

FIRST REGULAR SESSION

SENATE BILL NO. 181

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Read 1st time January 26, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0729S.03I

AN ACT

To repeal sections 303.400, 303.403, 303.406, 303.409, 303.412, and 303.415, RSMo, and to enact in lieu thereof six new sections relating to the motorist insurance identification database program, with penalty provisions.

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

Section A. Sections 303.400, 303.403, 303.406, 303.409, 303.412, and
2 303.415, RSMo, are repealed and six new section enacted in lieu thereof, to be
3 known as sections 303.400, 303.403, 303.406, 303.409, 303.410, and 303.412, to
4 read as follows:

303.400. The provisions of sections 303.400 to [303.415] **303.412** shall be
2 known as the "Motorist Insurance Identification Database Act".

303.403. As used in sections 303.400 to [303.415] **303.412**, the following
2 terms mean:

- 3 (1) "Database", the motorist insurance identification database;
- 4 (2) "Department", the department of revenue;
- 5 (3) "Designated agent", the party with which the [department] **highway**
6 **patrol** contracts to implement the motorist insurance identification database;
- 7 (4) "**Patrol**", the **Missouri highway patrol**;
- 8 (5) "Program", the motorist insurance identification database program.

303.406. 1. The "Motorist Insurance Identification Database" is hereby
2 created for the purpose of establishing a database to use to verify compliance with
3 the motor vehicle financial responsibility requirements of this chapter. The
4 program shall be administered by the **highway patrol in coordination with**
5 **the** department [and shall receive funding from the "Motorist Insurance
6 Identification Database Fund", which is hereby created in the state

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

7 treasury]. Effective July 1, [2002] **2012**, the [state treasurer shall credit to and
8 deposit in the motorist insurance identification database fund six percent of the
9 net general revenue portion received from collections of the insurance premiums
10 tax levied and collected pursuant to sections 148.310 to 148.461] **owner of a**
11 **motor vehicle shall pay an annual fee of one dollar, or two dollars in**
12 **the case of biennial registration or renewal, when such person registers**
13 **or renews the registration of a motor vehicle. All fees collected**
14 **pursuant to this subsection shall be deposited in the state treasury to**
15 **the credit of the state highways and transportation fund in an account**
16 **to be known as the "Motorist Insurance Identification Database**
17 **Account", which is hereby created. Funds from the motorist insurance**
18 **identification database account shall be used for the administration of**
19 **the motorist insurance identification database program and for the**
20 **administration and enforcement of any provision of sections 303.400 to**
21 **303.412. Notwithstanding the provisions of section 33.080, to the**
22 **contrary, moneys in the motorist insurance identification database**
23 **account shall not be transferred and placed to the credit of the state**
24 **road fund until the amount in the account at the end of the biennium**
25 **exceeds two times the amount encumbered from the account to carry**
26 **out the purposes of this section in the preceding fiscal year. The**
27 **amount, if any, in the account which shall be transferred to the credit**
28 **of the state road fund shall be that amount in the account which**
29 **exceeds two times the amount encumbered from the account to carry**
30 **out the purposes of this section in the preceding fiscal year.**

31 2. To implement the program, the [department may] **highway patrol**
32 **shall** by [July 1, 2002] **January 1, 2012**, contract with a designated agent which
33 shall monitor compliance with the motor vehicle financial responsibility
34 requirements of this chapter, except that the program shall not be implemented
35 to notify owners of registered motor vehicles until the department certifies that
36 the accuracy rate of the program exceeds ninety-five percent in correctly
37 identifying owners of registered motor vehicles as having maintained or failed to
38 maintain financial responsibility. After the [department] **highway patrol** has
39 entered into a contract with a designated agent, the [department] **highway**
40 **patrol** shall convene a working group for the purpose of facilitating the
41 implementation of the program.

42 3. The designated agent, using its own computer network, shall, no later

43 than [December 31, 2002] **June 30, 2012**, develop, deliver and maintain a
44 computer database with information provided by:

45 (1) Insurers, pursuant to sections 303.400 to [303.415] **303.412**; except
46 that, any person who qualifies as self-insured pursuant to this chapter, or
47 provides proof of insurance to the director pursuant to the provisions of section
48 303.160, shall not be required to provide information to the designated agent, but
49 the state shall supply these records to the designated agent for inclusion in the
50 database; and

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

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

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

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

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

75 (a) The individual;

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

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

79 incapacitated;

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

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

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

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

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

101 7. The [department] **highway patrol** shall review the operation and
102 performance of the motorist insurance identification database program to
103 determine whether the number of uninsured motorists has declined during the
104 first three years following implementation and shall submit a report of its
105 findings to the general assembly no later than January fifteenth of the year
106 following the third complete year of implementation. The [department] **highway**
107 **patrol** shall make copies of its report available to each member of the general
108 assembly.

