

APR 6 1978

HOUSE FILE 2397

TRANSPORTATION

By BROCKETT and SHIMANEK
(Bisenius)

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act requiring liability insurance coverage for motor
 2 vehicles and providing penalties.
 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

2 Section 1. NEW SECTION. SHORT TITLE. Division one (I)
3 of this Act shall be known and may be cited as the Iowa
4 compulsory motor vehicle insurance Act.

5 Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act,
6 unless the context otherwise requires:

7 1. "Director" means the director of transportation or
8 a designee.

9 2. "Operator's license" means any license, temporary
10 instruction permit, or temporary license issued under the
11 provisions of chapter three hundred twenty-one (321) of the
12 Code and authorizing the licensee to operate a motor vehicle.

13 3. "Motor Vehicle" means a motor vehicle as defined in
14 section three hundred twenty-one point one (321.1) of the
15 Code. The term includes any motor vehicle subject to
16 registration in this state, and includes a motor vehicle which
17 is exempt from registration pursuant to section three hundred
18 twenty-one point eighteen (321.18), subsection one (1), or
19 section three hundred twenty-one point fifty-three (321.53)
20 of the Code.

21 4. "Nonresident" means a person who is not a resident
22 of this state.

23 5. "Nonresident operating privilege" means the privilege
24 conferred upon a nonresident by the laws of this state
25 pertaining to the operation by that person of a motor vehicle,
26 or the use of a motor vehicle owned by that person, in this
27 state.

28 6. "Owner" means a person who holds the legal title of
29 a motor vehicle. In the event a motor vehicle is the subject
30 of a security agreement with a right of possession in the
31 debtor, then the debtor shall be deemed the owner for the
32 purpose of this chapter, and the secured party shall be exempt
33 from the requirements of this Act respecting that vehicle.

34 7. "Proof of financial responsibility" means proof of
35 ability to respond in damages for liability arising out of

1 the ownership, maintenance, or use of a motor vehicle, in
2 the amount of ten thousand dollars because of bodily injury
3 to or death of one person in any one accident, and, subject
4 to said limit for one person, in the amount of twenty thousand
5 dollars because of bodily injury to or death of two or more
6 persons in any one accident, and in the amount of five thousand
7 dollars because of injury to or destruction of property of
8 others in any one accident. "Damages" means and includes
9 any amounts recoverable either as compensation for loss or
10 as punitive or exemplary awards under the common law or
11 statutes of this state.

12 8. "Registration" means registration certificates and
13 registration plates issued under the laws of this state per-
14 taining to the registration of motor vehicles.

15 9. "State" means any state, territory, or possession of
16 the United States, the District of Columbia, or any province
17 of the Dominion of Canada.

18 Sec. 3. NEW SECTION. OPERATING MOTOR VEHICLE WITHOUT
19 INSURANCE--PENALTY.

20 1. It is unlawful for the owner of a motor vehicle required
21 to be registered in this state, and for the owner of a motor
22 vehicle not required to be registered in this state, to operate
23 or to give permission, either express or implied, to any other
24 person to operate in this state the motor vehicle of that
25 owner when proof of financial responsibility is not in effect
26 for that vehicle.

27 2. It is unlawful for a person to operate a motor vehicle
28 in this state if the person knows or has reason to know that
29 proof of financial responsibility is not in effect for that
30 motor vehicle.

31 3. A person who violates this section commits a simple
32 misdemeanor. However, upon any second or subsequent conviction
33 or deferral of judgment for a violation of this section the
34 penalty shall be as provided for a serious misdemeanor.

35 Sec. 4. NEW SECTION. UNINSURED VEHICLES NOT REGISTERABLE.

1 A motor vehicle shall not be registered in this state unless
2 the owner has acquired and maintains in effect proof of
3 financial responsibility. Proof of financial responsibility
4 for a motor vehicle which is required to be registered in
5 this state is not in effect under this chapter unless and
6 until filed either with the county in which the motor vehicle
7 is registered or with the director.

