

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 322

97TH GENERAL ASSEMBLY

1211S.06T

2013

AN ACT

To repeal sections 303.024 and 303.200, RSMo, and to enact in lieu thereof five new sections relating to providing and presenting certain insurance documents through electronic means, with penalty provisions.

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

Section A. Sections 303.024 and 303.200, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 301.149, 303.024, 303.200, 379.011, and 379.012, to read as follows:

301.149. 1. Notwithstanding any law to the contrary, proof of financial responsibility required for vehicle registration under section 301.147 may be provided by displaying an electronic image of an insurance identification card on a mobile electronic device.

2. Whenever a person presents a mobile electronic device as proof of financial responsibility to any employee of the department of revenue or any agent authorized by the department of revenue under section 136.055 to register motor vehicles and trailers, the person presenting such mobile electronic device shall assume all liability for any damage that may occur to the mobile electronic device, except for damage willfully or maliciously caused by a department employee or agent.

3. When a person provides evidence of financial responsibility using a mobile electronic device pursuant to this section to any employee of the department of revenue or any agent authorized by the department of revenue under section 136.055 to register motor

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.

14 **vehicles and trailers, such employees or agents shall only view the evidence of financial**
15 **responsibility and shall not view any other content on the mobile electronic device.**

16 **4. As used in this section, the term "mobile electronic device" means any small**
17 **handheld computing or communications device that has a display screen with a touch input**
18 **or a miniature keyboard.**

303.024. 1. Each insurer issuing motor vehicle liability policies in this state, or an agent
2 of the insurer, shall furnish an insurance identification card to the named insured for each motor
3 vehicle insured by a motor vehicle liability policy that complies with the requirements of sections
4 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330 and 303.370. **Such**
5 **insurance identification card may be produced in either paper or electronic format.**
6 **Acceptable electronic forms include display of electronic images on a cellular phone or any**
7 **other type of portable electronic device.**

8 2. The insurance identification card shall include all of the following information:

- 9 (1) The name and address of the insurer;
10 (2) The name of the named insured;
11 (3) The policy number;
12 (4) The effective dates of the policy, including month, day and year;
13 (5) A description of the insured motor vehicle, including year and make or at least five
14 digits of the vehicle identification number or the word Fleet if the insurance policy covers five
15 or more motor vehicles; and

16 (6) The statement "THIS CARD MUST BE CARRIED IN THE INSURED MOTOR
17 VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed on the card.

18 3. A new insurance identification card shall be issued when the insured motor vehicle
19 is changed, when an additional motor vehicle is insured, and when a new policy number is
20 assigned. A replacement insurance identification card shall be issued at the request of the
21 insured in the event of loss of the original insurance identification card.

22 4. The director shall furnish each self-insurer, as provided for in section 303.220, an
23 insurance identification card for each motor vehicle so insured. The insurance identification card
24 shall include all of the following information:

- 25 (1) Name of the self-insurer;
26 (2) The word self-insured; and
27 (3) The statement "THIS CARD MUST BE CARRIED IN THE SELF-INSURED
28 MOTOR VEHICLE FOR PRODUCTION UPON DEMAND" prominently displayed on the
29 card.

30 5. An insurance identification card shall be carried in the insured motor vehicle at all
31 times. The operator of an insured motor vehicle shall exhibit the insurance identification card

32 on the demand of any peace officer, commercial vehicle enforcement officer or commercial
33 vehicle inspector who lawfully stops such operator or investigates an accident while that officer
34 or inspector is engaged in the performance of the officer's or inspector's duties. If the operator
35 fails to exhibit an insurance identification card, the officer or inspector shall issue a citation to
36 the operator for a violation of section 303.025. A motor vehicle liability insurance policy, a
37 motor vehicle liability insurance binder, [or] receipt, **or a photocopy or an image displayed on**
38 **a mobile electronic device** which contains the policy information required in subsection 2 of
39 this section, shall be satisfactory evidence of insurance in lieu of an insurance identification card.
40 **The display of an image of the insurance card on a mobile electronic device shall not serve**
41 **as consent for such officer, inspector, or other person to access other contents of the mobile**
42 **electronic device in any manner other than to verify the image of the insurance card. As**
43 **used in this section, the term "mobile electronic device" means any small handheld**
44 **computing or communications device that has a display screen with a touch input or a**
45 **miniature keyboard. Whenever a person presents a mobile electronic device as proof of**
46 **financial responsibility to any peace officer, commercial vehicle enforcement officer, or**
47 **commercial vehicle inspector pursuant to this section, that person shall assume all liability**
48 **for any damage to the mobile electronic device, except for damage willfully or maliciously**
49 **caused by a peace officer, commercial vehicle enforcement officer, or commercial vehicle**
50 **inspector.**

