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SENATE BILL NO. 2631

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2631

AN ACT TO CREATE THE PUBLIC SAFETY VERIFICATION AND ENFORCEMENT ACT; TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY, IN COOPERATION WITH THE COMMISSIONER OF INSURANCE AND THE DEPARTMENT OF REVENUE, TO CREATE AN ACCESSIBLE COMMON CARRIER-BASED MOTOR VEHICLE INSURANCE VERIFICATION SYSTEM; TO PROVIDE FOR LAW ENFORCEMENT USE OF THE SYSTEM; TO ALLOW INSURERS TO PROVIDE CERTAIN INFORMATION TO BE USED IN THE SYSTEM; TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY AND THE DEPARTMENT OF REVENUE TO ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ACT AND REQUIRE THE DEPARTMENTS TO MAKE RULES NECESSARY FOR THE ADMINISTRATION OF THE MOTOR VEHICLE INSURANCE VERIFICATION SYSTEM CREATED UNDER THIS ACT; TO REQUIRE COMPLIANCE WITH THE MOTOR VEHICLE SAFETY-RESPONSIBILITY LAW BEFORE RECEIVING A MOTOR VEHICLE REGISTRATION; TO REQUIRE THE OWNER OF THE MOTOR VEHICLE TO MAINTAIN CONTINUOUS COVERAGE THROUGHOUT THE LICENSE PERIOD; TO REQUIRE THE COMMISSIONER OF PUBLIC SAFETY, THE COMMISSIONER OF REVENUE OR A COURT OF PROPER JURISDICTION TO SUSPEND THE DRIVING PRIVILEGES AND/OR REGISTRATION IF A MOTOR VEHICLE OWNER FAILS TO HAVE THE REQUIRED MOTOR VEHICLE LIABILITY INSURANCE; TO REQUIRE THE COMMISSIONER OF PUBLIC SAFETY, THE COMMISSIONER OF REVENUE OR A COURT OF PROPER JURISDICTION TO IMPOSE CIVIL PENALTIES BECAUSE OF SUCH FAILURE; TO PROVIDE THE REQUIREMENTS FOR REINSTATEMENT OF A SUSPENDED LICENSE OR REGISTRATION; TO PROVIDE THAT MONIES FROM THE CIVIL PENALTIES SHALL BE DEPOSITED INTO A SPECIAL FUND IN THE STATE TREASURY TO BE KNOWN AS THE UNINSURED MOTORIST IDENTIFICATION FUND; TO PROVIDE THAT CERTAIN MONIES FROM THE CIVIL PENALTIES SHALL BE DEPOSITED INTO A MUNICIPALITY OR COUNTY'S GENERAL FUND; TO PROVIDE THAT MONIES DEPOSITED IN THE SPECIAL FUND MAY BE USED BY THE DEPARTMENT OF PUBLIC SAFETY AND DEPARTMENT OF REVENUE, UPON APPROPRIATION BY THE LEGISLATURE, FOR THE PURPOSE OF DEFRAYING EXPENSES AND COSTS FOR THE MOTOR VEHICLE INSURANCE VERIFICATION SYSTEM; TO PROVIDE THAT MONIES IN THE SPECIAL FUND IN EXCESS OF THE AMOUNT NEEDED TO DEFRAY THE EXPENSES AND COSTS OF THE VERIFICATION SYSTEM REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL BE TRANSFERRED TO THE MOTOR VEHICLE AD VALOREM TAX REDUCTION FUND AND THE MISSISSIPPI TRAUMA CARE SYSTEMS FUND; TO AMEND SECTION 63-15-4, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Sections 1 through 7 of this act shall be known as the "Public Safety Verification and Enforcement Act."

SECTION 2. (1) The Department of Public Safety, hereinafter referred to in this section as "department," in cooperation with the Commissioner of Insurance and the Department of Revenue, shall establish an accessible common carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle owner or operator with motor vehicle liability policy requirements under the Mississippi Motor Vehicle Safety-Responsibility Law.

(2) The department in cooperation with the Department of Revenue may contract with a private vendor or vendors to establish and maintain the system.

