

Attachment B. Testimony Before the Commission on January 28, 2015

Insurance Industry and Verification Systems Panel

Matthew Hudnall, Senior Associate Director, Center for Advanced Public Safety (CAPS), University of Alabama

Mr. Hudnall explained that CAPS is a state agency that develops computer systems for the Alabama Motor Vehicle Division, including the state's vehicle registration system, online titling system, online insurance verification system, mandatory liability insurance system, and other law enforcement related systems. CAPS also provides systems for other states, including Mississippi and Arkansas. See attachment D for a copy of the power point used by Mr. Hudnall.

Alabama implemented its first mandatory liability insurance law in 2000. At the time, the state had an uninsured vehicle rate of 25%. Initially, Alabama enforced this law only through randomly targeted letters to registered vehicle owners asking them to verify whether they had insurance. By 2012 the uninsured rate had dropped to 20%. Alabama began using an online insurance verification system and began requiring electronic verification of insurance coverage for vehicle registration in 2013. The state initiated a public awareness campaign and used billboards, TV, radio and online ads to inform the public of the new requirement.

Alabama operates a hybrid web service verification system that allows county officials, law enforcement, and the courts to make queries to a centralized system that authenticates the user, logs the insurance information for the vehicle being verified, and routes it to the appropriate insurance company for verification. Insurance companies are required to send policy information once a month to CAPS to assist the centralized system in the routing of verification information. This information creates a record that can be used to automatically generate insurance verification requests to insurers, making the verification process easier and more precise by reducing manual entry at the point of registration and traffic stops.

In response to a question by Mayor Rowland, Mr. Hudnall said that Alabama requires insurance companies to participate, and there is a \$1,000 fine for each failure to respond to a verification request. He said he believes the fine is too large, and in fact Alabama has never imposed it. He thinks the \$250 fine per day in Tennessee's bill is much more reasonable.

In conjunction with the Insurance Industry Committee on Motor Vehicle Administration (IICMVA), CAPS authorized a standardized web service system which insurance companies can use to make their data available to the state. CAPS can query insurers' databases in real time to determine if a vehicle is insured on a specific date. The query goes through the central server, out to the insurance company, back to the central server and then to the original requester in less than a second. See attachment D for an illustration of this process.

If the insurance is not verified, all of the vehicle's insurance information is sent to the central server, which retains the information for 30 days. After 30 days, CAPS attempts to verify the

information a second time. If after the 30 day period insurance cannot be verified, the vehicle is entered into CAPS Mandatory Liability Insurance Suspension process, which generates a letter of notice to the vehicle owner.

When a person receives a letter, they have an option to provide proof of insurance by (1) entering the information online, (2) completing the form provided in the letter and mailing it back to the state, or (3) visiting the local licensing office. If the person successfully verifies insurance, there is no penalty; if they do not, the vehicle's registration is suspended. In Alabama, the cost to renew a suspended registration is \$200 for the first offense and \$400 for subsequent suspensions.

Mr. Hudnall cautioned the Commission about vehicle owners who attempt to circumvent the law by claiming a working vehicle is inoperable. To address this problem, CAPS makes citation information from police available to registration officials, allowing them to check for citations issued for a vehicle when a person claimed it was inoperable.

In January 2014, CAPS had a 75% confirmation rate, meaning that only 25% of the queries sent to insurers came back as invalid or unconfirmed. By December of 2014, CAPS' confirmation rate increased to 85%.

Every insurance record in Alabama is re-verified monthly. Since January 2013, CAPS has processed 170 million verification requests. From January to December of 2014, 94 million transactions were processed, averaging about 8 million queries per month. The Alabama Department of Revenue continues to report a drastic decrease in the uninsured rate. The state police had a 30% reduction in the number of citations issued for failure to provide insurance in the first year of the program.