8 Sec. 5. NEW SECTION. FAILURE OF PROOF--REVOCATION OF
9 REGISTRATION--REISSUANCE.

10 1. Upon receipt by the director of evidence that proof
11 of financial responsibility is not in effect with respect
12 to any motor vehicle being operated in this state the director
13 shall give notice to the owner to show cause why the
14 registration or nonresident operating privilege for that
15 vehicle should not be revoked.

16 2. The notice required by subsection one (1) of this
17 section shall be addressed to the owner of record at the
18 address shown on the registration records, and shall be in
19 the following form or in a similar form giving reasonable
20 notice of the intent to revoke and the right of hearing:

21 NOTICE

22 This is to notify you that it is unlawful to register or
23 to operate a motor vehicle in Iowa unless the owner maintains
24 proof of financial responsibility in the manner permitted
25 by the Code of Iowa.

26 The Iowa department of transportation has received evidence
27 that proof of financial responsibility is not in effect for
28 one or more motor vehicles owned by you.

29 You are given notice that unless you submit proof of
30 financial responsibility to the department at _____
31 (department to insert location of motor vehicle registration
32 office in county of residence of owner) or at _____
33 (department to insert location of department office) before
34 _____ (department to insert date which is
35 ten days after notice is mailed) the department will revoke

1 the registration for the motor vehicle(s) with the following
2 registration number(s): _____ (department to insert
3 motor vehicle registration plate numbers).

4 You are entitled to have a hearing before the department
5 if you wish to contest the authority of the department to
6 revoke the registration(s) listed above, but in order to
7 obtain a hearing you must contact the department at _____
8 (department to insert telephone number in county where hearing
9 is required to be held) not later than 4:30 p.m., _____
10 (department to insert date which is ten days after the notice
11 is to be mailed).

12 If you do not establish proof of financial responsibility
13 or request a hearing, the department will revoke the
14 registration(s) listed in this notice as of the date specified
15 in paragraph two of this notice, and you then will have to
16 pay certain fees and costs in order to have the registration
17 reissued.

18 Director

19 Iowa Department of Transportation

20 3. If the owner requests a hearing as provided in
21 subsection two (2) of this section within the period specified
22 in the notice, the director shall cause a hearing to be held.
23 If upon hearing it is determined that proof of financial
24 responsibility is not in effect, the director shall issue
25 an order of revocation.

26 4. If the owner to whom notice was mailed fails to submit
27 proof of financial responsibility, and fails to request a
28 hearing or fails to appear in person at a scheduled hearing,
29 the director shall revoke the registrations of that owner
30 as listed in the notice.

31 5. A notice mailed to an owner pursuant to this section
32 shall be effective with respect to any other registration
33 of the owner subject to revocation but not included in the
34 written notice if the owner is present for and is given actual
35 notice at the time of hearing.

1 6. The director may apply to the district court for a
2 warrant authorizing the seizure of the registration plates
3 of any motor vehicle for which registration has been revoked
4 by the director pursuant to this section. The application
5 shall be accompanied by an affidavit of the director stating
6 the specific statutory authority and the grounds upon which
7 the revocation was based. Upon receipt of an application
8 which meets the requirements of this subsection, the district
9 court shall issue a warrant authorizing the seizure of
10 specified registration plates. The warrant shall be without
11 limit as to place of seizure or time of day. A peace officer
12 may execute the warrant of seizure with or without the
13 knowledge, consent or assistance of any operator or the
14 registered owner of the motor vehicle.

15 7. A registration which has been revoked pursuant to this
16 section shall not be reissued to that owner for that vehicle
17 until the owner has paid to the department a reinstatement
18 fee of ten dollars, has paid to the district court any costs
19 imposed for the issuance and execution of any warrant, and
20 has submitted proof of financial responsibility.

21 8. The director may promulgate administrative rules
22 establishing procedures which require the reporting to the
23 department by law enforcement agencies of state or local
24 government of any evidence of a violation of sections three
25 (3) or four (4) of this Act.

26 Sec. 6. NEW SECTION. COURTS TO REPORT VIOLATIONS--
27 SUSPENSION.

28 1. Whenever a person has been charged under section three
29 (3) of this Act with operating an uninsured motor vehicle
30 and the person is convicted, or the court defers judgment,
31 the clerk of district court shall forward to the director
32 a notice certifying the action of the court. The notice shall
33 include the name and address of the person charged and the
34 type and license number and place of issue of the person's
35 operator's license.

