

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 1606

INTRODUCER: Banking and Insurance Committee and Senator Perry

SUBJECT: Insurance

DATE: February 4, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Arnold	Knudson	BI	Fav/CS
2.			IS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1606 requires the Department of Highway Safety and Motor Vehicles to create an online verification system for motor vehicle insurance by July 1, 2023. It also creates a task force to assist, review, and report on the implementation of the system.

The bill takes effect upon a specific appropriation.

The bill takes effect July 1, 2020.

II. Present Situation:

Motor Vehicle Insurance Online Verification System

Chapter 324, F.S., is the Financial Responsibility Law of 1955.¹ The intent of ch. 324, F.S., is to: [R]ecognize the existing privilege to own or operate a motor vehicle when such vehicles are used with due consideration for others and their property, and to promote safety and provide financial security requirements for such owners or operators whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle. Therefore, the law requires that the operator of a motor vehicle involved in a crash or convicted of certain traffic offenses is required to provide proof of financial ability to respond for

¹ Section 324.251, F.S.

damages in future accidents as a requisite to his or her future exercise of operating a motor vehicle.²

Section 316.646, F.S., requires persons required by law to maintain certain motor vehicle insurance coverage, to possess proof of insurance, and specifies when the person is required to provide proof of motor vehicle insurance. If a person is cited for violating this requirement and can provide proof of insurance that was valid at the time of the citation, the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10.³

Section 320.02, F.S., requires the registration of motor vehicles. Proof of purchase of personal injury protection⁴ and property damage insurance must be provided in order to register a motor vehicle.⁵ If the registrant is required to purchase bodily injury liability coverage as a result of a conviction of driving under the influence, then proof of bodily injury liability coverage is also required at that time.⁶

Section 324.0221, F.S., requires motor vehicle insurers to notify the Department of Highway Safety and Motor Vehicles (DHSMV) of cancellations or nonrenewals of motor vehicle insurance within 10 days after the processing or effective date of each cancellation or nonrenewal. Furthermore, the statute requires insurers to notify DHSMV within 10 days of the issuance of new insurance policies from persons not previously insured by that insurance company.⁷ When DHSMV receives a notice of cancellation from an insurer, DHSMV's system will attempt to verify if additional insurance has been provided and if the registration for the vehicle is still valid. If no additional insurance is verified for the registered vehicle after 20 days, the system will create a financial responsibility case on the owner or registrant's driver license and registration. Five days after the case is created a letter is generated and submitted to the vehicle owner or registrant notifying him or her that replacement proof of insurance is required for the registered vehicle. If insurance information is not provided, or the owner or registrant does not cancel the registration, the owner or registrant's driver license and registration will be suspended at 12:01 a.m. on the 15th day from the date of the postmarked letter.⁸

Currently, there is no mechanism in place to determine in real time that a proof of insurance coverage for the required financial responsibility is valid. The current process requires insurance carriers to report insurance information so that it can be compared to DHSMV-maintained vehicle registration. Under this reporting process, any vehicle registrations that are not tied to an insurance record are considered uninsured.⁹

Several industry advisory and trade groups have highlighted the ineffectiveness of the current insurance data reporting process. The Insurance Industry Committee on Motor Vehicle

² Section 324.011, F.S.

³ Section 318.18(2)(b)3, F.S.

⁴ Personal injury protection insurance is not necessary to register a taxi, limousine, or school bus. *See* s. 627.733(1), F.S.

⁵ Section 320.02(5)(a), F.S.

⁶ *Id.* *See also* s. 324.023, F.S.

⁷ Section 324.0221(1)(a), F.S.

⁸ Section 322.251(2), F.S.

⁹ *See* s. 324.011, F.S.

Administration (IICMVA),¹⁰ the liaison between insurance industry and the motor vehicle departments of the US and Canada, recently noted:

Despite the lack of objective evidence that state reporting programs are, or can be, effective at identifying uninsured motorists, new state reporting programs continue to become law and continue to be implemented.¹¹

The American Association of Motor Vehicle Administrators noted the absence of a meaningful correlation between insurance data reporting programs and the uninsured motorist rate:

[T]here is no correlation between compulsory insurance and the number of uninsured motor vehicles on the highway. The same absence of correlation can be said of insurance data reporting programs. Between the 1989 and 1999 IRC studies, of the 18 states with reporting programs in place for 5 years or more, 12 showed an increase in the uninsured motorists and 6 experienced improvement. These results suggest there may be other factors involved such as level of enforcement and consistency of penalties.¹²

A number of states have implemented online motor vehicle insurance verification programs including Alabama,¹³ Oklahoma,¹⁴ Texas,¹⁵ and Tennessee.¹⁶ Most of the states that have implemented online motor vehicle verification programs require that the systems generally meet standards developed by IICMVA.

