An Act

ENROLLED SENATE
BILL NO. 359

By: Brooks and Jech of the Senate

and

Walker of the House

An Act relating to motor vehicle insurance; creating the Uninsured Vehicle Enforcement Program; authorizing the district attorneys to administer program; authorizing law enforcement agencies to use automatic license plate readers to enforce Compulsory Insurance Law; providing certain restrictions; providing certain terms of use of readers; authorizing collected data to be used as evidence of certain violation; exempting collected data from the Open Records Act; providing for delayed implementation until certain conditions met; requiring annual reporting; defining terms; authorizing district attorneys to establish Uninsured Vehicle Enforcement Diversion Program; providing certain terms of diversion program; requiring notice of complaint; providing terms of complaint; providing terms of deferred prosecution under diversion program; providing for additional fees to go to the District Attorneys Council; establishing the Uninsured Vehicle Enforcement Diversion Program Fund; directing fund to cover costs of operating vehicle insurance program and diversion program; requiring records of deposits and disbursements from fund; waiving fee if driver later provides proof of insurance; directing staff of district attorney to operate diversion program; requiring annual report of deposits and expenditures of diversion program; establishing terms of annual report; providing for codification.

SUBJECT: Motor vehicle insurance

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-606.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the Uninsured Vehicle Enforcement Program.

B. The Uninsured Vehicle Enforcement Program shall be implemented and administered by the district attorneys of the State of Oklahoma within their respective districts or at the District Attorneys Council. To implement this program, the use of technology and software to aid in detection of offenses involving uninsured motorists is necessary and district attorneys and participating law enforcement agencies shall have the authority to enter into contractual agreements with automated license plate reader providers to provide necessary technology, equipment and maintenance thereof.

C. 1. Participating law enforcement agencies may use automatic license plate reader systems utilizing individual automatic license plate reader system units to access and collect data for the investigation, detection, analysis or enforcement of Oklahoma's Compulsory Insurance Law.

2. To accomplish the purposes of the program, law enforcement agencies shall be allowed to access the online verification system for motor vehicle liability policies to establish compliance with the Compulsory Insurance Law as provided in Section 7-600.2 of Title 47 of the Oklahoma Statutes.

3. Access to the system shall be restricted to authorized law enforcement agency users in the program; provided, any entity with which a contract is executed to provide necessary technology, equipment and maintenance for purposes of the program shall be

authorized, as necessary, to collaborate for required updates and maintenance of their software.

4. Any data collected and stored by law enforcement pursuant to the program shall be considered evidence if noncompliance with the Compulsory Insurance Law is confirmed.

D. A law enforcement officer may verify by sworn affidavit that a photograph generated by an automatic license plate reader system unit identifies a particular vehicle operating on or having been operated on a public road, highway, street, turnpike, other public place or upon any private road, street, alley or lane which provides access to one or more single-family or multifamily dwellings and that the online verification system shows that the vehicle was uninsured at the time such vehicle was being operated. The affidavit shall constitute probable cause for prosecution under applicable state law.

E. Data collected or retained through the use of an automated license plate reader system pursuant to the program shall be retained by a law enforcement agency when the data is being used as evidence of a violation of the Compulsory Insurance Law; provided, when the data is no longer needed as evidence of a violation, the data shall be deleted or destroyed.

F. Data collected or retained through the use of an automated license plate reader system shall not be used by any individual or agency for purposes other than enforcement of the Compulsory Insurance Law or as otherwise permitted by law.

1. No law enforcement agency or other entity authorized to operate under this program shall sell captured license plate data for any purpose or share it for any purpose not expressly authorized by this section.

2. Any and all data collected, retained or shared through the use of an automated license plate reader system, except data retained as evidence of a violation of the Compulsory Insurance Law, shall be exempt from the Oklahoma Open Records Act.

G. The provisions of the program shall not apply to, or be construed or interpreted in a manner to prohibit the use of, any

other automated license plate reader system by an individual or private legal entity for purposes not otherwise prohibited by law.

