IN DAVIDSON COUNTY CHANCERY COURT

State of Tennessee *ex rel.* David Jonathan Tulis *Relator*	)	**Case No. 25-0378-II**
V.	)	
David Gerregano Commissioner of revenue	)	**Chancellor Anne Martin** **Division II**
Jeff Long Commissioner of safety *Respondents*	)	**ORAL ARGUMENT DEMAND**

Amended brief in support of motion for injunction

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Respondents use of T.C.A. § 55-12-139, T.C.A. § 55-12-210 and department of revenue's electronic insurance verification system ("EIVS") as a monstrous innovation affecting millions in Tennessee, guaranteeing profits to for-profit insurance companies and scouring the registration plates of the poor in service of a policy with a pretended public safety interest under color of law.

Unless the courts are willing to throw out the rules of statutory construction, the program is destined to self-destruct under the weight of respondents' violence to the rule of law (complaint, summary of abrogated provisions, pp. 59ff). Department of revenue ("DOR" or "revenue") and

department of safety ("safety" or "DOSHS") say their foundational authority for mandatory insurance for all is T.C.A. § 55-12-139. It states, "(a) This part shall apply to every vehicle subject to the registration and certificate of title provisions." Respondent DOR cites sect. 210, describing contents of notice, as its empowering authority to revoke tags unilaterally apart from notice from safety.

Respondent Gerregano creates incoherence, self-contradiction and confusion as against the clear meaning and traditional and widely known operation of Tennessee law in Part 1. He violates state law by abrogating Part 1 that grants all initiatory acts upon vehicle tag suspension with the department of safety, and respondent Long abrogates state law by allowing it.

Respondent Long's policy is to administer T.C.A. § 55-12-139 as if that law created a duty upon the member of the general public to buy operator's or owner's liability insurance policy. See Appendix. But such policy cannot serve as proof of financial responsibility ("POFR") because the insurance policy is not certified per the definition of motor vehicle liability policy in T.C.A. § 55-12-102(7) nor does it contain provisions described in T.C.A. § 55-12-122.

The law requires carrier notice to safety both (1) when the motor vehicle liability policy is created, T.C.A. § 55-12-120, -122 and -137 ("it is the duty of the insurance company with whom the person has insurance to file, upon request of the insured, the necessary information with the commissioner on a certificate or form approved by the commissioner"), and (2) when canceled or allowed to lapse by the insured. T.C.A. § 55-12-125. Cancellation of bond or certificate of insurance.

Respondents' policy initiates punishment upon people who are not in violation of TFRL. Such parties as relator have not had the requisite qualifying accident described in T.C.A. § 55-12-104 *et seq.* Nor is relator party to an unsatisfied court judgment or criminal conviction putting into jeopardy enjoyment of the driving and operating privilege. Respondents' program is theater not scripted by general assembly legislative writings and acts; the commissioners' policy narrative and characters are outside the bounds of the law, operating off the public stage.

In operating EIVS, DOR refuses to use "specified reasons," "required data," "specified data," "key information" pertaining to "the need to provide a Certificate of [FR]" that limit which parties become subject to tag revocation. (Filter-related vocabulary from IICMVA's white paper "The Case for Utilizing Web Services Technology to File Certificates of Financial Responsibility." See **EXHIBIT No. 12.**

If DOR is to be believed, Atwood-created provisions of Part 2 don't conflict with provisions in Part 1, but simply void them. Part 1, sections are "repealed or amended by implication to the extent of the inconsistency between the two statutes," borrowing language from Brewer v. Lincoln Brass Works, Inc., 991, S.W.2d 226, 229 (Tenn. 1999) (citations omitted). Courts don't take easily to such workarounds to uphold a law's constitutionality. "[R]epeals by implication ... are disfavored in Tennessee" and are to "be recognized only when no fair and reasonable construction will permit the statutes to stand together." Falls v. Goins, 673 S.W.3d 173, 180 (Tenn. 2023) (citations omitted).

Respondents rely on sects. 139 and 210 for their marching orders. T.C.A. § 55-12-210 refers to "motor vehicle liability insurance policy." This language is specific. The question is: Is that language the same as "motor vehicle liability policy" defined at T.C.A. § 55-12-102(7)? Relator contends the answer is yes, that the purpose of the electronic insurance verification system ("EIVS") is clearly to verify ***certified*** policies. In sum, "motor vehicle liability insurance policy" in sect. 210 = "motor vehicle liability policy" in the definitions. *The certified policy* or *"financial responsibility certificate"* in T.C.A. § 55-12-126.

Part 2 of the law, the Atwood amendment ("Atwood"), uses EIVS to verify *motor vehicle liability policies.* EIVS secures "motor vehicle liability [insurance] policies" that are certified and usable for "proof" or "evidence" of "financial responsibility" ("FR"). The Atwood purpose statement says respondent has a duty to "verify whether the financial responsibility requirements of **this chapter** have been met with a **motor vehicle liability insurance policy"** T.C.A. § 55-12-202. The "this chapter" part of the law blocks DOR's claim that "the Atwood law [creates] independent and parallel suspension/revocation processes" (Initial order p. 34).

Sect. 139 confirms this focus on the motor vehicle liability policy as "evidence" or "proof" of FR.

> If the driver of a motor vehicle fails to show an officer **evidence** of financial responsibility, or provides the officer with **evidence** of a **motor vehicle liability policy** as **evidence** of financial responsibility, the officer shall utilize [EVIS] as defined in § 55-12-203 and may rely on the information provided by [EVIS] for the purpose of verifying evidence of liability insurance coverage.

T.C.A. § 55-12-139(b)(1)(C) (emphasis added)

Sect. 120 controls how respondents must view POFR.

> **Proof** of financial responsibility may be furnished by filing with the commissioner the **written certificate** of any insurance carrier duly authorized to do business in this state, **certifying** that there is in effect a **motor vehicle liability policy** for the benefit of the person required to furnish **proof** of financial responsibility. This **certificate** shall give the effective date of the **motor vehicle liability policy**, which date shall be the same as the effective date of the **certificate**, and shall designate by **explicit description** or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of the motor vehicle.

T.C.A. § 55-12-120 (emphasis added)

The insurance carrier certifies to safety a *motor vehicle liability policy.* Respondents will be asking the court to believe an uncertified liability policy has legal sufficiency to meet POFR. Respondents take the law's high legal standard of "proof" and "evidence" of FR and use that to bless ordinary auto owner's and operator's policies as if they were sufficient. That same authority is used to revoke tags of the uninsured apart from law.