States that have instituted motor vehicle insurance verification programs have reported reductions in the number of uninsured motorists. For example, Alabama's uninsured motorist rate dropped from 26 percent (2007)¹⁷ to 18.4 percent (2015)¹⁸ following its adoption of a motor vehicle insurance verification program. Texas's uninsured motorist rate dropped from 15 percent (2007)¹⁹ to 14.1 percent (2015)²⁰ following its adoption of a motor vehicle insurance verification

¹⁰ The Insurance Industry Committee on Motor Vehicle Administration (IICMVA) is an all-industry advisory group formed in January 1968, as the official liaison between the insurance industry and Motor Vehicle Departments in the US and Canada. <https://www.iicmva.com/> (last visited January 28, 2020).

¹¹ Insurance Industry Committee on Motor Vehicle Administration, *Making the Case for Using Web Services to Verify Evidence of Auto Liability Insurance* (November 2017), <https://www.iicmva.com/Making%20V2.1.pdf> (last visited January 29, 2020).

¹² American Association of Motor Vehicle Administrators Financial Responsibility and Insurance Standing Committee, *Financial Responsibility & Insurance Resource Guide* (2002), https://www.aamva.org/uploadedFiles/MainSite/Content/DriverLicensingIdentification/Auto_Insurance_Financial_Responsibility/FR%20Guide.pdf (last visited January 29, 2020). See also Insurify Insights, *Uninsured and High-Risk: State with the Most Uninsured Motorists* (December 30, 2019), <https://insurify.com/insights/states-with-the-most-uninsured-motorists/> (last visited January 29, 2020) (noting a statistically significant inverse correlation between median household income and the state's uninsured motorist rate).

¹³ Alabama Act 2011-688.

¹⁴ Okla. Stat. tit. 47, s. 7-600.2.

¹⁵ Tex. Transp. Code Ann. Ss.601.053(c) and 601.191.

¹⁶ Tenn. Code Ann. Ss. 55-12-201 – 55-12-215.

¹⁷ Insurance Research Council, *Economic Downturn May Push Percentage of Uninsured Motorists to All-Time High* (January 21, 2009), https://insurance-research.org/sites/default/files/downloads/IRC_UM_012109.pdf (last visited January 29, 2020).

¹⁸ Insurance Research Council, *Countrywide Rate Increases as Several States Experience Significant Decrease* (October 9, 2017), <https://insurance-research.org/sites/default/files/downloads/UMNR1005.pdf> (last visited January 29, 2020).

¹⁹ See *supra* at Note 24.

²⁰ See *supra* at Note 25.

program. Online verification is not the only possible cause of reductions in the number of uninsured motorists. Oklahoma's uninsured motorist rate dropped from 24 percent (2007)²¹ to 10.5 percent (2015)²² before its 2018 implementation of a motor vehicle insurance verification program.

IICMVA Model Legislation

Beginning in 2005, the IICMVA developed model legislation for state adoption of a motor vehicle online insurance verification system. The final version of the Vehicle Insurance Verification Act²³ was published in 2017. IICMVA's model legislation provides a set of recommendations and standards for implementing real-time insurance verification. Such IICMVA standards include:

- Placing responsibility on each insurer to maintain the data necessary to verify the evidence of auto liability insurance for their own policyholders;
- Placing responsibility on each insurer to maintain a web port or service through which online evidence of insurance verification can take place by trading partners;
- Requiring valid verification required be made using unique key information to route a request to the appropriate carrier for a response;
- Protecting policyholder privacy by limiting the information exchanged to only those items needed to accurately route the request and confirm evidence of the insurance;
- Requiring the industry to set a standard format for transmitting requests; and
- Requiring confirmation of evidence of auto liability insurance, or lack thereof, is sent back to the requesting entity in real time.²⁴

III. Effect of Proposed Changes:

Online Verification System for Motor Vehicle Insurance

Requirements for the Online Verification System

Section 4 creates s. 324.252, F.S., to require DHSMV to establish an online verification system for motor vehicle insurance. The system's goal is to identify uninsured motorists and aid DHSMV in enforcing the financial responsibility law. The online verification system must:

- Be accessible through the Internet by authorized personnel of DSHMV, the courts, law enforcement personnel, any other entities authorized by DHSMV, and insurers authorized by OIR to offer motor vehicle insurance.
- Send requests to insurers for verification of evidence of insurance for motor vehicles registered in this state via online services established by the insurers in compliance with IICMVA specifications and standards, with enhancements, additions, and modifications, as DSHMV requires. However, the enhancements, additions, and modifications may not

²¹ See *supra* at Note 24.

