

The House Committee on Insurance offers the following substitute to HB 191:

A BILL TO BE ENTITLED
AN ACT

To amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, so as to provide for the voluntary cancellation of the registration of certain vehicles and the restoration thereof; to provide definitions; to provide for an exception for insurers for reporting certain insurance coverage for fleet insurance policies; to change the fees for lapse and restoration fees; to provide that the commissioner may waive lapse fees in certain situations; to provide a date for the beginning of suspensions, lapse fees, and restoration fees; to change the information which shall not be disclosed; to provide a date for the provision of reports to the Commissioner of Insurance of violations of the notice requirement by insurers; to provide an exception to such reports for fleet policies; to provide for access to insurance records maintained by the department for the insurer of record and for the manner for access to such records; to change certain provisions concerning proof of insurance; to require that law enforcement officers verify insurance coverage on each vehicle stopped; to change the provisions relative to the taking of the driver's license of the operator of a vehicle for which there is no acceptable evidence of minimum insurance coverage by an arresting officer; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles, is amended by adding a new Code Section 40-2-10 to read as follows:

"40-2-10.

A vehicle registrant may voluntarily cancel the registration on a vehicle if the vehicle is stolen, repossessed but not redeemed by the registrant, junked, inoperable, in storage, or used seasonally for agricultural or other purposes when such vehicle is not in use. A registration that has been voluntarily cancelled may be reinstated upon payment of all accrued ad valorem taxes and license fees, if any, and payment of a \$10.00 fee."

H. B. 191 (SUB)

SECTION 2.

Said title is further amended by striking Code Section 40-2-137, relating to notification of coverage termination, and inserting a new Code Section 40-2-137 to read as follows:

"40-2-137.

(a) As used in this Code section, the term:

(1) 'Commercial vehicle policy' means a policy of motor vehicle liability insurance insuring a motor vehicle that is rated or insured as a business use or commercial use vehicle or is licensed by the state as a commercial vehicle, ~~except that such term shall not include any policy issued to a named insured who is a natural person.~~

(2) 'Fleet policy' means a commercial vehicle policy that insures two or more vehicles that are not identified individually by vehicle identification number on the policy or a commercial policy that is subject to adjustment by audit for vehicle changes at the end of the policy period.

(3) 'Lapse' means one or more days upon which the records of the department do not reflect that a motor vehicle was covered by a policy of minimum motor vehicle insurance coverage.

(4) 'Minimum motor vehicle insurance coverage' means minimum coverage as specified in Chapter 34 of Title 33.

~~(3)~~ (5) 'Proof of minimum insurance coverage' means the receipt from an insurer by the department of notice of such insurance coverage by electronic transmission or other means approved by the department.

~~(4)~~ (6) 'Terminate' or 'termination' means actual cessation of insurance coverage after the date upon which coverage will not be restored for any reason, including without limitation cancellation, nonrenewal, and nonpayment of premium and without regard to whether such cessation was preceded by any extension or grace period allowed by the insurer.

(b)(1) After receipt of notification of coverage termination, if the department does not, on or before the effective date of such termination, receive notice from an insurer that new minimum motor vehicle insurance coverage for such motor vehicle has been issued, the department shall send a notice to the owner of the motor vehicle stating that the department has been informed of the fact of the coverage termination and informing the owner of the penalties provided by law. The department shall send such notice to the address of the owner of the motor vehicle shown on the records of the department. The mailing of such notice by the department to the address of the owner of the motor vehicle as shown on the records of the department shall be deemed conclusively to be notice to such owner of such owner's duty to maintain the required minimum insurance coverage and the possible penalties and consequences for failing to do so and shall be deemed to

1 satisfy all notice requirements of law and no further notice to the owner shall be required
2 for the suspensions and revocations provided for in this Code section.

