

Sec. 2. Section 558.41, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A provision contained in a residential real estate installment sales contract which prohibits the recording of the contract, or the recording of a memorandum of the contract, is unenforceable by any party to the contract.

Approved April 17, 1998

CHAPTER 1121

MOTOR VEHICLE PROOF OF FINANCIAL RESPONSIBILITY

H.F. 2454

AN ACT relating to motor vehicle operator proof of financial responsibility and providing an effective date and for retroactive applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 321.20B, subsections 1, 2, and 3, Code Supplement 1997, are amended to read as follows:

1. Notwithstanding chapter 321A, which requires certain persons to maintain proof of financial responsibility, a person shall not drive a motor vehicle ~~which is registered in this state~~ on the highways of this state unless financial liability coverage, as defined in section 321.1, subsection 24A, is in effect for the motor vehicle and unless the driver has in the motor vehicle the proof of financial liability coverage card issued for the motor vehicle, or if the vehicle is registered in another state, other evidence that financial liability coverage is in effect for the motor vehicle.

This subsection does not apply to the operator of a motor vehicle owned by or leased to the United States, this state or another state, or any political subdivision of this state or of another state, or to a motor vehicle which is subject to section ~~325.26, 327.15, 327A.5, 325A.6~~ or 327B.6.

2. a. An insurance company transacting business in this state shall issue to its insured owners of motor vehicles registered in this state a financial liability coverage card for each ~~registered~~ motor vehicle insured. Each financial liability coverage card shall identify the registration number or vehicle identification number of the motor vehicle insured and shall indicate the expiration date of the applicable insurance coverage. The financial liability coverage card shall also contain the name and address of the insurer or the name of the insurer and the name and address of the insurer insurance agency, the name of the insured, ~~the type of coverage provided~~, and an emergency telephone number of the insurer or emergency telephone number of the insurance agency.

b. The insurance division and the department, as appropriate, shall adopt rules regarding the contents of a financial liability coverage card to be issued pursuant to this section. Notwithstanding the provisions of this section, a fleet owner ~~shall~~ is not be required to maintain in each vehicle a financial liability coverage card with the individual registration number or the vehicle identification number of the vehicle included on the card. Such fleet owner shall be required to maintain a financial liability coverage card in each vehicle in the fleet including information deemed appropriate by the commissioner of insurance or the director, as applicable.

3. If the financial liability coverage for a motor vehicle which is registered in this state is canceled or terminated effective prior to the expiration date indicated on the financial liability coverage card issued for the vehicle, the person to whom the financial liability coverage card was issued shall destroy the card.

Sec. 2. Section 321.20B, subsections 4 and 5, Code Supplement 1997, are amended by striking the subsections and inserting in lieu thereof the following:

4. a. If a peace officer stops a motor vehicle registered in this state and the driver is unable to provide proof of financial liability coverage, the peace officer shall do one of the following:

(1) Issue a warning memorandum to the driver.

(2) Issue a citation to the driver. If a citation is issued, the citation shall be issued under this subparagraph unless the driver has been previously charged and cited for a violation of subsection 1. A citation which is issued and subsequently dismissed shall be disregarded for purposes of determining if the driver has been previously charged and cited.

(3) Issue a citation and remove the motor vehicle's license plates and registration receipt. Upon removing the license plates and registration receipt, the peace officer shall deliver the plates for destruction, as appropriate, and forward the registration receipt and evidence of the violation, as determined by the department, to the county treasurer of the county in which the motor vehicle is registered. The motor vehicle may be driven for a time period of up to forty-eight hours after receiving the citation solely for the purpose of removing the motor vehicle from the highways of this state, unless the driver's operating privileges are otherwise suspended.

After receiving the citation, the driver shall keep the citation in the motor vehicle at all times while driving the motor vehicle as provided in this subparagraph, as proof of the driver's privilege to drive the motor vehicle for such limited time and purpose.

(4) (a) Issue a citation, remove the motor vehicle's license plates and registration receipt, and impound the motor vehicle. The peace officer shall deliver the plates for destruction, as appropriate, and forward the registration receipt and evidence of the violation, as determined by the department, to the county treasurer of the county in which the motor vehicle is registered.

(b) A motor vehicle which is impounded may be claimed by a person if the owner provides proof of financial liability coverage and proof of payment of any applicable fine and the costs of towing and storage for the motor vehicle. If the motor vehicle is not claimed within thirty days after impoundment, the motor vehicle may be treated as an abandoned vehicle pursuant to section 321.89.

(c) The holder of a security interest in a motor vehicle which is impounded pursuant to this subparagraph shall be notified of the impoundment within seventy-two hours of the impoundment of the motor vehicle and shall have the right to claim the motor vehicle upon the payment of all fees. However, if the value of the vehicle is less than the security interest, all fees shall be divided equally between the lienholder and the political subdivision impounding the vehicle.

b. An owner or driver of a motor vehicle who is charged with a violation of subsection 1 and issued a citation under paragraph "a", subparagraph (3) or (4), is subject to the following:

(1) An owner or driver who produces to the clerk of court, within thirty days of the issuance of the citation under paragraph "a", or prior to the date of the individual's court appearance as indicated on the citation, whichever is earlier, proof that financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, or, if the driver is not the owner of the motor vehicle, proof that liability coverage was in effect for the driver with respect to the motor vehicle being driven at the time the driver was stopped and cited, in the same manner as if the motor vehicle were owned by the driver, shall be given a receipt indicating that such proof was provided and be subject to one of the following:

(a) If the person was cited pursuant to paragraph "a", subparagraph (3), the owner or driver shall provide a copy of the receipt to the county treasurer of the county in which the motor vehicle is registered and the owner shall be assessed a fifteen dollar administrative fee by the county treasurer who shall issue new license plates and registration to the person after payment of the fee.

