

CHAPTER 130**(HB 29)**

AN ACT relating to personal motor vehicle insurance database.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, unless the context requires otherwise, "personal motor vehicle" means:*
 - (a) *A private passenger motor vehicle that is not used as a public or livery conveyance for passengers, nor rented to others; and*
 - (b) *Any other four-wheel motor vehicle that weighs six thousand (6000) pounds or less which is not used in the occupation, profession, or business of the insured.*
- (2) *Beginning January 1, 2006, every insurance company that writes liability insurance on personal motor vehicles in Kentucky shall, between the first and fifteenth day of each month, send to the Department of Vehicle Regulation a list of the vehicle identification numbers (VIN) of each personal motor vehicle covered by liability insurance issued by the insurer as of the last day of the preceding month and the name of each personal motor vehicle insurance policyholder. The information shall be submitted either electronically or by paper copy at the option of the Department of Vehicle Regulation.*
- (3) *In the absence of malice, fraud, or gross negligence, any insurer and any authorized employee of an insurer shall not be subject to civil liability for libel, slander, or any other relevant tort, and no civil cause of action of any nature shall arise against the insurer or authorized employee, for submission of the information required by subsection (2) of this section, including submission of inaccurate or incomplete information.*

Section 2. KRS 186A.040 is amended to read as follows:

- (1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky *pursuant to Sections 1 and 4 of this Act*. The department shall provide appropriate insurance information to the Governor's Office for Technology for inclusion in the AVIS database *to assist in identifying uninsured motor vehicles*.
- (2) (a) Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085, *or on and after January 1, 2006, if the vehicle identification number (VIN) of a personal motor vehicle does not appear in the database created by Section 1 of this Act for two (2) consecutive reporting months*, the department shall immediately make a determination as to the notification of the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have thirty (30) days to show proof of insurance to the county clerk. The department shall further inform the insured that if evidence of insurance is not received within thirty (30) days the department shall revoke the registration of the motor vehicle until:
 1. ~~(a)~~ The person presents proof of insurance to the county clerk and pays the reinstatement fee required by KRS 186.180;

2. ~~{(b)}~~ The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the inoperable condition of the motor vehicle;
3. ~~{(e)}~~ The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the seasonal nature of the vehicle. The affidavit shall explain that when the vehicle is out of dormancy and when the seasonal use of the vehicle is resumed, the proper security will be obtained; or
4. ~~{(d)}~~ The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that he or she requires a registered motor vehicle in order to carry out his or her employment and that the motor vehicle that he or she drives during the course of his or her employment meets the security requirement of subtitle 39 of KRS Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has his or her motor vehicle registration revoked in accordance with this subsection three (3) times within any twelve (12) month period, the revocations shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

~~{(b)}~~ ~~{(3)}~~ The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by *paragraph (a) of this subsection* ~~{(2) of this section}~~. The notice that the department gives to the county attorney in accordance with *paragraph (a) of this subsection* ~~{(2) of this section}~~ shall include a certified copy of the person's driving record which shall include:

1. ~~{(a)}~~ The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and
2. ~~{(b)}~~ A dated notice that the department sent to the person requiring the person to present proof of insurance to the county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had his or her motor vehicle registration revoked three (3) times within any twelve (12) month period in accordance with *paragraph (a) of this subsection* ~~{(2) of this section}~~.

~~{(c)}~~ ~~{(4)}~~ The certified copies sent by the department described in *paragraph (b) of this subsection* ~~{(3) of this section}~~, shall be prima facie evidence of a violation of KRS 304.39-080.

~~{(d)}~~ ~~{(5)}~~ If the insured provides proof of insurance to the clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

- (3) (a) *In developing the mechanism to electronically transfer information pursuant to Section 1 of this Act, the commissioner of the Department of Vehicle Regulation shall consult with the commissioner of the Department of Insurance and insurers of*

personal motor vehicles to adopt a standardized system of organizing, recording, and transferring the information so as to minimize insurer administrative expenses. The commissioner shall to the maximum extent possible utilize nationally recognized electronic data information systems such as those developed by the American National Standards Institute or the American Association of Motor Vehicle Administrators.

