

Attachment A

HOUSE BILL 2457

By Lundberg

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 6; Title 7; Title 10, Chapter 7; Title 12; Title
38; Title 39; Title 40; Title 55 and Title 56, relative
to the Uninsured Motorist Enforcement Act.

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

WHEREAS, it is the policy of this state that no vehicle be registered or driven on the highways of this state that is not in compliance with the Tennessee Financial Responsibility Law of 1977; now, therefore:

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

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 12, is amended by designating the existing language of the chapter as part 1 and adding SECTIONS 2 – 10 as a new part 2.

SECTION 2. This part shall be known and may be cited as the "Uninsured Motorist Enforcement Act".

SECTION 3. As used in this part:

(1) "Database" means the uninsured motorist identification database created in SECTION 5;

(2) "Department" means the department of revenue;

(3) "Designated agent" means the third party described in SECTION 5(b);

(4) "Fleet vehicle" means a vehicle that is one (1) of one thousand (1,000) or more vehicles owned or long-term leased by a corporation or other legal entity and registered in this state pursuant to chapter 4, part 5 of this title;

(5) "Interested person" includes:

(A) Heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against a trust estate, or the estate of a decedent, ward, or protected person; and

(B) Persons having priority for appointment as personal representative, other fiduciaries representing interested persons, a settlor of a trust, if living or the settlor's legal representative, if any, if the settlor is living but incapacitated;

(6) "Program" means the uninsured motorist identification database program created in SECTION 5; and

(7) "Rental vehicle" means a private passenger motor vehicle, including passenger vans, mini vans, and sport utility vehicles, and a cargo motor vehicle, including cargo vans, pickup trucks, and trucks with a gross vehicle weight of less than twenty-six thousand pounds (26,000 lbs.).

SECTION 4.

(a) No registration or renewal of registration of a motor vehicle shall be issued by the department unless the application for registration or renewal is accompanied by evidence that the vehicle meets the requirements of this chapter on the date of the application for registration or renewal.

(b) Every registration shall be accompanied by the following notice: "THIS REGISTRATION SHALL AUTOMATICALLY TERMINATE UPON THE FAILURE TO MAINTAIN EVIDENCE SHOWING THAT THIS VEHICLE AND ITS OWNER MEET THE REQUIREMENTS OF THE TENNESSEE FINANCIAL RESPONSIBILITY LAW."

(c) Submission of one (1) of the following is sufficient evidence to show a vehicle and its owner has complied with this chapter:

(1) A certificate, as described in § 55-12-111 or § 55-12-120 and valid for one (1) year, that states that a policy of insurance meeting the requirements of this chapter has been issued and will be in force during the period of registration or renewal; or

(2) A certificate, issued by the department of safety and valid for one (1) year, that states that a cash deposit or bond in the amount required by this chapter, has been paid or filed with the department of safety for the period of registration or renewal.

(d) Upon the cancellation or termination of any policy of insurance that was used as a basis of the certificate provided in subdivision (c)(1), the registration of the vehicle shall automatically terminate within ten (10) business days unless the owner or operator complies with the requirements of this chapter.

(e) Upon the withdrawal of any cash deposit or bond that was used as a basis for the certificate provided in subdivision (c)(2):

(1) The department of safety shall, within five (5) business days, provide notice to the registrant that to the department of safety's knowledge the vehicle no longer meets the requirements of this chapter; and

(2) The registration of the vehicle will automatically terminate within ten (10) business days from the date of the department of safety's notice unless the owner or operator complies with the requirements of this chapter or appeals the department of safety's decision pursuant to subsection (f).

(f) A registrant may appeal the department of safety's decision within the time period described in subdivision (e)(2) by submitting the appeal in writing to the commissioner. The department of safety shall provide an appeals process in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 5.

(a) There is created the uninsured motorist identification database program, to be administered by the department of revenue, with the assistance of the designated

agent described in subsection (b) and with the cooperation of the departments of safety and commerce and insurance, for the purpose of:

- (1) Establishing a database to verify compliance with financial responsibility requirements under this chapter;
- (2) Assisting in reducing the number of uninsured motor vehicles on the highways of this state; and
- (3) Assisting in the identification and prevention of identity theft and other crimes.

(b) The department shall contract, in accordance with title 12, with a third party to establish and maintain the database for the purposes established under subsection (a); provided:

- (1) No contract shall obligate the department to pay the third party more money than is available; and
- (2) The third party shall not be this state, any department of this state or any political subdivision thereof.

(c)

(1) The designated agent shall develop and maintain the database from the information provided by:

- (A) Insurers under § 56-7-1118;
- (B) The department of safety under subsection (e); and
- (C) The department of revenue under subsection (f).