3 (2) It shall be the duty of the owner of such motor vehicle to obtain minimum motor
4 vehicle insurance coverage and it shall be the duty of the owner's insurer to provide
5 proof of such coverage to the department within 30 days of the date of such notice,
6 pursuant to the requirements of subparagraph (b)(1)(A) of Code Section 40-5-71. If the
7 vehicle is covered by a fleet policy, the owner's insurer shall not be required to provide
8 such proof to the department by electronic means.

9 (c)(1) When proof of minimum motor vehicle insurance coverage is provided within the
10 time period specified in this Code section, but there has been a lapse of coverage, the
11 owner shall remit a \$25.00 lapse fee to the department. Failure to remit the lapse fee to
12 the department within 30 days of the date on which the notification was mailed by the
13 department will result in the suspension of the owner's motor vehicle registration by
14 operation of law as if the proof had not been provided in a timely manner as provided in
15 paragraph (2) of this subsection.

16 (2) If proof is not provided within the time period specified in this Code section that
17 minimum motor vehicle insurance coverage is in effect, the owner's motor vehicle
18 registration shall be suspended immediately by operation of law by the department.
19 When such proof is provided and the owner pays a \$25.00 lapse fee ~~of \$25.00~~ and pays
20 a \$60.00 restoration fee ~~of \$60.00, or \$50.00 when processed by mail~~, the suspension
21 shall terminate; provided, however, that the commissioner may waive the lapse fee and
22 restoration fee for any owner whose vehicle registration has been suspended pursuant to
23 this paragraph who provides proof of continuous minimum motor vehicle insurance
24 coverage.

25 (3) In the event of a second suspension of the owner's registration under this Code
26 section after February 1, 2003, during any five-year period, the department by operation
27 of law shall suspend the motor vehicle registration for a period of 90 days. After the 90
28 day suspension period and when proof is provided that minimum motor vehicle insurance
29 coverage is in effect and the owner pays a \$25.00 lapse fee ~~of \$25.00~~ and pays a \$60.00
30 restoration fee ~~of \$60.00, or \$50.00 when processed by mail~~, the suspension shall
31 terminate.

32 (4) In the event of a third or subsequent suspension of the owner's registration under this
33 Code section after February 1, 2003, during any five-year period, the department by
34 operation of law shall revoke the motor vehicle registration and no new application for
35 registration shall be accepted for a period of six months after such revocation. After six
36 months from the date of revocation and when proof is provided that minimum motor
37 vehicle insurance coverage is in effect and the owner pays a \$25.00 lapse fee ~~of \$25.00~~

and pays a \$160.00 restoration fee of ~~\$160.00, or \$150.00 when processed by mail~~, the owner may apply for registration of the motor vehicle.

(d) The commissioner may waive the lapse fee for any owner whose vehicle registration has been voluntarily cancelled pursuant to Code Section 40-2-10.

(e) The commissioner may promulgate such rules and regulations as are necessary to implement this Code section.

(f) The department shall commence the suspensions, lapse fees, and restoration fees provided for in this Code section beginning on July 1, 2003."

SECTION 3.

Said title is further amended by striking Code Section 40-5-71, relating to notice of insurance issuance, renewal, or termination, and inserting in lieu thereof a new Code Section 40-5-71 to read as follows:

"40-5-71.

(a) As used in this Code section, the term:

(1) 'Commercial vehicle policy' means a policy of motor vehicle liability insurance insuring a motor vehicle that is rated or insured as a business use or commercial use vehicle or is licensed by the state as a commercial vehicle; ~~except that such term shall not include any policy issued to a named insured who is a natural person.~~

(2) 'Fleet policy' means a commercial vehicle policy that insures two or more vehicles that are not identified individually by vehicle identification number on the policy or a commercial policy that is subject to adjustment by audit for vehicle changes at the end of the policy period.

(3) 'Owner' shall have the same meaning given in paragraph (.2) of subsection (a) of Code Section 40-2-21.

(4) 'Terminate' or 'termination' means actual cessation of insurance coverage for any reason, including without limitation cancellation, nonrenewal, or nonpayment of premium, and without regard to whether such cessation was preceded by any extension or grace period allowed by the insurer.

