

FIRST REGULAR SESSION

HOUSE BILL NO. 610

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MOLENDORP (Sponsor) AND NANCE (Co-sponsor).

1528L.011

D. ADAM CRUMBLISS, Chief Clerk

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Section A. Sections 303.400, 303.403, 303.406, 303.409, 303.412, and 303.415, RSMo, are repealed and six new section enacted in lieu thereof, to be known as sections 303.400, 303.403, 303.406, 303.409, 303.410, and 303.412, to read as follows:

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

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

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

303.406. 1. The "Motorist Insurance Identification Database" is hereby created for the purpose of establishing a database to use to verify compliance with the motor vehicle financial responsibility requirements of this chapter. The program shall be administered by the **highway patrol in coordination with the** department [and shall receive funding from the "Motorist Insurance Identification Database Fund", which is hereby created in the state treasury]. Effective July 1, [2002] **2012**, the [state treasurer shall credit to and deposit in the motorist insurance

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

25 2. To implement the program, the [department may] **highway patrol shall** by [July 1,
26 2002] **January 1, 2012**, contract with a designated agent which shall monitor compliance with
27 the motor vehicle financial responsibility requirements of this chapter, except that the program
28 shall not be implemented to notify owners of registered motor vehicles until the department
29 certifies that the accuracy rate of the program exceeds ninety-five percent in correctly identifying
30 owners of registered motor vehicles as having maintained or failed to maintain financial
31 responsibility. After the [department] **highway patrol** has entered into a contract with a
32 designated agent, the [department] **highway patrol** shall convene a working group for the
33 purpose of facilitating the implementation of the program.

34 3. The designated agent, using its own computer network, shall, no later than [December
35 31, 2002] **June 30, 2012**, develop, deliver and maintain a computer database with information
36 provided by:

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

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

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

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

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

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

61 (a) The individual;

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

64 (c) The legal guardian of the individual if the individual is legally incapacitated;

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

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

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

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

72 6. Any person or agency who knowingly discloses information from the database for any
73 purpose, or to a person, other than those authorized in this section is guilty of a class A
74 misdemeanor. The state shall not be liable to any person for gathering, managing or using
75 information in the database pursuant to this section. The designated agent shall not be liable to
76 any person for performing its duties pursuant to this section unless and to the extent such agent
77 commits a willful and wanton act or omission [or is negligent]. The designated agent shall be

78 liable to any insurer damaged by the designated agent's negligent failure to protect the
79 confidentiality of the information and data disclosed by the insurer to the designated agent. [The
80 designated agent shall provide to this state an errors and omissions insurance policy covering
81 such agent in an appropriate amount.] No insurer shall be liable to any person for performing its
82 duties pursuant to this section unless and to the extent the insurer commits a willful and wanton
83 act of omission.

84 7. The [department] **highway patrol** shall review the operation and performance of the
85 motorist insurance identification database program to determine whether the number of
86 uninsured motorists has declined during the first three years following implementation and shall
87 submit a report of its findings to the general assembly no later than January fifteenth of the year
88 following the third complete year of implementation. The [department] **highway patrol** shall
89 make copies of its report available to each member of the general assembly.

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

92 9. The working group as provided for in subsection 2 of this section shall consist of
93 representatives from the insurance industry, department of insurance, financial institutions and
94 professional registration, department of public safety and the department of revenue. The
95 [director of revenue] **superintendent of the highway patrol**, after consultation with the working
96 group, shall promulgate any rules and regulations necessary to administer and enforce this
97 section. No rule or portion of a rule promulgated pursuant to the authority of this section shall
98 become effective unless it has been promulgated pursuant to the provisions of chapter 536.

