

SENATE BILL 648

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 4;  
Section 9-4-603; Title 10; Title 12; Title 55,  
Chapter 12; Title 55, Chapter 4; Title 55, Chapter  
10 and Title 56, relative to motor vehicles.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 12, is amended by adding the following language as a new part:

**55-12-201.** This part shall be known and may be cited as the “James Lee Atwood Jr. Law.”

**55-12-202.** The purpose of this part is to develop and implement an efficient insurance verification program that utilizes the online verification system, standards, specifications, model, and guide of the Insurance Industry Committee on Motor Vehicle Administration or a full book of business under § 55-12-207, in order to verify whether the financial responsibility requirements of this chapter have been met with a motor vehicle liability insurance policy.

**55-12-203.** As used in this part, unless the context otherwise requires:

(1) “Auto liability insurer” means an insurance carrier licensed under title 56 to provide vehicle insurance, as defined in § 56-2-201, in this state;

(2) “Batch file” means a group of records contained in a file or files, the format of which complies with the IICMVA Model User Guide for Implementation Online Insurance Verification;

(3) “Commercial auto coverage” means any coverage provided to an insured, regardless of the number of vehicles or entities covered, under a commercial coverage form and rated from a commercial manual approved by the department of commerce and insurance;

(4) "Designated agent" means the third-party vendor that the department of revenue contracts with, in accordance with title 4, chapter 56, and title 12, to develop and implement the program;

(5) "Full book of business" means a full book of business download that contains the data elements described in § 55-12-207(c);

(6) "IICMVA" means the Insurance Industry Committee on Motor Vehicle Administration;

(7) "NAIC" means the National Association of Insurance Commissioners; and

(8) "Online electronic insurance verification program" or "program" means an online electronic insurance verification program that is created in compliance with the online verification system, standards, specifications, model, and guide of the IICMVA, and developed by the department of revenue in compliance with this part.

**55-12-204.**

(a) The commissioner of revenue shall contract with a designated agent to develop and implement an online electronic insurance verification program to electronically verify whether the financial responsibility requirements of this chapter have been met with a motor vehicle liability insurance policy.

(b) Prior to developing and implementing the program, the department of revenue shall consult with the following entities to determine the details and deadlines related to the program:

(1) Auto liability insurers;

(2) Private service providers who have successfully developed and implemented similar online verification systems in other states;

(3) The department of safety; and

(4) The department of commerce and insurance.

**55-12-205.** The program shall:

(1) 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;

(2) Verify, on an on-demand basis, minus reasonable downtime for system maintenance as agreed upon by the department of revenue and the insurer, the liability insurance status of a motor vehicle, whose status is determined:

(A) As of the time of the inquiry; or

(B) At other times not exceeding six (6) months prior to the inquiry unless otherwise agreed upon by the commissioner of revenue and the insurer;

(3) 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;

(4) Use multiple data elements to make insurance verification inquiries more accurately by utilizing:

(A) The auto liability insurer's NAIC code;

(B) Vehicle identification numbers;

(C) Insurance policy numbers or policy key;

(D) The date of the verification request; and

(E) Other data elements as set forth in any IICMVA Insurance Data

Transfer Guide specifications;

(5) Provide sufficient measures for the security and integrity of data collected by the program;

(6) Limit the usage of the information obtained through the operation of the program to the department of revenue, the department of safety, the department of

commerce and insurance, law enforcement, and the judiciary to effectuate the purposes of this chapter;

(7) Utilize open data and data transmission standards as determined by the department of revenue by rule;

(8) 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;

(9) Respond to a verification request within a time period established by the department of revenue and consistent with the IICMVA Insurance Data Transfer Guide Specifications; and

(10) Work in conjunction with existing state programs and systems related to this title if necessary to carry out this part.