1 2. Upon receipt by the director of a notice specified
2 in subsection one (1) of this section, the director shall
3 suspend the operator's license or nonresident operating
4 privilege of the person identified in the notice. The director
5 shall cause notice of the suspension to be mailed to the
6 person by certified mail not less than ten days prior to the
7 effective date of the suspension. If the conviction or
8 deferral of judgment is the first, the suspension shall be
9 in effect for a period of six months. If the conviction or
10 deferral of judgment is a second or subsequent disposition
11 for the same offense the suspension shall be in effect for
12 a period of one year.

13 Sec. 7. NEW SECTION. CERTIFICATE OF INSURANCE OF RESIDENT.
14 Proof of financial responsibility for a motor vehicle required
15 to be registered in this state shall be established by filing
16 with the county treasurer or with the director the written
17 certificate of any insurance carrier authorized to do business
18 in this state certifying that there is in effect a motor
19 vehicle liability policy. The certificate shall give the
20 effective date and termination date of the policy, and shall
21 designate by explicit description or by appropriate reference
22 all motor vehicles covered by that policy.

23 Sec. 8. NEW SECTION. CERTIFICATE OF INSURANCE OF
24 NONRESIDENT.

25 1. The owner of a motor vehicle not required to be
26 registered in this state shall establish proof of financial
27 responsibility by maintaining a liability policy which provides
28 the coverages required by this chapter. That nonresident
29 owner shall submit proof of financial responsibility when
30 required by notice or order issued by the director to do so
31 by filing with the director a written certificate which is
32 issued by an insurance carrier authorized to transact business
33 in the state in which the motor vehicle described in the
34 certificate is registered, and which conforms with the
35 provisions of this chapter. The director shall accept the

1 certificate upon the condition that the insurance carrier
2 complies with the following provisions with respect to the
3 policies certified:

4 a. The insurance carrier shall execute a power of attorney
5 authorizing the director to accept on its behalf service of
6 original notice or process in any action arising out of a
7 motor vehicle accident in this state.

8 b. The insurance carrier shall agree in writing that all
9 policies shall be deemed to conform with the laws of this
10 state relating to the terms of motor vehicle liability policies
11 issued herein.

12 2. If any insurance carrier which has qualified to write
13 motor vehicle liability policies defaults in any undertakings
14 or agreements, the director, pursuant to an order issued after
15 notice and hearing, shall disqualify that carrier and shall
16 not thereafter accept as proof any certificate of that carrier
17 whether theretofore filed or thereafter tendered as proof,
18 so long as such default continues.

19 Sec. 9. NEW SECTION. MOTOR VEHICLE LIABILITY POLICY--
20 TERMS--CONDITIONS.

21 1. A "motor vehicle liability policy" or "liability
22 policy", means an owner's or an operator's policy of liability
23 insurance issued by an insurance carrier duly authorized to
24 transact business in this state, to or for the benefit of
25 the person named therein as insured.

26 2. A liability policy shall not be certified by an
27 insurance carrier or accepted by the director as proof of
28 financial responsibility unless all of the following conditions
29 are met:

30 a. All motor vehicles covered by the policy are designated
31 by explicit description or appropriate reference.

32 b. The person named as insured and any other person using
33 a designated motor vehicle with the express or implied
34 permission of the named insured shall be insured against loss
35 from liability imposed by law for damages arising out of the

1 ownership, maintenance, or use of that motor vehicle within
2 the United States of America or the Dominion of Canada, but
3 subject to minimum limits, exclusive of interest and costs,
4 with respect to each designated motor vehicle as follows:
5 Ten thousand dollars because of bodily injury to or death
6 of one person in any one accident and, subject to said limit
7 for one person, twenty thousand dollars because of bodily
8 injury to or death of two or more persons in any one acci-
9 dent, and five thousand dollars because of injury to or
10 destruction of property of others in any one accident.