H. The provisions of the program shall not be implemented until such time that the Department of Public Safety verifies that the following conditions have been met:

1. At least Ninety-Five Percent (95%) of the personal lines auto insurance market in the state participates in the Oklahoma Compulsory Insurance Verification System using a real-time web portal system; and

2. The Oklahoma Compulsory Insurance Verification System is updated in such a way to allow for the provisions of the program to be implemented without interrupting or impeding any other lawful uses of the system.

I. Following the implementation of the program and every year thereafter, the District Attorneys Council shall publish an annual report for the previous fiscal year of the Uninsured Vehicle Enforcement Program by September 1. An electronic copy of the report shall be distributed to the President Pro Tempore of the Senate and the Speaker of the House of Representatives and the chairs of the House and Senate Appropriations Committees. The report shall comprise an evaluation of program operations, and may include any information and recommendations for improvement of the program deemed appropriate by the entity submitting the report.

J. For purposes of this section:

1. "Automatic license plate reader system" means a system of one or more mobile or law-enforcement-controlled cameras combined with computer algorithms to convert images of registration plates into computer-readable data;

2. "Law enforcement agency" includes the district attorney's office of any county, the Department of Public Safety, the sheriff's office of any county, and the chiefs of police of any city or town having a population of more than one hundred thousand (100,000) residents; and

3. "Program" means the Uninsured Vehicle Enforcement Program.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7-606.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Each district attorney may create within the district attorney's office an Uninsured Vehicle Enforcement Diversion Program and assign sufficient staff and resources for the efficient operation of the program. The purpose of the Uninsured Vehicle Enforcement Diversion Program is to authorize the district attorney to divert complaints involving the failure to comply with mandatory vehicle liability insurance coverage from criminal court to the Uninsured Vehicle Enforcement Diversion Program and to enhance public safety and security through increased compliance with mandatory vehicle liability insurance coverage.

B. 1. Referral of a criminal complaint to the Uninsured Vehicle Enforcement Diversion Program shall be at the discretion of the district attorney. This act shall not limit the power of the district attorney to prosecute Compulsory Insurance Law complaints.

2. Upon receipt of a complaint for failure to comply with the Compulsory Insurance Law, the district attorney shall determine if the complaint is one which is appropriate for deferred prosecution.

3. In determining whether to defer prosecution and refer a case to the Uninsured Vehicle Enforcement Diversion Program, the district attorney shall consider the following factors:

a. whether the criminal complaint alleges an offense involving the failure to maintain required vehicle liability insurance coverage,

b. whether it is in the best interest of the accused for the accused person to be processed through deferred prosecution in the Uninsured Vehicle Enforcement Diversion Program,

c. the prospects for adequate protection of the public if the accused person is processed through deferred prosecution in the Uninsured Vehicle Enforcement Diversion Program,

d. the number of criminal complaints against the defendant previously received by the district attorney,

e. whether or not there are other criminal complaints currently pending against the defendant, and

f. the strength of the evidence of the particular criminal complaint.

C. Upon referral of a complaint to the Uninsured Vehicle Enforcement Diversion Program, a notice of the complaint shall be forwarded by mail to the last known address of the record owner of the vehicle. The notice shall contain:

1. The date the act which is the subject of the complaint occurred;

2. A statement of the penalty for the violation of the Compulsory Insurance Law which is the subject of the complaint;

3. A statement that the records of the State of Oklahoma indicate that the owner of the vehicle is not in compliance with the provisions of the Compulsory Vehicle Insurance Law and that the complaint against the owner has been referred to the Uninsured Vehicle Enforcement Diversion Program; and

4. The date before which the owner must contact the office of the district attorney concerning the complaint.

D. If the owner fails to comply with the letter, the district attorney may file the information and proceed with the prosecution of the owner as provided by law.

E. The district attorney may enter into a written agreement with the owner pursuant to the provisions of Sections 305.1 through 305.6 of Title 22 of the Oklahoma Statutes to defer prosecution on the complaint for a period to be determined by the district attorney, not to exceed two (2) years. The conditions of an agreement to defer prosecution shall include:

1. The owner shall provide verification of current insurance upon request of the district attorney;

2. The owner shall comply with the provisions of the Compulsory Insurance Law for the full term of the agreement; and

3. The owner shall not own or operate any vehicle in violation of the Compulsory Insurance Law during the full term of the agreement.

