

Senate Bill 224

By: Senators Hudgens of the 47th, Chapman of the 3rd, Rogers of the 21st, Moody of the 56th, Murphy of the 27th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 33-7-11 of the Official Code of Georgia Annotated, relating to uninsured motorist coverage under motor vehicle liability policies, so as to provide that the term "insured" in motor vehicle liability policies includes officers, agents, and employees of artificial persons while performing their duties and while in the scope of their employment; to provide that such policies containing uninsured motorist coverage shall be subject to stacking or aggregating in the same manner as for policies issued to natural persons; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to change the definition of commercial vehicle policy and fleet policy; to repeal Code Section 40-5-71 of the Official Code of Georgia Annotated, relating to notice of insurance issuance, renewal, or termination of drivers' licenses, and incorporate the provisions thereof in Code Section 40-2-137; to change the term "commercial vehicle policy" to "commercially insured vehicle policy"; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 33-7-11 of the Official Code of Georgia Annotated, relating to uninsured motorist coverage under motor vehicle liability policies, is amended by revising subparagraph (b)(1)(B) as follows:

"(B) 'Insured' means the named insured and, while resident of the same household, the spouse of any such named insured and relatives of either, while in a motor vehicle or otherwise; any person who uses, with the expressed or implied consent of the named insured, the motor vehicle to which the policy applies; a guest in such motor vehicle to which the policy applies; or the personal representatives of any of the above. When the named insured is an artificial person, the term 'insured' means the officers, agents, and employees of the artificial person when such officers, agents, and employees are acting in furtherance of their duties for or within the scope of their employment by such artificial person. In such cases, if there are six or fewer policies of motor vehicle

liability insurance which include uninsured motorist coverage, then such policies shall be subject to the stacking or aggregating of uninsured motorist coverage in the same manner as policies for natural persons. For policies issued or renewed on or after July 1, 2006, the term 'insured' shall also mean a foster child or ward residing in the household of the named insured pursuant to a court order, guardianship, or placement by the Department of Family and Children Services or other department or agency of the state, while in a motor vehicle or otherwise."

SECTION 2.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising Code Section 40-2-137, relating to definitions and notification of coverage termination, as follows:

"40-2-137.

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

(1) ~~'Commercial~~ 'Commercially insured 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~~ insurance that:

(A) Is written on a commercial coverage form and is not dependent on the type of vehicle insured;

(B) Is issued with an insurance identification card referencing 'commercial' or 'fleet';

(C) Insures two or more vehicles that are not identified individually by vehicle identification number on the policy; or

(D) Is subject to adjustment by audit for vehicle changes at the end of the policy period.

~~(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)~~(2) '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)~~(3) 'Minimum motor vehicle insurance coverage' means minimum coverage as specified in Chapter 34 of Title 33.

(4) 'Owner' has the meaning provided by paragraph (39) of Code Section 40-1-2 except that such term shall mean a lessee of a vehicle when the vehicle is operated under a lease agreement.

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

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

9 (b)(1)(A) For purposes of aiding in the enforcement of the requirement of minimum
10 motor vehicle liability insurance, any insurer issuing or renewing in this state any
11 policy of motor vehicle liability insurance required by Chapter 34 of Title 33 other than
12 a commercially insured vehicle policy shall within 30 days after the date the insurance
13 agent binds the coverage or on the date such coverage was renewed, whichever is
14 applicable, provide notice of such insurance coverage by electronic transmission to the
15 department; except that once coverage data has been electronically transmitted to the
16 department, there shall be no requirement to report on subsequent renewals of that
17 coverage. Insurance coverage information included in such notice of issue or renewal
18 shall be limited exclusively to the name of the insurer, the vehicle identification
19 number, the make and year of the insured motor vehicle, and the policy effective date.
20 The department shall not require the policy limits to be disclosed for purposes of this
21 subparagraph. For the purposes of this Code section, the vehicle identification number
22 shall be the vehicle identification number as that number is shown in the records of the
23 department. For the purposes of this Code section, the Commissioner of Insurance shall
24 furnish such notices to the department upon issuance of a certificate of self-insurance.