(b) If the person was cited pursuant to paragraph "a", subparagraph (4), the owner or driver, after the owner provides proof of financial liability coverage to the clerk of court, may claim the motor vehicle after such person pays any applicable fine and the costs of towing and storage for the motor vehicle, and the owner or driver provides a copy of the receipt and the owner pays to the county treasurer of the county in which the motor vehicle is registered a fifteen dollar administrative fee, and the county treasurer shall issue new license plates and registration to the person.

(2) An owner or driver who is charged with a violation of subsection 1 and is unable to show that financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited may do either of the following:

(a) Sign an admission of violation on the citation and remit to the clerk of court a scheduled fine as provided in section 805.8, subsection 2, for a violation of subsection 1. Upon payment of the fine to the clerk of court of the county where the citation was issued, payment of a fifteen dollar administrative fee to the county treasurer of the county in which the motor vehicle is registered, and providing proof of payment of any applicable fine and proof of financial liability coverages to the county treasurer of the county in which the motor vehicle is registered, the treasurer shall issue new license plates and registration to the owner.

(b) Request an appearance before the court on the matter. If the matter goes before the court, and the owner or driver is found guilty of a violation of subsection 1, the court may impose a fine as provided in section 805.8, subsection 2, for a violation of subsection 1, or the court may order the person to perform unpaid community service instead of the fine. Upon the payment of the fine or the entry of the order for unpaid community service, the person shall provide proof of payment or entry of such order and the county treasurer of the county in which the motor vehicle is registered shall issue new license plates and registration to the owner upon the owner providing proof of financial liability coverage and paying a fifteen dollar administrative fee to the county treasurer.

c. An owner or driver cited for a violation of subsection 1, who produces to the clerk of court within thirty days of the issuance of the citation proof that financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited as provided in paragraph "b", shall not be convicted of such violation and the citation issued shall be dismissed.

5. If the motor vehicle is not registered in this state and the driver is a nonresident, the peace officer shall do one of the following:

a. Issue a warning memorandum to the driver.

b. Issue a citation. An owner or driver who produces to the clerk of court within thirty days of the issuance of the citation, or prior to the date of the individual's court appearance as indicated on the citation, whichever is earlier, proof that the financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, or if the driver is not the owner of the motor vehicle, proof that liability coverage was in effect for the driver with respect to the motor vehicle being driven at the time the driver was stopped and cited in the same manner as if the motor vehicle were owned by the driver, shall be given a receipt indicating that proof was provided, and the citation issued shall be dismissed.

Sec. 3. Section 321.20B, subsections 6 and 7, Code Supplement 1997, are amended to read as follows:

6. This section ~~applies to a motor vehicle subject to registration under this chapter other than~~ does not apply to a motor vehicle identified in section 321.18, subsections 1 through 6, and subsection 8.

7. This section does not apply to a motor vehicle owned by a motor vehicle dealer or wholesaler licensed pursuant to chapter 322.

Sec. 4. Section 321.20B, Code Supplement 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. This section does not apply to a lienholder who has a security interest in a motor vehicle subject to the registration requirements of this chapter, so long as such lienholder maintains financial liability coverage for any motor vehicle driven or moved by the lienholder in which the lienholder has an interest.

Sec. 5. Section 321.57, unnumbered paragraph 1, Code Supplement 1997, is amended to read as follows:

A dealer owning any vehicle of a type otherwise required to be registered under this chapter may operate or move the vehicle upon the highways solely for purposes of transporting, testing, demonstrating, or selling the vehicle without registering the vehicle, upon condition that the vehicle display in the manner prescribed in sections 321.37 and 321.38 a special plate issued to the owner as provided in sections 321.58 to 321.62. ~~However, if the vehicle is a motor vehicle, the dealer, if subject to section 321.20B, shall maintain financial liability coverage for the motor vehicle as required under section 321.20B.~~ Additionally, a new car dealer or a used car dealer may operate or move upon the highways a new or used car or trailer owned by the dealer for either private or business purposes without registering it if the new or used car or trailer is in the dealer's inventory and is continuously offered for sale at retail, and there is displayed on it a special plate issued to the dealer as provided in sections 321.58 to 321.62.

Sec. 6. NEW SECTION. 322.27A WHOLESALER'S LICENSE.

A person shall not engage in business as a wholesaler of motor vehicles in this state without a license as provided in this chapter.

Prior to the issuance of such license, the department, at a minimum, and in addition to any other information the department deems necessary to the application, shall require proof that the applicant has financial liability coverage as defined in section 321.1, except that such coverage shall be in limits of not less than one hundred thousand dollars because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, three hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars because of injury to or destruction of property of others in any one accident.

Sec. 7. Section 805.8, subsection 2, paragraph ah, Code Supplement 1997, is amended to read as follows:

ah. ~~If, in connection with a motor vehicle accident,~~ a person is charged and found guilty of a violation of section 321.20B, subsection 1, the scheduled fine is one hundred dollars.

Sec. 8. 1997 Iowa Acts, chapter 139, section 18, is repealed.

Sec. 9. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1997.

Approved April 17, 1998