11 c. The person named as insured shall be insured against
12 loss from liability imposed by law for damages arising out
13 of the use by the insured of any motor vehicle not owned by
14 the insured, within the same territorial limits and subject
15 to the same minimum limits of liability as are specified in
16 paragraph b of this subsection.

17 d. The name and address of the named insured, the coverage
18 afforded by the policy, the policy period, and the limits
19 of liability shall be stated in the liability policy, and
20 the policy shall contain an agreement or shall be endorsed
21 that insurance is provided thereunder in accordance with and
22 is subject to all the provisions of this chapter.

23 e. The liability policy shall contain the express condition
24 that the policy shall not be terminated by cancellation by
25 the surety unless the insurance carrier mails notice of
26 cancellation to the insured not less than fifteen days prior
27 to the cancellation date.

28 f. The effective period of the policy shall be for a term
29 of not less than six months. However, this paragraph shall
30 not be deemed to prohibit a cancellation for cause.

31 3. A motor vehicle liability policy certified by an
32 insurance carrier as proof of financial responsibility shall
33 be subject to the following provisions:

34 a. The liability of the insurance carrier with respect
35 to the insurance coverage required by this Act shall become

1 absolute whenever injury or damage covered by said motor
2 vehicle liability policy occurs; the policy may not be canceled
3 or annulled as to any liability by any agreement between the
4 insurance carrier and the insured after the occurrence of
5 the injury or damage; and no oral or written statement made
6 by the insured or on the insured's behalf, and no violation
7 of the terms of the policy by the insured shall defeat or
8 void the policy.

9 b. The satisfaction by the insured of a final judgment
10 shall not be a condition precedent to the right or duty of
11 the insurance carrier to make payment on account of injury
12 or damage.

13 c. The liability policy shall not be terminated by
14 cancellation unless the insurance carrier mails written
15 notification of the cancellation to the director not less
16 than fifteen days prior to the effective date of the
17 cancellation. An insurance carrier may consolidate
18 notifications respecting two or more insureds into a single
19 notification to the director.

20 d. A notice of cancellation mailed to an insured by an
21 insurance carrier pursuant to this Act either shall contain
22 a statement, or shall be accompanied by a statement, that
23 proof of financial responsibility must be maintained for all
24 nonexempt registered motor vehicles, and that operating or
25 permitting the operation of a nonexempt motor vehicle without
26 maintaining proof of financial responsibility is a public
27 offense.

28 Sec. 10. NEW SECTION. TIME OF CERTIFICATION. Not later
29 than December first of 1979 and of each year thereafter, every
30 insurance carrier which is authorized to certify motor vehicle
31 liability policies for use in this state shall mail to its
32 existing insureds a certificate of insurance in the form
33 prescribed by the director. An owner registering a motor
34 vehicle in this state for the year 1980 and for any year
35 thereafter shall submit a certificate at the time of applying

1 for registration for that year.

2 Sec. 11. NEW SECTION. SURRENDER OF LICENSE AND
3 REGISTRATION. Any person whose license or registration is
4 suspended or revoked as provided in this Act shall return
5 the license or registration to the director as required by
6 notice issued by the director. Failure to comply with this
7 section is a simple misdemeanor.

8 Sec. 12. NEW SECTION. TRANSFERS OF OWNERSHIP. Nothing
9 in this Act shall be deemed to prevent the owner of a motor
10 vehicle, the registration of which has been suspended
11 hereunder, from effecting a sale of that motor vehicle to
12 another person.

13 Sec. 13. NEW SECTION. CRIMINAL VIOLATIONS--PENALTIES.

14 1. Any person who drives a motor vehicle upon any high-
15 way or knowingly permits a motor vehicle owned by him or her
16 to be operated by another upon any highway when the person
17 knows that the registration of that vehicle has been revoked
18 under section five (5) of this Act commits a serious
19 misdemeanor.

20 2. Any person who shall forge, counterfeit, or without
21 authority sign any evidence of proof of financial
22 responsibility, or who files or offers for filing any evidence
23 of proof knowing or having reason to believe that it is forged,
24 counterfeited, or signed without authority commits a serious
25 misdemeanor.

26 Sec. 14. NEW SECTION. EXEMPTIONS. A motor vehicle owned
27 by the United States or by this state or by any political
28 subdivision of this state shall be exempt from the requirements
29 of this Act.

