



Ohio Legislative Service Commission

Bill Analysis

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H.B. 71

130th General Assembly
(As Introduced)

Reps. Roegner, Derickson, Duffey, Stebelton, Brenner, O'Brien, Lynch, Damschroder, Ruhl, Huffman, Maag, Anielski, Patmon, Terhar, Wachtmann, Young

BILL SUMMARY

- Eliminates the Bureau of Motor Vehicle's financial responsibility random verification system that is currently used to verify compliance with the Financial Responsibility Law.
- Establishes an electronic motor vehicle insurance verification system to replace the financial responsibility random verification system, to be operational by July 1, 2014.
- Authorizes the Registrar of Motor Vehicles to contract with a private vendor to establish and maintain the electronic motor vehicle insurance verification system.
- Requires the Registrar, with the approval of the Director of Public Safety, to adopt rules to establish an electronic motor vehicle insurance verification system to verify compliance with the proof of financial responsibility requirements when maintained through a motor-vehicle liability policy.
- Requires insurers that provide motor-vehicle liability policies in Ohio to cooperate with the Registrar of Motor Vehicles in establishing and maintaining the electronic motor vehicle insurance verification system.
- Requires insurers to provide specified information to the BMV not later than five business days after the date a motor-vehicle liability policy is issued, cancelled, or has lapsed.
- Authorizes a peace officer to access the electronic motor vehicle insurance verification system to verify compliance with the proof of financial responsibility requirements.

- Specifies that a response received from the electronic motor vehicle insurance verification system supersedes any motor-vehicle liability policy proof of financial responsibility produced by a motor vehicle owner or operator.
- Requires a Registrar of Motor Vehicles or Deputy Registrar to refuse an application for registration of a motor vehicle if the Registrar or Deputy Registrar is unable to verify a current, valid motor-vehicle liability policy or other proof of financial responsibility.
- Expands the information that an application for registration or registration renewal of a motor vehicle must include to contain a statement signed by the applicant that notifies the applicant that the application will be refused if, on or after July 1, 2014, the Registrar or Deputy Registrar is unable to verify a current, valid motor-vehicle liability policy or other proof of financial responsibility.
- Requires the Bureau of Motor Vehicles to monitor the electronic insurance verification system, and notify a person, in writing, who is listed in the system as not having a current, valid motor-vehicle liability policy for proof of financial responsibility.
- Requires a person to demonstrate proof of financial responsibility after receiving a notice must have their license suspended and certificate of registration and license plates impounded if the person fails to demonstrate compliance with the Financial Responsibility Law.
- Prohibits the Registrar of Motor Vehicles from restoring a person's operation privileges or suspended registration rights, or return any impounded license, certification of registration, or license plates unless certain conditions are met.
- Authorizes the Registrar of Motor Vehicles to terminate any suspension if the Registrar determines that the owner of the vehicle in violation of the Financial Responsibility Law has established by clear and convincing evidence certain criteria.
- Authorizes a person who is adversely affected by an order of the Registrar of Motor Vehicles to request an administrative hearing before the Registrar within ten days after the issuance of an order.

CONTENT AND OPERATION

Overview

The bill eliminates the random verification system that is currently used in Ohio to verify compliance with the Financial Responsibility Law.¹ In its place, the bill establishes an electronic motor vehicle insurance verification system (the system), and requires the system to be operational by July 1, 2014. The Registrar of Motor Vehicles (Registrar) must adopt rules to establish the system with the approval of the Director of Public Safety. Additionally, the bill requires insurers to notify the Bureau of Motor Vehicles ("BMV") of each person to whom it issues a motor vehicle insurance policy, when a person cancels a policy, or a policy lapses.

Operation of the system

The bill requires that the system must be installed and operational not later than July 1, 2014, following an appropriate testing period. Under the bill, information in the system must be available to the Department of Public Safety for all purposes authorized by law.²

Powers and duties of the Registrar

Under the bill, the Registrar is authorized to contract with a private vendor to establish and maintain the system, and may use any existing, secure network available to peace officers to exchange information at the time the peace officer acts to enforce the traffic laws of Ohio and during motor vehicle inspections.³ The bill requires the Registrar, with the approval of the Director of Public Safety, to adopt rules to establish the system to verify compliance with the proof of financial responsibility requirements when maintained through a motor-vehicle liability policy. The rules must require the system to do all of the following:

- Receive information from insurers to verify current, valid motor-vehicle liability policy proof of financial responsibility, and identify motor vehicles that are not covered by such a policy;
- Include appropriate provisions to secure the system's data against unauthorized access;

¹ Section 3 of the bill.

² R.C. 4509.03(C)(2) and (3).

³ R.C. 4509.03(C)(4) and 4509.101(D)(2).



