

FIRST REGULAR SESSION

HOUSE BILL NO. 638

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FUNDERBURK (Sponsor), TILLEY, TALBOY, SILVEY,
FRANZ, MOLENDORP, STILL, NANCE, COLONA, PARKINSON, GATSCHENBERGER,
SCHARNHORST, HUMMEL, MEADOWS AND RUZICKA (Co-sponsors).

1645L.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 insured vehicle identification network program, with an existing penalty provision and an emergency clause.

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,
2 are repealed and six new sections enacted in lieu thereof, to be known as sections 303.400,
3 303.403, 303.406, 303.409, 303.412, and 303.420, to read as follows:
- 4 303.400. **1.** The provisions of sections 303.400 to 303.415 shall be known as the
5 "[Motorist Insurance Identification Database] **Insured Vehicle Identification Network Act**".
- 6 **2.** The department of insurance, financial institutions and professional registration,
7 in collaboration with the department of revenue and the department of public safety, shall
8 establish the "Insured Vehicle Identification Network Program" to track insured
9 motorists, identify uninsured motorists, and maintain such information in a statewide
10 database for the purpose of reducing the number of uninsured drivers in this state.
- 11 **3.** The initial program shall operate for a period of six months. At the end of the
12 initial six-month period, the department, at the department's discretion, is authorized to:
- 13 **(1)** Continue the program after the initial six-month period, with no further
14 legislative authorization required; or
- 15 **(2)** Terminate the program immediately at the end of the six-month period and
16 notify the revisor of statutes of the termination of the program; or

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.

17 (3) Continue the program after the initial six-month period and submit a
18 recommendation to terminate the program to the general assembly by December 31, 2011.
19 Upon submission of such termination recommendation, the general assembly may
20 authorize the termination of the program by enactment of a concurrent resolution within
21 the first sixty days of the second regular session of the ninety-sixth general assembly.

22 303.403. As used in sections 303.400 to 303.415, the following terms mean:

23 (1) "Database", the [motorist insurance] **insured vehicle** identification database;

24 (2) "Department", the department of [revenue] **insurance, financial institutions and**
25 **professional registration**;

26 (3) "Designated agent", the party with which the department contracts to implement the
27 [motorist insurance] **insured vehicle** identification database. **The provisions of section 34.040**
28 **shall not apply to any contracts entered into by the department for the initial program. Any**
29 **contracts entered into by the department for the subsequent continuation of the program**
30 **shall be subject to the provisions of section 34.040**;

31 (4) "Program", the [motorist insurance] **insured vehicle** identification [database] **network**
32 **pilot** program.

33 303.406. 1. The "[Motorist Insurance] **Insured Vehicle** Identification Database" is
34 hereby created for the purpose of establishing a database to use to verify compliance with the
35 motor vehicle financial responsibility requirements of this chapter. The program shall be
36 administered by the department, **in collaboration with the departments of revenue and public**
37 **safety**, and shall receive funding from the "**Insured** Motorist [Insurance Identification Database]
38 Fund", which is hereby created in the state treasury. [Effective July 1, 2002] **Beginning on the**
39 **effective date of this section**, the state treasurer shall credit to and deposit in the **insured** motorist
40 [insurance identification database fund six percent of] **fund** the net general revenue portion
41 received from collections of the insurance premiums tax levied and collected pursuant to sections
42 148.310 to 148.461, RSMo. **All fees imposed under this chapter shall be deposited in the**
43 **fund**.

44 2. To implement the program, the department may [by July 1, 2002,] contract with a
45 designated agent which shall monitor compliance with the motor vehicle financial responsibility
46 requirements of this chapter[, except that the program shall not be implemented to notify owners
47 of registered motor vehicles until the department certifies that the accuracy rate of the program
48 exceeds ninety-five percent in correctly identifying owners of registered motor vehicles as having
49 maintained or failed to maintain financial responsibility. After the department has entered into
50 a contract with a designated agent, the department shall convene a working group for the purpose
51 of facilitating the implementation of the program].

52 3. The designated agent, using its own computer network, shall, [no later than December
53 31, 2002] **upon the effective date of this section**, develop, deliver and maintain a computer
54 database with information provided by:

55 (1) Insurers, pursuant to sections 303.400 to 303.415; except that, any person who
56 qualifies as self-insured pursuant to this chapter, or provides proof of insurance to the director **of**
57 **revenue** pursuant to the provisions of section 303.160, shall not be required to provide
58 information to the designated agent, but the state shall supply these records to the designated
59 agent for inclusion in the database; and

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

63 4. [The department shall establish guidelines for the designated agent's development of
64 the computer database so the database can be easily accessed by state and local law enforcement
65 agencies within procedures already established, and shall not require additional computer
66 keystrokes or other additional procedures by dispatch or law enforcement personnel. Once the
67 database is operational, the designated agent shall, at least monthly, update the database with
68 information provided by insurers and the department, and compare then-current motor vehicle
69 registrations against the database.