30 Sec. 15. NEW SECTION. COORDINATION WITH COUNTIES. The
31 director shall establish procedures for certifying to county
32 treasurers on an annual basis at the time of registration
33 of motor vehicles in this state, and on an individual need
34 basis, information respecting the existence or nonexistence
35 of proof of financial responsibility respecting all persons

1 subject to this Act. The director also shall establish
2 procedures for the forwarding by county treasurers, and for
3 the recording by the department, of evidence of proof of
4 financial responsibility submitted to county treasurers by
5 persons subject to this Act.

6 Sec. 16. NEW SECTION. ADMINISTRATION--JUDICIAL REVIEW.

7 1. The director shall administer and enforce the provisions
8 of this chapter and may promulgate rules necessary for its
9 administration.

10 2. Judicial review of the actions of the director under
11 this Act may be sought in accordance with the terms of the
12 Iowa administrative procedure Act.

13 DIVISION II

14 COORDINATING AMENDMENTS

15 Sec. 17. Section three hundred twenty-one point twenty
16 (321.20), Code 1977, is amended by adding the following new
17 subsection:

18 NEW SUBSECTION. Proof of financial responsibility when
19 required by division one (I) of this Act.

20 Sec. 18. Section three hundred twenty-one point twenty-
21 four (321.24), Code 1977, is amended by adding the following
22 new unnumbered paragraph:

23 NEW UNNUMBERED PARAGRAPH. Prior to issuing any registra-
24 tion the county treasurer shall verify that either the
25 applicant has submitted proof of financial responsibility
26 as required by section seven (7) of this Act, or the director
27 has certified proof of financial responsibility of record
28 for that owner as provided in section fifteen (15) of this
29 Act, or the motor vehicle is exempt under section fourteen
30 (14) of this Act. Where required proof is not established
31 by evidence submitted with the application or by certification
32 of the director, registration shall not be issued. Proof
33 of financial responsibility shall not be required for issuance
34 of a certificate of title. Proof of financial responsibility
35 submitted by an owner shall be forwarded by the county

1 treasurer to the director as provided by departmental rule.

2 Sec. 19. Section three hundred twenty-one point forty-
3 six (321.46), Code 1977, is amended by adding the following
4 new unnumbered paragraph:

5 NEW UNNUMBERED PARAGRAPH. Prior to issuing any registration
6 the county treasurer shall verify that either the applicant
7 has submitted proof of financial responsibility as required
8 by section seven (7) of this Act, or the director has certified
9 proof of financial responsibility of record for that owner
10 as provided in section fifteen (15) of this Act. Where
11 required proof is not established by evidence submitted with
12 the application or by certification of the director,
13 registration shall not be issued. Proof of financial
14 responsibility shall not be required for issuance of a
15 certificate of title. Proof of financial responsibility
16 submitted by an owner shall be forwarded by the county
17 treasurer to the director as provided by departmental rule.

18 Sec. 20. Section three hundred twenty-one point forty-
19 seven (321.47), Code 1977, is amended by adding the following
20 new unnumbered paragraph:

21 NEW UNNUMBERED PARAGRAPH. Prior to issuing any registration
22 the county treasurer shall verify that either the applicant
23 has submitted proof of financial responsibility as required
24 by section seven (7) of this Act, or the director has certified
25 proof of financial responsibility of record for that owner
26 as provided in section fifteen (15) of this Act. Where
27 required proof is not established by evidence submitted with
28 the application or by certification of the director,
29 registration shall not be issued. Proof of financial
30 responsibility shall not be required for issuance of a
31 certificate of title. Proof of financial responsibility
32 submitted by an owner shall be forwarded by the county
33 treasurer to the director as provided by departmental rule.