(b)(1)(A) For purposes of aiding in the enforcement of the requirement of minimum motor vehicle liability insurance, any insurer issuing or renewing in this state any policy of motor vehicle liability insurance required by Chapter 34 of Title 33 other than a fleet policy shall within 30 days after the date the insurance agent binds the coverage or on the date such coverage was renewed, whichever is applicable, provide notice of such insurance coverage by electronic transmission to the department; except that once coverage data has been electronically transmitted to the department, there shall be no requirement to report on subsequent renewals of that coverage. Insurance coverage

1 information included in such notice of issue or renewal shall be limited exclusively to
2 vehicle identification number; the make and year of the insured motor vehicle; and
3 policy effective date. The department shall not require ~~the name of the insurer or the~~
4 policy limits to be disclosed for purposes of this subparagraph. For the purposes of this
5 Code section, the vehicle identification number shall be the vehicle identification
6 number as that number is shown in the records of the department. For the purposes of
7 this Code section, the Commissioner of Insurance shall furnish such notices to the
8 department upon issuance of a certificate of self-insurance.

9 (B) In cases in which the minimum motor vehicle insurance coverage required by
10 Chapter 34 of Title 33 terminates, the insurer shall by electronic transmission notify the
11 department of such coverage termination on or before the date coverage ends or, if
12 termination is at the request of the insured, then on the date such request is processed
13 by the insurer. Insurance coverage termination information included in such notice
14 shall include vehicle identification number and the date of coverage termination. For
15 the purposes of this Code section, the Commissioner of Insurance shall furnish such
16 notices to the department upon termination of a certificate of self-insurance.

17 (C) The commissioner shall notify the Commissioner of Insurance quarterly of any and
18 all violations of the notice requirements of this paragraph by any insurer, and the
19 Commissioner of Insurance may take appropriate action against such insurer the same
20 as is authorized by Code Section 33-2-24 for violations of Title 33; provided, however,
21 that there shall be no private cause of action against an insurer or the department for
22 civil damages for providing information, failing to provide information, or erroneously
23 providing information pursuant to this Code section. No insurer shall utilize the costs
24 of any audit or examination conducted by the Insurance Department pursuant to this
25 paragraph as a cost of business in the insurer's rate base. The department shall
26 commence the reports provided for in this Code section beginning January 1, 2004.

27 (D) The reports required of insurers and the Commissioner of Insurance shall not apply
28 to any vehicle for which the vehicle coverage is provided by a fleet policy.

29 (2) The department shall prescribe the form and manner of electronic transmission for
30 the purposes of insurers sending the notices required by this Code section which shall in
31 no way be construed as modifying the provisions of Code Section 33-24-45.

32 (3) Notwithstanding the provisions of paragraph (1) of this subsection, any irregularities
33 in the notice to the department required by paragraph (1) of this subsection shall not
34 invalidate an otherwise valid ~~cancellation~~ termination.

35 (4) ~~The provisions of this subsection shall not apply to any commercial vehicle policy~~
36 ~~as defined in this Code section.~~

(5) The minimum liability insurance records which the department is required to maintain under this Code section or any other provision are exempt from the provisions of any law of this state requiring that such records be open for public inspection; provided, however, that the records of any particular motor vehicle may be available for inspection by any law enforcement officer for official law enforcement investigations, the insurer of record, and the owner of the vehicle in the manner prescribed by the commissioner.

(c) The commissioner may promulgate such rules and regulations as are necessary to implement this Code section.

(d)(1) The department shall monitor the reporting of the issuance of new and renewal policies and termination of coverage by insurers.

(2) A match is based upon the vehicle identification number as recorded on the department's motor vehicle records. When the vehicle identification number does not match ~~with~~ the department's motor vehicle records, the department shall notify the insurer and the insurer shall, within 30 days from receipt of the returned error, correct the vehicle identification number and resubmit the transaction. After receipt of the department's notice, if the insurer determines that the vehicle identification number ~~which~~ that it submitted to the department is in fact the accurate number on the insured vehicle, then the insurer shall so notify the department and the owner of the vehicle, whereupon the owner shall, in accordance with department procedures, obtain a correction of such number at the appropriate county tag office."