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

33 (C) The commissioner shall notify the Commissioner of Insurance quarterly of any and
34 all violations of the notice requirements of this paragraph by any insurer, and the
35 Commissioner of Insurance may take appropriate action against such insurer the same
36 as is authorized by Code Section 33-2-24 for violations of Title 33; provided, however,
37 that there shall be no private cause of action against an insurer or the department for

civil damages for providing information, failing to provide information, or erroneously providing information pursuant to this Code section. No insurer shall utilize the costs of any audit or examination conducted by the Insurance Department pursuant to this paragraph as a cost of business in the insurer's rate base.

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

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

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

(4) 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)(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 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 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.

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

(2) It shall be the duty of the owner of such motor vehicle to obtain minimum motor vehicle insurance coverage and it shall be the duty of the owner's insurer to provide proof of such coverage to the department within 30 days of the date of such notice, pursuant to the requirements of subparagraph (b)(1)(A) of ~~Code Section 40-5-71~~ this Code section.

If the vehicle is covered by a ~~fleet~~ commercially insured vehicle policy, the owner's insurer shall not be required to provide such proof to the department by electronic means.

~~(c)~~(e)(1) When proof of minimum motor vehicle insurance coverage is provided within the time period specified in this Code section, but there has been a lapse of coverage for a period of more than ten days, the owner shall remit a \$25.00 lapse fee to the department. Failure to remit the lapse fee to the department within 30 days of the date on which the notification was mailed by the department will result in the suspension of the owner's motor vehicle registration by operation of law as if the proof had not been provided in a timely manner as provided in paragraph (2) of this subsection. If any lapse fee provided for in this Code section is paid to the county tax commissioner, the county shall retain \$5.00 thereof as a collection fee.

(2) If proof is not provided within the time period specified in this Code section that minimum motor vehicle insurance coverage is in effect, the owner's motor vehicle registration shall be suspended immediately by operation of law by the department. When such proof is provided and the owner pays a \$25.00 lapse fee and pays a \$60.00 restoration fee, the suspension shall terminate; provided, however, that the commissioner may waive the lapse fee and restoration fee for any owner whose vehicle registration has been suspended pursuant to this paragraph who provides proof of continuous minimum motor vehicle insurance coverage. If any restoration fee provided for in this Code section is paid to the county tax commissioner, the county shall retain \$10.00 thereof as a collection fee.

(3) In the event of a second suspension of the owner's registration under this Code section on or after December 1, 2003, during any five-year period, the department by operation of law shall suspend the motor vehicle registration for a period of 90 days. After the 90 day suspension period and when proof is provided that minimum motor

1 vehicle insurance coverage is in effect and the owner pays a \$25.00 lapse fee and pays
2 a \$60.00 restoration fee, the suspension shall terminate.

3 (4) In the event of a third or subsequent suspension of the owner's registration under this
4 Code section on or after December 1, 2003, during any five-year period, the department
5 by operation of law shall revoke the motor vehicle registration and no new application
6 for registration shall be accepted for a period of six months after such revocation. After
7 six months from the date of revocation and when proof is provided that minimum motor
8 vehicle insurance coverage is in effect and the owner pays a \$25.00 lapse fee and pays
9 a \$160.00 restoration fee, the owner may apply for registration of the motor vehicle.

10 ~~(d)~~(f)(1) The commissioner may waive the lapse fee for any owner whose vehicle
11 registration has been voluntarily canceled pursuant to Code Section 40-2-10.

12 (2) Upon being presented with a copy of official orders or other satisfactory proof of
13 ordered duty as approved by rule or regulation of the commissioner showing that an
14 owner of a motor vehicle was deployed outside the continental United States on active
15 military duty in the armed forces of the United States at the time his or her minimum
16 motor vehicle insurance coverage for such vehicle terminated, the county tag agent shall
17 waive the lapse fee and restoration fee, suspension of the owner's motor vehicle
18 registration under this Code section shall terminate, and application for registration of the
19 vehicle which otherwise satisfies requirements provided by law may be accepted without
20 delay.