51 6. Any person who knowingly or intentionally produces, manufactures, sells, or
52 otherwise distributes a fraudulent document, **photocopy, or image displayed on a mobile**
53 **electronic device** intended to serve as an insurance identification card is guilty of a class D
54 felony. Any person who knowingly or intentionally possesses a fraudulent document **or**
55 **photocopy** intended to serve as an insurance identification card **or knowingly or intentionally**
56 **uses a fraudulent image displayed on a mobile electronic device** is guilty of a class B
57 misdemeanor.

303.200. 1. After consultation with insurance companies authorized to issue automobile
2 liability policies in this state, the director of the department of insurance, financial institutions
3 and professional registration shall approve a reasonable plan or plans for the equitable
4 apportionment among such companies of applicants for such policies and for **personal**
5 **automobile and commercial** motor vehicle liability policies who are in good faith entitled to
6 but are unable to procure such policies through ordinary methods. When any such plan has been
7 approved, all such insurance companies shall subscribe thereto and participate therein. [Any
8 such plan] **The plan manager, on the plan's behalf**, shall contract with an entity or entities to
9 accept and service applicants and policies for any company that does not elect to accept and
10 service applicants and policies. By October first of each year any company that elects to accept

11 and service applicants and policies for the next calendar year for any such plan shall so notify
12 the plan. **Except as provided in subsection 2 of this section**, any company that does not so
13 notify a plan **established for handling coverage for personal automobile risks** shall be
14 excused from accepting and servicing applicants and policies for the next calendar year for such
15 plan and shall pay a fee to the plan or servicing entity for providing such services. The fee shall
16 be based on the company's market share [on the kinds of insurance offered by the plan] **as**
17 **determined by the company's writings of personal automobile risks in the voluntary**
18 **market**. Any applicant for any such policy, any person insured under any such plan, and any
19 insurance company affected may appeal to the director from any ruling or decision of the
20 manager or committee designated to operate such plan. Any person aggrieved hereunder by any
21 order or act of the director may, within ten days after notice thereof, file a petition in the circuit
22 court of the county of Cole for a review thereof. The court shall summarily hear the petition and
23 may make any appropriate order or decree. **As used in this section, the term "personal**
24 **automobile" means a private passenger non-fleet vehicle, motorcycle, camper and travel**
25 **trailer, antique auto, amphibious auto, motor home, named non-owner applicant, or a low-**
26 **speed vehicle subject to chapter 304 which is not primarily used for business or nonprofit**
27 **interests and which is generally used for personal, family, or household purposes.**

28 **2. If the total premium volume for any one plan established for handling coverage**
29 **for personal automobile risks exceeds ten million dollars in a calendar year, a company**
30 **with more than five percent market share of such risks in Missouri shall not be excused**
31 **from accepting and servicing applicants and policies of such plan under subsection 1 of this**
32 **section for the next calendar year, unless the governing body of the plan votes to allow any**
33 **company with such market share the option to be excused.**

379.011. 1. As used in this section, the following terms mean:

2 **(1) "Delivered by electronic means", includes delivery to an electronic mail address**
3 **at which a party has consented to receive notices or documents, or posting on an electronic**
4 **network or site accessible via the internet, mobile application, computer, mobile device,**
5 **tablet, or any other electronic device, together with a separate notice to a party directed**
6 **to the electronic mail address at which the party has consented to receive notice of the**
7 **posting;**

8 **(2) "Party", any recipient of any notice or document required as part of an**
9 **insurance transaction, including but not limited to an applicant, an insured or a**
10 **policyholder.**

11 **2. Subject to subsection 3 of this section, any notice to a party or any other**
12 **document required under applicable law in an insurance transaction or that is to serve as**
13 **evidence of insurance coverage may be delivered, stored, and presented by electronic**

14 means so long as it meets the requirements of sections 432.200 to 432.295. Delivery of a
15 notice or document in accordance with this subsection shall be considered equivalent to
16 any delivery method required under applicable law, including delivery by first class mail,
17 first class mail postage prepaid, certified mail, or certificate of mailing.

