

FIRST REGULAR SESSION

# HOUSE BILL NO. 407

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES YATES (Sponsor), BEARDEN, KRAUS, DUSENBERG, RICHARD, WILSON (130), MUSCHANY, FISHER, McGHEE, AVERY, WILSON (119), MUNZLINGER, RUESTMAN, ROBB, MOORE, SANDER, FAITH AND SCHNEIDER (Co-sponsors).

Read 1st time January 16, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 303.025 and 303.042, RSMo, and to enact in lieu thereof three new sections relating to the uninsured motorists, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 303.025 and 303.042, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 303.025, 303.042, and 303.390, to read as  
3 follows:

303.025. 1. No owner of a motor vehicle registered in this state, or required to be  
2 registered in this state, shall operate, register or maintain registration of a motor vehicle, or  
3 permit another person to operate such vehicle, unless the owner maintains the financial  
4 responsibility which conforms to the requirements of the laws of this state. Furthermore, no  
5 person shall operate a motor vehicle owned by another with the knowledge that the owner has  
6 not maintained financial responsibility unless such person has financial responsibility which  
7 covers the person's operation of the other's vehicle; however, no owner shall be in violation of  
8 this subsection if he or she fails to maintain financial responsibility on a motor vehicle which is  
9 inoperable or being stored and not in operation. The director may prescribe rules and regulations  
10 for the implementation of this section.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11           2. A motor vehicle owner shall maintain the owner's financial responsibility in a manner  
12 provided for in section 303.160, or with a motor vehicle liability policy which conforms to the  
13 requirements of the laws of this state.

14           3. Any person who violates this section **for a first offense** is guilty of a class [C] B  
15 misdemeanor. **Any person who violates this section for a second or subsequent violation is**  
16 **guilty of a class A misdemeanor and shall have his or her motor vehicle impounded.**  
17 However, no person shall be found guilty of violating this section if the operator demonstrates  
18 to the court that he or she met the financial responsibility requirements of this section at the time  
19 the peace officer, commercial vehicle enforcement officer or commercial vehicle inspector wrote  
20 the citation. In addition to any other authorized punishment, the court shall notify the director  
21 of revenue of any person convicted pursuant to this section and shall do one of the following:

22           (1) Enter an order suspending the driving privilege as of the date of the court order. If  
23 the court orders the suspension of the driving privilege, the court shall require the defendant to  
24 surrender to it any driver's license then held by such person. The length of the suspension shall  
25 be as prescribed in subsection 2 of section 303.042. The court shall forward to the director of  
26 revenue the order of suspension of driving privilege and any license surrendered within ten days;

27           (2) Forward the record of the conviction for an assessment of four points; or

28           (3) In lieu of an assessment of points, render an order of supervision as provided in  
29 section 302.303, RSMo. An order of supervision shall not be used in lieu of points more than  
30 one time in any thirty-six-month period. Every court having jurisdiction pursuant to the  
31 provisions of this section shall forward a record of conviction to the Missouri state highway  
32 patrol, or at the written direction of the Missouri state highway patrol, to the department of  
33 revenue, in a manner approved by the director of the department of public safety. The director  
34 shall establish procedures for the record keeping and administration of this section.

35           4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330  
36 and 303.370 shall be construed as prohibiting the department of insurance from approving or  
37 authorizing those exclusions and limitations which are contained in automobile liability  
38 insurance policies and the uninsured motorist provisions of automobile liability insurance  
39 policies.

40           5. If a court enters an order of suspension, the offender may appeal such order directly  
41 pursuant to chapter 512, RSMo, and the provisions of section 302.311, RSMo, shall not apply.

          303.042. 1. The suspension shall become effective thirty days after the subject person  
2 is deemed to have received the notice of suspension by ordinary mail as provided in section  
3 303.041.

