, the oral communication or
98 recording may qualify as a notice or document delivered by electronic
99 means for the purposes of this section. If any provision of applicable
100 law requires a signature or notice or document to be notarized,
101 acknowledged, verified, or made under oath, the requirement is
102 satisfied if the electronic signature of the person authorized to perform
103 those acts, together with all other information required to be included
104 by the provision, is attached to or logically associated with the
105 signature, notice, or document.

106 8. This section may not be construed to modify, limit, or
107 supercede the provisions of sections 432.200 through 432.295.

 379.012. 1. In addition to and notwithstanding any other
2 provisions or requirements of section 379.011 to the contrary, insurance

3 policy forms and endorsements for property insurance as described in
4 subdivisions (1), (2), (3), and (5) of subsection 1 of section 379.010 issued
5 or renewed in this state, or covering risks in this state, which do not
6 contain personally identifiable information, may be made available
7 electronically on the insurer's website in lieu of mailing or delivering
8 a paper copy of policy forms and endorsements to an insured.

9 2. If the insurer elects to make such insurance policy forms and
10 endorsements available electronically on the insurer's website in lieu
11 of mailing or delivering a paper copy to the insured, it shall comply
12 with all the following conditions with respect to such policy forms and
13 endorsements:

14 (1) The policy forms and endorsements issued or sold in this
15 state shall be easily and publicly accessible on the insurer's website
16 and remain that way for as long as the policy form or endorsement is
17 in force or actively sold in this state;

18 (2) The insurer shall retain and store the policy forms and
19 endorsements after they are withdrawn from use or replaced with other
20 policy forms and endorsements and make them available to insureds
21 and former insureds upon request and at no cost;

22 (3) The policy forms and endorsements shall be available on the
23 insurer's website in an electronic format that enables the insured to
24 print and save the policy forms and endorsements using programs or
25 applications that are widely available on the internet and free to use;

26 (4) At policy issuance and renewal, the insurer shall provide
27 clear and conspicuous notice to the insured, in the manner it
28 customarily communicates with an insured, that it does not intend to
29 mail or deliver a paper copy of the policy forms or documents. The
30 notice shall provide instructions on how the insured may access the
31 policy forms and endorsements on the insurer's website. The insurer
32 shall also notify the insured of their right to obtain a paper copy of the
33 policy forms and endorsements at no cost and provide either a toll-free
34 telephone number or the telephone number of the insured's producer
35 by which the insured can make this request;

36 (5) At policy renewal, the insurer shall provide clear and
37 conspicuous notice to the insured, in the manner it customarily
38 communicates with an insured, of any changes which have been made
39 to the policy forms or endorsements since the prior coverage

40 period. Such notice shall be made in accordance with the requirements
41 of subdivision (4) of this subsection; and

42 (6) On each declarations page, or similar coverage summary
43 document, issued to an insured, the insurer shall clearly identify the
44 exact policy forms and endorsements purchased by the insured, so that
45 the insured may easily access those forms on the insurer's website.

46 3. The director may promulgate any rules necessary to
47 implement and administer the provisions of this section. Any rule or
48 portion of a rule, as that term is defined in section 536.010 that is
49 created under the authority delegated in this section shall become
50 effective only if it complies with and is subject to all of the provisions
51 of chapter 536, and, if applicable, section 536.028. This section and
52 chapter 536 are nonseverable and if any of the powers vested with the
53 general assembly pursuant to chapter 536, to review, to delay the
54 effective date, or to disapprove and annul a rule are subsequently held
55 unconstitutional, then the grant of rulemaking authority and any rule
56 proposed or adopted after August 28, 2013, shall be invalid and void.

Bill ✓

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