

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
90th General Assembly  
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As Engrossed: H3/18/15 H3/20/15  
**A Bill**

HOUSE BILL 1871

By: Representative Johnson  
By: Senator J. English

### For An Act To Be Entitled

*AN ACT TO REGULATE MOTOR VEHICLE LIABILITY INSURANCE;  
TO DEVELOP AND IMPLEMENT AN ONLINE MOTOR VEHICLE  
LIABILITY INSURANCE VERIFICATION SYSTEM; TO ENHANCE  
COMPLIANCE WITH AND THE ENFORCEMENT OF MOTOR VEHICLE  
LIABILITY INSURANCE REQUIREMENTS; AND FOR OTHER  
PURPOSES.*

### Subtitle

*TO DEVELOP AND IMPLEMENT AN ONLINE MOTOR  
VEHICLE LIABILITY INSURANCE VERIFICATION  
SYSTEM; AND TO ENHANCE COMPLIANCE WITH  
AND THE ENFORCEMENT OF MOTOR VEHICLE  
LIABILITY INSURANCE REQUIREMENTS.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 27-14-414 is amended to read as follows:  
27-14-414. Vehicle Insurance Database.

~~(a) There is created the Vehicle Insurance Database within the Revenue Division of the Department of Finance and Administration to develop, establish, and maintain a database of information to verify compliance with the motor vehicle liability insurance laws of Arkansas set out in § 27-22-101 et seq.~~

~~(b)(1) The Vehicle Insurance Database shall be administered by the division with the assistance of the Department of Information Systems or any other designated agent which may be contracted with to supply technical~~



~~database and data processing expertise.~~

~~(2) The Vehicle Insurance Database shall be developed and maintained in accordance with guidelines established by the division so that the state and local law enforcement agencies can access the Vehicle Insurance Database to check the current insurance coverage on motor vehicles in Arkansas required to maintain current liability insurance as required by law.~~

~~(c) The division shall have the authority to enter into or to make agreements, arrangements, or declarations necessary to carry out the provisions of this section.~~

~~(d) The reports shall be retained by the Department of Finance and Administration so as to keep a twelve-month history of the insurance record of the vehicle for at least the preceding full twelve-month period.~~

~~(e)(1) Upon request, the Department of Finance and Administration may release an individual's information in the Vehicle Insurance Database to:~~

~~(A) That individual;~~

~~(B) The parent or legal guardian of that individual who is under eighteen (18) years of age or who is legally incapacitated; and~~

~~(C) State and local law enforcement agencies, to the Arkansas Crime Information Center, or to other government offices upon a showing of need.~~

~~(2) Otherwise, all data and information received by the Vehicle Insurance Database are confidential and are not subject to examination or disclosure as public information under the Freedom of Information Act of 1967, § 25-19-101 et seq.~~

~~(f) The department or the reporting company shall not be liable for any damages to any property or person due to any act or omission in the reporting of or keeping of any record or information under the Vehicle Insurance Database or the issuing or renewing of any motor vehicle registration in accordance with the Vehicle Insurance Database.~~

~~(g) The Director of the Department of Finance and Administration shall have the authority to adopt rules and regulations necessary to carry out the provisions of this section.~~

(a)(1) The Department of Finance and Administration, in cooperation with the Insurance Commissioner and the Department of Arkansas State Police, shall develop, operate, and maintain an accessible online motor vehicle liability insurance verification system in compliance with specifications and

standards of the Insurance Industry Committee on Motor Vehicle Administration to be known as the "Vehicle Insurance Database":

(A) To verify the compliance of a motor vehicle owner or operator with the minimum motor vehicle liability insurance requirements under § 27-22-104; and

(B) That is designed to:

(i) Reduce the number of uninsured motorists in this state;

(ii) Operate reliably;

(iii) Be cost-effective;

(iv) Protect sufficiently the privacy of the motor vehicle owner or operator;

(v) Safeguard sufficiently the security and integrity of information provided by motor vehicle liability insurance companies;

(vi) Identify and employ a method of compliance that improves public convenience; and

(vii) Provide information that is:

(a) Accurate and current; and

(b) Capable of being audited by an independent auditor.

(2) The Department of Finance and Administration:

(A)(i) May contract with a private vendor or vendors to develop, implement, operate, or maintain all or part of the database.

(ii) A vendor shall be selected under the Arkansas Procurement Law, § 19-11-201 et seq.; and

(B) Is not subject to liability or suit for any error in the database.

