

# Insurance Laws

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- ## Objectives
- ◆ Identify Statutory Authority Requirements for "Establishment of Financial Responsibility";
  - ◆ Apply Coverage Issues;
  - ◆ Discuss Methods of Verification
  - ◆ Examine Laws Applicable to License Suspensions Impoundment of Vehicle and Surcharges

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**How bad is the problem?**

At a minimum, **20%** of the vehicles on Texas roads are uninsured, which translates to 1 out of every **5** cars.

Uninsured drivers cost Texas an estimated **\$ 1 billion** each year, in insurance premiums alone.

In 2010, DPS issued more than **69,000** no-insurance citations.

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WHAT DOES TEXAS LAW REQUIRE?  
CHAPTER 601 OF THE TRANSPORTATION CODE A/K/A

**Insurance  
Policy**

**The Texas Motor Vehicle  
Safety Responsibility Act**

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**WHAT IS REQUIRED? § 601.051, T.C.**

A person may not operate a motor vehicle in this state unless **financial responsibility** is established for that vehicle through:

- (1) a motor vehicle liability insurance policy that complies with Subchapter D;
- (2) a surety bond filed under Section 601.121;
- (3) a deposit under Section 601.122;
- (4) a deposit under Section 601.123; or
- (5) self-insurance under Section 601.124.

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**WHAT IS FINANCIAL RESPONSIBILITY?**

◆ § 601.002. DEFINITIONS. In this chapter:

(3) "Financial responsibility" means the ability to respond in damages for liability for an accident that:

(A) occurs after the effective date of the document evidencing the establishment of the financial responsibility; and

(B) arises out of the ownership, maintenance, or use of a motor vehicle.

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▶ A surety bond under § 601.121:  
must have at least 2 sureties;  
filed with DPS

▶ A deposit under § 601.122:  
\$ 55,000 in cash or securities;  
filed with the Comptroller

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▶ A deposit under § 601.123:  
\$ 55,000 in cash or cashier's check;  
filed with the County Judge

▶ Self-insurance under § 601.124:  
must have at least 25 vehicles  
registered in your name

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▶ An owner's or operator's policy issued by an insurance company, written to or for the benefit of the person named in the policy

▶ Policy amounts (in thousands):  
30 / 60 / 25

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### WHY IS THERE A NEED FOR FINANCIAL RESPONSIBILITY?

- ◆ According to the **Texas Department of Insurance**:
  - ◆ In **Texas**, **20%** of the vehicles on our roads have no insurance coverage.
  - ◆ That's 1 in every 5 cars and trucks.
  - ◆ Law-abiding Texans are paying an estimated \$1 billion annually in optional insurance coverage to protect themselves against uninsured and underinsured motorists.

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### WHAT IS THE NATIONWIDE TREND?

- ◆ According to the Insurance Research Council (IRC):
  - ◆ 14% of drivers (one in seven) drive uninsured.
  - ◆ The estimated percentage of uninsured motorists declined four straight years before rising to 14.3 percent in 2008 and dropping to 13.8 percent in 2009.
  - ◆ The economic downturn is thought to be a major factor in the brief increase.

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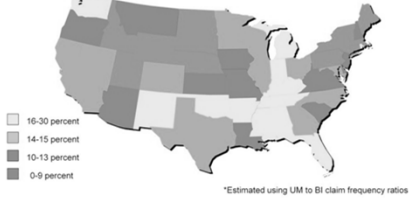
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**INSURANCE RESEARCH COUNCIL**

Percent of Motorists Uninsured by State in 2009\*




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**INSURANCE RESEARCH COUNCIL**

◆ States with the **Highest** Uninsured Drivers estimates:

1. Mississippi (28%)
2. New Mexico (26%)
3. Tennessee (24%)
4. Oklahoma (24%)
5. Florida (24%)

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**INSURANCE RESEARCH COUNCIL**

◆ States with the **Lowest** uninsured driver estimates:

1. Massachusetts (4%)
2. Maine (4%)
3. New York (5%)
4. Pennsylvania (7%)
5. Vermont (7%)

◆ Texas is at 15%.

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### INSURANCE RESEARCH COUNCIL

- ◆ States with the lowest uninsured driver estimates include five from the northeast.
- ◆ Massachusetts offers one of the harshest penalties to deter uninsured motorists:  
**A year in jail and/or a fine from \$500 to \$5,000.**
- ◆ Apparently, it works!