SECTION 4.

Said title is further amended by striking Code Section 40-6-10, relating to insurance requirements for operation of motor vehicles generally, and inserting in lieu thereof a new Code Section 40-6-10 to read as follows:

"40-6-10.

(a)(1) Until January 31, 2003, the owner or operator of a motor vehicle for which minimum motor vehicle liability insurance coverage is required under Chapter 34 of Title 33 shall keep proof or evidence of required minimum insurance coverage in the vehicle at all times during the operation of the vehicle. The owner of a motor vehicle shall provide to any operator of such vehicle proof or evidence of required minimum insurance coverage for the purposes of compliance with this subsection.

(2) The following shall be acceptable proof of insurance on a temporary basis:

(A) If the policy providing such coverage was applied for within the last 30 days, a current written binder for such coverage for a period not exceeding 30 days from the

1 date such binder was issued shall be considered satisfactory proof or evidence of
2 required minimum insurance coverage;

3 (B) If the vehicle is operated under a rental agreement, a duly executed vehicle rental
4 agreement shall be considered satisfactory proof or evidence of required minimum
5 insurance coverage; and

6 (C) If the owner acquired ownership of the ~~motor vehicle in question~~ within the past
7 ~~20~~ 30 days, if the type of proof described in subparagraph (A) of this paragraph is not
8 applicable but the vehicle is currently effectively provided with required minimum
9 insurance coverage under the terms of a policy providing required minimum insurance
10 coverage for another motor vehicle, then a copy of the insurer's declaration of coverage
11 under the policy providing such required minimum insurance coverage for such other
12 vehicle shall be considered satisfactory proof or evidence of required minimum
13 insurance coverage for the vehicle ~~in question~~, but only if accompanied by proof or
14 evidence that the owner acquired ownership of the vehicle ~~in question~~ within the past
15 ~~20~~ 30 days;

16 (D) If the vehicle is insured under a fleet policy as defined in Code Section 40-2-137
17 providing the required minimum insurance coverage or if the vehicle is engaged in
18 interstate commerce and registered under the provisions of Article 3A of Chapter 2 of
19 this title, the insurance information card issued by the insurer shall be considered
20 satisfactory proof of required minimum insurance coverage for the vehicle; and

21 (E) If the vehicle is insured under a certificate of self-insurance issued by the
22 Commissioner of Insurance providing the required minimum insurance coverage under
23 which the vehicle owner did not report the vehicle identification number to the
24 Commissioner of Insurance, the insurance information card issued by the
25 Commissioner of Insurance shall be considered satisfactory proof of required minimum
26 insurance coverage for the vehicle, but only if accompanied by a copy of the certificate
27 issued by the Commissioner of Insurance.

28 (3) On and after February 1, 2003, the requirement under this Code section that proof or
29 evidence of minimum liability insurance be maintained in a motor vehicle at all times
30 during the operation of the vehicle shall not apply to the owner or operator of any vehicle
31 for which the records or data base of the Department of Motor Vehicle Safety ~~indicate~~
32 indicates that required minimum insurance coverage is currently effective.

33 (4) Except as otherwise provided in paragraph (7) of this subsection, any person who
34 fails to comply with the requirements of this subsection shall be guilty of a misdemeanor
35 and, upon conviction thereof, shall be subject to a fine of not less than \$200.00 nor more
36 than \$1,000.00 or imprisonment for not more than 12 months, or both.

(5) Every law enforcement officer in this state shall determine if the operator of a motor vehicle subject to the provisions of this Code section has the required minimum insurance coverage every time the law enforcement officer stops the vehicle or requests the presentation of the driver's license of the operator of the vehicle.