Mayor Burgess asked Mr. Hudnall about the initial contractual amount between the state and the University of Alabama to develop the system and about the recurring cost. Mr. Hudnall said that CAPS developed two components for Alabama. The technology component, which includes the web service used to query insurance companies and the software used by officers and licensing officials, cost approximately \$350,000. The state wide marketing campaign consisting of TV and radio commercials and billboards cost about \$500,000. The only recurring costs are those for employing the people who keep the system running and for the individuals devoted to resolving data discrepancy issues.

Bart Blackstock, Executive Vice President, Insure-Rite, Inc.

Mr. Blackstock works for Insure-Rite, a company that designs and operates verification systems. He said that the best verification systems require insurers to provide both a full-book-of-business download at least twice a month and to implement the IICMVA model. The advantage of the full-book method is it gives the system administrator the ability to match data from insurers and the state and provides a 95% or better match rate, as shown by Insure-Rite's experience in Utah and Texas. See attachment E for a copy of Mr. Blackstock's presentation slides.

The IICMVA model is great for online verification, but requires an exact vehicle identification number (VIN) and policy number for it to work. Insure-Rite recommends, as the second best method, requiring a full-book-of-business only, but Mr. Blackstock noted that there is insurance industry opposition to providing a full-book-of-business.

Because of insurers' concerns, Insure-Rite developed a hybrid approach for Tennessee, which is included in legislation introduced in 2015 (see attachment B). This approach requires insurance companies to either participate in the IICMVA model or report a full-book-of-business. If an insurer chooses to use the IICMVA model only, they might have to manually enter VIN and policy numbers. However, an optional IICMVA component allows for an "unknown carrier request" or "VIN only request," helping avoid the manual entry problem.

Insure-Rite would first match all the full-book-of-business insurance policy information to the registration and vehicle data sent by the state. VINs for registered vehicles with data not matching the full-book information would be sent to all of the insurance companies that use the IICMVA model. The insurers would then reply either confirming the insurance or not. Insure-Rite would record confirmed vehicles in their database. Owners of vehicles not verified by either method would be sent letters requesting verification. The letter method is similar to Alabama's, but Insure-Rite is recommending a 90 day period before sending a letter while Alabama only waits 30 days.

In West Virginia, Insure-Rite is implementing the IICMVA model only, and it has been a challenge. About half the insurers there are voluntarily giving Insure-Rite a full-book-of-business so they can pre-match data.

The third best option is an "add/delete" system that requires insurers to report all new insurance policies and cancellations. But these systems are very inaccurate and difficult to manage. Mr. Blackstock does not recommend this approach for Tennessee. The least-preferred choice would be the IICMVA model by itself because it is labor intensive for those that have to use it, such as law enforcement, and is designed to be reactive only.

Benjamin Sanders, Executive Director of Government Affairs, Farm Bureau Insurance of Tennessee

Mr. Sanders said any solution to the uninsured motorist problem should have three characteristics: (1) the penalties should change behavior, (2) unintended consequences should be avoided, and (3) the benefits should outweigh the costs to consumers. Tennessee's maximum fine of \$100 is not enough to change the behavior of those who make a risk versus reward assessment of whether to break the law. The minimum price for a vehicle liability policy is about \$300 a year in Tennessee. There are a lot of people in Tennessee that weigh the certainty of \$300 a year versus the risk of \$100 fine. Before the state looks at expensive verification programs, he said the first step is to look at the enforcement and ask whether the risk of breaking the law outweighs the benefit of breaking the law.

The system should avoid the unintended consequence of increased premiums for those who maintain their insurance to cover the cost of those who drop it immediately after registering the vehicle if that's the only point at which it is required. Most states require insurance at the time of registration, something Farm Bureau has strenuously opposed in Tennessee. They are concerned that people will buy insurance, register the vehicle, and then drop the policy. Kentucky, for example, requires insurance at registration and has an uninsured motorist rate, similar to Tennessee, about 20%. That means 1 in 5 drivers in Kentucky buy insurance to register their vehicles and then drop it. [Note: The current rate in Kentucky is 15.8%.] Issuing a new insurance policy costs Farm Bureau about \$120. If someone with a minimum liability policy costing \$25 per month keeps the policy for two weeks just to register the vehicle, Farm Bureau will refund all but \$12 of that first premium payment and will be out about \$108. On a large scale, this is expensive, and states that require insurance before registration have higher average premium costs because insurance companies have to spread this increased cost to others.