303.409. 1. If the motorist insurance identification database indicates the owner of a
2 registered motor vehicle has, regardless of the owner's operation of such motor vehicle, failed
3 to maintain the financial responsibility required in section 303.025 for [two] **three** consecutive
4 months, the designated agent shall on behalf of the director **of the department of revenue**
5 inform the owner that the director **of the department of revenue** will suspend the owner's
6 vehicle registration if the owner does not present proof of insurance as prescribed by the director
7 **of the department of revenue** within thirty days from the date of mailing. The designated agent
8 shall not select owners of fleet or rental vehicles or vehicles that are insured pursuant to a
9 commercial line policy for notification to determine motor vehicle liability coverage. The
10 director **of the department of revenue** may prescribe rules and regulations necessary for the
11 implementation of this subsection. The notice issued to the vehicle owner by the designated
12 agent shall be sent to the last known address shown on the department's records. The notice is
13 deemed received three days after mailing. The notice of suspension shall clearly specify the
14 reason and statutory grounds for the suspension and the effective date of the suspension, the right
15 of the person to request a hearing, the procedure for requesting a hearing and the date by which

16 that request for a hearing must be made. The suspension shall become effective thirty days after
17 the subject person is deemed to have received the notice of suspension by first class mail as
18 provided in section 303.041. If the request for a hearing is received prior to the effective date
19 of the suspension, the effective date of the suspension will be stayed until a final order is issued
20 following the hearing; however, any delay in the hearing which is caused or requested by the
21 subject person or counsel representing that person without good cause shown shall not result in
22 a stay of the suspension during the period of delay.

23 2. Neither the fact that, subsequent to the date of verification, the owner acquired the
24 required liability insurance policy nor the fact that the owner terminated ownership of the motor
25 vehicle shall have any bearing upon the director's decision to suspend. The suspension shall
26 remain in force until termination despite the renewal of registration or acquisition of a new
27 registration for the motor vehicle. The suspension shall also apply to any motor vehicle to which
28 the owner transfers the registration.

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

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

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

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

45 4. In the event that proof of insurance as prescribed by the director **of the department**
46 **of revenue** has not been filed with the department of revenue in accordance with this chapter
47 prior to the end of the period of suspension provided in this section, such period of suspension
48 shall be extended until such proof of insurance has been filed. In no event shall filing proof of
49 insurance reduce any period of suspension. If proof of insurance is not maintained during the
50 three-year period following the reinstatement or termination of the suspension, the director **of**
51 **the department of revenue** shall again suspend the license and motor vehicle registration until

52 proof of insurance is filed or the three-year period has elapsed. In no event shall filing proof of
53 insurance reduce any period of suspension.

54 5. Notwithstanding the provisions of subsection 1 of this section, the director **of the**
55 **department of revenue** shall not suspend the registration or registrations of any owner who
56 establishes to the satisfaction of the director **of the department of revenue** that the owner's
57 motor vehicle was inoperable or being stored and not operated on the date proof of financial
58 responsibility is required by the director.

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

5 (1) **Date and time of service;**

6 (2) **The tow truck operator's name and address;**

7 (3) **The vehicle identification number and license plate number of the motor vehicle**
8 **towed;**

9 (4) **The name of the law enforcement agency requesting the tow, if applicable;**

10 (5) **The name, address, and telephone number of the storage facility where the**
11 **motor vehicle has been towed to, if different than the address provided for in subdivision**
12 **(2) of this subsection;**

13 (6) **Any additional information required by the superintendent of the Missouri**
14 **highway patrol, as prescribed by rule.**

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

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

25 4. **The superintendent of the highway patrol shall promulgate rules and regulations**
26 **for the administration and enforcement of this subsection. Any rule or portion of a rule,**
27 **as that term is defined in section 536.010 that is created under the authority delegated in**
28 **this section shall become effective only if it complies with and is subject to all of the**
29 **provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536**

30 are nonseverable and if any of the powers vested with the general assembly pursuant to
31 chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are
32 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
33 proposed or adopted after August 28, 2011, shall be invalid and void.

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

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

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

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

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

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

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

3 2. The enactment of section 303.025, and the repeal and reenactment of
4 sections 303.406, 303.409, 303.412 and 303.415 shall become effective July 1,
5 2002 and sections 303.406, 303.409 and 303.412 shall expire on June 30, 2007.]