- Be accessible, without a fee, to authorized personnel of the BMV, deputy registrars, the courts, and peace officers;
- Be available 24 hours a day, seven days a week to verify the insurance status of motor vehicles operated in Ohio, subject to reasonable allowances for scheduled maintenance or temporary system failures.⁴

Duties of insurers providing motor-vehicle liability policies

Under the bill, each insurer that delivers, issues for delivery, or renews a motor-vehicle liability policy in Ohio that provides proof of financial responsibility must cooperate with the Registrar in establishing and maintaining the system. Additionally, under the bill, each insurer must provide information necessary to verify current, valid proof of financial responsibility for any person to whom it issues, or has issued, a motor-vehicle liability policy.⁵ The required information must include the names and addresses, as shown in the insurer's records, of persons to whom the insurer these policies, persons who cancel a policy, and persons who allow a policy to lapse through failure to pay the premium due. Additionally, the bill requires that for each person identified above, the insurer must provide a brief description of each motor vehicle that is covered by the motor-vehicle liability policy, including the year, make, model, and vehicle identification number.⁶

The insurer must furnish this information to the BMV not later than five business days after the date the policy is issued, cancelled, or has lapsed. Once the Registrar receives this information, the Registrar must promptly enter the information into the system. The bill authorizes the Registrar to require insurers to send the required information to the BMV via electronic means.⁷

Authorized use of the system by peace officers

Under the bill, a peace officer is authorized to access the system to verify compliance with the proof of financial responsibility requirements. For a motor-vehicle liability policy, the response received from the system supersedes any motor-vehicle liability policy proof of financial responsibility produced by a motor vehicle owner or operator. If, under the bill, the electronic verification system indicates that the person does not have a current, valid motor-vehicle liability policy and the person does not

⁴ R.C. 4509.03(C)(1) and (3).

⁵ R.C. 4509.03(C)(5).

⁶ R.C. 4509.031(A).

⁷ R.C. 4509.031(B) and (C).

provide other valid proof of financial responsibility, the peace officer must proceed in the same manner as if the person was unable to produce proof of financial responsibility.⁸

Application for registration of a motor vehicle

Under continuing law, an application for the registration of a motor vehicle must contain a statement to be signed by the applicant either manually or by electronic signature. The bill also requires applications for renewal of a registration to contain the same statement. Under the bill, the statement must notify the applicant that the application will be refused if, on or after July 1, 2014, the Registrar or Deputy Registrar is unable to verify a current, valid motor-vehicle liability policy or other proof of financial responsibility. Continuing law requires the statement to also do all of the following:

- State that the applicant maintains or has maintained on the applicant's behalf, proof of financial responsibility at the time of the application, and will not operate a motor vehicle in Ohio, unless the applicant maintains proof of financial responsibility with respect to the operation of that motor vehicle;
- Contain a brief summary of the purposes and operation of law regarding operating a motor vehicle without proof of financial responsibility, the rights and duties of the applicant under this law, and the penalties for violation of this law;
- Warn the applicant that the Financial Responsibility Law does not prevent the possibility that the applicant may be involved in an accident with an owner or operator of a motor vehicle who is without proof of financial responsibility.⁹

In addition to the required statements, continuing law requires an applicant for registration, and the bill adds an applicant for registration renewal, be furnished with a form that lists in plain language all of the possible penalties to which a person could be subject for a violation of the Financial Responsibility Law. The applicant must read the form and either sign it manually or by electronic signature, which must be submitted along with the application for registration or registration renewal.¹⁰

⁸ R.C. 4509.010(D)(2).

⁹ R.C. 4503.20(B).

¹⁰ R.C. 4503.20(F).



On or after July 1, 2014, the bill requires the Registrar or Deputy Registrar to access the electronic motor vehicle insurance verification system created pursuant to the bill upon receipt of an application for registration or registration renewal to verify compliance with proof of financial responsibility requirements. Under the bill, an applicant who maintains proof of financial responsibility that is not a motor-vehicle liability policy, but that is otherwise acceptable under the Financial Responsibility Law, must provide the Registrar or Deputy Registrar with the authorized documents or a copy of the authorized documents.¹¹ If the Registrar or Deputy Registrar is unable to verify current, valid proof of financial responsibility with respect to the applicant, the Registrar or Deputy Registrar is required by the bill to refuse the application for registration or registration renewal.¹²

Failure to prove financial responsibility

The bill requires the BMV to monitor the system. If the BMV determines that a person has not maintained the person's motor-vehicle liability policy that provides proof of financial responsibility, the Registrar must send notification, in writing, to the person's last known address. The notification must explain that the system indicates the person does not have a current, valid motor-vehicle liability policy for proof of insurance, and that the person must present the Registrar with proof of financial responsibility. Under the bill, within 21 days after the Registrar mails the notification, the person must do one of the following:

- Demonstrate that the person has a valid motor-vehicle liability policy or other proof of financial responsibility;
- Surrender the certificate of registration, license plates, and license to the Registrar;
- Submit a statement, subject to the criminal law of falsification that the person did not operate or permit the operation of the motor vehicle without maintaining proof of financial responsibility, together with other information the person considers appropriate.

