



April 2, 2015

**SUMMARY OF ORIGINAL BILL:** Enacts the James Lee Atwood Jr. Law with the purpose of developing and implementing an efficient insurance verification program. Requires the Commissioner of the Department of Revenue (DOR), with the Department of Safety's (DOS) cooperation, to contract with a designated agent to develop and implement an electronic insurance verification program to electronically verify whether the financial responsibility requirements have been met with a motor vehicle liability insurance policy.

Requires the program to: be an accessible common carrier based system for online electronic verification of proof of motor vehicle liability insurance in accordance with IICMVA specifications and standards; verify, on an on-demand basis, the liability insurance status of a motor vehicle; require auto liability insurers that only participate in the IICMVA model to accept unknown carrier requests in an effort to confirm the liability insurance status of the motor vehicle in instances where the program is unable to verify the liability insurance status; use multiple data elements to make insurance verification inquiries more accurately; provide sufficient measures for the security and integrity of data collected by the program; limit the usage of the information obtained through the program as necessary to effectuate the purposes of this chapter; utilize open data and data transmission standards as determined by the DOR; send requests to auto liability insurers for verification of evidence of financial responsibility via online services established by the auto liability insurers, or offered through a similar proprietary or common carrier electronic system in compliance with the specifications and standards of the IICMVA; respond to a verification request within a an established time period; and work in conjunction with existing state programs and systems.

Requires DOR to: consult and cooperate with auto liability insurers in establishing and operating the program; designate and maintain a contact person for auto liability insurers; publish for comment, and then issue, a detailed guide of the program; establish and maintain the systems necessary to make verification requests to insurers using the data elements that DOR and auto liability insurers have agreed upon and are necessary to receive accurate responses from insurers; implement and maintain, for all information transmitted and received, strict system and data security measures; keep the designated agent informed on the implementation status, functionality, and planned or unplanned service interruptions; and provide alternative methods of reporting for auto liability insurers writing fewer than 500 noncommercial motor vehicle policies in Tennessee.

Requires an insurer to provide to the designated agent a full book of business by the seventh day of each calendar month, at a minimum, if the insurer chooses not to participate in the IICMVA model. Establishes that any information obtained from the program is not a public record or discoverable in the course of legal proceedings. Requires the DOR and DOS to, by January 1,

2019, and annually thereafter, issue a joint report to the General Assembly evidencing the cost and effectiveness of the program, the number of persons complying with the financial responsibility requirements through means other than motor vehicle liability insurance, and the number of persons convicted per year for failing to show evidence of financial responsibility.

Requires DOR to direct the designated agent to provide notice to an owner of a motor vehicle found not to be insured for three consecutive months that the owner has fifteen days to provide proof of financial responsibility or proof of exemption from financial responsibility requirements. Requires the designated agent to provide a second 15-day notice if the owner fails to provide satisfactory proof, indicate information relating to the owner’s failure in the database, and notify state and local law enforcement agencies as requested. Requires DOR to revoke the registration if the owner fails to comply with the second notice, and provide, or direct the designated agent to provide, appropriate notices of the revocation, legal consequences of operating a motor vehicle with revoked registration and instructions on how to get the registration reinstated. Creates a Class B misdemeanor offense for providing false or fraudulent statements to DOR or the designated agent.

Requires applicants to pay an additional \$300 fee for reinstatement or renewal of registration of a motor vehicle after a revocation of the registration under this program, of which \$290 will be retained by DOR and \$10 will be transmitted to the county clerks of the county in which the vehicle is registered. Increases, from \$100 to \$300, the maximum fine for a failure to provide evidence of financial responsibility. Requires the program to be installed and fully operational by January 1, 2017, following a 12-month implementation period. Prohibits any law enforcement action to be taken based on the system until the 12-month implementation period is successfully completed. Creates the Uninsured Motorist Identification Restricted Fund (UMIRF), within the General Fund, consisting of money generated from this part and from funds appropriated by the General Assembly. Prohibits DOR or the designated agent from imposing any fees or surcharges on auto liability insurers. Requires auto liability insurers to comply with any requirements set forth in this Law. Authorizes DOR to assess a civil penalty of up to \$250 for each day an insurer fails to comply with the requirements of the Law.