(3) The system must:

(a) Send requests to insurers for verification of motor vehicle liability insurance using electronic services established by the insurers through the Internet, World Wide Web, 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 and other applicable industry standards;

(b) Include appropriate provisions to secure its data against unauthorized access and to maintain a record of all requests and responses;

(c) Be accessible, without fee, to authorized personnel of the department, the Department of Revenue, the courts, law enforcement personnel, county tax collectors, and other entities authorized by the department or the Department of Revenue under the provisions of Section 4 of this act;

(d) Be able to interface with existing department and Department of Revenue systems;

(e) Be able to be accessed by authorized users via a secure web browser;

(f) Receive insurance data file transfers from insurers under specifications and standards set forth in paragraph (a) of

this subsection to identify motor vehicles that are not covered by an insurance policy;

(g) Provide a means by which low-volume insurers that are unable to deploy an online interface with the system can report insurance policy data to the department, the Department of Revenue or their designee for inclusion in the system;

(h) Provide a means to track separately or distinguish motor vehicles that are subject to a certificate of insurance under Section 63-15-39 or 63-15-41, a certificate of self-insurance under Section 63-15-53, a bond under Section 63-15-49, or a certificate of deposit of money or securities under Section 63-15-51;

(i) Distinguish motor vehicles that are exempt from the provisions of Sections 1 through 7 of this act;

(j) Be available twenty-four (24) hours a day, seven (7) days a week, subject to reasonable allowances for scheduled maintenance or temporary system failures, to verify the insurance status of any motor vehicle in a manner prescribed by the department or the Department of Revenue; and

(k) Be installed and operational not later than July 1, 2013, following an appropriate testing period of not less than six (6) months.

(4) Every insurer shall cooperate with the department and the Department of Revenue in establishing and maintaining the system and shall provide access to motor vehicle liability policy status information to verify liability coverage for:

(a) A motor vehicle insured by that company that is registered in this state; and

(b) If available, a motor vehicle that is insured by that company or that is operated in this state regardless of where the motor vehicle is registered.

SECTION 3. (1) A law enforcement officer or authorized employee of a law enforcement agency may, during the course of a

traffic stop or accident investigation, access the verification system established under Section 2 of this act to verify whether a motor vehicle is covered by a valid motor vehicle liability policy in at least the minimum amounts required under Section 63-15-3(j).

(2) The response received from the system supersedes an insurance card produced by a motor vehicle owner or operator, and notwithstanding the display of an insurance card by the owner or operator, the law enforcement officer may issue a complaint and notice to appear to the owner or operator for a violation of the Mississippi Motor Vehicle Safety-Responsibility Law.

(3) Except upon reasonable cause to believe that a driver has violated another traffic regulation or that the driver's motor vehicle is unsafe or not equipped as required by law, a law enforcement officer may not use the verification system to stop a driver for operating a motor vehicle in violation of this act.

SECTION 4. (1) The Department of Public Safety, hereinafter referred to in this section as "department," and the Department of Revenue shall administer and enforce the provisions of Sections 1 through 7 of this act, as applicable, and shall make rules, jointly or separately, necessary for the administration of the motor vehicle insurance verification system created under Section 2 of this act.

(2) The rules must:

(a) Establish standards and procedures for accessing the system by authorized personnel of the department, the Department of Revenue, the courts, law enforcement personnel, tax collectors of each county and any other entities authorized by the department or the Department of Revenue that are consistent with specifications and standards of the Insurance Industry Committee on Motor Vehicle Administration and other applicable industry standards;

(b) Provide for the suspension of a vehicle registration and/or a driver's license when required by Sections 1 through 7 of this act;

(c) Prohibit the reinstatement of a vehicle registration or driver's license unless the applicable fines have been paid; and

(d) Provide for periodic insurance data file transfers from insurers to identify motor vehicles that are not covered by an insurance policy and to monitor ongoing compliance with mandatory motor vehicle liability insurance requirements.

(3) The department and/or the Department of Revenue may adopt additional rules to:

(a) Assist authorized users in interpreting responses received from the motor vehicle insurance verification system and determining the appropriate action to be taken as a result of a response; and

(b) Otherwise clarify system operations and business rules.