34 Sec. 21. Section three hundred twenty-one point fifty-
35 one (321.51), Code 1977, is amended by adding the following

1 new subsection:

2 NEW SUBSECTION. Prior to issuing any registration the
3 county treasurer shall verify that either the applicant has
4 submitted proof of financial responsibility as required by
5 section seven (7) of this Act, or the director has certified
6 proof of financial responsibility of record for that owner
7 as provided in section fifteen (15) of this Act. Where
8 required proof is not established by evidence submitted with
9 the application or by certification of the director,
10 registration shall not be issued. Proof of financial
11 responsibility shall not be required for issuance of a
12 certificate of title. Proof of financial responsibility
13 submitted by an owner shall be forwarded by the county
14 treasurer to the director as provided by departmental rule.

15 Sec. 22. Section three hundred twenty-one point fifty-
16 three (321.53), Code 1977, is amended to read as follows:

17 321.53 NONRESIDENT OWNERS OF PASSENGER VEHICLES AND TRUCKS.

18 A nonresident owner, except as provided in sections 321.54
19 and 321.55, of a private passenger motor vehicle, not operated
20 for hire, may operate or permit the operation of such vehicle
21 within this state without registering such vehicle in, or
22 paying any fees to this state subject to the condition that
23 such vehicle at all times when operated in this state is duly
24 registered in, and displays upon it a valid registration plate
25 or plates issued for such vehicle in the place of residence
26 of such owner, and subject to the condition that the owner
27 maintains proof of financial responsibility as required by
28 division one (I) of this Act. A nonresident who leases a
29 vehicle from a resident owner shall not be considered a
30 nonresident owner of such vehicle for the purpose of exemption
31 under this section. This section shall be operative to the
32 extent that under the laws of the foreign country, state,
33 territory, or federal district of such nonresident owner's
34 residence like exemptions and privileges are granted to
35 vehicles registered under the laws, and owned by residents,

1 of this state. A truck, truck tractor, trailer or semitrailer
2 owned by a nonresident and operated on Iowa highways must
3 have displayed upon it a valid registration plate or plates
4 and a valid registration certificate, card, or other official
5 evidence of its allowable weight in the state, district or
6 county in which it is registered.

7 Sec. 23. Section three hundred twenty-one point fifty-
8 nine (321.59), Code 1977, is amended by adding the following
9 new unnumbered paragraph:

10 NEW UNNUMBERED PARAGRAPH. Prior to issuing any certificate
11 and special plates the department shall verify that either
12 the applicant has submitted proof of financial responsibility
13 where required by section seven (7) of this Act, or the
14 director has certified proof of financial responsibility of
15 record for that owner as provided in section fifteen (15)
16 of this Act. Where required proof is not established by
17 evidence submitted with the application or by certification
18 of the director, a certificate or special plates shall not
19 be issued.

20 Sec. 24. Sections three (3), four (4), and six (6) of
21 this Act shall take effect March 1, 1980. Section ten (10)
22 of this Act shall take effect December 1, 1979. All other
23 provisions of this Act shall take effect January 1, 1979.

24 EXPLANATION

25 This bill modifies the motor vehicle insurance laws by
26 mandating as of January 1, 1978 that owners and operators
27 of motor vehicles registered or operated in this state maintain
28 liability insurance coverage at 10,000/20,000/5,000 dollar
29 levels. Enforcement of the law is accomplished by granting
30 to the director of transportation the authority to suspend
31 or revoke operator's licenses, nonresident privileges and
32 motor vehicle registrations of persons found to be in viola-
33 tion of the provisions of the bill. Proof of financial
34 responsibility may be established only by liability insurance.

35 The bill requires resident owners of motor vehicles to

1 submit evidence of financial responsibility in order to obtain
2 registration. Provisions are made for the reporting by law
3 enforcement agencies and courts of violations of the mandatory
4 insurance requirement. The director initiates procedures
5 to verify the existence or nonexistence of proof of financial
6 responsibility, and procedures for suspension or revocation
7 where warranted.

8 The director is authorized by the bill to petition the
9 district court for a warrant authorizing the confiscation
10 of registration plates where persons in violation fail to
11 voluntarily submit proof or surrender registrations. It is
12 made unlawful for an owner to permit the operation of an
13 uninsured owned motor vehicle, or for a person to knowingly
14 operate an uninsured motor vehicle. A first offense is a
15 simple misdemeanor.

16 Motor vehicles owned by federal and Iowa state and local
17 governments are exempt from the provisions of this bill.

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