State of Tennessee on relation asserts that (1) reading T.C.A. § 55-12-139 *in pari materia* and with the entirety of Part 1 and Part 2 of the law, and (2) the certification requirement for motor vehicle liability policy are material and dispositive of its claims in this action and relator's right to an immediate injunction, as follows.

I. Certification essential element in POFR

The state's case on relation rises or falls on the matter of the **certified motor vehicle liability policy.** That's what the entirety of TFRL and Atwood is about. *The sum of harm by respondents is that they require relator to buy insurance he can't afford to obtain a policy that cannot legally be proof of financial responsibility.* DOR tells relator the commissioner "was unable to verify insurance coverage," that relator did not have "acceptable insurance coverage" and, therefore, could not "provide proof of insurance." This narrative is from AHO Buchanan in his initial order of Feb. 14, 2025.

EIVS run by DOR is authorized to monitor and "verify" a certified policy. EIVS' job is to ***verify***.[1] Respondent converts the requirement for ***verification of insurance*** as proof of financial responsibility under sect. 202, purpose, "as [when] required" among SR-22 insureds, into a ***status check on insurance*** upon 6.34 million vehicle registrants and **an obligation that each of them buy insurance or remit $65,000** cash per auto to the revenue commissioner.

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[1] "**VERIFY.** To confirm or substantiate by oath. *** Particularly used of making formal oath to accounts, petitions, pleadings, and other papers. The word 'verified,' when used in a statute, ordinarily imports a verity attested by the sanctity of an oath. Frequently used interchangeably with 'sworn.' To prove to be true; to establish the truth of; to confirm; to confirm the truth or truthfulness of; *** to authenticate; to prove; to maintain; to affirm; to support." *Black's Law Dictionary,* rev. 4th ed.

EIVS' job is to verify SR-22 policies pursuant to the IICMVA standards.

> The purpose of this part is to develop and implement an efficient insurance verification program that utilizes the online **verification system** and data transfer standards for transmitting a full book of business specifications, model, and guide of the **Insurance Industry Committee on Motor Vehicle Administration** in order to **verify** whether the financial responsibility requirements of **this chapter** have been met with a **motor vehicle liability insurance policy,** [defined in § 55-12-102 as "certified"] and to provide the commissioner of revenue with the authority to develop, implement, and administer the program.

Tenn. Code Ann. § 55-12-202 (emphasis added)

State-licensed insurance companies call such policy suitable for POFR the "SR-22," as the record shows in great detail. Atwood's purpose is "to verify whether the financial responsibility requirements **of this chapter** have been met with a ***motor vehicle liability*** **insurance policy** *** ". § 55-12-202 (emphasis added). In other words, POFR is established by the motor vehicle liability policy. The fact the insurance policy in question is on file and approved by the Commissioner of Insurance and Banking, pursuant to T.C.A. s 56—603, **does not make the policy a "certified policy"** under our financial responsibility law. McManus v. State Farm Mut. Auto. Ins. Co., 225 Tenn. 106, 112, 463 S.W.2d 702, 705 (1971) (emphasis added) [2]

A policy under Parts 1 and 2 must be certified for it to qualify as "proof" of financial responsibility or security. A reading of the law *in pari materia* makes clear that petitioner's reading of the law stands against the DOR's interpretation.

1. ➤ **T.C.A. § 55-12-102 — Definition of "motor vehicle liability policy"**

> (7) "Motor vehicle liability policy" means an "owner's policy" or "operator's policy" of liability insurance, **certified** as provided in § 55-12-120 or § 55-12-121 as proof of financial responsibility [POFR], ***." [emphasis added]

Certification is the state's seal of authority and jurisdiction over the person under the policy, and over the insurance contract itself.

2. ➤ **T.C.A. § 55-12-119 — The law is about "manner of proof" of POFR**

> Proof of financial responsibility, **when required** under **this chapter** with respect to a motor vehicle or with respect to a person who is not the owner of the motor vehicle, may be given by filing:
> (1) A **certificate of insurance** as provided in § 55-12-120. [emphasis added]

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[2] The fact the insurance policy in question is on file and approved by the Commissioner of the Insurance and Banking, pursuant to T.C.A. s 56—603, does not make the policy a 'certified policy' under our financial responsibility law.

McManus v. State Farm Mut. Auto. Ins. Co., 225 Tenn. 106, 112, 463 S.W.2d 702, 705 (1971)

POFR is not universally a requirement, but *"when required."* A "certificate of insurance" is from an insurance company. Regular members of the public buy owner's and operator's policies without "certificate."

3. ➤ T.C.A. § 55-12-120 — Certificates and certification (SR-22)

A "written certificate" of an "insurance carrier" "certifies" existence of a policy. It guarantees the policy.

> **Proof** of financial responsibility may be furnished by filing with the commissioner the **written certificate** of any insurance carrier duly authorized to do business in this state, **certifying** that there is in effect a **motor vehicle liability policy** for the benefit of the person required to furnish proof of financial responsibility. This **certificate** shall give the effective date of the **motor vehicle liability policy**, which date shall be the same as the effective date of the **certificate**, and shall designate by explicit description or by appropriate reference **all motor vehicles covered thereby**, unless the policy is issued to a person who is not the owner of the motor vehicle. [emphasis added]

The guarantee serves the state's interest in securing victims of qualifying car accidents in obtaining full compensation for harm. Certification is the mark of the state's imprimatur. Tennessee requires high-risk users obtain SR-22s.

4. ➤ T.C.A. § 55-12-121 — Nonresidents; certificates and certification

The state's interest in *motor vehicle liability policy* is exhaustive. Law requires a nonresident to provide a certificate of a *motor vehicle liability policy* that is deemed to conform with the laws of Tennessee, and not just have an owner's or operator's policy. T.C.A. § 55-12-121.

> A nonresident may give proof of financial responsibility by **filing with the commissioner a written certificate or certificates of an insurance** carrier licensed to transact business in the state[.] *** The commissioner **shall accept the certificate** upon condition that the insurance carrier complies with the following provisions with respect to the policies so certified." [emphasis added]

Certify mean guarantee as proof. The word comes from "certainty" and implies absence of doubt. *Black's Law Dictionary* 4th ed. says a certificate is a ticket, warrant, by form constituting evidence of truth of the facts stated therein. The party in view in this provision is one subject in another state to POFR requirements for a violation (unsatisfied court judgment, conviction in a motor vehicle related offense).

The person obligated to show such certificate in Tennessee is one who is under obligation in a foreign state to carry POFR because of that state's requirements upon suspendees who keep their driver license and tag with a motor vehicle liability policy as condition precedent to the privilege.