SECTION 5. Every owner of a motor vehicle in this state shall comply with the motor vehicle liability insurance coverage in at least the minimum amounts required under Section 63-15-3(j) before that owner may receive a registration for a motor vehicle or renew a registration. The owner must also maintain continuous coverage in at least the minimum amounts required under Section 63-15-3(j) throughout the registration period. The verification system shall be used at registration to determine compliance with this section and the response received from the system supersedes an insurance card produced by a motor vehicle owner or operator, and notwithstanding the display of an insurance card by the owner or operator, the owner shall be denied a registration for a motor vehicle or renewal of a registration based on the verification system's response of noncompliance. The Department of Revenue must make the verification system available to the tax collector

through its title/registration network system. If the owner is applying for the initial registration of a motor vehicle, then the owner may be granted a registration notwithstanding the response received from the verification system.

SECTION 6. (1) Sections 1 through 7 of this act shall not apply to any motor vehicle that:

(a) Has commercial auto coverage;

(b) Is qualified for a fleet registration;

(c) Is part of a self-insured corporate or individual fleet registered under Section 27-19-66, or self-insured under Section 63-15-53;

(d) Is included in an insurance binder that has not been entered into the system at the time the verification system is accessed;

(e) Is exempted from the proof of insurance requirement under Section 63-15-4(1); or

(f) Has a gross vehicle weight of sixteen thousand (16,000) pounds or greater.

(2) For the purposes of Sections 1 through 7 of this act, "commercial auto coverage" is defined as any coverage provided to an insured, regardless of number of vehicles or entity covered, under a commercial coverage form and rated from a commercial manual approved by the Department of Insurance. Sections 1 through 7 of this act shall not apply to vehicles insured under commercial auto coverage; however, insurers of such vehicles may participate on a voluntary basis.

SECTION 7. (1) If the owner of a motor vehicle being operated on the public roads, streets or highways of the State of Mississippi or registered in the State of Mississippi fails to have motor vehicle liability insurance in at least the minimum amounts required under Section 63-15-3(j), the Commissioner of Public Safety, the Commissioner of Revenue or a court of proper jurisdiction shall suspend the vehicle registration and/or the

owner's or the operator's driving privilege and shall impose a civil penalty in an amount of Three Hundred Dollars ($300.00) upon a first conviction, in an amount of Four Hundred Dollars ($400.00) upon a second conviction and in an amount of Five Hundred Dollars ($500.00) upon a third or subsequent conviction. If suspended, the registration or driving privilege shall not be reinstated until the owner has motor vehicle liability insurance in at least the minimum amounts required under Section 63-15-3(j) and has paid the civil penalties imposed. Any person shall have the right to appeal any suspension or civil penalty under this section in a court of proper jurisdiction. If the matter is appealed and a violation is found, then the court shall not reduce, suspend or suspend the execution of any penalty imposed under the provisions of this subsection, in whole or inpart. It shall be the duty of the county prosecuting attorney, an attorney employed under the provisions of Section 19-3-49, or in the event there is no such prosecuting attorney for the county, the duty of the district attorney to represent the state in any appeal held under this subsection. Civil penalties collected under this subsection shall be deposited into the special fund created under subsection (2) of this section. However, if the appeal of such civil penalty would be under the proper jurisdiction of a municipal court, One Hundred Dollars ($100.00) of the funds from such civil penalty shall be deposited in the general fund of that municipality. If the appeal of such civil penalty would be under the proper jurisdiction of any of the courts of a county, One Hundred Dollars ($100.00) of the funds from such civil penalty shall be deposited in the general fund of that county. A person convicted of a civil violation under this subsection (1) shall not be convicted of a criminal offense under Section 63-15-4(4) arising from the same incident.

(2) (a) There is created in the State Treasury a special fund to be designated as the "Uninsured Motorist Identification

Fund." The fund shall consist of monies deposited therein as provided under subsection (1) of this section and monies from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the fund; however, one-half (1/2) of any monies in excess of the amount needed to defray the expenses and costs of the verification system created under Section 2 of this act remaining in the fund at the end of a fiscal year shall be transferred to the Motor Vehicle Ad Valorem Tax Reduction Fund created under Section 27-51-105, and one-half (1/2) of any monies in excess of the amount needed to defray the expenses and costs of the verification system created under Section 2 of this act remaining in the fund at the end of a fiscal year shall be transferred to the Mississippi Trauma Care Systems Fund created under Section 41-59-75.

