

Proof of Insurance? (that is, auto liability insurance)



January 2010 from James M. Kane, Attorney

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As you see, this is not a tax or trust & estate newsletter topic.

But it touches on my constant harping about not wasting time due to absent or poor legal or tax planning. After-the-fact efforts to correct problems or battle issues (particularly preventable issues) are much more costly and expensive than preventive planning.

The point of this newsletter is that you should carry the proof of insurance card with you, although Georgia law does not require for most of us that we carry the proof of insurance.

Although the citation ended up being dismissed, I lost about three hours of valuable afternoon time recently having to address in court a citation for no proof of automobile insurance. The citation was under O.C.G.A. Section 40-6-10.

Did I have insurance? Yes. Did I have the little card showing current proof of insurance? No. Was I required under Georgia law to keep in hand my current proof of my insurance card? No. Did the police officer apply the law correctly for the citation? No.

This is an example where the wasted time in arguing the correct law on a proof of insurance card is, frankly, not worth it, even though you would be on the winning side of the legal argument.

Furthermore, a citation for no proof of insurance does not allow you merely to call the number on the back of the citation and mail in your fine.

This citation requires that you appear in court. There is no alternative other than facing a bench warrant for your arrest if you fail to appear.

Although the law in this instance provides no practical solace, here is the current Georgia law on the requirement for proof of insurance if you ever face this situation and need to argue for a dismissal of your citation, in court.

But, before you read the law, take a look at your proof of insurance card for the small print at the bottom and see if it reads:

The current status of actual motor vehicle liability insurance coverage is maintained by the GA DMVS and is accessible to law enforcement agencies upon a check of the vehicle registration.

Also take a look at your Georgia tag registration receipt at the "Insurance Status" line. In most cases, it states "valid insurance coverage" meaning that your automobile insurance information is reported by your insurance carrier to the database of the Georgia Department of Motor Vehicles.

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More specifically this insurance database is with GEICS, which means the Georgia Electronic Insurance Compliance System.

Related to the above database information, the Georgia Department of Driver Services under Rules and Regulations Section 375-8-1-.03, captioned "Officer's Check of Insurance: Forms and Procedures" states, in part:

On and after February 1, 2003, the operator of a vehicle for which the GEICS has a valid insurance coverage indicator shall not be required to present further proof of minimum liability insurance coverage.

Georgia law under the statutory provisions of O.C.G.A. Section 40-6-10(a)(3) states:

On and after July 1, 2005, the requirement under this Code section that proof of evidence of minimum liability insurance be maintained in a motor vehicle at all times during the operation of the vehicle **shall not apply to the owner or operator** of any vehicle for which the records or database of the Department of Revenue indicates that required minimum insurance coverage is currently effective.

(emphasis added.)

Finally, the Georgia Court of Appeals in a recent 2007 opinion in *Lopez, v. State*, 286 Ga. App. 873 (2007), dealing with a

handful of criminal charges, stated in reference to the above Section 40-6-10(a)(3) that this statute no longer requires the owner or operator of the motor vehicle to maintain proof of insurance. The Court of Appeals opinion reads, in part:

Moreover, contrary to the testimony of [the arresting police officer], at the time of the traffic stop OCGA §40-6-10 did not require the owner or operator of a motor vehicle to maintain proof or evidence of minimum liability insurance in the motor vehicle.

Id. at 875 (footnote 3 reference to Section 40-6-10(a)(3)).

Two additional final thoughts. Maybe you should keep these Georgia law references in your glove box, in addition to your proof of insurance card. And, aside from Georgia law, it is practical to keep the card on hand when driving a vehicle in states other than Georgia.

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