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As a condition of operating a motor vehicle, the operator must provide evidence of financial responsibility



Mr. Wheeler is stopped for speeding through town. He shows the officer his driver's license but does not have a copy of his insurance card in his wallet or vehicle. Should the officer write Mr. Wheeler a citation for not having financial responsibility?

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### WHEN IS EVIDENCE OF FR REQUIRED TO BE EXHIBITED WHEN REQUESTED?

- ◆ When are asked for it by a law enforcement officer;  
(Texas Trans. Code § 601.053(a) )
- ◆ When involved in an accident;  
(Texas Trans. Code § 601.053(a) )
- ◆ When registering your car or renew its registration;  
(Texas Trans. Code §502.153)
- ◆ When obtaining or renewing your driver's license;  
(Texas Trans. Code §521.143)
- ◆ When getting your vehicle inspected.  
(Texas Trans. Code §548.105)

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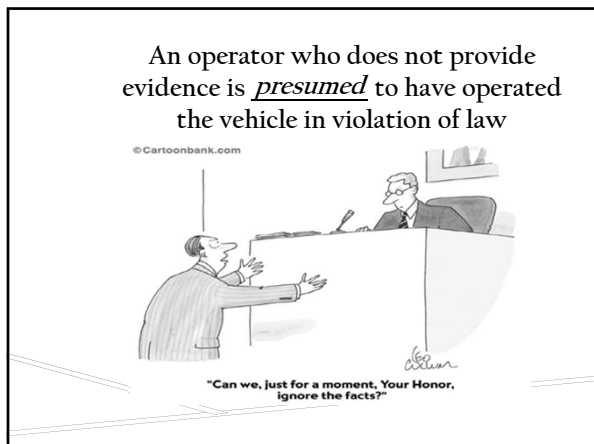
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**WHAT EVIDENCE OF FR IS REQUIRED WHEN REQUESTED?**

◆ Texas Trans. Code § 601.053

EVIDENCE OF FINANCIAL RESPONSIBILITY

(a) As a condition of operating in this state a motor vehicle to which Section 601.051 applies, the operator of the vehicle on request shall provide to a peace officer, as defined by Article 2.12, Code of Criminal Procedure, or a person involved in an accident with the operator evidence of financial responsibility by exhibiting:

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**WHAT EVIDENCE OF FR IS REQUIRED WHEN REQUESTED?**

◆ Texas Trans. Code § 601.053

(1) a motor vehicle liability insurance policy covering the vehicle that satisfies Subchapter D or a photocopy of the policy;

(2) a standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance under Section 601.081 and issued by a liability insurer for the motor vehicle;

(3) an insurance binder that confirms the operator is in compliance with this chapter;

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**WHAT EVIDENCE OF FR IS REQUIRED WHEN REQUESTED?**

◆ Texas Trans. Code § 601.053

- (4) a surety bond certificate issued under Section 601.121;
- (5) a certificate of a deposit with the comptroller covering the vehicle issued under Section 601.122;
- (6) a copy of a certificate of a deposit with the appropriate county judge covering the vehicle issued under Section 601.123; or
- (7) a certificate of self-insurance covering the vehicle issued under Section 601.124 or a photocopy of the certificate.

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**ESTABLISHMENT OF FINANCIAL RESPONSIBILITY THROUGH MV LIABILITY INSURANCE (SUBCHAPTER D)**

◆ Texas Trans. Code § 601.071.

A motor vehicle liability insurance policy must be an owner's or operator's policy that:

- (1) except as provided by Section 601.083, is issued by an insurance company authorized to write motor vehicle liability insurance in this state;
- (2) is written to or for the benefit of the person named in the policy as the insured; and
- (3) meets the requirements of this subchapter.

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**MINIMUM COVERAGE AMOUNTS**

◆ Texas Trans. Code § 601.071

(a-1) Effective January 1, 2011, the minimum amounts of motor vehicle liability insurance coverage required to establish financial responsibility under this chapter are:

- (1) \$30,000 for bodily injury to or death of one person in one accident;
- (2) \$60,000 for bodily injury to or death of two or more persons in one accident, subject to the amount provided by Subdivision (1) for bodily injury to or death of one of the persons; and
- (3) \$25,000 for damage to or destruction of property of others in one accident.

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**WHAT TERMS ARE REQUIRED ON THE POLICY?**

◆ Texas Trans. Code § 601.073

(a) A motor vehicle liability insurance policy must state:

(1) the name and address of the named insured; (2) the coverage provided; (3) the premium charged; (4) the policy period; and (5) the limits of liability.