**FISCAL IMPACT OF ORIGINAL BILL:**

Increase State Revenue – Net Impact – \$17,232,600/FY16-17  
\$34,465,100/FY17-18 and Subsequent Years

Increase State Expenditures – \$2,750,000/FY15-16  
\$2,935,400/FY16-17  
\$3,054,700/FY17-18 and Subsequent Years

Decrease Local Revenue – Net Impact – \$1,158,600/FY16-17  
\$2,317,100/FY17-18 and Subsequent Years

**IMPACT TO COMMERCE OF ORIGINAL BILL:**

Increase Business Revenue – \$2,750,000/FY15-16

\$102,245,000/FY16-17  
\$201,740,000/FY17-18 and Subsequent Years

Increase Business Expenditures – Exceeds \$2,200,000/FY15-16  
Exceeds \$81,796,000/FY16-17  
Exceeds \$161,392,000/FY17-18 and Subsequent Years

**SUMMARY OF AMENDMENTS (005102, 005699):** Amendment 005102 makes multiple technical, clarifying, re-defining changes to the original bill. Among others, it: authorizes a law enforcement officer to tow a motor vehicle of a driver that fails to provide evidence of financial responsibility pursuant to this act; removes the reinstatement or renewal of registration fee of \$300 imposed by the original bill; requires DOR to direct the designated agent to provide notice to an owner of a motor vehicle found not to be insured that the owner has fifteen days to provide proof of financial responsibility or proof of exemption from financial responsibility requirements; imposes a \$25 coverage failure fee, of which \$5 shall be distributed to the local government, \$5 to the DOS, and \$15 to the UMIRF within the General Fund, for a failure to comply with the requirements set forth in the notice; requires DOR to provide a notice to the owner stating that the owner must pay the coverage failure fee and provide satisfactory proof of financial responsibility or proof of exemption from financial responsibility requirements within 30 days of the notice; imposes an additional \$100 continued coverage failure fee, of which \$10 shall be distributed to the local government, \$5 to the DOS, and \$85 to the UMIRF within the General Fund; requires DOR to suspend or revoke the motor vehicle owner's registration upon failure to comply with the second notice. Authorizes the Commissioner of the Department of Commerce and Insurance, instead of the Commissioner of DOR, to assess a civil penalty of up to \$250 for each day an insurer fails to comply with the requirements of the Law.

Amendment 005699 establishes that the increase, from \$100 to \$300, to the maximum fine for a failure to provide evidence of financial responsibility will take effect July 1, 2015.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:**

**Increase State Revenue – Net Impact – \$5,610,900/FY15-16  
\$7,324,800/FY16-17  
\$9,038,600/FY17-18 and Subsequent Years**

**Increase State Expenditures – \$2,750,000/FY15-16  
\$2,935,400/FY16-17  
\$3,054,700/FY17-18 and Subsequent Years**

**Increase Local Revenue – \$295,300/FY15-16  
Decrease Local Revenue – Net Impact – \$1,149,100/FY16-17  
\$2,593,500/FY17-18 and Subsequent Years**

Assumptions for the bill as amended:

- Based on data provided by DOR, it is reasonably estimated there are approximately 5,500,000 motor vehicles, not including motorized bicycles, registered in Tennessee every year without a permanent license plate. This number is assumed to remain constant into perpetuity.
- According to a 2014 study by the Insurance Research Council, in 2012, Tennessee had the sixth highest uninsured motorist rate in the nation, with an estimated 20.1 percent of drivers being uninsured.
- The total number of uninsured motorists is estimated to be 1,105,500 (5,500,000 x 20.1%).
- Based upon data from the Utah's Uninsured Motorist Identification Program and various available studies, it is estimated that 60 percent of uninsured motorists, or 663,300 (1,105,500 x 60.0%), will be able to acquire appropriate levels of insurance and will be able to continue renewing their motor vehicle registrations. As a result, there will be a recurring increase in state revenue derived from additional insurance premium taxes as 663,300 individuals acquire insurance.
- Pursuant to Tenn. Code Ann. § 56-4-205(a), the gross premium tax is a 2.5 percent tax on gross insurance premiums. Assuming an average annual premium of \$300 for the minimum required level of liability insurance, the recurring state increase in gross premium tax revenue is estimated to be \$4,974,750 (663,300 individuals x \$300 annual premium x 2.5% tax).
- Of the remaining 40 percent, or 442,200 (1,105,500 – 663,300), 50 percent, or 221,100, will not be able to acquire or maintain adequate insurance and will not be able to renew or maintain motor vehicle registrations, thus resulting in a recurring decrease in motor vehicle registration fee revenue.
- The average state registration fee among all class codes is estimated to be \$28.00 per vehicle; the average county wheel tax is estimated to be \$27.00 per vehicle.
- The recurring decrease in state revenue attributable to reduced registration fees is estimated to be \$6,190,800 (221,100 x \$28.00).
- The recurring decrease in local government revenue attributable to reduced registration fees is estimated to be \$5,969,700 (221,100 x \$27.00).
- The remaining 50 percent, or 221,100, will acquire insurance for the purpose of initially obtaining motor vehicle registrations, but will subsequently and repeatedly lapse in making premium payments, causing insurance companies to terminate their policies, and subsequently causing DOR to revoke the applicable motor vehicle registrations.
- Fifty percent of such individuals, or 110,550 (221,100 x 50%), will lapse in making premium payments during the first year; the remaining 50 percent are assumed to lapse in making premium payments during the second year. These individuals will repeatedly have difficulty maintaining adequate liability insurance, and as a result, will have difficulty maintaining their motor vehicle registrations. However, these individuals will continue to attempt to be in compliance with this law over time. As a result, it is estimated that 110,550 individuals will have their motor vehicle registrations revoked in any given year. It is further estimated that these individuals will subsequently pay appropriate reinstatement fees to reacquire their motor vehicle registrations.

