Regular Session, 2011

HOUSE BILL NO. 635 (Substitute for House Bill No. 168 by Representative Thibaut)

BY REPRESENTATIVE THIBAUT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE/AUTOMOBILE: Provides for notice to insureds relative to liability insurance cancellation fees assessed by the office of motor vehicles

AN ACT

To amend and reenact R.S. 32:861(A)(3), 863(A)(3)(a) and (B), and 863.2(A)(6), (E)(1), and (2), and to enact R.S. 22:885(E), relative to the cancellation of automobile insurance by the insured; to provide for notification by the office of motor vehicles to insureds relative to cancellation fees; to provide for the surrender of a vehicle's license plates upon cancellation of liability coverage; to limit the circumstances under which a vehicle owner will not be charged a fee upon cancellation of automobile liability coverage; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:885(E) is hereby enacted to read as follows:

§885. Cancellation by the insured; surrender

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E. With respect to the cancellation of liability automobile insurance, the office of motor vehicles shall not assess the fees set forth by R.S. 32:863(A)(3)(a) when the insured surrenders the license plate of the uninsured vehicle to the office of motor vehicles within ten calendar days from the date of notice prescribed by R.S. 32:863.2(E).

Section 2. R.S. 32:861(A)(3), 863(A)(3)(a) and (B), and 863.2(A)(6), (E)(1), and (2) are hereby amended and reenacted to read as follows:

§861. Security required

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A.

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(3) If the owner or lessee wishes to discontinue the use of a vehicle registered in his name, he shall surrender the vehicle's license plate to the secretary within ten calendar days of cancellation or, prior to the cancellation, he shall notify the secretary by written statement containing the date ~~within ten calendar days~~ of cancellation of liability security on the vehicle, that the vehicle is no longer in use and the intended period of nonuse, and shall have the agent who previously issued the policy of insurance on the vehicle submit an affidavit that the insurance on the vehicle ~~has been~~ will be cancelled during the period of time that the vehicle will not be in use. ~~In the alternative, the owner or lessee may surrender the vehicle's license plate within such time period.~~

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§863. Sanctions for false declaration; reinstatement fees; revocation of registration; review

A.

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(3)(a) Sanctions for a violation of Paragraph (1) of this Subsection shall be imposed until proof of required liability security is provided to the secretary and all reinstatement fees are paid. Sanctions for a violation of Paragraph (2) of this Subsection shall be imposed for a period of not less than six months nor more than eighteen months. However, in no event shall these sanctions be removed until such time as proof of the required security is provided to the secretary along with all appropriate fees required by law, including a reinstatement fee of twenty-five dollars per violation of Paragraph (1) of this Subsection if the vehicle was not covered by the required security for a period of ~~eleven~~ one to thirty days, one hundred dollars if the vehicle was not covered by required security for a period of thirty-one to ninety days, and two hundred dollars if the vehicle was not covered by required security for a period in excess of ninety days. No reinstatement fee shall be imposed by the

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secretary if the vehicle was not covered by required security for a period of ten days or less and the insured surrenders the vehicle's license plate to the secretary within ten days. The reinstatement fees for violations of Paragraph (2) of this Subsection shall be as follows: twenty-five dollars for a first violation, one hundred dollars for a second violation, and two hundred dollars for a third or subsequent violation, provided the offenses occurred within a five-year period. The reinstatement fee shall not be owed for an alleged violation of Paragraph (2) of this Subsection when proof of the required security is provided to the secretary. If at the time of reinstatement a person has multiple violations, the total amount of fees to be paid shall not exceed five hundred dollars, including any administrative fees for persons under sixty-five years old. At no time shall the total amount of fees, including any administrative fees, exceed two hundred dollars for persons sixty-five years or older.

* * *

B. The sanctions of Paragraph (A)(1) of this Section ~~Subsection A~~ shall not be imposed, and any fine, fee, or other monetary sanction which has been remitted to the secretary pursuant to the sanctions of this Section, specifically including any reinstatement fee paid pursuant to Paragraph (A)(3) of this Section ~~Subsection A~~ and any fee paid pursuant to Paragraph (D)(5) of this Section ~~Subsection C~~D, shall be promptly refunded by the secretary to the person who paid it, if the owner or lessee furnishes any of the following:

(1) An original or photocopy of a Louisiana auto insurance identification card showing that the required security is in effect on the vehicle and has been continuous without lapse or an original or photocopy of any written communication from an insurer either to the insured or to the secretary stating that the required security is in effect on the vehicle and has been continuous without lapse, any one of which shall constitute sufficient evidence that the required security on the vehicle has not lapsed~~; or~~.