(b) The Vehicle Insurance Database shall:

(1) Contain information provided under § 27-22-107 by motor vehicle liability insurers to verify motor vehicle liability insurance coverage using electronic services established by the motor vehicle liability insurers through the Internet, or a similar proprietary or common carrier electronic system in compliance with the specifications and standards of the Insurance Industry Committee on Motor Vehicle Administration established by the Department of Finance and Administration;

(2) Include appropriate provisions to secure the database's data against unauthorized access and to maintain a record of all requests and responses;

(3) Be accessible without fee to:

(A) Authorized personnel and authorized agents of the Department of Finance and Administration;

(B) The Insurance Commissioner;

(C) The courts;

(D) Law enforcement personnel; and

(E) County assessors;

(4) Interface, when possible, with existing computer systems and applications of the Department of Finance and Administration and law enforcement agencies;

(5) Receive motor vehicle liability insurance data file transfers from motor vehicle liability insurers under specifications and standards established by the Department of Finance and Administration to identify vehicles that are not covered by a motor vehicle liability insurance policy;

(6) Provide a means by which low-volume motor vehicle liability insurers that are unable to deploy an online interface with the database can report motor vehicle liability insurance policy data to the Department of Finance and Administration or its designee for inclusion in the database;

(7) Provide a means to track separately and verify the existence or nonexistence of minimum motor vehicle liability insurance coverage for or distinguish motor vehicles that are:

(A) Subject to a certificate of self-insurance under § 27-19-107;

(B) Reported under subdivision (b)(6) of this section; or

(C) Registered but not subject to a motor vehicle liability insurance verification by any other means provided by this section;

(8) Be available at all times, subject to reasonable allowances for scheduled maintenance or temporary system failures, to verify the motor vehicle liability insurance status of any vehicle in a manner prescribed by the Department of Finance and Administration;

(9) Provide a means to facilitate the administration and notice of suspension of motor vehicle registration under § 27-22-103 upon receipt of

notice that a motor vehicle liability insurance policy has been cancelled or no longer meets the minimum coverage requirements of § 27-22-104; and

(10)(A) Be prima facie evidence of the existence or nonexistence of minimum motor vehicle liability insurance coverage.

(B) The presumption under subdivision (b)(10)(A) of this section is rebuttable by a proof-of-insurance card issued under § 23-89-213 within the preceding sixty (60) days of the attempt to verify motor vehicle liability insurance coverage.

(c)(1) Information obtained under this section and § 27-22-107:

(A) Is confidential;

(B) May be used only by authorized personnel and authorized agents of the Department of Finance and Administration, the Insurance Commissioner, the courts, law enforcement personnel, and county assessors for a purpose authorized under this section and § 27-22-101 et seq.; and

(C) Pertaining to an individual, may be released only to the following individuals or entities at the request of the individual or entity:

(i) The individual;

(ii) The parent or legal guardian of the individual if the individual is under eighteen (18) years of age or is legally incapacitated; and

(iii) State and local law enforcement agencies, the Arkansas Crime Information Center, or other government offices upon a showing of need.

(2) The Freedom of Information Act of 1967, § 25-19-101 et seq., does not apply to the information contained in the database.

(d) A motor vehicle liability insurer:

(1) Shall cooperate with the Department of Finance and Administration to establish and maintain the database and the integrity of the database;

(2) Shall provide access to the status of motor vehicle liability insurance policy information to verify motor vehicle liability insurance coverage:

(A) For a vehicle insured by the motor vehicle liability insurer that is registered in this state; and

(B) If available, for a vehicle that is insured by the motor vehicle liability insurer or that is operated in this state and the subject of an accident investigation, regardless of where the vehicle is registered; and

(3) Is not liable for an act or omission taken in good faith to comply with this section or § 27-22-107.

(e) This section does not apply to motor vehicle insurance that is written under a commercial motor vehicle liability coverage form approved by the Insurance Commissioner.