5. ➤ T.C.A. 55-12-122 – Certified policy make extraordinary guarantee

A certified policy is nearly bullet proof for the insured, not being cancellable. [3] Such policy is so risky to the insurance company that SR-22 applicants are "apportioned" to evenly spread the high risk. Sect. 136. A carrier is on the hook potentially for millions of dollars if forced to cover a major accident caused by a POFR-liable insured. A certified policy is forced to cover the entire cost of qualifying accident damage, even if above the face value of the agreement, and obliges the carrier to sue the insured for reimbursement. T.C.A. § 55-12-122(f) and (g). "Any motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the carrier *would not have been obligated to make* under the terms of the policy **except for this part**." T.C.A. § 55-12-122(g). The motor vehicle liability policy requires the *insurer* to pay up, even if the *insured* has failed to pay on a judgment. § 55-12-122(e)(2).

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[3] (1) The liability of the insurance carrier, with respect to the insurance required by this part, shall become **absolute** whenever injury or damage covered by the motor vehicle liability policy occurs. The policy **may not be cancelled or annulled** as to the liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage. No statement made by the insured or on behalf of the insured and no violation of the policy provisions shall **defeat or void the policy**. Further, absent a finding of fault on the part of the insured, the policy **may not be cancelled** or annulled solely due to involvement in a not at fault accident.

T.C.A. § 55-12-122 (emphasis added)

6. ➤ T.C.A. § 55-12-123 — "Cancellation or termination of policies; notice"

> When an insurance carrier has **certified a motor vehicle liability policy** under § 55-12-120, **insurance so certified** shall not be cancelled or terminated until at least ten (10) days after notice of cancellation or termination of the insurance so **certified** shall be filed with the commissioner, except that such a policy subsequently procured and **certified** shall, on the effective date of **its certification**, terminate the insurance previously **certified** with respect to any motor vehicles designated in both **certificates**." [emphasis added]

A carrier cannot revoke a Tennessean's certified policy without a 10-day grace period after notice of cancellation is filed with department of safety. Petitioner's policy on his 2000 Honda Odyssey minivan is lapsed. When petitioner's payments ceased, State Farm Insurance was under no obligation to send notice or give a grace period because relator was not a party liable for performance for POFR under TFRL or Atwood.

7. ➤ T.C.A. § 55-12-124 — Elsewhere, the law requires certified

This section refers to policies required to be held by people employed in trucking. **If such policy is certified, it becomes POFR**. If the policy comes to "be certified," it becomes "proof of financial responsibility under this part."

> (a) This part shall not be held to apply to or affect policies of automobile insurance against liability that may now or hereafter be required by any other law of this state [motor carrier], and such policies, if they contain an agreement or are endorsed to conform with the requirements of this part, **may be certified as proof of financial responsibility** under this part. [emphasis added]

8. ➤ T.C.A. § 55-12-126 — "Maintenance of proof; suspension of license and registration"

The key phrase *"financial responsibility certificate"* appears here.

> (a) Except for suspensions under § 55-12-115, and the proof required as provided in § 55-12-114, a **person who is required to provide** proof of financial responsibility shall **maintain that proof** for the period of the

> revocation or suspension. If a person elects to use a **policy of insurance and financial responsibility insurance certificate** as **proof of financial responsibility** under this section, then the effective date on the **financial responsibility certificate** is the date upon which **financial responsibility was proven**, and financial responsibility must be maintained for the period of the suspension or revocation. [emphasis added]

That which suffices as proof of financial responsibility is *"policy of insurance and financial responsibility insurance certificate."* Thanks to the department's facially unconstitutional program, municipal police, sheriff's deputies and DOSHS troopers in roadside interactions universally demand "proof of insurance" without legal basis. However, EIVS is to surveil the "financial responsibility certificate."

9. ➤ T.C.A. § 55-12-133 — Substitution of proof

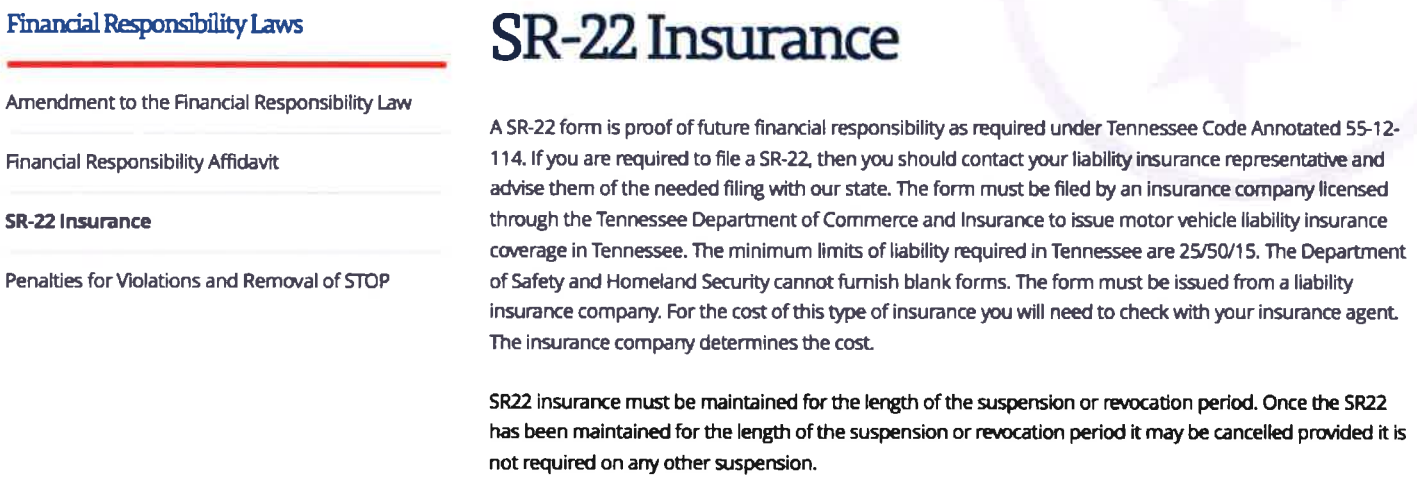
Safety shall consent to cancellation of any certificate of insurance if there is an alternate POFR.