4           2. The period of suspension under this section shall be as follows:

5 (1) If the person's record shows no prior violation, the director shall terminate the  
6 suspension upon payment of a reinstatement fee of [twenty] **one hundred** dollars and submission  
7 of proof of insurance as prescribed in section 303.026 or some other form of proof of insurance  
8 as prescribed by the director;

9 (2) If the person's record shows one prior violation within the immediately preceding two  
10 years, the director shall terminate the suspension ninety days after its effective date upon  
11 payment of a reinstatement fee of two hundred dollars and submission of proof of insurance as  
12 prescribed in section 303.026 or some other form of proof of insurance as prescribed by the  
13 director;

14 (3) If the person's record shows two or more prior violations, the period of suspension  
15 shall terminate one year after its effective date upon payment of a reinstatement fee of four  
16 hundred dollars and submission of proof of insurance as prescribed in section 303.026 or some  
17 other form of proof of insurance as prescribed by the director.

18 3. In the event that proof of insurance required by this section has not been filed with the  
19 department of revenue in accordance with this chapter prior to the end of the period of  
20 suspension provided in this section, such period of suspension shall be extended until such proof  
21 of insurance as prescribed by the director has been filed. In no event shall filing proof of  
22 insurance as prescribed by the director reduce any period of suspension.

23 4. If the director determines that the proof of insurance submitted by a motor vehicle  
24 owner or operator pursuant to this chapter is false, the director shall suspend the owner's vehicle  
25 registration and operator's driving privilege. The director shall terminate the suspension one year  
26 after the effective date upon payment by the owner or operator of a reinstatement fee of one  
27 hundred fifty dollars and submission of proof of insurance as prescribed in section 303.026 or  
28 some other form of proof of insurance as prescribed by the director.

29 5. In all cases involving a suspension as provided in this section, the director shall not  
30 require an individual to file a certificate of insurance as provided in section 303.170 or section  
31 303.180 or some other form of high-risk insurance in order to terminate the suspension,  
32 excluding cases involving a motor vehicle accident where one or more parties involved in the  
33 accident were uninsured.

**303.390. 1. This section shall be known and may be cited as the "Uninsured  
2 Motorist Stipulation of Benefits Act of 2007".**

3 **2. An owner and operator of a motor vehicle who operates the motor vehicle on the**  
4 **public highways of this state, or who knowingly permits the operation of the motor vehicle**  
5 **on the public highways of this state, who fails to have in full force and effect a complying**  
6 **liability policy providing at least the minimum liability coverage required by this state and**  
7 **covering the motor vehicle at the time of an accident shall:**

8           (1) Be eligible to recover against a complying policyholder one hundred percent of  
9 any economic damages;

10           (2) Be limited to a recovery against a complying policyholder of fifty percent of any  
11 noneconomic losses;

12           (3) Be deemed to have waived any right to recover against a complying policyholder  
13 for punitive damages; and

14           (4) If an illegal alien, be deemed to have waived any right to recovery against a  
15 complying policyholder for any noneconomic loss or punitive damages, and shall be eligible  
16 only for recovery against a complying policyholder of one hundred percent of any  
17 economic damages.

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19 The limitation and waiver in subdivisions (1) to (3) of this subsection shall not apply if it  
20 can be proven that the accident was caused, wholly or in part, by a tortfeasor's operating  
21 a motor vehicle under the influence of drugs or alcohol, or who is convicted of vehicular  
22 assault or homicide. The provisions of this section shall not apply to an uninsured motorist  
23 whose immediately previous insurance policy meeting the requirements of section 303.190  
24 was terminated or nonrenewed for failure to pay the premium, unless notice of termination  
25 or nonrenewal for failure to pay such premium was provided by such insurer at least thirty  
26 days prior to the time of the accident.

27           3. In an action against a complying policyholder by a person deemed to have  
28 waived recovery under subsection 2 of this section:

29           (1) Any award in favor of such person shall be reduced by an amount equal to the  
30 percentage of reduction in subsection 2 of this section to be applied to the portion of the  
31 award representing compensation for noneconomic losses;

32           (2) The trier of fact shall not be informed, directly or indirectly, of such waiver or  
33 of its effect on the total amount of such person's recovery.

34           4. Nothing in this section shall be construed to preclude recovery against an alleged  
35 tortfeasor of benefits provided or economic loss coverage.

36           5. There is a rebuttable presumption of a knowing violation of the minimum  
37 insurance requirements contained in subsection 2 of this section if such insurance has  
38 lapsed, terminated, or otherwise been ineffective for a period of at least thirty days prior  
39 to the accident.

40           6. Passengers in the uninsured motor vehicle are not subject to such waiver.

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