(b) Monies in the special fund may be used by the Department of Public Safety and the Department of Revenue, upon appropriation by the Legislature, only for the purpose of defraying expenses and costs for the motor vehicle insurance verification system created under Section 2 of this act. Monies in the fund used for the purposes described in this paragraph (b) shall be in addition to other funds available from any other source for such purposes.

SECTION 8. Section 63-15-4, Mississippi Code of 1972, is amended as follows:

63-15-4. (1) The following vehicles are exempted from the requirements of this section:

(a) Motor vehicles exempted by Section 63-15-5;

(b) Motor vehicles for which a bond or a certificate of deposit of money or securities in at least the minimum amounts

required for proof of financial responsibility is on file with the department;

(c) Motor vehicles that are self-insured under Section 63-15-53; and

(d) Implements of husbandry.

(2) (a) Every motor vehicle operated in this state shall have an insurance card maintained in the motor vehicle as proof of liability insurance that is in compliance with the liability limits required by Section 63-15-3(j). The insured parties shall be responsible for maintaining the insurance card in each motor vehicle.

(b) An insurance company issuing a policy of motor vehicle liability insurance as required by this section shall furnish to the insured an insurance card for each motor vehicle at the time the insurance policy becomes effective. Beginning on July 1, 2013, insurers shall furnish commercial auto coverage customers with an insurance card clearly marked with the identifier, "Commercial Auto Insurance" or "Fleet" or similar language, to reflect that the vehicle is insured under a commercial auto policy.

(3) Upon stopping a motor vehicle at a roadblock where all passing motorists are checked as a method to enforce traffic laws or upon stopping a motor vehicle for any other statutory violation, a law enforcement officer, who is authorized to issue traffic citations, shall verify that the insurance card required by this section is in the motor vehicle. However, no driver shall be stopped or detained solely for the purpose of verifying that an insurance card is in the motor vehicle unless the stop is part of such roadblock. If the law enforcement officer uses the verification system created in Section 2 of this act and receives a response from the system verifying that the owner of the motor vehicle has liability insurance in the amounts required under Section 63-15-3(j), then the officer shall not issue a citation

under this section notwithstanding any failure to display an insurance card by the owner or operator.

(4) Failure of the owner or the operator of a motor vehicle to have the insurance card in the motor vehicle is a misdemeanor and, upon conviction, is punishable by a fine of Five Hundred Dollars ($500.00) and suspension of driving privilege for a period of one (1) year or until the owner of the motor vehicle shows proof of liability insurance that is in compliance with the liability limits required by Section 63-15-3(j). Fraudulent use of an insurance card shall be punishable in accordance with Section 97-7-10. The funds from such fines shall be deposited in the State General Fund in the State Treasury. However, if such fines are levied in a municipal court, fifty percent (50%) of the funds from such fines shall be deposited in the general fund of the municipality. If such fines are levied in any of the courts of the county, fifty percent (50%) of the funds from such fines shall be deposited in the general fund of the county. A person convicted of a criminal offense under this subsection (4) shall not be convicted of a civil violation under Section 7(1) of this act arising from the same incident.

(5) If, at the hearing date or the date of payment of the fine, the motor vehicle owner shows proof of motor vehicle liability insurance in the amounts required by Section 63-15-3(j), the fine shall be reduced to One Hundred Dollars ($100.00). If the owner shows proof that such insurance was in effect at the time of citation, the case shall be dismissed as to the defendant with prejudice and all court costs shall be waived against the defendant.

SECTION 9. It is the intent of the Legislature that no portion of this act shall be interpreted to mean that any particular vendor's verification system or methodology be considered preferential to another's solely based on any language

in this act and as long as the system is in compliance with this act.

SECTION 10. Sections 1 through 7 of this act shall stand repealed from and after July 1, 2018.

SECTION 11. This act shall take effect and be in force from and after July 1, 2012, except for Section 5 of this act which shall take effect and be in force from and after July 1, 2013.

PASSED BY THE SENATE
March 13, 2012

Tate Reeves
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
April 10, 2012

Philip Gunn
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant
GOVERNOR

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