F. Each diversion agreement shall include a provision requiring the owner to pay to the district attorney's office or District Attorneys Council a fee equal to the amount which would have been assessed as court costs upon the filing of the case in district court pursuant to the provisions of Section 153 of Title 28 of the Oklahoma Statutes. This fee shall be deposited in a special district attorney fund with the county treasurer to be known as the "Uninsured Vehicle Enforcement Diversion Program Fund". Diversion fees paid to the District Attorneys Council shall be deposited in a special fund to be known as the "Uninsured Vehicle Enforcement Diversion Program Fund".

1. Each diversion agreement shall also include a provision requiring the owner to pay an additional fee of Twenty Dollars ($20.00) to the District Attorneys Council, of which Five Dollars ($5.00) will be used in processing the payment, Ten Dollars ($10.00) will be used in operating and maintaining the Compulsory Insurance Verification System and Five Dollars ($5.00) will be deposited in the Oklahoma Pension Improvement Revolving Fund created by section 2 of Enrolled Senate Bill No. 1128 of the 2nd Session of the 55th Oklahoma Legislature.

2. The monies deposited in the Uninsured Vehicle Enforcement Diversion Program Fund of a district attorney or the District Attorneys Council shall be used by the district attorney and District Attorneys Council to pay for all expenses and costs of equipping, operating and monitoring the vehicle insurance program, including but not limited to, contractual payments to third-party entities providing essential services and/or equipment for detection of violations of Compulsory Insurance Law, and payment of reasonable compensation to authorized and participating law enforcement

agencies as may be agreed between such entities, law enforcement agencies and the district attorney or District Attorneys Council.

3. Proceeds from the Uninsured Vehicle Enforcement Diversion Program administered by the District Attorneys Council may be used to pay for any lawful expenditures associated with the operation of the diversion program by the District Attorneys Council. The net proceeds shall be allocated and distributed to the district attorneys by the District Attorneys Council. District attorneys may use proceeds from this diversion program to pay for any lawful expenditure associated with the operation of the district attorney's office.

4. The district attorney and District Attorneys Council shall keep records of all monies deposited to and disbursed from the Uninsured Vehicle Enforcement Diversion Program Fund. The records of these funds shall be audited at the same time the records of the district attorney and District Attorneys Council, respectively, are audited.

5. If the owner furnishes proof to the satisfaction of the district attorney's office or District Attorneys Council that the required vehicle liability insurance coverage was in effect at the time of the alleged violation, no fee shall be required.

G. Members of the district attorney's staff shall perform duties in connection with the Uninsured Vehicle Enforcement Diversion Program in addition to any other duties which may be assigned by the district attorney.

H. District attorneys shall prepare and submit an annual report to the District Attorneys Council showing total deposits and total expenditures in the Uninsured Vehicle Enforcement Diversion Program. Each district attorney shall submit information requested by the District Attorneys Council regarding the Uninsured Vehicle Enforcement Diversion Program.

By September 15 of each year following the implementation of the Uninsured Vehicle Enforcement Program, the District Attorneys Council shall publish an annual report for the previous fiscal year of the Uninsured Vehicle Enforcement Diversion Program. An electronic copy of the report shall be distributed to the Governor,

President Pro Tempore of the Senate, Speaker of the House of Representatives and the chairs of the House and Senate Appropriations Committees. The report required by this paragraph shall include the number of cases processed, the total amount of fees collected, the total cost of the program and such other information as required by the District Attorneys Council.

Passed the Senate the 26th day of May, 2016.

Eddie Fields
Presiding Officer of the Senate

Passed the House of Representatives the 27th day of May, 2016.

Lee R. Denney
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 27th
day of May, 2016, at 7:21 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 6th
day of June, 2016, at 3:40 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 6th
day of June, 2016, at 4:53 o'clock P. M.
By: Chris Benge