



TACIR

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on Intergovernmental Relations



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MEMORANDUM

TO: Commission Members
FROM: *Lynne Roehrich-Patrick*
Lynne Roehrich-Patrick
Executive Director
DATE: 20 November 2014

SUBJECT: Background on House Bill 2457 on Uninsured Motorist Enforcement

According to insurance industry estimates, Tennessee has the 6th highest uninsured motorist rate (20.1 percent) in the nation.¹ The average uninsured motorist rate in the United States is 12.6%, but rates range from a high of 25.9% in Oklahoma to low of 3.9% in Massachusetts (see the table on the next page). Every state, with the exception of New Hampshire, requires proof of financial responsibility.

The Tennessee Financial Responsibility Law of 1977 requires that all vehicles registered in the state have adequate insurance or other proof of ability to pay for damages resulting from an accident (including a cash deposit or bond held by the Department of Safety). However, Tennessee does not have a means other than checks at traffic stops and accidents to ensure motorists maintain insurance coverage on their vehicles. Moreover, when police officers check proof of insurance or other coverage, they aren't able to verify the validity of the information provided—for example, there is currently no way for police officers to verify whether the insurance cards that motorists provide them are real or whether the policies are still in effect.

House Bill 2457 by Representative Lundberg (Senate Bill 2517 by Ketron), sent to the Commission by the House Transportation Subcommittee of the 108th General Assembly, would have addressed these issues by making proof of compliance by drivers with the state's financial responsibility law a requirement for vehicle registration and renewal and would have provided for termination of registration if coverage is cancelled or terminated (see attachment A). The bill would also have created an uninsured motorist identification database,

¹ Insurance Research Council 2014.

administered by the Department of Revenue with the cooperation of the Departments of Safety and Commerce and Insurance and maintained by a contractor.

Uninsured Motorist Rates by State, 2012

| State | Rate | State | Rate |
|----------------------|-------|----------------|-------|
| Oklahoma | 25.9% | Delaware | 11.5% |
| Florida | 23.8% | Minnesota | 10.8% |
| Mississippi | 22.9% | Arizona | 10.6% |
| New Mexico | 21.6% | New Jersey | 10.3% |
| Michigan | 21.0% | Virginia | 10.1% |
| Tennessee | 20.1% | Iowa | 9.7% |
| Alabama | 19.6% | Kansas | 9.4% |
| Rhode Island | 17.0% | New Hampshire | 9.3% |
| Colorado | 16.2% | North Carolina | 9.1% |
| Washington | 16.1% | Oregon | 9.0% |
| Arkansas | 15.9% | Hawaii | 8.9% |
| Kentucky | 15.8% | Wyoming | 8.7% |
| California | 14.7% | Vermont | 8.5% |
| Indiana | 14.2% | West Virginia | 8.4% |
| Montana | 14.1% | Connecticut | 8.0% |
| Louisiana | 13.9% | South Dakota | 7.8% |
| Missouri | 13.5% | South Carolina | 7.7% |
| Ohio | 13.5% | Idaho | 6.7% |
| Illinois | 13.3% | Nebraska | 6.7% |
| Texas | 13.3% | Pennsylvania | 6.5% |
| Alaska | 13.2% | North Dakota | 5.9% |
| Maryland | 12.2% | Utah | 5.8% |
| Nevada | 12.2% | New York | 5.3% |
| District of Columbia | 11.9% | Maine | 4.7% |
| Georgia | 11.7% | Massachusetts | 3.9% |
| Wisconsin | 11.7% | United States | 12.6% |

Source: Insurance Research Council, "Uninsured Motorists," 2014.

Proof of Insurance Required for Registration and Renewal

The bill would have forbidden the Department of Revenue to issue a registration or renewal unless the application is accompanied by evidence that it meets the requirements of the financial responsibility law. Because vehicle owners do not go to the Department of Revenue to register their vehicles or renew them—county clerks as their agents do this for the department—they will have to take or send proof that they meet the statutory requirement to

the county clerk's office. Because of the new requirement for proof at registration, this could make mail-in and online renewals more difficult.

Insured Vehicle Database

The bill would have created a database that included all insured vehicles in the state. The database would have been used to

1. verify compliance with financial responsibility requirements of present law but not at the time or place of registration or renewal,
2. assist in reducing the number of uninsured motor vehicles on the highways of this state, and
3. assist in the identification and prevention of identity theft and other crimes.

The database would have been accessible by law enforcement agencies to allow for verification of insurance at traffic stops or accidents. In addition, the database would have been used by the contractor to verify that vehicles remain insured, and if it showed that a vehicle was not insured for three consecutive months, the contractor would notify the vehicle owner to provide proof of financial responsibility or exemption from financial responsibility requirements within 15 days. If the owner did not comply, then the contractor would have notified the Department of Revenue and applicable law enforcement agencies and sent a second notice to the owner informing him that he have 15 additional days to provide the required proof. If convicted for failing to comply following the second notice, the owner's registration would have been revoked by the department of revenue. To reinstate or renew registration after revocation, the applicant would have had to pay a reinstatement fee of \$100. Under current law, failure to comply with insurance requirements results in suspension or revocation of vehicle registration and driver's license until proof of insurance is provided.

The bill would also have required insurers to verify coverage upon request by the contractor using a web-based system available 24 hours a day, 7 days a week. If the insurers failed to comply, a fine of \$250 for each day not in compliance would have been assessed.

Other States' Electronic Verification Systems

As shown in a 2013 report (attachment B) commissioned by the Ohio Department of Public Safety and the Ohio Department of Insurance, states use three basic types of systems to verify vehicle insurance:

- Database systems—These systems rely on extensive, usually monthly, data transfers from insurance companies to the state. States then use the data to identify drivers or vehicles that were insured at one time but are no longer insured. Although most database systems provide immediate access, the information is only as current as the most recent update.
- Web-based systems—These systems allow state and local governments, including law enforcement, to directly query insurance companies' databases.

This approach can provide more up to date data because it reflects documented insurance policy information at the time an inquiry is made, but it relies on fewer data points than database systems to match vehicles to active policies, leading to more errors.

- Hybrid systems—These systems offers elements of database systems and web-based systems, as well as other functionality such as alternative reporting requirements for smaller companies. A state's primary method for verifying insurance may be through a web-based system, but it might continue to collect book of business data on a weekly or monthly basis as a backup data source.

Penalties

According to the Consumer Federation of America, the penalties for violating financial responsibility laws are substantial in many states and include large fines, vehicle impoundment, loss of registration, loss of license, and even jail time. However, the Federation has found that the severity of penalties a state imposes does not affect its uninsured motorist rate. Attachment C, summarized below, lists all states and their fines as compiled by the Federation:

- **Overlap of Penalties:** Seven states allow for first time offenders to be jailed, have their license suspended, and be fined \$500 or more. Five states allow for these offenders to be jailed and be fined at least \$500. Fifteen states allow them to have their license suspended and be fined at least \$500.
- **Fines:** Thirty-three states have possible fines of \$500 or more for a first offense with four additional states having possible fines of \$500 or more for a second offense. In West Virginia, the possible maximum fine is \$5,000.
- **Registration Suspension or Revocation:** Twenty-seven states and the District of Columbia will suspend or revoke vehicle registrations for a first offense. Seven other states suspend or revoke vehicle registrations for subsequent offenses.
- **License Suspension:** Thirty-two states allow for the possibility of license suspension for a first offense. In fourteen of these states, the suspension can continue even after the driver has supplied proof of insurance and/or payment of fees.
- **Jail time:** Fourteen states allow jail sentences for a first offense, and an additional six states allow jail sentences for a second offense.