> The commissioner shall consent to the cancellation of any bond or **certificate of insurance** or the commissioner may direct and the state treasurer shall return any money to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this part. [emphasis added]

10. ➤ T.C.A. § 55-12-136 — Certificates — insurance companies need them, too

To sell certified motor vehicle liability policies, insurance carriers themselves have to have certificates. "All insurance companies licensed by the department to write **direct automobile liability policies** in this state shall be and remain members" of the Tennessee automobile insurance plan. For authority to certify SR-22 motor vehicle liability policies, each company must obtain a "**certificate of authority**" § 55-12-136(f)(2)(A) (emphasis added). The certificate can be revoked for cause, but only after a hearing. (Respondents revoke citizens' tags before any hearing, in violation of due process rights.) Industry members sell a product called the "automobile liability policy." TFRL and Atwood authority is upon something carriers and department of safety certify, the "motor vehicle liability policy" suitable for POFR — the SR-22.

Certified policies are a narrow special product sold by insurance companies. Sect. 136 recognizes they may be money losers. To participate in Atwood, companies join the Tennessee automobile insurance plan and "write direct automobile liability policies in this state." Automobile liability policies generic are one thing; writing "motor vehicle liability policies" under TFRL is another. "(d)(1)(A) The plan shall [a]t a minimum, in a manner fair to the insurers and equitable to their policyholders, apportion among the member insurers those applicants for **automobile liability policies** who are in good faith entitled to, but are unable to, procure *automobile liability policies through ordinary methods.* All insurance companies licensed by the department to write *automobile liability insurance* in this state shall subscribe to and participate in the plan" T.C.A. 55-12-136(d)(1)(A).



Financial Responsibility Laws

Amendment to the Financial Responsibility Law

Financial Responsibility Affidavit

SR-22 Insurance

Penalties for Violations and Removal of STOP

SR-22 Insurance

A SR-22 form is proof of future financial responsibility as required under Tennessee Code Annotated 55-12-114. If you are required to file a SR-22, then you should contact your liability insurance representative and advise them of the needed filing with our state. The form must be filed by an insurance company licensed through the Tennessee Department of Commerce and Insurance to issue motor vehicle liability insurance coverage in Tennessee. The minimum limits of liability required in Tennessee are 25/50/15. The Department of Safety and Homeland Security cannot furnish blank forms. The form must be issued from a liability insurance company. For the cost of this type of insurance you will need to check with your insurance agent. The insurance company determines the cost.

SR22 insurance must be maintained for the length of the suspension or revocation period. Once the SR22 has been maintained for the length of the suspension or revocation period it may be cancelled provided it is not required on any other suspension.

DOSHS describes SR-22 insurance as "proof of future financial responsibility" required under conditional use of privilege up to "5 years from your date of suspension." DOR has duty to surveil SR-22 insureds only, people who must have certificate for high-risk policies as POFR. Respondents' presumption about TFRL holds all registrants are dangerous, irresponsible and high risk. Good driver, bad driver alike are revoked or charged by DOSHS troopers. DOSHS states correctly Insurance is maintained "for the length of the suspension" and afterward "may be cancelled."
(Source https://www.tn.gov/safety/driver-services/reinstatements/frlawindex/sr22.html)

11. ➤ T.C.A. § 55-12-137 — SR-22 certificate = acceptable evidence of security

A carrier that fails to file the certificate that is "*acceptable evidence of security*" with the commissioner of safety may be fined $100, payable to the citizen who is counting on having his SR-22 to regain the privilege.

> (a) Whenever, under this part, any person is required to file with the commissioner of safety **acceptable evidence of security, proof of financial responsibility**, and the requirement may be satisfied by **written proof** of insurance coverage in the amounts required by this part, and the person is so insured, it is the duty of the insurance company with whom the person has insurance to **file,** upon request of the insured, the necessary information with the **commissioner on a certificate or form** approved by the commissioner.
>
> (b) If any company fails or refuses to file, within the time required by this part, the **certificate or form** upon the request of an insured, reasonably made, the company shall forfeit to the insured the amount of one hundred dollars ($100) and shall be liable for damages in the amount of any damages sustained by the insured on account of the failure or refusal of the company to **file the required form or certificate**, the sums to be recoverable at the suit of the insured. [emphasis added]

TFRL and Atwood are not concerned with ordinary "automobile liability policies" or any other insurance product. TFRL is centered on "acceptable evidence of security, proof of financial responsibility," that being the "certificate or form" containing "necessary information" passing between safety and the insurer.

12. ➤ T.C.A. § 55-12-138 — Certification for future compliance

> The commissioner of safety, with each application for an operator's or chauffeur's license, shall include a brief summary of the state's financial responsibility law and the summary shall contain the following or similar certification to be signed by the applicant: "I CERTIFY THAT I UNDERSTAND ABOUT TENNESSEE'S FINANCIAL RESPONSIBILITY LAW AND I AGREE TO ABIDE BY IT."

Applicants for a driver license are not subject to TFRL nor to Atwood. In applying for privilege, the candidate "AGREE[S] TO ABIDE BY IT [in the future]" under the operative fact of future qualifying accident under § 55-12-104 or when facing TFRL privilege suspension in other circumstances (unsatisfied judgment, road-related criminal conviction). Respondent program nullifies this provision.

13. ➤ T.C.A. § 55-12-139 — Officers run certified policies at accident scene

Sect. 139 did not change the financial responsibility law nor give new powers to the state. Sect. 139 lists occasions "as required" in which a police officer uses EIVS. Certified policies are in view when

> (A) At the time a driver of a motor vehicle is charged with any violation under chapters 8 [rules of road] **and** 10, parts 1-5 [accidents, crimes, penalties, DUIs, drag race], **and** chapter 50 [classified and commercial driver license] of this title ; [or] chapter 9 [vehicle equipment] of this title; [or] any other **local ordinance regulating traffic**; ***or*** at the time of an accident for which notice is required under § 55-10-106 [qualifying accident], an officer shall request **evidence** of **financial responsibility** as required by this section.

T.C.A. § 55-12-139(b)(1)(A) (emphasis added)

See p. 91 of the complaint, the appendix annotating sect. 139.

14. ➤ T.C.A. § 55-10-108 – Accident scene requirement for certified policy

Title 55, chapter 10, highlights the unique quality of the *motor vehicle liability policy* as defined in § 55-12-102(7). From chapter 10:

> Any motor vehicle officer investigating any accident, at the time of and at the scene of the accident, may have the parties exchange **insurance information**, which would include the name of each party's insurance company and the location of an agency of the insurance company. [Notice, this is ordinary insurance]
>
> Reports prepared by a law enforcement officer shall include **information pertaining to the insurance policy**, including the name of the insurance company, if known, of each person involved in the accident. [Again, ordinary insurance. Watch the next sentence.]
>
> If a person has a **certificate of compliance** with the Tennessee Financial Responsibility Law of 1977, compiled in chapter 12 of this title, **issued by the commissioner of safety,** a copy of the **certificate** shall be included in the report.