*SECTION 2. Arkansas Code § 27-22-104(a)(2)(A), concerning the failure to present proof of insurance at the time of a traffic stop, is amended to read as follows:*

*(2)(A)(i) ~~Failure to present proof of insurance coverage at the time of a traffic stop or arrest or a failure of the Vehicle Insurance Database or proof of an insurance~~ a proof-of-insurance card issued under § 23-89-213 within the preceding sixty (60) days to show ~~current~~ the minimum motor vehicle liability insurance coverage at the time of the traffic stop required by this section creates a rebuttable presumption that:*

*(a) ~~the~~ The motor vehicle or the person's operation of the motor vehicle is ~~uninsured~~ not in compliance with the minimum motor vehicle liability insurance coverage requirements of this section; and*

*(b) The operator of the motor vehicle failed to present the proof-of-insurance card required by § 27-22-111(a).*

*(ii) The law enforcement officer who conducts the stop shall search the name of the operator and the vehicle identification number of the stopped motor vehicle to determine compliance with this section.*

*SECTION 3. Arkansas Code § 27-22-107 is amended to read as follows: 27-22-107. Motor vehicle insurance reporting.*

*(a)(1) ~~Each~~ An insurance company ~~providing that provides~~ motor vehicle liability insurance coverage ~~required under § 27-22-104(a),~~ in this state shall provide ~~before the seventh day of each calendar month to the Revenue Division~~ all information in the time and manner required by ~~of~~ the Department*

~~of Finance and Administration a record of each motor vehicle insurance policy in effect as of the previous month that was issued by the insurance company. The reports shall be provided to the division through any means of electronic or electromagnetic medium available to and approved by the department, unless the insurance company qualifies for an exception to this electronics reporting requirement as a result of being a small or low volume insurer as may otherwise be provided for under regulations promulgated by the Department of Finance and Administration.~~

~~(2)(A) The Director of the Department of Finance and Administration may choose a vendor to provide an online insurance verification system which will comply with the industry standards as recommended by the Insurance Industry Committee on Motor Vehicle Administration when there are two (2) or more vendors that demonstrate to the department the ability to meet the Industry Committee on Motor Vehicle Administration standard.~~

~~(i) The department shall notify each insurance company in writing of the chosen vendor. If the insurance company elects to participate in the online insurance verification system that complies with the industry standards, the company may then work with the vendor and the department on an agreeable schedule to convert to the new system.~~

~~(ii) If an insurance company elects to participate in the online insurance verification system, then the insurance company will be exempt from providing the report before the seventh day of each calendar month as the department and law enforcement will be able to obtain data online in real time.~~

~~(B) If the director certifies that seventy percent (70%) or more of the motor vehicle insurance policies in effect on a specific date are being accessed according to the industry standards in the online insurance verification system, each insurance company shall provide access to the data through the online insurance verification system.~~

~~(C) At the discretion of the department, rules and regulations may be established to offer insurers who write fewer policies an alternative method for reporting insurance policy data.~~

~~(D) The department shall select a vendor under the Arkansas Procurement Law, § 19-11-201 et seq.~~

(b)(1) The reports information shall include for each motor vehicle

liability insurance policy:

- (A) The name and ~~the~~ address of ~~the~~ each named insured;
  - (B) The make, year, and vehicle identification number of each insured vehicle; ~~and~~
  - (C) The name of the insurance provider, policy number, effective date, and expiration date of each motor vehicle liability insurance policy; ~~;~~
  - (D) The NAIC number assigned by the National Association of Insurance ~~Carriers code~~ Commissioners to the insurance company; ~~;~~ and
  - (E) ~~the~~ The name of each driver excluded from coverage.
- (2) The ~~reports~~ information may include:
- (A) The date of birth of each insured owner or operator;
- and
- (B) The driver's license number of each insured owner or operator.

(c)(1) The department may, following procedures set forth in ~~regulations~~ rules promulgated by the department, assess a penalty against each an insurance company ~~of up to~~ not to exceed two hundred fifty dollars (\$250) for each day the insurance company fails to comply with this section.

(2) If an insurance company shows that the failure to comply with this section was inadvertent, accidental, outside of the control of the insurance company, or the result of excusable neglect, the Director of the Department of Finance and Administration may excuse the penalty.

(3) The moneys collected from ~~these~~ the penalties prescribed by this subsection shall be deposited as a special revenue into the State Central Services Fund, and the net amount shall be credited as a direct revenue to be used by the department to offset the costs of administering this section.

~~(d) The department shall promulgate necessary rules and regulations for the administration of this section.~~ If an insurance company fails to comply with this section, the Insurance Commissioner may impose an appropriate sanction under § 23-63-213, including the suspension or revocation of the insurance company's certificate of authority.

*SECTION 4.* Arkansas Code § 27-22-109 is amended to read as follows:  
27-22-109. Impounding motor vehicle for violation.

