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HOUSE BILL NO. 524

Offered January 18, 1996

A BILL to amend and reenact §§ 46.2-364, 46.2-706, 46.2-706.1 and 46.2-707 of the Code of Virginia, relating to motor vehicle insurance; penalty.

Patrons—Moore, Albo, Callahan, Cantor, Clement, Connally, Crittenden, Darner, Dickinson, Drake, Dudley, Griffith, Guest, Hamilton, Hargrove, Harris, Howell, Hull, Johnson, Katzen, Nelms, O'Brien, Parrish, Purkey, Rollison, Ruff, Shuler, Thomas, Wardrup and Way

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-364, 46.2-706, 46.2-706.1 and 46.2-707 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-364. Definitions.

For the purposes of this ~~article~~ *chapter*, unless a different meaning is clearly required by the context:

"Conviction" means conviction on a plea of guilty or the determination of guilt by a jury or by a court though no sentence has been imposed or, if imposed, has been suspended and includes a forfeiture of bail or collateral deposited to secure appearance in court of the defendant unless the forfeiture has been vacated, in any case of a charge, the conviction of which requires or authorizes the Commissioner to suspend or revoke the license of the defendant;

"Insured" means the person in whose name a motor vehicle liability policy has been issued, as defined in this section, and any other person insured under its terms;

"Judgment" means any judgment for \$200 or more arising out of a motor vehicle accident because of injury to or destruction of property, including loss of its use, or any judgment for damages, including damages for care and loss of services, because of bodily injury to or death of any person arising out of the ownership, use or operation of any motor vehicle, including any judgment for contribution between joint tort-feasors arising out of any motor vehicle accident which occurred within the Commonwealth, except a judgment rendered against the Commonwealth, which has become final by expiration without appeal in the time within which an appeal might be perfected or by final affirmance on appeal rendered by a court of competent jurisdiction of the Commonwealth or any other state or court of the United States or Canada or its provinces;

"Motor vehicle" means every vehicle which is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle and includes every device in, on or by which any person or property is or can be transported or drawn on a highway, except devices moved by human or animal power and devices used exclusively on rails or tracks, and vehicles used in the Commonwealth but not required to be licensed by the Commonwealth;

"Motor vehicle liability policy" means an owner's or a driver's policy of liability insurance certified, as provided in this ~~article~~ *chapter*, by an insurance carrier licensed to do business in the Commonwealth or by an insurance carrier not licensed to do business in the Commonwealth on compliance with the provisions of this ~~article~~ *chapter*, as proof of financial responsibility.

§ 46.2-706. Additional fee; proof of insurance required of applicants for registration of insured motor vehicles; verification of insurance; suspension of driver's license, registration certificates, and license plates for certain violations.

In addition to any other fees prescribed by law, every person registering an uninsured motor vehicle, as defined in § 46.2-705, at the time of registering or reregistering the uninsured vehicle, shall pay a fee of \$400; however, if the uninsured motor vehicle is a motor vehicle or semitrailer registered or reregistered as provided in subsection B of § ~~46.2-646~~, the fee shall be one-twelfth of the annual uninsured motor vehicle fee for each month of the registration period is being registered or reregistered for a period of less than a full year, the uninsured motor vehicle fee shall be prorated for the unexpired portion of the registration period. If the vehicle is a motor vehicle being registered or reregistered as provided in subsection B of § 46.2-697, the fee shall be one-fourth of the annual uninsured motor vehicle fee for each quarter for which the vehicle is registered.

If the owner of a motor vehicle registered under this article as an uninsured motor vehicle, during the period for which such vehicle is registered, obtains insurance coverage adequate to permit such vehicle's registration as an insured motor vehicle and presents evidence satisfactory to the Commissioner of the existence of such insurance coverage, the Commissioner shall amend the Department's records to show such vehicle to be registered as an insured motor vehicle and shall refund to the owner a prorated portion of the additional fee required by this section for registration of an uninsured motor vehicle. Such

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60 proration shall be on a monthly basis, except that no such refund shall be made (i) as to any registration
61 during the last three months of its validity or (ii) on any portion of any such fee required to be paid
62 resulting from a determination by the Department or any court that a vehicle was uninsured and no fee
63 had been paid.

