

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 427

(By Senator Beach)

[Originating in the Committee on the Judiciary;
reported February 14, 2014.]

A BILL to amend and reenact §17D-2A-2, §17D-2A-5 and §17D-2A-7 of the Code of West Virginia, 1931, as amended, all relating to requiring a certificate of insurance to be in effect during the entire term of the vehicle registration period; permitting a discretionary electronic acknowledgment exception; clarifying that certain security provisions do not apply to commercial vehicles insured under commercial auto coverage; removing the requirement that insurance companies must notify the Division of Motor Vehicles when a policyholder's vehicle insurance has been canceled; removing

an outdated reporting requirement; clarifying and increasing the penalties for vehicle owners who do not have the required security in effect; replacing the driver's license suspension penalty of a person who knowingly operates a vehicle without the required security with a provision stating that a person who is not the vehicle owner and who is convicted of operating a motor vehicle that does not have the required security shall have the conviction placed on the driver's license record; directing that fees collected for reinstatement of a driver's license be deposited in the Motor Vehicle Fees Fund; and prohibiting the Division of Motor Vehicles from taking action against a person cited for driving without insurance if the citation is received by the division more than one year from the date of the offense.

Be it enacted by the Legislature of West Virginia:

That §17D-2A-2, §17D-2A-5 and §17D-2A-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2A. SECURITY UPON MOTOR VEHICLES.

§17D-2A-2. Scope of article.

1 This article applies to the operation of all motor vehicles
2 required to be registered or operated on the roads and
3 highways to have the security in effect, as provided in section
4 ~~two~~ three, article ~~two~~ two-a of this chapter, with the
5 exception of motor vehicles owned by the state, any of its
6 political subdivisions or by the federal government.

7 For the purposes of this article, “commercial auto
8 coverage” is defined as any coverage provided to an insured,
9 regardless of number of vehicles or entity covered, under a
10 commercial coverage form and rated from a commercial
11 manual approved by the Department of Insurance. This
12 article ~~shall~~ does not apply to commercial vehicles insured
13 under commercial auto coverage; however, insurers of such
14 vehicles may participate on a voluntary basis.

§17D-2A-5. Minimum policy term.

1 ~~(a) An insurance company shall provide the Division of~~
2 ~~Motor Vehicles with a cancellation notice within ten days~~
3 ~~of the effective date of cancellation whenever the company~~

~~4 issues or causes to be issued a cancellation under the
5 provisions of subsections (b) through (e), section one,
6 article six-a, chapter thirty-three of this code. Unless the
7 Division of Motor Vehicles by legislative rule allows for an
8 alternative to suspension, the division shall then suspend
9 the driver license of the owner of such vehicle for a period
10 of thirty days and shall suspend the motor vehicle
11 registration until proof of insurance is presented to the
12 division. If, within the thirty-day period a license or
13 registration is suspended, the owner shows proof of
14 insurance, the owner's license and registration shall be
15 immediately removed from suspension. If a license or
16 registration is not suspended as result of the cancellation of
17 insurance, the owner of the motor vehicle shall submit a
18 statement under penalty of false swearing, that the
19 cancellation will not result in the operation of an uninsured
20 motor vehicle upon the highways of this state, and this
21 verification shall be sent to the commissioner within
22 twenty days of the notice of cancellation.~~

23 (b) ~~On or before January 15, 1985, the Commissioner of~~
24 ~~Motor Vehicles shall report to the Legislature upon~~
25 ~~proceedings pursuant to this section. The report shall include~~
26 ~~the total number of statements selected for verification as~~
27 ~~required by section three, article three, chapter seventeen-a,~~
28 ~~the total number of notices received from insurers, the total~~
29 ~~number of notices of pending suspensions issued and the total~~
30 ~~number of cases in which cancellation was found to have~~
31 ~~resulted in a lapse of coverage upon a vehicle operated upon~~
32 ~~the highways of this state during the prior year.~~

33 (c) No policy of motor vehicle liability insurance issued
34 or delivered for issuance in this state shall be contracted for
35 a period of less than ninety days: *Provided*, That the
36 Insurance Commissioner may establish exceptions thereto by
37 rules and regulations proposed for legislative approval
38 pursuant to chapter twenty-nine-a of this code.

**§17D-2A-7. Suspension or revocation of license, registration;
reinstatement.**

1 (a) Any owner of a motor vehicle, subject to ~~the~~
2 ~~provisions of~~ this article, who fails to have the required
3 security in effect at the time such vehicle is registered or
4 being operated upon the roads or highways shall have his
5 or her driver's license suspended by the Commissioner of
6 the Division of Motor Vehicles and shall have his or her
7 motor vehicle registration revoked as follows:

8 (1) For the first offense, the commissioner shall
9 suspend the driver's license for thirty days and shall revoke
10 the owner's vehicle registration until such time as he or she
11 presents current proof of insurance on all currently
12 registered vehicles: *Provided*, That if an owner complies
13 with ~~the provisions of~~ this subdivision, and pays a penalty
14 fee of \$200 before the effective date, the driver's license
15 suspension of thirty days ~~shall~~ may not be imposed and the
16 vehicle registration revocation ~~shall be~~ may not be imposed
17 and no reinstatement fees are required. Any fees collected
18 under the provisions of this subsection shall be deposited
19 in the Motor Vehicle Fees Fund established in accordance

20 with section twenty-one, article two, chapter seventeen-a
21 of this code.