(b) The policy must contain an agreement or endorsement that the insurance coverage ... is (1) provided in accordance with the coverage required by this chapter for bodily injury, death, and property damage...

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**REQUIRED TERMS ON A OWNER'S POLICY**

◆ Texas Trans. Code § 601.076

An owner's motor vehicle liability insurance policy must:

(1) cover each motor vehicle for which coverage is to be granted; and

(2) pay, on behalf of the named insured or another person who, as insured, uses a covered motor vehicle with the express or implied permission of the named insured, ...damages arising out of the ownership, maintenance, or use of the motor vehicle in the United States or Canada, ...

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**REQUIRED TERMS ON OPERATOR'S POLICY**

◆ Texas Trans. Code § 601.077

An operator's motor vehicle liability insurance policy must pay, on behalf of the named insured, amounts the insured becomes obligated to pay as damages arising out of the use by the insured of a motor vehicle the insured does not own, ...

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**OWNER MAY PROVIDE EVIDENCE OF FINANCIAL RESPONSIBILITY FOR OTHERS**

◆ Texas Trans. Code § 601.054

(a) The department shall accept evidence of financial responsibility from an owner for another person required to establish evidence of financial responsibility if the other person is:

- (1) an operator employed by the owner; or
- (2) a member of the owner's immediate family or household.

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**OWNER MAY PROVIDE EVIDENCE OF FINANCIAL RESPONSIBILITY FOR OTHERS**

◆ Texas Trans. Code § 601.054

(c) Evidence of financial responsibility accepted by the department under Subsection (a) is a substitute for evidence by the other person and permits the other person to operate a motor vehicle for which the owner has provided evidence of financial responsibility.

(d) The department shall designate the restrictions imposed by this section on the face of the other person's driver's license.

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**COVERAGE ISSUES**

◆ QUESTION:

You are a guest at a friend's dinner party when the host realizes she does not have enough wine for the party. She asks you to use her car and go to the local grocery store and pick up a bottle for the party. On the way to the store, in your haste you are stopped by a police officer for speeding. You are unable to produce liability insurance coverage but for your friend's owners policy in the glove box.

**Should the police officer issue you a citation for failure to maintain liability insurance?**

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**COVERAGE ISSUES**

◆ANSWER:

Yes. You are not able to show proof of coverage at the time of the stop. However, if your friend provides a statement or affidavit to the court which gave you permission to use her vehicle, the court should dismiss the citation.

**Texas Trans. Code § 601.076**

An owner's motor vehicle liability insurance policy must ...pay, on behalf of the named insured or another person who, as insured, uses a covered motor vehicle with the express or implied permission of the named insured.

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**COVERAGE ISSUES**

◆QUESTION:

JR lives with his mom and dad. Mom sends him to the store to pick up milk. The vehicle is insured under mom and dad's name but not JR's. JR is stopped by a police officer for speeding. JR cannot find the insurance card.

**Should the police officer issue JR a citation for failure to maintain liability insurance?**

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**COVERAGE ISSUES**

◆ANSWER:

Yes. JR is not able to show proof of coverage at the time of the stop. However, JR may show the court proof that he is an immediate family member under mom and dad's policy.

**Texas Trans. Code § 601.054**

(a) The department shall accept evidence of financial responsibility from an owner for another person required to establish evidence of financial responsibility if the other person is: ...(2) a member of the owner's immediate family or household.

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**PRESCRIBED STANDARD PROOF OF MV LIABILITY INSURANCE**

◆ **Texas Trans. Code § 601.081**

A standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance must include:

- (1) the name of the insurer;
- (2) the insurance policy number;
- (3) the policy period;
- (4) the name and address of each insured;
- (5) the policy limits or a statement that the coverage of the policy complies with the minimum amounts of motor vehicle liability insurance required by this chapter; and
- (6) the make and model of each covered vehicle.

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**TEXASSURE**

◆ TexasSure, Texas' financial responsibility verification program, is a joint project mandated by the 79<sup>th</sup> Texas Legislature and developed by the:

- Texas Department of Insurance;
- Texas Department of Public Safety;
- Texas Department of Motor Vehicles; and
- Texas Department of Information Resources

◆ TexasSure is a vehicle insurance verification system that allows law enforcement and county tax officials to confirm whether a vehicle in Texas has personal auto liability insurance coverage.

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**FINANCIAL RESPONSIBILITY VERIFICATION PROGRAM (SUBCHAPTER N)**

◆ The *TexasSure* program goal is to help reduce the number of uninsured vehicles in Texas.