Finally, the benefit of the verification program should outweigh the cost to customers. Insurers should not be part of the enforcement arm of the state, but the first step in many discussions of uninsured solutions involves the insurance companies implementing an expensive computer program. While Farm Bureau is glad to be a good corporate citizen and help the state, they question the benefit to their policy holders. The argument is that if the uninsured rate drops it will lower premiums. That is somewhat but not entirely true because of the need to have uninsured motorist coverage that includes coverage for uninsured and underinsured vehicles to insure for the underinsured. Even if every vehicle is insured, it is still important to have underinsured coverage to protect yourself from those with insufficient insurance. The cost of uninsured coverage ranges from \$2 to \$7 a month. Even if there were no uninsured drivers on the road, rates would probably not drop significantly.

In response to a question from Mayor Rowland about what happens when a motorist gets insurance and cancels after two weeks but still has an insurance card to show to law enforcement and is pulled over, Mr. Sanders said that the IICMVA model allows law enforcement to "ping" insurance company information to confirm the validity of the cards.

It is important to take a rational and thoughtful approach to developing a verification system. Most states have some type of insurance verification program, and Farm Bureau has reams of data from other states on what works and what does not. Some systems, like Alabama's, are more promising. As technology increases, it's easier to have a successful system. The bill's sponsor for Tennessee's legislation and interested parties have agreed to an incremental approach, which is a good solution for Tennessee. This solution can lower the uninsured rate without adding cost to those people that are already being responsible.

Alex Hageli, Director of personal lines policy for the Property Casualty Insurers Association of America (PCI) and vice-chair, Insurance Industry Committee on Motor Vehicle Administration.

Mr. Hageli said that, although it may be surprising coming from an insurance trade association, PCI opposes insurance requirements because they lead to verification programs that waste a lot of insurance company resources on resolving discrepancies between databases and insurance company information. For example, he may register his vehicle under Alex Hageli but buy his insurance under Alexander Hageli, creating a data discrepancy that has to be resolved. Insurance companies have to employ people to resolve these discrepancies.

Furthermore, the moment data is entered into the database it becomes dated and may not be accurate if it is referenced several days later. Because of this, the IICMVA model allows the state to access the insurance company's information in real-time rather than relying on information in state-run or third-party databases. PCI considers this a superior approach. Among his other points were these:

- Any insurance-verification legislation should require an advisory council to facilitate communication between state agencies and the insurance industry. Mr. Hageli is on Alabama's advisory council and says that it has been an invaluable tool there.
- People make an economic decision whether to buy insurance or be penalized. It does a state no good to simply know who is driving without insurance unless it has effective enforcement. Tennessee should raise its fine for violating the law and not allow judges to reduce the amount because of a "hard-luck story." He said that a universal sentiment that he hears across states is, "if I'm required to buy insurance, other people should buy it too, and the state should make sure it happens."
- Commercial insurance policies should be excluded because they are very different from personal insurance coverage. Personal coverage involves specific vehicles make, VIN, etc., while commercial policies often don't list specific vehicles because they have so many coming and going.

State and Local Government Panel

Roger Hutto, General Counsel, Department of Safety & Homeland Security

Mr. Hutto said that, although the Department of Safety enforces the Financial Responsibility Law, the Uninsured Motorist Enforcement Act of 2014 would have very little effect on the Department of Safety. Currently, there is no requirement to show proof of insurance to register a vehicle or to get a driver's license, but failure to have insurance is a violation that can result in suspension of the driver's license by the department for one year. Current law requires proof of insurance in only certain situations, such as traffic stops for moving violation and involvement in an accident.