70 5.] Information provided to the designated agent by insurers and the department for
71 inclusion in the database established pursuant to this section is the property of the insurer or the
72 department, as the case may be, **shall remain the property of the insurer or the department**
73 **after any termination of the program**, and is not subject to disclosure pursuant to chapter 610,
74 RSMo. **Nothing in this section shall be construed as authorizing or otherwise permitting the**
75 **designated agent to sell any demographic information contained in or extracted from the**
76 **database.** Such information [may] **shall** not be disclosed except as follows:

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

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

82 (a) The individual;

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

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

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

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

89 (f) Any person claiming loss or injury in a motor vehicle accident in which the individual
90 is involved **or any organization, institution, or agency, both public and private, that claim**
91 **a loss or cost as the result of a motor vehicle accident in which the individual is involved;**

92 (g) The office of the state auditor, for the purpose of conducting any audit authorized by
93 law;

94 (h) **Any person or organization authorized under state law or under a contract**
95 **between such person or organization and the individual, including but not limited to**
96 **insurance companies and their designated staff.**

97 [6.] **5.** Any person or agency who knowingly discloses information from the database for
98 any purpose, or to a person, other than those authorized in this section is guilty of a class A
99 misdemeanor. The state shall not be liable to any person for gathering, managing or using
100 information in the database pursuant to this section. The designated agent shall not be liable to
101 any person for performing its duties pursuant to this section unless and to the extent such agent
102 commits a willful and wanton act or omission or is negligent. The designated agent shall be liable
103 to any insurer damaged by the designated agent's negligent failure to protect the confidentiality
104 of the information and data disclosed by the insurer to the designated agent. The designated agent
105 shall provide to this state an errors and omissions insurance policy covering such agent in an
106 appropriate amount. No insurer shall be liable to any person for performing its duties pursuant
107 to this section unless and to the extent the insurer commits a willful and wanton act of omission.

108 [7.] **6.** The department shall review the operation and performance of the [motorist
109 insurance] **insured vehicle** identification [database] **network** program [to determine whether the
110 number of uninsured motorists has declined during the first three years] following implementation
111 and shall submit a report of its findings to the general assembly no later than January [fifteenth
112 of the year following the third complete year of implementation] **15, 2012, and every January**
113 **fifteenth thereafter if the program is not terminated.** The department shall make copies of its
114 report available to each member of the general assembly.

115 [8.] **7.** This section shall not supersede other actions or penalties that may be taken or
116 imposed for violation of the motor vehicle financial responsibility requirements of this chapter.

117 [9. The working group as provided for in subsection 2 of this section shall consist of
118 representatives from the insurance industry, department of insurance, financial institutions and
119 professional registration, department of public safety and the department of revenue.]

120 **8.** The director of [revenue, after consultation with the working group,] **the department**
121 **of insurance, financial institutions and professional registration** shall promulgate any rules
122 and regulations necessary to administer and enforce this section. [No rule or portion of a rule

123 promulgated pursuant to the authority of this section shall become effective unless it has been
124 promulgated pursuant to the provisions of chapter 536, RSMo.] **Any rule or portion of a rule,**
125 **as that term is defined in section 536.010, that is created under the authority delegated in**
126 **this section shall become effective only if it complies with and is subject to all of the**
127 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536**
128 **are nonseverable and if any of the powers vested with the general assembly pursuant to**
129 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
130 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
131 **proposed or adopted after August 28, 2011, shall be invalid and void.**

132 303.409. 1. (1) If the [motorist insurance] **insured vehicle** identification database
133 [indicates the] **cannot identify that an** owner of a registered motor vehicle has, regardless of the
134 owner's operation of such motor vehicle, [failed to maintain] **is maintaining** the financial
135 responsibility required in section 303.025 [for two consecutive months], the designated agent shall
136 **notify the department of revenue of any such owners. Such notification may be provided**
137 **at designated intervals as determined by the department of insurance, financial institutions**
138 **and professional registration in consultation with the department of revenue. Upon**
139 **notification, the department shall review the list of such owners submitted by the designated**
140 **agent and authorize the designated agent to notify such owners of their noncompliance.**
141 **When authorized by the department of revenue, the designated agent shall** on behalf of the
142 director **of revenue** inform the owner that the director **of revenue** will suspend the owner's
143 vehicle registration if the owner does not present proof of insurance as prescribed by the director
144 **of revenue** within thirty days from the date of mailing. The designated agent shall not select
145 owners of fleet or rental vehicles or vehicles that are insured pursuant to a commercial line policy
146 for notification to determine motor vehicle liability coverage.