(2) If such evidence is not furnished by the owner or lessee, any other evidence satisfactory to the secretary, that each of the following conditions are met:

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(a) The vehicle was at the time in question in fact covered by the required security ~~or else has newly been covered by security as required by R.S. 32:861 within ten calendar days after termination or cancellation of previous security; and~~.

(b) The vehicle is currently covered by security as required by R.S. 32:861~~;~~ ~~and~~.

(c) The vehicle was not involved in an accident during the period when it was not covered by security as required by R.S. 32:861~~; or~~.

(3) Documentation satisfactory to the department that the vehicle was damaged as a result of a natural disaster which is the subject of a state of emergency declared by the governor and was treated as debris and removed, provided such natural disaster occurred prior to the reported cancellation of liability insurance.

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

A.

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(6) If any cancellation of a motor vehicle liability insurance policy occurs as a result of the ~~recision~~ 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.

* * *

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

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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.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Thibaut HB No. 635

Abstract: Requires the secretary of the office of motor vehicles, upon notification by an insurer of a vehicle owner's cancellation of his vehicle's liability coverage, to send a notice to the vehicle owner informing him that he has 10 calendar days from the date of the notice to surrender the vehicle's license plate in order to avoid the fees that are assessed by the office of motor vehicles when liability coverage lapses on a vehicle.

Proposed law provides as follows:

(1) Present law requires every registered motor vehicle in the state of Louisiana to be covered by (compulsory) automobile liability policy with certain limits. Upon cancellation of this coverage, fees are assessed by the office of motor vehicles.

Proposed law provides that no fee will be assessed against a vehicle owner who cancels the compulsory automobile liability policy if he turns in the vehicle's license plate to the office of motor vehicles within ten days of the date that the office of motor vehicles sends him a notice.

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(2) Present law provides that if the owner or lessee of a registered vehicle wishes to discontinue use of the vehicle and cancel the insurance without being assessed the fees by the office of motor vehicles, he shall send a written statement and affidavit to the office of motor vehicles within 10 days of the cancellation, stating the intended period of nonuse. The owner or lessee may also surrender the vehicle's license plates to the office of motor vehicles within the same time period.

Proposed law requires that the owner or lessee of a registered vehicle send the written statement and affidavit of nonuse prior to the cancellation of insurance; otherwise retains present law.

(3) Present law provides for a fees against a vehicle owner when the compulsory automobile liability insurance cancels and is not reinstated by the eleventh day after cancellation. The fees are assessed beginning at the eleventh day after cancellation and are as follows: $25.00 if the vehicle is uninsured for a period of 11 to 30 days; $100.00 if the vehicle is uninsured for a period of 31 to 90 days; and $200.00 if the vehicle is uninsured for a period in excess of 90 days. No fee is charged when a vehicle has been uninsured for a period of 10 days or less.

Proposed law changes present law by assessing the fee against a vehicle owner beginning on the first day after cancellation, unless he surrenders the vehicle's license plate to the office of motor vehicles within 10 days of notice from the office of motor vehicles. If the license plate is not surrendered to the office of motor vehicles and the vehicle is still in use, the $25.00 fee will be assessed when the vehicle is uninsured for a period of 1 to 30 days. Otherwise retains present law.

(4) Present law requires the office of motor vehicles to notify any person whose compulsory automobile liability insurance has cancelled before taking administrative action.

Proposed law requires this notice to inform the subject that he has 10 calendar days from the date of the notice to surrender the vehicle's license plates to the office of motor vehicles in order to avoid the administrative fees.

(5) Present law provides that legitimate reasons for cancellation of compulsory liability insurance include transfer of ownership of the vehicle.

Proposed law adds the surrender of the license plate as another legitimate reason for cancellation. Otherwise retains present law.

(6) Proposed law makes technical changes.

(Amends R.S. 32:861(A)(3), 863(A)(3)(a) and (B), and 863.2(A)(6), (E)(1), and (2); Adds R.S. 22:885(E))

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