

La. R.S. § 32:863.2

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LexisNexis® Louisiana Annotated Statutes > Louisiana Revised Statutes > Title 32. Motor vehicles and traffic regulation (Chs. 1 — 18) > Chapter 5. Motor vehicle safety responsibility law (Pts. 1 — 5) > Part 1-A. Compulsory motor vehicle liability security (§§ 32:861 — 32:868)

§ 32:863.2. Notification of the cancellation or issuance of security; penalties; database development.

A.

- (1) All entities providing security in compliance with R.S. 32:861 et seq., hereinafter referred to as “security providers”, whether admitted or nonadmitted (surplus line underwriter) insurance companies providing automobile liability policies, or sales representatives or agents of surety companies issuing motor vehicle liability bonds, or the state treasurer holding deposits, shall notify the secretary of the effective dates of each liability policy, liability bond, deposit, or other security within fifteen business days from the date that notice of such policy, bond, deposit, or other security was issued by the security provider.
- (2) Except as otherwise provided for motor carriers in R.S. 32:900(M), in addition, all such security providers shall notify the secretary when any policy, bond, deposit, or other item of security is terminated, withdrawn, canceled, lapsed, or otherwise made ineffective within fifteen business days from the date that notice of the security becoming ineffective was issued by the security provider.
- (3) Beginning January 1, 1990, the information required by this Section shall be in the form required by the secretary, who may require by regulation such information as the driver’s license number of the owner or lessee of the vehicle and of the named insureds, together with the complete vehicle identification number and a description of each vehicle.
- (4) The information required by this Section shall be in the form required by the secretary, who may require by regulation such information as the driver’s license number of the owner or lessee of the vehicle and of the named insureds, together with the complete vehicle identification number and description of each vehicle.
- (5) If any cancellation of a motor vehicle liability policy occurs at the request of the insured, the insurer is not obligated to cancel such policy earlier than ten days prior to actual receipt by the insurer of such request.
- (6) If any cancellation of a motor vehicle liability insurance policy occurs as a result of the rescission or other cancellation of the sale of the motor vehicle on which the policy is issued, the insurer shall notify the secretary of the cancellation and the circumstances of the

cancellation, and the insured shall not be liable for any penalty or fee imposed for failure to maintain the security required by law.

B. When a security provider does not provide the deputy secretary of public safety services of the Department of Public Safety and Corrections with the information required by this Section within the time limits set forth in this Section, the insurance company, sales representative or agent, state treasurer, or other provider shall pay a late fee of not more than fifty dollars per policy, bond, or deposit, or other security item concerning which information is not supplied. If the security provider has reported this information for a policy, bond, deposit, or other security item for a commercial motor vehicle in an untimely manner, the deputy secretary shall impose the late fee unless the deputy secretary determines that the security provider made a good faith effort to comply with these requirements but the delay was caused by circumstances outside the security provider's control. All fees collected under this Subsection shall be deposited in the Bond Security and Redemption Fund as provided in R.S. 32:853(B)(2).

C. The secretary shall keep a record of the information received from security providers concerning coverage of vehicles and persons by security required by R.S. 32:861, which information may be stored through automated electronic data processing means. After the department has complete vehicle liability security records, upon written request including the driver's license number for each person, the vehicle identification number for each vehicle, and the payment of a fee of fifteen dollars for each vehicle owned by a person about which inquiry is made, the secretary shall forward to the inquiring party such vehicle and driver liability security information as is contained in the records of the department. If the department's search of its records fails to show the existence of any liability insurance or other security as of the date about which inquiry is made, an official of the department will issue a sworn, notarized affidavit to that effect. Such an affidavit shall be prima facie evidence that on the date in question, the person or vehicle about which inquiry was made did not have in effect a policy of liability insurance or other security as required by law. The fee collected pursuant to this Section shall be remitted by the secretary to the state treasurer to be credited to the Bond Security and Redemption Fund as provided in R.S. 32:853(B)(2).

D. Notwithstanding any provision of law to the contrary, when there is a question of fact as to the existence of liability insurance coverage on a motor vehicle, and the owner of that motor vehicle has in fact maintained that coverage without lapse, and the question results from a mistake made by an insurance company or agent, or by any other entity, the owner of the motor vehicle shall not be required to pay any reinstatement fee in connection with any actions taken based on that question of coverage. If a reinstatement fee is imposed by the state, the reinstatement fee shall be paid by the agent, company, or other entity which made the mistake.