(6) If a law enforcement officer of this state determines that the owner or operator of a motor vehicle subject to the provisions of this Code section does not have proof or evidence of required minimum insurance coverage, the arresting officer shall issue a uniform traffic citation for operating a motor vehicle without proof of insurance ~~and shall take possession of the driver's license and forward it to a court of competent jurisdiction.~~

If the court or arresting officer determines that the operator is not the owner, then a uniform traffic citation may be issued to the owner for authorizing the operation of a motor vehicle without proof of insurance.

(7) If the person receiving a citation under this subsection shows to the court having jurisdiction of the case that required minimum insurance coverage was in effect at the time the citation was issued, the court ~~shall return the driver's license upon payment of~~ may impose a fine not to exceed \$25.00. The court shall not in this case forward a record of the disposition of the case to the department and the driver's license of such person shall not be suspended.

(8)(A) For purposes of this Code section up to and including January 31, 2003, a valid insurance card shall be sufficient proof of insurance for any vehicle.

(B) For purposes of this Code section on and after February 1, 2003, a valid insurance card shall be sufficient proof of insurance only for any vehicle covered under a ~~commercial vehicle fleet~~ policy as defined in Code Section 40-5-71. The insurance card for a fleet policy shall contain at least the name of the insurer, policy number, policy issue or effective date, policy expiration date, and the name of the insured and may, but shall not be required to, include the year, make, model, and vehicle identification number of the vehicle insured.

(C) For any vehicle covered under a policy of motor vehicle liability insurance that is not a ~~commercial vehicle fleet~~ policy as defined in Code Section 40-5-71, the insurer shall issue a policy information ~~identification~~ card which shall contain at least the name of the insurer, policy number, policy issue or effective date, policy expiration date, name of the insured, and year, make, model, and vehicle identification number of each vehicle insured; provided, however, that on and after February 1, 2003, any such policy information ~~identification~~ card shall not be sufficient proof of insurance for any purposes of this Code section except as otherwise provided in this Code section.

(b) An owner or any other person who knowingly operates or knowingly authorizes another to operate a motor vehicle without effective insurance on such vehicle or without

1 an approved plan of self-insurance shall be guilty of a misdemeanor and, upon conviction
2 thereof, shall be subject to a fine of not less than \$200.00 nor more than \$1,000.00 or
3 imprisonment for not more than 12 months, or both. An operator of a motor vehicle shall
4 not be guilty of a violation of this Code section if such operator maintains a policy of motor
5 vehicle insurance which extends coverage to any vehicle the operator may drive. An owner
6 or operator of a motor vehicle shall not be issued a citation by a law enforcement officer
7 for a violation of this Code section if the sole basis for issuance of such a citation is that
8 the law enforcement officer is unable to obtain insurance coverage information from the
9 records of the department.

10 (c) Any person who knowingly makes a false statement or certification under Code
11 Section 40-5-71 or this Code section shall be guilty of a misdemeanor and, upon conviction
12 thereof, shall be subject to a fine of not less than \$200.00 nor more than \$1,000.00 or
13 imprisonment for not more than 12 months, or both.

14 (d) ~~Insurance~~ Except for vehicles insured under a fleet policy as defined in Code Section
15 40-2-137 or under a plan of self insurance approved by the Commissioner of Insurance,
16 insurance coverage information from records of the department shall be prima-facie
17 evidence of the facts stated therein and shall be admissible as evidence in accordance with
18 Code Section 24-3-17 for the purposes of this Code section.

19 (e) The minimum liability insurance data base of the department shall be operational for
20 the purposes of testing, evaluation, verification of data, and validation of accuracy not later
21 than November 1, 2002, and shall be fully operational not later than February 1, 2003."

22 SECTION 5.

23 This Act shall become effective upon its approval by the Governor or upon its becoming law
24 without such approval, except for Sections 1 and 4 which shall become effective July 1,
25 2003.

26 SECTION 6.

27 All laws and parts of laws in conflict with this Act are repealed.