There are about 20 traffic offenses for which the person convicted must show proof of vehicle insurance to the Department of Safety in order to get their license back. The requirement to show proof means either showing that the person had insurance at the time of the offense, or that the person has obtained prepaid auto insurance for a period that varies with the seriousness of the offense, referred to by the insurance industry as SR-22

The department suspended about 67,000 licenses last year because of violations of the Tennessee Financial Responsibility Law. The Tennessee Highway Patrol alone issued about 61,000 citations for failure to show proof of insurance, but some of those cited were insured but did not have proof on hand. Asked by Mayor Rowland whether people are allowed to drive away after being cited for failure to provide proof of insurance at traffic stops, Mr. Hutto replied that they are.

Richard Roberts, Commissioner of Revenue

Commissioner Roberts said the question of whether uninsured coverage should be required in order to register a vehicle is the province of the legislature. If there is a directive from the legislature on this matter, it should not be allowed to slow the work of county clerks or be cumbersome for those needing to renew registrations. Clerks are dealing with 40-year-old-technology, particularly for vehicle titling and registration, and there have been some ill-conceived attempts that cost a lot of money over the years to update technology.

In an example of a successful technology update, the department recently, with the help of clerks and their vendor, developed a print-on-demand process for vehicle registration labels at the time of renewal that incorporates the license plate number. About two-thirds of the counties currently do this, which allows an officer stopping the vehicle to know whether it is stolen. In the past, all the counties would package and mail millions of pages of documents. The department now receives electronic copies of those documents for at least 85 of the 95 counties. The department is making great progress in these areas. Implementation of a new system should be similarly an incremental process.

The department is currently developing an insurance verification system that Commissioner Roberts said he hopes to be testing and implementing by next year. The department does not yet have all the details that comprehensive legislation should include, such as appropriate fine amounts and lapse periods. From looking at all the bills on this issue, while they are comprehensive, it's not clear whether they meet all of Tennessee's needs. Once the department has more information from the development and testing of the verification system, the department can come back with those specifics next year.

Commissioner Roberts said he spoke with Senator Ketron about the possibility of allowing the department to develop and test a verification system in consultation with the Department of Safety and county clerks. He said the department could come back next year with a definitive report on the successes and failures of the system and a verification system could be ready to operate in less than a year and half. Testing of the program could begin this fall and be used to identify any gaps in the system.

Responding to a question from Mayor Waters clarifying whether Commissioner Roberts was recommending not passing this type of legislation or asking for more time to develop an insurance verification system, Commissioner Roberts made clear that the Department of Revenue is not taking a position on any legislation but is already working to develop a solution and would like more time to evaluate and test it in order to come back with a proposal based on what they find most workable. He noted the department's past successes in solving problems with generating dealer drive out tags, print-on-demand, and electronic delivery of data as evidence as examples of the department's ability to solve problems in an orderly and efficient way. Commissioner Roberts also suggested allowing time for additional recommendations from citizens and the legislature for appropriate fines, grace periods, notice, and basis for suspending a registration. He said this issue raises a lot of policy questions beyond one department.

Responding to a question from Mayor Burgess about the verification system he had under consideration, whether it was the full-book approach, the IICMVA model, or some combination, Commissioner Roberts said they were contemplating allowing insurance companies to decide, at least initially, to see how that works. He said they might narrow it down to one system in the future, but they do not know enough now to eliminate one or the other. He said that he has heard pros and cons for both systems and would like to accommodate both at the start.

Asked by Mayor Rowland whether people can still post a bond as opposed to buying insurance to meet the requirements of the Financial Responsibility Law, Commissioner Roberts responded that it is still permitted but only one person in the state posts a bond in place of insurance.

Michael Humphreys, Assistant Commissioner for Department of Commerce and Insurance; and Tony Greer, Chief Counsel for Department of Commerce and Insurance

Mr. Humphreys said that the Department of Commerce and Insurance's role in the changes proposed by the referred legislation is limited to enforcing insurance companies' participation in whatever verification system is used and had no further comment.