◆ The program should also prevent motorists from avoiding the law by using counterfeit proof of insurance cards or canceling cards after they're used for a registration or inspection.

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**WHAT ARE THE EXCEPTIONS TO FINANCIAL RESPONSIBILITY?**

◆ Texas Trans. Code § Sec. 601.124

- (a) Section 601.051 does not apply to:
  - (1) the operation of a motor vehicle that:
    - (A) is a former military vehicle or is at least 25 years old;
    - (B) is used only for exhibitions, club activities, parades, and other functions of public interest and not for regular transportation; and
    - (C) for which the owner files with the department an affidavit, signed by the owner, stating that the vehicle is a collector's item and used only as described by Paragraph (B);

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**WHAT ARE THE EXCEPTIONS TO FINANCIAL RESPONSIBILITY?**

◆ Texas Trans. Code § Sec. 601.124

- (a) Section 601.051 does not apply to:
  - (2) the operation of a golf cart that is operated only as authorized by Section 551.403; or
  - (3) a volunteer fire department for the operation of a motor vehicle the title of which is held in the name of a volunteer fire department.
- (b) Subsection (a)(3) does not exempt from the requirement of Section 601.051 a person who is operating a vehicle described by that subsection.

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**3 EXCEPTIONS TO THE REQUIREMENT TO MAINTAIN FINANCIAL RESPONSIBILITY:**



Exhibition vehicle (at least 25 years old or military)



Golf cart



Volunteer fire Department

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### FINE AND COSTS: FMFR

Fine for first offense = \$175 - \$350

(or less than \$175 if unable to pay)

Fine for second offense = \$350 - \$1,000

Base costs = \$52

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### DEFENSES TO PROSECUTION:



- ▶ Bobby received a citation for FMFR. On the date he was to appear, he brought in a copy of his insurance card. The court confirms it is valid insurance and was in effect at time of the citation.
- ▶ Has Bobby committed an offense?

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### § 601.193. DEFENSE

It is a defense to prosecution that the person produces to the court evidence that was valid at the time of offense.

After the court verifies, the court shall dismiss




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**WHAT ARE THE DEFENSES TO THE REQUIREMENT OF FINANCIAL RESPONSIBILITY?**

◆ Texas Trans. Code § 601.193. DEFENSE: FINANCIAL RESPONSIBILITY IN EFFECT AT TIME OF ALLEGED OFFENSE

(a) It is a defense to prosecution under Section 601.191 or 601.195 that the person charged produces to the court one of the documents listed in Section 601.053(a) that was valid at the time that the offense is alleged to have occurred.

(b) After the court verifies a document produced under Subsection (a), the court shall dismiss the charge.

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**HOW DOES A COURT VERIFY FINANCIAL RESPONSIBILITY DOCUMENTS?**

- ◆ Examination of documents and questioning of violator;
- ◆ Requiring violator to complete an sworn affidavit;
- ◆ Call insurance company to verify coverage or require violator to bring in proof from insurance company;

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| my.spl.com            | Fake Printable Auto Insurance Card - The Spl Move Community      | 9        | 37473           | Backlinks to my.spl.com            | 4               | 2011-09-09   |
| insurancequotes.com   | The dangers of fake auto insurance cards   InsuranceQuotes.com   | 10       | 2010            | Backlinks to insurancequotes.com   | 3               | 2011-09-09   |
| blog.mlive.com        | Police say man selling fake insurance may have sold 500          | 11       | 297103          | Backlinks to blog.mlive.com        | 6               | 2011-09-09   |
| answers.yahoo.com     | Fake insurance card? - Yahoo! Answers                            | 12       | 7227940         | Backlinks to answers.yahoo.com     | 8               | 2011-09-09   |
| answers.yahoo.com     | Can you fake an insurance card or change the date on the one you | 13       | 7227940         | Backlinks to answers.yahoo.com     | 8               | 2011-09-09   |

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**CAN AN OWNER PROVIDE EVIDENCE OF FINANCIAL RESPONSIBILITY FOR ANOTHER?**

Junior is driving the family mini-van. Junior is 17 but does not have an insurance card showing that he is an insured driver. The van is insured under Mom and Dad's name. Is Junior in violation of the requirement to maintain financial responsibility while driving the mini-van?