64 Every person applying for registration of a motor vehicle and declaring it to be an insured motor
65 vehicle shall, under the penalties set forth in § 46.2-707, execute and furnish to the Commissioner his
66 certificate that the motor vehicle is an insured motor vehicle as defined in § 46.2-705, or that the
67 Commissioner has issued to its owner, in accordance with § 46.2-368, a certificate of self-insurance
68 applicable to the vehicle sought to be registered. The Commissioner, or his duly authorized agent, may
69 require any registered owner of a motor vehicle declared to be insured or any applicant for registration
70 of a motor vehicle to be an insured motor vehicle to submit a certificate of insurance on a form
71 prescribed by the Commissioner. The Commissioner shall forward the certificate of insurance or bond to
72 the insurance company or surety company, whichever is applicable, for verification as to whether the
73 policy or bond named in the certificate is currently in force. At that time and not later than thirty days
74 following receipt of the certificate of insurance, the insurance company or surety company shall cause to
75 be filed with the Commissioner a written notice if the policy or bond was not applicable as to the
76 named insured. The Commissioner shall prescribe the manner in which the written notice shall be made
77 verify that the motor vehicle is properly insured by comparing owner and vehicle identification
78 information on file at the Department of Motor Vehicles with liability information on the owner and
79 vehicle transmitted to the Department by any insurance company licensed to do business in the
80 Commonwealth as provided in § 46.2-706.1. If no record of liability insurance is found, the Department
81 may require the motor vehicle owner to verify insurance in a method prescribed by the Commissioner.

82 The refusal or neglect of any owner within thirty days to submit the ~~certificate of liability insurance~~
83 information when required by the Commissioner or his duly authorized agent, or the *electronic*
84 notification by the insurance company or surety company that the policy or bond named in the
85 certificate of insurance is not in effect, shall require the Commissioner to suspend any driver's license
86 and all registration certificates and license plates issued to the owner of the motor vehicle until the
87 person (i) has paid to the Commissioner a fee of \$400 to be disposed of as provided for in § 46.2-710
88 with respect to the motor vehicle determined to be uninsured and (ii) furnishes proof of financial
89 responsibility for the future in the manner prescribed in Article 15 (§ 46.2-435 et seq.) of Chapter 3 of
90 this title. No order of suspension required by this section shall become effective until the Commissioner
91 has offered the person an opportunity for an administrative hearing to show cause why the order should
92 not be enforced. Notice of the opportunity for an administrative hearing may be included in the order of
93 suspension. When three years have elapsed from the effective date of the suspension required in this
94 section, the Commissioner may relieve the person of the requirement of furnishing proof of future
95 financial responsibility.

96 If the Commissioner determines that the fee applicable to the registration of an uninsured motor
97 vehicle has been paid on the vehicle in question on or before the date that the insurance certificate was
98 requested, no suspension action shall be taken.

99 The Commissioner shall suspend the driver's license and all registration certificates and license plates
100 of any person on receiving a record of his conviction of a violation of any provisions of § 46.2-707, but
101 the Commissioner shall dispense with the suspension when the person is convicted for a violation of
102 § 46.2-707 and the Department's records show conclusively that the motor vehicle was insured or that
103 the fee applicable to the registration of an uninsured motor vehicle has been paid by the owner prior to
104 the date and time of the alleged offense.

105 § 46.2-706.1. Insurance and surety companies to furnish certain insurance information.

106 The Commissioner may, on or before January 1, 1995, promulgate regulations prescribing the manner
107 in which motor vehicle liability insurance information is reported to the Department by insurance and
108 surety companies licensed to do business in the Commonwealth, or their representatives. Any liability
109 insurance information relating to individually identified vehicles or persons, received from such
110 companies under this section, shall be considered privileged information and not subject to the Virginia
111 Freedom of Information Act (§ 2.1-340 et seq.).

112 Such information shall be used in conjunction with information supplied under § 46.2-706 to verify
113 insurance for motor vehicles certified by their owners to be insured.