**55-12-206.** In developing and implementing the program, the department of revenue, where applicable, shall:

(1) Consult and cooperate with auto liability insurers in establishing and operating the program;

(2) Designate and maintain a contact person for auto liability insurers during the establishment, implementation, and maintenance of the program;

(3) Publish for comment, and then issue, a detailed guide of the program;

(4) Establish and maintain the systems necessary to make verification requests to insurers using the data elements that the department of revenue and auto liability insurers have agreed upon and are necessary to receive accurate responses from auto liability insurers;

(5) Implement and maintain, for all information transmitted and received, strict system and data security measures consistent with applicable industry standards as determined by the department of revenue by rule; provided, data secured by the department of revenue via the program shall not be shared with any party other than those permitted by state or federal privacy laws, including, but not limited to, the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. §§ 2721 et seq.);

(6) Be responsible for keeping the designated agent informed on the implementation status, functionality, and planned or unplanned service interruptions; and

(7) Provide alternative methods of reporting for auto liability insurers writing fewer than five hundred (500) noncommercial motor vehicle policies in this state as determined by the department of revenue.

**55-12-207.**

(a) If an auto liability insurer chooses not to participate in the IICMVA model, including unknown carrier requests, the auto liability insurer shall provide to the designated agent a full book of business by the seventh day of each calendar month.

(b)

(1) Each auto liability insurer that chooses not to participate in the IICMVA model pursuant to subsection (a) shall, before the seventh day of each calendar month, provide to the designated agent a record of each motor vehicle insurance policy in effect for vehicles registered in this state as of the previous submission that was issued by the auto liability insurer.

(2) Subdivision (b)(1) does not apply if the policy covers a motor vehicle that is registered as a vehicle of a political subdivision or of this state, or as a vehicle registered pursuant to § 55-4-122 or § 55-4-502.

(3) This subsection (b) does not preclude an auto liability insurer from more frequent reporting.

(c)

(1) The record provided pursuant to subsection (b) shall include:

(A) The name and date of birth of each insured owner or operator, and the address of the named insured;

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

(C) The policy number, effective date, and expiration date of each policy.

(2) Each auto liability insurer that chooses not to participate in the IICMVA model pursuant to subsection (a) shall transmit the information described in this subsection (c) by electronic means or by another means of transmission acceptable to the department of revenue and its designated agent.

**55-12-208.** Nothing in this part precludes an auto liability insurer from participating in both the IICMVA and the full book of business download process described in § 55-12-207.

**55-12-209.**

(a) Any information obtained by the designated agent or the department of revenue from the program is for the sole use of the department of revenue, the department of safety, the department of commerce and insurance, law enforcement, and the judiciary to effectuate this chapter and is not a public record for purposes of title 10, chapter 7, nor discoverable in the course of legal proceedings.

(b) The department of safety shall cooperate with the department of revenue in developing, implementing, and maintaining the program.

(c) A law enforcement officer from a jurisdiction that has reasonable access to the program shall utilize the program to verify proof of financial responsibility as required by § 55-12-139.

(d) Nothing in this part precludes a law enforcement officer from a jurisdiction that does not have reasonable access to the program from utilizing the program to verify proof of financial responsibility as required by § 55-12-139.

(e) Nothing in this part prohibits an auto liability insurer from using the services of a third-party vendor to comply with this part.

(f) This part shall not apply to motor vehicles insured under commercial auto coverage; however, insurers of those vehicles may participate on a voluntary basis. Auto liability insurers shall provide commercial automobile customers with evidence reflecting that the vehicle is insured under a commercial auto policy. Sufficient evidence shall be an insurance identification card clearly marked in the title with the identifier: "Commercial Auto Insurance Identification Card".

(g) No later than January 1, 2019, and annually thereafter, the department of revenue and the department of safety shall issue a joint report to the general assembly, evidencing:

(1) The costs of the program to the department of revenue, insurers, and the public;

(2) The effectiveness of the program in reducing the number of uninsured motor vehicles;

(3) The number of persons complying with the financial responsibility requirements of this chapter through means other than motor vehicle liability insurance; and

(4) The number of persons convicted per year for failing to show evidence of financial responsibility pursuant to § 55-12-139.

**55-12-210.**

(a) If there is evidence based on either the IICMVA or the full book of business reporting that a motor vehicle is not insured for three (3) consecutive months, the department of revenue shall direct the designated agent to provide notice to the owner of the motor vehicle that the owner has fifteen (15) days to provide:

(1) Proof of owner or operator's security in a form allowed under this chapter;

(2) Proof of exemption from the owner or operator's security requirements;

(3) Proof that the motor vehicle is no longer in the owner's possession; or

(4) A statement, under penalty of perjury, that the vehicle is not in use on any public road.