T.C.A. § 55-10-108 (emphasis, paragraphing added)

Consider this contrast: T.C.A. § 55-10-108 sees "insurance information" and "information pertaining to the insurance policy" on one hand and, on the other, *"certificate of compliance with the Tennessee Financial Responsibility Law of 1977"* that is *"issued by the commissioner of safety"* and that the driver has the *"certificate,"* a "copy" of which is included in the officer's report. Certified insurance is materially different from the auto policies that the order allows DOR to extort members of the public into purchasing in breach of law.

15. ➤ T.C.A. § 55-12-210 — Holder of lapsed certified policy "eligible for notice"

Only the certified policy, or SR-22 motor vehicle liability policy, is subject to DOR notice of inquiry, notice of warning, final notice or notice of revocation under the enabling provision in sect. 210. The automated notices to relator are in the exhibits.

> (g) If the vehicle is no longer insured by the **automobile liability insurer of record** and no other insurance company using the IICMVA model indicates coverage after an unknown carrier request under § 55-12-205(3), the owner of the motor vehicle **becomes eligible for notice** as described in subsections (a) and (b).

Key words in this section are "automobile liability insurer **of record"** and "**eligible** for notice." One becomes eligible for notice under sect. 210 if one does business with an "insurer of record," that is, an insurer whose dealings with a person are "of record" with department of safety. Relator and other holders of regular polices don't do business with an insurer of record. They buy insurance on the free market. Only a person subject to the statute who lets an ***obligatory certificated policy lapse*** is "eligible for notice."

Respondents use EIVS without a filter upon insurers' full book of business. The notice provisions at sect. 210 indicate the "Eye of Sauron" benignly stares down only on people whose "insurer of record" is in the filing system of the DOSHS' financial responsibility division. Respondents did not obey the law to "consult with" safety in creating and running the program, sidelining safety's financial responsibility division. T.C.A. § 55-12-204(b).

Lawful suspensions under sect. 210 are nondiscretionary, ministerial and administrative. No hearing is held because DOSHS holds all hearings for financial responsibility. T.C.A. §55-12-103. Safety is effectively the cop, and revenue the probation officer, administering the sentence.

16. ➤ § 55-12-212. Program certification, implementation

> The program shall be installed and fully operational **upon certification** by the commissioner of revenue that the program has been successfully tested and is ready for implementation, but not later than January 1, 2017. **Until such certification occurs,** no law enforcement action shall be taken based on the program.

Certified insurance companies. Certified motor vehicle liability policies. Certified EIVS. The EIVS program was closely inspected, checked and "certified" before it went live Jan. 1, 2017. Relator in this cause is suing to decertify the program to force respondents to run it according to law. Relator has clear and certain right to immediate injunction.

II. Summary of certification controls

The law insists its certification language means something, and cannot be ignored by respondents in running their program against the public. A "motor vehicle liability policy" is defined as "certified *** as [POFR]" in sect. 102. POFR is not universally required. But "when required under this chapter" it's proven by a "certificate of insurance," sect. 119. Suspended parties regain the driving privilege conditionally after wrongdoing. "**Proof** of financial responsibility may be furnished by filing with the commissioner" the "**written certificate**" from a carrier "**certifying** that there is in effect a **motor vehicle liability policy,**" sect. 120. TFRL applies to people, not to cars, as the certificate requirement shows the person with the policy must list all cars he or she uses: "This **certificate** shall give the effective date of the **motor vehicle liability policy**, which date shall be the same as the effective date of the **certificate**, and shall designate by explicit description or by appropriate reference **all motor vehicles covered thereby,**" sect. 120. A person from another state under sanction may "give [POFR]" by filing with Tennessee's safety department "**a written certificate or certificates** of an insurance carrier" and the commissioner "**shall accept the certificate**" with a condition, sect. 121. A person with a financial

responsibility certificate has a bulletproof policy: It can't be canceled and the insurer is liable to pay 100% of the damages and sue the insured later if necessary, sect. 122. A form of the word "certified" appears seven (7) times in sect. 123 to the effect that when an insurer "has **certified** a **motor vehicle liability policy**," the "**insurance so certified**" can't be canceled without notice filed with safety. A truck driver, when or as required by the chapter to have evidence of POFR, can get his commercial policy "certified" to be POFR, sect. 124.

Key wording "**financial responsibility insurance certificate**" appears in the provision limiting the time requirement for a probationer's duty to have POFR, saying "a **person who is required to provide** proof of financial responsibility shall **maintain that proof** for the period of the revocation or suspension," sect. 126. Safety must hear about a party's shift from insurance to either of two purported alternatives (cash payment, bond) and handle return of funds paid to safety or "shall consent to the cancellation of any bond or **certificate of insurance**," sect. 133. *A certificate of insurance is equivalent to a* ***bond.*** A carrier that "fails or refuses to file *** the **certificate or form**" with safety may be fined, with the proceeds payable to the insured, sect. 137. An applicant for a driver license files with the department a certificate that he "[agree]s to abide by" TFRL when required, sect. 138. State law divides ordinary insurance from the "**certificate of compliance** with the Tennessee Financial Responsibility Law of 1977." At an accident scene, parties not subject to POFR duty "exchange **insurance information.**" The police report "shall include **information pertaining to the insurance policy."** But a person subject to POFR is treated differently. There exist regular insureds, but also people who are required to show POFR. **"**If a person has a **certificate of compliance** with the Tennessee Financial Responsibility Law of 1977, compiled in chapter 12 of this title, issued by the commissioner of safety, a **copy** of the **certificate** shall be included in the report" T.C.A. § 55-10-108. A party subject to POFR (not the relator) has a policy the lapsing of which (for nonpayment) makes that person "eligible for notice" by "automobile liability insurer **of record,"** sect. 210. Insurance companies take part in the Atwood program under a "**certificate of authority,**" sect. 136. The state forces insurance companies to insure suspended tag and license holders "who are in good faith [are] entitled to, but are unable to, procure *automobile liability policies through ordinary methods*" and who have a right to a "motor vehicle liability policy." EIVS began operation only

"**upon certification** by the commissioner of revenue[.] *** Until such **certification occurs,**" no police officer is authorized to use EIVS. Sect. 212.