Kellie Jackson, County Clerk, Montgomery County, Representing the County Clerks Association

Ms. Jackson said the County Clerks Association understands that uninsured vehicles are a problem and is willing to assist in reducing that number. She asked that any verification requirement be reviewed to make sure county clerks are not overly burdened with a heavy workload. She said the biggest challenge for county clerks across the state is a lack of manpower.

To illustrate how a small change could have a large effect on county clerks, she provided statistics from Montgomery County, which processes 125,000 registrations annually, averaging about 500 daily. With correct information, the renewal process takes about one minute. With

complications, such as residency issues, the process takes much longer. If they are required to verify insurance and that process takes even one additional minute, then renewals would take 500 additional minutes every day, but the bill would not have allocated any amount from the fees to the county clerks' offices to defray the increased costs.

Approximately 49% of registration renewals in Montgomery County take place online or by mail. If they had to require additional materials because an applicant failed to submit them, they would have the additional expenses of mailing a request and following up on it. Also, since military service members have taken advantage of online renewals and many renew while overseas to have the registered vehicle ready when they get back, requiring additional documentation could create a hardship for them.

Ms. Jackson recommends not requiring county clerks to check hardcopy proof of insurance when customers come in to register, and if there is a requirement, prefers that there is an electronic way to check for proof of insurance. Notations alerting county clerks not to renew registrations, as well as emission testing information, are already embedded in the state's computer system, and 93 of the 95 county clerk's offices are using software and technology services provided by a single company to access that system. This is a seamless process that prevents clerks from renewing those registrations.

Ms. Jackson closed by saying that local government shouldn't have to absorb the costs associated with any insurance verification program and we shouldn't hinder 80% of Tennesseans because of the 20% that don't comply with the law.

Other Questions and Comments by Members of the Commission

Representative Carter questioned the need to address the uninsured motorist problem by creating the proposed bureaucracy when people can fix the problem for themselves by buying uninsured coverage for \$2 to \$7 a month. He also questioned the requirement to sign to reject uninsured coverage when buying a policy. Mr. Sanders said that a lot of complaints come from those who rejected uninsured coverage but are upset when involved in an accident with an uninsured driver and have to pay out-of-pocket for the damage. He also said that about 95% of Farm Bureau's customers carry uninsured coverage and that Tennessee prohibits rate increase for those hit by uninsured drivers, whether they have uninsured coverage or not. Representative Carter responded that the complaint he hears from some motorists is that their insurance agent didn't explain the uninsured coverage to them and asked whether the state should require uninsured motorist coverage. Noting that it is a profound punishment to take a working person's driver's license and that doing so could ultimately put them on public assistance, if Tennessee is going to do this, we need to know that we are correcting a tremendous problem.

Mr. Hageli responded that the catalyst for the Alabama program was its high uninsured rates. According to the latest Insurance Research Council numbers, which is the only comprehensive study for all 50 states' uninsured rates, Tennessee's uninsured rate is one of the highest. Mr. Sanders said we have to remember that insurance is an inherently selfish product. You buy it

to protect yourself and your assets. There are a lot of people that have no assets, no home, and an inexpensive vehicle. If that person doesn't feel that they have anything to lose, there is less incentive to buy insurance. Mr. Sanders said that the data shows that states with the lowest uninsured rates also have the highest household incomes. For example, states like Massachusetts, Maine, Vermont, and New York that have higher average incomes than Tennessee also have lower uninsured rates. Further, while Utah has a verification system and a very low rate, it also has a much higher average income than Tennessee.

Representative Carter, drawing on his experience as a judge, made the point that issuing citations and suspending licenses does not stop people from driving, particularly those who have to drive to get to work and cannot afford not to work. Given the number of citations issued by the Tennessee Highway Patrol, he suggested that there are probably hundreds of thousands of citations being issued across the state. Numerous statutes require judges to revoke driver's licenses, which raises the question of what to do about working Tennesseans that have their licenses suspended. Council Member Senter speculated that many of those without insurance are those without licenses.