(b) If an owner of a motor vehicle fails to provide satisfactory proof or a statement as described in subsection (a), the designated agent shall:

(1) Provide a second notice to the owner of the motor vehicle that the owner now has fifteen (15) days to provide the proof or a statement as described in subsection (a);

(2) For each notice provided, indicate information relating to the owner's failure to provide proof or a statement as described in subsection (a) in the database; and

(3) Provide this information to state and local law enforcement agencies as requested.



(c) If the owner of the motor vehicle fails to comply with the notice described in subsection (b), the department of revenue:

(1) Shall revoke the registration in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(2) Shall provide appropriate notices of the revocation, the legal consequences of operating a motor vehicle with revoked registration and without owner or operator's security, and instructions on how to get the registration reinstated; and

(3) May direct the designated agent to provide the notices under subdivision (c)(2).

(d) Any action by the department of revenue to revoke the registration of a motor vehicle under this section may be in addition to an action by a law enforcement agency to impose penalties under this chapter.

(e)

(1) A person shall not provide a false or fraudulent statement to the department of revenue or the designated agent.

(2) In addition to any other penalties, a violation of subdivision (e)(1) is a Class B misdemeanor.

(f) This part does not affect other actions or penalties that may be taken or imposed for violation of the owner or operator's security requirements of this chapter.

(g) For auto liability insurers that participate using the IICMVA model only, the designated agent shall send a batch file to the auto liability insurer of record asking for verification that the vehicle is still insured. If the vehicle is no longer insured by the auto liability insurer of record and no other insurance company using the IICMVA model indicates coverage after an unknown carrier request under § 55-12-205(3), the vehicle

enters the ninety-day pool with the vehicles identified through the full book of business download process. If the vehicle remains uninsured for ninety (90) days, the vehicle becomes eligible for notice as described in subsection (a).

**55-12-211.**

(a) At the time application is made for reinstatement or renewal of registration of a motor vehicle after a revocation of the registration under § 55-12-210, the applicant shall pay a registration reinstatement fee of three hundred dollars (\$300).

(b) The fee imposed under subsection (a):

(1) Is in addition to any other fee imposed under this chapter; and

(2) Shall be deposited in the uninsured motorist identification restricted fund created by § 55-12-213.

(c) The department of revenue shall waive the registration reinstatement fee imposed under this section if:

(1) The registration was revoked under § 55-12-210; and

(2) The applicant provides proof acceptable to the department of revenue that the applicant had an owner or operator's security in effect for the vehicle on the date before the revocation went into effect.

(d) Of the total reinstatement fee amount, the department shall retain two hundred ninety dollars (\$290), and ten dollars (\$10.00) shall be transmitted to the county clerks in the county in which the vehicle is registered.

**55-12-212.** The program shall be installed and fully operational by January 1, 2017, following a twelve-month implementation period. Until the successful completion of the twelve-month implementation period, no law enforcement action shall be taken based on the system.

**55-12-213.**

(a) There is established within the general fund an account to be known as the “uninsured motorist identification restricted fund.”

(b) The fund shall consist of money generated from this part and funds appropriated by the general assembly. The commissioner of revenue shall use only the money in the fund in administering this part.

(c) Any unencumbered moneys and any unexpended balance of the fund remaining at the end of any fiscal year shall not revert to the general fund, but shall be carried forward and maintained in separate accounts until expended in accordance with this part.

(d) Moneys in the fund shall be invested by the state treasurer for the benefit of the fund pursuant to § 9-4-603. Interest accruing on investments and deposits of the fund shall be returned to the fund and remain a part of the fund. The fund shall be administered by the commissioner of revenue.

**55-12-214.** Nothing in this part shall alter the existing financial responsibility requirements provided in this chapter.

**55-12-215.** Nothing in this part shall allow the department of revenue or its designated agent to levy any fee or surcharge on auto liability insurers.

SECTION 2. Tennessee Code Annotated, Section 55-12-139(b), is amended by deleting the subsection and substituting instead the following:

(b)

(1) At the time the driver of a motor vehicle is charged with any violation under chapters 8 and 10, parts 1-5, and chapter 50 of this title; any other local ordinance regulating traffic; or at the time of an accident for which notice is required under § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice

is required under § 55-10-106, the officer shall request evidence of financial responsibility from all drivers involved in the accident without regard to apparent or actual fault. If the driver of a motor vehicle fails to show an officer evidence of financial responsibility or provide the officer with evidence of a motor vehicle liability policy as evidence of financial responsibility, the officer shall rely on the information provided by the online electronic insurance verification program as defined in § 55-12-203, for the purpose of verifying evidence of liability insurance coverage.