Atwood creates a utility that administers the TFRL, and its operation is bound entirely by TFRL's definitions, categories and duties. It is not a "parallel, independent process" to administer TFRL, as claimed by respondent DOR in administrative proceedings. EIVS is a utility creating efficiencies to administering Part 1.

III. Sect. 139 – no mandatory POFR for all

Respondents view sect. 139 as a virtual geyser of authority for their totalitarian corporate capture scheme. DOR claims its mandatory-insurance-for-all program is "independent" of TFRL, yet respondent admits being bound by definitions in Part 1. The department parses three sect. 139 sections that "taken together" let EIVS run filter-free and wide open.

DOR's independent-from and parallel-to theory of financial responsibility, in which Part 2 is separate from Part 1, creates a separate moral, legal and administrative universe. The end consequence is abuse of poor people who can't afford to be insurance industry customers and who are threatened with towing or seizure of their cars, arrest and criminal prosecution, with an average of 40,800 citizens convicted annually.

Sect. 139 "modified the universe of vehicles covered" by TFRL, DOR says, admitting its program is an engine of oppression. "If someone is unable to meet the financial burden of proving financial responsibility," the hearing officer says, "their ability to pay for damages they may cause in the operation of their vehicle is necessarily also in question. It is the intent of the General Assembly in enacting the TFRL to bar such motorists from operating on the highways of this state."

DOR interpretation of the law, apart from the law, ***forbids the poor from using the roads.***

The "independent" authority herald in sect. 139 is its opening sentence: "This part shall apply to every vehicle subject to the registration and certificate of title provisions." Here the statutory construction schoolmistress raises her stick. The AHO's reading violates the *ejusdem generis*

rule that requires general statements to be understood in the context of more primary, narrower controlling provisions.

Had the general assembly wanted to create a "general obligation to maintain some form of financial responsibility" as respondent DOR claims in a brief (in brief in support of motion for summary judgment, p. 9 FN No. 5) it would have had to have done far more than slap DOR's magical reliance sentence into a new 39th section and fundamentally alter the law. The general assembly left too much old furniture, too many oddly shaped rooms, weird hallways, annoying architecture, window designs and other pointless features to have ordered a full rehab of the TFRL space as the commissioner of revenue claims (complaint ¶¶ 197-204, summary of contradictions).

Sect. 139 does not mean what respondents pretend because the general assembly did not remove myriad self-contradictory laws. Abrogations remain. The law as a whole – *in pari materia* – controls because it expresses legislative intent. DOR cannot operate "its" part of the law in Part 2 in a way that defeats department of safety's part of the law in Part 1. The law does not envision two agencies with contradictory standards.

Sect. 139 authorizes what DOR does to petitioner under color of Part 2, so the respondent says. But the definitions and certification requirements in Part 1 ***control sect. 139.*** The department doesn't deny it. The whole of Part 1 narrows the meaning of "motor vehicle" in sect. 139 first's line. Sect. 139 makes no claim on relator or any other good citizen without insurance. To claim otherwise is to overthrow the statutory construction rule *ejusdem generis*, that "when a general term follows a specific one, the general term should be understood as a reference to subjects akin to the one with specific enumeration." Norfolk & W. Ry. Co. v. Am. Train Dispatchers Ass'n, 499 U.S. 117, 129, 111 S. Ct. 1156, 1163, 113 L. Ed. 2d 95 (1991), or where "a more specific statutory provision takes precedence over a more general provision," with judicial rules noting "[a] construction which places one statute in conflict with another must be avoided" Graham v. Caples, 325 S.W.3d 578, 582 (Tenn. 2010).

IV. 5 of 28 abrogated provisions

Certification requirements throughout TFRL show the general assembly did not make a full rewrite of the law by adding sect. 139 or Atwood's EIVS utility tower. If insurance were a prerequisite for use of a motor vehicle, the general assembly would have deleted all the elements contradicting the 139 and Atwood. Relator's reading of the law sees harmony among each and every party. Respondents' interpretation and program causes jarring abrogations, 28 as counted in the complaint.

Here are six of these abrogations to suggest the certainty of the *non-survivability* of the program under relator's suit.

1. **Crash affidavit at § 55-12-104(b)(4) fulfills duty** — If a person without insurance is involved in a crash, he qualifies as financially responsible by inking an affidavit of agreement to settle with the other party. In sect. 104, "(4) The submission to the commissioner of notarized releases executed by all parties who had previously filed claims with the department as a result of the accident" shows financial responsibility.

> The following, and only the following, shall be acceptable proof of *financial security*: *** (4) The submission to the commissioner of notarized releases executed by all parties who had previously filed claims with the department as a result of the accident.

T.C.A. 55-11-105 (emphasis added)

A sworn affidavit or release extinguishes a party's obligations under TFRL. It cannot be grounds for harm or injury under Atwood. The citizens applauded for compliance under Part 1 of the law get revoked under Part 2.

2. **Time limit & release on insurance obligation** — The law says POFR or insurance requirements come to an end; DOR says they are forever. Tenn. Code Ann. § 55-12-114 says how long subject parties must prove "financial responsibility" and describes "release" from POFR.

A party with a three-year suspension under sect. 114 is bound 1,095 days to carry insurance (3 x 365 = 1,095), and on day 1,09***6***, necessarily, ceases to be subject to POFR. **The law grants release from an insurance requirement**. § 55-12-114(e)

The law update Jan. 1, 2024, refers to "the length of the license's revocation or suspension." [4] Provisions old and new contradict respondents' policy that says all registrants must have "proof of financial responsibility" (insurance coverage, $65,000 bond payment certificate or private corporate surety bond) *at all times*. The sect. 114 "requirement" is on a limited subject or class of people who violate TFRL for financial *irresponsibility* and are under court judgment or sanction. Sect. 114, through Dec. 31, 2023, refers to the department of safety "[releasing] the requirement of that proof" after five years from the date of revocation if the person has a clean driving record.

> If the department of safety, pursuant to this subsection (d), **releases the requirement that a person furnish proof of financial responsibility**, and if that person's motor vehicle registration has been suspended or revoked due to failure to furnish that proof, then the commissioner of safety shall request that the commissioner of revenue reinstate the motor vehicle owner's registration and, upon payment of the appropriate motor vehicle registration fees ***.

§ 55-12-114 (d) (emphasis added)

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[4] The new version of the law removes the year reference and speaks of " the length of the license's revocation or suspension."