18 3. A notice or document may be delivered by electronic means by an insurer to a
19 party under this subsection if:

20 (1) The party has affirmatively consented to that method of delivery and has not
21 withdrawn the consent;

22 (2) The party, before giving consent, is provided with a clear and conspicuous
23 statement informing the party of:

24 (a) Any right or option to have the notice or document provided in paper or
25 another nonelectronic form at no additional cost;

26 (b) The right of party to withdraw consent to have a notice or document delivered
27 by electronic means;

28 (c) Whether the party's consent applies only to the particular transaction as to
29 which the notice or document must be given or to identified categories of notices or
30 documents that may be delivered by electronic means during the course of the parties'
31 relationship;

32 (d) The means, after consent is given, by which a party may obtain a paper copy
33 of a notice or document delivered by electronic means at no additional cost; and

34 (e) The procedure a party must follow to withdraw consent to have a notice or
35 document delivered by electronic means and to update information needed to contact the
36 party electronically;

37 (3) The party, before giving consent, is provided with a statement of the hardware
38 and software requirements for access to and retention of a notice or document delivered
39 by electronic means and consents electronically, and confirms consent electronically, in a
40 manner that reasonably demonstrates that the party can access information in the
41 electronic form that will be used for notices or documents delivered by electronic means
42 as to which the party has given consent; and

43 (4) After consent of the party is given, the insurer, in the event a change in the
44 hardware or software requirements needed to access or retain a notice or document
45 delivered in electronic means creates a material risk that the party will not be able to access
46 or retain a subsequent notice or document to which the consent applies:

47 (a) Provides the party with a statement of the revised hardware and software
48 requirements for access to and retention of a notice or document delivered by electronic

49 means and of the right of the party to withdraw consent pursuant to paragraph (b) of
50 subdivision (2) of this subsection; and

51 (b) Complies with subdivision (2) of this subsection.

52 4. This section does not affect requirements relating to content or timing of any
53 notice or document required under applicable law. If any provision of applicable law
54 requiring a notice or document to be provided to a party expressly requires verification or
55 acknowledgment of receipt of the notice or document, the notice or document may be
56 delivered by electronic means only if the method used provides for verification or
57 acknowledgment of receipt. Absent verification or acknowledgment of receipt of the initial
58 notice or document on the part of the party, the insurer shall send two subsequent notices
59 or documents at intervals of five business days. The legal effectiveness, validity, or
60 enforceability of any contract or policy of insurance executed by a party may not be made
61 contingent upon obtaining electronic consent or confirmation of consent of the party in
62 accordance with subdivision (3) of subsection 3 of this section.

63 5. A withdrawal of consent by a party does not affect the legal effectiveness,
64 validity, or enforceability of a notice or document delivered by electronic means to the
65 party before the withdrawal of consent is effective. A withdrawal of consent by a party is
66 effective within thirty days after receipt of the withdrawal by the insurer. Failure by an
67 insurer to comply with subdivision (4) of subsection 3 of this section may be treated, at the
68 election of the party, as a withdrawal of consent for purposes of this section.

69 6. This section does not apply to a notice or document delivered by an insurer in
70 an electronic form before the effective date of this section to a party who, before that date,
71 has consented to receive notices or documents in an electronic form otherwise allowed by
72 law. If the consent of a party to receive certain notices or documents in an electronic form
73 is on file with an insurer before the effective date of this section, and pursuant to this
74 section, an insurer intends to deliver additional notices or documents to such party in an
75 electronic form, then prior to delivering such additional notices or documents
76 electronically, the insurer shall notify the party of:

77 (1) The notices or documents that may be delivered by electronic means under this
78 section that were not previously delivered electronically; and

79 (2) The party's right to withdraw consent to have notices or documents delivered
80 by electronic means.