- Ten percent of such individuals, or 11,055 ( $110,550 \times 10\%$ ), will provide satisfactory proof of financial responsibility or a proof of exemption from financial responsibility requirements in less than fifteen days from receipt of the first notice, and will not pay a coverage failure fee. Thirty percent, or 33,165 ( $110,550 \times 30\%$ ), will provide satisfactory proofs in less than thirty days, but more than 15 days, and will pay a \$25 coverage failure fee. Sixty percent, or 66,330 ( $110,550 \times 60\%$ ), will not provide satisfactory proofs within 30 days and will be charged a \$100 continued coverage failure fee.
- The recurring increase in state revenue is estimated to be \$6,633,000 [ $(33,165 \times \$20) + (66,330 \times \$90)$ ].
- The recurring increase in local revenue is estimated to be \$829,125 [ $(33,165 \times \$5) + (66,330 \times \$10)$ ].
- The reinstatement fee for a motor vehicle registration is estimated to be \$45.00, of which \$22.50 is the state portion and \$22.50 is the local portion.
- The recurring increase in state revenue is estimated to be \$2,487,375 ( $110,550 \times \$22.50$ ); the recurring increase in local revenue is estimated to be \$2,487,375 ( $110,550 \times \$22.50$ ).
- Of the 442,200 individuals who cannot consistently maintain insurance, approximately 5 percent, or 22,110, will be cited each year for driving with a revoked motor vehicle registration. These individuals are assumed to incur violations each year under current law for driving without adequate insurance. Seventy percent of these individuals, or 15,477, are cited as first-time offenders; the remaining 30 percent, or 6,633, are cited as second-time offenders.
- Given these individuals are not able to consistently maintain adequate insurance, a higher than normal indigent rate is assumed. Forty percent of individuals that incur first-time violations under current law, or 6,191 ( $15,477 \times 40\%$ ), and fifty percent of individuals that incur second-time violations under current law, or 3,317 ( $6,633 \times 50\%$ ), are assumed to be indigent and, therefore, will not pay any assessed fines. As a result, approximately 9,286 first-time offenders ( $15,477 - 6,191$ ), and approximately 3,317 second-time offenders will pay their assessed fines under current law.
- Individuals assumed to pay fines under current law are assumed to pay any incremental fines under this bill. The average incremental fine for first-time offenders (for driving with a revoked motor vehicle registration) is estimated to be \$75.00; the average incremental fine for second-time offenders is estimated to be \$150.00. The incremental fines estimated are assumed to be the difference between the total fine these individuals will incur under this bill (for driving on a revoked motor vehicle registration and without adequate liability insurance), and the fine these individuals incur under current law (for driving without adequate liability insurance).
- The recurring increase in fine revenue is estimated to be \$1,194,000 [ $(9,286 \times \$75.00) + (3,317 \times \$150.00)$ ].
- Local governments are estimated to receive five percent of fine revenue as commission. The recurring increase in fine revenue to the state is estimated to be \$1,134,300 ( $\$1,194,000 \times 95\%$ ); the recurring increase in fine revenue to the local government is estimated to be \$59,700 ( $\$1,194,000 \times 5\%$ ).
- The net recurring increase in state revenue is estimated to be \$9,038,625 ( $\$4,974,750 - \$6,190,800 + \$6,633,000 + \$2,487,375 + \$1,134,300$ ).