E.

(1) Prior to taking any administrative action based on the receipt of a notice of cancellation of insurance or other security, the secretary shall notify the person who is the subject of the notice at his last known driver's license address, of cancellation of the receipt of that notice. The notice of receipt of a notice of cancellation shall be in writing. The notice shall inform the subject that he has ten calendar days from the date of the notice in which he may surrender the license plates of the vehicle in order to avoid the fees prescribed by R.S. 32:863(A)(3)(a). The person to whom the notice is addressed shall have thirty days to respond to the notice. The response may be made by mail.

(2) If the person to whom the notice is addressed is able to show that the insurance or other security was canceled for a legitimate reason, the secretary shall take no administrative action against that person. Legitimate reasons for cancellation of insurance or other security shall include but shall not be limited to the transfer of ownership of the vehicle or the surrender of the license plate of the formerly insured vehicle. If the vehicle is sold within ten calendar days after the date liability security on the vehicle was cancelled or its license plate is surrendered within ten calendar days of the date of notice sent pursuant to Paragraph (1) of this Subsection, no administrative action shall be taken. The transfer of ownership of the vehicle may be established by presenting to the secretary a copy of the title transfer or a copy of the act of sale, donation, exchange, surrender to a salvage yard, or other transaction.

(3) If the original of the document presented as proof of transfer of ownership has not been notarized, the authenticity of the document may be established by an affidavit executed by the person to whom the notice is addressed in which that person recites the circumstances of the transfer of ownership of the vehicle and attests to the truthfulness and accuracy of the document presented as proof of transfer of ownership.

F.

(1) The secretary shall formulate criteria to develop and initiate a request for proposals to procure and implement a real-time system to quickly and accurately identify and verify the existence of motor vehicle insurance or other security required in compliance with the Motor Vehicle Safety Responsibility Law using advanced telecommunications and computer technology.

(2) The criteria established by the secretary shall be developed only after consulting with an advisory group consisting of the commissioner of insurance or his designee, the superintendent of state police or his designee, the executive director of the Louisiana Highway Safety Commission or his designee, and five additional members, one representing the American Insurance Association, one representing the Property Casualty Insurance Association of America, one selected from a list of names submitted by the three insurers with the largest market share of automobile insurance in Louisiana, one from the Louisiana Association of Fire and Casualty Companies, and one from the Louisiana Independent Agents Association.

(3) The request for proposal shall require participants to develop a system that allows real-time access to state and local law enforcement officials allowing them to obtain the status of the existence of motor vehicle insurance or other security required in this state as provided in the Motor Vehicle Safety Responsibility Law.

(4) The system developed pursuant to this Subsection may initially be implemented by the secretary as a six-month pilot program to be developed and implemented statewide upon expiration of the six-month period.

(5) The secretary shall require such information as may be necessary from automobile insurers or their representatives and the state treasurer as is needed to assist the contractor in developing the system as such relates to the cancellation or issuance of motor vehicle liability security or deposit of sufficient security with the state treasurer in order to operate a motor vehicle in this state.

(6) The secretary shall promulgate rules and regulations to implement the provisions of this Subsection.

History

Acts 1984, No. 212, § 1, eff. July 1, 1985; Acts 1987, No. 160, § 1; Acts 1987, No. 616, § 1, eff. July 9, 1987; Acts 1995, No. 183, § 1; Acts 1995, No. 301, § 1, eff. June 15, 1995; Acts 1995, No. 423, § 1; Acts 1997, No. 1077, § 1, eff. Aug. 15, 1997; Acts 1997, No. 1476, § 4, eff. Sept. 6, 1998; Acts 1999, No. 74, § 1, eff. Aug. 15, 1999; Acts 2001, No. 883, § 1, eff. Aug. 15, 2001; Acts 2008, No. 851, § 1, eff. July 9, 2008; Acts 2011, No. 370, § 2, eff. Aug. 15, 2011; Acts 2012, No. 749, § 1, eff. Aug. 1, 2012.

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