22 (2) For the second or subsequent offense within five
23 years, the commissioner shall suspend the owner's driver's
24 license for a period of ~~thirty~~ ninety days and shall revoke the
25 owner's vehicle registration until he or she presents to the
26 Division of Motor Vehicles the proof of security required by
27 this article.

28 ~~(3) For the third or subsequent offense within five years, the~~
29 ~~commissioner shall suspend the owner's driver's license for a~~
30 ~~period of ninety days and revoke the vehicle registration until~~
31 ~~such time as he or she presents current proof of insurance.~~

32 ~~(4)~~ (3) If the motor vehicle is titled and registered in more
33 than one name, the commissioner shall suspend the driver's
34 license of only one of the owners.

35 (b) Any person who ~~knowingly operates~~ is not the vehicle
36 owner and is convicted of operating a motor vehicle upon the
37 roads or highways of this state which does not have the
38 security required by ~~the provisions of~~ this article shall have

39 the conviction placed on his or her driver's license suspended
40 by the commissioner subject to the following: record.

41 (1) ~~For the first offense, the commissioner shall suspend~~
42 ~~the driver's license until such time as he or she presents~~
43 ~~current proof of insurance on all currently registered~~
44 ~~vehicles: *Provided,* That if a driver complies with the~~
45 ~~provisions of this section and pays a penalty fee of \$200~~
46 ~~before the effective date of the driver's license suspension,~~
47 ~~the thirty day driver's license suspension shall not be~~
48 ~~imposed and no reinstatement fees are required.~~

49 (2) ~~For the second offense within five years, the~~
50 ~~commissioner shall suspend the driver's license for a period~~
51 ~~of thirty days.~~

52 (3) ~~For the third or subsequent offense within five years,~~
53 ~~the commissioner shall suspend the person's driver's license~~
54 ~~for a period of ninety days.~~

55 (c) ~~A person's driver's license shall be suspended in~~
56 ~~accordance with subsection(b) of this section if the person is~~
57 ~~operating a motor vehicle designated for off-highway use~~

58 ~~upon the roads and highways of this state without the~~
59 ~~required security in effect.~~

60 (c) The division may not suspend or revoke a driver's
61 license under this article for any citation of driving without
62 insurance that is received by the division from a court that is
63 more than one year from the date of the offense.

64 (d) The commissioner may withdraw a suspension of a
65 driver's license or revocation of a motor vehicle registration
66 and refund any penalty or reinstatement fees at any time
67 provided that the commissioner is satisfied that there was
68 not a violation of the provisions of required security related
69 to operation of a motor vehicle upon the roads or highways
70 of this state by such person. The commissioner may request
71 additional information as needed in order to make such
72 determination.

73 (e) A person may not have his or her driver's license
74 suspended or motor vehicle registration revoked under ~~any~~
75 ~~provisions of~~ this section unless he or she and any lienholder
76 noted on the certificate of title ~~shall is~~ are first given written

77 notice of such suspension or revocation sent by certified mail, at
78 least thirty days prior to the effective date of such suspension
79 or revocation, and upon that person's written request, he or
80 she shall be afforded an opportunity for a hearing thereupon
81 as well as a stay of the commissioner's order of suspension
82 or revocation and an opportunity for judicial review of such
83 hearing. The request for a hearing shall be made within ten
84 days from the date of receipt of the notice of driver's license
85 suspension or motor vehicle registration revocation. The
86 scope of the hearing is limited to questions of identity or
87 whether or not there was insurance in effect at the time of the
88 event causing the commissioner's action. Upon affirmation
89 of the commissioner's order, the period of suspension,
90 revocation or other penalty commences to run.

91 (f) A suspended driver's license is reinstated following
92 the period of suspension upon compliance with the
93 conditions set forth in this article and a revoked motor
94 vehicle registration is reissued only upon lawful compliance
95 with ~~the provisions of~~ this article.

96 (g) Revocation of a motor vehicle registration pursuant to
97 this section does not affect the perfection or priority of a lien
98 or security interest attaching to the motor vehicle that is
99 noted on the certificate of title to the motor vehicle.

100 (h) Any owner or driver of a motor vehicle determined by
101 an electronic insurance verification program to be uninsured
102 shall be assessed the same criminal and administrative
103 sanctions prescribed in this chapter subject to the following:

104 (1) Any person who is assessed a penalty prescribed by
105 this section has the same procedural due process provided by
106 this chapter or by rules promulgated by the division to show
107 that there was not a violation and provide for the exoneration
108 of any penalties or records; and

109 (2) The commissioner may accept a binder, an
110 identification card or a declaration page from a policy as
111 evidence of insurance pending electronic verification to stay
112 a pending administrative sanction.

(NOTE: The purpose of this bill is to update current insurance verification and penalties to reflect the electronic insurance verification program authorized previously by the Legislature. The bill permits a discretionary electronic acknowledgment exception. Clarifies that certain security provisions do not apply to commercial vehicles insured under commercial auto coverage removes the requirement that insurance companies must notify the division when insurance has been canceled. The bill removes an outdated reporting requirement. The bill clarifies and increases the penalties for owners who do not have the required security in effect. The bill prohibits the Division of Motor Vehicles from taking action against a person cited for driving without insurance if the citation is received by the division more than one year from the date of the offense. The bill also provides that the fee charged in lieu of suspension be deposited in a special revenue account previously authorized to pay for the electronic verification program.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)