81 7. A party who does not consent to delivery of notices or documents under
82 subsection 3 of this section, or who withdraws their consent, shall not be subject to any
83 additional fees or costs for having notices or documents provided or made available to
84 them in paper or another nonelectronic form.

85 **8. If any provision of applicable law requires a signature or notice or document to**
86 **be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if**
87 **the electronic signature of the person authorized to perform those acts, together with all**
88 **other information required to be included by the provision, is attached to or logically**
89 **associated with the signature, notice, or document.**

90 **9. This section may not be construed to modify, limit, or supercede the provisions**
91 **of sections 432.200 to 432.295.**

92 **10. Nothing in this section shall prevent an insurer from offering a discount to an**
93 **insured who elects to receive notices and documents electronically in accordance with this**
94 **section.**

379.012. 1. In addition to and notwithstanding any other provisions or
2 **requirements of section 379.011 to the contrary, insurance policy forms and endorsements**
3 **for property insurance as described in subdivisions (1), (2), (3), and (5) of subsection 1 of**
4 **section 379.010 issued or renewed in this state, or covering risks in this state, which do not**
5 **contain personally identifiable information, may be made available electronically on the**
6 **insurer's website in lieu of mailing or delivering a paper copy of policy forms and**
7 **endorsements to an insured.**

8 **2. If the insurer elects to make such insurance policy forms and endorsements**
9 **available electronically on the insurer's website in lieu of mailing or delivering a paper**
10 **copy to the insured, it shall comply with all the following conditions with respect to such**
11 **policy forms and endorsements:**

12 **(1) The policy forms and endorsements issued or sold in this state shall be easily**
13 **and publicly accessible on the insurer's website and remain that way for as long as the**
14 **policy form or endorsement is in force or actively sold in this state;**

15 **(2) The insurer shall retain and store the policy forms and endorsements after they**
16 **are withdrawn from use or replaced with other policy forms and endorsements for a period**
17 **of five years and make them available to insureds and former insureds upon request and**
18 **at no cost;**

19 **(3) The policy forms and endorsements shall be available on the insurer's website**
20 **in an electronic format that enables the insured to print and save the policy forms and**
21 **endorsements using programs or applications that are widely available on the internet and**
22 **free to use;**

23 **(4) At policy issuance and renewal, the insurer shall provide clear and conspicuous**
24 **notice to the insured, in the manner it customarily communicates with an insured, that it**
25 **does not intend to mail or deliver a paper copy of the policy forms or documents. The**
26 **notice shall provide instructions on how the insured may access the policy forms and**

27 endorsements on the insurer's website. The insurer shall also notify the insured of their
28 right to obtain a paper copy of the policy forms and endorsements at no cost and provide
29 either a toll-free telephone number or the telephone number of the insured's producer by
30 which the insured can make this request;

31 (5) At policy renewal, the insurer shall provide clear and conspicuous notice to the
32 insured, in the manner it customarily communicates with an insured, of any changes which
33 have been made to the policy forms or endorsements since the prior coverage period. Such
34 notice shall be made in accordance with the requirements of subdivision (4) of this
35 subsection; and

36 (6) On each declarations page, or similar coverage summary document, issued to
37 an insured, the insurer shall clearly identify the exact policy forms and endorsements
38 purchased by the insured, so that the insured may easily access those forms on the insurer's
39 website.

40 3. The director may promulgate any rules necessary to implement and administer
41 the provisions of this section. Any rule or portion of a rule, as that term is defined in
42 section 536.010 that is created under the authority delegated in this section shall become
43 effective only if it complies with and is subject to all of the provisions of chapter 536, and,
44 if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
45 the powers vested with the general assembly pursuant to chapter 536, to review, to delay
46 the effective date, or to disapprove and annul a rule are subsequently held
47 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
48 after August 28, 2013, shall be invalid and void.

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