(2)

(A) The department shall promulgate rules regarding the development and maintenance of the database to ensure that law enforcement agencies can efficiently access the records of the database.

(B) The records:

(i) Shall be in a form and contain information approved by the department; and

(ii) May be made available through the Internet or through another electronic medium, if the department determines that sufficient security is provided to ensure compliance with SECTION 7.

(d) With information provided by the department, the designated agent shall:

(1) Update the database with the motor vehicle insurance information provided by the insurers in accordance with § 56-7-1118; and

(2) Compare all current motor vehicle registrations against the database.

(e) The department of safety shall provide the designated agent with the name, date of birth, address and driver license number of all persons on the driver license database.

(f) The department of revenue shall provide the designated agent with a record of all current motor vehicle registrations before the seventh and twenty-first days of each calendar month.

(g) The comptroller of the treasury shall audit the program at least once every three (3) years. The audit shall include verification of billings made by the designated agent and the accuracy of the designated agent's matching of vehicle registration with insurance data. The designated agent shall archive computer data files at least semi-annually for auditing purposes.

(h) Upon request, the designated agent shall make available the information provided by insurers under § 56-7-1118 to law enforcement agencies and the

departments of revenue, safety, and commerce and insurance for the purposes listed in SECTION 7(a).

SECTION 6.

(a) If the comparison conducted by the designated agent pursuant to SECTION 5(d)(2) shows that a motor vehicle is not insured for three (3) consecutive months, the designated agent shall provide notice to the owner that the owner has fifteen (15) days from the date of the designated agent's notice to provide the designated agent with:

- (1) Proof of financial responsibility as described in this chapter; or
- (2) Proof of exemption from financial responsibility requirements.

(b) If an owner fails to provide satisfactory proof of financial responsibility or proof of exemption from the financial responsibility requirements to the designated agent, the designated agent shall:

- (1) Provide a second notice to the owner that the owner has fifteen (15) additional days to provide the requested information in subsection (a);
- (2) For each notice provided, indicate information relating to the owner's failure to provide proof of financial responsibility in the database; and
- (3) Notify the department and applicable law enforcement agencies in accordance with SECTION 7.

(c) The department shall:

- (1) In accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, revoke the registration if the owner:
 - (A) Has been convicted of operating a registered motor vehicle in violation of this chapter;
 - (B) Is under an administrative action taken by the department of safety for operating a registered motor vehicle in violation of this chapter;

(C) Has failed to provide satisfactory proof of owner's or operator's security to the designated agent after the second notice provided under subsection (b); or

(D) Provided a false or fraudulent statement to the department or the designated agent; and

(2) Provide appropriate notices of the revocation, the legal consequences of operating a vehicle with revoked registration and without financial responsibility and instructions on applying for reinstatement of the registration; provided, the department may direct the designated agent to provide the notices.

(d) Any action by the department to revoke the registration of a motor vehicle under this section may be in addition to an action by a law enforcement agency to impose the penalties under this chapter.

(e) It is a Class B misdemeanor, punishable only by fine, to provide a false or fraudulent statement to the department or the designated agent.

(f) This part does not affect other actions or penalties that may be taken or imposed for a violation of this chapter.

SECTION 7.

(a) Information in the database, provided by a person to the designated agent, is not a public record under title 10, chapter 7, except that:

(1) For the purposes of investigating, litigating or enforcing the financial responsibility requirements under this chapter, the designated agent shall:

(A) Verify insurance information through the state computer network for a state or local government agency or court; and

(B) Upon request, issue to any state or local government agency or court a certificate documenting the insurance information, according to

the database, of a specific individual or motor vehicle for the time period designated by the government agency;

(2) Upon request, the department or its designated agent shall disclose whether a person is an insured individual and the insurance company name to:

(A) That individual or, if that individual is deceased, any interested person of that individual;

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

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

(D) A person who has power of attorney from the insured individual;

(E) A person who submits a notarized release from the insured individual dated no more than ninety (90) days before the date the request is made; or

(F) A person suffering loss or injury in a motor vehicle accident in which the insured individual is involved, but only as part of an accident report;

(3) For the purpose of investigating, enforcing or prosecuting laws or issuing citations by law enforcement agencies related to the:

(A) Registration and renewal of registration of a motor vehicle under chapter 4 of this title;

(B) Purchase of a motor vehicle; and

(C) Financial responsibility requirements under this chapter;

(4) Upon request of a peace officer acting in an official capacity under subdivision (a)(3), the department or the designated agent shall, upon request, disclose relevant information for investigation, enforcement or prosecution of the laws;

(5) For the purpose of the comptroller of the treasury conducting audits of the program; and

(6) Upon the request of a law enforcement agency for the purpose of investigating and prosecuting identity theft and other crimes.