> (a) Whenever the commissioner suspends or revokes the license of a person by reason of a conviction, the commissioner shall request that the commissioner of revenue suspend or revoke all registrations in the person's name, and the commissioner of revenue shall suspend or revoke those registrations immediately; provided, that the registrations in the person's name must not be suspended or revoked, unless otherwise required by law, if the person provides and maintains proof of financial responsibility for **the length of the license's revocation or suspension.**

Tenn. Code Ann. § 55-12-114

Sect. 116 similarly provides for release of requirement to show financial security for a three-year period. Three years was the language until Dec. 31, 2023, which language now refers to "the duration of the license's suspension or revocation."

The general assembly in 2023 Pub.Acts, c. 336, § 5, eff. Jan. 1, 2024, leaves alone the process of "releasing the requirement," it just releases time references. Previously in sect. 126, the law "the proof shall be maintained for a period of three (3) years by that person."

What the law gives by release of POFR requirement, respondents steal away by policy, rendering probationary provisions nugatory and nonsensical, violating the rules of statutory construction that the law coheres, and all parts work together. [5]

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[5] Respondents cannot be relieved of the essential task of saying what the law means.

> We are also guided by the rules of statutory construction found in the case law of this State. We recall at the outset that "[a]s a general proposition Code provisions ***in pari materia*** **... must be construed together**, and the construction of one, if doubtful, may be aided by the consideration of the words of and legislative intent indicated by the others." *Gallagher v. Butler,* 214 Tenn. 129, 137, 378 S.W.2d 161, 164 (1964) (citation omitted). Additionally, this Court has stated that "[t]he obligation of a court in construing a statute is **to give effect to the statutory purpose**. When the proper application of a statute is not entirely clear, the first inquiry is to ascertain the **general legislative intent**." *State by Lockert v. Knott,* 631 S.W.2d 124, 126 (Tenn.1982). Moreover, we have consistently held that "in construing a statute, **all sections are to be construed together in light of the general purpose and plan, evil to be remedied, and object to be attained**...." *State v. Netto,* 486 S.W.2d 725, 729 (Tenn.1972). *See also Westinghouse Electric Corp. v. King,* 678 S.W.2d 19 (Tenn.1984). While we recognize that an unambiguous statute **does not require resort elsewhere** than the face of the statute to **ascertain legislative intent,** *see, e.g., Roddy Manufacturing Co. v. Olsen,* 661 S.W.2d 868 (Tenn.1983), this principle of construction cannot relieve us of the essential task of saying what the law means, particularly in a case of first impression. *See, e.g., Weaver v. Woods,* 594 S.W.2d 693, 695 (Tenn.1980).

Neff v. Cherokee Ins. Co., 704 S.W.2d 1, 2–3 (Tenn. 1986) (bold emphasis added)

3. **Exceptions denied** — Respondents refuse to read the financial responsibility law in *pari materia*. Respondent's EIVS system sends out stinger notices based on three search fields: (1) Registrants' VINs and (2) insurance company customers and (3) registrants not on the customer list. The revocations go to "registrants not on the customer list" while ignoring the qualifying accident requirement and the exceptions.

"We have a couple of exceptions that we do accept," DOR official Lanfair says. "We have nonuse, commercial, sold, law enforcement and self-insured. *** Those are the only exceptions that the Department recognizes within the Atwood law," citing sect. 210(a)(1)(A)-(D) (Lanfair transcript, pp. 11, 12). **EXHIBIT No. 3**. Respondents ignore two exception "loopholes" wide enough for a Toyota RAV4 to pass through.

> The requirements of this section in regard to the filing of the accident report shall not apply to: *** (2) The owner or operator of any vehicle where there is **no physical contact** with another vehicle or object or person;

§ 55-12-104. Accident reports (emphasis added)

> The requirements of security and revocation contained in this part shall not apply to: *** (13) An owner or operator of any vehicle where there is **no physical contact with another vehicle or object or person**, unless a judgment has been obtained;

§ 55-12-106. Exceptions (emphasis added)

An accident-free person such as relator is in a vehicle "where there is no physical contact with another vehicle or object or person." As there is no contact "with another vehicle or object or person," relator and all other registrants in like station are compliant with TFRL and their promise to obey it (via application or a driver license) to comply with it *when* or as it applies.

DOR says Part 1 of the law doesn't apply to its administration, and no exemptions exist, albeit sect. 106 lists 14. The exceptions "relate to" DOSHS and "have no bearing on [DOR's] internal procedures." **Safety obeys a law that revenue admits it ignores.**

If insurance or POFR were mandatory at all times for all registrants in Tennessee, *the law wouldn't have language about "when" it's required.* "Proof of financial responsibility, ***when*** required under this chapter with respect to a motor vehicle *** " § 55-12-119. Manner of proof. The language of "under this chapter" in sect. 139 confirms state on relation's reading of the law.

> (a)(1) If there is evidence based on either the IICMVA model or the full book of business download process described in § 55-12-207 that a motor vehicle is not insured, the department of revenue shall, or shall direct its designated agent to, provide notice to the owner of the motor vehicle that the owner has thirty (30) days from the date of the notice to provide to the department of revenue:
>
> ***
>
> (B) Proof of **exemption** from the owner or operator's financial security requirements **under this chapter** [chapter 12]; [emphasis added]

T.C.A. § 55-12-210

In other words, Sect. 106(13), exceptions, applies to Atwood. Atwood is *"under this chapter."*

4. **No hearing authority; no due process** — Hearings in financial responsibility are in *department of safety*. T.C.A. § 55-12-103. Relator's two cases in agency exist in a no-man's land without statutory authority, the hearing officer having no subject matter jurisdiction, the cases void. Revenue alleges its commissioner is authorized to hold hearings on "proposed revocation of … or any other adverse action proposed or taken" regarding registrations at T.C.A. § 67-1-105(a)(1). However, the provision has two savings clauses: "In the **absence of any other provisions,** and except as may **otherwise be provided** by law **[namely, § 55-12-103]**, whenever any person is aggrieved and desires a hearing *** etc." § 67-1-105. Two revocations against relator cannot be heard in safety because it has not acted directly against him. Cmsr. Gerregano has no authority to hold hearings under TFRL, and the revocations are not under title 67. In violation of due process, relator has no way to obtain remedy.

5. **Re-registration forbidden if no safety OK** — How can relator get registrations back in DOR contested cases if the law forbids Cmsr. Gerregano from renewing tags without approval of Commissioner Long? Cmsr. Gerregano cannot lawfully restore the tag.

   "It is **unlawful** for the commissioner of revenue to **reregister** any vehicle, the registration of which has been revoked under the authority of this part, **unless the written approval of the commissioner of safety is obtained** prior to the reregistration, and it is unlawful for any owner whose registration privileges have been revoked to sell the vehicle" T.C.A § 55-12-130 (emphasis added).