147 (2) The director **of revenue** may prescribe rules and regulations necessary for the
148 implementation of this subsection. **Any rule or portion of a rule, as that term is defined in**
149 **section 536.010, that is created under the authority delegated in this section shall become**
150 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**
151 **if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
152 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay the**
153 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
154 **then the grant of rulemaking authority and any rule proposed or adopted after August 28,**
155 **2011, shall be invalid and void.**

156 (3) The notice issued to the vehicle owner by the designated agent shall be sent to the last
157 known address shown on the department's records. The notice is deemed received three days after
158 mailing. The notice of suspension shall clearly specify the reason and statutory grounds for the

159 suspension and the effective date of the suspension, the right of the person to request a hearing,
160 the procedure for requesting a hearing and the date by which that request for a hearing must be
161 made. The suspension shall become effective thirty days after the subject person is deemed to
162 have received the notice of suspension by first class mail as provided in section 303.041. If the
163 request for a hearing is received prior to the effective date of the suspension, the effective date
164 of the suspension will be stayed until a final order is issued following the hearing; however, any
165 delay in the hearing which is caused or requested by the subject person or counsel representing
166 that person without good cause shown shall not result in a stay of the suspension during the period
167 of delay.

168 2. Neither the fact that, subsequent to the date of verification, the owner acquired the
169 required liability insurance policy nor the fact that the owner terminated ownership of the motor
170 vehicle shall have any bearing upon the [director's] decision **by the director of revenue** to
171 suspend. The suspension shall remain in force until termination despite the renewal of
172 registration or acquisition of a new registration for the motor vehicle. The suspension shall also
173 apply to any motor vehicle to which the owner transfers the registration.

174 3. Upon receipt of notification from the designated agent, the director **of revenue** shall
175 suspend the owner's vehicle registration effective immediately. [The suspension period shall be
176 as follows:

177 (1) If the person's record shows no prior violation, the director shall terminate the
178 suspension upon payment of a reinstatement fee of twenty dollars and submission of proof of
179 insurance, as prescribed by the director;

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

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

188 4. In the event that proof of insurance as prescribed by the director has not been filed with
189 the department of revenue in accordance with this chapter prior to the end of the period of
190 suspension provided in this section, such period of suspension shall be extended until such proof
191 of insurance has been filed. In no event shall filing proof of insurance reduce any period of
192 suspension. If proof of insurance is not maintained during the three-year period following the
193 reinstatement or termination of the suspension, the director shall again suspend the license and

194 motor vehicle registration until proof of insurance is filed or the three-year period has elapsed.
195 In no event shall filing proof of insurance reduce any period of suspension.

196 5. Notwithstanding the provisions of subsection 1 of this section, the director shall not
197 suspend the registration or registrations of any owner who establishes to the satisfaction of the
198 director that the owner's motor vehicle was inoperable or being stored and not operated on the
199 date proof of financial responsibility is required by the director.]

200 303.412. 1. [Beginning March 1, 2003,] Before the seventh working date of each
201 calendar month, all licensed insurance companies in this state shall provide to the designated
202 agent a record of all policies in effect on the last day of the preceding month. This subsection
203 shall not prohibit more frequent reporting.

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

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

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

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

208 3. [The department of revenue shall notify the department of insurance, financial
209 institutions and professional registration of any insurer who violates any provisions of this act.]
210 The department of insurance, financial institutions and professional registration may, against any
211 insurer who fails to comply with this section, assess a fine not greater than one thousand dollars
212 per day of noncompliance. The department of revenue may assess a fine not greater than one
213 thousand dollars per day against the designated agent for failure to complete the project by the
214 dates designated in sections 303.400 to [303.415] **303.420** unless the delay is deemed beyond the
215 control of the designated agent or the designated agent provides acceptable proof that such a
216 noncompliance was inadvertent, accidental or the result of excusable neglect. The department
217 of insurance, financial institutions and professional registration shall excuse the fine against any
218 insurer if an assessed insurer provides acceptable proof that such insurer's noncompliance was
219 inadvertent, accidental or the result of excusable neglect.

220 **303.420. The department may enter into reciprocal agreements with other states for**
221 **the mutual utilization of information contained in Missouri's insured vehicle identification**
222 **database and the same or similar information contained in a comparable database operated**
223 **in another state.**

224 [303.415. 1. Sections 303.400 and 303.403 shall become effective on July
225 1, 2002, and shall expire on June 30, 2007.

226 2. The enactment of section 303.025, and the repeal and reenactment of
227 sections 303.406, 303.409, 303.412 and 303.415 shall become effective July 1,
228 2002 and sections 303.406, 303.409 and 303.412 shall expire on June 30, 2007.]

229 Section B. Because immediate action is necessary to reduce the number of uninsured
230 motorists on Missouri highways, section A of this act is deemed necessary for the immediate

231 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
232 emergency act within the meaning of the constitution, and section A of this act shall be in full
233 force and effect upon its passage and approval.

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