(b)

(1) The department may allow the designated agent to prepare and deliver, upon request, a report on the insurance information of a person or motor vehicle in accordance with this section.

(2) The report may be in the form of:

(A) A certified copy that is considered admissible in any court proceeding in the same manner as the original; or

(B) Information accessible through the Internet or through another electronic medium if the department determines that sufficient security is provided to ensure compliance with this section.

(3) The department may allow the designated agent to charge a fee established by the department for each:

(A) Document authenticated, including each certified copy; and

(B) Record accessed by the Internet or by another electronic medium.

(c) A person who knowingly releases or discloses information from the database for a purpose other than those authorized in this section or to a person who is not

entitled to the information commits a Class A misdemeanor, punishable only by fine;
provided:

(1) An insurer is not liable to any person for complying with § 56-7-1118
by providing information to the designated agent; and

(2) Law enforcement agencies, the state, and the designated agent shall
not be liable to any person for gathering, managing, or using the information in
the database in accordance with § 56-7-1118 and this part.

SECTION 8.

(a) At the time application is made for reinstatement or renewal of registration of
a motor vehicle after a revocation of the registration under this part, the applicant shall
pay a registration reinstatement fee of one hundred dollars (\$100).

(b) The fee imposed under subsection (a) is in addition to any other fee imposed
under this title.

SECTION 9. Fleet and rental vehicles are exempt from this part.

SECTION 10. The department shall report to the general assembly by January 1, 2016,
and every year thereafter, concerning implementation of the program and shall include within
the report the findings and recommendations of the department regarding the effectiveness and
efficiency of the program. The report may be done in conjunction with any other report to the
general assembly; provided, the combined report meets the first day of the January deadline.

SECTION 11. Tennessee Code Annotated, Title 56, Chapter 7, Part 11, is amended by
adding the following language as a new, appropriately designated section:

56-7-1118.

(a) As used in this section:

(1) "Department" means the department of commerce and
insurance; and

(2) "Designated agent" has the same meaning as set forth in SECTION 3.

(b) Beginning January 1, 2015, and until the department determines otherwise pursuant to subsection (f), each insurer that issues a policy that includes motor vehicle liability coverage, uninsured motorist coverage, underinsured motorist coverage or personal injury coverage under this chapter shall, before the seventh day and twenty-first days of each calendar month, provide to the designated agent a complete record of each motor vehicle insurance policy in effect for vehicles registered in this state; provided, no insurer is precluded from more frequent reporting.

(c)

(1) A record provided by an insurer under subsection (b) shall include:

(A) The name, date of birth, and driver license number, if the insured provides a driver license number to the insurer, of each insured owner or operator, and the address of the named insured;

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

(C) The policy number, effective date and expiration date of each policy.

(2) Each insurer shall provide the information required by this subsection (c) by an electronic means or by another form accepted by the designated agent.

(d)

(1) In addition to the reporting requirements under subsection (b), each insurer that issues a policy that includes motor vehicle liability coverage, uninsured motorist coverage, underinsured motorist coverage, or personal injury coverage under this chapter shall, upon request, provide to the designated agent, verification of whether or not a motor vehicle insurance policy is in effect for a specified vehicle.

(2) Each insurer shall provide the verification required by this subsection (d) using an electronic service established by the insurers, through the Internet, world wide web, or a similar proprietary or common carrier electronic system that:

(A) Is compliant with applicable industry standards;

(B) Is available twenty-four (24) hours a day, seven (7) days a week, subject to reasonable allowances for scheduled maintenance or temporary system failures; and

(C) Includes appropriate security measures, consistent with industry standards, to secure its data against unauthorized access and maintain a record of all information requests.

(e) The department may, following procedures set forth in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, assess a fine against an insurer of two hundred fifty dollars (\$250) for each day the insurer fails to comply with this section; provided, if an insurer shows that the failure to comply with this section was inadvertent, accidental or the result of excusable neglect, then the department shall excuse the fine.

(f) Notwithstanding subsection (b), the department may cease requiring the submissions under this section if the designated agent can prove to the

department and the comptroller's office that the database is as effective and accurate without the need for the submissions.

(g) Fleet and rental vehicles are exempt from this section.

SECTION 12. The commissioners of revenue, safety, and commerce and insurance are authorized to promulgate rules to effectuate the purposes of this act. All such rules shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 13. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2015, the public welfare requiring it.