   In a question for deponent Mrs. Lanfair: "Does the department request a letter from the commissioner of safety to reinstate my tag?" Answer. "No" (Lanfair transcript p. 42). See **EXHIBIT No. 3**. That it is unlawful for revenue to restore a registration without written permission of the respondent safety commissioner shows respondent has ***NO INITIATORY AUTHORITY OVER TAGS*** under the TFRL in the first place. Every unwound revocation by Mr. Gerregano is "unlawful" just as relator's revocation is unlawful and oppressive, arbitrary and a capricious act.

V. Conclusion: EIVS used *ultra vires*

Respondents require "insurance" of every registered motor vehicle. It's as if the post office required *every 73 cent letter* to be paid for at $9.64 certified letter rate, but not then obtaining a signature to certify receipt or running any tracking on the certified mailpiece. Certification is a vital concept DOR entirely ignores in its 62-page order in the administrative proceeding. Court reporters certify their transcripts. Attorneys certify service of documents to opposing parties. An affiant certifies statements made in an affidavit by obtaining the notary public's seal and signature as witness. Modern society and the law run securely as certificates make guarantee of truthfulness or accuracy of a fact, paper or process. A certification is something like an oath. A certified motor vehicle insurance policy is on a plane higher than any ordinary policy in the power of its attestation. It is able to withstand scrutiny. T.C.A. § 55-12-122 describes its contents.

Respondents' requiring "proof of financial responsibility" or proof of security (wealth) of **all motor vehicles** at all times — when the law targets **individual persons** for duty — nullifies the law on five points detailed here among 28 the complaint summarizes. Respondents are willing to violate the rules of statutory construction to defy their duty to give honest government services.

The court is asked to believe Atwood is a revenue department powerhouse that effectively discards TFRL or turns it into a pile of statutory surplusage. The general statement in sect. 139 about "every vehicle subject" doesn't repeal the law's mandatory and nonoptional after-accident protocol on parties subject. That provision says, "(a) This part shall apply to every vehicle subject to the registration and certificate of title provisions." This provision doesn't claim, as DOR has and DOSHS might try to claim, that the later-arriving Atwood converts inch-wide scope of law into a mile-wide scope of operation.

EIVS surveillance monitors SR-22 insureds into having insurance for the duration of their suspension. If the insured drops coverage, EIVS alerts respondent DOR, who sends automated notices on revenue's letterhead. The law is for an "after-accident or after-judgment regime" as set up in sect. 104 *et seq*.

Atwood fits into a pocket in the main body of law. It is not a standalone appendage with independent powers, as the department of revenue asserts. EIVS works at the tail-end of the sequence upon people who remain under care of state government while atoning for sins of motor vehicle omission and commission. EIVS, like an ankle monitor, monitors probation, and the statute creating it does not alter requirements of Part 1. "Nothing in this part ***shall alter the existing financial responsibility requirements*** in this chapter." T.C.A. § 55-12-214. Financial responsibility requirements unaffected (emphasis added). Relator demands DOR and DOSHS commissioners be *stopped from putting ankle monitors on the entire adult population* of Tennessee who register their automobiles as motor vehicles.

"In reality, a judge was 'never bound to adopt the construction given by the head of a department.' *Decatur v. Paulding*. 14 Pet. 497, 515 (1840)" Loper Bright Enterprises et al. v Gina Raimondo, secretary of commerce, 603 U.S. ____ (2024).

Before relator sits on the dock in front of probation officer Gerregano's desk, facts and circumstances must spin the combination lock to the door of the ward. To admit relator, the tumblers must click on 55, 12 and 104 — that is, T.C.A. § 55-12-104 *et seq*. That is: *A qualifying accident. If not that, he must be shown to be under suspension of the privilege under an unsatisfied court judgment or criminal conviction in a motor vehicle-related offense, under duty to have a certified policy if he intends to exercise the privilege.*

As these facts are not in any record, and their absence not disputed, state of Tennessee on relation has right to immediate injunction as against both parties to halt breach of state law.

Respectfully submitted,

David Jonathan Tulis

State of Tennessee
Ex rel. David Jonathan Tulis

Appendix

Amendment to the Financial Responsibility Law

Tennessee's Financial Responsibility Law (T.C.A.,55-12-139) changed effective Jan. 1, 2002. At the time the driver of a motor vehicle is charged with any violation under Title 55, Chapters 8 and 10, Parts 1-5, Chapter 50; any other local ordinance regulating traffic; or at the time of an accident for which notice is required under Section 55-10-106, the officer will request evidence of financial responsibility. In the case of an accident for which notice is required under Section 55-10-106, the officer will request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

Per T.C.A. 55-12-139(e)(2), a person who did not have financial responsibility in effect at the time of being charged with a violation of subsection (c) shall not have that violation dismissed. T.C.A. 55-12-140(a) requires the record of conviction of an offense under T.C.A. 55-12-139(c) be promptly transmitted to the Department of Safety and Homeland Security. For any such conviction occurring after July 1, 2009, upon request by the Commissioner of Safety and Homeland Security, the Commissioner of Revenue shall not issue a renewal of registration for any vehicle for which evidence of financial responsibility is required under T.C.A. 55-12-139 until the person who was convicted of violating T.C.A. 55-12-139(c) furnishes proof of financial responsibility.

Evidence of Financial Responsibility

Evidence needed to comply with the law includes documentation such as an insurance card, binder or declaration page of a policy from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977 has been issued; or a certificate from the Department of Safety and Homeland Security noting that a cash deposit or bond has been posted in the amount required by the Tennessee Financial Responsibility Law of 1977, or that a person has qualified as a self-insurer under Section 55-12-111, or the motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the Department of Safety and Homeland Security or the Interstate Commerce Commission, or was owned by the United States, this state or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

This screengrab from DOSHS' webpage indicates that it treats T.C.A. § 55-12-139 as imposing mandatory POFR on all registered motor vehicle owners. Commissioner Long is liable for suit.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this motion has been placed in the U.S. mail with sufficient postage to assure delivery first class, or sent my e-mail to respondents' attorneys this 26th day of March 2025.

David Gerregano, commissioner
Nick Barca
nick.barca@ag.tn.gov

Jeff Long, commissioner
Hollie R. Parrish
hollie.parrish@ag.tn.gov
Mary Elizabeth McCullohs
mary.mccullohs@ag.tn.gov.

/s/ David Jonathan Tulis