21 (3) Notwithstanding any provision in this Code section to the contrary, the commissioner
22 may temporarily waive or suspend fees, penalties, and notices under this Code section to
23 any or all owners of motor vehicles as may be necessary in the commissioner's discretion
24 to effectuate changes and improvements to the management of the department's records
25 and electronic data.

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

28 ~~(f)~~(h) The department shall commence suspending motor vehicle registrations as provided
29 in this Code section on December 1, 2003. The department shall commence requiring
30 payment of lapse fees and restoration fees as provided in this Code section on January 1,
31 2004.

32 ~~(g)~~(i) The county tax commissioner shall have the authority to waive a lapse fee if
33 sufficient proof is provided that no actual lapse in coverage occurred. This proof must be
34 retained by the county tax commissioner for audit purposes.

35 ~~(h)~~(j) Notwithstanding any provision of law to the contrary, a person on active military
36 duty in the armed forces of the United States whose motor vehicle is registered in this state
37 and has license plates from this state and who, as a result of his or her military duties or

1 assignment, is required to reside in another state may meet the requirements for minimum
2 motor vehicle liability coverage by purchasing such coverage in amounts equal to or
3 greater than the minimum coverages required by Georgia law and providing proof of such
4 coverage to the department. In such cases, the motor vehicle shall continue to be registered
5 and licensed in this state as long as it otherwise meets the requirements of law."

6 **SECTION 3.**

7 Said title is further amended by revising subparagraph (d)(1)(B) of Code Section 40-2-26,
8 relating to form and contents of application for registration, as follows:

9 "(B) Information obtained from the records or data base of the department regarding
10 the owner's insurance coverage which information is derived from notice provided to
11 the department pursuant to Code Section ~~40-5-71~~ 40-2-137; or"

12 **SECTION 4.**

13 Said title is further amended by repealing and reserving Code Section 40-5-71, relating to
14 notice of insurance issuance, renewal, or termination of drivers' licenses.

15 **SECTION 5.**

16 Said title is further amended by revising subsections (a) and (c) of Code Section 40-5-72,
17 relating to forwarding of license, tag, and tag registration to the department, as follows:

18 "(a) It is the duty of any person who has his or her driver's license and, where applicable,
19 license tag and tag registration suspended under the provisions of Code Section 40-5-70
20 or ~~40-5-71~~ 40-2-137 immediately upon suspension and demand of the department to
21 forward such items to the department."

22 "(c) Unless otherwise provided in this Code section, notice of the effective date of
23 suspension shall occur when the driver receives actual knowledge or legal notice of the
24 suspension, whichever occurs first. For the purposes of making any determination relating
25 to the return of a suspended motor vehicle driver's license and, where applicable, license
26 tag and tag registration, a period of suspension under Code Section 40-5-70 or ~~40-5-71~~
27 40-2-137 or this Code section shall begin upon the date of conviction adjudicated by the
28 court having jurisdiction."

29 **SECTION 6.**

30 Said title is further amended by revising Code Section 40-6-10, relating to insurance
31 requirements for operation of motor vehicles generally, as follows:

32 "40-6-10.

1 (a)(1) Until December 31, 2003, the owner or operator of a motor vehicle for which
2 minimum motor vehicle liability insurance coverage is required under Chapter 34 of Title
3 33 shall keep proof or evidence of required minimum insurance coverage in the vehicle
4 at all times during the operation of the vehicle. The owner of a motor vehicle shall
5 provide to any operator of such vehicle proof or evidence of required minimum insurance
6 coverage for the purposes of compliance with this subsection.

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

8 (A) If the policy providing such coverage was applied for within the last 30 days, a
9 current written binder for such coverage for a period not exceeding 30 days from the
10 date such binder was issued shall be considered satisfactory proof or evidence of
11 required minimum insurance coverage;

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

15 (C) If the owner acquired ownership of the vehicle within the past 30 days, if the type
16 of proof described in subparagraph (A) of this paragraph is not applicable but the
17 vehicle is currently effectively provided with required minimum insurance coverage
18 under the terms of a policy providing required minimum insurance coverage for another
19 motor vehicle, then a copy of the insurer's declaration of coverage under the policy
20 providing such required minimum insurance coverage for such other vehicle shall be
21 considered satisfactory proof or evidence of required minimum insurance coverage for
22 the vehicle, but only if accompanied by proof or evidence that the owner acquired
23 ownership of the vehicle within the past 30 days.