(2) For the purposes of this section, "financial responsibility" means:

(A) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in this state, whether in paper or electronic format, stating that a policy of insurance meeting the requirements of this chapter has been issued;

(B) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that:

(i) A cash deposit or bond in the amount required by this chapter has been paid or filed with the commissioner of revenue;

or

(ii) The driver has qualified as a self-insurer under § 55-12-111; or

(C) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the

United States, this state, or any political subdivision thereof, and that the motor vehicle was being operated with the owner's consent.

SECTION 3. Tennessee Code Annotated, Section 55-12-139(c)(2), is amended by deleting the language "one hundred dollars (\$100)" and substituting the language "three hundred dollars (\$300)".

SECTION 4. Tennessee Code Annotated, Section 55-12-139(c)(3), is amended by adding the following language as a new subdivision:

A violation of subdivision (c)(1) is a Class A misdemeanor, if a person acts to demonstrate financial responsibility as required by this section by providing proof of motor vehicle liability insurance that the person knows is not valid.

SECTION 5. Tennessee Code Annotated, Section 10-7-504, is amended by adding the following language as a new subsection:

(r) The records in the possession of the designated agent of the online electronic insurance verification program created pursuant to the James Lee Atwood Jr. Law, compiled in title 55, chapter 12, part 2, or in the possession of the department of revenue, the department of safety, the department of commerce and insurance, law enforcement, and the judiciary pursuant to the James Lee Atwood Jr. Law, shall be treated as confidential and shall not be open for inspection by members of the public. Subsection (c) shall not apply to the records described in this subsection (r).

SECTION 6. Tennessee Code Annotated, Title 56, Chapter 7, Part 11, is amended by adding the following language as a new section:

**56-7-1118.**

(a) Auto liability insurers, as defined in § 55-12-203, shall comply with any requirements set forth in the James Lee Atwood Jr. Law, compiled in title 55, chapter 12, part 2, and any rules promulgated thereto.

(b) Auto liability insurers, as defined in § 55-12-203, shall also comply with the following requirements:

(1) Cooperate with the department of revenue, the department of safety, and the department of commerce and insurance in establishing, operating, and maintaining the online electronic insurance verification program, as defined in § 55-12-203;

(2) Maintain the data necessary to verify the existence of financial responsibility, including liability insurance coverage provided to its customers pursuant to the required time period established by the department of revenue, for the online electronic insurance verification program;

(3) Maintain Internet service, pursuant to the requirements established under the James Lee Atwood Jr. Law, through which online insurance verification can take place, including responding to authorized inquiries from the designated agent of the online electronic insurance verification program; and

(4) Provide security consistent with accepted insurance industry and United States motor vehicle agency standards related to the transmission of personal data.

(c) Auto liability insurers that make a good faith effort to comply with the requirements described in subsections (a) and (b), shall have immunity from civil and administrative liability as to any action related to the good faith effort.

SECTION 7. Tennessee Code Annotated, Section 56-2-305, is amended by adding the following language as a new subsection:

(f) If, after providing notice consistent with the process established by § 4-5-320(c) and providing the opportunity for a contested case hearing held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the

commissioner finds that an auto liability insurer, as defined in § 55-12-203, has intentionally violated § 56-7-1118, the commissioner may, at the commissioner's discretion, assess a civil penalty against the auto liability insurer of up to two hundred fifty dollars (\$250) for each day the insurer fails to comply with § 56-7-1118. The commissioner may excuse or reduce the civil penalty under this subsection (f) for good cause shown.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. The commissioner of revenue, the commissioner of safety, and the commissioner of commerce and insurance are authorized to promulgate rules to effectuate the purposes of this act. All rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, title 4, chapter 5.

SECTION 10. For the purposes of contracting with a designated agent pursuant to § 55-12-204(a), consulting with entities pursuant to § 55-12-204(b), developing and implementing the program pursuant to § 55-12-206, and promulgating rules pursuant to Section 9, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2016.