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THE DEPARTMENT SHALL ACCEPT EVIDENCE OF FINANCIAL RESPONSIBILITY FROM AN OWNER FOR ANOTHER PERSON IF THE OTHER PERSON IS:

- ▶ Employed by the owner
- ▶ Immediate family
- ▶ Household

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**WHAT ARE THE DEFENSES TO THE REQUIREMENT OF FINANCIAL RESPONSIBILITY?**

◆ Texas Trans. Code § 601.194

**DEFENSE: POSSESSION OF MOTOR VEHICLE FOR MAINTENANCE OR REPAIR**

It is a defense to prosecution of an offense under Section 601.191 that the motor vehicle operated by the person charged:

- (1) was in the possession of that person for the sole purpose of maintenance or repair; and
- (2) was not owned in whole or in part by that person

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OWNER'S POLICIES MUST PAY ON BEHALF OF THE NAMED INSURED OR ANOTHER WHO USES A COVERED MOTOR VEHICLE WITH THE EXPRESS OR IMPLIED PERMISSION OF THE NAMED INSURED

**How do we know what vehicles are covered?**



**Standard Proof of Motor Vehicle Liability Insurance Form prescribed by Texas Department of Insurance**

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**Only in Municipal Court:**

Bobby appeared pursuant to the citation for FMFR and actually went before the judge. Bobby pled no contest and judgment was entered. Three weeks later, Bobby returned saying he had insurance and wanted to change his plea. Bobby had a valid insurance card.

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**Only in Municipal Court:**

**Rather than appear in person, Bobby mailed payment into the court.**

Judgment was entered as though Bobby had entered a plea of no contest. Three weeks later, Bobby brings in a valid insurance card.



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JUDY RECEIVED A CITATION FOR FMFR. JUDY ASKS THE JUDGE TO TAKE A DRIVING SAFETY COURSE.



Is Judy entitled to take a DSC?  
 Can the judge allow Judy a deferred disposition?

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**Driver License Suspension**

Administrative suspension by DPS

Shall suspend DL upon second conviction

Until the second anniversary of the subsequent conviction



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**NOTICE OF POTENTIAL SUSPENSION**

◆ Texas Trans. Code § 601.233

◆ (b) A judge presiding at a trial at which a person is convicted of an offense under Section 601.191 shall notify the person that the person's driver's license is subject to suspension if the person fails to provide to the department evidence of financial responsibility as required by Section 601.231.

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## Surcharges

Annual surcharge automatically assessed for the next 3 years  
at \$250 a year

The court set aside Bobby's conviction for FMFR and sent a correction form to DPS. Bobby later received a surcharge notice for the No Insurance conviction.

What should Bobby do?

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## Vehicle Impoundment

On a second+ conviction, court shall order impoundment

For 180 days

May not release until show proof of financial responsibility for 2 years  
(in 6 month increments)

Cost = \$15/day



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## DOES HAVING INSURANCE MAKE US SAFER DRIVERS?



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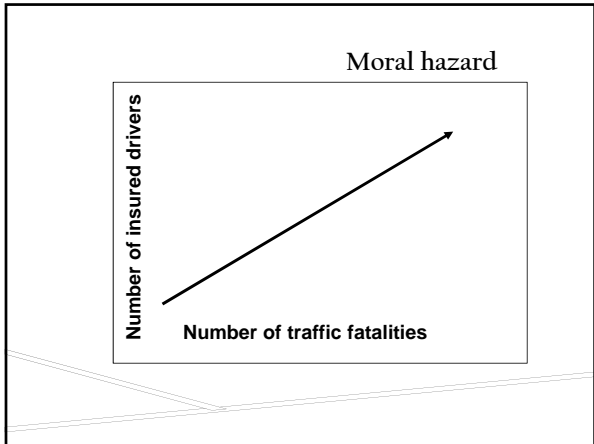
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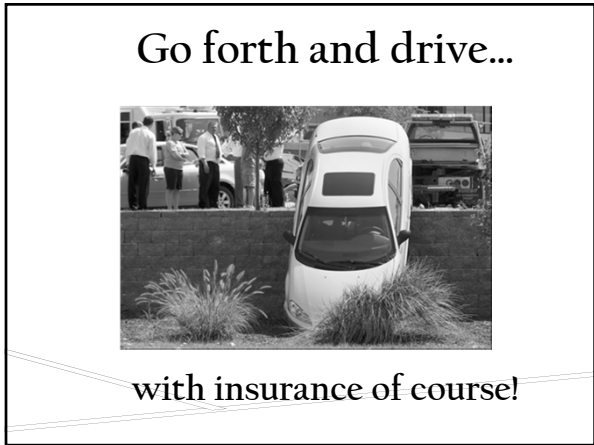
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