²² See *supra* at Note 25.

²³ Insurance Industry Committee on Motor Vehicle Administration, *Vehicle Insurance Verification Act*, <https://www.iicmva.com/Model%20Law%20final%20document.doc> (last visited February 3, 2020).

²⁴ Insurance Industry Committee on Motor Vehicle Administration, *The Source for Online Verification Modeling: Executive Summary* (November 2017), <https://www.iicmva.com/OLV%20Source.pdf> (last visited February 3, 2020).

conflict with, nullify, or add requirements that are inconsistent with IICMVA specifications or standards.

- Be operational by July 1, 2023. The task force must conduct a pilot program for at least 9 months to test the system before statewide use. The system may not be used in any enforcement action until successful completion of the pilot program.
- Be available 24 hours a day, except for permitted downtime for system maintenance and other work, as needed, to verify the insurance status of any vehicle registered in this state through the insurer's National Association of Insurance Commissioners (NAIC) company code, in combination with other identifiers such as vehicle identification number, policy number, or other characteristics or markers as specified by the task force.
- Include appropriate provisions, consistent with industry standards, as specified by the task force, to secure the system's data against unauthorized access.
- Include a disaster recovery plan to ensure service continuity in the event of a disaster.
- Include information that enables DHSMV to make inquiries of evidence of insurance by using multiple data elements for greater matching accuracy, specifically the insurer's NAIC company code, in combination with other identifiers such as vehicle identification number, policy number, or other characteristics or markers as specified by the task force.
- Include a self-reporting mechanism for insurers with fewer than 2,000 vehicles insured within this state or for individual entities that are self-insured.

DHSMV Powers and Duties Related to the Online Verification System

The section provides DHSMV the following powers and duties:

- Upon advance notice, DHSMV must allow online services established by an insurer to have reasonable downtime for system maintenance and other work, as needed. An insurer is not subject to administrative penalties or disciplinary actions when its online services are not available under such circumstances or when an outage is unplanned by the insurer and is reasonably outside its control.
- Upon recommendation of the task force, DHSMV may contract with a private vendor that has personnel with extensive operational and management experience in the development, deployment, and operation of insurance online verification systems.
- DHSMV and its private vendor, if any, must each maintain a contact person for the insurers during the establishment, implementation, and operation of the system.
- DHSMV must maintain a historical record of the system data for 6 months after the date of any verification request and response.

Insurer Obligations and Immunity From Civil Liability

An insurance company authorized to issue insurance policies for motor vehicles registered in this state:

- Must comply with the verification requirements of motor vehicle insurance for every motor vehicle insured by that company in this state as required by DSHMV rule.
- Must maintain policyholder records in order to confirm insurance coverage for 3 years after the date of any verification request and response.
- Must cooperate with DHSMV in establishing, implementing, and maintaining the system.

- Is immune from civil liability for good faith efforts to comply with statutory requirements related to the online verification system. An online verification request or response may not be used as the basis of a civil action against an insurer.

The section's motor vehicle verification system does not apply to commercial motor vehicle coverage. Insurers providing such coverage may voluntarily participate.

Motor Vehicle Insurance Online Verification Task Force

Section 4 creates s. 324.255, F.S., to require DHSMV to form within the department the Motor Vehicle Insurance Online Verification Task Force (task force). The task force must:

- Facilitate the implementation of the motor vehicle insurance online verification system, including recommending data and cybersecurity processes and protocols.
- Assist in the development of a detailed guide for insurers by providing data fields and other information necessary for compliance with the online verification system.
- Coordinate a pilot program and conduct the program for at least nine months to test the online verification system and identify necessary changes to be implemented before statewide use.
- Issue recommendations based on periodic reviews of the online verification system.