If, within 21 days of the mailing of the notice, the person does not take any action as described above, then the bill requires that the Registrar send a second notice to the person advising them that they are in violation of the Financial Responsibility Law, and that the Registrar must order the suspension of the person's driver's license and the impoundment of the person's certification of registration and license plates effective 30

¹¹ R.C. 4503.20(G).

¹² R.C. 4503.10(B)(6) and 4503.20(G).

days after the date the Registrar mailed the second notification.¹³ Finally, if prior to the end of the 30-day period the person does not take any action, the bill requires the Registrar to order the suspension of the person's license, and the impoundment of the person's certificate of registration and license plates.¹⁴

Restoring operating privileges or registration rights

The bill prohibits the Registrar from restoring a person's operating privileges or registration rights that are suspended, or return any license, certificate of registration, or impounded license plates unless, under continuing law, in addition to complying with all other conditions required by law for reinstatement of the operating privileges or registration rights, the person complies with all of the following:

- Pays to the Registrar or an eligible Deputy Registrar a financial responsibility reinstatement fee of \$100 for the first violation of operating a motor vehicle without proof of financial responsibility, \$300 for a second violation, \$600 for a third or subsequent violation;
- If the person has not voluntarily surrendered the license, certificate, or license plates in compliance with the order, pays to the Registrar or an eligible Deputy Registrar a financial responsibility nonvoluntary compliance fee in an amount that does not exceed \$50, determined by the Registrar;
- Files and continuously maintains proof of financial responsibility;
- Pays a Deputy Registrar a service fee of \$10 to compensate the Deputy Registrar for services performed.¹⁵

However, the bill authorizes the Registrar to terminate any suspension and not require the owner to comply with the above requirements if, under continuing law, the Registrar determines with or without a hearing that the owner of the vehicle has established by clear and convincing evidence that all of the following apply:

- The owner customarily maintains proof of financial responsibility.
- Proof of financial responsibility was not in effect for the vehicle on the date in question for one of the following reasons:

¹³ R.C. 4509.032(A).

¹⁴ R.C. 4509.032(B).

¹⁵ R.C. 4509.032(D) and 4509.101(A)(5).

- The vehicle was inoperable.
- The vehicle is operated only seasonally, and the date in question was outside the season of operation.
- A person other than the vehicle owner or driver was at fault for the lapse of proof of financial responsibility through no fault of the owner or driver.
- The lapse of proof of financial responsibility was caused by excusable neglect under circumstances that are not likely to recur and do not suggest a purpose to evade the requirements of the Financial Responsibility Law.

Under continuing law, the Registrar is authorized to grant an owner or driver relief if the driver's vehicle was inoperable or the vehicle was operated only seasonally, and the date in question was outside the season of operation whenever the vehicle was selected under the current random verification system, repealed by the bill. Continuing law authorizes the Registrar to grant relief under the no fault and excusable neglect excuses only if the owner or driver has not previously been granted relief.¹⁶

Administrative hearing procedure

Under the bill, a person who is adversely affected by an order of the Registrar is authorized to request an administrative hearing before the Registrar within ten days after the issuance of an order. Continuing law requires that the hearing must be limited to whether, at the time of the hearing, the person presents proof of financial responsibility covering the vehicle, and whether the person is eligible for an exemption from the order. Under continuing law, the Registrar is required to determine the date, time, and place of any hearing; provided that the hearing is held and an order is issued, or findings are made, within 30 days after the Registrar receives a request for a hearing. Continuing law authorizes the Registrar to choose a hearing location within 50 miles of the person's residence, or use the county seat of the county in which the person resides. If the Registrar's order of suspension or impoundment is upheld, continuing law requires the person who requested the hearing to pay the cost of the hearing before the Registrar.¹⁷

¹⁶ R.C. 4509.032(E) and 4509.101(L).

¹⁷ R.C. 4509.032(C) and 4509.101(D)(5)(c).

Elimination of the random verification system

The bill eliminates the current random verification system, and as such the bill removes the use of the program in the following circumstances:

- As a circumstance under which a person is required to verify the existence of proof of financial responsibility covering the operation of the motor vehicle or the person's operation of the motor vehicle;¹⁸
- As a reason a peace officer, who in the performance of the peace officer's duties as authorized by law, is required to issue a citation for failure to respond to a financial responsibility random verification;¹⁹
- As an affirmative defense to prosecution for driving under Financial Responsibility Law suspension or cancellation that the alleged offender was in compliance with the Financial Responsibility Law at the time the random verification request was received.²⁰

Additionally, in eliminating the random verification program, the bill repeals Section 3 of Am. Sub. S.B. 20 of the 120th General Assembly. This is an uncodified section of law that requires the Director of Public Safety and the Registrar to establish the random verification program by rule.

HISTORY

ACTION	DATE
Introduced	02-20-13

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¹⁸ R.C. 4509.101(A)(3)(c) and (6).

¹⁹ R.C. 4509.101(D)(1)(b).

²⁰ R.C. 4510.04.