- (b) *Notwithstanding any other provision of law, information obtained by the department pursuant to Section 1 of this Act shall not be subject to the Kentucky Open Records Act, KRS 61.872 to 61.884, and shall not be disclosed, used, sold, accessed, utilized in any manner, or released by the department to any person, corporation, or state and local agency, except in response to a specific individual request for the information authorized pursuant to the federal Driver's Privacy Protection Act, 18 U.S.C. secs. 2721 et seq. The department shall institute measures to ensure that only authorized persons are permitted to access the information for the purposes specified by this section. Persons who knowingly release or disclose information from the database created by Section 1 of this Act for a purpose other than those described as authorized by this section or to a person not entitled to receive it shall be guilty of a Class A misdemeanor for each release or disclosure.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

- (1) *On and after January 1, 2006, a county clerk shall not process an application for, nor issue, a:*
- (a) *Kentucky title and registration or renewal of registration;*
 - (b) *Replacement plate, decal, or registration certificate;*
 - (c) *Duplicate registration;*
 - (d) *Transfer of registration; or*
 - (e) *Temporary tag;*
- for any personal motor vehicle as defined in subsection (1) of Section 1 of this Act if AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, except as provided in subsection (2) of this section.*
- (2) *If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the county clerk may process the application if the applicant has an insurance card that indicates the required security is currently in full force on the personal motor vehicle if the card was effective no more than forty-five (45) days before the application is submitted to the county clerk.*
- (3) *This section shall not apply to any transactions involving Kentucky motor vehicle dealers who are licensed as required by KRS 190.030.*

Section 4. KRS 304.39-085 is amended to read as follows:

- (1) Every authorized insurance company shall, within one (1) calendar week following the end of its accounting month, send to the Department of Vehicle Regulation a list of all persons insured by it whose policy was terminated by either cancellation or nonrenewal during such accounting month, except those persons whose nonrenewal was at the end of a policy with a term of six (6) months or longer and who failed to make a payment for the renewal of the

policy. Such list shall include a description of each vehicle insured under such terminating policy.

- (2) It shall be lawful for an authorized insurance company to present the information required by subsection (1) of this section by compatible computer tape approved by the Department of Vehicle Regulation.
- (3) ***On and after January 1, 2006, this section shall not apply to policies covering personal motor vehicles as defined in Section 1 of this Act.***

Section 5. KRS 304.39-117 is amended to read as follows:

- (1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the insured, in compliance with administrative regulations promulgated by the department, written proof in the form of an insurance card that the insured has in effect an insurance contract providing security in conformity with this subtitle.
- (2) The owner shall keep the card in his motor vehicle as prima facie evidence, ***except as provided in subsection (3) of this section***, that the required security is currently in full force and effect, and shall show the card to a peace officer upon request.
- (3) ***On and after January 1, 2006, as to personal motor vehicles as defined in Section 1 of this Act, the card and the database created by Section 1 of this Act shall be evidence to a peace officer who requests the card if the peace officer has access to the database through AVIS. If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the peace officer may accept an insurance card as evidence that the required security is currently in full force and effect on the personal motor vehicle if the card was effective no more than forty-five (45) days before the date on which the peace officer requests the card.***

Section 6. KRS 186.021 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, a county clerk shall not issue a replacement plate, decal, or registration certificate as provided in KRS 186.180, or a registration for renewal to any person who on January 1 of any year owned a motor vehicle on which state, county, city, urban-county government, school, or special taxing district ad valorem taxes are delinquent.
- (2) Pursuant to KRS 134.810(4), the owner as defined in KRS 186.010(7)(a) and (c) on January 1 of any year shall be liable for taxes due on a motor vehicle. A person other than the owner of record who applies to a county clerk to transfer the registration of a motor vehicle may pay any delinquent ad valorem taxes due on the motor vehicle to facilitate the county clerk's transferring registration of the motor vehicle. The person applying shall not be required to pay delinquent ad valorem taxes due on any other motor vehicle owned by the owner of record from which he is purchasing his motor vehicle as a condition of registration.
- (3) A county clerk shall not issue a replacement plate, decal, or registration certificate as provided in KRS 186.180, or a registration renewal for any motor vehicle that is not insured in compliance with KRS 304.39-080. Each applicant for registration renewal shall present proof of compliance to the county clerk in a manner prescribed in administrative regulations issued by the Department of Insurance. ***On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance shall be determined by the county clerk as provided in Section 3 of this Act.***

Section 7. KRS 186.180 is amended to read as follows:

- (1)
 - (a) If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of three dollars (\$3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.
 - (b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued the receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk and provide proof of insurance on the motor vehicle in compliance with KRS 304.39-080, before a duplicate may be issued. The owner shall pay the clerk a fee of three dollars (\$3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.
 - (c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt shall be omitted from the duplicate receipt to be issued by the clerk.
- (2) If the owner loses a registration plate, he shall surrender his registration receipt to the county clerk from whom it was obtained and file a written statement as to the loss of the plate. Upon presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and upon the payment of the sum of three dollars (\$3) for each plate and a fee of three dollars (\$3) to the clerk for his services, the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and a copy of the owner's proof of insurance, and shall make a notation on the triplicate copy of the surrendered registration receipt stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the Department of State Police. Any person finding a lost registration plate shall deliver it to the Transportation Cabinet or to any county clerk for forwarding it to the cabinet.
- (3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. Upon being provided with proof of insurance on the motor vehicle in compliance with KRS 304.39-080, the clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the Transportation Cabinet. The fee for this registration shall be five dollars (\$5) of which the clerk shall be entitled to three dollars (\$3) and the cabinet shall be entitled to two dollars (\$2).
- (4) If the owner's registration is revoked as a result of the provisions set forth in KRS 186A.040, the owner may have his registration reinstated by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of:
 - (a) Insurance on the motor vehicle in compliance with KRS 304.39-080 and by filing an affidavit upon a form furnished by the cabinet; or

- (b) A valid compliance or exemption certificate in compliance with KRS 224.20-720 or issued under the authority of an air pollution control district under KRS 224.20-760.
- (5) The owner of a motor vehicle that has the vehicle's registration revoked under KRS 186.290 shall pay to the clerk a fee of twenty dollars (\$20), which shall be equally divided between the county clerk and the cabinet.
- (6) ***On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance required under this section shall be determined by the county clerk as provided in Section 3 of this Act.***

Section 8. KRS 186.190 is amended to read as follows:

- (1) When a motor vehicle that has been previously registered changes ownership, the registration plate shall remain upon the motor vehicle as a part of it until the expiration of the registration year.
- (2) A person shall not purchase, sell, or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the title, and a notarized affidavit if required and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. Any unexpired registration shall remain valid upon transfer of the vehicle to the new owner. Except for transactions handled by a motor vehicle dealer licensed pursuant to KRS Chapter 190, the person who is purchasing the vehicle shall present proof of insurance in compliance with KRS 304.39-080 to the county clerk before the clerk transfers the registration on the vehicle. Proof of insurance shall be in the manner prescribed in administrative regulations promulgated by the Department of Insurance pursuant to KRS Chapter 13A. ***On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance shall be determined by the county clerk as provided in Section 3 of this Act.***
- (3) Upon delivery of the title, and a notarized affidavit if required and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar (\$1), which shall be remitted to the Transportation Cabinet. If an affidavit is required, and available, the signatures on the affidavit shall be individually notarized before the county clerk shall issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of three dollars (\$3) for his services.
- (4) When a county clerk issues to a purchaser a transfer of registration in a county other than the one (1) in which the motor vehicle was originally registered, the clerk shall immediately forward one (1) copy of the transfer of registration to the clerk of the county of original registration.
- (5) If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall deliver the registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall return the plate and motor vehicle registration receipt to the Transportation Cabinet. The owner shall pay to the county clerk one dollar (\$1) for his services.
- (6) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

- (7) The motor vehicle registration receipt issued by the clerk under this section shall contain information required by the Department of Vehicle Regulation.

Section 9. KRS 186A.100 is amended to read as follows:

- (1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for thirty (30) days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars (\$2), of which the clerk shall retain one dollar (\$1). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the Transportation Cabinet.
- (2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.
- (3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.
- (4) If the owner of a motor vehicle submits to the county clerk a properly completed application for Kentucky certificate of title and registration pursuant to KRS 186A.120, any motor vehicle required to be registered and titled in Kentucky, that is not currently registered and titled in Kentucky, may be equipped with a temporary tag, which shall be valid for thirty (30) days from the date of issuance, issued by the county clerk for the purpose of operating the vehicle in Kentucky while assembling the necessary documents in order to title and register the vehicle in Kentucky. The Transportation Cabinet may establish administrative regulations governing this section.
- (5) The county clerk may issue a temporary tag to the owner of a motor vehicle that is currently registered and titled in Kentucky. A temporary tag authorized by this subsection shall be used for emergency or unusual purposes as determined by the clerk for the purpose of maintaining the owner's current registration. A temporary tag authorized by this subsection may only be issued by the county clerk and shall be valid for a period of between twenty-four (24) hours and seven (7) days, as determined is necessary by the clerk. A county clerk shall not issue a temporary tag authorized by this subsection unless the owner of the motor vehicle applying for the tag presents proof of motor vehicle insurance pursuant to KRS 304.39-080. *On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance shall be determined by the county clerk as provided in Section 3 of this Act.* A temporary tag issued pursuant to this subsection shall not be reissued by the county clerk for the same owner and same motor vehicle within one (1) year of issuance of a temporary tag.

Approved April 22, 2004