The task force consists of 10 voting members and one nonvoting member. DHSMV's executive director, who is a nonvoting member, serves as its chair. The 10 voting members must be appointed by July 31, 2020, as follows:

- Three appointed by DHSMV's executive director, representing the Florida Highway Patrol, the Division of Motorist Services, and the Information Systems Administration.
- One appointed by the Commissioner of Insurance, representing the Office of Insurance Regulation (OIR).
- Three appointed by the Chief Financial Officer, representing the motor vehicle insurance industry, as follows:
 - One member representing the motor vehicle insurer with the largest national market share as of December 31, 2019.
 - One member representing the motor vehicle insurer with the largest Florida market share as of December 31, 2019.
 - One member selected from a list of representatives recommended by the IICMVA.
- One appointed by the Chief Financial Officer, representing the Department of Financial Services (DFS).
- One appointed by the executive director of the Agency for State Technology, representing the agency.
- One member who must be a member of local law enforcement, appointed by the executive director of DHSMV.

By September 30 of the year the bill become effective, the task force must meet to establish procedures for conducting its business, and elect a vice chair. The task force must meet at the call of the chair, who is responsible for preparing the agenda for each meeting with the consent of the task force. A majority of the voting members of the task force constitutes a quorum, and a quorum is necessary for the purpose of voting on any action or recommendation of the task force. All meetings must be held in Tallahassee.

DSHBMV must provide the task force members with administrative and technical support. Task force members serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

By July 1 of the third year the bill become effective, the task force must complete its work and submit its final report evaluating the online verification system's effectiveness and making recommendations for system enhancements to DHSBMV, the President of the Senate, and the Speaker of the House of Representatives. Upon submission of the report, the task force expires.

Conforming Changes Related to the Online Verification System

Section 1 amends s. 316.646, F.S., to direct a law enforcement officer during a traffic stop or crash investigation to verify the motor vehicle operator's proof of insurance using the online verification system created in Section 3 18 months after implementation of the system.

Section 2 amends s. 320.02, F.S., to allow the online verification system created in Section 4 to be used in place of the current verification procedures for the proof of insurance required to register a motor vehicle.

Effective Date

Section 5 provides the bill with take effect upon a specific appropriation.

Section 6 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

DHSMV estimates that it will require \$3.3 million to procure and implement a basic vendor-supplied online insurance verification system. Following implementation, there will be a recurring cost of \$2.8 million per year to support this system, with the amount increasing to \$3.4 million in out-years.²⁵

VI. Technical Deficiencies:

Lines 156-160 define “commercial motor vehicle coverage” as “any coverage provided to an insured under a commercial coverage form and rated from a commercial manual approved by the Office of Insurance Regulation. Currently, commercial auto forms may be filed as information and rates and rules are filed as informational, not for approval. It may avoid confusion if this definition were amended to state “filed” instead of “approved.”

Lines 196-201 create a situation whereby a single motor vehicle insurer could have two voting members on Motor Vehicle Insurance Online Verification Task Force if the insurer had both the largest national market share and largest Florida market share.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.646 and 320.02.

This bill creates the following sections of the Florida Statutes: 324.252 and 324.255.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Banking and Insurance on February 4, 2020:**

- Retains the bill’s provisions requiring the Department of Highway Safety and Motor Vehicles to create a motor vehicle insurance online verification system, and requiring

²⁵ Florida Department of Highway Safety and Motor Vehicles, *Agency Analysis of HB 895*, p. 4 (January 24, 2020).

the creation of a task force to assist, review, and report on the implementation of the system.

- Amends s. 316.646, F.S., to require law enforcement officers, during a traffic stop or crash investigation, to access the motor vehicle insurance online verification system 18 months after its implementation.
- Authorizes the Department of Highway Safety and Motor Vehicles to enter into use agreements with any public or private entity accessing the system to verify insurance coverage.
- Increases the period of time the insurers must maintain policyholder records in order to confirm coverage after the date of any verification request and response, from 6 months to 3 years.
- Increases the number of voting Motor Vehicle Insurance Online Verification Task Force members from 9 to 10; adds 1 voting member who must be a member of local law enforcement, appointed by the executive director of the Department of Highway Safety and Motor Vehicles.
- Eliminates the bill's provision requiring the Motor Vehicle Insurance Online Verification Task Force to issue a report to the Department of Highway Safety and Motor Vehicles, President of the Senate, and Speaker of the House of Representatives no later than 6 months after the conclusion of the pilot program, evaluating the system's effectiveness in identifying uninsured motorists and making recommendations for system enhancements.
- Predicates the effectiveness of the bill on a specific appropriation.
- Deletes all other sections of the bill.

B. Amendments:

None.