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

112 9. The working group as provided for in subsection 2 of this section shall
113 consist of representatives from the insurance industry, department of insurance,
114 financial institutions and professional registration, department of public safety

115 and the department of revenue. The [director of revenue] **superintendent of**
116 **the highway patrol**, after consultation with the working group, shall
117 promulgate any rules and regulations necessary to administer and enforce this
118 section. No rule or portion of a rule promulgated pursuant to the authority of
119 this section shall become effective unless it has been promulgated pursuant to the
120 provisions of chapter 536.

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

28 2. Neither the fact that, subsequent to the date of verification, the owner
29 acquired the required liability insurance policy nor the fact that the owner
30 terminated ownership of the motor vehicle shall have any bearing upon the

31 director's decision to suspend. The suspension shall remain in force until
32 termination despite the renewal of registration or acquisition of a new
33 registration for the motor vehicle. The suspension shall also apply to any motor
34 vehicle to which the owner transfers the registration.

35 3. Upon receipt of notification from the designated agent, the director **of**
36 **the department of revenue** shall suspend the owner's vehicle registration
37 effective immediately. The suspension period shall be as follows:

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

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

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

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

64 5. Notwithstanding the provisions of subsection 1 of this section, the
65 director **of the department of revenue** shall not suspend the registration or
66 registrations of any owner who establishes to the satisfaction of the director **of**

67 **the department of revenue** that the owner's motor vehicle was inoperable or
68 being stored and not operated on the date proof of financial responsibility is
69 required by the director.

303.410. 1. Beginning July 1, 2012, any towing company
2 **performing any nonconsensual tow of a motor vehicle shall, within**
3 **forty-five minutes of completing such tow, notify the designated agent**
4 **of the tow, and provide the following information to the designated**
5 **agent:**

- 6 (1) **Date and time of service;**
- 7 (2) **The tow truck operator's name and address;**
- 8 (3) **The vehicle identification number and license plate number**
9 **of the motor vehicle towed;**
- 10 (4) **The name of the law enforcement agency requesting the tow,**
11 **if applicable;**
- 12 (5) **The name, address, and telephone number of the storage**
13 **facility where the motor vehicle has been towed to, if different than the**
14 **address provided for in subdivision (2) of this subsection;**
- 15 (6) **Any additional information required by the superintendent**
16 **of the Missouri highway patrol, as prescribed by rule.**

17 **2. After receiving the information described in subsection 1 of**
18 **this section, the designated agent shall attempt to locate the automobile**
19 **insurance company providing insurance coverage on the motor vehicle**
20 **which was nonconsensually towed. Within three business days of**
21 **receiving the information described in subsection 1 of this section, the**
22 **designated agent shall contact the automobile insurer with the**
23 **information set forth in subsection 1 of this section.**

24 **3. As used in this section, "nonconsensual tow" shall mean the**
25 **towing of a motor vehicle without the prior consent or authorization of**
26 **the motor vehicle owner, the owner's agent, or operator. A**
27 **nonconsensual tow shall also include the towing of any motor vehicle**
28 **pursuant to the provisions of section 304.155 or 304.157.**

29 **4. The superintendent of the highway patrol shall promulgate**
30 **rules and regulations for the administration and enforcement of this**
31 **subsection. Any rule or portion of a rule, as that term is defined in**
32 **section 536.010 that is created under the authority delegated in this**
33 **section shall become effective only if it complies with and is subject to**
34 **all of the provisions of chapter 536, and, if applicable, section**

35 **536.028. This section and chapter 536 are nonseverable and if any of**
36 **the powers vested with the general assembly pursuant to chapter 536,**
37 **to review, to delay the effective date, or to disapprove and annul a rule**
38 **are subsequently held unconstitutional, then the grant of rulemaking**
39 **authority and any rule proposed or adopted after August 28, 2011, shall**
40 **be invalid and void.**

303.412. 1. Beginning [March 1, 2003] **July 1, 2012**, before the seventh
2 working date of each calendar month, all licensed insurance companies in this
3 state shall provide to the designated agent a record of all policies in effect on the
4 last day of the preceding month. This subsection shall not prohibit more frequent
5 reporting.

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

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

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

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

13 3. The department of revenue shall notify the department of insurance,
14 financial institutions and professional registration of any insurer who violates
15 any provisions of this [act] **section**. The department of insurance, financial
16 institutions and professional registration may, against any insurer who fails to
17 comply with this section, assess a fine not greater than one thousand dollars per
18 day of noncompliance. The department of revenue may assess a fine not greater
19 than one thousand dollars per day against the designated agent for failure to
20 complete the project by the dates designated in sections 303.400 to [303.415]
21 **303.412** unless the delay is deemed beyond the control of the designated agent
22 or the designated agent provides acceptable proof that such a noncompliance was
23 inadvertent, accidental or the result of excusable neglect. The department of
24 insurance, financial institutions and professional registration shall excuse the
25 fine against any insurer if an assessed insurer provides acceptable proof that
26 such insurer's noncompliance was inadvertent, accidental or the result of
27 excusable neglect.

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

3 2. The enactment of section 303.025, and the repeal and

4 reenactment of sections 303.406, 303.409, 303.412 and 303.415
5 shall become effective July 1, 2002 and sections 303.406, 303.409
6 and 303.412 shall expire on June 30, 2007.]

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Bill

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