(a)~~(1)~~ ~~If A law enforcement officer may impound a motor vehicle if:~~

~~(1) an operator of a motor vehicle is unable to present proof of insurance coverage to a law enforcement officer as required under § 27-22-104, The Vehicle Insurance Database does not contain proof of the minimum motor vehicle liability insurance coverage required by this subchapter unless a proof-of-insurance card issued under § 23-89-213 within the preceding sixty (60) days is presented to the law enforcement officer at the time proof of motor vehicle liability insurance is requested by the law enforcement officer; or~~

~~(2) the motor vehicle may be impounded at the officer's discretion if the The law enforcement officer issues a citation for a traffic violation that is classified as an offense under § 27-50-302 and the operator has:~~

~~(A) Received three (3) or more warnings for a violation of § 27-22-104;~~

~~(B) Pleaded guilty or nolo contendere to or been found guilty of three (3) or more violations of § 27-22-104; or~~

~~(C) Received a total of three (3) or more warnings for a violation of § 27-22-104 or convictions for a violation of § 27-22-104.~~

~~(2) If an operator of a motor vehicle is unable to present proof of insurance coverage to a law enforcement officer as required under § 27-22-104, the motor vehicle may be impounded at the officer's discretion if one (1) or more of the following occur:~~

~~(A) The driver is operating a motor vehicle on a cancelled, suspended, or revoked driver's license in violation of § 27-16-303;~~

~~(B) The driver is operating the motor vehicle without a driver's license in violation of § 27-16-602; or~~

~~(C) The driver is operating a motor vehicle:~~

~~(i) Without a license plate in violation of § 27-14-304;~~

~~(ii) With an unofficial license plate in violation of § 27-14-305;~~

~~(iii) With improper use of evidence of registration in violation of § 27-14-306; or~~

~~(iv) With false evidences of title or registration~~

~~in violation of § 27-14-307.~~

(b) If a motor vehicle is impounded under this section:

(1) The law enforcement agency shall use its towing policy as required for the towing and storage of motor vehicles under § 27-50-1207 and a towing rotation list if applicable;

(2) The provisions of § 27-50-1201 et seq. regarding the towing and storage of motor vehicles shall apply;

(3) An inventory of the contents of the motor vehicle shall be taken; and

(4) The owner, operator, or other person in charge of the vehicle:

(A) Has the right to contest the impoundment; and

(B) Shall be given notice at the time of impoundment of the right to contest the impoundment consistent with § 27-50-1207.

(c)(1) If a motor vehicle is properly and lawfully impounded under this section, the ~~following~~ owner and the operator of the motor vehicle are ~~responsible~~ liable, jointly and severally, for all reasonable towing, recovery, storage, and other incidental costs+

~~(A) The operator of the vehicle;~~

~~(B) The owner of the vehicle; or~~

~~(C) Both the owner and the operator of the vehicle.~~

(2) ~~This subsection~~ Subdivision (c)(1) of this section applies ~~even~~ if the owner or operator of the motor vehicle has the insurance required by this subchapter but fails to present the proof of insurance required by this subchapter.

*SECTION 5. Arkansas Code § 27-22-111(a), concerning the failure to present proof of insurance at the time of a traffic stop, is amended to read as follows:*

*(a)(1) ~~After At the time of a traffic stop has been completed, if, a law enforcement officer shall request an operator of a motor vehicle proves that the liability coverage required by §§ 27-22-101—27-22-104 was in effect at the time of the traffic stop, to present a proof-of-insurance card issued under § 23-89-213 in paper form or electronic form that evidences compliance with the minimum motor vehicle liability insurance requirements of § 27-22-104.~~*

(2) ~~the~~ The failure to present ~~proof of insurance~~ the proof-of-insurance card required by subdivision (a)(1) of this section at the time of the traffic stop when requested by a law enforcement officer shall be punished by a fine of twenty-five dollars (\$25.00).

SECTION 6. DO NOT CODIFY. ~~CONTINGENT EFFECTIVE DATE – IMPLEMENTATION AUTHORITY.~~

(a) The Department of Finance and Administration may begin the implementation of Section 1 of this act when and as funding is received.

(b)(1) Except as provided in subsection (a) of this section, this act shall not become effective until the Chief Fiscal Officer of the State certifies that sufficient funding exists to complete the implementation of the Vehicle Insurance Database required by Section 1 of this act and notifies the:

(A) Secretary of State;

(B) Legislative Council;

(C) Arkansas Code Revision Commission; and

(D) Office of Motor Vehicle.

(2) If a certification is made under subdivision (b)(1) of this section, this act shall be effective on and after the ninety-first day after the certification.

/s/Johnson