- The net recurring decrease in local government revenue is estimated to be \$2,593,500 (\$5,969,700 - \$829,125 - \$2,487,375 - \$59,700).
- The proposed legislation requires the program to be installed and fully operational by January 1, 2017, upon certification by the Commissioner of DOR that the program has been successfully tested and is ready for implementation, and prohibits any law enforcement action to be taken based on the system until the 12-month implementation period is successfully completed.
- As a result the first-year impact (equal to 50 percent of the full-year impact) will be FY16-17.
- However, pursuant to Amendment 005699, the increase, from \$100 to \$300, to the maximum fine for a failure to provide evidence of financial responsibility will take effect July 1, 2015.
- The Department of Safety reports that the number of citations issued for failure to provide evidence of financial responsibility was 60,085 in 2013 and 61,695 in 2014. The average fine is assumed to be \$75, and the collection rate for such fines is estimated to be 75 percent. Under current law, it is estimated that there would be 63,000 of such citations issued per year, beginning in FY15-16.
- It is estimated that there will be approximately 60,000 of such citations in FY15-16 and 30,000 in the first half of FY16-17 (before January 1, 2017) as a result of this bill as amended. The average fine is assumed to be \$225, and the collection rate for such fines is estimated to be 70 percent.
- Local governments are estimated to receive five percent of fine revenue as commission.
- The resulting net increase in total fine revenue is estimated to be \$5,906,250 in FY15-16 [(60,000 x \$225 x 70%) – (63,000 x \$75 x 75%)], of which 95 percent, or \$5,610,938, is the state increase and 5 percent, or \$295,312, is the local increase. The net increase in total fine revenue is estimated to be \$2,953,125 in FY16-17 [(30,000 x \$225 x 70%) – (31,500 x \$75 x 75%)], of which 95 percent, or \$2,805,469, is the state increase and 5 percent, or \$147,656, is the local increase.
- The net increase in state revenue is estimated to be: \$5,610,938 in FY15-16, \$7,324,782 in FY16-17 [(\$9,038,625 x 50%) + \$2,805,469], and \$9,038,625 in FY17-18 and subsequent years.
- The increase in local revenue is estimated to be \$295,312 in FY15-16. The net decrease in local revenue is estimated to be: \$1,149,094 in FY16-17 [(\$2,593,500 x 50%) - \$147,656], and \$2,593,500 in FY17-18 and subsequent years.
- The cost to establish and maintain the program is estimated to be \$0.50 per registered vehicle. The recurring increase in state expenditures beginning in FY15-16 is estimated to be \$2,750,000 (5,500,000 x \$0.50).
- DOR reports that this bill will require six additional Vehicle Services Representative 3 positions to accommodate the increase in the number of revoked registrations and the resulting increase in calls received and outgoing correspondence by the Vehicle Services Division and county clerks. The one-time increase in state expenditures associated with these positions is estimated to be \$33,000; the recurring increase in state expenditures will be \$304,749.
- Any other additional requirements of the Department can be accommodated within existing resources without an increased appropriation or reduced reversion.

- The total increase in state expenditures is estimated to be: \$2,750,000 in FY15-16; \$2,935,375 [ $\$2,750,000 + \$33,000 + (\$304,749 \times 50\%)$ ] in FY16-17; and \$3,054,749 ( $\$2,750,000 + \$304,749$ ) in FY17-18 and subsequent years.
- There will not be a sufficient number of prosecutions for local governments to experience any significant increase in revenue or expenditures.

## **IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:**

### **Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Approximately 663,300 individuals will acquire appropriate levels of insurance as a result of this bill.
- Assuming an average annual premium of \$300 for the minimum required level of liability insurance, the recurring increase in business revenue is estimated to be \$198,990,000 ( $663,300 \times \$300$ ), beginning in FY17-18. The first-year impact (FY16-17) will be 50 percent, or \$99,495,000, of the full-year increase.
- The recurring increase in business revenue, beginning in FY15-16, for creation and maintenance of the program is estimated to be \$2,750,000.
- The total increase in business revenue is estimated to be: \$2,750,000 in FY15-16; \$102,245,000 ( $\$2,750,000 + \$99,495,000$ ) in FY16-17; and \$201,740,000 ( $\$2,750,000 + \$198,990,000$ ) in FY17-18 and subsequent years.
- There will be an increase in business expenditures for the cost of providing goods and services. Based on the analysis of industry profit margins, this increase in business expenditures is reasonably estimated to exceed 80 percent of total revenue generated as a result of this bill. The increase in business expenditures is estimated to exceed: \$2,200,000 in FY15-16; \$81,796,000 in FY16-17; and \$161,392,000 in FY17-18 and subsequent years.
- Private sector jobs could increase for insurance companies and companies contracting with the state to develop and maintain the required program. However, private sector jobs could be negative affected by people who will not be able to acquire or maintain adequate insurance and will not be able to renew or maintain motor vehicle registrations as a result of this bill. Any net impact on private sector jobs in Tennessee cannot be quantified with reasonable certainty.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Jeffrey L. Spalding, Executive Director

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