114 Insurance companies licensed to do business in Virginia shall provide to the Department monthly
115 electronic updates of insured information and vehicle descriptions required by the Commissioner when
116 they (i) cancel liability insurance for vehicles registered in Virginia, (ii) add liability insurance for
117 vehicles registered in Virginia, or (iii) provide liability insurance for vehicles registered in Virginia
118 newly satisfying financial responsibility requirements. Insurance companies having less than 1,000
119 policies may report the information manually or electronically.

120 § 46.2-707. Operating uninsured motor vehicle without payment of fee; verification of insurance;
121 false evidence of insurance.

Any person who owns an uninsured motor vehicle (i) licensed in the Commonwealth, (ii) subject to registration in the Commonwealth, or (iii) displaying temporary license plates provided for in § 46.2-1558 who operates or permits the operation of that motor vehicle without first having paid to the Commissioner the uninsured motor vehicle fee required by § 46.2-706, to be disposed of as provided by § 46.2-710, shall be guilty of a Class 3 misdemeanor.

Any person who is the operator of such an uninsured motor vehicle and not the titled owner, who knows that the required fee has not been paid to the Commissioner, shall be guilty of a Class 3 misdemeanor.

The Commissioner or his duly authorized agent, having reason to believe that a motor vehicle is being operated or has been operated on any specified date, may require the owner of such motor vehicle to ~~submit the certificate of insurance~~ *verify insurance in a method prescribed by the Commissioner as* provided for by § 46.2-706. The refusal or neglect of the owner who has not, prior to the date of operation, paid the uninsured motor vehicle fee required by § 46.2-706 as to such motor vehicle, to ~~furnish such certificate~~ *provide such verification* shall be prima facie evidence that the motor vehicle was an uninsured motor vehicle at the time of such operation.

Any person who ~~presents or causes to be presented~~ *falsely verifies insurance* to the Commissioner a ~~false certificate that a motor vehicle is an insured motor vehicle~~ or gives false evidence that a motor vehicle sought to be registered is an insured motor vehicle, shall be guilty of a Class 3 misdemeanor.

However, the foregoing portions of this section shall not be applicable if it is established that the owner had good cause to believe and did believe that such motor vehicle was an insured motor vehicle, in which event the provisions of § 46.2-609 shall be applicable.

Any person who owns an uninsured motor vehicle (i) licensed in the Commonwealth, (ii) subject to registration in the Commonwealth, or (iii) displaying temporary license plates provided for in § 46.2-1558, and who has not paid the uninsured motor vehicle fee required by § 46.2-706, shall immediately surrender the vehicle's license plates to the Department. Any person who fails to immediately surrender his vehicle's license plates shall be guilty of a Class 3 misdemeanor.

Abstracts of records of conviction, as defined in this title, of any violation of any of the provisions of this section shall be forwarded to the Commissioner as prescribed by § 46.2-383.

The Commissioner shall suspend the driver's license and all registration certificates and license plates of any titled owner of an uninsured motor vehicle upon receiving a record of his conviction of a violation of any provisions of this section, and he shall not thereafter reissue the driver's license and the registration certificates and license plates issued in the name of such person until such person pays the fee applicable to the registration of an uninsured motor vehicle as prescribed in § 46.2-706 and furnishes proof of future financial responsibility as prescribed by Article 15 (§ 46.2-435 et seq.) of Chapter 3 of this title. However, when three years have elapsed from the date of the suspension herein required, the Commissioner may relieve such person of the requirement of furnishing proof of future financial responsibility. When such suspension results from a conviction for presenting or causing to be presented to the Commissioner a ~~false certificate~~ *false verification* as to whether a motor vehicle is an insured motor vehicle or false evidence that any motor vehicle sought to be registered is insured, then the Commissioner shall not thereafter reissue the driver's license and the registration certificates and license plates issued in the name of such person so convicted for a period of 180 days from the date of such order of suspension, and only then when all other provisions of law have been complied with by such person.

The Commissioner shall suspend the driver's license of any person who is the operator but not the titled owner of a motor vehicle upon receiving a record of his conviction of a violation of any provisions of this section and he shall not thereafter reissue the driver's license until thirty days from the date of such order of suspension.

2. That the provisions of this act shall become effective on January 1, 1997.