24 (2.1) If the vehicle is insured under a ~~fleet~~ commercially insured vehicle policy as
25 defined in Code Section 40-2-137 providing the required minimum insurance coverage
26 or if the vehicle is engaged in interstate commerce and registered under the provisions of
27 Article 3A of Chapter 2 of this title, the insurance information card issued by the insurer
28 shall be considered satisfactory proof of required minimum insurance coverage for the
29 vehicle.

30 (2.2) If the vehicle is insured under a certificate of self-insurance issued by the
31 Commissioner of Insurance providing the required minimum insurance coverage under
32 which the vehicle owner did not report the vehicle identification number to the
33 Commissioner of Insurance, the insurance information card issued by the Commissioner
34 of Insurance shall be considered satisfactory proof of required minimum insurance
35 coverage for the vehicle, but only if accompanied by a copy of the certificate issued by
36 the Commissioner of Insurance.

(3) On and after July 1, 2005, the requirement under this Code section that proof or evidence of minimum liability insurance be maintained in a motor vehicle at all times during the operation of the vehicle shall not apply to the owner or operator of any vehicle for which the records or data base of the Department of Revenue indicates that required minimum insurance coverage is currently effective.

(4) Except as otherwise provided in paragraph (7) of this subsection, any person who fails to comply with the requirements of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than \$200.00 nor more 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. 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 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 December 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 January 1, 2004, a valid insurance card shall be sufficient proof of insurance only for any vehicle covered under a fleet commercially insured vehicle policy as defined in Code Section ~~40-5-71~~ 40-2-137 . The insurance card for a fleet commercially insured vehicle 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 fleet commercially insured vehicle policy as defined in Code Section ~~40-5-71~~ 40-2-137, the insurer shall issue a policy information card which shall contain at least

1 the name of the insurer, policy number, policy issue or effective date, policy expiration
2 date, name of the insured, and year, make, model, and vehicle identification number of
3 each vehicle insured; and on and after January 1, 2004, the owner or operator of the
4 motor vehicle shall keep such policy information card in the vehicle at all times during
5 operation of the vehicle for purposes of Code Section 40-6-273.1, but any such policy
6 information card shall not be sufficient proof of insurance for any purposes of this Code
7 section except as otherwise provided in this Code section.

8 (b) An owner or any other person who knowingly operates or knowingly authorizes
9 another to operate a motor vehicle without effective insurance on such vehicle or without
10 an approved plan of self-insurance shall be guilty of a misdemeanor and, upon conviction
11 thereof, shall be subject to a fine of not less than \$200.00 nor more than \$1,000.00 or
12 imprisonment for not more than 12 months, or both. An operator of a motor vehicle shall
13 not be guilty of a violation of this Code section if such operator maintains a policy of motor
14 vehicle insurance which extends coverage to any vehicle the operator may drive. An owner
15 or operator of a motor vehicle shall not be issued a citation by a law enforcement officer
16 for a violation of this Code section if the sole basis for issuance of such a citation is that
17 the law enforcement officer is unable to obtain insurance coverage information from the
18 records of the department.

19 (c) Any person who knowingly makes a false statement or certification under Code
20 Section ~~40-5-71~~ 40-2-137 or this Code section shall be guilty of a misdemeanor and, upon
21 conviction thereof, shall be subject to a fine of not less than \$200.00 nor more than
22 \$1,000.00 or imprisonment for not more than 12 months, or both.

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

28 (e) The minimum liability insurance data base of the department shall be operational for
29 the purposes of testing, evaluation, verification of data, and validation of accuracy not later
30 than November 1, 2002, and shall be fully operational not later than January 1, 2004."

31 SECTION 7.

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